

# Florida: 2020 Election Policies & Practices

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# I. Timeline

The key dates in the Florida voting and election cycle are listed below. Overall, voters can expect Florida's results *on or shortly after Election Night*. Because county canvassing boards are allowed to begin processing mail-in ballots three weeks before the election, the Election Night count only focuses on in-person ballots. This means a faster turnaround time for unofficial results, and a potential call shortly before or after the 2 a.m. deadline for county-level returns.

For a complete overview of Florida's election timeline, please see Division of Elections' updated calendar [here](#).

- October
  - October 1: Automatic delivery of mail-in ballots to eligible voters
  - **October 5: Voter registration deadline (extended to October 6 this year because of technical problems with the registration website)**
  - **October 12: County canvassing boards may begin processing and tabulating absentee ballots (recent executive order allows processing to begin earlier)**
  - October 14: Deadline to appoint poll workers
  - **October 24: Statewide early voting begins; deadline to request mail ballot delivery**
  - October 25: First day to designate third-party for ballot pickup
  - October 26: Last day for Supervisor to mail requested ballots
- November
  - **November 3: Election Day, with early voting totals expected to be tabulated by 8:30 p.m.**
  - **November 4: All returns due from county canvassing boards by 2 a.m.**
  - November 5: Deadline for receiving mail-in ballots; deadline for curing defective absentee ballots
  - November 7: First round of unofficial results due to Secretary of State by noon
  - November 12: Results of first automatic recount (if required) due to Secretary of State

- November 13: Deadline for receipt of overseas ballots; deadline to contest election results
- **November 15: County canvassing boards submit official returns to Secretary of State**
- **November 17: Elections Canvassing Commission meets and Secretary of State certifies the election result**

## II. Voter Registration

Florida voters may register up to twenty-nine (29) days before the election, making this year's registration deadline October 5. After the voter registration website crashed on October 5, state officials [extended](#) the deadline to October 6. A federal judge subsequently [denied](#) a request to extend the deadline further. As a result, Florida voter registration is now closed.

In 2018, Florida voters passed Amendment 4, which allowed former felons to register to vote as long as they had completed "all terms of their sentence." Shortly thereafter, the Florida legislature passed a law including court fines and fees within the definition of "terms of their sentence." Although the state has no centralized process for letting former felons know how much they owe, the Eleventh Circuit [upheld](#) the Florida law in September of this year. As a result, "[less than a quarter](#)" of the state's 1.4 million eligible former felons were able to register to vote.

## III. Absentee Voting

Absentee voting is popular in Florida. In 2016, [2.7 million](#) Floridians--or almost [30%](#) of the voting electorate--voted by mail. And that number will likely grow in 2020. According to the American Elections Project, [5.6 million](#) voters have requested mail ballots for the upcoming election. This means that more than one-third of Florida's [14.1](#) million active registered voters could end up voting absentee.

Historically, mail-in voting in Florida has [not](#) had a clear partisan tilt. In the 2016 election, Donald Trump received 41% of the mail-in vote, while Hillary Clinton received 38%. This year,

Democratic candidates are [leading](#) in early mail-in balloting, although Republicans are likely to make up considerable ground on Election Day.

## Requesting Absentee Ballots

Under Florida law, most voters must request an absentee ballot from the local Supervisor of Elections. The [deadline](#) for requesting a ballot *that is mailed to the voter* (rather than picked up in person) is 5 p.m. on the tenth day before the election, making this year's deadline 5 p.m on October 24. The Supervisor [must](#) respond to any deadline-day requests no later than eight (8) days before the election (October 26). For [requests](#) received before the deadline, the Supervisor has slightly more leeway, and may respond within two *business* days. However, a voter [may](#) request an absentee ballot after October 24, as long as they pick up the absentee ballot from the Supervisor's office. The voter may pick up the ballot at any point after it becomes available, including on Election Day.

Some Florida voters are [entitled](#) to automatic delivery of absentee ballots. The Supervisor of Elections must mail absentee ballots to any voter who has requested a mail-in ballot during the two preceding general election cycles. These ballots must be mailed between forty (40) and thirty-three (33) days before the election date. That means that the deadline for automatic delivery of absentee ballots in Florida was October 1.

## Collecting Absentee Ballots

Ballot collection can refer to both pick-up and delivery of a voter's ballot by someone other than the ballot. Florida law specifies the requirements for each type of collection.

