

PROTECTING FREE AND FAIR ELECTIONS IN 2026

Preparing for federal interference in the 2026 midterm elections

What you need to know to plan and respond.

President Trump has made clear that he intends to use every tool at his disposal to try to influence the outcomes of the 2026 midterm elections. From its earliest days, the Trump administration has attempted to rewrite election rules through executive order, manipulate voter rolls by amassing private voter data, seize 2020 voting materials in order to relitigate repeatedly debunked claims of election fraud, and called for the federal government to “nationalize” election administration.

The good news is that federal and state laws guard against the types of election interference the president has threatened. Most fundamentally, the Constitution gives the president no authority to set election rules; that power belongs to the states and Congress.

And there’s an upside to the administration making its unlawful intentions so clear: we can prepare.

This guide outlines practical steps advocates can take to prepare for federal interference in the 2026 elections. It also walks through four scenarios intended to help advocates better understand the law concerning these emerging issues:

1. New executive orders purporting to regulate elections
2. Efforts by the Trump administration to force states to purge voters from the rolls
3. Federal efforts to seize voting equipment, ballots, or other election materials
4. Deployment of the military or federal officers (such as National Guard troops or ICE agents) to intimidate voters

With planning and information, advocates, organizers, lawyers, journalists, and election officials can identify federal threats to our elections, spot falsehoods, understand the constraints on the administration, and stand up for free and fair elections.

Prepare now for the threat of federal interference: Plan, Document, and Educate

Plan

Plan now for a rapid response strategy including legal and communications components to address federal interference. This may include:

- ✓ **Preparing — in coordination with state partners and counsel — a detailed action plan** for the federal interference scenarios discussed below.
- ✓ **Identifying and training point people** within your organization to serve in key roles including crisis communications, fact gatherers, and liaisons to other organizations engaged in the same issues.
- ✓ **Practicing tabletop exercises** examining how a scenario may unfold in your jurisdiction and walking through how your organization may choose to respond in case of an emergency.
- ✓ **Tracking which counties are partnering with ICE** through the 287(g) Program.
- ✓ **Consulting with legal counsel** about the availability of emergency court relief to halt federal interference, including the kinds of facts needed to seek legal relief.
- ✓ **Coordinating credible spokespeople** and concise talking points to, e.g., frame federal actions as part of a broader pattern of election interference, reinforce that voters choose our leaders, and stand in solidarity with election officials and workers.

Document

Document potential abuses by federal entities interfering with elections. Doing so will help shape public understanding and support possible legal remedies. Keep records of emerging problems and their impact on your work, and promptly escalate issues as they arise to your organization's legal team, state and local election officials, or local law enforcement. You may consider:

- ✓ **Recording the staff time and monetary resources** your organization spends preparing for or responding to threats of federal interference. This may be important for establishing legal standing to challenge unlawful policies in court.
- ✓ **Interviewing and conducting outreach to affected voters** including working with partners to coordinate incoming information, such as through voter protection hotlines.

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- ✓ **Preparing a protocol for documenting federal abuses**, such as by creating or updating systems to record concerns raised by your members and impacted voters. For instance, advocates may consider videotaping or photographing the location and behavior of any federal presence at or near voting sites within your jurisdiction if it can be done safely and legally. Note the location, time, number of personnel, type of personnel, and description of any vehicles. Vet the reliability of photos and videos you receive.
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- ✓ **Contacting local media** where appropriate. Sharing information and evidence about potential abuses can shape public understanding about the stakes of these policies.
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- ✓ **Ensuring communication and coordination** between rapid response networks and election protection coalitions.
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- ✓ **Reporting any issues** with voting to the nonpartisan election protection hotline, 866-OUR-VOTE.
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Educate

Educate your staff, members, partners, and the public. The end goal of the Trump administration's campaign targeting elections may well be to discourage voter turnout. Advocates can play a critical role in counteracting that effort by reassuring the public of their right to vote, bolstering engagement in the election, and educating voters about what to do if they witness interference firsthand. You may consider:

