Florida Election Certification Processes and Guardrails

For over a century, state election laws in Florida and across the country have established that certification — the process by which officials sign off on the completion of election results — is a mandatory and nondiscretionary duty.

Despite this well-settled law, states 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 Florida may attempt to interfere with the timely certification of this year's midterm election results. Fortunately, Florida officials, candidates, and voters 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 Florida

General Schedule

Following the **November 3, 2026** election, Florida law requires county canvassing boards to submit unofficial returns to the Department of State for each federal, statewide, state, or multicounty race by no later than noon on the **fourth day** after the general election: **November 7, 2026**. Fla. Stat. § 102.141(5). The unofficial returns must include the canvass of all ballots. Fla. Stat. § 102.141(5).

County canvassing boards must then submit the official county returns for the election of federal or state officers to the Department of State by no later than noon on the **13th day** following the general election: **November 16, 2026**. Fla. Stat. §§ 102.112(2), 102.151. The county canvass board must file its official returns "**immediately**" after certifying the election results. Fla. Stat. §§ 102.112(1), 102.151.

At the state level, an elections canvassing commission, comprised of the governor and two members of the cabinet selected by the governor, is responsible for certifying nonlocal races. Fla. Stat. § 102.111(1)–(2). The Elections Canvassing Commission must meet at 8 a.m. on the **14th day** after the general election, **November 17, 2026**, to certify the returns for each federal, state, and multicounty office. Fla. Stat. § 102.111(2). The Commission makes and signs separate certificates for the results of congressional and state races, both of which must be recorded in the Department of State. Fla. Stat. § 102.121.

If a member of a county canvassing board determines within **five days** after the Elections Canvassing Commission's certification that the county's official returns contained a typographical error that, when corrected, could change the outcome of an election, the county canvassing board must certify the corrected returns to the Department of State **within 24 hours**, and the Elections Canvassing Commission must correct and recertify the election returns "**as soon as practicable**." Fla. Stat. § 102.111(2).

Election Contests

If eligible parties wish to challenge the certification of an election, Florida law establishes an election contest procedure for courts — not county or state certifying officials — to determine the appropriate outcome.

A losing candidate, voter eligible to vote for the race in question, or taxpayer can file a complaint with the clerk of the circuit court "within **10 days** after midnight of the date the last board responsible for certifying the results officially certifies the results of the election being contested." Fla. Stat. § 102.168(1)–(2). For the general election, this timeline requires any such complaints to be filed no later than **November 26, 2026**. Within **10 days** after the complaint has been served, the defendant must file an answer to the complaint. Fla. Stat. § 102.168(6). The court must hold "an **immediate** hearing" on the complaint and, if necessary to expedite the process, has discretion to limit the time for taking testimony. Fla. Stat. § 102.168(7).

State law does not require election contests to be resolved before the Elections Canvassing Commission certifies the results; if the contesting party is determined to be entitled to the office and the opposing candidate has already taken office, state law provides a mechanism for the governor to revoke their commission. Fla. Stat. § 102.1682.

Recounts

If unofficial returns reflect that a candidate for any race lost by one-half of a percent or less of the votes cast for that office, state law requires a machine recount to take place. Fla. Stat. § 102.141(7). A losing candidate may forego such a recount if they request in writing that the recount not be made. Fla. Stat. § 102.141(7). The secretary of state is responsible for ordering recounts in federal, state, and multicounty races, and the county canvassing board is responsible for ordering recounts in all other races. Fla. Stat. § 102.141(7).

In the event of a machine recount for a federal, statewide, state, or multicounty office, county canvassing boards must submit a second set of unofficial returns to the Department of State by no later than 3 p.m. on the **ninth day** after the general election: **November 12, 2026**. Fla. Stat. § 102.141(7)(c). If the county canvassing board is unable to complete the recount by this deadline, the second set of unofficial returns must "be identical to the initial unofficial returns" and the submission must include a detailed explanation of why the board could not timely complete the recount. Fla. Stat. § 102.141(7)(c). The canvassing board must still complete the recount — as well as the manual recount process described below — and certify the election returns in accordance with the relevant statutory provisions. Fla. Stat. § 102.141(7)(c).

