



Pennsylvania

Vote Counting + Election Certification Processes

An in-depth research report on the process, timeline, and offices involved in vote counting and election certification in Pennsylvania — and the most pressing threats and vulnerabilities in the system.

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Introduction

Shedding light on what happens *after* votes are cast.

Our Objective

Informing Democracy is a pilot project researching, documenting, and making available a comprehensive understanding of what happens in states *after* votes are cast. During our 2022 pilot, we focused on six states where we anticipate subversive activity from anti-democracy forces: Arizona, Georgia, Michigan, North Carolina, Pennsylvania, Wisconsin.

We undertook this project in response to the growing movement to subvert the outcome of free and fair elections, and the known and documented support from elected and appointed officials in that effort. While anti-democratic forces once focused most of their attention on compromising access to voting, they have taken new aim at the vote counting and election certification processes. Although we have not seen election results overturned as a result, this movement is gaining momentum, and the threat is real.

In analyzing the process, practice, and personnel involved in vote counting and election certification, we have two goals: 1) to build confidence in the vote counting and election certification processes by showing, in detail, the systems, checks, and quality assurance steps in place; and 2) to identify potential vulnerabilities in the system in order to allow pro-democracy partners to better monitor our elections, target corrective action, and, in turn, protect the integrity of our elections.

As we saw in the 2020 elections, our voting systems are strong. Voters can and should feel confident that election administrators will count and certify votes accurately. This brief aims to ensure that our voting systems remain strong.

How to Use This Research

This report identifies the key election administration officials and details their responsibilities; it presents the processes that govern the vote counting and certification work beginning with the most local levels; and it presents potential vulnerabilities surfaced through our research and analysis.

This research was compiled by a team of dedicated and experienced researchers in a matter of months, but the complexity and intricacies of local vote counting and election certification processes can take years to understand. Additionally, laws, policies, and practices change frequently. For these reasons, and to provide accurate and actionable information, this is a living document.

We will continue to update, amend, and develop these research materials through the election cycle as we talk to more individuals involved with vote counting and election certification, as well as partners in this space, and watch the processes in action. We welcome and encourage feedback.

This document focuses on the opportunities within the rules and regulations for individual discretion to influence or undermine the process. However, at any point in time, any actor might attempt to break the law above and beyond their prescribed and discretionary authority. Our intent was not to capture each of those possibilities, though we have noted a few instances in which an abdication of particular duties may slow down the process or cause uncertainty.

We do not seek to predict what might happen in the 2022 election and which of the threats to the vote counting and election certification processes might come to fruition. We hope that providing information on the potential vulnerabilities and threats to vote counting and election certification processes can help our pro-democracy partners and allies best allocate time and resources.



Research Methodology

How we conduct research into the process, timeline, and personnel involved in the counting and certification of elections.

Our Approach

Informing Democracy believes that it is essential that election outcomes reflect the will of the voters, and are not undermined by those running our elections after the votes are cast. To understand the process and practice of vote counting and election certification, we identified laws, rules, and regulations governing the Pennsylvania elections, and supplemented that material with analysis of prior practice through a review of public records and first-person interviews with the officials who carry out this work.

Research into the makeup of these offices and the rules, processes, and timelines detailed below began with a review of the Pennsylvania election code and guidance and directives produced by the Secretary of the Commonwealth.

County-specific procedures, and details of how these processes are implemented in practice, were sourced from interviews with local election administration officials, a review of County Election Boards' meeting minutes, documents received through open records requests, and local news sources.

We also conducted due-diligence research on the officials with power to influence the process in order to identify any concerns related to the mounting efforts to undermine the integrity of our elections.



Informing Democracy used a combination of sources to research officeholders, including review of public records, news publications, and officeholders' online presences.

This document is intended to synthesize the information from these sources and provide examples to aid understanding, but is NOT a legal document and should not be interpreted to contradict or supersede any advice from the Pennsylvania Secretary of the Commonwealth or local elections officials. Further, this document is being provided for informational purposes only and not as part of an attorney-client relationship. The information is not a substitute for expert legal or other professional advice.

If you would like to offer additional information or a correction, please contact: info@informingdemocracy.org. This research should be understood as a living document, and we are eager to keep it updated and accurate.



Vote Counting + Certification: Overview

State Overview

Pennsylvania has a decentralized system of election administration, with power distributed among the County Election Boards, which serve as the primary units of election administration.

