



# NORTH CAROLINA

## STATE BOARD OF ELECTIONS

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### Numbered Memo 2022-12

**TO:** County Boards of Elections  
**FROM:** Karen Brinson Bell, Executive Director  
**RE:** Maintaining Order at the Polls  
**DATE:** October 7, 2022

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This numbered memo is intended as guidance to election officials in carrying out their duty to maintain order at the polls. It updates and replaces Numbered Memos 2016-20, 2018-15, 2020-09, and 2020-30.

### Protecting Voters and Election Procedures at the Polls

The State Board is committed to ensuring all voters have a safe experience, free from unlawful interference, and that election officials are able to carry out their duties free from interference.

Both state and federal laws forbid intimidation or interference with the right of a voter to participate in an election, including hindering access to the voting place, whether inside or outside the buffer zone.<sup>1</sup> The law also makes it a crime to interfere with election officials carrying out their duties.<sup>2</sup> Penalties for violations include prison time, a fine, or both.

Interference can take many forms. This memo identifies examples of scenarios elections officials may encounter during early voting and on Election Day, and identifies the authority county boards and poll workers have to maintain order at the polls and address misconduct.

### Buffer Zone Protections

State law provides special protections for voters inside the buffer zone at voting sites. The buffer zone is measured from the door of the entrance to the voting place—the building or area of the

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<sup>1</sup> 18 U.S.C. § 594: “Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for [federal office] at any election held solely or in part for the purpose of electing such candidate, shall be fined under this title or imprisoned not more than one year, or both.” See also 18 U.S.C. §§ 241, 245; 52 U.S.C. § 20511; N.C.G.S. §§ 163-274(a)(7), 163-275(17).

<sup>2</sup> N.C.G.S. § 163-274(a)(4); N.C.G.S. §§ 163-275(10) & (11).

building that contains the voting enclosure. If practical, the buffer zone shall be 50 feet from the entrance to the voting place, when the door is closed, but in no event shall it be more than 50 feet or less than 25 feet.<sup>3</sup> If a separate exit is used for the voting enclosure, the law does not provide for an additional buffer zone from the exit door. To ensure ADA compliance and accessibility, exit areas may be marked to ensure they remain clear and do not impede a voter's mobility.

The area in the buffer zone exists so that voters can freely access the voting place without being harassed or intimidated. Electioneering activity and all forms of interference are prohibited in the buffer zone and in the voting place itself:

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.<sup>4</sup>

For activities outside the buffer zone, county boards must carefully weigh and consider any limitations on speech, including the display of signs or symbols, by private individuals. The area outside the buffer zone is a type of public forum, and the First Amendment provides strong protection for political activity in public forums. We must balance the right of every voter to enter the voting place freely with these First Amendment protections. Consistent with this balance, county boards may enforce reasonable regulations ensuring safe and unobstructed access to parking lots, parking spaces, the voting place itself, and curbside voting, while also accommodating electioneering activity adjacent to the buffer zone—e.g., traffic controls, stanchions, gates, or other tools.<sup>5</sup>

### Voting Enclosure Protections

As noted above, the conduct prohibited in the buffer zone—including hindering voter access, harassing voters, and electioneering—is also prohibited inside the voting place and at curbside

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<sup>3</sup> N.C.G.S. § 163-166.4.

<sup>4</sup> N.C.G.S. § 163-166.4(a).

<sup>5</sup> County boards are authorized to “make and issue such rules, regulations, and instructions, not inconsistent with law, with directives promulgated under the provisions of G.S. 163-132.4, or with the rules, orders, and directives established by the State Board of Elections, as it may deem necessary for the guidance of election officers and voters.” N.C.G.S. § 163-33(1). At each voting site, the county board must “provide an area adjacent to the buffer zone” for electioneering, except where there is an approved agreement with a nonpublic facility to limit electioneering. N.C.G.S. § 163-166.4(b).

voting.<sup>6</sup> Various other rules are also in place to promote order and protect voters where voting is being conducted.

