

# Georgia: 2020 Election Policies & Practices

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## I. Live Issues

### Strict Ballot Receipt Deadline

- In late August, Democratic plaintiffs in [\*New Ga. Project v. Raffensperger\*](#) secured a [preliminary injunction](#) extending Georgia’s Election Day ballot receipt deadline by three days (until November 6). Though the District Court rejected state defendants’ motion for a stay pending

appeal in September, a three-judge panel on the 11th Circuit ruled in their favor and granted the [stay](#) on October 2.

- Since it is virtually assured that the 11th Circuit will not hear and rule on Defendant’s appeal by November 3, the stay means that Georgia may reject all absentee ballots received after 7 p.m. on November 3, regardless of the postmark. Thousands of voters may have their ballots tossed as a result. Voters who heard about November’s deadline extension—but not about the 11th Circuit’s suspension of the extension—may mistakenly believe they have longer than they do to return their ballot, and USPS delays may increase transit times even for voters who mailed their ballot in a timely fashion. In the combined primary in June 2020, over 8,000 absentee ballots were rejected for lateness—and that primary involved fewer absentee ballots, and no confusion over the deadline.
- One COVID-related policy change that may help ameliorate delays in ballot return (and consequently, ballot rejection) is Georgia’s recent adoption of ballot dropboxes, which gives voters an alternative to relying on the mail system. Though a few were in place for the primaries, many counties have expanded drop-off options, which may potentially reduce the risk of late delivery.

## Signature Rejection Rates

- Late ballot receipt is not the only worrisome grounds for rejection: Historically, Georgia has had high signature rejection rates (above the national average of ~1%), especially among voters of color. However, this presidential race may look different. It will be the first with Georgia’s new signature match, notification, and cure regime in place. It remains to be seen how consistently and rigorously it is and will be implemented. Though there are no worrying reports of noncompliance as of this writing, it is something Georgia watchers should pay close attention to.

## Hurricane Zeta

- Hurricane Zeta caused power outages in at least 530,000 homes and businesses across Georgia after making landfall on Thursday, affecting at least 15 counties. All six early voting locations in Douglas County [lost power](#), as did four out of 11 in Cobb County, halting early voting. Wait times increased at multiple early voting locations across the state. Some closures persisted into Friday, October 30—the last day of early voting in Georgia—with Douglas County extending

its voting hours and other counties moving advance voting sites. Though election officials [predict](#) that problems will be resolved by Election Day, this should be followed closely, as closed or moved polling places may cause confusion and delays.

## Long Lines on Election Day

- Even if Hurricane Zeta’s aftermath doesn’t hobble voting machines, separate technological malfunction with Georgia’s new Dominion Voting Systems machines may spell long lines. This general election will be the second major test drive of Georgia’s new, \$100 million voting technology. The first trial run in June was plagued with dramatic technology failures, and while early voting has been mostly uneventful to date in terms of voting machine operation (save some [bottlenecks](#) caused by slow computers at the voter check-in in the first days of early voting), Election Day will be the major stress test. Some are concerned by the recent [stay](#) issued by the 11th Circuit in *Curling v. Raffensperger*, which lifts the injunction issued by a district court ordering officials to maintain paper back-ups of poll books, which would have permitted voting to continue uninterrupted in the event of e-poll book malfunction.
- Even without technological failure, polling place closures across Georgia in recent years increase the risk that Election Day voters will be met with long lines. Since the 2013 *Shelby County* decision, Georgia has seen a [10% reduction](#) in polling places (with closures concentrated in Black communities), even though its voter rolls have grown by two million voters. In fact, “the number of voters served by the average polling place rose 47%, from 2,046 voters in 2012 to 3,003 as of Oct. 9” of this year, causing delays and backlogs that disproportionately burden communities of color. While early and absentee voting will hopefully reduce the number of Election Day voters, technological hiccups combined with systemic overcrowding of polling places may cause long delays.

## II. Snapshot of Early Voting Totals

Total Early Votes	Turnout Rate (of registered voters)	In-Person Early Votes	Mail Ballots Requested	Mail Ballots Returned and Accepted	Mail Ballot Return Rate
4,013,155	57.3%	2,694,763	1,782,580	1,320,154	74.1%

Current as of 11am on Nov 6, 2020. Data from <https://electproject.github.io/Early-Vote-2020G/GA.html>.

### III. Calendar

- Deadline to register to vote: Fifth Monday before Election Day (October 5, 2020)
- Deadline to request an absentee ballot: End of the business day on the Friday before Election Day (October 30, 2020)
- Deadline for receipt of absentee ballots: End of Election Day (November 3, 2020)
- Absentee ballot processing can begin: Third Monday before Election Day (October 19, 2020)
  - Typically, absentee ballot processing in Georgia does not begin until Election Day (unless counties express intent to pre-process up to seven days before Election Day). However, the State Election Board (SEB) adopted Emergency Rules permitting much earlier absentee ballot processing for 2020 elections only.
- Absentee ballot tabulation can begin: 7 a.m. on Election Day (7 a.m. on November 3, 2020)
- Deadline for signature cure: 3 days after Election Day (November 6, 2020)
- Deadline for validating provisional ballots: 3 days after Election Day (November 6, 2020)
- Certification deadlines:
  - County superintendents must canvass and certify county election results by the second Friday after Election Day (November 13, 2020), and deliver results immediately to the secretary of state.
  - The secretary of state must canvass and certify statewide election results by the seventeenth day after Election Day (November 20, 2020) and deliver the results immediately to the governor.
  - The governor must canvass and certify the slate of presidential electors by the eighteenth day after Election Day (November 21, 2020).

The Georgia secretary of state maintains a calendar with important election dates [here](#).

### IV. Registration

#### A. Deadline to Register to Vote

[State law](#) (O.C.G.A. § 21-2-224) provides that the deadline to register to vote falls on the fifth Monday before Election Day. This year, the deadline to register to vote (whether online, by mail, or in-person) was October 5, 2020. Mailed-in registration forms were processed after the deadline so long

as they were postmarked by the deadline (October 5). If the registration forms bore an illegible postmark or lacked one entirely, the registration request was deemed timely so long as it was received by October 9—the fourth Friday before Election Day.

As of October 6 (the day after the Georgia voter registration deadline), a record [7,587,625](#) people (or 71% of Georgia’s *total* population) were on the registration rolls. This includes around [one million](#) new registrants since the 2016 election, and nearly 600,000 since the 2018 midterm elections.

## B. Staying Registered

Georgia is one of nine states nationwide with a “use it or lose it” voter registration statute, meaning that registered Georgia voters may be removed from the rolls simply for not voting for a certain duration. While the Supreme Court upheld such policies in its 2017 *Husted v. A. Philip Randolph Inst.* [decision](#), they have been roundly critiqued, especially for their [disproportionate impact](#) on Black voters. Up until 2019, a Georgia voter would be [placed](#) on an “inactive list” if they didn’t vote or have any contact with election officials for three years. Though they could still vote after being deemed “inactive,” these voters were purged from the registration list if they didn’t vote in two federal elections over the subsequent four-year period.

After receiving considerable public scrutiny as secretary of state for his aggressive purging efforts ahead of the 2018 election, Governor Brian Kemp signed a bill into law in 2019 that modified the “use it or lose it” policy as described above. The [new provisions](#) extended the purge process by two years, such that now a voter can only be placed on the “inactive list” if they don’t vote for five years, and can ultimately only be purged if they don’t vote in the subsequent four years. The new law also requires the secretary of state to issue an additional notice to those facing the threat of purging. However, voting rights advocates are [still troubled](#) by the existence and implementation of Georgia’s “use it or lose it” policy.

