



# Georgia Certification Toolkit

## Election certification is mandatory, on purpose

- Georgia state law says certification is a mandatory, ministerial duty – meaning that officials have no discretion to refuse to certify election results.
- It’s not an accident that certification is mandatory. It’s in direct response to past partisan attempts to sabotage certification to change election outcomes – attempts which both lawmakers and the courts recognized as a threat to democracy.
- Officials who have refused to complete certification of an election – or threatened to do so – fundamentally misunderstand or willfully disregard both their legal obligations and the actual purpose of certification.

	Certification as mandatory, ministerial
State Statutes	The Elections Superintendent (usually a county board of elections but sometimes an individual) is the election administrator in charge of certification at the county level. O.C.G.A. § 21-2-70(9). The Superintendent receives the returns from the precincts and must certify the returns by 5pm on the Monday following the election, and then immediately transmit them to the Secretary of State. O.C.G.A. §§ 21-2-493(k), 21-2-497. For the 2024 General Election, this falls on a state holiday, so the deadline is pushed back by one day.
	The Secretary of State receives certified returns from the Elections Superintendents of each county. The Secretary of State “shall immediately proceed to tabulate, compute, and canvass the votes cast...” and must certify by 5pm on the seventeenth day after the election O.C.G.A. § 21-2-499(a),(b). For presidential electors, the Governor receives the results from the Secretary of State and must certify by 5pm on the eighteenth day after the election. O.C.G.A. § 21-2-499(b).
	In the 2024 general election, the certification deadlines are <b>Nov. 12</b> for the counties, <b>Nov. 22</b> for the Secretary of State, and <b>Nov. 23</b> for the Governor.
Legal Background	The ministerial process of election certification has been established since the early 20th Century. <i>Bacon v. Black</i> , 162 Ga. 222, 222 (1926) (“The duties of the managers or superintendents of election who are required by law to assemble at the courthouse and consolidate the vote of the county are purely ministerial.”). Recently passed rules by the State Election Board, which are currently being challenged in court, do not change these duties under state law.



## Opportunities to address alleged fraud or errors exist *outside* the certification process

- The post-election process leading up to the final certification includes many steps to ensure that **only valid, legal ballots are counted**.
- There are **legitimate ways to address potential fraud or error**. Delaying the canvass or certification is not one of them.
- **There are two principal ways** to address concerns about election irregularities or potential errors in election results: recounts and election contests.
- **Allegations of fraud or error should not delay certification**, as the law requires the superintendent to certify and report any issues to the appropriate district attorney for action. O.C.G.A. § 21-2-493(i).

Opportunities to address fraud or error	
Pre-Certification Recounts	Anytime before certification, the Elections Superintendent may order a <b>recount or recanvass</b> in the precincts in the county where there appears to be a “discrepancy” or “error.” O.C.G.A. § 21-2-495(a),(b). If there are errors, the Secretary will direct the county at issue to correct and recertify the returns and then recertify the results upon receiving the county’s corrected returns. Recounts should not stop timely certification by law at the state level.
Post-Certification Recounts	After certification, for <b>very close elections</b> that meet certain criteria, there is also a possibility of a <b>recount</b> , if requested within 2 business days by the losing candidate. O.C.G.A. § 21-2-495(c)(1).
Election Contests	An <b>election contest</b> can be brought by a candidate or voter entitled to vote for the race in question, within 5 days after certification. O.C.G.A. §§ 21-2-521, 21-2-524. The election can be contested on five grounds, including “[m]isconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result” and “any error in counting the votes or declaring the result of the primary or election, if such error would change the result.” O.C.G.A. § 21-2-522. The court is “to proceed without delay to the hearing and determination of such contest.” O.C.G.A. § 21-2-525.



## Officials may face legal consequences if they refuse to certify

- Any attempt to interfere with the certification process should be met with [an immediate response](#), as failure to certify [is illegal and disruptive](#).
- Georgia law and federal law have many safeguards in place to ensure that certification happens, [including civil accountability and criminal penalties](#).

	Legal Consequences
Criminal Liability	Those who fail to perform mandatory duties <b>may be subject to prosecution of misdemeanors and/or felonies under the election code</b> (failure to perform duty, fraud by poll officers, hindering or delaying performance of duty, conspiracy to commit election fraud, etc) as well as potential liability under other state criminal codes (false official certificates or writings, violation of oath by public officer, etc). O.C.G.A §§ 21-2-596, 21-2-587, 21-2-597, 21-2-603, 16-10-8, 16-10-20, 16-10-1, 45-15-10.
Civil Liability	A refusal to certify may also expose an official to <b>civil lawsuits</b> under state and federal law.
Removal from Office	Elections superintendents may also be <b>suspended and temporarily replaced</b> by the State Election Board following an investigation and hearing, or due to felony indictment. O.C.G.A. §§ 21-2-33.1; 21-2-33.2; O.C.G.A. § 4-5-56.



## Additional Resources

### Election Certification

- [Certification is Not Optional](#)
- [Election certification, explained](#)

### Georgia Law

- Georgia Election Code (Title 21)
- Rules of Georgia State Election Board (Department 183 of the Georgia Rules and Regulations)
- Secretary of State's [Georgia Election Calendar](#)