

Election Certification Processes and Guardrails

Certification, the statutory process by which officials sign off on the completion of election results, has historically been an uncontroversial postelection formality across the country. State law has long established that officials have a mandatory, nondiscretionary duty to certify elections.

Despite this well-settled law, states across the country faced a new phenomenon following the 2020 presidential election. Dozens of local [officials](#) nationwide refused or threatened to refuse to certify election results, often based on claims rooted in election denialism — the false idea that the 2020 election was stolen and that widespread fraud pervades our election system. Attempts to interfere with certification [persisted](#) throughout the 2024 election cycle, evolving into a vehicle to express disagreement or doubt as to any aspect of an election, including the outcomes of downballot races.

Those efforts did not succeed, often because state courts and state officials intervened to protect the certification process. But the threat remains that rogue officials in several states may attempt to interfere with the timely certification of this year's midterm election results.

Fortunately, state officials have several legal tools available to respond to any certification issues that arise — and to help prevent them in the first place. This guide provides an overview of those guardrails. It accompanies seven other guides in this series that address the specific certification safeguards in Arizona, Georgia, Michigan, Nevada, North Carolina, Pennsylvania, and Wisconsin.

Timeline for Canvassing and Certifying General Elections in 2026

Each state's election code sets forth a detailed timeline by which local and state officials must canvass and certify all elections.

Generally, in the weeks after Election Day, local election officials from each county or municipality meet to conduct the canvass — the process by which they “[account](#) for every ballot cast and ensure that the official results include each valid vote.” Local election officials must complete this process by a specific deadline set by statute. The canvass may also overlap with other postelection processes such as mandatory audits and recounts, which have their own strict statutory deadlines.

After completing the canvass, local election officials must then formally approve and certify the final results by a specific date. For local races, the process ends there. But nonlocal elections entail additional steps. Local officials must deliver the canvassed returns to a designated state official (or group of state officials) who will complete their own canvass to aggregate the certified results from each local jurisdiction and formally certify the winner of each race, again by a specific date set by statute.

Following the state process, certificates of election for U.S. congressional races are transmitted to the House of Representatives and Senate. See, e.g., Deschler's Precedents of the United States House of Representatives, Ch. 8 § 15; Riddick and Fruman, Riddick's Senate Procedure, Precedents and Practice, S. Doc. No. 101-28, 101st Cong. (1992) at 695.

Notably, state certification statutes use “shall” language when directing local and state officials to certify the results by the statutory deadline. See, e.g., O.C.G.A. § 21-2-493(k) (“[R]eturns shall be certified by the” local election official); Va. Code Ann. 24.2-675(B) (“The electoral board shall certify and sign the abstracts”). State courts generally interpret such “shall” language to create a mandatory duty. See, e.g., *Adams v. Fulton County*, No. 24CV011584, 2024 WL 4592443, at *4 (Ga. Super. Ct Fulton Cnty.. Oct. 14, 2024) (interpreting “shall” language to conclude that local election officials “*must* certify and *must* do so by a time certain. There are no exceptions.”); *Lewis v. Lilly*, No. CL24000440-00, 2024 WL 5709710, at *4-6 (Va. Cir. Ct. Nov. 4, 2024) (interpreting “shall” language to conclude that local election boards have a mandatory duty to certify elections).

Authority to Prevent and Respond to Certification Abuses

State Officials Can Issue Opinions, Guidance, and Directives

For more than a century, state laws across the country have [established](#) that certification is a “ministerial” (i.e., mandatory) duty that leaves certifying officials with no option to refuse to certify election results. State officials can play a critical role in educating certifying officials about the mandatory nature of certification and the importance of timely completing postelection processes.

Secretaries of state and **state election agencies** are well-positioned to issue guidance and statements regarding the duty to canvass and certify election results. For example, the Michigan Bureau of Elections’ county canvassers [manual](#) explains that certification is nondiscretionary and that willfully failing to perform a duty imposed by the election code carries criminal penalties. The director of elections reiterated these points in a May 2024 [letter](#) to a county board of canvassers after two members indicated that they might not certify election results. The Arizona secretary of state’s office also makes clear in its [Elections Procedures Manual](#) that county boards have a “non-discretionary duty to canvass” election returns and have “no authority to change vote totals, reject the election results, or delay certifying the results without express statutory authority or a court order.”

State attorneys general, too, can provide direction in the form of formal and informal advisory opinions on the civil and criminal penalties at stake if officials refuse to certify election results. On the criminal side, the attorney general can assess the applicability of various state criminal provisions, including election-related offenses and prohibitions on official misconduct. On the civil side, the attorney general can opine on whether failure to certify the election could lead to an official’s removal from office or potential liability for constitutional rights violations. The Michigan attorney general’s office, for example, has [responded](#) to questions concerning potential civil litigation against officials who fail to perform a clear legal duty.

In addition to state officials, **district attorneys** can offer guidance regarding the potential consequences of voting against certification, including criminal liability and removal from office. In 2024, a letter from the district attorney in Washoe County, Nevada, helped [persuade](#) a county commissioner who had initially voted against certification to switch their vote. [Advice](#) from the attorney for Iron County, Utah, similarly helped avert a certification dispute during the last election cycle.