## V. Absentee Balloting

### A. Requesting an Absentee Ballot

Any registered Georgia voter may [request](#) an absentee ballot starting 180 days prior to Election Day until the end of the business day on the Friday before Election Day. This year, the absentee ballot request deadline falls on October 30. Requests may be submitted in person or via mail, fax, or—as of a few months ago—using the [new online application portal](#) (for those with a Georgia ID). Secretary of State Brad Raffensperger recently launched the portal to ease application backlogs ahead of the November election after the State Election Board (SEB) [approved](#) its creation. Immediate family members are permitted to submit absentee ballot requests on behalf of voters with physical disabilities if they provide proof of the relationship.

Newly registered voters who request an absentee ballot [must](#) include a copy of acceptable ID with their absentee ballot application (or within their absentee ballot envelope itself). If they do not include the ID in one of these mailings, their ballot will be [deemed](#) provisional and will only be tabulated if registrars are able to verify current and valid identification of the elector within three days of Election Day—either by receiving the required information from the elector after providing mandatory notice, or by verifying with existing documents.

Once voters receive their requested absentee ballot, they must fill out the required fields on the ballot envelope and return it promptly in order to avoid rejection. In particular, an absentee voter must provide their name and other “required identifying information” (such as their address and birth year), and sign their name to an oath. They must return the ballot by the close of polls on November 3 in order for it to be considered timely, either by mailing it (after affixing the appropriate postage to the envelope) or by hand-delivering it to a ballot dropbox.

### B. Dropping off an Absentee Ballot

Georgia green-lit ballot dropboxes for the first time this year as an emergency COVID-related measure. The State Elections Board voted to approve ballot dropboxes in advance of the June presidential primary, and [extended](#) the [emergency rules](#) pertaining to dropboxes to the November general election at the July 1 SEB meeting. The rules permit counties to establish one or more

dropboxes on municipal property starting 49 days before Election Day until 7 p.m. on Election Day, but do not require them to do so. Counties that establish dropboxes must abide by the requirements set forth in the [rule](#) around anti-tampering measures and ballot retrieval. For example, county officials must ensure that all dropbox locations have adequate lighting and are under constant video surveillance, and must send a team of two people (who have taken an oath) to collect ballots from the dropbox locations once every 72 hours until the second Monday before Election Day—and which point they must retrieve ballots once every 24 hours.

The [majority](#) of Georgia counties have opted to provide at least one dropbox under the emergency SEB rules, with more populous counties opting to set up multiple dropboxes. As of the time of this writing, 36 dropbox locations are available in [Fulton County](#), 26 in [DeKalb County](#), 23 in [Gwinnett County](#), and 16 in [Cobb County](#). While there is no statewide map of available dropbox locations, the Georgia Democratic Party provides [this resource](#) to voters wishing to find their nearest dropbox, and counties also offer county-specific resources on their BOE/DOE websites.

Georgia voters who want to deposit their completed absentee ballots in a dropbox do not need to affix postage (unlike voters mailing absentee ballots via USPS), and can return their ballot to any dropbox *within* their county. However, ballots returned in counties other than the voter’s county of residence may not be counted. Most locations are open 24 hours a day, but times may vary.

Notably, voters who complete a ballot absentee but want to drop it off in person may not have other options aside from dropboxes. [Other HEP research](#) indicates that voters are not able to drop off completed ballots with poll workers at early voting locations or at Election Day polling places, as is permitted in many other jurisdictions.

### C. Collecting Absentee Ballots

In 2019, Georgia prohibited third-party ballot collection, and now only permits certain family members to handle ballots. Per [O.C.G.A. § 21-2-385\(a\)](#), “mailing or delivery may be made by the elector’s mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, or an individual residing in the household of such elector.” However, the absentee ballots of voters with disabilities may be mailed or delivered by caregivers, regardless of where the caregiver resides.



In June, the New Georgia Project sued in [\*The New Georgia Project v. Raffensperger\*](#) to enjoin the state from enforcing five election administration policies—among them, the so-called “Voter Assistance Ban” contained at [O.C.G.A. § 21-2-385\(a\)](#) that limits third party ballot collection. They [argued](#) that the Ban (1) unreasonably burdens the right to vote, (2) violates the First Amendment, and (3) is preempted by Section 208 of the Voting Rights Act. In ruling on Plaintiff’s [motion](#) for a preliminary injunction in late August, the Court found they were unlikely to prevail on the merits of their Voter Assistance Ban arguments, and [denied](#) injunctive relief. As a result, third-party ballot collection remains unlawful.

## D. Processing Absentee Ballots

### *Signature Verification*

After years of [litigation](#), Georgia has taken steps in the past year to abandon the “exact match” regime previously in place for signature verification. Due to recent changes, a single clerk is no longer able to reject a ballot due to signature mismatch issues, and voters must receive notice of ballot rejection and an opportunity to cure errors.

At present, Georgia law ([O.C.G.A. § 21-2-386](#)) requires that upon receipt, a clerk or registrar must verify the information and signature on the envelope of an absentee ballot. To do so, the election official compares the identifying information (name, date of birth) to the information on file in the office, and compares the signature on the ballot envelope to the “signature or mark on the absentee elector’s voter registration card or the most recent update to such absentee elector’s voter registration card and application for absentee ballot or a facsimile of said signature or mark taken from said card or application.” A March 2020 [settlement](#) in *Georgia Democratic Party v. Raffensperger* specifies that officials must compare the signature or mark of the elector on the mail-in absentee ballot envelope with *all* signatures or marks in eNet—the Georgia election database.

However, Georgia law and regulations do not provide standards or metrics for *how* to verify an elector’s signature. For example, election officials do not use software to compare selected signature attributes—they simply visually compare the two samples. If the signature “appear[s] to be valid and other identifying information appears to be correct,” the clerk will certify the ballot envelope by signing or initialing beneath the voter’s oath, and will list the elector on the numbered list of absentee voters prepared for the precinct.

If the clerk determines that the absentee voter did *not* sign the oath, furnish required information or that they are not qualified to vote, they mark the ballot as “rejected” and note the reason. However, if the clerk determines that the signature used to sign the oath does not match the voter’s signature in comparable records, the election official must seek the opinion of two other registrars, deputy registrars, or absentee ballot clerks pursuant to the [Georgia Democratic Party settlement](#). This settlement stipulates that “[a]n absentee ballot shall not be rejected unless a majority of the registrars, deputy registrars, or absentee ballot clerks reviewing the signature agree that the signature does not match any of the voter’s signatures on file in eNet or on the absentee ballot application.” If a majority do agree that the signature is invalid, they must initial their names on the envelope, mark “Rejected,” and note the reason for the rejection. Due to changes in the law caused by [House Bill 316](#) 2019, the registrar or absentee ballot clerk is also required to “promptly notify” the voter of such rejection so that they can take steps to cure the error.

However, [O.G.C.A. § 21-2-386\(a\)\(1\)\(C\)](#)—which requires that a voter be contacted regarding ballot rejection—does not provide any timeliness standard; it only specifies that the notification must be “prompt.” The [settlement](#) reached in the *Georgia Democratic Party litigation* supplies one. It provides that for ballots rejected 12 or more days before Election Day, the board of registrars or absentee ballot clerk must notify a voter about their rejected ballot and cure opportunities by mail—and must also attempt to contact the voter by phone and email if one is noted in the voter registration record or absentee ballot application—by the close of business day the third day after receiving a ballot. However, if the ballot is rejected within eleven days of Election Day, the board of registrars or clerk must mail a rejection notice and attempt to make contact by phone or email by the close of business the following business day. These procedures were communicated to county elections officials and registrars in June 2020 ahead of the June primary and will be in place for the November general election.

### ***Curing Process***

Due to changes made in state law caused by House Bill 316, Georgia voters now have an opportunity to cure ballot errors under [O.G.C.A. § 21-2-386](#) once notified by the clerk or registrar about information or signature deficiencies on their ballot envelope. Voters must take steps to cure errors within three days of Election Day—this year, November 6—by submitting to the board of registrars or absentee ballot clerk a copy of acceptable identification along with an affidavit affirming

that the ballot was submitted by the voter, that it is the voter's ballot, and that the voter is registered and qualified to participate in the election. If the identification and affidavit is sufficient to address the errors, the clerk must count the absentee ballot.

