

**State of Rhode Island and Providence Plantations
Rhode Island Board of Elections**

Public Notice of Proposed Rule-Making

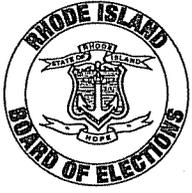
Pursuant to the provisions of Title 17 of the General Laws of Rhode Island, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Rhode Island Board of Elections hereby gives notice of its intent to adopt the following; **Rules and Regulations for Polling Place Conduct.**

This rule is proposed for adoption by the Board of Elections to establish guidelines and procedures to ensure the orderly conduct of elections at the polling place, and enforce the provisions of Rhode Island General Law § 17-15-26, 17-19-21, 17-19-22, 17-19-23, 17-19-24, 17-19-27, 17-19-49, 17-23-15 and 17-23-17.

The proposed Rules and Regulations are available for public inspection online at the Rhode Island Secretary of States proposed rules and regulations database (www.sos.ri.gov/ProposedRules/), via the Board of Elections website (www.elections.ri.gov), in person at the Rhode Island Board of Elections, 50 Branch Ave. Providence, R.I. 02904, requested by email at GMcBurney@elections.ri.gov or by calling Gregory McBurney at 401-222-1914.

In the development of the proposed adoption consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by 02/22/2012 to Robert Kando, Rhode Island Board of Elections, 50 Branch Ave. Providence, R.I. 02904, 401-222-2345, Feedback@elections.ri.gov. A public hearing to consider the proposed adoption shall be held on 02/22/2012 at 3:30 P.M. at 50 Branch Ave. Providence, R.I. 02904 at which time and place all persons interested will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing or by calling 401-222-2345.

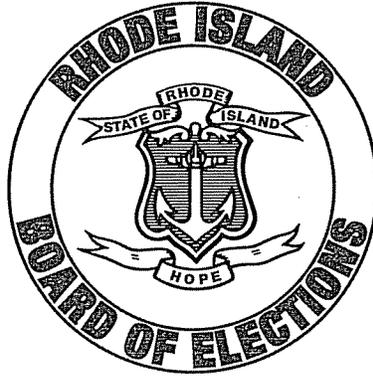


STATE OF RHODE ISLAND AND PROVIDENCE
PLANTATIONS

BOARD OF ELECTIONS
50 Branch Avenue
Providence, RI 02904
(401) 222-2345 Telephone
(401) 222-3135 Fax

Important Note on Proposed Rules and Regulations for Polling Place Conduct

The Proposed draft for Rules and Regulations for Polling Place Conduct contains two versions of the draft. In formulating the proposed draft the Members of the Board of Elections requested alternative versions for consideration. At the February 22, 2012 open meeting both versions of the proposed draft will be heard, but not more than one will be adopted.



**RULES AND REGULATIONS
FOR POLLING PLACE CONDUCT**

DRAFT

PROPOSED

**Promulgated by order of
The Rhode Island State Board of Elections
Frank J. Rego, Chairman**

RULES & REGULATIONS FOR POLLING PLACE CONDUCT ADOPTED BY THE RHODE ISLAND BOARD OF ELECTIONS

The Rhode Island Board of Elections hereby adopts rules and regulations relating to polling place conduct pursuant to and in accordance with R.I. Gen. Laws § 17-15-26, 17-19-21, 17-19-22, 17-19-23, 17-19-24, 17-19-27, 17-19-49, 17-23-15 and 17-23-17.

Said rules and regulations are adopted pursuant to the Administrative Procedures Act (R.I.G.L. § 42-35 et seq.) and are available for public inspection at the offices of the Rhode Island Board of Elections, 50 Branch Avenue, Providence, Rhode Island.

Section 1. Purpose

This rule is adopted by the Board of Elections to ensure the orderly conduct of elections, and enforce the provisions of Rhode Island General Law § 17-15-26, 17-19-21, 17-19-22, 17-19-23, 17-19-24, 17-19-27, 17-19-49, 17-23-15 and 17-23-17.

Section 2. Definitions

Act of Voting shall mean a voter that has entered a polling place for the sole purpose of casting a ballot. The act of voting begins when the voter enters a polling place and begins their approach to the supervisors table. It concludes when the voter has inserted their ballot into the optical scan reader and exits the polling place.

Political Literature shall include any flyer, campaign button, or any item of clothing that includes any electioneering, communication, including words or images, or election symbol attributed to a campaign that promotes the election or defeat of any candidate or ballot question that appears on the ballot.

Election Official shall include the Board of Elections and its designees, the Local Canvassing Authority and its designees, including but not limited to, Moderator/Wardens, Clerks and Supervisors.

Party Representative shall mean any credentialed party checker, runner or watcher as designated under R.I.G.L. 17-19-22.

Polling Place Observer shall include any person, other than a voter in the act of voting, election official, party representative, or police officer assigned to the poll.

Polling Place means the room or area designated for the purpose of receiving and casting a ballot.

