

Monterey County Elections Observer Guidelines



Observers and Exit Pollsters are encouraged to contact Monterey County Elections before each election for the latest changes to the California Election Code and/or the unique details of a particular election.

**Monterey County Elections
1441 Schilling Place-North Building
Salinas, CA 93901
831-796-1499
Toll Free 866-887-9274
www.montereycountyelections.us**

I.Introduction

Elections is a transparent process and observation is welcome. In Monterey County, observers are provided an opportunity for public observation and input. This process assists in enhancing the integrity of the election process and increases voter confidence as well as encourages citizen participation.

Interested persons may observe all critical procedures of the election process, such as Logic and Accuracy testing of all vote tabulating machines planned for use during the election, vote by mail ballot processing, election officer training classes, election day activities, election night ballot tabulation and reporting, and canvass procedures (such as the manual tally).

III.Calendar of Observable Activities

Approximately 35-40 days before any election, Monterey County Elections (MCE) emails a schedule of observable activities to interested parties. This information is also disseminated via press releases to various media outlets and posted on the MCE webpage and social media sites.

IV.Overview

As an election observer, you have a number of rights and responsibilities. Please take the time to review this *Monterey County Elections Observer Guidelines* informational packet to learn more about what you may and may not do as an observer. Additionally, in an effort to facilitate meaningful and specific feedback, each observer is encouraged to provide feedback directly to the Registrar at elections@co.monterey.ca.us. Observers may receive surveys from the Department following specific activities.

Observers may view election processes and procedures at various locations during set schedules, in accordance with public health and safety guidelines, including at:

1. Monterey County Elections-Observation Area 1441 Schilling Place – North Building, Salinas, CA, 93901
2. Election officer training locations
3. Polling places and Early Vote Locations
4. Supply pick-up and receiving centers

Operations will continue as scheduled, whether or not an observer is present.

Activities at the Department's location can be viewed from the observation area. Observation procedures, including the number of observers in the observation area, are subject to modification, at the discretion of the elections official, for reasons including, but not limited to:

1. Voter needs
2. Public Health and Safety Guidelines related to the COVID-19 Pandemic
3. The size and configuration of the area
4. Staffing levels
5. The number of observers requesting access to a particular process

V. General Rules of Conduct

While at the Elections Department:

Observers must conduct themselves professionally and comply with all public health and safety guidelines including the use of face coverings and social distancing. Observers are asked to be courteous to elections personnel and to observe quietly in a manner that is not disruptive to operations and voters.

The observation area will be open to the public during regular business hours. Any interested member of the public may access the observation area, following a brief COVID-19 screening, without checking in at the front counter so long as social distancing guidelines can be maintained. Due to COVID-19, large groups cannot be accommodated, instead, observers may be asked to observe in shifts so that everyone who wishes to observe may have the opportunity to do so. The area includes informational panels with QR codes to access more information about observable activities. Further questions may be directed to elections@co.monterey.ca.us.

Failure to comply with rules of conduct will result in dismissal from the office or polling place. Behavior deemed to be disruptive, injurious, a threat to public health and safety, or construed as existing to intimidate personnel or voters or to interfere with procedures are of the judgment and determination of the elections official.

Observers may:

1. View pre-election proceedings, early voting and election day voting proceedings, vote by mail ballots processing, election night procedures, the canvass and post-election day procedures
2. Take notes
3. Access designated observation area(s)
4. Ask questions via elections@co.monterey.ca.us. At the discretion of the elections official, questions may be answered or redirected to the appropriate person. The elections official may require that questions be submitted in writing. Persistent and disruptive questioning is not permitted.

Observers may not:

1. Interfere with procedures or with the conduct of any election.
2. Knock or attempt to address or otherwise distract staff through observation windows.
3. Bring bags, backpacks, suitcases, etc. into any observation area.
4. Enter any area without a face covering or in violation of social distancing guidelines.
5. Touch, handle, or physically contact any voting materials or equipment (including seals and ballots).
6. Sit at official worktables.
7. Speak directly with anyone working with election materials.
8. Stand, carry on discussions, or pause for lengths of time in official work areas.
9. Intimidate or impede, or attempt to intimidate or impede, in the judgment of the elections official, personnel or voters in any way.
10. Make physical contact with staff.
11. Be closer than 6 feet from any staff member (per public health and safety guidelines).

