Texas 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 Texas 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 Texas — 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 Texas may attempt to interfere with the timely certification of this year's midterm election results. Fortunately, several legal tools are available under Texas law 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 Texas

General Schedule

Following the **November 3, 2026** election, Texas law requires each local canvassing authority — generally, the commissioners court of each county in which an election is held — to meet to conduct the canvass no later than **14 days** after the general election day: **November 17, 2026**. Tex. Elec. Code §§ 65.051(a-1), 67.002(a)(1), 67.003(b)–(c). See also Texas Secretary of State, *November 3, 2026 Election Law Calendar* (2026). The canvass may not take place earlier than the third day after election, **November 6, 2026**, and cannot begin until the early voting ballot board has verified and counted any provisional ballots and counted all timely received mail ballots. Tex. Elec. Code §§ 67.003(b), 86.007. See also Texas Secretary of State, *November 3, 2026 Election Law Calendar* (2026).

Following the canvass, state law directs the clerk of each county to prepare and certify the county's returns. Tex. Elec. Code § 67.007(a), (c). No later than **24 hours** after the completion of the local canvass, the county clerk must deliver the certified returns to the secretary of state. Tex. Elec. Code § 67.007(d). State law directs the county clerk to prepare separate returns for an election for the office of governor or lieutenant governor and deliver the same to the secretary of state. Tex. Elec. Code § 67.008(a).

For non-local races other than an election for the office of governor or lieutenant governor — including congressional races — the governor canvasses and certifies the returns at the state level upon receipt from the secretary. Tex. Elec. Code §§ 67.010(a), 67.013. Texas law requires the governor to conduct the state canvass and certification at the time set by the secretary of state, which must take place no earlier than the **18th day** and no later than the **33rd day** after election day: between **November 21, 2026** and **December 7, 2026** (because the 33rd day falls on a Sunday). Tex. Elec. Code §§ 1.006, 67.012(a)(2). The secretary must post a notice of the date, hour, and place of the canvass on their website at least **72 hours** before the state-level canvass is conducted. Tex. Elec. Code § 67.012(b).

Following the completion of the state-level canvass, the governor shall prepare a certificate of election for each candidate elected to a non-local office. Tex. Elec. Code § 67.016(b). Under state law, the governor must "**promptly**" deliver the certificate to the person for whom it is prepared. Tex. Elec. Code § 67.016(e).

The secretary of state serves as the presiding officer for races in which the governor canvasses the results. Tex. Elec. Code § 67.010(b). In this role, the secretary may make a clerical correction to the officially canvassed returns if an authorized, amended county canvass is submitted. Tex. Elec. Code § 67.010(d).

Separately, for the governor and lieutenant governor races, Texas law requires such returns to be canvassed by the state legislature and the official results declared by the speaker of the house of representatives. Tex. Const. art. IV, § 3; Tex. Elec. Code § 67.011(a). Following the county canvass, the secretary of state must retain the returns for these races until the first day of the next regular legislative session, **January 12, 2027**, at which time they deliver the returns to the speaker of the house of representatives for the canvass and official declaration of the results. Tex. Elec. Code §§ 67.008(c), 67.011(a).

Following the completion of the canvass for the governor and lieutenant governor races, the speaker of the house of representatives must deliver the county returns to the secretary of state, who then prepares a tabulation for those races. Tex. Elec. Code §§ 67.011(c), 67.013(c).

If a county's election returns are missing or otherwise incomplete for the governor or lieutenant governor's race, "the legislature may substitute the secretary of state's tabulation for that county or may obtain the necessary information from the county." Tex. Elec. Code § 67.011(b). If requested by the legislature, the secretary of state or the county must "promptly transmit the information to the legislature by the most expeditious means available." Tex. Elec. Code § 67.011(b).

Recounts

In Texas, automatic recounts are available only in the rare instance that an election results in a tie between two or more candidates. Tex. Elec. Code § 216.001.