State law provides some basic level of uniformity in how election administration is organized. However, state law also empowers home-rule counties (with the explicit exception of Philadelphia) to change the appointment method and organization of their County Election Boards in the county's home-rule charter. Philadelphia, as the only "county of the first class" (meaning its population exceeds 1.5 million people), is not allowed to change the structure of its County Election Board, despite also having home rule.¹

Home-Rule County: In Pennsylvania, counties have the right to create and adopt a "home-rule" charter, meaning they transfer certain responsibilities from the state over to local control, allowing the county more freedom to self-govern with less oversight by the state.

County Election Boards are the officials responsible for vote counting and election certification on the county level. They are generally elected directly by the voters and, in non-home-rule counties and Philadelphia, are made up of County Commissioners.

¹ 25 Pa. Stat. Ann. § 2641.

There are seven counties that have a home-rule charter and exercise authority to change the appointment method and organization of their County Election Boards:

- Allegheny County (Board of Elections)
- Delaware County (Board of Elections)
- Erie County (Board of Elections)
- Lehigh County (Election and Registration Commission)
- Luzerne County (Board of Elections and Registrations)
- Lackawanna County (Department of Elections)
- Northampton County (Election Commission)

In home-rule counties, the County Board of Elections is sometimes made up of members of the county's legislative body.

The Secretary of the Commonwealth regularly issues election administration guidance. This guidance is typically an interpretation of state law rather than a binding directive. Some of this guidance includes providing for a range of options for counties (e.g. use of voting machines vs. ballots, or tabulation at a precinct vs. central tabulation). Where County Boards of Election disagree with the guidance, however, they may interpret state law directly. This can sometimes lead to divergences in guidance and practice that are often only resolved where there is a decision by the PA Supreme Court (or, in some cases, federal court where federal law is at issue).

In 2020, the Pennsylvania Supreme Court extended the deadline for mail-in and absentee ballots by three days to reduce voter disenfranchisement, relying on the state Constitutional provision requiring that “all aspects of the electoral process, to the greatest degree possible, be kept open and unrestricted to the voters of our Commonwealth, and, also, conducted in a manner which guarantees, to the greatest degree possible, a voter’s right to equal participation in the electoral process for the selection of his or her representatives in government.” This decision was appealed to the U.S. Supreme Court, and was upheld by a split 4-4 vote.²

Additionally, based on an interview with a local Pennsylvania election officer, many procedures are simply not written down; they are learned on the job and passed on from election worker to election worker.

² National Conference of State Legislators, [10/20/20](#).

Vote Counting + Election Certification: Offices

Summary of Office Responsibilities

There are a number of bodies, elected officials, and individuals involved in the vote counting and election certification processes in Pennsylvania. For ease of use, this report uses the term “office” or “offices” to refer to these entities. More details on each office listed below can be found on the chart on page 11.

Governor

The Governor is the chief executive in the state, and has a limited role in election administration. The most important role is appointing the Secretary of the Commonwealth, who issues guidance and certifies the final ballot count of statewide offices.

Secretary of the Commonwealth

The Secretary of the Commonwealth is tasked with “promoting the integrity of the electoral process” in Pennsylvania, but, in practice, they have significantly less power than in other states that have more centrally controlled elections and where the Secretary plays a role in setting election guidance that has greater legal force.

In Pennsylvania, the Secretary issues guidance to County and District Election Boards, but that guidance is typically interpretive, meaning it does not have the force of law. The Secretary also has the power to canvass ballots and order a recount, but these actions are mostly dictated by statutory requirements rather than the

Secretary's discretion. The Secretary has interpreted their own power to authorize them to order certain audits.³

County Board of Elections

The County Boards of Elections are the officials responsible for election administration on the county level. They are generally elected directly by the voters and, in non-home-rule counties and Philadelphia, are made up of County Commissioners. In home-rule counties, the County Board of Elections is sometimes composed of members of the county's legislative body.

They have a range of responsibilities and powers, including to set policies and issue interpretive guidance for the county; hire staff; sort and process absentee and mail-in ballots; compute, canvass and certify results; investigate fraud; and instigate and conduct recounts.

Chief Clerk (or Election Director)

The Chief Clerk or Election Director has a significant operational and decision-making role in many counties. However, they are under the supervision of the County Board.