12. Talk to voters relating to the casting of a vote or about their qualifications to vote; display any election material; wear candidate badges or apparel, or electioneer within 100 feet of the entrance to the department's voting area.
13. Have pagers, cellular telephones, computers, netbooks, tablets or other electronic devices turned on. These items must be off and put away.
14. Use cameras, including cellular telephone cameras, or video recording devices of any kind; or, while inside the department or early voting area, photograph, videotape or otherwise record a voter entering or exiting a voting area or attempt to or have the perception of photographing confidential voter information on any computer terminal.
15. Remove or view any materials in a way so that others are unable to use them.
16. Use department telephones, electrical or internet outlets, or computers.
17. Be in secured areas.
18. Bring or consume food or drink within the department and the observation area.
19. Wear the uniform of a peace officer, private guard, or security personnel.
20. Use vulgar or threatening language, yell, or verbally intimidate staff, as determined by the elections official.
21. Congregate within the department or any observation area to wait for procedures to commence.

Non-compliance with Rules:

Any observer who fails to follow observation rules or public health and safety guidelines will be asked to leave the premises. If necessary, the Registrar of Voters may contact law enforcement.

Observable Activities at the Elections Department:

Pre-Election Activities (call for scheduling)

- Logic & Accuracy (L&A) testing of the following voting machines:
 - ImageCast Central (ICC) ballot tabulator, version 5.10.0.1002 with the Canon DR-G2140 scanner (central count vote by mail and precinct ballot scanner with Adjudication)
 - Image Cast X (ICX/Ballot Marking Device) Station Version 5.10.11.11 to assist individuals to vote independently and privately at the Elections Department and at each polling place
- Assembly and distribution of precinct supplies
- Signature/eligibility verification of vote by mail ballots
- Preparation, adjudication, and scanning of vote by mail ballots

Election Night Activities (commencing after 8:00 p.m.)

- Return and processing of precinct materials in the warehouse
- Ballot tabulation and results reporting

Post-Election Activities (call for scheduling)

- Random selection of precincts and conduct of the manual tally
- Processing provisional and vote by mail ballots
- Ballot adjudication
- Ballot tabulation and final results reporting

- Post-election L&A testing

Observing Vote by Mail (Absentee) Ballot Processing:

The observer's function is to observe that the department is following ballot verification and processing procedures. Observers may not be permitted close enough to be able to ascertain the identity of a voter or ballot choices, assist in operations, or touch or handle any ballots or other election-related materials. Further, following health and safety guidelines, observers must wear a face covering at all times and may not be within 6' of staff or other observers.

1. No observer shall interfere with the orderly processing of vote by mail ballot return envelopes or processing and counting of vote by mail ballots, including touching or handling of the ballots or envelopes. (Elections Code §15104(e))

Ballot Handling Challenges:

1. Any observer who is a voter, a member of the County Grand Jury, or a member of the political party Central Committees who have a candidate on the ballot, or any other interested organizations, shall be permitted to observe and challenge the manner in which the vote by mail ballots are handled, from the procedures for processing of vote by mail ballot return envelopes through the counting and disposition of the ballots (see item 2 above and Elections Code §15104b)
2. Observers may not challenge signatures on vote by mail ballot return envelopes. Only the elections official shall perform signature comparison, in accordance with Division 3 of the California Elections Code.

While at the Polling Place:

While observation is allowed by law, there are rules and guidelines that must be followed. These rules include complying with public health and safety guidelines on social distancing, face coverings, and gatherings. Observers will be courteous and quiet so as not to disrupt poll workers and voters.

Observable Activities:

1. Opening procedures, including:
 - a. Posting of required signage, voting booths, and other "generic" supplies
 - b. Verification of security seals and set-up of the ballot marking device (ICX)
 - c. Set-up of the voter processing table
 - d. Opening of supplies and positioning of official ballots in preparation for voters
2. Voter processing (including issuing ballots or, if applicable, card activation; must be at least 6 feet away from the activity)
3. Roster cross-referencing (each hour as time permits and up to 6 p.m.)
4. Provisional ballot procedures
5. Mid-day returns
6. Closing procedures, including:
 - a. Removal of required signage, take down of voting booths, and other "generic" supplies
 - b. Ballot marking device closing procedures

- c. Reconciliation and completion of necessary forms
- d. Sealing of all required materials for transport to assigned Receiving Station

Observers are required to:

1. Remain outside of the polling place until election officers have arrived and are ready to escort observers
2. Sign in at each precinct within a polling place (information requested includes: name, time, contact information, and the organization of which they represent)
3. Check in with the election officers (provide name, organization, and plans for observing)
4. Maintain a professional demeanor
5. Speak quietly while in the polling place
6. Remain in an observation area as designated by an election officer
7. Sign-out upon leaving the precinct and polling place, even if the observer plans to return

Observers may:

