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SECRETARY OF STATE

## **GUIDANCE ON POLLING PLACE CONDUCT AND PREVENTING VOTER INTIMIDATION**

Free and fair elections are the foundation of our democracy, and Arizona's election officials are committed to ensuring all eligible Arizonans can exercise their right to vote. The Secretary of State's Office is providing the following guidance to: (1) educate voters, poll workers, observers, political parties, and other interested citizens about their respective roles, rights, and responsibilities and key polling place rules; (2) discourage unlawful voter intimidation and suppression; and (3) encourage voters to report suspected violations.

### **1. MAKE A PLAN & PROTECT YOUR VOTE**

- Know and plan ahead how, when, and where you will vote. Visit [www.Arizona.Vote](http://www.Arizona.Vote) to find information about requesting a ballot-by-mail, voting early in-person, and voting on Election Day.
- Rely on trusted sources for election information. In Arizona, your trusted sources are the Secretary of State's Office, County Recorders and Election Departments, and the Citizens Clean Elections Commission. Contact information is available at [www.Arizona.Vote](http://www.Arizona.Vote). Report any misinformation about elections to the Secretary of State's Office at 1-877-THE-VOTE or [elections@azsos.gov](mailto:elections@azsos.gov).

### **2. PERSONS PERMITTED INSIDE THE 75-FOOT LIMIT OF THE VOTING LOCATION**

Arizona law prescribes a 75-foot perimeter around each voting location to create a safe place to vote. Only the following persons are allowed inside the 75-foot-limit (A.R.S. § 16-515):

- Voters who are voting (may be accompanied by their children and/or someone to assist the voter);
- Election officials;
- Credentialed political party observers; and
- Authorized U.S. Department of Justice observers (for example, as required by court order).

### **3. THE ROLE OF OBSERVERS**

All political party observers are required to obtain credentials from their county political party chairperson and must present those credentials at their assigned voting location to observe inside the 75-foot limit. Generally, only one observer per political party is permitted in each voting location. A.R.S. § 16-515(B).

Credentialed political party observers are there to do just that: observe. Observers shall not obstruct poll workers or the voting process, interact with voters, take videos or photos, act unprofessionally, or otherwise fail to obey the polling place inspector or rules established by the county. Party observers who violate these guidelines may have their credentials revoked by the county and be asked to leave.

Non-credentialed observers, interest groups, candidates, and members of the media are not allowed within the 75-foot limit. Even if you intend to observe outside the 75-foot limit, observers shall not obstruct voting lines or the entrance to the voting location, or otherwise engage in any conduct that may have the effect of threatening, harassing, or intimidating voters.

#### **4. ACTIVITIES PROHIBITED INSIDE THE 75-FOOT-LIMIT**

To ensure a safe and secure voting experience for all Arizonans, the following activities are prohibited inside the 75-foot-limit of any voting location. If you experience prohibited activities in the 75-foot limit, inform a poll worker. Poll workers will generally be stationed inside the 75-foot limit. If you cannot find a poll worker, call the Secretary of State's Office at 1-877-THE-VOTE. We will use the information you provide to contact the appropriate county election officials to help resolve the issue.

##### **A. ELECTIONEERING**

It is unlawful to conduct campaign-related activity (electioneering) within the 75-foot limit. This includes handing out campaign literature, talking to voters or poll workers about candidates or issues, or otherwise attempting to influence the election. If the voting location has an "emergency" designation, electioneering is prohibited anywhere on-site, even outside the 75-foot limit. A.R.S. § 16-411(H); A.R.S. § 16-515; A.R.S. § 16-1018.

A voter is permitted to wear clothing with a political message inside the 75-foot limit, but poll workers, observers, and election officials may not. A.R.S. § 16-515(F).

##### **B. CARRYING FIREARMS AND WEAPONS**

Arizona law prohibits private citizens, even if properly licensed, from entering the 75-foot limit of a voting location with a weapon. Further, since many polling places are located in schools, it may be unlawful to bring a firearm on school property, even outside the 75-foot-limit. A.R.S. § 13-3102(A)(11)-(12).