District Election Board

The District Election Board is made up of the individuals tasked with operating a polling place, including:

- 1 Elections Judge
- 1 Majority Inspector of Election
- 1 Minority Inspector of Election
- Election Clerks (in certain cases)
- Machine Inspectors of Election (in certain cases)

There are also rovers in some counties that float between districts to troubleshoot and fill in as needed.⁴

Judges and Inspectors are elected by the voters of that district, with the top two vote-getters for Inspector winning the Majority and Minority Inspector positions, and clerks and machine inspectors are appointed by the Inspectors under certain prescribed conditions.

This electoral scheme is designed so that there is multi-party representation on the District Board. Where there are vacancies that occur at least five days out from the election, they are filled by the local court and must respect this partisan division. Where the vacancy occurs within the last five days before the election, however, the County Board makes the appointment and there is no political party requirement.⁵

Therefore, in practice, in at least some districts, the final appointments of members of the District Board of Election are determined based mostly on availability of personnel and don't match the partisan balance set out in statute.⁶

³ PA Department of State, Risk Limiting Audit Directive, [09/30/2022](#).

⁴ Interview with Election Judge, Allegheny County (Sept 29, 2022).

⁵ 25 Pa. Stat. Ann. § 2675(a),(c).

⁶ Interview with Election Judge, Allegheny County (Sept 29, 2022).

They are charged with counting and tabulating the ballots in their district (including sometimes tabulating absentees for their district), and delivering them to the County Elections Boards. The District Election Board does not have much discretion in conducting their duties, but they are necessary for the administration of elections.

Courts of Common Pleas

The Courts of Common Pleas are trial-level courts operating in 60 districts throughout the state. Judges serving on these courts are elected to 10-year terms.

Their main roles in vote counting and election certification are to decide appeals to challenged ballots, conduct recounts/re canvasses, and hear any appeals of County Board of Elections decisions related to the counting or recounting of ballots. The Judges on the Courts of Common Pleas have wide discretion to correct errors and adjust the final vote count. They also have the duty to appoint bipartisan election overseers if five or more eligible voters file a petition stating that overseers are necessary to protect the integrity of the election in a particular district. Court of Common Pleas Judges are empowered to broadly determine corrective action in the case of overseers being driven from the polls or overseers refusing to sign election results.

Commonwealth Court

The Commonwealth Court is an appellate court with nine members who run in partisan elections every 10 years. This court operates as a trial court in hearings related to contested elections, as well as challenges brought by the Secretary of the Commonwealth. Additionally, it hears appeals to election counts and recounts.

Offices Roles, Appointment, and Makeup

This chart below provides a summary of the offices involved in vote counting and election certification in Pennsylvania, including how each office is elected, apportioned, or selected; the makeup of the office and tenure of the role; and a list of the office's responsibilities.

Office	Election / Appointment	Office Term and Makeup	Overview of Responsibilities
Governor	Elected	4 year term, can run for 2 consecutive terms.	1. Issue certain election certifications ⁷
Secretary of the Commonwealth	Appointed by the Governor, with Senate consent. If Senate fails to confirm, Secretary is "acting" but still can execute duties	Length of term is set at the discretion of the Governor.	1. Issue guidance and directives to County Boards of Elections ⁸ 2. Tabulate and canvass ⁹ 3. Certify election results ¹⁰ 4. Order recount and/or recanvass ¹¹ 5. Examine and re-examine voting machines ¹² 6. Deliver returns to the Governor ¹³ 7. Deliver returns to the General Assembly for the Governor and other statewide executive office elections ¹⁴ 8. Issue certificates of election to state House and Senate members ¹⁵
County Board of Elections (non-home-rule counties + Philadelphia)	3 County Commissioners are elected every 4 years. Each voter selects 2 candidates and the top 3 candidates win. ¹⁶	The Board is composed of County Commissioners or individuals conducting the duties of County Commissioners. ¹⁷	1. Appoint staff, including Chief Clerk, assistants, elections workers, and other employees ¹⁸ 2. Set policy and guidance ¹⁹ 3. Test central tabulation equipment ²⁰ 4. Central tabulation ²¹

⁷ 25 Pa. Stat. Ann. § 3160.

⁸ See, e.g., PA Department of State, Risk Limiting Audit Directive, [09/30/2022](#); PA Department of State, Statewide Return and Recount Directive and Procedure, [11/01/2020](#); PA Department of State, Provisional Voting Guidance, [10/21/2020](#).

⁹ 25 Pa. Stat. Ann. § 3159.

