Focus: Polling Site Preparedness

As county directors, you are well aware that proper use and preparation of a voting site is an essential part of ensuring a fair and efficient voting process. With 21 days before the first day of in-person voting, we have to be ready for any issue that could affect the voting process. As you finalize your plans for both one-stop early voting and Election Day, please keep the following issues in mind:

Avoiding Long Lines: Resource management

Having the right combination of staffing and equipment in a voting site is key to addressing voting traffic. Our data team will soon be sending you an email with instructions for response that will enable us to use your historical knowledge of traffic patterns and other factors affecting the movement of people in and out of your voting sites. We will use that data to run predictive analytics as to how resources might be most efficiently allocated. We will provide you a report of those findings, which we hope will be useful to you as a tool for managing voter traffic.

Polling Site arrangement

Effective polling site arrangement can alleviate potential problems at a voting site. Each site must have the ability to accommodate as many as nine appointed election observers at any one time (two precinct-specific observers and one at-large observer from each of the three parties). The plan to accommodate these observers must afford the observer the ability to hear the voter at the check-in station, yet not place the observer in a position to impede or interfere in the voting process.

The polling site must be arranged in a manner that would make it difficult if not impossible for a provisional voter to insert a provisional ballot in a tabulator. Precinct officials should be applying a mark on provisional ballots in the event that they have to be retrieved from the tabulator. Data from previous elections shows that some Election Day precinct sites have been unable to retrieve some provisional ballots inserted into the tabulator because the marking had not been applied. Your best practice will be to create a traffic flow that would not allow provisional voters access to the tabulator.
Electronic Devices in Polling Sites

As we discussed at statewide training, phones and electronic devices will be allowed inside the voting enclosure as long as the devices are not interfering with or distracting the voting process. Voters are also allowed to have phones or electronic devices while voting as long as those devices are not being used to photograph a ballot or to communicate with anyone via voice communication, text, email or any other method. Voters, especially younger or first-time voters, may not know that it is a violation of law to photograph their ballot or that they are not permitted to communicate with an electronic device while in the act of voting.

Most voters will comply with requirements and restrictions if they understand what the rules are. We must convey the prohibition clearly, particularly given the current popularity of “selfies.” Polling site officials can refer to the prohibitions in their instructions to the voter during the check-in process, but another effective way to convey the message is through prominent placement of appropriately worded signs. Prominent signage gives notice to the voter and may even deter voters who might otherwise disregard or misunderstand or fail to hear oral instruction. This memo includes signage language for your use.

Observers

Your polling site preparations must include structured plans to accommodate appointed election observers. Election officials and observers should have the same expectations regarding conduct and access to information in and around the polling site. In an effort to provide the state political parties with uniform instructions for training appointed observers, we have created a two-page information sheet and a short video for prospective observers. A copy of the information sheet is attached to this memo, and a video is posted here: https://vimeo.com/184369654.

Electronic devices in the possession of observers may not be used to film or take pictures inside the voting enclosure. An observer who wishes to record the image of a specific voter shall obtain the consent of both the voter and the chief judge or one-stop site manager. An observer who wishes to record the image of a candidate in the voting enclosure need only obtain the consent of the candidate.

Runners may be appointed by the county political parties, though those individuals shall only enter the voting enclosure at 10 a.m., 2 p.m. and 4 p.m. for the express purpose of obtaining a list of voters who have voted. If the polling site is not equipped with the means to print out this list and if no observer is present to create it, the runner may compile the list from the ATV forms at the ballot table within the voting site. However, if an observer is present in the voting enclosure at a site that cannot generate a print-out of the list, the observer shall compile the list to give to the runner at the appointed times.

Each county must have a plan at every voting site to ensure that only authorized observers and the authorized number of observers are allowed within the voting enclosure at any time throughout the voting day. In the last presidential election, we did not have at-large observers, so please note that there may be more observers present at voting sites during this election.
Turnout and Wait Time Monitoring

Turnout and wait time data is an invaluable tool for assessing resource needs for future elections and is of great interest to the public. We understand the many responsibilities and demands that election officials have at voting sites, as well as the constraints on their time. In the past few elections, workers at each Election Day precinct have been required to use a paper form provided by our office to manually document turnout and wait times at various points throughout the day. Given the importance of this data for review of one-stop early voting sites, we are asking workers to record such data beginning October 20th. We are putting together a simple method of data collection that will not only be easy to use but will require very little data input. The plan is to collect data via email or SMS (texting). More specific information will be forthcoming.

Curbside Voters Preparations

Curbside voting has expanded significantly across the state in recent years, posing logistical challenges for elections administrators working to apply critical elections processes to a curbside context. State law requires that county boards of election, where practical, establish a buffer zone at 50’ from the door to the entrance of the voting place, and no less than 25’ feet from the door. G.S. § 163-166.4(a). State Board members have repeatedly stressed the need for comparable protections for curbside voters. We understand that certain voting locations may not logistically accommodate a curbside buffer as described in G.S. § 163-166.4(a). The county’s effort should be to effectuate the legislature’s intent to protect voters from intimidation and campaign activity during the check-in and voting process.

