



STATE BOARD OF ELECTIONS

6400 Mail Service Center • Raleigh, North Carolina 27699-6400

GARY O. BARTLETT
Executive Director

Mailing Address:
P.O. BOX 27255
RALEIGH, NC 27611-7255
(919) 733-7173
FAX (919) 715-0135

MEMORANDUM

TO: North Carolina County Boards of Elections
North Carolina Democratic Party
North Carolina Libertarian Party
North Carolina Republican Party

FROM: Gary O. Bartlett, Executive Director *Gary O. Bartlett*

RE: Observers and use of Electronic Devices

DATE: October 18, 2010

This memorandum supersedes the October 24, 2008 memorandum on this subject. Due to continuing advances in technology, it is necessary to address possible statutory violations due to the use of advanced electronic devices. The following instructions are for chief judges and election observers on the appropriate use of wireless devices inside a voting place.

North Carolina General Statutes allow for the appointment of observers to each polling location by political parties, referendum committees and unaffiliated candidates. N.C.G. S. § 163-45 sets forth that the only allowable activities for observers are to observe and take notes, including collecting at designated times lists of voters who have cast ballots.

The law also sets forth prohibited activities for observers. Observers are not allowed to impede the voting process. They may not interfere with, communicate with, or observe a voter cast a ballot. In addition, the observer may do no electioneering while inside the voting enclosure.

The rights of observers, in turn, are protected by law. Each observer has the right to be at a reasonable place inside the voting enclosure so that the election official, acting in a reasonable fashion and speaking in a reasonable voice, clearly communicates to the observer the names of those persons presenting to vote.

Each chief judge shall, for each voting place:

1. Establish a wireless communication location at the voting place from which observers may use wireless electronic devices (such as cell phones, smart phones, PDAs, iPads, electronic reading

LOCATION: 506 NORTH HARRINGTON STREET • RALEIGH, NORTH CAROLINA 27603

Observers and Electronic Devices

p. 2

devices and computers with wireless communication capacity) to communicate with people away from the voting place. This location must be outside the voting enclosure.

2. Establish a computer workspace at the voting place at which observers may use a computer to create or maintain the voter lists to which they are entitled under N.C.G.S. § 163-45. This computer workspace should be located, where possible, within the voting enclosure. The workspace must include a visual barrier between the computer and the areas within the voting enclosure where voters mark and cast ballots. The barrier must be sufficient to prevent any possibility that the computer might record an image of a voter or a ballot, but it should not impede the ability of the observer to view the full voting enclosure.
3. Instruct every observer to disable the wireless communication capacity of any computer (including but not limited to wireless cards, air cards and external modems) brought into the voting enclosure. These devices shall remain disabled while the observer is inside the voting enclosure.

Each observer shall, at every voting place:

4. Not use electronic devices, including the wireless communication capacity of any computer, to communicate with people away from the voting place except from the designated wireless communication location specified by the chief judge.
5. Disable the wireless communication capacity of any computer brought into the voting enclosure and keep it in a disabled condition while inside the voting enclosure.
6. Affirm to the chief judge, on request, that the wireless communications capacity of any computer within the voting enclosure is disabled.

If an observer uses a computer to create or maintain voter lists as outlined above, the observer may report to his or her sponsoring party, referendum committee or unaffiliated candidate from the designated computer workspace only by creating a paper copy of the list or an electronic copy of the list stored on a physical storage device such as a CD-ROM or flash drive and delivering that copy to a runner as authorized by N.C.G.S. § 163-45. Alternatively, the observer may use the wireless communication location identified above to communicate wirelessly with the sponsoring party, referendum committee or unaffiliated candidate. For that purpose, the observer may re-enable the wireless communication capacity of the computing device only while outside the voting enclosure in the designated wireless location.

The chief judge shall report violations by observers to the County Board of Elections for appropriate action. Additionally, the chief judge may remove an observer from the voting premises.

This policy governing the use of electronic devices by an observer in a voting location serves to define the role and rights of an observer inside a voting enclosure, to outline the duties and responsibilities of the chief judge and to provide statewide, uniform guidelines of conduct. Most importantly, this policy functions to protect the right of a voter to cast a secret ballot, to ensure the integrity of the elections process, and to maintain public confidence in elections conducted in North Carolina.