



2022

Election Legal Guide

**REPORTERS
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The Election Legal Guide provides an overview of legal issues that journalists may face while reporting on the 2022 midterm elections.

The first four sections of this guide offer a general summary of information about exit polling, newsgathering in or near polling places, ballot selfies, and access to ballots and election records. The subsequent sections provide more specific information on each of the following battleground states: Arizona, Florida, Georgia, Michigan, Minnesota, Nevada, New Hampshire, North Carolina, Ohio, Pennsylvania and Wisconsin.

Journalists who are reporting on protests and demonstrations during the election season can also learn more about the special risks they may face and how to stay safe in the Reporters Committee's [Police, Protesters, and the Press](#) guide. These guides are intended for informational purposes only and do not replace the legal advice of an attorney. Journalists with additional questions, including questions about states not featured in this guide, should contact the [Reporters Committee's legal hotline](#).

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Exit Polling

Exit polls conducted in person

Journalists' rights and restrictions at polling places are not set in stone. Whether a restriction is permissible often turns on its "reasonableness" under the circumstances. Although courts do not often address the general issue of newsgathering at polling places, several courts have considered the narrower question of whether journalists should be able to conduct exit polls on Election Day, usually finding that only some reasonable restrictions are allowed.

Generally, the First Amendment protects journalists' right to gather news outside polling places for the purpose of reporting on early election results. Although many states today have polling-place restrictions to prevent voter intimidation and election fraud, courts have invalidated legislation that is aimed at preventing exit polling.

The key question about each restriction is whether it seeks to limit speech or newsgathering. If it does, the restriction may be unconstitutional. But if the law applies equally to all expressive activity, does not single out newsgathering for unfavorable treatment, and promotes the safety and orderliness of the election process, restrictions deemed reasonable—such as a 25-foot limit on access—are permissible.

In the seminal case on exit polling, *Daily Herald Co. v. Munro*, 838 F.2d 380 (9th Cir. 1988), the U.S. Court of Appeals for the Ninth Circuit held that a state law prohibiting exit polling within 300 feet of a voting place was unconstitutional on its face. The court clearly stated that "exit polling constitutes speech protected by the First Amendment." *Id.* at 384.

At least 18 other federal courts have considered the issue since *Munro*. Those courts have mostly held that exit polling is constitutionally protected but have also permitted some restrictions, such as a 25-foot limit on access, *Nat'l Broad. Co. v. Cleland*, 697 F. Supp. 1204, 1215 (N.D. Ga. 1988), or a rule against hindering voters from leaving polling places, *Am. Broad. Cos. v. Blackwell*, 479 F. Supp. 2d 719, 744 (S.D. Ohio 2006). Although the Supreme Court has not addressed exit polling specifically, it has made clear that states may restrict other activity such as electioneering within at least 100 feet of voting places. See *Burson v. Freeman*, 504 U.S. 191, 210 (1992) (allowing restriction on solicitation of votes and distribution of campaign materials to protect the government's compelling interest in preventing voter intimidation and election fraud).

When courts have considered restrictions that impact exit polling, they have generally agreed with the Ninth Circuit in *Munro* on a few key points:

- First, exit polls provide invaluable information to the public. See, e.g., *Cleland*, 697 F. Supp. at 1209.
- Second, exit polling is not inherently disruptive. See, e.g., *CBS Broad., Inc. v. Smith*, 681 F. Supp. 794, 801 (S.D. Fla. 1988); *Am. Broad. Cos. v. Wells*, 669 F. Supp. 2d 483, 490 (D.N.J. 2009).
- Third, distance restrictions, even if they apply generally to activity outside polling locations, may be overly burdensome on the press's ability to gather news. See *Smith*, 681 F. Supp. at 803; *Cleland*, 697 F. Supp. at 1209–10; *CBS Broad., Inc. v. Cobb*, 470 F. Supp. 2d 1365, 1371 (S.D. Fla. 2006).

The decisions vary on what distance is too burdensome, with several courts holding that restrictions of 100-feet or more are impermissible. Compare, e.g., *Munro*, 838 F.2d at 386 (invalidating 300-foot restriction); *Cleland*, 697 F. Supp. at 1215 (barring enforcement of 250-foot restriction but permitting 25-foot restriction); *Nat'l Broad. Co. v. Colburg*, 699 F. Supp. 241, 243 (D. Mont. 1988) (invalidating 200-foot restriction); *Smith*, 681 F. Supp. at 806 (barring enforcement of 150-foot restriction); *Cobb*, 470 F. Supp. 2d at 1371 (barring enforcement of 100-foot restriction); *Am. Broad. Cos. v. Heller*, No. 06-CV-01268, 2006 WL 3149365, at *13 (D. Nev. Nov. 1, 2006) (same); *Am. Broad. Cos. v. Ritchie*, No. 08-CV-05285, 36 Media L. Rep. 2601, 2008 WL 4635377 (D. Minn. Oct. 15, 2008) (same).

Exit polls conducted by phone

Phone surveys of voters are a growing practice that allows access to absentee and early voters, as well as those who vote by mail. Journalists conducting exit polls by phone should be aware that the [Telephone Consumer Protection Act](#) (TCPA) places restrictions on prerecorded calls. 47 U.S.C. § 227. The TCPA generally prohibits robocalls to landlines unless the recipient has provided express consent. [§ 227\(b\)\(1\)\(B\)](#). But the law allows for certain exceptions, such as for calls that are not made for “a commercial purpose” or are made for a commercial purpose but do not include ads or telemarketing, and calls made by tax-exempt nonprofits. [§ 227\(b\)\(2\)\(B\)](#). The FCC has clarified that [market research and polling calls](#) to landlines fall into this category and do not require prior consent, though these calls must still identify the caller at the beginning of the message and include a contact phone number. However, auto-dialed and prerecorded non-emergency calls to wireless phones are “[prohibited without prior express consent](#).”