Past guidance that had permitted electioneering up until the point at which the curbside voter received a ballot has presented logistical and enforcement problems. In order to preserve the voter’s statutory right of privacy, we will no longer permit electioneering to take place in the area where curbside voting occurs. Please mark the curbside voting area with proper and easily visible signage. Your county may also find it helpful to post signage that prohibits electioneering in that area. If a voting location cannot accommodate the 50’ or 25’ buffer, a reasonable boundary should be established to ensure the curbside area remains free of electioneering.

A number of counties have requested guidance regarding the rights and responsibilities of appointed observers with respect to vans or buses that use curbside voting. Observers have a legitimate interest in hearing whether elections officials ask voters to state their names and addresses and seeing whether the curbside affidavit is submitted as required under 08 NCAC 10B.0108. Observers may also be interested in ensuring that unrequested voter assistance is not occurring.

However, observers are not entitled to watch voters mark their ballots; election administrators must make every effort to preserve the privacy of curbside voters to a degree comparable to that enjoyed by voters within the regular voting place. An observer cannot be permitted to hover around the window of a vehicle close enough to see the ballot, but may be permitted to stand at a reasonable distance to observe activity within the vehicle to ensure the voter is not improperly assisted. Buses and large vehicles pose particular challenges for observers. In navigating the varied scenarios that
may arise, officials should work to allow observers as much access as is feasible. However, because voters within a large vehicle may be in various stages of the voting process—some marking ballots while others are checking in—an observer may not compromise the privacy due the voter by boarding a bus or vehicle. Election officials should also bear in mind that curbside vehicles are not the property of the county board. No election official is in a position to authorize an observer to board someone else’s property. Please note that voting curbside does not suspend the usual rules governing voter assistance described in Numbered Memo 2016-16; voters must still communicate their request for assistance and the individual providing assistance must be qualified to do so.*

*Some counties have expressed concern over assistance to curbside voters provided by care facility staff, which is prohibited in the mail-in absentee context. G.S. 163-226.3(a)(4). Such assistance is not prohibited on Election Day or at one-stop early voting locations, so long as the assistance is otherwise requested and approved. See G.S. § 163-227.2(e) (“A voter at a one-stop site shall be entitled to the same assistance as a voter at a voting place on Election Day under G.S. § 163-166.8.”)
OUTSIDE MONITORS

Anyone has the right to watch or monitor the election OUTSIDE the polling place. All activity must remain outside the marked 50’ line at all times. Outside monitors often include individuals, candidates, political staff, and advocacy organizations. Outside observers must maintain good order at all times. The chief judge has the duty to ensure a safe and orderly voting site and has the right to remove anyone who is disruptive.

**Allowed:**
- Pass out campaign material and sample ballots.
- Speak to voters.
- Conduct polling.
- Monitor and report concerns and complaints.

**Prohibited:**
- Enter the polling place or curbside voting area unless they are actually in the act of voting.
- Obstruct, intimidate, or interfere with any person registering or voting.

OBSERVING THE ELECTION INSIDE (appointed by political party)

Members of the public may not enter a polling site to observe the election process. Only election observers appointed in advance by the political party may be inside a polling place. The chief judge will designate a place for observers that is close enough to hear the voter state their name and address, but far enough to not impede the voting process. Each party may assign at least two observers per precinct and an additional 10 at-large observers for the county. No more than 2 precinct-assigned observers and 1 at-large observer from the same political party may be in the voting enclosure at the same time. Precinct observers may be relieved after serving for at least 4 hours.

**Allowed:**
- Make observations and take notes.
- Observe the registration, ballot, and help tables without impeding voters or precinct officials.
- Walk outside the voting enclosure to observe the curbside voting area.
- Obtain the list of people who have voted at least at the following times: 10 a.m., 2 p.m., and 4 p.m.
- May possess personal electronic devices, as long as they are not disruptive to voters or election officials.
- Report concerns and incidents to the chief judge and/or county elections director.
- Observe closing procedures.

**Prohibited:**
- Do not enter the voting enclosure before the polls open.
- Do not speak to voters or assistants.
- Do not wear or distribute campaign material.
- Do not stand behind the registration table or help table because poll books and laptops display confidential voter information.
- Do not enter the voting booth area.
- Do not interfere with the privacy of a curbside voter while the voter is voting.
- Do not board a bus or other vehicle containing curbside voters.
- Do not provide voter assistance.
- Do not photograph or video voters without the consent of the voter and the chief judge.
- Do not photograph or video a candidate without the candidate’s consent (in this instance, it is not necessary to obtain the consent of the chief judge.)