Openly carrying a firearm outside the 75-foot limit is also problematic and likely to result in unlawful voter intimidation. Additionally, any aggressive or ostentatious display of a weapon will almost certainly constitute an act of intimidation.

Arizona's election officials seek to ensure voting locations are not only safe, but also free of intimidation. If you are coming to a voting location for any reason, please leave any weapons at home or in your vehicle.

##### **C. TAKING PHOTOGRAPHS AND VIDEOS**

While taking photos of your early ballot from home ("ballot selfies") is permissible, taking any photos or videos in a voting location inside the 75-foot limit is prohibited and punishable as a misdemeanor. A.R.S. § 16-515(G)-(H); A.R.S. § 16-1018(4).

Further, much like the open display of firearms, taking photos or videos outside the 75-foot-limit may have an intimidating effect on voters entering or exiting the voting location if done in an aggressive, threatening, or harassing way. Filming voters based on race, ethnicity, religion, or political affiliation is inappropriate.

If you find it necessary to film to document the commission of a crime or other election-related violation, please consider informing a poll worker first.

#### **5. LAW ENFORCEMENT AND UNIFORMED PERSONNEL**

Generally, law enforcement officers, whether uniformed or plain-clothes, should not be stationed within the 75-foot limit of a voting location. Exceptions may apply if the officer is voting, if the voting location is located within a public safety building, or if an officer is called to respond to a specific emergency.

The presence of uniformed law enforcement personnel at a voting location, whether in or outside of the 75-foot limit, may have the effect of intimidating voters. Counties will balance this potentially intimidating effect with the need to preserve the peace and respond to emergencies.

As noted below, each voting location is overseen by an inspector and has a designated election marshal charged with keeping order in and around the voting location. Poll workers should make all reasonable efforts to de-escalate disturbances without engaging law enforcement whenever possible. Situations that cannot be solved

by poll workers should be resolved with the assistance of county election officials. In circumstances where there is violence or threats of violence, including any instance when a private citizen carries a weapon into the 75-foot limit, the marshal or election officials should contact law enforcement for the limited purpose of resolving that situation.

## 6. VOTER CHALLENGES

All eligible voters are entitled to exercise their right to vote free from harassment and intimidation from baseless challenges to voter qualifications. Arizona law permits only a qualified elector of the county to challenge a voter's eligibility to vote, and political party challengers must be previously designated and credentialed as observers by their party. A.R.S. §§ 16-590, 16-591.

A qualified elector challenging a voter's eligibility must have clear and convincing evidence that:

- The voter has voted before in that election;
- The voter is not the person whose name appears in the roster/e-pollbook;
- The voter has not resided in Arizona (or the relevant locality) for at least 29 days before the election;
- The voter is registered at an address that is not permitted for registration purposes; or
- The voter is not otherwise a qualified elector, for example, the voter does not live within the proper electoral district or is not at least 18 years old.

Challenges must be directed to poll workers, and challengers shall not directly confront voters or question voters about their voting qualifications. Challenges must be promptly decided in the voting location by a board made up of the inspector and two judges, pursuant to applicable law (A.R.S. §§ 16-591, 16-592, 16-593) and the Elections Procedures Manual.

- The voter must be permitted to vote a **regular** ballot if: (1) the voter appears to be registered and takes the prescribed oath, or (2) a majority of the board finds the challenge invalid.
- The voter must be permitted to vote a **provisional** ballot if: (1) the voter refuses to take any oath; (2) the voter refuses to answer the inspector's questions material to the challenge; or (3) a majority of the board finds the challenge is valid.

Critically, challenges based in whole or in part on race, national origin, appearance, surname, language, or religion are not permitted, and violate federal anti-discrimination laws. Repeated challenges without a sound basis that delay voting, challenges that are otherwise intended to intimidate or prohibit qualified voters from voting, or challenges that involve additional confrontational or harassing behavior may amount to unlawful voter harassment and intimidation and warrant removal from the voting location.