Beginning on the ninth day before Election Day, a voter [may](#) designate someone to pick up their absentee ballot for them. However, Florida law imposes significant procedural requirements for third-party ballot pick-up. The designee may not pick up more than two ballots, unless they are also picking up ballots for their immediate family. The designee must bring written authorization from the voter, provide photo identification, and complete an affidavit. The Supervisor of Elections need only release the ballot if they are "satisfied that the designee is authorized to pick up the ballot," and if the

signature on the voter's written authorization matches the signature on file with the Supervisor's office.

A voter may only task someone with *returning* a ballot if they are [disabled](#). A voter who “requires assistance to vote by reason of blindness, disability, or inability to read or write” may request assistance in casting an absentee ballot. To guard against voter manipulation, a disabled voter may not select an “employer, an agent of the employer, or an officer or agent of his or her union” to cast their absentee ballot.

## Returning Absentee Ballots

When casting a vote, a voter must sign a statement certifying that they are a legal registered voter in the state of Florida. The voters may also place their ballot inside a “secrecy envelope” [provided](#) by the Supervisor of Elections. However, state law does not explicitly require voters to use the secrecy envelope, and [several local county election boards](#) have explicitly said that ballots will still count if voters do not use the secrecy envelope.

Once a voter has cast their mail-in ballot, they can [track](#) it online through the Division of Elections' Voter Information Lookup, or through the county Supervisor of Elections office. The link to the statewide tracking tool is available [here](#).

In addition to casting their absentee ballot by mail, absentee Florida voters may vote in person or through a secure drop box. In-person voting can mean either delivering the absentee ballot to the Supervisor of Elections, or opting to vote at a polling place rather than by mail-in ballot. Florida voters may drop off a mail-in ballot at the Supervisor of Elections office by [7 p.m. on Election Day](#). If a mail-in voter chooses to vote at a polling place (instead of filling out the mail-in ballot), they [must](#) bring their absentee ballot to the local election board or to an early voting site so that officials can cancel it.

Even if the voter fails to return their mail-in ballot to a polling place, they [may still be able](#) to vote in person. The local election official will check with the Supervisor of Elections to confirm that the voter has not yet submitted a mail-in ballot. If the voter has not submitted a mail-in ballot, then they may vote at the polling place. If the Supervisor indicates that the voter has already submitted a

mail-in ballot, the voter will not be allowed to vote at a polling place. However, if the voter insists that they have not voted, or if the Supervisor cannot determine whether the voter has submitted a mail-in ballot, the voter may cast a provisional ballot.

Florida also [establishes](#) secure drop boxes for absentee ballots at the main office of the Supervisor of Elections, as well as the Supervisor’s branch offices. Drop boxes are also available at early voting sites, as long as the site is staffed by a member of the Supervisor’s office or a law enforcement officer. Voters may only use the early voting site drop boxes once the in-person early voting period opens (see below) but may use the Supervisor office drop boxes before in-person early voting begins.

## Curing Defective Absentee Ballots

After receiving a mail-in ballot, county officials will attempt to match the signature on the ballot with the signature on file at the county Supervisor of Elections office. If the signatures match, then the vote is verified and tabulated. However, if the signatures do not match, then the voter must receive an opportunity to “cure” the defective ballot.

The exact process for matching signatures varies from county to county. However, the process in Miami-Dade County, the [most populous](#) county in Florida, is a useful example. First, a machine scans the ballot barcode to identify the voter. The machine then displays the signature on the ballot next to the voter’s signature record. A staff member—who has been trained by a licensed forensic scientist and passed a proctored exam on signature matching—compares the ballot signature to a signature on file. The on-file signature can include a signature from the DMV (usually the signature on a license), a signature used to register to vote in the state, or an electronic signature signed by the voter from a time they voted in person.

If local officials determine that the signatures do not match, the county Supervisor of Elections [must](#) notify the voter “as soon as practicable.” In addition to a notification by first-class mail, the Supervisor must notify the voter through email, text, or telephone. Beginning the day before the election, the Supervisor does not need to send a first-class mail notification, but must continue to notify voters through email, text, or telephone.

A voter has until 5 p.m. on the second day after the election (i.e. November 5) to cure a signature mismatch. To do so, the voter must submit a “[cure affidavit](#),” which is available through the Florida Department of State. The affidavit [must](#) include a “Tier 1 identification,” such as a Florida driver’s license or passport. If the voter does not have a Tier 1 identification, they may use a Tier 2 identification, such as a bank statement or utility bill with their residential address.

