



Texas Association of School Boards

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Serving Texas Schools Since 1949

Schools as Polling Places

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As concerns about school safety increase, both school and election officials have raised questions about the use of school facilities as polling places during elections. This article explores the legal requirements associated with the use of schools as polling places and provides suggestions for ensuring the safety of students and district employees while preserving the integrity of the election process.

Polling Place Locations: The Texas Elections Code requires that each polling place be located inside a building. The building must be a public building, if practicable. The entity that owns or controls a public building, including a school district, must make the building available for use as a polling place in any election that covers territory in which the building is located. Tex. Elec. Code § 43.031. Thus, a district may not prohibit the use of a district building as a polling place. As discussed below, however, schools may strategically locate polling places on school property to minimize interaction between voters and students and disruption to campus operations.

A school district may not charge for expenses associated with the use of a district facility as a polling place if election day is a day the building is normally open for business. Otherwise, the district may seek reimbursement only for the actual expenses resulting from the use of the building in the election. Tex. Elec. Code § 43.033.

Logistics and Safety Considerations: As stated, a polling place located on school property should minimize voter interaction with students and disruption to campus operations. A polling place requires a large, open, accessible space. (See **Polling Place Accessibility** below.) Thus, an ideal location is an area on the outskirts of campus, an area away from students (e.g., an auditorium, gym, or foyer), or an administrative building. The site should be clearly partitioned or segregated from the rest of campus so that voters cannot interact with students or pass through the polling place and into the rest of the building without clearance through the school district's visitor management process. It should be clearly discernible where the polling place begins and ends. This is especially important because some activities or items may be allowed in the polling place and not on school property, and vice versa.

In addition to carefully choosing the location of a polling place, districts should consider other precautions to minimize disruption to school operations and safeguard students, such as the following:

- Ensuring that a staff member is present on campus from poll opening at 7:00 a.m. until closing at 7:00 p.m. on election day;

- Increasing staff presence in common areas and during activities, such as passing periods, near a polling place;
- Planning for an increase in both vehicle and pedestrian traffic on or near school property during morning drop-off, afternoon pickup, lunch, and recess, including increasing the number of staff or volunteers involved in monitoring and assisting students during these times;
- Ensuring that all faculty and staff, campus visitors who are not voters, and election workers wear appropriate identification;
- Communicating plans and expectations to the school community in advance through direct communications and information on the district and campus websites.

Each school district must include in its multi-hazard emergency operations plan (EOP) a policy for district property used as a polling place. A school board may consult with local law enforcement regarding reasonable security accommodations, but a district is not required to obtain or contract for the presence of law enforcement to secure a polling place. Failing to include polling places in the EOP does not affect the requirement that a district make school facilities available for use as polling places.¹ Tex. Educ. Code § 37.108(e).

Weapons: The law expressly prohibits certain items and activities in the vicinity of a polling place. For instance, firearms, knives with blades over five and a half inches (*location-restricted knives*), and other specified weapons are prohibited on the premises of a polling place on the day of an election or while early voting is in progress. Tex. Penal Code § 46.03(a)(2). This prohibition does not apply to law enforcement officials and certain judicial officers and government attorneys. Tex. Penal Code § 46.15(a).²

In 2021, Texas Penal Code section 46.15 was amended to create a defense to prosecution for carrying a weapon in locations where weapons are prohibited, including active polling places, in the absence of certain notice to the offender. To ensure that voters are aware of the prohibition of weapons at polling places and to ensure that an offender can be prosecuted, the district or other entity running the election should post a sign as described by Texas Penal Code section 46.15(n)-(o). A sign must be posted in a conspicuous manner that is clearly visible at each entrance and must include, in English and Spanish, the following language: “Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other property on this property.” The language must appear in contrasting colors with block letters at least one inch in height. Tex. Penal Code § 46.15(o).

¹ For more information, the [Texas School Safety Center](#) provides an extensive [Polling Place Safety Checklist](#) as part of its [School Safety Law Toolkit](#).

² For information on situations where a presiding election judge may carry a handgun in the polling place, see Texas Attorney General Opinion No. KP-0212 (2018) and Elections Division Advisory [No. 2018-29, Handguns in Polling Places \(KP-0212\)](#). See also Tex. Educ. Code § 37.125 (creating an offense for exhibition or use [or threat of exhibition or use] of a firearm on school property in a manner intended to cause alarm, personal injury, or damage to school property).