Newsgathering in or near polling places

Only a few courts have addressed newsgathering at and around polling places apart from exit polling. In 2013, the U.S. Court of Appeals for the Third Circuit rejected a challenge to a Pennsylvania statute that required people to remain at least 10 feet away from polling places, holding that there was no First Amendment right of access for newsgathering purposes. *PG Publ'g Co. v. Aichele*, 705 F.3d 91, 113–14 (3d Cir. 2013). However, in 2004, the U.S. Court of Appeals for the Sixth Circuit barred enforcement of a similar law in Ohio that restricted people from entering the polling place or “loiter[ing]” in the adjacent area outside. *Beacon Journal Publ'g Co. v. Blackwell*, 389 F.3d 683, 685 (6th Cir. 2004). The court held that the state was required to permit a news organization “to have reasonable access to any polling place for the purpose of news-gathering and reporting so long as [they] do not interfere with poll workers and voters as voters exercise their right to vote.” *Id.*

With respect to photography, courts have upheld some restrictions *inside* polling locations, given concerns about election security. In 1989, the Florida Supreme Court heard a challenge by a newspaper whose photographer was ejected from a polling place after attempting to secure a photo of a candidate at the polls. *Firestone v. News-Press Publ'g Co.*, 538 So. 2d 457, 458 (Fla. 1989). The court held that a state law barring non-voters within 50 feet of a polling place was unconstitutional as applied outside of the voting room, but constitutional as applied within the room itself. *Id.* at 460. Likewise, the California Court of Appeals found that a policy prohibiting photography and videotaping within polling places was constitutional given the state’s interest in maintaining ballot secrecy and an orderly voting process. *Poniktera v. Seiler*, 104 Cal. Rptr. 3d 291, 304–05 (Cal. Ct. App. 2010).

One federal district court has upheld restrictions on photography outside a polling place, but such restrictions are less common. See *N.J. Press Ass’n v. Guadagno*, No. 12-CV-06353, 2012 WL 5498019, at *7–8 (D.N.J. Nov. 13, 2012) (rejecting challenge brought by news media organizations against anti-loitering and solicitation law that effectively barred them from taking photographs and conducting interviews within 100 feet of a polling station).

Ballot selfies

“Ballot selfies” are a social media staple, and may be used by journalists to demonstrate current political trends or to inform the public of any potential issues with the election process. The publication of ballot selfies or marked ballot photos should be permitted if they are obtained lawfully. Before taking ballot selfies or photos of voters at the polls, journalists and members of the public should ensure that their actions are permitted by state law. The National Conference of State Legislatures has a [helpful online resource](#) with information on ballot and polling place photography laws by state. Journalists should confirm that the laws cited are still current before relying on them. A brief summary of current law on ballot selfies is detailed below.

Generally, ballot selfies are considered a form of political speech. Political endorsements are considered a bedrock of the electoral process and a vital form of political expression. However, some fear that ballot selfies and other ballot photographs may encourage voter coercion or vote buying. To combat these fears, many states have adopted laws that prohibit photographing election ballots or sharing a photograph of a marked ballot with others.

According to [a 2020 Vox report](#), 14 states have laws prohibiting ballot selfies, while 24 states and the District of Columbia permit them. Some states, like Arizona, permit photographs of absentee ballots but do not permit the use of cameras at polling sites. See, e.g., [Ariz. Rev. Stat. § 16-515\(G\)](#) (banning photography within 75 feet of the polls); [Ariz. Stat. § 16-1018\(4\)](#) (permitting a voter to make available an image of his or her own ballot). Several states allow people to take pictures of polling stations so long as they are not disruptive or for electioneering purposes.

In recent years, several courts have considered the constitutionality of laws banning ballot selfies with mixed results. At least three federal courts have struck down such laws as unconstitutional under the First Amendment. In 2016, the U.S. Court of Appeals for the First Circuit found a New Hampshire law that prohibited taking and sharing photographs of a marked ballot—regardless of whether it was taken at a polling place—overly broad and concluded that the government had failed to identify a need for the legislation other than abstract concerns about vote buying and voter coercion. *Rideout v. Gardner*, 838 F.3d 65, 68, 73 (1st Cir. 2016).

The following year, a federal district court—citing similar reasons—barred enforcement of an Indiana law that prohibited voters from taking or sharing images of even unmarked ballots while in a polling place. *Ind. Civil Liberties Union Found., Inc. v. Ind. Sec’y of State*, 229 F. Supp. 3d 817, 824–25 (S.D. Ind. 2017). A federal court in Colorado preliminarily blocked enforcement of that state’s law, which prohibited voters from showing their completed ballots, noting that state law already barred voter coercion and vote buying, and most ballots were mailed in. *Hill v. Williams*, No. 16-cv-0267-CMA, 2016 WL 8667798, at *11–12 (D. Colo. Nov. 4, 2016). The Colorado legislature subsequently changed the law to affirmatively allow ballot selfies. [Colo. Rev. Stat. § 1-13-712\(b\) \(2017\)](#).

On the other hand, a federal district court upheld New York’s ballot selfie ban, finding that the state’s interest in preventing vote buying and coercion justified the law. *Silberberg v. Bd. of Elections*, 272 F. Supp. 3d 454, 479, 481 (S.D.N.Y. 2017). However, during its most recent session, the New York legislature [considered a bill](#) to allow ballot selfies; the bill did not pass and was not enacted into law. A.B. 4182, 2021–22 Leg., Reg. Sess. (N.Y. 2022). The Sixth Circuit

has also suggested, without deciding, that a Michigan ballot selfie ban may be constitutional. *Crookston v. Johnson*, 841 F.3d 396, 399 (6th Cir. 2016). But the case later settled when the [Michigan secretary of state agreed to permit ballot selfies in the voting booth.](#)

Access to ballots and election records

Due at least in part to the coronavirus pandemic, the number of voters casting mail-in ballots has grown exponentially. In 2020, 43% of voters cast mail-in ballots, according to [U.S. Census data](#). According to the same data, 70% of voters cast their ballots nontraditionally, either by mail or before Election Day. By contrast, just 21% voted by mail, and 40% voted nontraditionally, according to 2016 Census data. These changes in how Americans place their votes have, in turn, resulted in changes to how states tally and report votes during the U.S. elections process. As these trends are expected to continue, this section of our guide focuses on the right of the public and press to access voter rolls, ballots, and the initial ballot count and recount process in the following battleground states: Arizona, Florida, Michigan, Minnesota, Nevada, New Hampshire, North Carolina, Ohio, Pennsylvania and Wisconsin. In addition, it contains information about deadlines for counting and certifying state election results and where to find up-to-date election results on the night of the election and thereafter. The sections below include specific information for each of these battleground states.