A losing candidate in a race decided by a plurality vote (i.e., most races) may, however, petition for an "initial recount" if: (1) the difference in the number of votes received by the petitioning candidate and the winning candidate is less than 10 percent of the number of votes received by the winning candidate; (2) the secretary of state certifies that counting errors affecting the election occurred in one or more election precincts in which paper ballots were used (which "does not happen very often," as noted by the Secretary of State); or (3) the total number of votes received by all candidates for the office in question is less than 1,000. Tex. Elec. Code §§ 2.001, 212.022(1), (3)–(4). See also Texas Secretary of State, *Procedures to Request and Conduct a Recount*. A losing candidate may also request an initial recount of electronic voting system results. Tex. Elec. Code § 212.0241(b).

Any petition for an initial recount must be submitted by 5p.m. on the third business day after the date the canvassing authority in question completes its canvass of the original election returns: this date will vary based on when the canvass is completed, but can be no later than **November 20, 2026**. Tex. Elec. Code § 212.028(a). If the deadline in question falls on a weekend or state holiday, the deadline is extended to 10 a.m. of the next regular business day. Tex. Elec. Code § 212.028(c).

Under state law, the submission of a recount petition before the canvassing authority completes its canvass cannot delay the canvass for the office in question. Tex. Elec. Code § 212.033(a). However, if a recount petition is submitted before the winning candidate receives a certificate of election, the canvassing authority may not issue the certificate of election to the winning candidate until the recount is complete. Tex. Elec. Code § 212.0331(a)–(b).

A recount petition must be reviewed no later than 48 hours after its receipt: this date will vary based on the date of receipt, but can be no later than **November 22, 2026**. Tex. Elec. Code § 212.029(a). If approved, state law requires the recount to take place no later than **the seventh day** after the petition was approved or the day after all ballots have been delivered to the appropriate authorities — whichever is later. Tex. Elec. Code § 212.031(a). Generally, ballots must be delivered "**immediately**" after the precinct returns are completed. Tex. Elec. Code § 66.053(a).

During the recount process, Texas law requires that "[e]ach authority responsible for performing a function in a recount shall perform the function diligently and shall take **prompt action** at every stage of the proceeding." Tex. Elec. Code § 211.006(a). Additionally, the completion of the recount may be enforced by a mandamus action in state court. Tex. Elec. Code § 211.006(b). See, e.g., *Martinez v. Slagle*, 717 S.W.2d 709, 712 (Tex.

App.—San Antonio 1986, no writ) (orig. proceeding) (granting a writ of mandamus to compel the recount coordinator to "perform the ministerial responsibility" of canvassing the results of an initial recount for a primary run-off election).

If the recount changes the number of votes in the election, the canvassing authority must conduct a new canvass "**as soon as practicable**" after the completion of the recount. Tex. Elec. Code § 213.033(a).

Election Contests

Candidates for certain races may challenge the election results through a contest process set forth in the state's election code. Tex. Elec. Code § 232.002. Texas law excludes races for the U.S. House of Representatives and U.S. Senate from this process. Tex. Elec. Code § 221.001(1).

Generally, a candidate contesting an election must file a petition no earlier than **the day after election day** and **no later than the 45th day** after the election records are publicly available or the official result of the contested election is determined — whichever is later. Tex. Elec. Code § 232.008(b). If an election contest is filed before the canvass of the contested election is complete, Texas law prohibits the contest from affecting the canvassing process; "the result of the election shall be determined and certified as if the contest had not been filed." Tex. Elec. Code § 221.006.

Authority to Prevent and Respond to Certification Abuses

Texas Election Law Establishes a Mandatory Duty to Certify Elections

In Texas, state law is clear: election officials have a "ministerial," i.e., mandatory, duty to canvass and certify election results. See, e.g., *In re City of Floresville*, No. 04-16-00757-CV, 2016 WL 6994000, at *1 (Tex. App.—San Antonio Nov. 30, 2016, no pet.) ("Canvassing the votes of an election is a ministerial function.") (quoting *Grant v. Ammerman*, 437 S.W.2d 547, 549 (Tex. 1969)); *In re Robinson*, 175 S.W.3d 824, 827–28 (Tex. App.—Houston [1st Dist.] 2005, no pet.) (orig. proceeding) ("Like the duty to canvass votes, which occurs after an election is held, we are of the opinion that the duty to certify . . . is a necessary component of the election process."); *Martinez*, 717 S.W.2d at 711 (explaining "the ministerial duty to canvass election returns").

