Colorado Election Certification Processes and Guardrails

Certification, the process by which officials sign off on the completion of election results, has historically been an uncontroversial postelection formality in Colorado and 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 — including Colorado — 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 in Colorado and elsewhere 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 Colorado may attempt to interfere with the timely certification of this year's midterm election results. Fortunately, Colorado officials have several legal tools available to respond to any certification issues that arise — and to help prevent them in the first place. These guardrails are detailed below.

Timeline for Canvassing and Certifying the 2026 General Election in Colorado

General Schedule

Following the **November 3, 2026** election, Colorado law requires county canvass boards to complete the canvass, certify the abstract of votes cast, and transmit the certification to the secretary of state by no later than **22 days** after the election: **November 25, 2026**. Colo. Rev. Stat. §§ 1-10-101(1), 1-10-102(1), 1-10-103(1), 1-10-203(1). See also Colo. Rev. Stat. § 1-13.5-615 (defining abstract of votes as a statement of the number of votes counted for and against each candidate).

In the event of "a clerical error or omission" in the returns, the county clerk and recorder (the local election official in Colorado) is responsible for consulting with the election judges to make any required correction. Colo. Rev. Stat. § 1-10-104(2). The election judges must sign and submit to the canvass board any documentation required to explain or verify the additions or corrections, and the canvass board may adjourn from day to day to obtain the judges' additions or corrections. Colo. Rev. Stat. § 1-10-104(2).

No later than the **27th day** after the general election — **November 30, 2026** — the secretary of state must compile and total the returns received from all counties and subsequently prepare and certify the official election results for nonlocal races, including congressional races. Colo. Rev. Stat. §§ 1-10-103(2), 1-10-105(1). If mandatory recounts are ongoing, the secretary must wait until they are complete to certify the election results. Colo. Rev. Stat. § 1-10-105(1). Mandatory recounts must be completed no later than the **31st day** after the election: **December 4, 2026**. Colo. Rev. Stat. § 1-10.5-102(2). In the rare event that "an accurate and verifiable determination of the count cannot be made and therefore the secretary of state is unable to certify the election of any candidate," the secretary must "issue a report indicating the nature of the irregularity rather than issue a certification." Colo. Rev. Stat. § 1-10-105(4).

"**Immediately**" after certifying the results, the secretary of state "shall make and transmit a certificate of election" to each of the winners, including winners of elections to the U.S. House of Representatives and U.S. Senate. Colo. Rev. Stat. § 1-11-105.

Recounts

Colorado law provides for mandatory and requested recounts. Both types of recounts take place after the county canvass board certifies the original vote. Colo. Rev. Stat. § 1-10.5-101(1)(b).

A mandatory recount must be held if the difference between the highest and next highest number of votes cast in any election is less than or equal to one-half of one percent of the highest votes cast. Colo. Rev. Stat. § 1-10.5-101(1)(b). The secretary of state must issue an order for a mandatory recount no later than the **24th day** after the election: **November 27, 2026**. Colo. Rev. Stat. § 1-10.5-102(1). State law requires mandatory recounts to be completed no later than the **31st day** after the election: **December 4, 2026**. Colo. Rev. Stat. § 1-10.5-102(2). As noted above, the secretary of state certifies election results after any mandatory recounts are complete. Colo. Rev. Stat. § 1-10-105(1).

If a mandatory recount is not required, an interested party (such as a losing candidate or their political party) may submit a written request for a recount to the body that originally certified the election. Colo. Rev. Stat. § 1-10.5-106(2). Any request must be made no sooner than **10 days** and no later than **22 days** after the election: between **November 13, 2026** and **November 25, 2026**. The party that made the request must pay the cost of the recount. Colo. Rev. Stat. § 1-10.5-106(2). State law requires that requested recounts be completed no later than the **35th** day after the election: **December 8, 2026**. State law does not require requested recounts to take place prior to the final state certification of election results. See generally Colo. Rev. Stat. §§ 1-10.5-101 et seq.

If the vote result changes after a recount, the county board shall certify an amended official abstract and re-submit the abstract of votes cast to the secretary of state, who then prepares and certifies the results of the recount. Colo. Rev. Stat. §§ 1-10-102(3), 1-10-105(1), 1-10.5-107(3)–(5); 8 Colo. Code Regs. § 1505-1:10.14.2.

Authority to Prevent and Respond to Certification Abuses

State Officials Can Issue Opinions, Guidance, and Instructions

Colorado law authorizes the attorney general to provide their written opinion on questions of law to several state bodies and officials. Colo. Rev. Stat. § 24-31-101(1)(d). Likewise, the secretary of state issues regulations governing elections and publishes various forms of election guidance and instructions on its website. Colo. Rev. Stat. § 1-10-104.5.

Prior to the election, state officials may choose to exercise these authorities to emphasize the mandatory, nondiscretionary nature of election certification and the importance of timely completing postelection processes.

Colorado Election Law Establishes a Mandatory Duty to Certify Elections

In Colorado, county canvass boards consist of an odd number of members: an equal number of representatives from each major party along with the county clerk and recorder. Colo. Rev. Stat. § 1-10-101(1)(a); 8 Colo. Code Regs. § 1505-1:10.2.1–10.2.2. Under state law, a majority of county canvass board members' signatures suffices to certify the abstract of votes in any election. Colo. Rev. Stat. § 1-10-101.5(c).