### ***Opening and Scanning Ballots***

This year, Georgia election officials, due to an [emergency rule](#) issued by the SEB, will be able to start processing accepted absentee ballots starting at 8 a.m. the third Monday before Election Day (October 19) instead of waiting for Election Day itself. County election superintendents who want to begin processing absentee ballots before Election Day must make written notice to the secretary of state at least seven days prior to beginning processing, and publicly post where and when they plan to undertake early processing. The secretary of state also maintains a list of the counties that have expressed intent to process absentee ballots early [on its website](#). As of October 21 (the last time the list was updated), nearly all of Georgia's 159 counties have expressed intent to start processing, scanning, and/or adjudication early, and Georgia's ten most populous counties began (or at least expressed intent to begin) processing ballots on October 19 and October 20—the first two days of the approved pre-Election Day processing window. To [accommodate](#) the processing operation, officials in Fulton County officials have set up in State Farm Arena, and those in DeKalb have taken over an industrial warehouse. However, even if officials start processing ballots early and feeding them through the tabulation machines, “no person shall tally, tabulate, estimate or attempt to tally, tabulate or estimate or cause the voting equipment to produce any tally or tabulation, partial or otherwise, of the absentee votes cast until the time for the closing of the polls on Election Day” on November 3, pursuant to SEB's [emergency rule](#).

To [process](#) ballots, elections officials begin by sorting them into batches of no more than 100 ballots. For each batch, election officials must first count all outer envelopes, open each envelope without destroying the oath and signature (sometimes by using an [“extractor”](#) machine), remove the inner privacy envelope/sleeve, and count the number of ballots to ensure the number of outer envelopes and ballots match. Officials then scan the batch of ballots using a ballot scanner within the tabulation center (some counties have procured [high-speed scanners](#)), notate the batch number assigned by the ballot scanner on the reconciliation form, bind the 100 ballots together along with the reconciliation form, and store them in a designated container. Three election personnel (e.g. registrars, deputy registrars, poll workers, or absentee ballot clerks) must be present at all times during these processing steps. If any ballot cannot be processed due to tears, bending, or other defects, election

officials must duplicate the ballot pursuant to [O.C.G.A. § 21-2-483](#) and scan it in. If the scanner detects an overvote on any ballot, it is deemed rejected and must be manually reviewed by a vote review panel in accordance with [O.C.G.A. § 21-2-483](#) and [Rule 183-1-15-.02](#) to determine the voter’s intent.

New rules promulgated by the SEB in advance of the November general election [changed](#) the factory settings for the absentee ballot scanning machines, which affects how ballots are read. Prior to the change, the scanner “counted marks that filled in 35% or more of the target area as a vote, did not count anything below 12% as a vote, and sent anything between those two to a review panel.” For the General Election, the SEB amended [Rule 183-1-15-.02](#) to lower the percentage of the target area that must be filled in order for the scanner to register a vote. According to the new rules, the scanner will register a vote if at least 20% of the target area is filled in and will deem a selection not a vote if less than 10% is filled in. [Further](#), “[d]etection of at least 10% but less than 20% fill-in of the target area surrounded by the oval shall flag the ballot for adjudication by a vote review panel as set forth in O.C.G.A. 21-2-483(g). In reviewing any ballot flagged for adjudication, the votes shall be counted if, in the opinion of the vote review panel, the voter has clearly and without question indicated the candidate or candidates and answers to questions for which such voter desires to vote.”

Though ballot processing is open to monitoring by credentialed observers (described below in Section V), [only](#) designated election officials are permitted to touch any ballots or ballot container, and “[a]ll cell phones, laptops, audio or video recording devices, and other communication devices shall be prohibited from the room where processing of absentee ballots is taking place, except for county election computers necessary to carry out this rule or otherwise conduct the election.”

## E. Number of Mail Ballots Requested

As of November 1, Georgia voters [requested](#) 1,782,683 absentee ballots—meaning that approximately 24% of all registered Georgians submitted a request. As of the same date, 1,291,484 voters (or around 70% of those who requested absentee ballots) had returned their ballot. This absentee ballot yield dwarfs the total mail-in votes cast in the 2016 election ([213,033](#)), and is expected to grow considerably ahead of Election Day. In fact, the secretary of state [calculated](#) that Georgia voters are not only casting more absentee ballots but *returning* their absentee ballots 640.1% faster than they did four years ago. By October 20th (the ninth day of in-person early voting), “Georgians had cast 711,404 absentee ballots by mail or through one of the many dropboxes around the state. For comparison, Georgia voters have only returned 96,057 at the same point in 2016.”

## F. Absentee Ballot Tracking Options

The Georgia secretary of state website allows voters to use the [“My Voter Page” portal](#) to find out the following voting-related information by entering their name, birthdate, and county:

- Voter registration status
- Mail-in application and ballot status
- Poll location
- Early voting locations
- Elected officials
- Registration information on file with the county office
- Sample ballot for the upcoming election
- Provisional ballot status

Voters in DeKalb, Fulton and a handful of other counties have reported [difficulty](#) getting up-to-date information from the My Voter Page portal about their ballot status. In some cases, the lack of updates have led voters to panic that their votes were not counted or had not reached election offices. The contractor tasked with rolling out Georgia’s new voting machines and systems attributed the issues to data-maintenance errors made at the county level, and not to statewide deficiencies.

In addition to using the My Voter Page run by the secretary of state’s office, voters can view more detailed tracking updates and sign up for tracking alerts using [BallotTrax](#), which this year launched statewide tracking in Georgia.

## G. Secrecy Sleeve Requirements

Georgia [state law](#) requires that absentee ballots include a secrecy sleeve, and provides the following instruction: “The elector shall vote his or her absentee ballot, then fold the ballot and enclose and securely seal the same in the envelope on which is printed ‘Official Absentee Ballot.’ This envelope shall then be placed in the second one, on which is printed the form of the oath of the elector; the name and oath of the person assisting, if any; and other required identifying information.”

However, for 2020 elections (including the November general election), the secrecy envelope has been replaced with a white sheet of paper meant to act as a “secrecy sleeve.” The change is meant to speed up processing, but Georgia elections officials have assured voters that ballots will [not be rejected](#) if they lack the sleeve. Despite that reassurance, there may still be some confusion regarding absentee ballot requirements, as the Georgia secretary of state’s office [mistakenly included](#) reference to the inner privacy envelope in the absentee ballot instructions.

## VI. Early Voting

### A. General Rules & Overview

State law ([O.C.G.A. § 21-2-385\(d\)](#)) requires election officials in Georgia to hold early or “advance” voting during county business hours starting the fourth Monday before the election through the Friday prior to the election, and to offer at least one Saturday of early voting. This year, early voting is required Monday-Friday between October 12 and October 30, 2020, and on Saturday, October 24. However, many counties chose to offer extended business-day hours and additional days of weekend early voting, and voters may find county-specific information either on the secretary of state’s [website](#) or on their county election website. During the early voting period, Georgians may visit any early voting location in their county to cast an advance ballot.

[According to the secretary of state](#), Georgia voters cast the 1 millionth early in-person ballot on Tuesday, October 20—the 9th day of early voting. “In 2016, the same milestone was not crossed until the end of the second week of early, in-person voting. So far, Georgia voters have cast early, in-person ballots 62.5% faster in 2020 than they did ahead of the 2016 presidential elections.” Between absentee and in-person voting, the U.S. Election Project [reports](#) that as of November 1, nearly 4 million votes have been cast in Georgia. The secretary of state [predicts](#) that over 6 million Georgians will vote in total—a turnout record that would significantly exceed the then-record setting 4.1 million votes cast in 2016.