The canvassing board or Supervisor of Elections will [then](#) compare the signature on file to the signature on the cure affidavit. If the signatures match, and the voter’s identification documents confirm the voter’s identity, then the ballot will count. If they do not match, the ballot will still count if the voter has submitted a Tier 1 identification that confirms their identity. Thus, voters are more likely to cure defective absentee ballots by submitting Tier 1 identification with their cure affidavits. It is also worth mentioning, however, that canvassing boards face a higher standard than Supervisors for discarding ballots based on signature mismatch. Under the [statute](#) governing absentee ballot canvassing, a canvassing board finding of signature mismatch “must be by majority vote and beyond a reasonable doubt.” Florida law is silent on the standard that Supervisors must apply to mail-in ballots.

## IV. Early Voting

Early voting is even more popular in Florida than mail-in voting. In 2016, around 40% of Florida voters voted early (excluding mail-in votes). This means that 3.9 million people voted early, as opposed to around 3 million on Election Day. During the 2016 election, the presidential candidates received similar shares of the early vote. Hillary Clinton received around 41% of the early vote, while Donald Trump received 37%. Once early voting begins statewide, counties will submit updated early voting totals [here](#).

### Early Voting Period

The statewide in-person early [voting period](#) in Florida begins on October 24, and ends on October 31. However, a county’s Supervisor of Elections [may](#) extend the early voting period to two days before the election (November 1), as well as fifteen days before the election (October 19) if the supervisor sees fit. [Many counties](#) have already opted to begin early voting on the first legal date.

Early voting hours and dates for every Florida county are available [here](#).

## Early Voting Locations

The Supervisor of Elections must open early voting sites at their main and branch offices throughout a county. The Supervisor [may](#) also designate “any city hall, permanent public library facility, fairground, civic center, courthouse, county commission building, stadium, convention center, government-owned senior center, or government-owned community center as an early voting site.” Local sports teams have also offered their arenas as early voting sites, with the [Orlando Magic](#) opening the Amway Center to early voters.

Counties appear to be expanding early voting beyond Supervisor of Elections offices. For example, counties in Northeast Florida have [designated](#) campuses, libraries, churches, convention centers, and sports complexes as early voting sites. Voters can access a spreadsheet of early voting sites for every Florida county [here](#).

## V. Election Day

The [polls](#) on Election Day in Florida are open from 7:00 a.m. to 7:00 p.m. Voters must bring a valid photo identification—such as a driver’s license, passport, or student ID—in order to vote. Voters who are in line when the polls close at 7 p.m. will be permitted to vote, as long as they remain in line.

### Poll Worker Recruitment and Training

At least twenty (20) days before the election (October 14), the county Supervisor of Elections [must](#) appoint an election board of poll workers for each precinct. Broadly speaking, poll workers may be clerks or inspectors. Clerks supervise the overall operation of a polling place. Inspectors are responsible for, among other things, checking identification, guiding voters to machines, and handling spoiled ballots. The board must include representatives from more than one political party (unless it is supervising a primary election), and each member must be a registered voter capable of reading and writing in English.



Poll worker [training](#) is based on a statewide curriculum established by the Florida Division of Elections. All poll workers must take a course based on this curriculum before Election Day. The clerk (i.e. poll worker in charge of a polling place) must demonstrate “a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills.” In addition to the statewide curriculum, poll workers must also review a procedure manual distributed by the Division of Elections. Among other things, the manual provides guidance on the proper layout of a polling place, the management of lines, conflict disruption, interactions with law enforcement, and provisional balloting. Voters can find the 2020 version of the polling place procedure manual [here](#).

Florida [compensates](#) poll workers. The exact level of compensation [varies](#) among counties, which may also compensate workers for time spent training.

## Poll Watchers and Voter Challenges

Each political party and each candidate [may](#) have one watcher in a polling room or early voting place. The watchers may not interact with voters, and may not “come closer to the officials’ table or the voting booths than is reasonably necessary to properly perform his or her functions.” The watchers may not be law enforcement officers, and must wear badges identifying themselves as poll watchers.

The poll watchers—along with any other registered voter in the county—may [challenge](#) the right of a person to vote in that county. The challenge must be in writing, and must set forth the person’s reasons for believing that someone is trying to vote illegally. The challenged voter may then cast a provisional ballot. However, if the challenge is to the voter’s residential address, the voter must be allowed to file documents changing their legal residence. If the new address is within the precinct, the voters will be allowed to cast a regular ballot.

## Preventing Violence and Intimidation

As we have mentioned [elsewhere](#), there is a significant threat of electoral violence at polling places during the 2020 election. [Voter intimidation](#) is also a threat, particularly as the Trump campaign threatens to recruit an “[army](#)” to watch the polls on election day. After a federal judge

[withdrew](#) a consent decree that banned Republican poll-watching operations, some Trump campaign officials have [celebrated](#) a “brand new opportunity” to recruit 50,000 poll watcher volunteers.

