

- 39 PREOPENING PROCEDURES:** The agent and the observers assemble at the polling place at least 15 minutes (when the observers received their instructions previously) to 45 minutes prior to the opening of the polls (depending on the complexity of the election). The agent ensures that all observers are present. If an observer is not present, the party's representative, if available, may secure a substitute. Neither the agent nor any other party may arrange for a substitute observer for another party. If a replacement observer does not arrive before the polls are scheduled to open, the agent proceeds with election preparations and opens the polls on time.
- 39.1 Checking the voting site:** The agent ensures that the polling site is the polling site that the parties agreed to in the Election Agreement and that it conforms to the notice of election. Under no circumstances are polling sites changed from those cited in the Election Agreement without permission of all parties and approval of the Regional Director. In such circumstances, agreement to change a polling site is dependent on whether the change is justified, whether the employees have adequate notice of the change, and whether the change is at a site that is conducive to voter turnout.
- 39.2 Checking the equipment:** The agent is responsible for ensuring that all equipment is available and in place. Often overlooked are sharpened pencils in the voting booth.
- 39.3 Posting Voting Place signs:** The agent is responsible for posting "Voting Place" signs (FLRA Form 126). The agent may not use signs prepared by any of the parties unless the parties all approve the wording and format on the signs prior to the election.
- 39.4 Checking the Notice of Election:** The agent confirms that notices of election have been posted in accordance with the parties' agreement, or distributed in a manner consistent with the distribution of other employee notices. If the agent identifies a problem, s/he records it for the file. After the election, the agent obtains a copy of the posted notice from the activity for the case file.
- NOTE: While the agent is checking the site, notice, etc., s/he may not leave the ballots and eligibility list unattended. S/he keeps the ballots and eligibility list with her/him at all times.***
- 39.5 Distribution of badges:** Agents wear the official FLRA Badge. Observer badges are prepared and distributed to the observers, with instruction for their return. Observers may not wear these badges when they are not acting as observers.

- 39.6 Reviewing the eligibility list and last minute updates:** As discussed in [CHM 35](#), the parties confirm any last minute changes in the eligibility list unless there is a dispute as to the affected employee's eligibility (see [CHM 28.11.3.2](#), [28.18.3.5](#) and [35.5](#)).
- 39.7 Instructions to Observers:** If the observers have not received instructions previously, the agent gives each observer a copy of the Instructions to Election Observers, [FLRA Doc. 1012](#) at this time. [CHM 36.2](#) and [37.9](#). The observers are given the opportunity to read the instructions and ask questions. The agent also instructs the observers as to their specific tasks for the day. The observers are instructed on the matters summarized below. **Complete details are described more fully in the cited CHM sections.**
- a. Identification procedures: The agent advises the observers that upon entering the polling area, the voter is asked to state his/her full name and provide identification in accordance with the parties' agreement on voter identification requirements (see [CHM 40.5](#)). If the Election Agreement requires identification and the voter appears with no identification, the voter is asked to go get his/her identification and return, unless the Election Agreement provides alternative procedures. The observers are instructed to remind the voter of the voting hours. If the Election Agreement requires no identification, and one of the observers questions the eligibility of the voter, the observer may ask the voter for his/her job title, and job site. ([CHM 28.22](#) and [40.5](#) for voter identification procedures; see [CHM 28.18.3](#) for eligibility list requirements).
 - b. Checking the name on the eligibility list: Each observer is given a pen of a different color (they can decide which color they want). As a voter is identified and his/her name is found on the eligibility list, each observer marks a "dash," "check" or an "x" in front of the voter's name (the marks are consistent). Every observer makes a mark next to the name of every employee who votes. [CHM 40.5.2](#)
 - c. Challenged ballot procedures: See [CHM 44](#) - *challenged ballot procedure*.
 - (i) If an employee enters the polls to vote, and his/her name is not on the list or is on the excluded list, the observers inform the employee of their findings. The observers ask the voter if s/he is a new employee and if so, provide information about the eligibility date for voting. If the