To learn more about access to election-related records in each state, visit the Reporters Committee's [Open Government Guide](#).

Access to voter rolls

In the 2022 battleground states covered in this guide, voter registration records are open to public inspection pursuant to each state's public records law, albeit with certain information withheld, such as social security numbers and dates of birth. In most of these states, copies of voter registration records may also be obtained.

Access to ballots

State laws vary with respect to access to ballots. Some states, like Wisconsin, consider them to be public records, which may be inspected and copied. But other states, like Arizona, require them to be sealed, remaining confidential either for a fixed period or in perpetuity.

Access to initial ballot counts and recounts

Generally, the press and the public are entitled to observe the initial ballot counts and recounts conducted in the 2022 battleground states covered in this guide. In Pennsylvania, however, only candidates, their attorneys or representatives may be present to observe a recount. See, e.g., 25 P.S. § 3154. In Ohio, the secretary of state has indicated that the public's right of access may not be "as extensive" as the right of access for "duly appointed observers," although the secretary has not clarified what this means. [Directive 2011-12](#), Ohio Sec'y of State (March 25, 2011).

Federal and state deadlines

The battleground states featured in this guide generally do not permit mail-in or absentee ballots to be counted prior to Election Day—although Arizona and Florida do. However, some states, including Minnesota, North Carolina and Ohio, permit counties to process mail-in ballots—meaning

prepare them for counting—prior to Election Day. Proposals for similar measures in [Michigan](#) and [Pennsylvania](#) stalled despite support from their respective secretaries of state.

The battleground states differ on when the ballot count must be completed, as well as their [mail-in ballot receipt deadlines](#) and requirements for [mail-in ballot eligibility](#). [Numerous lawsuits](#) have been filed across the country challenging such deadlines and requirements.

Given the anticipated increase in the use of mail-in ballots and an expected high voter turnout this year, election officials expect the ballot counting process to take longer than usual. Official election results may take weeks to certify.

Secretaries of state and state election boards may provide timely access to election results and election-related records on their websites.

Battleground Jurisdictions

Arizona

Voter rolls

- Voter registration information is “an official public record.” [A.R.S. § 16-161](#).
- Voter registration records are available for public inspection at local election offices; copies may also be furnished for a fee. [A.R.S. § 16-168\(F\)](#).
- Available information includes name, party preference, date of registration, address and voting history. [A.R.S. § 16-168\(F\)](#).
- Additional sources: Ron O'Dell, [Arizona settles lawsuit to make voter-registration data more accessible, affordable](#), AZCentral (June 29, 2017).

Ballots

- Voted ballots are statutorily preserved only for conducting a recount and, afterwards, they must be destroyed without examination. [A.R.S. § 16-624](#).
- Ballot images are expressly treated the same as paper ballots. [A.R.S. § 16-625](#).

Initial ballot counts and recount process

- “All proceedings at the counting center shall be ... under the observation of representatives of each political party and the public.” [A.R.S. § 16-621](#).
- There is a live feed that streams tabulation for all elections where ballots are counted. The county officer in charge of elections must provide a live video recording of the counting of ballots in the tabulation room, during both initial counting and recounts.
- The county officer in charge of elections must timely provide the website hyperlink to the secretary of state, who then publishes those links on the [secretary of state's website](#).

Dates and deadlines for counting ballots

- Early voting begins October 12. For absentee ballots and ballots cast in accordance with early voting procedures, “tallying of ballots shall not begin any earlier than fourteen days before election day”—this year, October 25.
- Results of early voting cannot be “released or divulged before all precincts have reported or one hour after the closing of the polls on election day, whichever occurs first.”
- Polls close at 7 p.m. on Election Day. The deadline for tallying all ballots is the fourth Monday following the general election—this year, December 4.
- Counties have up to 20 days and the state has up to 30 days to canvass and certify the results. [A.R.S. § 16-642\(A\)](#); [A.R.S. § 16-648](#).
- Maricopa County will begin posting results at 8 p.m. on Election Day. It is planning for more than 320,000 voters to cast ballots on Election Day. The county also expects up to 155,000 ballots to be *dropped off* on Election Day. Delays related to processing the latter are expected to push tabulation through November 17.
- Additional sources: [A.R.S. § 16-550\(B\)](#); [A.R.S. § 16-551\(C\)](#); [Maricopa County Elections Department](#); [2022 Arizona election season resources](#)

Election result resources

- The Arizona secretary of state [website](#) and the Maricopa County recorder [website](#) will post election results when they become available.

Exit polling, newsgathering in or near polling places and ballot selfies

- State law establishes a 75-foot perimeter around voting locations, and no photographs may be taken within that area. [A.R.S. § 16-515\(G\)–\(H\)](#).
- Ballot selfies may be taken at home with early ballots. [A.R.S. § 16-1018\(4\)](#); [Guidance on Voting Location Conduct](#), Ariz. Sec’y of State.
- Members of the media cannot conduct exit poll interviews within the 75-foot perimeter. A.R.S. § 16-411(H); [2019 Elections Procedure Manual](#) (179–80), Ariz. Sec’y of State.

Florida

Voter rolls

- With few exceptions, all voter registration information is public, including name, address and party affiliation. [F.S.A. § 97.0585](#); [F.S.A. § 98.0981\(4\)](#).
- Information related to an applicant or voter’s felony conviction and restoration of voting rights is no longer confidential. [F.S.A. § 97.0585](#).
- Individuals may examine and obtain copies of registration records.
- Additional sources: [Voter Information as a Public Record](#), Fla. Div. of Elections; [Voter Extract Disk Request](#), Florida Div. of Elections.