If violent protests disrupt Election Day operations, state and local Florida officials have several tools at their disposal. [First](#), poll workers can coordinate with law enforcement to maintain order at the polls. In order to limit the threat of intimidation, police officers may not enter the polling place without the express permission of the clerk or a majority of the inspectors. [Second](#), local boards of election can relocate polling places to minimize violent disruptions, even if the relocated polling place is outside the original precinct. [Third](#), state officials can reschedule an election in response to widespread electoral violence. Once the governor declares a state of emergency and postpones the election, a new election must be held within ten days, or “as soon thereafter as is practicable.” The Florida Department of State has drafted an extensive emergency election contingency [plan](#), which includes expanded vote-by-mail and new polling places.

Florida has also passed several measures to limit voter intimidation. Like many states, Florida [bars](#) electioneering or political protesting within 150 feet of a polling place. The state also [bans](#) open or concealed carry of firearms in polling places. And Florida has expressly criminalized voter intimidation. Under Florida Statutes [§104.0615](#), a person may not use or threaten force or violence to induce someone to vote (or refrain from voting), register to vote, become a poll worker or watcher, or challenge another person’s right to vote.

## COVID-19 Safety Measures

Although [most counties have](#) required primary and general election workers to wear masks, several highly populated counties have also [stated](#) that they will not enforce mask mandates for general election voters.

## VI. Post-Election Procedures

Florida is no stranger to post-election controversy. Indeed, Florida was at the heart of the legal dispute around the 2000 presidential election, which the Supreme Court ultimately ended in *Bush v. Gore*. Here, we examine Florida law around canvassing, recounts, and election contests.

## Canvassing

Florida law outlines different procedures for canvassing absentee ballots and early/Election Day in-person ballots.

For absentee ballots, the county canvassing board [may](#) begin canvassing at 7 a.m. on the twenty-second (22nd) day before the election (i.e. October 12). However, under Executive Order [20-149](#)—issued by Governor DeSantis to account for the COVID-19 pandemic—county canvassing boards no longer need to wait until October 12. Instead, the boards may start the process as soon as they have verified the accuracy of their tabulation equipment. If the Supervisor has not already matched the signatures on the absentee ballots, the canvassing board must do so. (See above for a discussion of the signature matching process.) The canvassing board may also hear challenges—from any voter or candidate—to the legality of a particular mail-in ballot based on a formatting defect or a faulty cure affidavit.

The county canvassing boards may release the results of the first vote-by-mail canvass at any point after polls close on Election Day. Given that the county must accept vote-by-mail ballots until November 5, initial canvassing results may be incomplete. Florida officials have [indicated](#) that early and mail-in ballot totals will be completed by 8:30 p.m. on Election Day.

For in-person ballots (both early and Election Day), precincts must deliver their returns to the county canvassing board by 2 a.m. on the day after Election Day. The canvassing board may order a retabulation if any returns are missing, or if there is an “obvious error” in the returns. Before counting, the canvassing board must compare the precinct-level tabulations with the number of votes cast. If there is a discrepancy between the two numbers, the precinct-level tabulations are presumed correct. The canvassing board will then deliver updated totals to the Department of State every forty-five (45) minutes until the count is complete.

Florida law also imposes shared reporting requirements for vote-by-mail and early voting returns. By 7 p.m. on the day before Election Day, the Supervisor of Elections must upload the initial vote-by-mail and early voting figures to the county election management system. And within thirty minutes of the polls closing on Election Day, county canvassing boards must report early voting and

vote-by-mail figures to the Department of State. Again, as noted above, the vote-by-mail figures may change as ballots come in over the succeeding two days.

After unifying early, Election Day, and mail-in ballot totals, the county canvassing boards [must](#) deliver the first round of unofficial results to the Secretary of State by noon on the fourth day after the election (November 7). After the deadline for overseas ballots (November 13) has elapsed, the canvassing boards have two more days (November 15) to [submit](#) official results to the Secretary of State.

## Recount Procedures

An automatic recount is [required](#) if the unofficial returns show a margin of 0.5% or less between two candidates. In a federal or state race, the Secretary of State (not the counties or election boards) is responsible for ordering the recount.

To conduct the automatic recount, a canvassing board must [duplicate](#) any absentee ballot that is too damaged to feed through the tabulation machine. Party candidates or their designees may physically observe the duplication process. Just before starting the recount, the canvassing board must thoroughly [test](#) the tabulation equipment, and may only proceed if the test does not produce an error. The canvassing board must [set aside](#) any ballots that are over- or under-voted. Those ballots will only be counted if a manual recount becomes necessary (see below).