State Officials Can Exercise Their Statutory Authority to Enforce the Mandatory Duty to Certify

In some states, statutes give state officials explicit authority to intervene and complete the certification process in the event that a local official refuses to certify an election. For example, both Michigan and Colorado permit state officials to certify a county’s election results if the county refuses to do so. Mich. Comp. Laws § 168.822; Colo. Rev. Stat. § 1-10-104(3). Likewise, North Carolina law authorizes its state board of elections “to secure the originals or copies [of the missing abstracts] from the appropriate clerks of superior court or county boards of elections” if it has not received all the county canvass results by the scheduled date. N.C. Gen. Stat. § 163-182.5(c).

State Officials and Other Affected Parties Can Obtain a Writ of Mandamus

In most states, writs of [mandamus](#) will provide the most powerful legal remedy for certification refusals or delays. Mandamus can be used to compel an official to perform a ministerial duty required by law. Courts across the country have long acknowledged that officials have a mandatory, nondiscretionary duty to certify elections by the statutory deadlines. And in recent years, courts in [Arizona](#), [New Mexico](#), and [Virginia](#) have granted writs of mandamus against local boards of elections that attempted to disrupt certification.

A party seeking mandamus relief must generally establish a clear legal right to the requested relief. Accordingly, several different types of parties may be able to obtain mandamus relief in a given state.

For one, the **state election officials** responsible for certifying statewide election results can generally seek mandamus relief if a county refuses to certify, as a locality's refusal directly interferes with their statutory duty to timely certify the election. For example, secretaries of state filed successful petitions in [Arizona](#) and [New Mexico](#) in 2022. And in 2024, the Nevada secretary of state filed a mandamus [petition](#) against the Washoe County Board of Commissioners after the board initially refused to canvass the results of two recount elections. (The Nevada Supreme Court dismissed the petition as moot after the suit prompted the officials in question to [change](#) their votes.) In many states, attorneys general will represent secretaries in these actions.

Candidates whose races are affected by a refusal to certify can generally also bring a mandamus action, as one [Pennsylvania congressional candidate](#) did in 2022. Some states allow **voters** themselves to bring an action. See, e.g., N.M. Stat. Ann. § 1-13-1(C) ("The district court, upon petition of any voter, may issue a writ of mandamus to the county canvassing board to compel it to approve the report of the county canvass and certify the election returns."). Actions brought by voters may be particularly impactful when officials announce their intention to refuse to certify before an election has taken place, as was the case in [Kalamazoo County](#), Michigan and [Waynesboro, Virginia](#), during the 2024 election. Whereas candidates may not want to expend limited campaign resources on a lawsuit so close to an election (particularly before they know the outcome), voters will always have a strong incentive to ensure that their votes are counted and certified on time.

The appropriate venue for a mandamus proceeding will depend on state law. Officials in some states may be required to proceed in [trial court](#), while in others, the [state supreme court](#) may be able to exercise original jurisdiction.

Courts Have Tools to Enforce Court Orders If an Official Still Refuses to Certify

To date, certifying officials have [promptly](#) followed orders compelling them to certify elections. However, in the event that a certifying official refuses to comply with a mandamus order, several types of remedies can ensure that elections are certified in a timely manner.

First, the parties that originally sought the mandamus order can seek civil or criminal contempt sanctions, consistent with state law, from the court that issued the order.

Second, many states have an equivalent to Federal Rule of Civil Procedure 70, which provides that if a person fails to comply with an order to perform a specific act, the court "may order the act to be done — at the disobedient party's expense — by another person appointed by the court." See, e.g., Ariz. R. Civ. P. 70(a); Colo.

R. Civ. P. 70; O.C.G.A. § 9-11-70; Nev. R. Civ. P. 70(a); and N.C.G.S. § 1A-1, Rule 70. Even in states without an equivalent rule, courts may have inherent equitable authority to direct other officials to certify results.

State Officials Can Impose Penalties Against Rogue Certifying Officials

To deter future certification abuses, law enforcement officials can ensure that individuals who refuse to certify election results are held accountable for their conduct by removing them from their positions or bringing criminal charges where appropriate. For example, the North Carolina State Board of Elections has statutory “power to remove from office any member of a county board of elections for incompetency, neglect or failure to perform duties, fraud, or for any other satisfactory cause.” N.C.G.S. § 163-22(c). It exercised that authority in 2023, when it unanimously voted to [remove](#) two members of the Surry County elections board after they protested certification in the 2022 general election. Likewise, the Arizona attorney general [prosecuted](#) two county officials who voted against certifying the 2022 election for two offenses: interfering with an election officer and conspiring to do so.

Other state laws that could be relevant for a refusal to certify include provisions that make it a crime for public officials or election officers to fail to perform a duty as required by state law; prohibitions on misconduct in office; prohibitions on hindering or delaying other officials’ performance of their duties; and statutes regarding oath of office violations. In addition to the authority of state attorneys general to investigate and prosecute violations of this nature, many states allow local prosecutors to prosecute election violations that take place within their jurisdictions.

Additional Resources

- Brennan Center, [“Election Certification: How to Strengthen State Frameworks”](#) (June 17, 2025)
- Brennan Center, [“The Roadmap to the Official Count”](#) (October 26, 2020)
- Campaign Legal Center, [“What is Election Certification?”](#) (October 8, 2024)
- Citizens for Responsibility and Ethics in Washington, [“Election Certification Under Threat”](#) (August 15, 2024)
- Lauren Miller Karalunas, [“How State and Local Election Certification Works”](#) (July 30, 2024)
- Protect Democracy, [“Election Certification, Explained”](#) (July 24, 2024)
- Protect Democracy, [“Election Certification Is Not Optional”](#) (March 2024)