Ballots

- Ballots are public records in Florida. The law places restrictions on who may handle the ballots (only the supervisor of elections or the supervisor’s employees), but ballots may be inspected and copied, according to the public records law. [F.S.A. § 101.572](#); [F.S.A. § 119.07](#).
- Additional sources: Fla. Office of the Att’y Gen., Op. No. 2004-11 (March 24, 2004); *Canova v. Snipes*, Order on Pl.’s Mot. for Summ. J. (Broward Cty. Cir. Ct. May 11, 2018).

Initial ballot counts and recount process

- The initial ballot counts, or canvasses, are open to the public. County boards of election will generally post information on their websites about attending canvasses. [F.S.A. § 102.141\(2\)](#).
- Public notice of a recount must be provided as soon as possible once a recount is deemed necessary. [F.S.A. § 102.166](#).
- All procedures relating to recounts are open to the public.
- Additional sources: [Fla. Admin. Code r. 1S-2.031](#) (effective June 22, 2022); [Recount Procedure Summary](#), Fla. Div. of Elections (last updated June 2022).

Dates and deadlines for counting ballots

- Canvassing boards may begin counting vote-by-mail ballots for the general election 22 days before Election Day—this year, October 17. [F.S. § 101.68\(2\)\(a\)](#).
- The deadline for county canvassing boards to submit official results to the Florida Department of State is 12 p.m. EST, 12 days after Election Day — this year, November 15. However, if the results are not sent to the Department of State due to an emergency, the Elections Canvassing Commission must determine a new deadline. [F.S. § 102.112](#).

Election result resources

- Elections supervisors must provide live turnout data on Election Day to the public and update it at least once an hour. [F.S. § 98.0981\(4\)](#).
- For current election results, visit the Florida Department of State's [Election Watch website](#).

Exit polling, newsgathering in or near polling places and ballot selfies

- Although [Florida law prohibits](#) “solicitation” both inside polling places and within 150 feet of them, including seeking “fact, opinion, or contribution,” the law contains an express carve-out for exit polling. [F.S. § 102.031\(4\)\(a\)–\(b\)](#).
- The same law also generally prohibits photography in polling places, but a 2019 amendment to the law makes an exception for ballot selfies. (“[A]n elector may photograph his or her own ballot”). [F.S. § 102.031\(5\)](#).
- The public can enter polling rooms to watch procedures *before* the polls open and *after* all voters have cast their ballots. But the press cannot be in the polling room when polls are open. [F.S. §102.031\(3\)\(a\)](#).

Georgia

Voter rolls

- Voter registration lists are available to the public under the Georgia Open Records Act. [O.C.G.A. § 21-2-72](#).
- The requester must complete and mail a form and payment to the [Georgia secretary of state's office](#). [Available voter information](#) includes voter name, residential address, mailing address (if different), race, gender, registration date and last voting date. Georgia's secretary of state's office determines pricing. Georgia law prohibits the use of voter registration information for commercial purposes. [O.C.G.A. § 21-2-225\(c\)](#).

Ballots

- The contents of voting machines are not open to the public. [O.C.G.A § 21-2-72](#).
- However, “the primary and election records of each superintendent, registrar, municipal governing authority, and committee of a political party or body, including registration statements, nomination petitions, affidavits, certificates, tally papers, returns, accounts, contracts, reports, and other documents in official custody” are publicly available. *Id.*

Initial ballot counts and recount process

- Ballot counts using optical scanning equipment are open to the public, but only authorized officials are allowed to touch any ballot or ballot container. [O.C.G.A. § 21-2-483\(b\)](#).
- Georgia law [does not require](#) an automatic recount. Following the passage of [H.B. 316](#) in 2019, candidates now have a right to a recount if the margin is less than or equal to 0.5 percent. Recount requests must be made within two business days of the release of certified voting results. [O.G.C.A. § 21-2-495\(c\)\(1\)](#).
- Candidates may also request a recount when there is a [suspected error or discrepancy in the returns](#). The secretary of state has discretion to permit the recount. [O.C.G.A. § 12-2-495\(d\)](#).
- During recounts, all ballots must be counted using ballot scanners. Members of the public are allowed to view the recount, and officials must maintain a “clear audit trail” during the recount, including logs of ballot container seal numbers. See *Ga. Rules of State Election Bd.*, [183-1-15-.03\(1\)\(b, d, f\)](#).
- While voting results are subject to the Georgia Open Records Act’s disclosure requirements, particular types of election data that may compromise election security “against sabotage, criminal, or terroristic acts” may be exempt. See *Smith v. DeKalb Cty.*, 654 S.E.2d 469, 472 (Ga. App. Ct. 2007) (affirming injunction prohibiting disclosure of election CDs that included passwords, encryption codes and other security information).
- Unless noted otherwise, it’s unlawful to give or receive any information about absentee ballot tabulations until the polls close. [O.C.G.A. § 21-2-386\(f\)](#).

Dates and deadlines for counting ballots

- Georgia county election boards may begin processing absentee ballots (also known as mail-in ballots) on the third Monday prior to Election Day. See [Ga. Rules of State Election Board 181-1-13-.14](#). However, absentee ballots may not be counted until Election Day. *Id.*; [Ga. Code Ann. § 21-2-386](#).
- Election officials must maintain a master list, subject to public inspection, listing the name and residence of every person to whom an absentee ballot has been sent. [O.G.C.A. § 21-2-384\(d\)](#).

Election result resources

- The [Georgia secretary of state](#) will post [current election results](#) when they become available.

Exit polling, newsgathering in or near polling places and ballot selfies

- In Georgia, reporters may enter a polling place to observe, but they are prohibited from entering the “enclosed space.” Georgia law refers to an “enclosed space” as a single room furnished with a guardrail or barrier where voting machines are located and where electors cast their votes. [O.C.G.A. § 21-2-267\(a\)](#).
- Georgia law prohibits members of the public, including journalists, from taking pictures, videos, or other recordings inside the polling place. Therefore, ballot selfies are not permitted at the polls. [O.C.G.A. § 21-2-413\(e\)](#).

