



**OFFICE OF THE DIRECTOR OF POLICE
THE UNIVERSITY OF TEXAS SYSTEM
TRAINING BULLETIN**

**TB031 ELECTION DAY VOTING PROTOCOLS
OCTOBER 13, 2020**



I. Purpose

The purpose of this training bulletin is to provide University of System Police personnel an overview of statutes impacting activities in the vicinity of polling places.

II. Definitions

“Electioneer” means any posting, use, or distribution of political signs or literature. The term does not include the distribution of a notice of a party convention authorized under Section 172.1114 of the Election Code, which allows political parties to provide notices under certain circumstances to voters participating in the party’s primary election.

III. What conduct is prohibited around the vicinity of a polling place on election day or while early voting is taking place?

Electioneering

It is a Class C misdemeanor to electioneer within 100 feet of an outside door through which a voter may enter the building where a polling place is located. Tex. Elec. Code § 61.003.

Using Sound Amplification Devices

It is a Class C misdemeanor to use a sound amplification device to electioneer or make a political speech within 1,000 feet of the building in which a polling place is located. Tex. Elec. Code § 61.004.

- Keep in mind that even if amplified sound is not being used to electioneer or make a political speech, your institution has restrictions on amplified sound that may apply.

Unlawful Influence

When a voter is actually in the polling place, it is a Class B misdemeanor to indicate to that voter by word, sign, or gesture how a person wants the voter to vote. Tex. Elec. Code § 61.008.

IV. **What items are prohibited around the vicinity of a polling place on election day or while early voting is taking place?**

Badges, Signs, Insignias, etc.

It is a Class C misdemeanor to wear a badge, insignia, emblem, or other similar communicative device relating to a candidate, measure, or political party appearing on the ballot, or to the conduct of the election, in the polling place or within 100 feet of any outside door through which a voter may enter the building in which the polling place is located.

- Exceptions apply to badges of election judges or clerks, state or federal election inspectors, certified peace officers, or special peace officers appointed for the polling place by the presiding judge worn while on duty.

Cell Phones and Other Wireless Communication Devices

A person may not use a wireless communication device or any mechanical or electronic means of recording images or sound within 100 feet of a voting station. Tex. Elec. Code §§ 61.014.

- The election judge or clerk may require persons violating this prohibition to turn off the device or leave the polling place.
- Unlike the previous provisions, this prohibition is not a criminal offense and should be left up to the election judge or clerk to enforce. Officers may be needed to enforce a trespass offense if a person who violates this prohibition is asked to leave but fails to do so.
- Election judges and clerks may allow persons with disabilities to use these devices.
- Polling location employees and election officials may use these devices if related to their employment or official duties. Poll watchers may not use these devices.

Firearms

It is a felony of the third degree to bring a firearm within the premises of a polling place. Tex. Penal Code § 46.03.

- Exceptions are provided for peace officers.

V. **What conduct is allowed around the vicinity of a polling place on election day or while early voting is taking place?**

Electioneering Outside 100-Foot Marker

UT Institutions may NOT prohibit electioneering outside of the 100-foot distance markers. However, your institution may have time, place, and manner restrictions that apply.

Exit Polling

Non-disruptive exit polling within the 100-foot markers is allowed. The presiding judge or clerk will determine if exit polling constitutes either (1) “loitering” in violation of Section 61.003(a) of the Election Code or (2) a disruption of order or a contribution to a breach of the peace at the early voting or election day polling place in violation of Section 32.075(a) of the Election Code.

Written Materials

Voters are allowed to bring written materials into voting stations to assist them in casting their ballot. However, election judges and clerks may use their discretion to determine if a voter is electioneering for or against any candidate, measure or political party through the use of written materials.

Petition Signature Gathering

Outside of the 100-foot markers, persons may gather petition signatures. This activity is considered to be electioneering. Like other electioneering, UT institutions may not prohibit electioneering outside of the 100-foot distance markers. However, your institution may have time, place, and manner restrictions that apply.

VI. **Other Considerations**

- The election judge or election clerk is in charge of the polling place. Election judges and clerks know the law and are trained to handle issues that routinely come up during elections - they know how to run their polling places.
 - Generally, election judges and/or clerks will determine whether a violation has occurred or is occurring.
 - It is important for you to know who the election judge or clerk is in your institution’s polling place so:
 - they know who to call if they need police assistance; and
 - you know who to reach out to if you have questions.

- The election judge or clerk has the authority to and will organize the polling place site with 100-foot markers. Use this marked area as guidance when determining if the conduct is happening within the premises of the polling place.
 - Keep in mind that some provisions apply to the entire 100-foot marked area; others only to 100 feet of the voting stations or 1,000 feet of the buildings where polling places are located.
- Be aware of the high number of non-UT affiliated individuals who will be present on campus near the polling place.
- Be mindful that an excessive police presence around a polling place can have a negative connotation. Be aware of these potential optics. Election judges and clerks will run their polling place. You are there to help if needed.

VII. Additional Resources/Reference Materials

Election Code Chapter 61



Michael J. Heidingsfield
Director of Police