

## **At a Glance: Rules on Intimidation, Poll Watchers, and Challengers in Georgia**

### **INTIMIDATION**

**Voter intimidation is illegal under state and federal law.** Ga. Code §§ 21-2-566(1)–(4), 21-2-567; 18 U.S.C. §§ 241, 594; 52 U.S.C. § 10101(b).

- Take voter intimidation **seriously**. Examples of voter intimidation include:
  - Direct confrontation of prospective voters;
  - The use of insulting, offensive, or threatening language;
  - The use of raised voices;
  - Spreading false information about voter requirements;
  - Blocking entry to a polling place;
  - The display or brandishing of a firearm or other weapon;
  - Attempting to act as an observer without prior appointment; and
  - The use or threat of physical force.
- Any actions that have the **effect** of intimidating voters are also illegal, regardless of intent. 52 U.S.C. § 10307(b).
- Guns, apart from those belonging to peace officers, **are prohibited** within 150 feet of polling places. Ga. Code § 21-2-413(i). Therefore, the presence of any such firearm in or around the polling place should be treated as **intimidation**.

### **POLL WATCHING**

**Not just anyone can be an observer at the polls; unauthorized watchers should not be permitted at polling places.**

- Watchers must be **appointed in advance** of the election by party or candidate representatives. Ga. Code § 21-2-408(b).
- Poll watcher appointments must be **confirmed in writing** and submitted to officials prior to Election Day. Ga. Code § 21-2-408(b). Upon arrival to the voting location, poll watchers should immediately report to the poll manager or superintendent to obtain the **official poll watcher badge**, required by Ga. Code § 21-2-408(d).
- Federal law, including case law, **limits** the use of law enforcement officials or observers **wearing official-seeming clothing** in polling places. 18 U.S.C. § 592; 52 U.S.C. § 10102; *Democratic Nat’l Comm. v. Republican Nat’l Comm.*, 671 F. Supp. 2d 575, 579–80 (D.N.J. 2009) (individuals in official-seeming attire intimidated voters).

**Georgia limits how many watchers can be at the polls and what they can do.**

- A party may have **no more than four** poll watchers (two local and two state-wide) in a precinct. Ga. Code § 21-2-408(b).

- Poll watchers **cannot – in any way – interfere** with the conduct of the election. Poll watchers cannot talk to voters, use cell phones, take photos, record video, campaign, or check the electors list. Ga. Code § 21-2-408(d).
- A poll watcher who continues to hinder the voting process after a warning should be **removed** by a poll manager. Ga. Code § 21-2-408(d).

## **VOTER CHALLENGES**

### **Georgia strictly regulates the conduct of challengers at the polls.**

- A challenge to an elector’s right to vote in an election must be made **in writing, prior to the voter casting a ballot**, and distinctly specify the grounds of the challenge. Ga. Code § 21-2-230(a).
- A challenge that is either intended to intimidate or result in the intimidation of voters is not permitted under Ga. Code § 21-2-567 and constitutes a felony.
- A challenge should be **based upon specific personal knowledge** or evidence that a voter is ineligible, **not upon mere suspicion or discriminatory stereotypes**.
  - It is **illegal** to challenge a voter’s eligibility to cast a ballot based on their race, ethnicity, national origin, language, appearance, surname, or religion. 18 U.S.C. § 242; 42 U.S.C. § 1983; 52 U.S.C. §§ 10301, 10303, 10503.
  - Challenges to a voter’s eligibility **cannot** be based **solely** on:
    - Returned mail;
    - The racial or ethnic composition of a district or polling place; or
    - Data discrepancies between the voter registration database and other state, federal, or third-party lists (e.g., a list of homes subject to foreclosure proceedings). 52 U.S.C. § 10101(a)(2)(B).
- If a challenge is *not* based on specific personal knowledge or evidence, the voter should be permitted to cast a regular ballot.
- If a challenge *is* based on specific personal knowledge or evidence, the voter shall be given the opportunity to address the challenge before the board of registrars in a location that has been set aside for challenges (outside the voting space), and the board of registrars should complete the examination on the challenge as quickly as possible.
- If a challenged voter cannot immediately appear before the board of registrars and answer the grounds of the challenge before the poll close, the voter should be allowed to cast a challenged (i.e., provisional) ballot. Ga. Code § 21-2-230(i).
- A challenge cannot be sustained without **probable cause** to do so. Ga. Code § 21-2-230(b).