If a party wishes to challenge any aspect of an election, Texas law establishes several detailed procedures separate and apart from the certification process that are specifically designed to investigate any alleged errors or improper election activities, such as recounts and civil suits. See generally Tex. Elec. Code §§ 212.002, 247.001.

State Officials and Other Affected Parties Can Obtain Relief

In Texas, any person who is "harmed or in danger of being harmed by a violation or threatened violation" of the state's election code "is entitled to appropriate injunctive relief to prevent the violation from continuing or occurring." Tex. Elec. Code § 273.081. Accordingly, an aggrieved party, such as a candidate in the affected race, can bring an action to compel certification if a certifying official refuses or threatens to refuse to certify an election in violation of the state's election code.

If injunctive relief under § 273.081 is not available for any reason, a writ of mandamus is available "to compel the performance of any duty imposed by law in connection with the holding of an election, regardless of whether the person responsible for performing the duty is a public officer." Tex. Elec. Code § 273.061(a). Texas courts have long held that completing the canvass and certification process is a mandatory duty that can be compelled by a mandamus action. See, e.g., *In re Robinson*, 175 S.W.3d at 832 (granting a writ of mandamus to enforce certification); *In re City of Floresville*, 2016 WL 6994000, at *1 ("When a canvassing board refuses to canvass the returns, 'a writ of mandamus ordering the canvass of election returns and declaring the results of the election is a proper remedy.'") (quoting *Grant*, 437 S.W.2d at 549); *Shelor v. Comm'rs Court of Harris Cnty.*, 304 S.W.2d 153, 156 (Tex. App.—Fort Worth 1957, no writ) (granting a writ of mandamus where a canvassing board refused to record the result, explaining that "the will of the people as expressed in the election is set at naught by the refusal of the board to perform its duty.").

In Texas, candidates affected by the refusal to certify may bring a mandamus petition. See, e.g., *Shelor*, 304 S.W.2d at 154 (action brought by affected candidates). See also *Cameron v. Baker*, 13 S.W.2d 119, 119 (Tex. App.—San Antonio 1929, no writ) (action brought by "resident taxpayers"); *Seay v. Latham*, 182 S.W.2d 251, 252 (Tex. 1944) (action brought by chair of the political party for the primary election in question).

Additionally, Texas law authorizes the secretary of state to "order a person performing official functions in the administration of any part of the electoral process to correct offending conduct if the secretary determines that the person is exercising the[ir] powers . . . in a matter that: (1) impedes the free exercise of a citizen's voting rights; or (2) . . . delays or cancels an election that the person does not have specific statutory authority to delay or cancel." Tex. Elec. Code § 31.005(b). If an official ordered to complete the canvass and certification under this provision fails to do so, the secretary may seek enforcement of the order by a writ of mandamus, or other applicable order, by the attorney general. Tex. Elec. Code § 31.005(c).

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

In the event that a certifying official defies a court's order, Texas courts generally have broad authority to enforce compliance with their judgments. Tex. R. Civ. P. 308. See also *Arndt v. Farris*, 633 S.W.2d 497, 499 (Tex. 1982) (orig. proceeding) ("The general rule is that every court having jurisdiction to render a judgment has the inherent power to enforce its judgments."). Likewise, an official who refuses to comply with a court order could also be held in contempt of court. See Tex. Gov't. Code § 21.002 (specifying that contempt authority includes the "court's power to . . . compel the contemner to obey a court order.").

State Officials Can Impose Penalties Against Rogue Certifying Officials

In addition to the penalties for refusing to follow a court order, knowingly or intentionally refusing to certify election results could violate several state criminal laws and result in charges. See, e.g., Tex. Elec. Code § 276.013(a)(11) (listing as an offense "refus[ing] to count votes the person knows are valid or alter[ing] a report to exclude votes the person knows are valid."). District and county attorneys generally have authority to investigate and prosecute such violations that take place within their jurisdictions. See generally Tex. Const. art. V, § 21; Tex. Elec. Code § 273.001.

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)