¹⁰ 25 Pa. Stat. Ann. § 3159.

¹¹ 25 Pa. Stat. Ann. § 3154.

¹² 25 Pa. Stat. Ann. § 3006.

¹³ 25 Pa. Stat. Ann. § 3160.

¹⁴ 25 Pa. Stat. Ann. § 3165.

¹⁵ 25 Pa. Stat. Ann. § 3164.

¹⁶ 16 Pa. Stat. Ann. § 501.

¹⁷ 25 Pa. Stat. Ann. § 2641.

¹⁸ 25 Pa. Stat. Ann. § 2643.

¹⁹ 25 Pa. Stat. Ann. § 2642.

²⁰ 25 Pa. Stat. Ann. § 3031.14.

²¹ 25 Pa. Stat. Ann. § 3031.14.

			5. Presort absentee and mail-in ballots ²² 6. Pre-canvass absentee and mail-in ballots ²³ 7. Canvass absentee and mail-in ballots ²⁴ 8. Hear challenges to absentee ballot applications or ballots ²⁵ 9. Receive County returns and make available to the public ²⁶ 10. Submit unofficial returns from precincts to Department of State ²⁷ 11. Compute and canvass returns from districts ²⁸ 12. Transmit results to Secretary of Commonwealth ²⁹ 13. Conduct statistical sampling of votes ³⁰ 14. Conduct pre-certification risk-limiting audit ³¹ 15. Instigate recount or recanvass in District or County ³² 16. Submit recount procedure form to Secretary of Commonwealth ³³ 18. Conduct statewide recount, record and transmit results to Secretary of Commonwealth ³⁴ 19. Certify results for offices within the County ³⁵ 20. Investigate fraud, preserve evidence of fraud for prosecution, otherwise work with district attorney to prosecute fraud ³⁶ 21. Retain materials ³⁷ 22. Provisional Ballot processing ³⁸ 23. Tie breaking ³⁹
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²² PA Department of State, Guidance Concerning Civilian Absentee and Mail in Ballot Procedures, 9, 09/26/2022 (removed from website due to litigation requiring the segregation of undated ballots).

²³ 25 Pa. Stat. Ann. § 3146.8.

²⁴ 25 Pa. Stat. Ann. § 3146.8.

²⁵ 25 Pa. Stat. Ann. § 3146.8.

²⁶ 25 Pa. Stat. Ann. § 3152.

²⁷ 25 Pa. Stat. Ann. § 3152.

²⁸ 25 Pa. Stat. Ann. §§ 3153-3154.

²⁹ 25 Pa. Stat. Ann. § 3154.

³⁰ 25 Pa. Stat. Ann. § 3031.17.

³¹ PA Department of State, Risk Limiting Audit Directive, [09/30/2022](#).

³² 25 Pa. Stat. Ann. § 3154.

³³ PA Department of State, Statewide Return and Recount Directive and Procedures, 3, [11/01/2020](#);

³⁴ 25 Pa. Stat. Ann. § 3154.

³⁵ 25 Pa. Stat. Ann. § 3154.

³⁶ 25 Pa. Stat. Ann. § 3263.

³⁷ 25 Pa. Stat. Ann. § 3031.14.

³⁸ 25 Pa. Stat. Ann. § 3050.

³⁹ 25 Pa. Stat. Ann. § 3168.

Chief Clerk, Election Director, Director of Voter Services or other related titles	Selected by the County Board of Elections ⁴⁰	Staff position, generally 1 per county	1. Administrative and operational oversight of elections ⁴¹
District Election Board	Judges and Inspectors are elected by voters of the district during municipal (odd-year) elections. ⁴² Clerks and machine inspectors are appointed prior to the opening of polls. ⁴³	Consists of: 1 Elections Judge 1 Majority Inspector of Election 1 Minority Inspector of Election Election Clerks (in certain cases) Machine Inspectors of Election (in certain cases)	1. Crosscheck total number of voters against total ballots cast. ⁴⁴ 2. Lock voting equipment ⁴⁵ 3. Tabulate/publish vote count for districts with in-house tabulation ⁴⁶ 4. Prepare report and ballots for transport for districts with central tabulation ⁴⁷ 5. Deliver materials to County Election Boards ⁴⁸
Court of Common Pleas	Elected during municipal (odd-year) elections ⁴⁹	60 courts, 1 for each district, and the size varies depending on the size of the district. ⁵⁰	1. Conduct recanvass/recount ⁵¹ 2. Decide appeals to County Board ballot challenge decisions ⁵² 3. Hear appeals to any decision made by the County Board related to computation or canvassing of returns or recounts ⁵³ 4. Appoint overseers and take action based on overseers' experience ^{54, 55}
Commonwealth Court	Elected during municipal (odd-year) elections ⁵⁶	One court with 9 members who serve 10-year terms	1. Conduct hearings related to contested elections ⁵⁷ 2. Hear appeals related to counts or recounts issued by Secretary of Commonwealth ⁵⁸ 3. Have original jurisdictions in suits by Sect. of Commonwealth ⁵⁹

