

# Election Observer Training

This course will review the role and guidelines for observers, authorized representatives, and candidates in the polling place.

## Lesson1: Course Contents

This course will review the following election day topics:

- The qualifications and role of an Authorized Representative
- The role of a Candidate
- The role of a Neutral Observer
- Guidelines for Observers

## Lesson 2: Authorized Representatives

### Authorized Representative Qualifications

VA Code [24.2-604.4](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-604.4/) (<https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-604.4/>) describes the qualifications of any authorized representative of each political party and independent candidate. These qualifications include:

- Must be a qualified Virginia Voter.
  - An officer of election has the discretion to verify an authorized representative's registration status and identify by asking the representative to provide an acceptable form of ID.
- Must **NOT** be a candidate on the ballot.
- Must present a signed letter of authorization to the officers of election (signed by the party chair, independent candidate, or any primary election candidate). Photocopies of written statements are acceptable.

### Early Voting and Preprocessing

- ARs cannot take a photos or videos at any time within a polling place. ([1VAC20-60-30 Electronic Devices in Polling Places](https://law.lis.virginia.gov/admincode/title1/agency20/chapter60/section30/))
- One representative of each party having a nominee on the ballot is permitted to observe.
- One representative of each independent candidate on the ballot is permitted to observe.

- One authorized representative of each primary candidate on the ballot is permitted to observe.
- One authorized representative of each party or independent or primary candidate may be present while the voting equipment is examined. (§24.2-639 [\(https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-639/\)](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-639/))
- One authorized representative of each political party or independent candidate in a special election, or one authorized representative in a primary election is entitled to attend any absentee pre-processing session. (1VAC20-70-40 [\(https://law.lis.virginia.gov/admincode/title1/agency20/chapter70/section40/\)](https://law.lis.virginia.gov/admincode/title1/agency20/chapter70/section40/))
- Local political party chairs must be provided the times and places of pre-processing sessions in sufficient time to allow for authorized representatives to be present.
- During pre-processing and hand tabulation of ballots at a central absentee precinct, no person is permitted to use cellular telephones or other communication devices. Transmitting counts prior to the closing of polls in such a case is a misdemeanor.
- Once the counting of ballots has begun in a central absentee precinct, no officer or authorized representative is permitted to leave until all ballots have been counted, the polls are closed, and the count for the precinct is complete and reported.
- Representatives cannot 'otherwise impede the orderly conduct of the election'. The officers of election have the authority to remove any person interfering with the voting process, and have broad discretion to manage affairs within the polling place. (§§ [24.2-604.4](https://law.lis.virginia.gov/admincode/title1/agency20/chapter70/section40/) [\(https://law.lis.virginia.gov/admincode/title1/agency20/chapter70/section40/\)](https://law.lis.virginia.gov/admincode/title1/agency20/chapter70/section40/), [24.2-607](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-607/) [\(https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-607/\)](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-607/))
- Authorized representatives can hear and see officers check in voters throughout the day (PII should not be viewed or otherwise disclosed).
- Authorized representatives are permitted to have visual access to the pollbook, subject to any restrictions in place to preserve the secrecy of the ballot or the orderly conduct of the election.
- At no time can the secrecy of the ballot be violated.

## **Authorized Representatives on Election Day**

### **Before Polls are Open:**

- ARs cannot use an electronic device to take a picture or shoot video at any time during Election Day. ([1VAC20-60-30 Electronic Devices in Polling Places](https://law.lis.virginia.gov/admincode/title1/agency20/chapter60/section30/))
- One representative of each party having a nominee on the ballot is permitted to observe.
- One representative of each independent candidate on the ballot is permitted to observe.
- Authorized representatives shall never see personally identifying information (PII). Authorized representatives are permitted to have visual access to the pollbook, subject to any restrictions in place to preserve the secrecy of the ballot or the orderly conduct of the election.
- One authorized representative of each party or independent or primary candidate may be present while the voting equipment is examined. ([§24.2-639](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-639/))
- One authorized representative of each political party or independent candidate in a special election, or one authorized representative in a primary election is entitled to attend any absentee pre-processing session. ([1VAC20-70-40](https://law.lis.virginia.gov/admincode/title1/agency20/chapter70/section40/))
- Local political party chairs must be provided the times and places of early voting and pre-processing sessions in sufficient time to allow for authorized representatives to be present.
- Representatives cannot 'otherwise impede the orderly conduct of the election'. The officers of election have the authority to remove any person interfering with the voting process, and have broad discretion to manage affairs within the polling place. (§§ [24.2-604.4](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-604.4/), [24.2-607](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-607/))