- Journalists may not conduct exit or public opinion polling of voters within 25 feet of the exit of any building where a polling place is located. [O.C.G.A § 21-2-414\(c\)\(1\)](#).

Michigan

Voter rolls

- All voter registration records are available for public inspection during normal business hours. [M.C.L. § 168.516](#)
- Additional sources: [Is my voter record available to the public?](#), Office of the Sec’y of State.

Ballots

- Ballots are available for inspection and copying, according to Michigan’s public records law. [M.C.L. § 15.231 et seq.](#)
- Additional sources: Office of the Mich. Att’y Gen., [Op. No. 7247](#) (May 13, 2010).

Initial ballot counts and recount process

- Initial counting of ballots is public. [M.C.L. § 168.801](#).
- Candidates and voters, except candidates seeking precinct delegate positions, [can request recounts](#). [M.C.L. § 168.862–63](#).
- Recounts are conducted in a public space where interested members of the press and public may observe the process so long as observers do not disturb those counting the ballots. [M.C.L. § 168.879–80](#); [M.C.L. § 168.889](#).
- For federal seats and State House seats contained within a single district, recount petitions must be filed within 48 hours after the Board of State Canvassers adjourns the meeting at which the determination for the seat was recorded. [M.C.L. § 168.879](#).
- For federal and state seats contained in multiple counties, recount petitions must be filed within 48 hours after the Board of State Canvassers completes the canvass. [M.C.L. § 168.879](#).
- For county seats, recount petitions must be filed within 48 hours after the board of county canvassers completes the canvass. [M.C.L. § 168.866](#).
- Additional sources: [M.C.L. § 168.874](#); [Mich. Election Dates](#), Office of the Mich. Sec’y of State (2022).

Dates and deadlines for counting ballots

- Absentee ballots may not be counted until Election Day.
- The boards of county canvassers must complete the ballot count within 14 days after Election Day—this year, by November 22. [M.C.L. § 168.822](#).
- County clerks must forward these results to Michigan’s secretary of state within 24 hours—this year, by November 23.
- The Board of State Canvassers must certify the results within 40 days of the election — this year, by December 18. [M.C.L. § 168.842](#).

Election result resources

- Michigan’s county election websites may post and update election results as they receive them. [Candidate Listings and Election Results by County](#), Office of the Sec’y of State.

Exit polling, newsgathering in or near polling places and ballot selfies

- Voters can take photographs of their own ballots while within voting booths. However, selfies are not allowed inside the booths or in any area where others are voting. Further, voters can’t share images of their voted ballots within 100 feet of polling places. [Election Officials’ Manual](#) (2020), Mich. Bureau of Elections.
- These rules, adopted in 2019, were part of a settlement in a voter lawsuit challenging Michigan’s restrictions on ballot photography. [Michigan secretary of state settles ‘ballot selfie’ case](#), Mich. Dept. of State.
- Meanwhile, journalists are allowed to briefly film from the public area of a polling room, but a precinct chairperson must supervise to ensure ballot secrecy is maintained and no voters are inconvenienced. Reporters may not interview voters inside the polling place. [Election Officials’ Manual](#) (2020), Mich. Bureau of Elections.

Minnesota

Voter rolls

- Voter registration records are available for inspection and copying. Available information includes voter name, address and voting history. However, one must be a registered voter in the state to receive copies of the records. [M.S.A. § 201.091\(4\)](#).
- One may not obtain such records “for purposes unrelated to elections, political activities, or law enforcement.” This is not a bar to access; the Minnesota Secretary of State has provided copies of the statewide voter list to news outlets, including the Star Tribune. [M.S.A. § 201.091\(4\)](#).
- The names of voters whose absentee ballots were not accepted must be made publicly available after the close of voting on Election Day. [M.S.A. § 203B.12](#).
- Additional sources: James Eli Shiffer, [Minnesota voter list is a public record, after all](#), Star Tribune (July 10, 2017).

Ballots

- Ballots are not available to the public or to the press as public records. Ballots are sealed after Election Day and are only available to a court during a legal dispute, to those involved in a recount and to the Minnesota secretary of state. [M.S.A. § 204C.25](#); [M.S.A. § 204C.28](#).

Initial ballot counts and recount process

- The initial ballot counts are public. [M.S.A. § 204C.33](#).
- The public and the press are also allowed to observe a recount. Viewing areas are established for the public to watch the recounting of ballots, but generally, the public may not get close enough to the ballot recount teams to see, read or photograph any ballot, nor to touch any election materials. This likely means keeping a distance of 15 feet or more. [M.S.C. §204C.361](#).

- Recounts can be automatic if the vote margin is less than 0.25% for federal offices and state constitutional or judicial offices. State legislative offices can go to recount if the margin is less than 0.5%. Recounts can also occur if a candidate requests one within 48 hours after the canvassing board meeting, or if the difference in votes is 10 or less where the total number of votes is 400 or fewer. [M.S.A. § 204C.35–36](#).
- Additional sources: [Recounts](#), Office of the Minn. Sec’y of State.

Dates and deadlines for counting ballots

- No ballots are tallied before Election Day in Minnesota, although the ballots can be processed prior to Election Day.
- The deadline for counties to count ballots in Minnesota is 10 days after the general election—this year, December 18. The State Canvassing Board then meets to count the tallies received from each of the county auditors on the third Tuesday following the state general election—this year, November 29. The board must report the results within three days of completing the count—this year, December 2. [M.S.A. § 204C.33\(1\)](#).
- Source: [2020 Minnesota Absentee Voting Administration Guide](#).

Election result resources

- The Minnesota secretary of state [website](#) displays [unofficial election results](#) on election night.

Exit polling, newsgathering in or near polling places and ballot selfies

- There is no law prohibiting someone from taking a picture of his or her own ballot. However, the secretary of state’s office discourages the practice because state law technically prohibits voters from showing their marked ballot to others. [Polling Place Rules](#), Office of the Minn. Sec’y of State; [M.S.A. § 204C.17–18](#).
- Journalists can observe the voting process, but they cannot conduct exit polling interviews inside the polling place, nor can they approach within six feet of a voter. [M.S.A. § 204C.06](#).
- According to the secretary of state’s office, journalists are allowed to film in polling places, but they should contact local election officials ahead of time.