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- ✓ **Expanding efforts to help** voters register, check their registration status, and vote. Broad voter participation is one of the strongest safeguards against efforts to interfere with elections or delegitimize outcomes. Encouraging early voting could also help counteract federal efforts to suppress voter participation.
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- ✓ **Creating or adapting know-your-rights trainings** to include guidance for witnesses of federal interference at the polls.
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- ✓ **Staying engaged** with state and local election "tables" to share information and divvy up responsibilities for addressing and responding to threats as they arise.
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- ✓ **Communicating regularly** with community organizations, coalition partners, public officials, and other trusted messengers to share accurate information about emerging barriers to voting and any changes to rules or procedures.
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- ✓ **Supporting outreach efforts** to contact and inform voters who may be impacted by federal interference efforts, including phone banks.
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- ✓ **Encouraging voter participation** in all public communications. Be careful not to alarm voters by overemphasizing potential threats. Example communications can be found [here](#) and [here](#).
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Federal Interference Scenarios

Plan now for a rapid response strategy including legal and communications components to address federal interference. Potential examples of interference scenarios may include, but are not limited to, the following:

Executive order on election administration

Scenario 1: The executive branch alleges foreign interference or a national emergency to claim federal authority over elections through an executive order.

Why prepare: In March 2025, President Trump issued an executive order attempting to assert presidential control over significant aspects of federal elections. Three federal courts have blocked the implementation of many provisions of the order. Nevertheless, in March 2026, the president issued a second executive order purporting to change the rules for mail voting.

WHAT THE LAW SAYS

The Constitution makes clear that only states and Congress have the authority to regulate federal elections; the president has none. There are no emergency authorities, or foreign policy or commander-in-chief powers that authorize the president to take control of elections.

- **The president cannot make or change election laws.** The Elections Clause of the Constitution (Art. I, § 4, cl. 1) provides that “[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof” except that “Congress may at any time by Law make or alter such Regulations[.]” While the president has 150 statutory emergency powers, none conveys authority over elections.
- **Courts have blocked the president’s effort to alter election rules via executive order.** Three federal courts have struck down many provisions of Trump’s first executive order on elections (EO 14248) as exceeding his legal authority and violating the Constitution’s separation of powers. At the time of this writing, litigation challenging Trump’s second executive order is underway. The current Supreme Court has upheld constraints on the president’s emergency powers.
- **The executive branch has no authority to control voting systems.** Beyond minimum requirements set by Help America Vote Act (52 U.S.C. § 21081), states or localities decide what tabulation systems to use and whether or not to require that equipment meet the Voluntary Voting System Guidelines issued by the Election Assistance Commission.

Department of Justice (DOJ) voter rolls and purge demands

Scenario 2: The DOJ directs states to purge certain voters from their rolls based on unsubstantiated assertions of ineligibility.

Why prepare: In recent months, the DOJ has sought nearly every state's full voter rolls, including highly confidential data such as partial social security numbers, drivers' license numbers, and voting participation history. The DOJ has filed thirty lawsuits seeking this data as of this writing, and some states have already turned over their voters' data. A draft memorandum of understanding indicates that the DOJ plans to share this data with external parties and require states to remove certain voters from the rolls.

WHAT THE LAW SAYS

The federal government cannot unilaterally mandate voter roll purges because it has no authority to conduct voter list maintenance. And federal and state laws limit the voter data that the federal government may compile.

- **The DOJ does not have blanket authority to request sensitive voter records.** As of this writing, eight courts have held that the DOJ does not have the authority for its broad demands for state-held voter file data.
- **The DOJ is not authorized to purge voters from registration rolls.** The National Voter Registration Act, 52 U.S.C. § 20501 et seq. imposes specific requirements before states may remove registered voters. Congress has given the power over voter list maintenance to states' chief election officials. Congress has never passed any law that gives DOJ authority to demand voters be struck from state voter rolls.
- **The DOJ's demands may violate federal law limiting how federal agencies may share or collect voters' personal data.** The Privacy Act, 5 U.S.C. § 552a, the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., and the Federal Information Security Modernization Act (FISMA), 44 U.S.C. § 3551 et seq., impose strict requirements and limitations as to how the federal government may collect, share and maintain personal data about Americans. The DOJ must comply with these laws.
- **Many state laws protect sensitive voter data from disclosure.** These laws vary among states but exist to safeguard voters' privacy and typically include data access limitations. While every state makes a public copy of its voter files available, many states limit who can request them and require that certain personal information not be disclosed. Furthermore, while the National Voting Rights Act (NVRA) provides for public access to information about how states engage in voter roll maintenance, courts have held that NVRA compliance does not require states to disregard their state privacy protections for voter data.