### **While Polls are Open:**

- ARs cannot use an electronic device to take a picture or shoot video at any time during Election Day. ([1VAC20-60-30 Electronic Devices in Polling Places](https://law.lis.virginia.gov/admincode/title1/agency20/chapter60/section30/))
- The political parties and independent candidates having a nominee on the ballot are entitled to have one authorized representative present in the polling place during a

special or general election. Candidates in a primary election are entitled to one authorized representative present in the polling place.

- An authorized representative cannot be the candidate ([24.2-604 \(https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-604/\)](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-604/)).
  - An authorized representative may serve part of the day and be replaced by successive representatives.
  - Officers of election have the discretion to permit up to three authorized representatives of each political party or independent candidate to remain in the polling location.
  - Officers of election will permit one such representative for each pollbook station, however no more than one such representative for each pollbook station or three representatives of any political party or independent candidate will be permitted in the room at one time ([\(§24.2-604\(C\) https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-604/\)\)](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-604(C))).
  - Authorized representatives shall never see personally identifying information (PII). Authorized representatives are permitted to have visual access to the pollbook, subject to any restrictions in place to preserve the secrecy of the ballot or the orderly conduct of the election.
  - Authorized representatives can hear and see officers check in voters throughout the day (PII should not be viewed or otherwise disclosed).
  - At no time can the secrecy of the ballot be violated.
  - Representatives may stay all day or they may come and go in shifts as determined by the party or independent/primary candidate.
  - Representatives cannot perform any type of filming or photography while inside the polling place, including the use of a camera phone to film or photograph ([24.2-604 \(https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-604/\)](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-604/)).
- **Note:** Any observer who chooses to challenge a voter's eligibility to vote will need to fill out and sign a form, Affirmation of Eligibility. The challenged voter will still be able to vote if they sign the Affirmation of Eligibility form.

#### **After the Polls Close**

- ARs cannot use an electronic device to take a picture or shoot video at any time during Election Day. ([1VAC20-60-30 Electronic Devices in Polling Places \(https://law.lis.virginia.gov/admincode/title1/agency20/chapter60/section30/\)](https://law.lis.virginia.gov/admincode/title1/agency20/chapter60/section30/))

- Up to two representatives for each political party or one for each independent or primary candidate may be present while ballots are counted.
- Representatives may witness the counting and ascertainment of results and make their own notes, but may not touch or handle any ballot, voting equipment or official document, or interfere in any manner.
- Representatives and bystanders present may witness the counting and ascertainment of results, but may not touch or handle any ballot, voting machine, or official document.
- Observers cannot leave nor relay information until after precinct results are ascertained and communicated to the registrar's office.
- If there are fewer than four representatives, the officers of elections shall notify any bystanders and select one or more so that there are as many as four bystanders and representatives (in total) present while the ballots are counted and the returns completed ([§24.2-655](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-655/) (<https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-655/>)).

### **Post Election Activities**

- Canvass is a public, open meeting of the Electoral Board. Anyone may attend.
- The Provisional Ballot Determination Meeting is a closed meeting. In a general or special election, one representative of each political party with a nominee on the ballot in that election and one representative of each independent candidate on the ballot in that election are entitled to be present. These representatives must present a letter of authorization.
- Representatives may not impede the orderly conduct of the determination and may not participate during the provisional ballots determination meeting.

## **Lesson 3: Candidates**

### **Before the Polls Open**

- There are no observer restrictions, including on candidates, outside of the 40 foot rule.
- A written statement is not required to be outside of the 40 feet.

### **While the Polls are Open**

- Candidates may enter the polling place for 10 minutes per day, per polling place.
- In a primary election, each primary candidate on the ballot in that election is entitled to representation.