If the second set of unofficial returns indicates that a candidate for any office lost by one-quarter of a percent or less of the votes cast for that office, a manual recount of the overvotes and undervotes cast in the entire jurisdiction of that office must take place unless: (1) the losing candidate(s) request in writing that a recount not be made; or (2) the number of overvotes and undervotes is fewer than the number of votes needed to change the election outcome. Fla. Stat. § 102.166(1)(a)–(b). The Secretary of State is responsible for ordering a manual recount for federal, state, and multicounty races, and the county canvassing board is responsible for ordering a manual recount in all other races. Fla. Stat. § 102.166(1)(b). The county canvassing board must submit the results of any manual recount to the Department of State by noon on the **13th day** after the general election: **November 16, 2026**. Fla. Stat. § 102.112(2). See also Florida Division of Elections, *General Election Results Reporting Timeline – 2026* (2026).

Authority to Prevent and Respond to Certification Abuses

State Officials Can Issue Opinions, Advice, and Directives

Upon the request of the governor or other state official, Florida law requires the attorney general to give an official opinion and legal advice, in writing, on any question of law relating to the official duties of the requesting official. Fla. Stat. § 16.01(3). Likewise, the secretary of state, as the state's chief elections officer, has authority to issue written directives to county supervisors of elections related to the performance of their official duties. Fla. Stat. § 97.012(16). And in response to written requests, the State Department's Division of Elections provides advisory opinions representing the Division's interpretation of election law as applied to a particular set of facts or circumstances; such opinions are binding solely on the person or organization who requested the opinion. Fla. Stat. § 106.23(2).

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.

Florida Election Law Establishes a Mandatory Duty to Certify Elections

In Florida, state law is clear: county canvassing boards have a mandatory duty to certify election results. See, e.g., *State ex rel. H. Bisbee, Jr. v. Bd. of Cnty. Canvassers of Alachua Cnty.*, 17 Fla. 9, 22 (1878) ("Their duty . . . is simply to canvass and add up the returns as ordered, and to make and forward the certificates required by law."). See also generally Robert W. Lee, *Florida Canvassing System*, 26 Nova. L. Rev. 851 (2002) (describing the historical evolution of canvassing and certification as mandatory election duties in Florida).

Before the canvass and certification take place, state law sets forth certain responsibilities for canvassing boards, such as "examin[ing] the tabulation of the ballots cast" and "determin[ing] whether the returns correctly reflect the votes cast." Fla. Stat. § 102.141(3). But as the Florida Supreme Court has explained, these duties do not include any "judicial discretion" to look behind the election returns for suspected fraud or irregularities. *Gough v. State ex rel. Sauls*, 55 So. 2d 111, 116 (Fla. 1951). In other words, county canvassing boards are "without authority to judge the legality or validity of the returns or the votes cast" and must instead leave such questions to the appropriate court proceedings, *i.e.*, the election contest process. *Gough*, 55 So. 2d at 116. For this same reason, state law directs that county canvassing boards must make the canvass from the returns as delivered by the precincts and shall "not change the number of votes cast for a candidate . . . as shown by the returns." Fla. Stat. § 102.141(3).

Florida law is also clear with respect to the timing of certification. If the Department of State does not receive returns from a county canvassing board by the 13th day following the general election — November 16, 2026 — state law instructs that "such returns shall be ignored and the results on file at that time [i.e., the unofficial results] shall be certified by the department." Fla. Stat. § 102.112(3).

If the Department of State does not receive the returns from a county canvassing board by the requisite deadline due to an emergency, the Elections Canvassing Commission is responsible for setting the deadline by which they should be received. Fla. Stat. § 102.112(4). State law defines an emergency as "any occurrence, or threat thereof, whether accidental, natural, or caused by human beings, in war or in peace, that results or may result in substantial injury or harm to the population or substantial damage to or loss of property to the extent it will prohibit an election officer's ability to conduct a safe and orderly election." Fla. Stat. § 101.732(3).

At the state level, Florida law imposes similar restrictions on the Elections Canvassing Commission. When "determining the true vote," the Commission does "not have authority to look beyond the county returns." Fla. Stat. § 102.131. Indeed, as early as 1876, the Florida Supreme Court held that state certifying officials "are authorized to enter no judgment, and their power is limited by the express words of the statute," which permits them only to "sign[ ] a certificate containing the whole number of votes GIVEN for each person for each office, and therein declaring the result *as shown by the returns*." *State ex rel. Drew v. McLin*, 16 Fla. 17, 43–44 (1876). Instead, if the Commission "is unable to determine the true vote for any office . . . [it] shall so certify and shall not include the returns in its determination, canvass, and declaration." Fla. Stat. § 102.131.