1. Take notes
2. Obtain information from the reference roster (yellow) that is posted near the entrance and/or look at the copy at the worktable (unless election officers are using it and voters are in line)
3. Cross reference the posted reference roster with a cell phone or other electronic device
4. Upon request, be permitted to view, without physical contact and in the presence of an election officer, the integrity of all *externally visible* security seals used to secure voting equipment in a time and manner that does not interfere with the conduct of the election or the privacy of any voter
5. Ask election officers questions regarding election procedures; election officers may answer or refer the question to the Registrar of Voters

Observers may not:

1. Interfere in any way, in the judgment of an elections officer, with the procedures or the conduct of any election
2. Talk to elections officers or voters in such a manner as to interfere with or delay the voting process
3. Question in such a manner that disrupts the execution of their duties or interferes in their ability to provide service to voters; if questioning persists to the extent that it poses an impediment to the process, the election officer may stop responding and direct the observers to the Registrar of Voters for all further answers
4. Enter any location without a face covering, while ill, or at a time when social distancing cannot be accommodated in the judgement of the poll worker or election official.
5. Challenge a voter
6. Touch any voting materials or equipment or sit at the official worktables
7. Use the area between the official worktables, voting booths and vote tabulating equipment as observation point
8. Intimidate or impede, or attempt to intimidate or impede, in the judgment of an elections officer, staff or voters in any way

9. Insist that the election officers stop processing voters, for any reason
10. Interfere with the timely closing of the polls or transportation of the ballots to the central office or receiving centers
11. Within 100 feet of the room in which voting is taking place, electioneer or speak to a voter relating to their qualifications to vote
12. Use pagers, cellular telephones, computers, netbooks, tablets, two-way radios, or other electronic devices inside the polling place, or within 100 feet of the entrance to the polling place (these devices must be off and be put away) (Cellphones and personal handheld devices may be used to cross reference the posted roster)
13. Use cameras, including cellular telephone cameras, or video recording devices of any kind while inside the polling place or photograph, videotape, or otherwise record a voter entering or exiting a polling place
14. Remove or view any materials, including the posted reference roster, in a way so that others are unable to use them
15. Use telephone or other polling place facilities
16. Talk in a loud voice or behave in a disruptive manner
17. Congregate in any number that may violate health and safety guidelines at the discretion of the poll worker or election official. Observers may be asked to observe in shifts or limit the amount of time within a location so that all voters can be accommodated without delay and so that others wishing to observe have the opportunity to do so.
18. Eat or drink within the polling place
19. Wear the uniform of a peace officer, private guard, or security personnel
20. Bring in personal bags, backpacks, and/or briefcases; observers who bring such items into the polling place will be asked to return the items to their car
21. Enter restricted areas (election officer or voter designated areas, or near or in any ballot marking device voting booth without election officer escort)
22. Observe any voter while casting their ballot
23. Ride in the poll worker's vehicle enter any election courier vehicles

Non-compliance with rules:

Failure to comply with the rules will result in dismissal from the polling place. Poll workers may contact law enforcement as needed.

Exit Pollsters

1. Media and public opinion pollsters have different rules than do poll watchers. Clearly identified members of a news/media organization and exit pollsters may be no closer than 25 feet of a polling place, and may speak to voters who are leaving the polling place as long as they do not interrupt voting. (*California SOS Guidelines, 2006*)

Pertinent Law:

Excerpts below from the California Elections Code and opinions of the Attorney General, where noted.

General:

- ✓ Poll watchers may not sit at the official table. (*CEC §14223(a)*)
- ✓ The area between the official table and the voting booths is accessible to voters only and may not be designated as an observer post. Only poll workers and voters

engaged in voting may be within the voting booth area during the time the polls are open. (CEC. §14221)

- ✓ Indexes marked to indicate persons who have voted are posted for reference by the public. Signature rosters may be inspected at any time provided there is no interference with poll operations or delay or inconvenience to the voters. (CEC §§14202 & 14223(b))
- ✓ The American Flag must be prominently displayed (regardless of weather conditions) during all polling hours. (CEC. §14105(e))
- ✓ At the opening of the polls the ballot box must be opened, exhibited to be empty, closed and then shall remain in the polling place until the ballots are counted. (CEC §14215)
- ✓ If a polling place is inaccessible to a voter with a disability, the voter may vote a ballot outside the premises in an accessible area as near as possible to the polling place. (CEC §14282(d))
- ✓ Voters may request and receive assistance in voting if they declare under oath that they are unable to mark their ballots without such assistance. (CEC. §14282(a))
- ✓ A voting booth may not be occupied by more than one person at a time unless a person is assisting the voter as provided by law. Nothing prevents a voter from being accompanied by a child under the age of 18 years while within the voting booth area if the child is under the voter's care. (CEC §§14281, 14222 and 14224)