Generally, the only individuals permitted inside the voting enclosure during voting are (1) elections officials, (2) voters who are in the process of voting (with any minor children), (3) properly appointed election observers and runners, (4) individuals who are assisting voters based on voter request, and (5) a voter lodging a lawful challenge.<sup>7</sup>

It is a crime to “interfere with, or attempt to interfere with, any voter when inside the voting enclosure” or with “any voter when marking his [or her] ballots.”<sup>8</sup> No person may attempt to induce a voter to show how they marked their ballot.<sup>9</sup> State law requires the arrest of any person violating these criminal laws.<sup>10</sup>

State law also prohibits the interference with election officials who are carrying out the election. It is a crime “[f]or any person to break up or by force or violence to stay or interfere with the holding of any primary or election, to interfere with the possession of any ballot box, election book, ballot, or return sheet by those entitled to possession of the same under the law, or to interfere in any manner with the performance of any duty imposed by law upon any election officer or member of any board of elections.”<sup>11</sup> And it is a crime “[f]or any person to be guilty of any boisterous conduct so as to disturb any member of any election board or any chief judge or judge of election in the performance of that person’s duties as imposed by law.”<sup>12</sup> Finally, it is a felony to threaten, menace, intimidate, or assault an election official when they are carrying out their duties.<sup>13</sup>

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<sup>6</sup> A curbside voter’s vehicle is considered a voting enclosure, and the buffer zone shall be at least six feet from the vehicle. See [Numbered Memo 2020-20](#).

<sup>7</sup> N.C.G.S. §§ 163-166.3, 163-166.8. In an emergency, of course, first responders may need to access the voting enclosure.

<sup>8</sup> N.C.G.S. § 163-273(a)(3) & (4).

<sup>9</sup> N.C.G.S. § 163-273(a)(6).

<sup>10</sup> N.C.G.S. § 163-273(b): “Election officers shall cause any person committing any of the offenses set forth in subsection (a) of this section to be arrested and shall cause charges to be preferred against the person so offending in a court of competent jurisdiction.”

<sup>11</sup> N.C.G.S. § 163-274(a)(4).

<sup>12</sup> N.C.G.S. § 163-274(a)(5).

<sup>13</sup> N.C.G.S. § 163-275(10) & (11).

## Enforcing the Rules at a Voting Site

**The chief judge or one-stop site manager is responsible for ensuring voters have unimpeded access into the buffer zone and voting enclosure, and to maintain order at the polls.** They must ensure that voters are able to freely access the voting place without fear of harassment or intimidation. And they must take actions required to “prevent riots, violence, tumult, or disorder” at the voting place.<sup>14</sup>

County boards have a responsibility to ensure their poll workers are equipped to maintain order at the polls. State law requires county boards to “[e]nsure that adequate procedures are in place at each voting place for a safe, secure, fair, and honest election,” and to “[r]espond to precinct officials’ questions and problems where necessary.”<sup>15</sup> County boards should ensure that all elections officials are familiar with the county board’s emergency plan and know who to contact if a problem arises.

As set forth in the Administrative Code, the chief judge at a polling place is required to:

(19) ensure peace and good order at the voting place as required by G.S. 163-48.

Examples of peace and good order include:

- (A) keeping open and unobstructed the place at which voters or persons seeking to register or vote have access to the place of registration and voting;
- (B) preventing and stopping attempts to obstruct, intimidate, or interfere with any person in registering or voting;
- (C) protecting challengers and witnesses against molestation and violence in the performance of their duties; and
- (D) ejecting from the place of registration or voting any challenger or witness for violation of any provisions of the election laws or rules.<sup>16</sup>

Consistent with these rules, the chief judge or one-stop site manager should monitor conduct both inside and outside the voting place for potential interference or disorder. **Complaints or indications of harassment, interference, or intimidation must be addressed immediately.**

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<sup>14</sup> N.C.G.S. § 163-48.

<sup>15</sup> N.C.G.S. § 163-166.1(2) & (3).

<sup>16</sup> 08 NCAC 10B .0101(b)(19). The rule was adopted to implement G.S. § 163-48, which requires the chief judge and judges to “enforce peace and good order in and about the place of registration and voting.”

The chief judge or one-stop site manager must use their sound discretion to attempt to deescalate any potential disturbance and to issue verbal warnings about behaviors that could lead to a person's ejection or arrest, if warranted.

**If the chief judge or one-stop site manager is unable to successfully ensure that voters are able access to the polls free from interference, they shall immediately contact their county board of elections or law enforcement, depending on the urgency of the situation.** Election officials should contact local law enforcement as soon as a situation begins to escalate beyond their ability to control the situation. Officials should contact law enforcement immediately if there is a reasonable concern for anyone's safety or officials believe the situation may get out of control. On-site election officials have the authority to "order the arrest of any person violating any provision of the election laws," including laws mentioned above that prohibit interference with voters or election officials; and responding peace officers are required to "aid in the enforcement" of such orders.<sup>17</sup>

If your office becomes aware in advance of an event that has the potential to cause a disruption at the polls, notify the State Board right away. We will work to monitor the situation and provide support as needed, including by involving federal or state law enforcement partners.