## 7. DROPPING OFF BALLOTS AT VOTING LOCATIONS

All eligible voters may request a ballot-by-mail and may mail back their voted ballot or drop it off at their County Recorder's Office, any official ballot drop-box, any early voting location, or any Election Day voting location in the county. Ballots must be received by election officials by 7:00 p.m. on Election Day.

Arizona law allows a caregiver, family member, household member, or election official to help return a voter's ballot to county election officials, including dropping off the ballot at a voting location. These categories are broadly defined (A.R.S. § 16-1005):

- A caregiver is a person who provides medical or health care assistance to the voter in a residence, nursing care institution, hospice facility, assisted living center, assisted living facility, assisted living home, residential care institution, adult day health care facility or adult foster care home.”
- Family member: “a person who is related to the voter by blood, marriage, adoption or legal guardianship.”
- Household member: “a person who resides at the same residence as the voter.”

## 8. DISCRIMINATORY CONDUCT AND VOTER INTIMIDATION

Discrimination against voters based on race, ethnicity, national origin, language, religion, or disability is punishable under law. Even in the absence of discrimination, any attempt to intimidate, coerce, or threaten a person to vote or not vote is strictly prohibited and may be criminally punishable.

Examples of activity that may amount to intimidation, whether in or outside the 75-foot limit, include:

- Aggressive or ostentatious display of weapons;
- Aggressive behavior, such as raising one’s voice or taunting a voter or poll worker;
- Using threatening, insulting, or offensive language to a voter or poll worker;
- Blocking the entrance to a voting location or disrupting voting lines;
- Intentionally disseminating false or misleading information at a voting location, such as flyers or communications that misstate the date of the election, hours of operation for voting locations, addresses for voting locations, or similar efforts intended to disenfranchise voters;
- Impersonating a law enforcement officer, or otherwise wearing clothing, uniforms or official-looking apparel, intended to deter, intimidate, or harass voters (see also A.R.S. § 26-170, prohibiting unauthorized wearing of national guard or U.S. armed forces uniform);
- Directly confronting or questioning voters in a harassing or intimidating manner, including asking voters for “documentation” or other questions that only poll workers should perform;
- Raising repeated frivolous voter challenges to poll workers without any good faith basis, or raising voter challenges solely based on race, ethnicity, national origin, language, religion or disability; or
- Posting signs or communicating messages about penalties for “voter fraud” in a harassing or intimidating manner.

In sum, any activity that has the intent or effect of threatening, harassing, or intimidating voters—whether in or outside of the 75-foot-limit—is unlawful and should be strictly enforced by election officials, including with assistance from law enforcement if necessary. 52 U.S.C. §§ 10101(b), 10307(b); A.R.S. §§ 13-1202, 16-1013.

## 9. ENFORCING POLLING PLACE RULES

Inspectors oversee each polling place and should utilize the marshal to preserve order and remove potentially disruptive persons. A.R.S. § 16-535(B); A.R.S. § 16-1004(A). Higher-level decisions generally are raised through county channels, whether through a trained troubleshooter, the elections department, or both. Any decision to contact law enforcement is for local election officials to be exercised in their sound judgment.

If you witness a problem at a polling place, you should not speak to or accost a voter to “enforce” the law yourself. Tense situations should be de-escalated, not escalated. Please inform a poll worker to resolve the issue, or if you or another person is in immediate danger, call 911. Do not take matters into your own hands.

## 10. REPORTING VOTER INTIMIDATION AND OTHER UNLAWFUL CONDUCT

If you witness voter intimidation or other unlawful conduct at the polls, we recommend the following steps:

- First, inform a poll worker at the voting location, who will work to resolve any problems and call county election officials and/or local law enforcement if needed. However, if you or anyone else is in immediate danger, call 911 first and then inform a poll worker if possible.
- Document what you see as much as possible, including the who, what, when, and where of the incident. (But keep in mind that taking photos or video is prohibited inside the 75-foot limit of a voting location.)
- Report the incident to the Secretary of State’s Office at [www.azsos.gov/IncidentForm](http://www.azsos.gov/IncidentForm), or by calling **1-877-THE-VOTE**. We will follow up with county election officials and federal, state, or local law enforcement entities if needed.