RUNNERS (appointed by political party)

Runners are appointed in advance by a political party to collect lists of people who have voted. The county party chair may send a runner instead of having an observer receive the voting list. The schedule to obtain a list is 10 a.m., 2 p.m., and 4 p.m. A party is only entitled to one list at each of the designated times.

**Note on Voter Assistance**

Any registered voter is entitled to assistance entering/exiting the voting booth and filling out a ballot. Any voter may receive such assistance from certain relatives. Voters who are disabled, blind, or unable to read, speak, or write English may receive assistance from a person of the voter’s choice, provided that the person is not an employer or agent of the voter’s union. There is no limitation on the number of voters a person can assist.
(a) The chair of each political party in the county shall have the right to designate two observers to attend each voting place at each primary and election and such observers may, at the option of the designating party chair, be relieved during the day of the primary or election after serving no less than four hours and provided the list required by this section to be filed by each chair contains the names of all persons authorized to represent such chair's political party. The chair of each political party in the county shall have the right to designate 10 additional at large observers who are residents of that county who may attend any voting place in that county. The list submitted by the chair of the political party may be amended between the one stop period under G.S. 163-227.2 and general election day to substitute one or all at large observers for Election Day. Not more than two observers from the same political party shall be permitted in the voting enclosure at any time, except that in addition one of the at large observers from each party may also be in the voting enclosure. This right shall not extend to the chair of a political party during a primary unless that party is participating in the primary. In any election in which an unaffiliated candidate is named on the ballot, the candidate or the candidate's campaign manager shall have the right to appoint two observers for each voting place consistent with the provisions specified herein. Persons appointed as observers must be registered voters of the county for which appointed and must have good moral character. No person who is a candidate on the ballot in a primary or election may serve as an observer or runner in that primary or election. Observers shall take no oath of office.

(b) Individuals authorized to appoint observers must submit in writing to the chief judge of each precinct a signed list of the observers appointed for that precinct, except that the list of at large observers authorized in subsection (a) of this section shall be submitted to the county director of elections. Individuals authorized to appoint observers must, prior to 10:00 a.m. on the fifth day prior to any primary or general election, submit in writing to the chair of the county board of elections two signed copies of a list of observers appointed by them, designating the precinct or at large status for which each observer is appointed. Before the opening of the voting place on the day of a primary or general election, the chair shall deliver one copy of the list to the chief judge for each affected precinct, except that the list of at large observers shall be provided by the county director of elections to the chief judge. The chair shall retain the other copy. The chair, or the chief judge and judges for each affected precinct, may for good cause reject any appointee and require that another be appointed. The names of any persons appointed in place of those persons rejected shall be furnished in writing to the chief judge of each affected precinct no later than the time for opening the voting place on the day of any primary or general election, either by the chair of the county board of elections or the person making the substitute appointment.

If party chairs appoint observers at one stop sites under G.S. 163-227.2, those party chairs shall provide a list of the observers appointed before 10:00 a.m. on the fifth day before the observer is to observe. At large observers may serve at any one stop site.

(c) An observer shall do no electioneering at the voting place, and shall in no manner impede the voting process or interfere or communicate with or observe any voter in casting a ballot, but, subject to these restrictions, the chief judge and judges of elections shall permit the observer to make such observation and take such notes as the observer may desire.

(d) Whether or not the observer attends to the polls for the requisite time provided by this section, each observer shall be entitled to obtain at times specified by the State Board of Elections, but not less than three times during election day with the spacing not less than one hour apart, a list of the persons who have voted in the precinct so far in that election day. Counties that use an “authorization to vote document” instead of poll books may comply with the requirement in the previous sentence by permitting each observer to inspect election records so that the observer may create a list of persons who have voted in the precinct so far that election day; each observer shall be entitled to make the inspection at times specified by the State Board of Elections, but not less than three times during election day with the spacing not one hour apart. Instead of having an observer receive the voting list, the county party chair may send a runner to do so, even if an observer has not been appointed for that precinct. The runner may be the precinct party chair or any person named by the county party chair. Each county party chair using runners in an election shall provide to the county board of elections before 10:00 a.m. on the fifth day before Election Day a list of the runners to be used. That party chair must notify the chair of the county board of elections or the board chair’s designee of the names of all runners to be used in each precinct before the runner goes to the precinct. The runner may receive a voter list from the precinct on the same schedule as an observer. Whether obtained by observer or runner, each party is entitled to one voter list at each of the scheduled times. No runner may enter the voting enclosure except when necessary to announce that runner’s presence and to receive the list. The runner must leave immediately after being provided with the list.

For additional information about observers, runners, and assistance see: 08 NCAC 10B .0101(a), .0103, and .0107
NOTICE

It is illegal to record a voted ballot or to communicate via an electronic device while voting.