Interference with Election Officers or Voters:

- ✓ Any person who in any manner interferes with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, as to prevent the election or canvass from being fairly held and lawfully conducted, is punishable by imprisonment in the state prison for 18 months or two or three years. (CEC. §18502)
- ✓ It is a felony for any person to possess a firearm at a voting location or in the immediate vicinity of a voting location (CEC. § 18544).
- ✓ Damaging or tampering with voting equipment or official election materials in a polling place is a felony, punishable by imprisonment for 2, 3, or 4 years. (CEC. §18564)
- ✓ Interfering with the preparation and holding an election, or with voters lawfully exercising their rights of voting at an election, is punishable by imprisonment for up to 3 years in state prison (CEC. §18502).
- ✓ It is also a felony for any person or entity to hire or arrange for the prohibited activity in Elections Code section 18544, unlawful hiring or stationing of guards. (CEC. § 18545).
- ✓ Every person who knowingly challenges a person's right to vote without probable cause or on fraudulent or spurious grounds, or who engages in mass, indiscriminate, and groundless challenging of voters solely for the purpose of preventing voters from voting or to delay the process of voting, or who fraudulently advises any person that he or she is not eligible to vote or is not registered to vote when in fact that person is eligible or is registered, or who violates Section 14240, is punishable by imprisonment in the county jail for not more than 12 months or in the state prison. Every person who conspires to violate subdivision (a) is guilty of a felony (CEC. §18543).

Coercion:

- ✓ The use of force, violence or tactic of coercion or intimidation to compel a person to refrain from voting at any election is a felony punishable by imprisonment in state prison. (CEC. §18540)
- ✓ Poll workers are instructed to report the presence of any persons or signs which may be intimidating to voters or cause interference with the voting process to the Registrar of Voters. (CEC. §18541)

Corruption of Voting:

- ✓ It is a misdemeanor for any member of the public observing the elections to willfully attempt to ascertain the identity of a voter and the voter's ballot choices while observing the processing of vote by mail ballots, the semiofficial and official canvass, or any recount. Attempts include, but are not limited to, attempting to ascertain the identity of a voter by viewing confidential voter information on any computer terminal or official document and subsequently attempting to ascertain the ballot choices of that voter; opening a provisional or vote by mail ballot envelope in order to ascertain the voter's ballot choices; or making or placing a mark or device on a ballot or secrecy envelope in an attempt to ascertain the voter's ballot choices. (CEC. §18562.5)

Electioneering:

- ✓ Electioneering activity is not permitted within 100 feet of the polling place; that is, within 100 feet from the entrance or door to the room or rooms in which voters sign the roster and cast their ballots. Electioneering is any expression that is verbal or visual on a sign, button, flyer, etc. that clearly identifies a candidate or measure that is meant to influence the public one way or the other as it expresses an opinion, good or bad, about the candidate or measure at the election. Electioneering is also considered any of the following:
 - Circulate an initiative, referendum, recall, or nomination petition or any other petition.
 - Solicit a vote or speak to a voter on the subject of marking his ballot.
 - Place a sign relating to voters' qualifications or speak to a voter on the subject of his qualifications except as provided in Section 14240 (voter challenge by precinct board).
 - Place campaign signs or take or wear campaign materials within 100 feet of a polling place. Only poll workers can post signs within 100 feet of a polling place. For purposes of this section [of law], 100 feet means a distance of 100 feet from the room or rooms in which voters are signing the roster and casting a ballot. (CEC. §§18370 and 18541)

Photographing/Videotaping:

- ✓ No person shall photograph, videotape, or otherwise record a voter entering or exiting a polling place. Established media organizations (television or print media) may come into a polling place to record video/photo of a voter as long as the voter consents and there is no disruption to other voters or the voting process. All exit polling must take place 25-feet from the entrance to the polling place. (E.C. §18541 and A.G. Opinion)

Use of Electronics:

- ✓ Pursuant to Elections Code section 2302, a voter, or any other person, may use an electronic device, including a smartphone, tablet, or other handheld device, at a polling place provided that the use of the device does not result in a violation of Section 14221, 14224, 14291, 18370, 18502, 18540, 18541, or any other provision of the Elections Code.

Smoking is not permitted in Monterey County Polling Places

VI. Mechanism for Feedback

Observers are provided a direct email address to both the Registrar of Voters so that they can provide unencumbered feedback concerning their observations of the elections processes. Observers may also provide written feedback to the Registrar of Voters in any other appropriate manner, including letters or memorandum. Observers are asked for timely, detailed and meaningful feedback including the time, date, location, and specific details about the activity observed.