employee's name appears on the excluded list because s/he is a supervisor or management official, the observers ask the employee if s/he is a supervisor or management official. If the employee confirms his/her status is supervisory or managerial, the observers can tell the voter that s/he is ineligible to vote. Normally, the supervisor or management official leaves the voting area. If the employee insists on voting and does not appear on the list or otherwise appears ineligible, the voter may cast a challenged ballot. [CHM 44.6](#). **Note: in any situation where the employee is clearly ineligible, neither the agent nor the observers may argue with the employee if the employee insists on voting.** The agent allows the employee to vote by challenged ballot to expedite the process. Arguing with an employee who is clearly ineligible to vote could be disruptive; thus, agents are encouraged to act quickly. See [CHM 44.6 through 44.9](#).

- (ii) The observers may also challenge specific employees whose names appear on the eligibility list.

NOTE: The agent oversees these conversations particularly at the beginning of the election. If necessary, the agent can talk to the voter, ascertain the voter's status and desire to vote and instruct the observers on filling out the challenged ballot envelope.

The only envelope observers are allowed to handle is the challenged ballot envelope, and this occurs only when the polling area is extremely busy. It is better to hold up the voters waiting to check in, than to allow the polling area to get congested. After entering the required information on the challenged ballot envelope, the observers direct the voter to proceed to the agent for a ballot and the secret ballot envelope. The agent instructs the voter on the challenged ballot procedure in accordance with [CHM 44.6.3](#).

When voting an employee by challenged ballot, the observers annotate the list to show the voter was challenged. There are three possible scenarios:

- (i) If the voter's name was not on the eligibility list, all of the observers add the voter's name to the bottom of the list and place a small "c" next to the employee's name to

denote the vote was challenged.

- (ii) Only the observer who challenges a voter's name that is on the list marks a "c" next to that voter's name. This denotes the party filing the challenge. The other observers make a regular mark unless they too are challenging the voter.
 - (iii) The observers all mark a "c" next to any voter's name that appeared on the excluded list but insisted on voting.
- d. Assistance to handicapped voters: Observers do not assist handicapped voters except as they check-in to vote. Agents assist any handicapped voter to the voting booth and inside the voting booth when requested to do so (see [CHM 40.9](#) for a discussion about assisting handicapped voters).
 - e. Safeguarding the ballot box: The agent has primary responsibility for safeguarding the ballot box, but observers are instructed to report anything unusual occurring at the ballot box or to ask voters to leave the polling area once they have voted. Observers also ensure that all ballots are deposited in the ballot box and that no voter leaves the polling area with their ballot. [CHM 40.10](#)
 - f. Chatting with co-workers: Chatting with co-workers and friends who come to vote is discouraged. Observers are reminded that, as observers, their primary function is to ensure that the election is fairly and impartially conducted.

39.8 Outside representatives: Depending on the activity's access rules, party representatives who are not acting as observers are permitted to inspect the polling place before the polls open. These representatives may also be present while the ballot box is constructed and sealed. **They are required to leave before the polls open as their presence in the polling area could be grounds for setting aside the election.**

39.9 Constructing the ballot box: Constructing the ballot box is a formal procedure. The agent asks all observers to watch while s/he "constructs" the box, i.e., folds it and tapes it together. Before the box is closed and taped, the agent asks the observers to look into it - while it is open - and to affirm that it is empty. Then the box is closed and the sides are securely sealed with tape. The agent places an Official Ballot Box sticker, FLRA Doc. 1096, on the side of the ballot box. Finally, the agent informs the observers to stand clear of the ballot box for the duration of the election (except when those observers

who are eligible to vote actually vote and deposit their ballot into the box).

39.10 Voters who arrive before opening of the polls: Voters who arrive to vote before the polls open are not permitted to vote prior to the time scheduled. Those who arrive early are not sent away but rather asked to form a line and wait for the polls to open. If an employee leaves, s/he is informed of the voting hours.