**The presence of law enforcement officers at a voting site must always be balanced against the potential for some voters to feel intimidated if law enforcement is perceived as monitoring voters.** As election officials, we have a responsibility to make the voting site welcoming to all eligible voters. To this end, county boards should avoid having law enforcement officers stationed at a voting place while voting is occurring, and more generally avoid situations where law enforcement could be perceived as monitoring voters. This does not preclude law enforcement assisting with parking or vehicle traffic issues to ensure the voting site is safely accessible, periodically and unobtrusively patrolling near the outside of a voting location in the event heightened security is needed, or responding to an incident—all of which may be appropriate measures to ensure an orderly election, depending on the circumstances. And, of course, law enforcement officers must be permitted to vote while wearing their

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<sup>17</sup> N.C.G.S. § 163-48: "[T]he chief judge and judges may call upon the sheriff, the police, or other peace officers to aid them in enforcing the law. They may order the arrest of any person violating any provision of the election laws, but such arrest shall not prevent the person arrested from registering or voting if he is entitled to do so. The sheriff, police officers, and other officers of the peace shall immediately obey and aid in the enforcement of any lawful order made by the precinct election officials in the enforcement of the election laws."

uniforms. County boards may also request law enforcement to escort election officials to and from the voting site.

If a county board uses private security, the security guards must be unarmed and may not be stationed inside the voting enclosure. They may wear uniforms. They should always avoid the impression of monitoring voters.

Each county board is encouraged to meet with local law enforcement, including the sheriff's department and any municipal police departments, to alert them of upcoming election dates, election laws related to voting places, and to share any information about possible threats or gatherings. Partnerships and information sharing with local law enforcement are important to ensure a swift and appropriate response to any significant incidents at the polls.

To aid in the enforcement of election laws and the maintenance of order at the polls, the State Board has partnered with the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police to produce the [Elections Reference Guide for North Carolina Law Enforcement](#). County boards may share this guide with their law enforcement contacts and refer to it, as needed.

## Examples of Prohibited Acts

State Board staff have prepared the following 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.<sup>18</sup>**

2. *Individuals in the parking lot physically prevent multiple cars from parking at the only parking lot in the voting place. Voters in the cars turn around and leave.*

**It is a crime to interfere with the ability of any voter to access the voting place.<sup>19</sup>**

3. *Individuals intentionally distribute misleading information about the time, date or place of an election, or about the qualifications required to vote.*

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<sup>18</sup> 18 U.S.C. § 241; *see also Williams v. United States*, 341 U.S. 97 (1951).

<sup>19</sup> N.C.G.S. § 163-274(4).

**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.”<sup>20</sup>**

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.<sup>21</sup>**

5. *An individual in the polling place threatens to choke and kill the precinct official because they have a disagreement about whether a voter is eligible to vote the assigned ballot. The individual also curses and tells the precinct official to get out of the room.*

**It is a crime for any person to threaten, menace, intimidate, or assault any election official when carrying out their duties.<sup>22</sup>**

6. *An observer at a polling place stands between a voter and a tabulator, blocking the voter from inserting their ballot in the tabulator.*

**It is a crime to interfere with, or attempt to interfere with, any voter when inside the voting enclosure.<sup>23</sup>**

7. *After the closing of the polls and when election supplies are being returned, an individual closely follows a chief judge to their car, and then tails their car on the way to the county board office, making the chief judge reasonably fear for their safety.*

**It is a crime for any person to threaten, menace, intimidate, or assault any election official when carrying out their duties.<sup>24</sup>**

8. *An observer opens the emergency ballot bin located beneath the tabulator and looks through its contents.*

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<sup>20</sup> N.C.G.S. § 163-275(17): It is a Class I felony “For any person, directly or indirectly, to misrepresent the law to the public through mass mailing or any other means of communication where the intent and the effect is to intimidate or discourage potential voters from exercising their lawful right to vote.”

<sup>21</sup> N.C.G.S. § 163-166.4(a).

<sup>22</sup> N.C.G.S. § 163-275(11). See also *State v. Hines*, 122 N.C. App. 545, 471 S.E.2d 109 (1996).

<sup>23</sup> N.C.G.S. § 163-273(a)(3).

<sup>24</sup> N.C.G.S. § 163-275(11). “Clearly, in G.S. 163–275(11) the legislature intended to prohibit anyone from frightening an individual while conducting election duties.” *State v. Hines*, 122 N.C. App. 545, 552, 471 S.E.2d 109, 114 (1996).