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

If further action is needed to enforce certification, a writ of mandamus is available to compel "the performance of any and all official duties where the official charged by law with the performance of such duty refused or failed to perform the same." *State ex rel. Buckwalter v. City of Lakeland*, 112 Fla. 200, 206 (1933). Florida state courts have long held that election certification is a mandatory duty that can be compelled by a mandamus action. See, e.g., *Drew*, 16 Fla. at 43–44 ("The duty to count these returns has been enforced by mandamus so repeatedly in the courts of the several States of the Union, that the power of the courts in this respect has long since ceased to be an open question."); *State ex rel. Clendinen v. Dekle*, 173 So.2d 452, 456 (Fla. 1965) ("That mandamus is the proper remedy [to compel certification] . . . is clearly established by many precedents of this Court."). See also *Gough*, 55 So.2d at 116 (collecting cases). And under state law, the secretary of state is *required* to bring a mandamus action when necessary to enforce the performance of any duty under the state's election laws, including the duty to certify elections. Fla. Stat. § 97.012(14) (referencing chapter 102 of the election code, which encompasses election certification).

When brought by the secretary of state, a mandamus action to enforce election certification must be filed in the Circuit Court of Leon County and, when brought less than 60 days before or "during the time period after the election and before certification," the court must "set an immediate hearing" and give the matter "priority over other pending cases." Fla. Stat. § 97.012(14)(a)–(b). An appellate court hearing the matter must do the same. Fla. Stat. § 97.012(14)(a).

In addition to the secretary of state, an aggrieved candidate or voter can also bring a mandamus action to compel certification in state court. See, e.g., *Mayfield v. Sec'y, Fla. Dep't of State*, 402 So.3d 1002 (Fla. 2025) (mandamus action brought by candidate to seek placement on special election ballot for state senate seat); *State of Fla. ex rel. Charles Scott v. Bd. of Cnty. Comm'rs of Jefferson Cnty.*, 17 Fla. 707, 714 (1880) ("The writ of mandamus may . . . issue on the relation of a private individual, to redress a wrong personal to himself, or, on the relation of one who, in common with all other citizens, is interested in having some act done, of a general public nature, devolving as a duty upon a public officer or body who refuses to perform it.") (quoting *People ex rel. William Stephens v. Halsey*, 37 N.Y. 344, 347 (1867)).

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

Rule 1.570 of the Florida Rules of Civil Procedure provides several solutions if an ordered party refuses to comply with a court order to certify an election. Fla. R. Civ. P. 1.570(c). First, the party seeking enforcement of the court's judgment can file an affidavit that the judgment has not been performed, after which the clerk will issue a writ of attachment against the delinquent party. Fla. R. Civ. P. 1.570(c)(1). The delinquent party "shall not be released from the writ of attachment until that party has complied with the judgment and paid all costs accruing" due to their failure to perform the act. Fla. R. Civ. P. 1.570(c)(1).

If the delinquent party cannot be found, "the party seeking enforcement of the judgment shall file an affidavit to this effect and the court shall issue a writ of sequestration against the delinquent party's property" until the party complies with the judgment. Fla. R. Civ. P. 1.570(c)(1). The court may also hold the disobedient party in contempt. Fla. R. Civ. P. 1.570(c)(2). Additionally, the court may choose to appoint another individual to carry out the court order. Fla. R. Civ. P. 1.570(c)(3).

State Officials Can Impose Penalties Against Rogue Certifying Officials

In addition to the penalties for refusing to follow a court order, refusing to certify an election in accordance with the relevant statutory provisions could violate several state criminal laws and result in charges. See, e.g., Fla. Stat. § 104.051(2). County state attorneys generally have authority to prosecute criminal conduct that takes place within their jurisdictions. Fla. Stat. § 27.02(1). The attorney general also has general authority to intervene in criminal actions. Fla. Stat. § 16.01(4).

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" (May 19, 2025)
- Protect Democracy, *Election Certification Is Not Optional* (March 2024)