State law is clear: county canvass boards have a "ministerial," i.e., mandatory, duty to canvass and certify the final vote totals. *Goff v. Kimbrel*, 849 P.2d 914, 916–17 (Colo. App. 1993) ("Canvassing returns of ballots already counted by election officials is a ministerial duty of a canvassing board."). They are prohibited from performing "duties typically reserved for election judges" when completing the canvass and certification, including determining voter intent, evaluating voter eligibility (by, for example, reviewing signatures), and requesting "new logs or reports that were not created to conduct the election." 8 Colo. Code Regs. § 1505-1:10.3.3. In other words, they have no legal authority "to investigate questions concerning irregularities, frauds, and illegal votes in the ballot box." *Goff*, 849 P.2d at 917. See also 8 Colo. Code Regs. § 1505-1:10.3.2 (listing the canvass, certification, post-election audit observation, and any recounts as the "only duties" of the county canvass board). Instead, any such complaints can be raised through other, appropriate legal channels. *Goff*, 849 P.2d at 917.

Further, if in the course of their duties the canvass board (or the secretary of state) finds that "the method of making or certifying returns from any precinct, county, or district does not conform to the requirements of the law," the returns must still "be canvassed if they are sufficiently explicit in showing how many votes were cast for each candidate." Colo. Rev. Stat. § 1-10-104(1).

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

If a county canvass board fails to certify the abstract of votes by a majority vote, Colorado law gives state officials clear statutory authority to take action. First, the canvass board must "transmit the noncertified abstract of votes to the secretary of state along with a written report detailing the reason for noncertification." Colo. Rev. Stat. § 1-10-101.5. The secretary of state subsequently reviews the noncertified abstract, written report, any "other information and facts of the case provided by the county," and "information revealed upon investigation by the secretary." Colo. Rev. Stat. § 1-10-104(3). If, after this review, the secretary determines that the record "is clear and convincing" in showing how many votes were cast for the race in question, the secretary must certify the results for the county and proceed to certifying state level results. Colo. Rev. Stat. § 1-10-104(3). After consulting with the board of county commissioners, the secretary may also designate a registered elector of the state to carry out this process. Colo. Rev. Stat. § 1-10-104(3).

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

If relief under Colorado's certification statute is not available for any reason to certify county results, or if action is needed at the state level to compel certification, an action seeking a writ of mandamus in state court can compel certification. Colorado's Rules of Civil Procedure specifically authorizes legal actions in Colorado district court to compel a "governmental body, corporation, board, officer or person to perform an act which the law specially enjoins as a duty resulting from an office, trust, or station." Colo. R. Civ. P. 106(a)(2).

Colorado courts have long held that Colorado's certification statutes create a ministerial duty to certify elections for purposes of a mandamus action. *Goff*, 849 P.2d at 917 ("[S]ince canvassing duties are ministerial in nature, mandamus is proper when a canvassing board refused to perform its duty to certify an election."); *Leary v. Jones*, 116 P. 130, 132 (Colo. 1911) ("[T]he duty of certifying to the result of this election was purely ministerial, and the respondents were not justified in refusing."). As the Colorado Supreme Court explained over a century ago, "any other rule would enable canvassing boards, through design or incompetency to temporarily, at least, defeat the will of the people." *Lehman v. Pettingell*, 89 P. 48, 49 (Colo. 1907).

An aggrieved candidate or the attorney general can bring a mandamus action in state court. See *Lehman*, 89 P. at 48 (action brought by candidates for races in question); Colo. Rev. Stat. § 24-31-101(1)(a)–(b) (establishing the attorney general as the chief legal representative of the state). A voter affected by a certification dispute also has grounds to bring a mandamus action. See, e.g., *League of Women Voters of Greeley, Weld Cnty., Inc. v. Bd. of Cnty. Comm'rs of Cnty. of Weld*, 563 P.3d 1192, 1203 (Colo. 2025) (J. Márquez, concurring) (explaining that plaintiffs have a "clear legal right" to mandamus relief "when the plaintiff is among the intended beneficiaries of the public official's legal duty.") (citing *Bd. of Cnty. Comm'rs v. Edwards*, 468 P.2d 857, 858 (Colo. 1970)).

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

Rule 70 of the Colorado Rules of Civil Procedure provides a mechanism for a court to direct another individual to carry out a court order if the ordered party refuses to comply. Colo. R. Civ. P. 70.

And if a certifying official refuses to comply with a mandamus order, they may be held in contempt of court. Colo. R. Civ. P. 107(a)(1) (defining contempt to include "disobedience or resistance by any person to or interference with any lawful writ, process, or order of the court"). In addition to remedial sanctions "to force compliance with a lawful order or to compel performance of an act," a court may impose punitive sanctions, including an "unconditional fine," if a party's contempt "is found to be offensive to the authority and dignity of the court." Colo. R. Civ. P. 107(a)(4)–(5).

State Officials Can Impose Penalties Against Rogue Certifying Officials

Refusing to certify an election could violate several state criminal laws and result in charges. See, e.g., Colo. Rev. Stat. §§ 1-13-114(1), 1-13-107, 18-8-404(1). District attorneys generally have authority to prosecute criminal conduct that takes place within their jurisdictions. Colo. Rev. Stat. § 20-1-102(1). The attorney general also has broad authority to intervene in criminal actions. Colo. Rev. Stat. § 24-31-101(1)(b).

Additional Resources

- Brennan Center, "Election Certification: How to Strengthen State Frameworks" (June 17, 2025)
- Brennan Center, "The Roadmap to the Official Count" (September 2, 2026)
- 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" (May 19, 2025)
- Protect Democracy, *Election Certification Is Not Optional* (March 2024)