



NORTH CAROLINA

State Board of Elections

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NUMBERED MEMO 2016-20

TO: County Boards of Elections
FROM: Kim Strach, Executive Director
RE: Conduct at the Polls
DATE: October 19, 2016

This memorandum provides guidance to election officials in their effort to ensure all voters enjoy a safe environment that is free from intimidation at early voting sites and precincts on Election Day. State and federal laws prohibit intimidation and coercion at the polls. Voting opportunities must be offered in a manner free from discrimination based on race, ethnicity, national origin, language competency, physical disability or religion. Penalties for particular violations include prison time, a fine, or both.

Enforcing the Buffer Zone and Protecting the Voting Enclosure

State law provides special protections within the marked buffer zone outside voting sites. While the buffer zone is commonly thought to limit electioneering activity, the buffer zone also prohibits all forms of hindrance and harassment:

No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place.

G.S. § 163-166.4(a). Both state and federal laws forbid **interference with the right of a voter to participate in an election, including hindering access to the voting place**, whether outside or within the buffer zone. 18 U.S.C. § 594 and G.S. § 163-274(3). Interference can take many forms. This memorandum identifies a few scenarios elections officials may encounter during early voting and on Election Day.

Examples of Prohibited Acts

Agency staff has prepared a non-exhaustive list of scenarios that illustrate prohibited behavior:

1. *Individuals outside the buffer zone wear "SECURITY" insignia and inform voters that they are "monitoring" the polling place.*

Federal law prohibits those around the polling place from displaying badges, uniforms, or credentials that reasonable individuals would interpret to mean that the person is a law-enforcement officer. See 18 U.S.C. § 241 and *Williams v. United States*, 341 U.S. 97 (1951).

2. *Individuals in the parking lot physically delay or prevent cars from parking.*

It is a crime to interfere with the ability of a voter to access the voting place. This is true for any voter.

3. *Individuals intentionally distribute misleading information about the time, date or place of an election.*
It is a felony to misrepresent the law to the public in any communication “where the intent and effect is to intimidate or discourage potential voters from exercising the lawful right to vote.” G.S. § 163-275(17).
4. *A radio station is played over speakers inside the voting enclosure, and the broadcast includes political discussion or commentary.*
No person may engage in election-related activity within the buffer zone. G.S. § 163-166.4(a).
5. *Individuals use sound amplification to make racial slurs or otherwise insult those presenting to vote for their preferred candidate, and the chief judge has told the individual that their noise is causing a disruption inside the voting enclosure.*
It is a crime for any person to commit any boisterous act that disturbs any elections official in the performance of his or her statutory duties. G.S. § 163-274(4).
6. *Individuals outside the buffer zone threaten a voter if the voter does not vote for or against a particular candidate or party.*
It is a federal crime to intimidate, threaten, or coerce anyone in order to interfere with an individual’s right to vote or not vote in an election; this includes conduct intended to force prospective voters to vote against their preferences. 18 U.S.C. § 594.
7. *Individuals attempt to enter voter challenges without a proper basis.*
State law prohibits challenges made indiscriminately or based on speculation. G.S. § 163-90.1. It is both a violation of state and federal law for any voter to challenge an individual on the basis of their ethnicity, religion, language fluency, or national origin.
8. **Individuals who direct any of the above noted actions against individuals or groups based upon ethnicity, religion, language fluency or national origin are in violation of state and federal law**

The following represent additional examples of conduct that may unlawfully intimidate voters:

- An individual or individuals outside the buffer zone approach only voters who appear to be of a certain ethnic group to ask whether they speak English or to demand that they verify their citizenship.
- An individual or individuals outside the buffer zone follow a non-English speaker who is receiving assistance from a person of their choice and accuse them of committing voter fraud.
- An individual or individuals outside the buffer zone yell insults or profanity at people who received assistance in the voting enclosure.

Election officials must be prepared to respond immediately to behavior that disrupts or threatens to disrupt the peace and order of a polling site. If the behavior poses a threat to any person’s safety, the election official should immediately contact local law enforcement for assistance. The official should then contact the county elections office to report the incident, which in turn should be reported to the State Board of Elections office immediately.



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CONDUCT OUTSIDE VOTING SITE

North Carolinians deserve to be treated with courtesy and respect at the polls. Elections officials are committed to facilitating a safe voting experience, and the State Board of Elections is asking private citizens, campaigners, and advocates to help us promote a positive experience during early voting and on Election Day. Conduct at the voting place should conform with the following guidance:

- Respect the right of all voters to participate in the election without fear of intimidation or violence. Intimidating any voter is a state and federal crime.
- Demonstrate courtesies towards those at the voting place, regardless of differences of opinion.
- Remain civil and calm at all times. Arguments should not involve profanity or provocative gestures.
- Confine electioneering and issue advocacy to designated areas outside of the voting place. Election officials strictly enforce the marked line beyond which no electioneering or loitering is permitted.

We understand certain individuals are interested in observing the election process, though only appointed observers and runners will be admitted within the voting place. Please contact your local political party or county elections officials for more information about the appointment process under G.S. § 163-45.