Nevada

Voter rolls

- Anyone may inspect voter registration records or request copies of such records for a fee, but the records “may not be used for any purpose that is not related to an election.” [N.R.S. § 293.440](#); [NRS § 293.503\(5\)](#).
- Available information includes names and addresses. [N.R.S. § 293.440\(2\)](#).

Ballots

- Nevada law does not recognize a right of public access to ballots. Ballots are secured for 22 months by the county clerk and are only subject to inspection by a court order. [N.R.S. § 293.391](#).

Initial ballot counts and recount process

- The public and the press may observe the initial ballot-counting process as well as a recount, but state law does not permit observers to interfere with the determination of the Recount Board. [N.R.S. §293B.353](#); [N.R.S. § 293.404](#).
- Registered voters may also request recordings of the ballot-counting process. [N.R.S. § 293B.353](#).
- Additional sources: Nev. Att’y Gen., Op. No. 175 (Nov. 25, 1974), (explaining that “a recount is but a replay of the procedures for inspecting ... the ballots as was done immediately after the general election,” so the public access requirements of standard ballot-counting apply to recounts).

Dates and deadlines for counting ballots

- In Nevada, counties may start counting absentee ballots on Election Day. [N.R.S. § 293.333](#).
- County canvasses must be completed within 10 days of the election—this year, November 18. [N.R.S. § 293.387\(1\)](#).
- On November 22, the justices of the Nevada Supreme Court must meet with the Nevada secretary of state to review the election results, and the governor will issue a proclamation declaring which candidates have been elected to public office. [N.R.S. § 293.395\(2\)–\(3\)](#).
- Additional sources: Barbara K. Cegavske, [2022 Nevada Election Calendar](#), Office of the Sec’y of State.

Election result resources

- The Nevada secretary of state provides election data on the Silver State Elections [website](#).

Exit polling, newsgathering in or near polling places and ballot selfies

- Nevada law prohibits “any person” from speaking to a voter about the voter’s ballot within 100 feet of a polling place. [N.R.S. § 293.740](#). However, a coalition of media organizations challenged the application of this law to exit polling in 2006, and a federal trial court agreed that it likely violates the First Amendment and preliminarily blocked its enforcement. *Am. Broad. Cos. v. Heller*, No. 06-CV-01268, 2006 WL 3149365, at *1 (D. Nev. Nov. 1, 2006). Nevada’s secretary of state subsequently agreed to a final judgment, entered by the court, that declared the law unconstitutional as applied to the media coalition and permanently enjoined the law’s enforcement against the media plaintiffs in future elections. Although the judgment only applied to the media organizations who brought the lawsuit (ABC, The Associated Press, CNN, CBS, Fox News and NBC Universal), the Elections Division of Nevada’s office of the secretary of state has clarified, via email

to a Reporters Committee attorney, that the Nevada law, § 293.740, “does not prohibit exit polling,” so journalists are free to conduct exit polls in the 100-foot area outside polling locations.

- Nevada law prohibits members of the “general public” from taking photos or otherwise recording “the conduct of voting at a polling place,” so ballot selfies are not permitted at the polls. [N.R.S. § 293.274\(2\)](#). However, this law exempts journalists who are employed or contracted by a “newspaper, periodical, press association, or radio or television station.” [§ 293.274\(3\)\(b\)](#).
- Certain counties, including Clark County, Nevada, home of Las Vegas, [ask](#) that if the media wish to interview a specific person, they do so outside the polling place. Additionally, the Clark County Election Department requests that “no direct or clear shots of the ballot” be captured.

New Hampshire

Voter rolls

- Any person may view the statewide voter registration database at the state archives, but they may not print, duplicate, transmit or alter the data. Notably, a viewer may not access the entire database but can conduct searches for specific entries. [N.H. Rev. Stat. § 654:31](#)
- Available information includes name, address, voter participation history and party affiliation. [N.H. Rev. Stat. § 654:31](#)
- “Checklists,” which show who voted, are public records that may be viewed and copied for a fee from each town or city clerk or from the state archives. [N.H. Rev. Stat. § 654:31](#)
- Sources: [NH Rev. Stat. § 654:25](#); [NH Rev. Stat. § 654.45](#); Nick Reid, [N.H.’s full voter database isn’t publicly accessible, as presidential commission suggests](#), Concord Monitor (July 6, 2017).

Ballots

- Ballots are exempt from New Hampshire’s Right-to-Know law. Ballots used in an election remain sealed in storage boxes until destroyed after the state and federal retention periods. [N.H. Rev. Stat. § 659:95](#).

Initial ballot counts and recount process

- Initial counting of ballots is public. [N.H. Rev. Stat. § 659:63](#).
- Recounts are conducted in public, and anyone can attend. [N.H. Rev. Stat. § 660:5](#).
- Additional sources: Email from Orville B. Fitch II, Elections Legal Counsel, Assistant Sec’y of State (Sept. 12, 2020).

Dates and deadlines for counting ballots

- In New Hampshire, counties may not start counting absentee ballots on Election Day until after the polls are closed, although counties may process absentee ballots—meaning prepare them for counting—as early as two hours after polls open on Election Day. [N.H. Rev. Stat. § 659:49](#); [N.H. Rev. Stat. § 659:63](#).

- There is no official deadline for counting ballots in New Hampshire, although according to the office of the secretary of state, ballots are typically counted within a day or two. [N.H. Rev. Stat. § 659:84](#).

Election result resources

- The New Hampshire office of the secretary of state will not post election results on its website until the morning after Election Day, November 9, 2022. According to the office of the secretary of state, local media gather and announce town-specific election data.