The second round of unofficial returns (i.e. the results of the automatic retabulation) are due to the Secretary of State no later than 3 p.m. on the ninth day after the general election. If a canvassing board cannot meet that deadline, it must re-submit the results from the first count, along with a detailed explanation of why it cannot meet the recount deadline.

If the automatic recount yields a margin of 0.25% or less, the Secretary of State must [order](#) a manual recount of “the overvotes and undervotes cast in the entire geographic jurisdiction.” That is, the manual recount evaluates the votes that were set aside during the automatic retabulation, but leaves the results of the first (automatic) recount untouched. The Secretary need not order the recount if the number of overvotes and undervotes is “fewer than the number of votes needed to change the outcome of the election.”

Florida law outlines a specific set of procedures for a manual recount. The county canvassing board may appoint as many “counting teams” as necessary to conduct the recount. The counting teams must have, “when possible, members of at least two political parties.” The Florida Department of State has issued more voting system-specific regulations for a manual recount, which are available [here](#). The counting team must determine whether a ballot contains a “clear indication that the voter has made a definite choice.” If a counting team cannot determine whether a ballot contains a “clear indication” of the voter’s choice, or if a representative of one of the candidates objects to the team’s determination, the county canvassing board will make the final decision. The Florida Department of State has issued rules that define a “clear indication” of a “definite choice.” Voters can find the rules [here](#).

The Florida Division of Elections has condensed the required procedures for automatic and manual recounts into a three-page summary. The more digestible version of the recount procedures is available [here](#).

## Contesting the Election

After the Secretary of State certifies the election results, a candidate or registered voter [may](#) challenge the result in state court. The candidate or voter must file the challenge within ten (10) days of certification. The defendants—including the Elections Canvassing Commission—have ten (10) days to file an answer to the complaint.

Florida law provides four grounds for challenging the result of an election:

- Misconduct, fraud, or corruption by any election official or canvassing board “sufficient to change or place in doubt the result of the election”;
- The ineligibility of the winning candidate for office;
- Receipt of illegal votes (or rejection of legal votes) “sufficient to change or place in doubt the result of the election”; and/or
- Proof that a voter, election official, or canvassing board member was bribed to influence the outcome of the election

If the challenge requires the judge to evaluate a canvassing board's evaluation of provisional or vote-by-mail ballots, the court will only review the canvassing board's decision for abuse of discretion.

# Appendix

## Issues of Concern

- **Ex post rejection of “ineligible” votes from people with felony convictions**
  - Last week, the Director of the Division of Elections [told](#) county election officials that the Division would begin to send files on registered voters who were ineligible to vote because of unpaid court fees from previous felony convictions.
  - This comes after the Eleventh Circuit [upheld](#) a Florida law that banned people with felony convictions from voting until they had paid all fees/fines associated with their sentence. The law circumscribed Amendment 4, which broadly re-enfranchised people with felony convictions.
  - The move could potentially lead to legal challenges if the election is close, as officials look to toss “ineligible” ballots and narrow the margin in a crucial swing state
- **Intimidation of mail-in and early voters**
  - Although no statute requires security at drop boxes, state officials are [telling](#) county supervisors that drop boxes outside county elections offices must be staffed.
  - Two men dressed as security guards “[supervised](#)” a Pinellas County polling place, but they eventually left when police asked them to do so.
  - Voters in Florida have [received](#) threatening emails urging them to vote for Trump, and law enforcement officials have attributed this to foreign interference.
- **Rejections of ballots because of signature mismatch**
  - The mail ballot rejection rate in Florida is slightly over [0.5%](#). As mail-in ballots approach [4 million](#), this translates to around 20,000 rejected ballots, which could make up the margin in a narrow election
  - Studies have [found](#) disproportionately high rejection rates for young voters, Hispanic voters, and Black voters.

- However, recent changes to Florida law (such as a “beyond a reasonable doubt” standard for canvassing boards to discard a mail-in ballot) could mitigate the impact of mismatched signatures.

### Early Voting Figures (Updated)

- **10/25:** 5.7 million votes (40.6% of 2016 turnout)
- **10/27:** 6.4 million votes (67.2% of 2016 turnout)
- **10/28:** 6.9 million votes (72.2% of 2016 turnout)
- **10/29:** 7.4 million votes (77.1% of 2016 turnout)
- **10/31:** 8.3 million votes (86.6% of 2016 turnout)