Note that state law restricts school districts from posting a sign prohibiting firearms in a location where firearms are not actually prohibited. Due to the complexity of this issue, district officials should contact the Secretary of State Elections Division for additional information and assistance before posting a sign in a polling place.

For more information, see TASB Legal Services' [Firearms on School District Property](#).

Cell Phones, Cameras, and Recording and Sound Devices: Communication devices, including cell phones, and recording devices, including cameras, are generally prohibited within 100 feet of a voting station. Tex. Elec. Code § 61.014. Because this prohibition may apply to security cameras, the Elections Division advises that cameras that cannot be turned off should not view voting equipment at all. See Elections Division Advisory [No. 2021-13](#), *Certain Activities in Vicinity of Polling Places*.

A person may not operate a sound amplification device or vehicle with a loudspeaker to make a political speech or electioneer for or against a candidate, measure, or political party during the voting period within 1,000 feet of a building in which a polling place is located. Tex. Elec. Code § 61.004.

Electioneering: Texas Election Code sections 61.003 (election day) and 85.036 (early voting) prohibit loitering or electioneering for or against a candidate, measure, or political party within 100 feet of an outside door through which a voter may enter the building in which a polling place is located. Electioneering includes posting, using, or distributing political signs or literature. The early voting clerk and the presiding judge have the authority to enforce the prohibition on electioneering with the 100-foot marker. Although the district may not prohibit electioneering outside of the 100-foot marker, sections 61.003 and 85.036 allow the district to enact reasonable regulations concerning the time, place, and manner of electioneering outside the marker. Tex. Elec. Code §§ 61.003, 85.036. A district relying on sections 61.003 and 85.036 to regulate electioneering must consult its attorney. In September 2021, a federal district court struck down Texas Election Code sections 61.003 and 85.036 as unconstitutional infringements on the First Amendment right to free speech in *Ostrewich v. Hudspeth*, CIVIL ACTION NO. 4:19-cv-00715, 2021 WL 4480750 (S.D. Tex. Sept. 30, 2021), a case involving political apparel.³

Visitor Management: Although school districts may require a campus visitor to display a driver's license or other form of government-issued photo identification and to verify whether the visitor is a registered sex offender through the computerized central database maintained by the Department of Public Safety, districts do not have authority to conduct background checks on individuals who come on school property solely for the purpose of voting. Tex. Educ. Code § 38.022. See also TASB Policy GKC. To vote, a person must be a registered voter and present acceptable identification at the polling place. Election workers are responsible for verifying the qualifications of each voter. Tex. Elec. Code § 63.001, et seq. After voting,

³ The case, which considered the application of Texas Election Code section 61.010 as well as Sections 61.003 and 85.036, is currently on appeal. Questions regarding the application of this case should be directed to the Elections Division or the district's attorney.

however, if a voter wants to remain on campus or enter another area of campus, school district employees may then run a background check on the person and process the person as they would any other campus visitor.

Similarly, a district may not impose other requirements, such as public health requirements, on persons who have entered district property to vote. If the person wants to remain on campus or enter another area after voting, the district then may impose its requirements, if any.

Although a district may not post signs at a polling place that are not authorized or required, the Elections Division may approve posting a sign defining the boundaries and notifying voters that they will be subject to security measures if they leave the designated polling place. Tex. Elec. Code §§ 31.002, 62.013. Contact the Elections Division for additional information and assistance.

Polling Place Accessibility: Both state and federal laws, including the Voting Accessibility for the Elderly and Handicapped Act, the Americans with Disabilities Act, and the Help America Vote Act, require that polling places be accessible to voters who are elderly or physically disabled.

To be considered accessible under state law, a polling place must meet the following standards:

- A polling place must be on the ground floor or be accessible from the ground floor by an elevator with doors that open at least 36 inches wide;
- Doors, entrances, and exits used to enter or leave the polling place must be at least 32 inches wide;
- A curb adjacent to the main entrance must have curb cuts or temporary nonslip ramps;
- Any stairs necessary to enter or leave the polling place must have a handrail on each side and a nonslip ramp; and
- The polling place may not have a barrier that impedes the path of a person with physical disabilities from entering the voting station.

Tex. Elec. Code § 43.034.

In addition to the safety considerations addressed above, a district must consider these requirements when selecting the location of a polling place on school property.

This document is continually updated at tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/schools-as-polling-places.pdf. For more information on school law topics, visit TASB School Law eSource at schoolawesource.tasb.org.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.

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