- In a general election or special election each independent candidate on the ballot in that election is entitled to representation.
- Write-in candidates are not entitled to representatives at any time.
- No candidate whose name is printed on the ballot shall serve as a representative of a party or a candidate while voting is occurring. (§ [24.2-604.4](https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-604.4/))
- There are no observer restrictions, including on candidates, outside of the 40 foot rule.

#### **After the Polls Close**

- Write-in candidates in general or special elections, are not entitled to representatives at any time, but may use the bystander provision to get their observers into the polling place during the count if there are fewer than four authorized representatives at the polling place after the polls close.
- Canvass is a public, open meeting of the Electoral Board. Anyone may attend.
- The Provisional Ballot Determination Meeting is a closed meeting.

## **Lesson 4: Neutral Observers**

#### **Before the Polls Open**

Neutral Observers must have prior written authorization from the local electoral board.

#### **While the Polls are Open**

- Neutral Observers must have prior written authorization from the local electoral board. The local electoral board or general registrar may authorize in writing the presence of additional neutral observers as appropriate.
- No person in the polling place may hinder or delay a qualified voter, give, tender or in any manner try to influence a voter, be in a position to see the marked ballot of any voter, or otherwise impede the orderly conduct of the election.
- Any observer who chooses to challenge a voter's eligibility to vote will need to fill out and sign a form, Affirmation of Eligibility. The challenged voter will still be able to vote if they sign the Affirmation of Eligibility form.

#### **After the Polls Close**

- Neutral Observers must have prior written authorization from the local electoral board.
- Observers cannot leave nor relay information until after precinct results are ascertained and communicated to the registrar's office.

- Canvass is a public, open meeting of the Electoral Board. Anyone may attend.
- The Provisional Ballot Determination Meeting is a closed meeting.

## Lesson 5: Guidelines for Observers

Guidelines regarding authorized representatives and neutral observers are addressed in Virginia Code [§24.2-604](https://law.lis.virginia.gov/vacode/24.2-604/) (<https://law.lis.virginia.gov/vacode/24.2-604/>).

**These guidelines include the following prohibitions:**

- Hinder or delay a qualified voter
- Provide assistance to voters or wear any indication that they are authorized to assist voters
- Give, tender, or exhibit any campaign material to any person
- Solicit or attempt to influence any person in casting a vote
- Hinder or delay any officer of election
- Be in a position to see the marked ballot of any other voter (personally identifying information (PII) should not be viewed or otherwise disclosed)
- Otherwise impede the orderly conduct of the election
- While observers are allowed to be close enough to the voter check-in table to hear and see what is occurring, observers are not allowed to be in a position to see a voter's marked ballot ([Constitution of Virginia Article II, Section 3](https://law.lis.virginia.gov/constitution/article2/section3/) (<https://law.lis.virginia.gov/constitution/article2/section3/>))

### Campaigning

Code of VA [§24.2-604 \(D\)](https://law.lis.virginia.gov/vacode/24.2-604/) (<https://law.lis.virginia.gov/vacode/24.2-604/>) specifically prohibits candidates, representatives of candidates, or any other person who enters the polling place for any purpose other than voting from wearing a shirt, hat, or other apparel on which a candidate's name or political slogan appears or from having a sticker or button attached to their apparel on which a candidate's name or political slogan appears.

### Pictures/Recording

VA Code [§24.2-604.4 \(D\)](https://law.lis.virginia.gov/vacode/24.2-604.4/) (<https://law.lis.virginia.gov/vacode/24.2-604.4/>) states that authorized representatives shall be allowed to use a handheld wireless communications device, **BUT shall not be allowed to use such a device to capture a picture or shoot video at any time during Election Day inside the polling place!**

### **Officers of Election Authority**

VA code [§24.2-604 \(G\)](https://law.lis.virginia.gov/vacode/24.2-604/) (<https://law.lis.virginia.gov/vacode/24.2-604/>) also stipulates that the officer of election may require any person who is found by a majority of the officers present to be in violation of this section to remain outside of the prohibited area (40 feet from the polling place entrance). Any person violating this subsection is guilty of a Class 1 misdemeanor.