## B. Logistics of In-Person Early Voting

When a voter arrives to vote early in person in Georgia, they need to present one of [six forms](#) of acceptable photo ID (such as a driver’s license, passport, or [voter identification card](#)) for a poll official to cross-check with the registration database. If they are registered, the poll official issues the voter an absentee ballot request form to initial and sign. However, if a voter has already requested an absentee ballot but shows up to vote in person without having cancelled their absentee ballot, poll officials issue the voter a provisional ballot instead of directing them through the electronic ballot process.

From there, voters are directed to the “PollPad” table—as demonstrated in [this](#) Fulton County video guide—and issued a voter card with a microchip in it programmed with the voter’s information. The voter brings the card to a large touch-screen tablet—known as a Ballot Marking Device (BMD)—and inserts it into a reader to display the ballot on the screen. Using a stylus provided by the poll staff, the voter makes their desired selections on the touch screen and clicks “print ballot” when complete. Finally, the voter retrieves the printed paper ballot receipt listing the voter’s selections and a QR code, and deposits the receipt into an optical scanner that reads the QR code. (While this has been touted as an enhanced security feature, some experts [worry](#) that the QR codes—which are indecipherable to the human eye—may be vulnerable to manipulation. “Either by tampering with individual voting machines or by infiltrating the state’s central elections server, hackers could systematically alter the barcodes to change votes.” )

Importantly, the electronic poll books, BMDs, and optical scanners in place for the November elections (both during the early voting period and on Election Day) will be new to many Georgia voters this year. The Georgia legislature authorized and the Secretary of State [certified](#) the \$106 million election infrastructure overhaul from its prior Direct Recording Electronic voting machines in 2019 (amidst [extensive litigation](#) over the prior ballot machines and a court order [prohibiting](#) their use in 2020 elections), but concerns emerged in the June primary over technical issues with the new Dominion Voting Systems machines that caused long lines and confusion. Though they had been piloted in a handful of counties in 2019, the statewide rollout across 159 counties in June was largely viewed as a “[meltdown](#).”

In response to the technological malfunction, plaintiffs [brought suit](#) in June to force polling places to maintain back-up paper records in case the new electronic pollbooks (called “PollPads”) failed. On September 28, U.S. District Court Judge Amy Totenberg [granted](#) plaintiff’s [motion](#) for

preliminary injunction (later amended in a subsequent [order](#)), and directed Georgia’s secretary of state to provide county superintendents a physical list of voters updated at the close of the in-person early voting period to distribute to each polling place. These [back-up paper pollbooks](#) would be used to “determine voter eligibility and precinct assignment in the case of equipment malfunction or other emergency.” Judge Totenberg also [directed](#) the secretary of state to maintain a sufficient number of emergency paper ballots “so that voting may continue uninterrupted if emergency circumstances render the electronic ballot markers or printers unusable,” but declined to mandate that the secretary maintain a certain number of paper ballots at each precinct location. However, after the District Court [denied](#) the State’s request to stay the injunction pending appeal, the 11th Circuit granted the [stay](#) on October 24. Thus, at the time of this writing, the State is not required to generate paper pollbooks based on in-person early voting records for distribution to Election Day polling places. Fortunately, in-person early voting ahead of the November election has not thus far been marked by the scale of technical failures in the June primary.

Nevertheless, some experts remain concerned that the new voting technology may be vulnerable to cyberattacks and meddling. According to the [Atlanta Journal Constitution](#), “Secretary of State Brad Raffensperger’s office weakened the system’s defenses, disabling password protections on a key component that controls who is allowed to vote.” Further, new software was pushed out for the machines days before early voting started on thumb drives, which are prone to malware infection. While not indicative of machine vulnerability, at least one county database has been targeted in a ransomware attack—raising the prospect of other types of election interference. In late October, Hall County became the first county affected this cycle by a [ransomware attack](#) that disabled the voter registration database used to verify signatures on absentee ballots until county officials paid the ransom. While clerks were able to continue processing ballots uninterrupted (but at a slower clip) by pulling physical registration files despite the attack, it raises concerns about the integrity of local elections systems.

## VII. Election Day

### A. Election Violence and Voter Intimidation

Under Georgia state law ([O.C.G.A. § 21-2-567](#)), using or threatening to use force or violence, or acting in any manner to intimidate another person (1) to vote or not to vote, (2) to vote in a certain way, (3) or to abstain from registering, is a felony that can carry a sentence between one to ten years in



prison and/or a fine up to \$100,000. According to the statute, acting in a “manner to intimidate” involves undertaking or pursuing a “knowing and willful course of conduct which causes emotional distress by placing another person in reasonable fear for such person’s safety or for the safety of another person and which serves no legitimate purpose.” It is also a felony under [O.C.G.A. § 21-2-568](#) to attempt to influence the vote of another while giving that person lawful assistance in voting, and a felony under [O.C.G.A. § 21-2-566\(4\)](#) to use or threaten violence in a manner that would prevent a reasonable elector from voting, or actually prevents any elector from voting. A willful attempt to destroy, deface, or delay the delivery of a ballot also [qualifies](#) as a misdemeanor under state law.

Georgia law also includes provisions about permissible conduct in and around polling places. It is a misdemeanor to violate state [electioneering provisions](#), which prohibit campaigning, soliciting, setting up booths or tables, or otherwise promoting a candidate (1) within 150 feet of the outer edge of any building within which a polling place is established; (2) within 25 feet of a person standing in line; and (3) within a polling place. Georgia law also [bans](#) individuals from carrying guns within 150 feet of a polling place unless they are “peace officers regularly employed by the federal, state, county, or municipal government or certified security guards.” Given that firearms are prohibited within [1,000 feet of a school](#) and that schools often serve as polling places, the firearm-free buffer around Georgia polling places may in some circumstances be 1,000 feet instead of 150.

Poll officers are granted leeway to manage polling locations to maintain order. Poll managers may [manage](#) the number of persons (except for poll watchers, poll officers, and law enforcement officers) allowed in the polling place to prevent confusion, congestion, and inconvenience to voters. They also have the discretion to permit photography of select items. (Generally, the use of electronic monitoring or recording devices, cameras, or cellular telephones is otherwise prohibited in polling places while voting is taking place). Further, interference with poll officers’ election responsibilities is illegal: It is a [felony](#) for any individual to willfully prevent a poll officer’s performance of their duties.

In the event of a disturbance at a polling place, state law [allows](#) police officers to enter the polling location when “necessary for the preservation” of peace or order. In fact, if a law enforcement officer neglects or refuses to clear any obstruction to a polling place, neglects or refuses to maintain order or quell disturbances at polling places, or hinders or delays a poll officer in the performance of an election, they can be charged with a [misdemeanor](#). Should a polling place disturbance persist and become an emergency, local elections officials are [permitted](#) to move polling places, including to locations beyond the boundaries of the original precinct. However, given that polling place hours are

[prescribed](#) by state statute, court order would be required to extend voting hours in the event of emergencies or disturbances that interrupt voting. While extreme, state law also [permits](#) the secretary of state to delay a general election in response to a state of emergency declared by the governor.

## B. Poll Worker Recruitment

Georgia has invested heavily in poll worker recruitment ahead of the November elections. Secretary Raffensperger's office launched an [online form](#) to collect the names and information of potential poll workers, and has so far sent nearly [50,000](#) names to Georgia's 159 counties for local election officials to follow up with. The secretary is also running a [poll observer website](#) with recruitment messages and extensive poll worker training materials, and partnering with business organizations such as [Power the Polls](#), the [Georgia Municipal Association](#) and various [chambers of commerce](#) to attract new and younger volunteers. Other organizations, such as the [ACLU](#), have also helped with recruitment.

