

January 9, 2008

The Honorable Todd Rutherford  
Member, House of Representatives  
432-A Blatt Building  
Columbia, South Carolina 29211

Dear Representative Rutherford:

In a letter to this office you referenced the provision of S.C. Code Ann. § 7-13-860 which states that as to poll watchers, “[a]fter qualification, watchers must be placed in an area designated by the poll managers where the watchers can observe the entire election process at that polling place.” You indicated that

[t]he law appears to require that poll watchers be allowed, at the very least, to stand in a close proximity to the voter check-in table, and that they be allowed to examine the registration list as individuals sign in, consistent with statutory and constitutional provisions mandating that registration records be made public and open to inspection.

You have requested an opinion affirming such principles and specifically clarifying that poll watchers have the ability to examine the registration book as long as they do not interfere with the voting process.

Prior opinions of this office have addressed this issue. An opinion dated June 13, 1988 stated that “[a]s long as in the opinion of the poll managers the activity does not interfere with the election, there is no reason why a poll watcher should not be able to review the names of the persons who have signed the poll list.” Another opinion dated June 11, 1966 stated that

[t]he watchers are subject to the orders and directions of the poll managers consistent with their right to be placed in a position to reasonably observe and survey the election procedure. Consistent with this requirement, the watchers may be given opportunity to inspect the voter’s signature on the poll list with the signature upon the registration certificate; but in doing so, they cannot delay the election or impede or harass the voters. Such inspection, in my opinion, must be done at the time the

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voter signs the poll list and presents his certificate of registration. Physical limitations make it impossible for large numbers of watchers to crowd around the manager's table, and, therefore, the procedure of observing the election must rest within the judgment and discretion of the poll managers, subject to the right of the watchers to be placed in a position where they may reasonably watch the procedures being followed.

Another opinion dated October 8, 1974 commented

[t]he managers have authority to place the watchers in any area that they so designate. Therefore, the actual physical placement of the watchers is one which each manager must make on an individual basis. The decision of where the watcher shall be stationed would depend in part on the physical setup of the polling precinct, the general conduct of the individual watchers, etc. The watchers should be given full opportunity to observe the election procedure but the activity of the watchers should not be allowed to interfere with the orderly conduct of the election.

Hopefully the above is responsive to your question. If there is anything further, please do not hesitate to contact me.

Sincerely,

Henry McMaster  
Attorney General

By: Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

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Robert D. Cook  
Assistant Deputy Attorney General