Railed or Enclosed Voting Area shall mean the enclosed area within the polling place where ballots are cast. The railed or enclosed area shall be delineated by tables or other means having one entrance and one exit.

Watcher shall mean a party official credentialed by the board of canvassers whose duty is limited to challenging a voter's identity.

Section 3. Open Elections

The public may be present in the polling place to observe the conduct of an election. Only voters and election officials are allowed in the railed or enclosed voting area. No person(s) may willfully hinder the orderly conduct of an election (17-23-17(a)(7)).

Section 4. Table and Chairs Provided for Party Representatives

R.I.G.L. 17-19-22 requires that a table and chairs must be provided outside the enclosed space by the city/town for the party representatives known as "checkers" and "watchers." In the absence of party representatives, the public is allowed to use the table and chairs.

Section 5. Polling Place Conduct

A. Political Literature and Influence

1. Outside the Polling Place

No person shall be allowed to display or distribute any poster, paper, circular, or other document or item designed or tending to aid, injure, or defeat any candidate for public office or any political party on any question submitted to the voters within fifty (50) feet of the entrance or entrances to the building in which voting is conducted at any primary or election.

No person shall conduct any form of poll or survey of voter opinion or voter conduct within a polling place or within fifty (50) feet from the entrance or entrances to any building in which voting is being conducted for any primary or election.

2. Inside the Polling Place

No person other than a voter in the act of voting may display or wear any political literature within the polling place. Any voter displaying or wearing any political literature who has completed the voting process must immediately exit the polling

location. No activity that is intended to interfere with a person's right to vote, shall be permitted within a polling place.

B. Electronic Recording Devices in the Polling Place

Electronic recording of the election process is allowed inside the polling place as long as it is done outside of the railed or enclosed voting area. Electronic recording devices may not hinder the election process or compromise a voter's right to cast a secret ballot by recording the specific votes(s) cast by any person.

C. Talking on Cellular Telephones and other Communications Devices.

Only election officials conducting official election business are allowed to verbally communicate on a cell phone or other communication device within the polling place. All other communications being made to persons outside the polling place must be done nonverbally to ensure the orderly conduct of the Election.

D. Challenges

Challenges are limited to voter identity. Only election officials or watchers may file challenges. Any voter whose identity is challenged shall vote a provisional ballot.

Section 6. Procedures for Maintaining Order at the Polling Place

A warden/moderator may cause to be removed or arrested any person or official who commits a violation of the election law in their presence or disturbs the conduct of the voting, including any conduct that is designed to discourage a person from exercising his/her right to vote; provided, that they shall not cause any removal or arrest without the approval of the election inspector, unless the clerk agrees with the warden/moderator that the person or official should be arrested or removed (R.I.G.L. 17-19-23(9)). Either the warden/moderator or the clerk may in their discretion issue a warning to a person(s) whose acts are disturbing the conduct of the voting.

If a person believes that an Election Official is violating state election laws he/she may contact their Local Canvassing Authority or the State Board of Elections to file a complaint.

Section 7. Implementation

The Board of Elections may promulgate procedures and forms necessary to implement the within rules and regulations required under the Rhode Island General Laws.

These rules and regulations were adopted at a meeting of the State Board of Elections held on the Twenty-second day of February, 2012 pursuant to the Administrative Procedures Act (R.I.G.L. 42-35-1, *et seq.*).

By Order of the Rhode Island Board of Elections

Frank J. Rego, Chairman

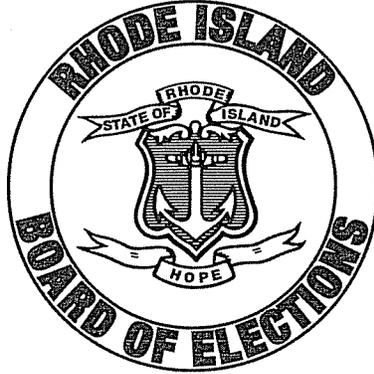
Date

Witnessed by

Robert Kando, Executive Director

Date

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The courts have recognized that the inside of a polling place is a non-public forum in which the State can impose reasonable restrictions to ensure the integrity of the election process. An important purpose for this regulation is to ensure that no one enters the polling place with campaign paraphernalia displayed or distributed. The voter has a right to remain secure from such campaign activity within the polling place. Consequently, any person who enters the polling place with political badges, buttons, or other political paraphernalia, must either remove the item or completely cover it from view.

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2. Inside the Polling Place

No political literature may be displayed or worn within the polling place. Political literature must be removed or fully covered before entering the polling place. No activity that is intended to persuade a person to vote for or against a candidate or ballot question, or is intended to interfere with a person's right to vote, shall be permitted within a polling place.

Any voter who refuses to comply with this regulation after being warned by an election official, shall have his/her name and address reported to the Board of Elections. A violation of this regulation shall not interfere with the voter's right to cast a ballot.

B. Electronic Recording Devices in the Polling Place

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By Order of the Rhode Island Board of Elections

Frank J. Rego, Chairman

Date

Witnessed by

Robert Kando, Executive Director

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