Exit polling, newsgathering in or near polling places and ballot selfies

- New Hampshire does not have specific rules on exit polling, except that such activity [should not obstruct voters](#) who are entering or exiting the polling place. The secretary of state's [Election Procedure Manual for New Hampshire](#), last updated for 2020–21, states that the “best practice” is to keep the press outside the “railed-in area”—beyond which only voters and election officials are permitted, [N.H. Rev. Stat. Ann. § 659:21](#)—and allow exit polling to occur in an “adjacent room,” if available.
- Towns can adopt their own bylaws regarding, among other things, “any activity which affects the safety, welfare and rights of voters.” [N.H. Rev. Stat. Ann. § 31:41-c](#). These bylaws must be given to the town clerk immediately following adoption and must be posted at each polling place at least 72 hours in advance of the polls opening. *Id.*
- New Hampshire has several rules about the permissible distances between a member of the public, including the news media, and any part of the election process. Anyone can observe voter registration in New Hampshire but individuals must be more than five feet away from the voter registration table. [N.H. Rev. Stat. Ann. § 654:7-c](#). In addition, a person may not stand within six feet of the ballot clerk to observe the check-in of voters unless that person obtains express permission from the moderators. [N.H. Rev. Stat. Ann. § 659:13-a](#). Finally, only election officials may be present within four feet of the ballot counting, which occurs within the “guardrail,” though this process is conducted publicly. [N.H. Rev. Stat. Ann. § 659:63](#).
- Ballot selfies are allowed in New Hampshire. Although a state law previously prohibited them, the U.S. Court of Appeals for the First Circuit found that restriction an unconstitutional violation of the First Amendment in *Rideout v. Gardner*, 838 F.3d 65 (1st Cir. 2016), discussed above.

North Carolina

Voter rolls

- Upon request, the county board of elections must provide a list of registered voters of the county or of any precinct. [G.S. § 163-82.10\(c\)](#).
- Available information includes name, address and party affiliation. *Id.*
- A county board of elections may, upon request, also furnish “selective lists” according to party affiliation, sex, race or other categories. *Id.*

- Those provided with “selective lists” must reimburse the board for the actual costs incurred in compiling the lists. *Id.*

Ballots

- Completed ballots are confidential and shall not be disclosed to members of the public, “unless a court orders otherwise.” [G.S. §163-165.1\(e\)](#).

Initial ballot counts and recount process

- Any member of the public may observe the initial ballot count if he or she does not interfere with the orderly counting of the ballots. [G.S. § 163-182.2](#).
- The State Board of Elections must develop rules for recounts enabling “opportunity for public observation.” Yet North Carolina laws do not contain specific rules regarding observing recounts. [G.S. § 163-182.7\(d\)\(3\)](#).
- Nonetheless, recounts in North Carolina, in practice, allow observers.

Dates and deadlines for counting ballots

- Absentee ballots may be processed several weeks before the election, but they are not counted until Election Day. [G.S. § 163-234](#).
- The deadline for counting ballots in North Carolina is November 18, 2022, 10 days after Election Day. [G.S. § 163-182.5](#).
- Additional sources: [Voting by Mail](#), N.C. State Bd. of Elections (last visited Aug. 23, 2022).

Election result resources

- Live election results can be found at the [website](#) of the North Carolina State Board of Elections.

Exit polling, newsgathering in or near polling places and ballot selfies

- It is against state law to take a photograph or capture video of a voted ballot. [G.S. § 163.166.3\(c\)](#).
- State law establishes a 50-foot buffer zone around the polling place. Journalists cannot conduct exit polling interviews within that area. [G.S. § 163.166.4\(a\)](#); see also [State Board Releases Press Kit, Guidance for Reporters Covering Election](#), N.C. State Bd. of Elections (last visited Aug. 23, 2022).
- Members of the media need permission from the chief judge at a precinct to enter the voting enclosure. Reporters cannot take pictures or record video of a voter inside the enclosure without both the chief judge and the voter’s consent. [G.S. § 163.166.3\(b\)](#).

Ohio

Voter rolls

- Voter registration files are public records and are open to public inspection when the office of the board of elections is open for business. Viewers will be accompanied by a member of the board. [R.C. § 3503.13\(A\)](#)
- Available information includes name, address and voter participation history. [R.C. § 3503.15](#)
- Files are also available on the Ohio secretary of state's website. [Voter Files Download Page](#), Office of the Sec'y of State.

Ballots

- Ballots are public records in Ohio, but only after the time period within which a possible recount or election contest may occur. At that point, ballots are subject to public inspection “under such reasonable regulations as shall be established” by the state's board of elections. Ohio Office of the Att’y Gen., [Op. No. 2004-050](#) (Dec. 27, 2004).

Initial ballot counts and recount process

- Ohio law provides limited public access to tabulation of ballots. [R.C. § 3505.21\(D\), \(F\)](#)
- During the initial counting of ballots, counting must occur before members of the board of elections and official observers. *Id.*
- In the event of a recount, candidates in the race to be recounted may observe the recount and may designate and appoint specific people to observe on their behalf. [R.C. § 3515.03](#).
- A 2011 directive from the Ohio secretary of state mentions the right of the general public to observe recounts but notes that their right of access is more limited than official observers. [Directive 2011-12](#), Ohio Sec’y of State (March 25, 2011); [R.C. § 3515.03](#); [R.C. § 3505.21](#).
- For post-election *audits*, the Ohio secretary of state has specified that these must be open to the public and the media. However, if space is limited, official observers will be given priority. [R.C. 3505.331\(C\)](#); [R.C. § 3505.21](#).
- Additional Sources: [Election Official Manual](#), Ohio Sec’y of State (updated as of Feb. 2, 2022).

Dates and deadlines for counting ballots

- Absentee ballots may be [processed](#) beginning the day after the close of voter registration, which involves scanning the ballot using automatic tabulating equipment. However, county boards may not physically count the ballots until after the polls close on Election Day. [R.C. § 3505.26](#).
- Counties typically complete unofficial counts on election night and transmit these results to the Ohio secretary of state. [R.C. § 3505.26](#); [R.C. § 3505.27](#).
- Official canvasses or counts must be completed by the 21st day after the election—this year, November 29. [R.C. § 3505.32](#).