**No person other than elections officials performing their duties may have access to voted ballots or paper or electronic records of individual voted ballots.<sup>25</sup> And no person other than election officials and voters inserting their ballots may access a voting machine.<sup>26</sup> State law requires that a county’s “voting system remains secure throughout the period voting is being conducted.”<sup>27</sup>**

9. *An observer stations themselves directly behind the ballot tabulator and refuses the chief judge’s instruction to keep appropriate distance from the tabulator.*

**Poll workers must ensure that the voting machines cannot be tampered with during the conduct of voting,<sup>28</sup> and that observers cannot be close enough to view a voter’s completed ballot.<sup>29</sup>**

10. *An observer films or photographs curbside voters while in the act of voting.*

**The curbside vehicle serves as the voting enclosure for curbside voters. No one may film or photograph a voter in the act of voting without the consent of the voter and chief judge, and under no circumstances may a voted ballot be filmed or photographed.<sup>30</sup> Additionally, an observer “shall in no manner . . . observe any voter in casting a ballot,” nor may they position themselves in a way to see the contents of a ballot or attempt to view voted ballots.<sup>31</sup>**

11. *During the closing of the polls and vote count at the precinct, an observer persistently interrupts the poll workers and asks them questions, despite being warned that the poll workers must conduct closing procedures without disruption.*

**Under state law, “[n]o witness shall interfere with the orderly counting of the official ballots. Witnesses shall not participate in the official counting of official**

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<sup>25</sup> N.C.G.S. § 163-165.1(e). There are exceptions, which are not applicable to an observer at a voting place.

<sup>26</sup> 08 NCAC 04 .0306. See also 08 NCAC 10B .0101(g)(5), requiring precinct officials to “ensure that the voting system cannot be tampered with throughout the period voting is being conducted.”

<sup>27</sup> N.C.G.S. § 163-166.7(c)(1).

<sup>28</sup> 08 NCAC 10B .0101(g)(5).

<sup>29</sup> 08 NCAC 20 .0101(d)(3).

<sup>30</sup> N.C.G.S. § 163-166.3(b) & (c).

<sup>31</sup> N.C.G.S. § 163-45(c); 08 NCAC 20 .0101(d)(3) & (7).



ballots.”<sup>32</sup> Observers may “observe the count” and the closing of the polls, but “observers shall not interfere with the counting of the ballots.”<sup>33</sup>

12. *Individuals outside the buffer zone threaten a voter with physical harm 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.<sup>34</sup> It is also a state crime to “intimidate or oppose any legally qualified voter on account of any vote such voter may cast or consider or intend to cast, or not to cast, or which that voter may have failed to cast.”<sup>35</sup>**

13. *Individuals attempt to enter voter challenges without a proper basis.*

**State law prohibits challenges made indiscriminately or based on speculation.<sup>36</sup> It is also a violation of federal law, which may result in civil or criminal penalties, for any individual to challenge a voter for an impermissible basis.<sup>37</sup>**

14. *An electioneer outside the buffer zone stands within one foot of voters walking into the voting place and repeatedly ignores requests to maintain a reasonable distance from voters. The electioneer uses this tactic as a way to intimidate voters from voting.*

**It is a federal and state crime to intimidate voters for the purpose of interfering with their right to vote.<sup>38</sup>**

Whether certain activity amounts to voter intimidation or a threat to an election official is often specific to the circumstances of the incident. The following represent additional examples of conduct that may demonstrate efforts to intimidate voters or threaten an election official:

- Verbal threats of violence or threatening behaviors inside or outside the polling site.

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<sup>32</sup> N.C.G.S. § 163-182.2(a)(3).

<sup>33</sup> 08 NCAC 10B .0105(h).

<sup>34</sup> 18 U.S.C. § 594.

<sup>35</sup> N.C.G.S. § 163-274(a)(7).

<sup>36</sup> N.C.G.S. § 163-90.1(a): “Challenges shall not be made indiscriminately and may only be made if the challenger knows, suspects or reasonably believes such a person not to be qualified and entitled to vote.”

<sup>37</sup> 18 U.S.C. § 241. See [Federal Prosecution of Election Offenses](#) (Dec. 2017) for additional information.

<sup>38</sup> 18 U.S.C. § 594; N.C.G.S. § 163-274(a)(7).

- Bringing firearms inside a polling place that otherwise prohibits them by law,<sup>39</sup> or brandishing weapons outside the polling place in a threatening manner.
- Aggressively approaching voters' or election officials' vehicles, recording their license plate numbers, or following them to, from, or within the voting site.
- Harassing voters by aggressively questioning their eligibility to vote or voting intentions.