Though Georgia, like many other states, was bracing for skeleton staff on Election Day, these recruitment efforts have [helped counties](#) meet their personnel needs, making officials more optimistic that Election Day will run smoothly. Gwinnett County already has 3,000 poll workers lined up, and was still [recruiting 300 more poll workers online](#) in the weeks leading up to Election Day. Fulton County—Georgia's most populous—also has [3,000](#) volunteers signed up, and plans to make 200 county employees available to step in if needed. Paulton County has [400](#) volunteers in place (with 130 volunteers ready to serve as back-ups), and Bibb County is experimenting with offering hazard pay (with money from a recent [\\$557,000 grant](#) from the Center for Tech and Civic Life) to boost recruitment even further.

To be a poll observer, a volunteer [must](#):

- Be a citizen of the United States and a resident of that county
- Be at least 16 years of age
- Be able to read, write, and speak the English language
- Not hold public office or be a candidate for public office
- Not be an immediate relative of an elected official where the relative is a candidate.

State law ([O.C.G.A. § 21-2-405](#)) provides that each polling place be assigned a chief poll manager and two assistant managers, but permits localities to retain additional poll officers. Though all

poll personnel must get trained and review required poll worker [resources](#) before each election, election officials view this year’s training as especially critical given the new voting technology. Ahead of the June primary, many poll observers were trained remotely due to COVID-19. As a result, many were unable to effectively troubleshoot machines during the voting period due to inexperience with the technology, which contributed to long lines and other delays. Ahead of the November election, many counties are returning to [in-person](#) training to ensure that poll workers have hands-on experience with the check-in tablets and voting machines. Nevertheless, Democratic plaintiffs [petitioned](#) the court to order additional, more rigorous poll worker training and to take other measures to reduce lines for the general election. Judge Michael L. Brown of the Northern District of Georgia [dismissed](#) the case on October 13 on standings grounds.

### C. Poll Observer Regulations

Georgia [state law](#) (O.C.G.A. § 21-2-408) allows each political party to appoint two poll watchers per precinct, and each independent or nonpartisan candidate to appoint one poll watcher. At least seven days prior to Election Day (or the start of early voting), the party or candidate must designate poll watchers and furnish them with a designation letter containing the “name of official poll watcher, address, precinct in which he or she shall serve, and date of election or run-off election.” At least three days prior to the contest, the party or candidate must send a copy of the letter to the election superintendent overseeing the county where the poll watcher is assigned. Candidates are not permitted to serve as poll watchers, and no more than two poll watchers from each political party, political body, or independent candidate may be at the same precinct at the same time.

Similarly, at least fourteen days prior to the election, parties, political bodies, and independent candidates may designate up to 25 statewide poll watchers and submit their selections to the State Election Board. Statewide observers may observe in any precinct and can move around to other precincts throughout Election Day but are otherwise subject to all limitations on precinct-nominated poll watchers.

Under [law](#), poll watchers must at all times wear a badge furnished by the superintendent bearing the words “Official Poll Watcher” that states “the name of the poll watcher, the primary or election in which the poll watcher shall serve, and either the precinct or tabulating center in which the poll watcher shall serve or a statement that such poll watcher is a statewide poll watcher.” Poll watchers are allowed to access the area where the ballots are counted and are permitted to observe “the counting

and recording of votes.” In jurisdictions using DRE or optical scan technology, poll watchers may be designated for tabulation centers. Within these centers, poll watchers can legally observe the check-in area, computer room, duplication area, and other areas as the superintendent may deem necessary to the assurance of fair and honest procedures in the tabulating center. If poll watchers observe any irregularities, they must report them to the election superintendent—not to the poll manager.

While serving, poll watchers are prohibited from interfering in any way with the conduct of the election, and from “talking to voters, checking electors lists, using photographic or other electronic monitoring or recording devices, using cellular telephones, or participating in any form of campaigning while they are behind the enclosed space.” If a poll manager or superintendent warns the poll watcher that their conduct violates the rules and they persist, the poll watcher may be removed.

#### D. Mask Requirements

Georgia does not have a statewide mask-wearing mandate. However, Governor Kemp in August issued Executive Order [08.15.20.01](#)—which has since been renewed multiple times—[permitting](#) “local governments in counties that have reached a ‘threshold requirement’ to require the wearing of masks on government-owned property.” The “threshold requirement” consists of having 100 or more confirmed cases of COVID-19 per 100,000 people over the previous 14 days—a threshold which virtually all Georgia counties meet. However, even if localities adopt the optional face mask mandate, the EO specifically prohibits enforcement at polling places. While voters are [highly encouraged](#) to wear masks, they legally cannot be turned away or cited if they don’t wear one in a jurisdiction that has voluntarily adopted a local mask mandate. Similarly, while some jurisdictions have urged poll workers to wear masks—for example, Fulton, Henry, Douglas, Clayton, and Rockdale counties have [required](#) poll workers to wear masks, and administrators in Cherokee and Paulding counties have recommended that they do so—enforcing a mask mandate for those in polling places is not legally possible.

## VIII. Post-Election Period

### A. Grounds for Disqualification of Ballots

Absentee ballots can be rejected for a number of reasons. The biggest reason for ballot rejection is lateness: If a ballot is received after the deadline (which is currently the close of polls on November 3, due to 11th Circuit stay in the *The New Georgia Project* litigation), the clerk must reject it according to [O.C.G.A. § 21-2-386\(F\)](#). Although they are not counted, the clerk is required to store late ballots for a specified period and eventually destroy them without opening them.

Another significant reason for rejection is errors with the ballot envelope oath (missing signature, mismatched signature, missing information, etc). If clerks are unable to correct signature and other ballot errors through the ballot curing process by November 6 (or if they deem the voter's submitted affidavit as insufficient to cure the error), they must reject it under [O.C.G.A. § 12-2-386\(C\)](#). Finally, if the elector is a first-time voter, opted to vote by mail, failed to provide acceptable identification in the absentee ballot request or alongside the absentee ballot, and did not furnish the requested material after being notified of their provisional ballot status by November 6, their ballot cannot be counted.

Pursuant to [O.C.G.A. § 12-2-386\(E\)](#), election officials must prepare three copies of numbered list of rejected absentee electors and note the name of the elector and the reason for the rejection in each case. They must then distribute the three copies of the numbered list of rejected absentee voters—along with the numbered list of certified absentee voters—to the poll manager responsible for counting absentee ballots.

While it does not necessarily lead to rejection of the *entire* ballot, individual vote selections may be rejected if they are insufficiently filled or otherwise unclear, as described in Section V.d. Specifically, vote selections that fill less than 10% of the target oval will not be considered a vote under new, more lenient SEB rules about ballot scanning machine settings. And marks that fill between 10% and 20% of the target oval will be manually reviewed by an adjudicatory panel. If the panel cannot adequately assess the voter's intent, the vote selection must be rejected.

## Rejection Rates

Until 2019, Georgia adhered to a strict “exact match” signature verification policy and did not afford voters a chance to cure ballot errors. This year is the first round of federal elections with more procedural protections in place for the signature verification process, including the addition of a ballot curing regime. According to data from the June presidential primary, the rejection rate is much lower this year than in past years, despite the marked increase in absentee ballot use.

Table 1 summarizes the rejection rates for federal elections between 2016 and the present, noting where possible the reason for the rejection. Tables 2 and 3 provide details on the counties with the highest rejection rates from 2016 and 2018. (Data may be incomplete due to inaccurate or spotty reporting from Georgia’s county elections officials, as they are not required to document and report this information to the secretary of state).