Federal demands for and seizure of election equipment

Scenario 3: Federal law enforcement agents attempt to seize ballots or election equipment during an active election.

Why prepare: In early 2026, the FBI seized 2020 election materials from a warehouse in Fulton County, Georgia, and has since sought records from other jurisdictions. Federal law enforcement could conceivably attempt to demand access to election materials while voting or tabulation is taking place.

WHAT THE LAW SAYS

Federal and state laws provide multiple layers of protection for election equipment and materials.

- **States have laws and policies that require strict chain-of-custody procedures, strictly limiting access to ballots, voting machines, and other election materials.** These laws require documentation, reporting, and sometimes disposal of election equipment if the chain is broken.
- **Federal employees may not interfere in federal elections.** 18 U.S.C. § 595 prohibits federal government employees, or state employees supported by federal funds, from interfering in federal elections.
- **The DOJ typically must provide a legally legitimate basis and purpose in order to examine certain election records.** 52 U.S.C. § 20703 provides limited access for the attorney general to inspect or copy —not seize originals of — certain election records, but only after providing a written “statement of the basis and the purpose therefor” to the records’ lawful custodian. Federal courts have recently rejected the DOJ’s demands for access to certain election records because the DOJ failed to assert a legitimate purpose under the statute.
- **Election officials are already required to preserve records for 22 months after federal elections.** 52 U.S.C. § 20701 requires that “[e]very officer of election shall retain and preserve, for a period of twenty-two months from the date of any ... [federal] election ... all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting[.]” Federal demands to seize equipment or materials during an election would disrupt voting and almost never be warranted.
- **Searches or seizures must meet the strict standard of probable cause.** The Fourth Amendment prohibits federal officials from conducting unreasonable searches and seizures and requires officials to have a warrant based on probable cause — a demanding standard requiring a high degree of certainty. Federal officials would need more than suspicion of possible illegal voting to satisfy the Fourth Amendment.

Federal law enforcement or military deployment to intimidate voters

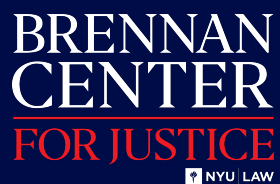
Scenario 4: Federal law enforcement agents (ICE, CBP, FBI, etc.) or members of the U.S. military are stationed near polls or otherwise deployed in order to intimidate voters.

Why prepare: The administration federalized and deployed the National Guard to American cities last year and said in [early February](#) that while there are no “formal plans” to deploy federal agents to the polls, there could be no “guarantee that an ICE agent won’t be around a polling location in November.” Then, in [May](#), the president did not rule out the possibility of sending the National Guard or ICE to the polls, saying he would do “anything necessary to make sure we have honest elections.”

WHAT THE LAW SAYS

It is unlawful for the military or federal agents to interfere in an election or intimidate voters.

- **Federal officials cannot send armed forces to election locations.** [18 U.S.C. § 592](#) makes it a crime for any federal civil or military officer to “order[], bring[], [or] keep[]” “troops or armed men” at an election location, unless the force is necessary “to repel armed enemies of the United States[.]”
- **Military personnel cannot block or intimidate voters or interfere with election officials.** [18 U.S.C. § 593](#) provides that it is a crime for “an officer or member of the Armed Forces of the United States” to, among other things, “prevent[] or attempt[] to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election;” or “interfere[] in any manner with an election officer’s discharge of his duties[.]”
- **Federal employees cannot use their official authority to interfere with federal elections.** [18 U.S.C. § 595](#) makes it a crime for “a person employed in any administrative position by the United States, or by any department or agency thereof,” to use their “official authority for the purpose of interfering with, or affecting” a federal election. And [18 U.S.C. § 598](#) prohibits the use of congressional appropriations “for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote.”
- **State and federal law ban voter intimidation.** Various provisions of federal law prohibit the intimidation of voters. See [42 U.S.C. § 1985\(3\) clauses 3–4](#) (originally the Ku Klux Klan Act); [18 U.S.C. § 594](#) (“Intimidation of Voters”); [§ 11\(b\)](#) of the Voting Rights Act; and [§ 131\(b\)](#) of the Civil Rights Act of 1957. Additionally, every state has laws that protect voters from intimidation.



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