## Documenting Incidents at the Polls

**County boards must instruct poll workers to document any disturbances at the polls in an Incident Report.** Any significant incidents should be immediately reported to the State Board by the county board. After Election Day, all Incident Reports must be uploaded to the Secure FTP at CountyUploads\_SBE\[Year]\[ElectionDate]\Incidents. Having proper documentation for voting site incidents helps investigators who may be called upon to investigate potential violations or irregularities, and it protects polls workers against unfounded allegations if complaints are made for actions taken to maintain order at the polls. Proper documentation also ensures transparency and accountability in the conduct of elections.

## Outside Observers at the Polls

Anyone has the right to watch or observe the election outside the voting place. To promote the orderly administration of elections, protect voter privacy, and to ensure the integrity of the election process, state law prescribes specific rules and procedures governing monitors who may enter the buffer zone and the voting place. County boards are encouraged to make available at voting sites the State Board's [Tips for Monitoring or Observing the Election at Polling Sites](#).

### Party-Appointed Observers

Observers are appointed by the political parties according to the requirements in the law.<sup>40</sup> Only lawfully appointed observers are permitted to be present in the voting place during voting. Observers must be registered to vote in the county.<sup>41</sup> A county board chair, or the chief judge and judges, may “for good cause” reject any observer appointment and require the county party

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<sup>39</sup> All schools and courthouses, as well as many other government buildings and certain private facilities, including some churches and sports arenas, prohibit firearms. Those prohibitions apply when the facility is used as a voting place.

<sup>40</sup> N.C.G.S. § 163-45; 08 NCAC 20 .0101.

<sup>41</sup> In 2018, the law was revised to permit 100 additional at-large observers to be appointed by each statewide political party, and those observers need only be registered voters of the state. However, this provision is not currently in effect because of a North Carolina Superior Court decision issued in 2021 that enjoined the voter photo identification law, S.B. 824—a law that included this observer provision.

to appoint another in their place.<sup>42</sup> “Good cause” could include a history of disruptive activity in past elections (or a past election), in violation of the law governing observers. For more details about appointment, see [N.C.G.S. § 163-45](#) and [08 NCAC 20 .0101](#).

Observers may observe and take notes. They may possess personal electronic devices as long as they do not disrupt voters or election officials. Any problems must be reported to the chief judge or county board of elections. An observer may not speak with voters or assistants. Additional prohibited activities by observers include:

- (1) Wearing or distributing campaign material or electioneering;
- (2) Impeding or disrupting the voting process or speaking with voters or election assistants;
- (3) Interfering with the privacy of the voter, including positioning themselves in such a way that they can view confidential voter information on poll books or laptops or standing in such a way that they can view the contents of ballots inserted into a tabulator;
- (4) Using an electronic device to film or take photographs inside the voting enclosure;
- (5) Taking photographs, videos, or recording a voter without the consent of the voter and the chief judge;
- (6) Entering the voting booth area or attempting to view voted ballots;
- (7) Boarding a vehicle containing curbside voters; and
- (8) Providing voter assistance.<sup>43</sup>

All observers, whether precinct-specific or at-large, may be relieved after serving no less than four hours. An observer may leave the voting place without having served for four hours, but the observer cannot be replaced by a new observer until at least four hours have passed since the first observer began serving. An observer who leaves the voting place for any reason may be prohibited by the chief judge from returning if the observer’s return would cause a disruption in the voting enclosure.<sup>44</sup>

### Other Individuals Witnessing the Election

Members of the public may watch or observe the election outside the voting place. Such activity must remain outside of the buffer zone. Members of the public, campaigners, candidates,

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<sup>42</sup> N.C.G.S. § 163-45(b).

<sup>43</sup> 08 NCAC 20 .0101(d).

<sup>44</sup> 08 NCAC 20 .0101(c).

advocates, and “poll watchers” who are not properly appointed observers may not enter the buffer zone or voting enclosure during voting unless they are voting.<sup>45</sup>

Individuals may be present outside the voting place for purposes unrelated to voting, such as encouraging voters to get flu shots or publicizing products or services, as long as such presence does not hinder voters’ access to the polls. We discourage county boards from partnering with such groups because this is not within the county board’s mission and such partnerships could be construed by the public as encouraging or supporting certain services and products over others.

Individuals or groups may not give away free items such as food, drink, or other things of value if the giveaway is conditioned on the person having voted. It is a federal and state crime to make or offer to make any expenditure to any person based on whether they choose to vote or not to vote, or to vote for or against any candidate.<sup>46</sup> It is permissible for individuals or groups to give away items to all persons they encounter, regardless of whether they have voted or plan to vote.

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<sup>45</sup> N.C.G.S. § 163-166.3(a).

<sup>46</sup> 18 U.S.C. § 597; N.C.G.S. § 163-275(2).