Table 1: Rejection rates in Georgia due to late ballots, missing signatures, or signature mismatches

	<b>Ballots received</b>	<b>Absentee ballot total</b>	<b>Total absentee ballot rejections</b>	<b>Rejected for lateness</b>	<b>Rejected for missing signature</b>	<b>Rejected for signature mismatch</b>	<b>Rejected for other reasons</b>
<b>2016 General (#)</b>	4,147,161	213,033	13,677	2,307	Not reported	338	1,084
<b>2016 General (%)</b>		5.1%	6.4%	16.9%		2.5%	7.9%
<b>2018 Midterm (#)</b>	3,951,876	242,661	7,512	3,525	Not reported	Not reported	Not reported
<b>2018 Midterm (%)</b>		6.1%	3.1%	46.9%			
<b>2020 June Presidential Primary (#)</b>	2,278,553	1,320,311	11,889	8,596		3,210	71
<b>2020 June Presidential Primary (%)</b>		57.9%	0.9%	72.3%		27.0%	0.6%

(2016 & 2018 EAVS data)

Table 2: Top ten counties for absentee ballot rejection in Georgia 2016 General Election

County	# of Absentee Ballots Received	Rejection Rate
Clinch County	119	27.7%
Clay County	135	24.4%
Telfair County	443	23.7%
Putnam County	749	20.4%
Pickens County	322	18.6%
Terrell County	312	16.3%
Bartow County	1,748	16.0%
Sumter County	850	15.9%
Glynn County	1,782	15.7%
Grady County	345	15.1%

Table 3: Top ten counties for absentee ballot rejection in Georgia 2018 General Election

County	# of Absentee Ballots Received	Rejection Rate
Clay County	181	13.3%
Taylor County	283	12.7%
Pickens County	257	12.1%
Polk County	514	11.9%
Putnam County	712	10.5%
Warren County	235	10.2%
Wilcox County	233	9.9%
Atkinson County	101	8.9%
Glynn County	2,146	8.3%
Telfair County	388	7.7%

It is important to note that Georgia’s rejection rates are racialized. Ballots cast by Georgia’s Black, Latinx, and Asian voters are rejected at a [higher rate](#) than those of white voters—a trend that [holds true](#) at the national level as well. While some hoped that Georgia’s new verification and curing policies would reduce disparities in rejection rates, [multiple researchers](#)—including Healthy Elections Project [contributors](#)—found that racialized rejection rates persisted in the June 2020 presidential primary. For example, the Brennan Center [found](#) that “[a]lthough 1.2 percent of mail ballots overall were rejected, there are substantial differences by race. Just 0.9 percent of mail ballots cast by white voters were rejected, but mail ballots cast by Black, Latino, and Asian voters saw rejection rates of 1.6, 1.9, and 2.4 percent.” Analysis performed by All Voting is Local broke down those trends by county, finding that Cobb, Chatham, and Gwinnett had [especially high](#) racial discrepancies. (Gwinnett County was [sued](#) in 2018 over its ballot rejection practices). Tables 4–6 below highlight some of these findings.

Table 4: Summary of absentee ballot requests and rejections by race in Cobb County (source: [TPM](#))

### Cobb County, GA, June Primary

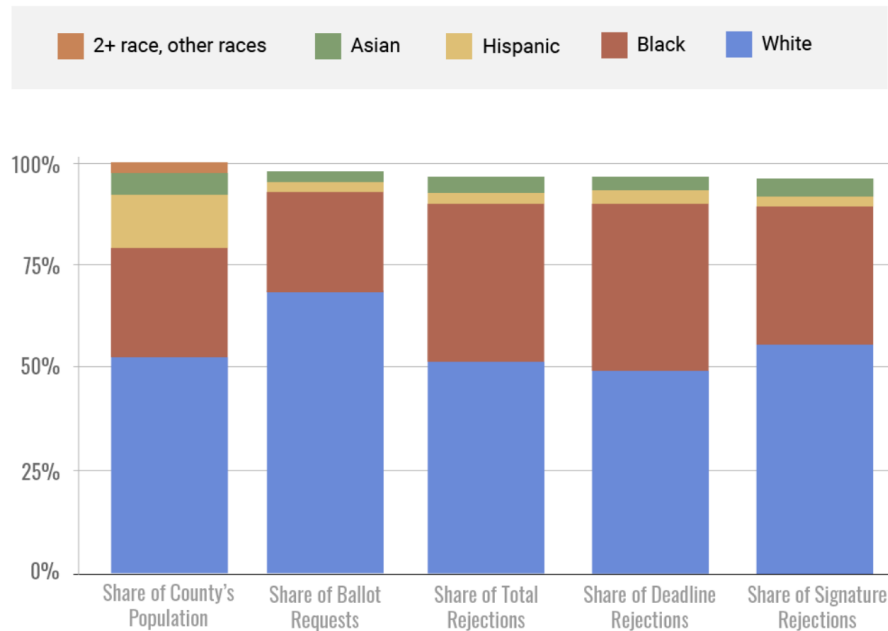




Table 5: Summary of absentee ballot requests and rejections by race in Chatham County (source: [TPM](#))

### Chatham County, GA, June Primary

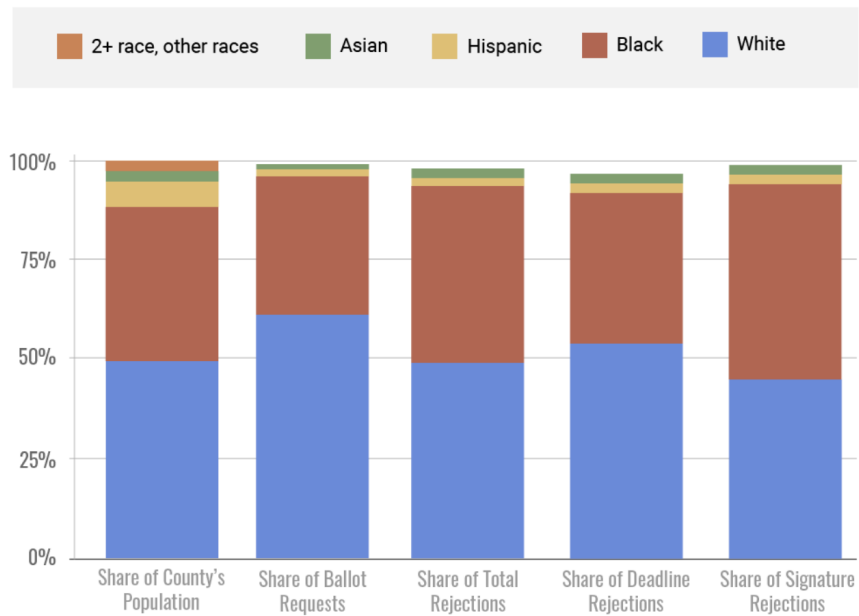
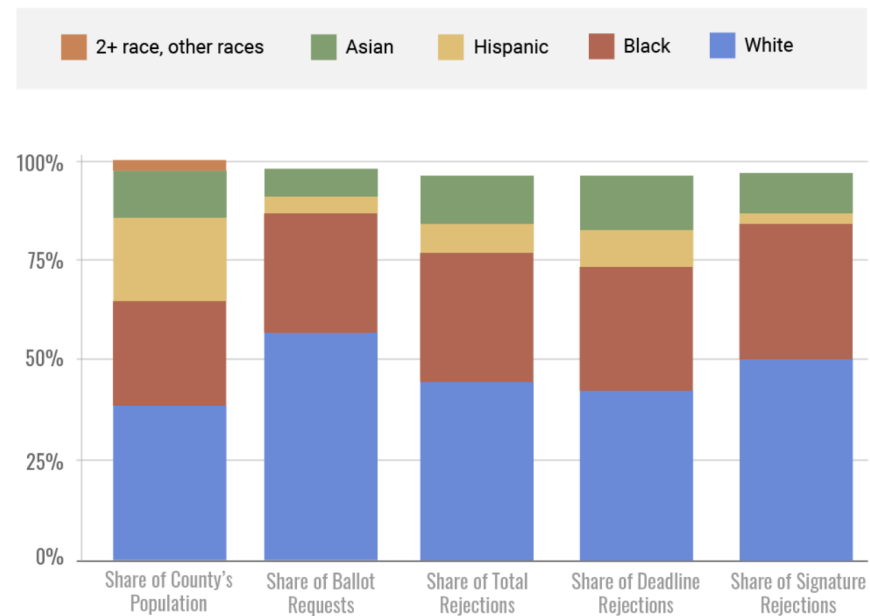