Election result resources

- There shall be “periodic reporting to the public and the office of the secretary of state of the number of votes cast for each candidate” while ballots are being counted. [R.C. § 3505.27](#).

- Additionally, various counties will post and update election results on election night. For example, [Licking](#) and [Jackson](#) Counties suggest refreshing their website frequently for the most current data.

Exit polling, newsgathering in or near polling places and ballot selfies

- Exit polling is permitted within 100 feet of the entrance of a polling location. In Ohio, journalists are permitted to gather outside small United States flags placed on the walkways leading to the polling place. [R.S. § 3501.35](#).
- It is against state law to take a photograph or capture video of a voted ballot. [R.C. § 3599.20](#).
- “Reasonable access” must be provided to journalists covering polling places, which includes access to the inside of a polling location. [R.C. § 3501.35\(B\)\(2\)](#).

Pennsylvania

Voter rolls

- Voter rolls may be inspected during business hours, and copies may be requested for a fee. A state employee must supervise the inspection. [25 Pa. Stat. Ann. § 1207](#).
- Available information includes name and address. [25 Pa. Stat. Ann. § 1403](#).

Ballots

- Ballots are not public records under Pennsylvania’s Right-to-Know Law. [25 Pa. Stat. Ann. § 2648](#).

Initial ballot counts and recount process

- Although the law has not recognized a general public right of access to recounts in Pennsylvania, election returns are considered public records under the law. [25 Pa. Stat. Ann. § 3031.14\(c\)](#); [25 Pa. Stat. Ann. § 3152\(a\)](#).
- However, candidates, their attorneys and their representatives may be present to observe a recount. [25 Pa. Stat. § 3153](#); [25 Pa. Stat. § 3154](#); 25 Pa. Stat. § 2650.

Dates and deadlines for counting ballots

- Clerks can start processing ballots at 7 a.m. EST on Election Day, although they may not begin counting them until after polls close. [25 Pa. Stat. § 3146.8](#).
- The deadline for counting all ballots in Pennsylvania is the third Monday following the election—this year, November 28, 2022. [25 Pa. Stat. § 2642\(k\)](#).
- Additional sources: [2022 Election Calendar](#), Dep’t of State of the Commonwealth of Pa. (Mar. 27, 2020).

Election result resources

- The results of elections in federal and state elections in Pennsylvania are available on the Department of State website starting on election night.
- Source: [Election Results](#), Pennsylvania Department of State.

Exit polling, newsgathering in or near polling places and ballot selfies

- The general public, including journalists, must remain at least ten feet away from the polling place while votes are being cast; exit polling is permitted outside this area. [25 Pa. Stat. § 3060\(a\)–\(d\)](#).
- Only poll watchers, peace officers, and up to ten persons waiting to vote may enter the polling place at any given time. [25 Pa. Stat. § 3060\(a\)](#).
- In Pennsylvania, each county sets its own policy regarding electronic devices in the polling place. The counties that prohibit cell phones have signs informing individuals about this rule. “If cell phones are allowed, you can take a selfie but you should take care to not disclose the selections of another voter.” [Top Five Things to Know About Voting](#), Pa. Dep’t of State (last visited Aug. 24, 2022).

Wisconsin

Voter rolls

- Voter registration records are open to public inspection under the public records law, and copies may be obtained for a fee. [W.S.A. § 6.36](#).
- Available information includes name and address. *Id.*
- Poll books, which show who voted, are also available. Both registration records and poll books are in the custody of the municipal clerk where the voter registered. [W.S.A. § 6.46](#).
- Additional sources: [Wisconsin Elections Commission Public Records Notice](#), Wis. Elections Comm’n.

Ballots

- Ballots are public records available for inspection and copying. Clerks are required to retain them for 22 months following a federal election, after which they may be destroyed. [Wisconsin Elections Commission Public Records Notice](#), Wis. Elections Comm’n; Email from Reid Magney, Public Information Officer, Wis. Elections Comm’n (Sept. 18, 2020).

Initial ballot counts and recount process

- Any member of the public may observe the counting of ballots. [W.S.A. § 7.41](#).
- “All steps of the recount shall be performed publicly.” [W.S.A. § 9.01](#).
- “[I]nterested persons shall be entitled to be present in person ... to observe the proceedings.” [W.S.A. § 9.01\(3\)](#).

Dates and deadlines for counting ballots

- All ballots must be counted on Election Day, after the polls close. Absentee ballots in certain municipalities may be counted prior to the closing of the polls on Election Day, but all ballots physically cast on Election Day can only be counted once the polls close. [W.S.A. § 7.51](#); [W.S.A. § 7.52](#).
- The final deadline for counting ballots in the general election is November 14, 2022, the first Monday after the election. [W.S.A. § 7.51](#)
- December 1, 2022, is the last day for the chairperson of the Wisconsin Elections Commission to certify the results of the general election. [W.S.A. 7.70\(3\)\(a\)](#).

Election result resources

- County clerks post all election returns on the county website no later than two hours after receiving the returns. [W.S.A. § 7.60](#).

Exit polling, newsgathering in or near polling places and ballot selfies

- Members of the public, including journalists, may access polling places permitted they are not disruptive to the election process. W.S.A. § 7.41.
- Journalists may conduct exit polling permitted it is not disruptive to the election process. W.S.A. § 7.41(2).
- Photography is permitted both inside and outside the polling location. [Wisconsin Election Day Manual for Election Officials](#), Wisc. Elections Comm'n (last updated Sept. 19, 2020). However, photographing marked ballots is impermissible, as is inducing an elector to display a marked ballot. [W.S.A. § 12.13\(1\)\(f\), \(3\)\(g\)](#).

Additional Resources

- Learn more about newsgathering and access rules in nine swing states with Protect Democracy's [The Associated Press Election Transparency Project](#)
- CPJ: [Safely covering U.S. elections](#)
- [Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options](#), July 12, 2022, National Conference of State Legislatures.
- [What to Expect When You're Electing](#), PEN America.
- The Daily, [A User's Guide to Mail-In Voting](#), N.Y. Times (Oct. 1, 2020).

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