Table 3: Summary of absentee ballot requests and rejections by race in Gwinnett County (source: [TPM](#))

### Gwinnett County, GA, June Primary



## B. Rules for Challenging Ballots

Pursuant to [O.C.G.A. § 21-2-230](#), any elector in the county or municipality may challenge any other voter appearing on the list of electors as unqualified to vote in an election. They [carry the burden](#) of proving that the challenged elector is unqualified to remain on the list of electors, either because they fail to meet the voter registration requirements, or have been adjudged mentally incompetent. To lodge their challenge, an elector must submit their challenge to the board of registrars in writing and articulate the reason for the challenge “at any time prior to the elector whose right to vote is being challenged voting at the elector’s polling place or, if such elector cast an absentee ballot, prior to 5:00 P.M. on the day before the election.” The board of registrars then must immediately consider the challenge and decide whether there is probable cause to sustain it. If there is, the board of registrars must notify the poll officials at the challenged voter’s in-person and absentee ballot precinct, and contact the challenged voter if feasible. If the challenged voter doesn’t appear to vote in person and does not submit an absentee ballot, and the challenge is *not* based on the voter’s eligibility to be on the list of electors, no further action by the board of registrars is required.

If however, the challenged voter appears at the polls, they must be given the opportunity to answer to the board of registrars about the challenge. If it is practical to conduct a hearing on the challenge prior to the close of polls on Election Day, the board of registrars will conduct a hearing pursuant to [O.C.G.A. § 21-2-229](#) to determine the merits. If they decide that the challenge is without merit, the challenged elector will be permitted to vote even if the polls have closed so long as the elector votes immediately after the decision is rendered. If the board sustains the challenge, the challenged elector will be unable to vote and will be removed from the list of electors if the challenge was based on eligibility.

If it is not practical to conduct a hearing by the close of polls on Election Day when a challenged voter appears to vote, or if the board of registrars begins a hearing but cannot render a decision before close of polls, the challenged voter must be permitted to vote. To do so, they are [issued](#) a paper provisional ballot marked “Challenged,” which they then complete and enclose first within a privacy envelope then within an absentee ballot outer envelope. If the challenged elector casts an absentee ballot, poll officials similarly write “Challenged” on the back of the outer envelope, and process the ballot using an optical scanner. However, in order to determine whether “challenged” ballots cast by electors whose eligibility is in question can remain in the tabulated total, the board of

registrars must hold an expedited hearing to determine the merits of the challenge as soon as possible after Election Day. The superintendent may not certify the county election results *until* the board of elections has resolved each challenge. If the board concludes that the challenge was without merit, the superintendent can proceed to certify the results. If the board upholds the challenge, the elector must be removed from the list of qualified electors, their challenged ballot not counted, and the election returns adjusted. Both the challenged voter and the elector who lodged the challenge may appeal the board's conclusion pursuant to [O.C.G.A. § 21-2-229](#).

### C. Tabulation & Certification

Though Georgia officials may begin to verify, process, and scan absentee ballots starting on October 19, no person can count or force the tabulation machines to count—in part or in full—any ballots prior to the close of polls at 7 p.m. on November 3, per Georgia law. Counting is overseen by an elections superintendent at a centralized tabulation center of the county's selection, and [may be monitored](#) by designated poll watchers.

Among the first ballots [counted](#) are those cast during absentee voting and in-person early voting. Local officials collect the flash drives from the optical absentee ballot scanning machines, which contain scans of all accepted and processed absentee ballots, and insert the flash drives onto the county's election management system in the tabulation center to count the votes. They do the same with the memory cards from the optical scanning machines stationed at early voting locations. These memory cards contain the records from all three weeks of early voting, and are similarly inserted into the server for tabulation.

After the close of polls on Election Day, poll officials in each precinct must prepare the voting location's results for transfer to the superintendent. To do so, they [must](#), among other things, transfer the results via modem to the county tabulation center, print three sets of results tape from the optical ballot scanner, remove the memory cards from the optical scanners, and shut down all machines. The results tape and memory cards are then delivered to the tabulation center, where the superintendent may inspect and break the security seal, remove the contents, and download the results of the memory card to the server for tabulation.

Counting must continue until all eligible and timely received ballots cast in-person or absentee are canvassed. To determine whether provisional ballots can be included in the canvass, election

officials must verify them by the third day following Election Day—November 6. If “the registrars determine that the person casting the provisional ballot did not timely register to vote or was not eligible or entitled to vote in such primary or election” or if the registrar was unable “to determine within three days following such primary or election whether such person timely registered to vote and was eligible and entitled to vote in such primary or election,” the provisional ballot will not be counted under [O.C.G.A. § 21-2-419](#).

Pursuant to [O.C.G.A. § 21-2-493](#), once “all the returns from the various precincts which are entitled to be counted shall have been duly recorded” and have been “added together, announced, and attested by the assistants who made and computed the entries respectively,” they must be signed and certified by the superintendent to complete the canvass. The superintendent must complete the canvass and deliver the results to the secretary of state no later than 5 p.m. on the second Friday following the Election—this year, November 13.

Once the secretary of state receives the certified results, according to [O.C.G.A. § 21-2-499](#), he must “tabulate, compute, and canvass the votes cast for each slate of presidential electors and . . . immediately lay them before the Governor” no later than 5 p.m. on the seventeenth day following Election Day. This year, the deadline falls on November 20. Within one day (by November 21), the governor must “certify the slates of presidential electors receiving the highest number of votes.” The final election results and the electoral slate for a presidential race are thus not certified by the governor until November 21—eighteen days after Election Day (Note also that concurrently to the canvass, the governor is now—as of [House Bill 316](#)’s passage in 2019—responsible for overseeing a risk-limiting state audit in accordance with regulations put forth at [Rule 183-1-15-.04](#)).

## D. Recount Procedures

While Georgia law does not require recounts under any circumstances, [O.C.G.A. § 21-2-495](#) establishes the mechanisms for triggering a recount. Prior to results certification, a county superintendent may order a recount of the ballots whenever there appears to be any discrepancy or error in the returns. Likewise, any candidate for state or federal office may petition the secretary of state for a recount on the same basis. The petition must describe the observed discrepancies or errors and any supporting evidence.

Where a candidate for federal or state office is declared a loser in a race with results separated by half a percentage point or less, that candidate is entitled to a taxpayer-funded recount upon making a written request to the secretary of state within two days of certification under [O.C.G.A § 21-2-495\(c\)\(1\)](#). After granting the request, the secretary of state notifies the county election superintendents in the districts involved in the contested race(s), who then immediately undertake a recount.

## E. Reporting Results

Though officials are not permitted to report results prior to the close of polls on November 3, [some](#) anticipate that investments made in pre-processing mail ballots and expanding early voting options may make it possible to get a fair picture of Georgia’s races shortly thereafter. That said, while initial returns will show in-person and initial absentee ballot totals, they are unlikely to include *all* absentee ballot results. Fulton County [estimates](#) that it will finish absentee ballot processing by November 4th, and DeKalb County [projects](#) that it will need a little bit longer. FiveThirtyEight similarly [anticipates](#) that most votes will be tallied on Tuesday night, but that “counting may stretch into Wednesday or Thursday.” On election night, counties will upload their unofficial results to the statewide reporting website (e.g., akin to the one for the [primary](#)), where precinct and county results will be updated on a rolling basis.

# IX. Appendix

## A. Primaries

### *Combined Presidential Primary (June)*

Healthy Elections Project writer Kevin DeLuca described the Georgia state primary in his September [memo](#) on the topic. According to that overview, “[o]n April 27, the Georgia secretary of state [started sending absentee](#) ballot applications to all 6.9 million active voters in advance of the delayed combined primary election. Voters still had to fill out and return the application in time in order to receive their absentee-by-mail ballots. In the end, over 1.6 million voters submitted applications for absentee-by-mail ballots in the 2020 presidential primary, and over 1.1 million voters successfully cast their ballots by mail. This represents a 3,000% increase in mail-in voting in Georgia

relative to the primaries held in 2016. The surge led to [issues](#) processing and delivering ballots to voters on time, and following Election Day, the large increase in absentee ballots led to [delays](#) in finalizing vote tallies as election officials struggled to count mail-in ballots quickly.

Despite the large increase in mail-in ballots, about 800,000 people still voted in-person on Election Day, and another 320,000 voted early in-person. On election day, [contemporaneous reports](#) documented a variety of problems across a number of large counties. About ten percent of all Georgia polling locations and nearly 80 precincts in the metro Atlanta area [were closed prior to the election due to COVID-19](#). According to reports, [many typical poll workers in Georgia were over 70 years old](#), making them a high-risk group in the pandemic, who decided not to volunteer this year to avoid exposure to the coronavirus. Trained poll workers originally committed to working the primary in March [withdrew due to health concerns](#), resulting in new poll workers being trained in a short amount of time. The state was using new voting machines, which caused a significant amount of [confusion](#) among poll workers. Access cards were put in backwards, problems were reported as workers used new tablets to check people in, poll workers sometimes had to manually type in access codes as overrides to submit ballots, and user confusion played a big part in the increased amount of time it took to cast a ballot. Lines were three hours long or longer in some places, reportedly causing some voters to leave without casting a ballot. About [11%](#) of polling locations closed an hour late to accommodate long lines, and three-fourths of polling stations in Fulton County stayed open until after 8pm.

Fulton County had issues with processing absentee ballots in addition to administering in-person voting. The State Election Board recently [referred](#) its [investigation](#) into complaints from Fulton County residents about missing absentee ballots to the Attorney General’s Office after determining that officials likely violated state law (O.C.G.A. 21-2-384(2)). For a more in-depth analysis of the election day challenges faced by Georgia officials, see the Healthy Election Project’s [Georgia Primary Election Analysis Memo](#).

### ***State Runoff (August)***

The August state runoff, while not without hiccups, went considerably more smoothly than the June presidential primary. In response to long lines in June, many counties increased in-person voting options. For example, Fulton County—the county that experienced the biggest delays for its June 9—[increased](#) the number of polling sites available from 164 in June to 174 in August. Election officials in that county also partnered with the Atlanta Hawks to [transform](#) Atlanta’s State Farm Arena

into the state's largest-ever polling place. Officials across the state also added additional [dropboxes](#). That said, there were isolated incidents of machine errors leading to voting delays and increased wait times (such as in [Bibb County](#)), and some Fulton County voters again [reported](#) that they never received their requested ballots.

## B. Ongoing Litigation

### ***[Black Voters Matter Fund v. Raffensperger](#)*, No. 1:20-cv-1489 (N.D. Ga.); No. 20-13414 (11th Cir.) [PENDING]**

In April 2020, the ACLU and ACLU of Georgia, on behalf of Black Voters Matter, argued that the requirement by election officials that Georgia voters supply postage stamps to mail in absentee ballots and absentee ballot applications is tantamount to an unconstitutional poll tax in violation of the 24th & 14th Amendments of the US Constitution and an unconstitutional burden on their right to vote in violation of the First and 14th Amendments to the US Constitution. They argued that because the COVID-19 pandemic has made it unrealistic for most, if not all, voters to cast ballots in person, the state is essentially forcing voters to pay in order to participate in our democracy. The [suit](#) sought a preliminary injunction to require election officials to provide prepaid returnable envelopes for absentee ballots and absentee ballot applications, arguing that election officials already know how to do this, because the law requires them to provide postage prepaid returnable envelopes for other purposes. Plaintiff withdrew this request for the June 2020 election only and proposed requested injunction/written confirmation that distributing free postage stamps is permissible and three alternative remedies to the poll tax: provide free postage stamps/business reply postage for all absentee ballots, create online portal for obtaining prepaid postage, secure drop-off point at each post office.

On August 28, the Northern District Court of Georgia ruled in favor of the state, rejecting Plaintiff's argument that the postage requirement is an unconstitutional poll tax. Plaintiffs appealed the ruling to the 11th Circuit, where it is pending. The issue on appeal is whether requiring absentee voters to pay up to \$1.60 violates the 24th and 14th Amendments.

### ***[New Ga. Project v. Raffensperger](#)*, No. 1:20-cv-1986 (N.D. Ga.), No. 20-13360 (11th Cir.) [PENDING]**

The New Georgia Project and individual voters sued the secretary of state, State Board of Elections members, and others, challenging Georgia’s (i) failure to provide prepaid postage, (ii) Election Day Receipt Deadline, (iii) voter assistance ban, (iv) lack of standards for notifying voters with incomplete absentee ballot applications and (v) restricting the ability to submit a single application to vote by mail for an entire election cycle based on age. Plaintiffs argued in their [amended complaint](#) that these restrictions pose an undue burden on the right to vote generally and particularly in the upcoming election as a result of the COVID-19 crisis and [motioned](#) for injunctive relief.

On August 31, the Judge Eleanor Ross of Georgia’s Northern District granted in part and denied in part Plaintiff’s motion. In particular, Judge Ross [ordered](#) Georgia elections officials to accept and count otherwise valid absentee ballots if received within three (3) days of Election Day by 7 p.m, but refrained from enjoining Defendants from implementing/enforcing the four other challenged election policies. Defendants filed a motion to stay the injunction pending appeal, but Judge Ross denied the motion on [September 16](#). Defendants appealed to the 11th Circuit, and on October 2, a three-judge panel [ruled](#) in Defendant’s favor and stayed the preliminary injunction that extended the ballot receipt deadline by three days, with one judge dissenting. It is unlikely that the case will be resolved prior to November 3 given that the state’s appeal briefing is [due by December 12](#), meaning that Georgia will be permitted to enforce its Election Day deadline for receipt of absentee ballots regardless of postmark.

**[Curling v. Raffensperger](#), No. 1:17-cv-02989 (N.D. Ga.); No. 20-13730 (11th Cir.)**

This litigation began in 2017 concerning the security and functionality of Georgia’s former fleet of ballot machines. The Brennan Center, which recently filed an amicus brief in *Curling*, summarizes the current live issues as follows: “Individual voters and the Coalition for Good Governance sued the Georgia secretary of state, the Georgia State Election Board, its members and others, challenging the state’s voting system, which relies primarily on the use of electronic voting machines that plaintiffs contend are inaccurate and vulnerable to security breaches. The [third amended complaint](#) alleges violations of the 14th Amendment to the U.S. Constitution, and state law and state constitutional ballot secrecy guarantees, in that the use of the electronic machines denies voters’ rights to due process and equal protection, and infringes upon the fundamental right to vote, and denies the right to vote “in absolute secrecy.”



On September 28, Judge Amy Totenberg [granted](#) in part Plaintiff’s motion for preliminary injunction, ordering Georgia election officials to provide back-up paper pollbooks at each polling location, which must be updated once the advance voting period ends. The order also directed Georgia officials to have a “sufficient” supply of emergency paper ballots, and to issue emergency paper ballots (instead of provisional ballots) to eligible voters who do not appear on the paper backup, but have no record of requesting an absentee ballot. Defendants applied for a stay pending appeal, which a three-judge panel of the 11th Circuit [granted](#) on October 24. As a result, the state needn’t provide backup paper pollbooks at all polling stations on Election Day in case the PollPad technology fails.