⁴⁰ 25 Pa. Stat. Ann. § 2643.

⁴¹ Luzerne County Job Opportunities, accessed [10/16/2022](#); Chester County, Director of Voter Services, accessed [11/01/2022](#); PennLive, [05/17/2021](#).

⁴² 25 Pa. Stat. Ann. § 2671.

⁴³ 25 Pa. Stat. Ann. § 2674.

⁴⁴ 25 Pa. Stat. Ann. § 3031.13.

⁴⁵ 25 Pa. Stat. Ann. § 3066.

⁴⁶ 25 Pa. Stat. Ann. § 3031.13.

⁴⁷ 25 Pa. Stat. Ann. § 3031.13.

⁴⁸ 25 Pa. Stat. Ann. § 3031.13.

⁴⁹ Pa. Con. S. § 3131.

⁵⁰ Court of Common Pleas, The Unified Judicial System of PA accessed: [10/17/2022](#).

⁵¹ 25 Pa. Stat. Ann. § 3261.

⁵² 25 Pa. Stat. Ann. § 3146.8.

⁵³ 25 Pa. Stat. Ann. § 3157.

⁵⁴ 25 Pa. Stat. Ann. § 2685.

⁵⁵ 25 Pa. Stat. Ann. § 2686.

⁵⁶ Pa. Con. S. § 3131

⁵⁷ 42 Pa.C.S. § 764.

⁵⁸ 25 Pa. Stat. Ann. § 3157.

⁵⁹ 42 Pa.C.S. § 761(a)(1), (2).

Home-Rule County Boards

State law empowers home-rule counties (except Philadelphia) to change the appointment method and organization of their County Election Boards in the county's home-rule charter.

The chart below details how Home-Rule County Election Boards are appointed and/or elected, the makeup of these boards, and where their responsibilities differ from non-home-rule County Boards.

Office	Election / Appointment	Office Term and Makeup
Allegheny County Board of Elections	Elected	<p>2 at-large members of County Council and the Chief Executive.</p> <p>Elected for 4-year terms. Chief Executive is limited to 3 consecutive terms.</p> <p>Each party can nominate 1 person for the at-large position, and voters can only vote for 1 at-large member. The 2 candidates with the most votes both are elected to fill the 2 at-large positions.^{60, 61}</p>
Delaware County Board of Elections	Selected by County Council ⁶²	<p>2 members are appointed to represent the party with the highest number of votes for a seat on the County Council in the last municipal election and 1 member for the party based on the 2nd highest number of votes cast for Council.⁶³</p>
Erie County Board of Elections	Elected	<p>The entire County Council forms the Board of Elections for terms that align with their terms on the County Council. Chairman and Vice-Chairman are elected from among the members of the County Council annually.</p> <p>If there is no minority party representation on the Council, the chairman of the County Election Board will appoint someone from 3 names submitted by the County Party Chair of the minority party to serve for a 1-year term.⁶⁴</p> <p>Note: In Erie the County Clerk is also the Clerk of Elections and head of the Department of Elections filling the staff role often referred to as Elections Director.⁶⁵</p>
Lehigh County Election and Registration Commission	Selected by Board of Commissioners; County Executive is elected	<p>The County Executive or his or her designee is the Chairman.</p> <p>2 other members are appointed by the Board of Commissioners, 1 from each of the 2 parties with the most votes in the last</p>

⁶⁰ Allegheny Charter § 1.3-305.

⁶¹ Note most absentee ballots in Allegheny are counted at precincts. Interview with Election Judge, Allegheny County (Sept 29 2022).

⁶² De.Charter Art. IV, § 412.

⁶³ De.Charter Art. IV, § 421.

⁶⁴ Erie County Pa. Admin Code Art. 2 § 5(D)(2)(b).

⁶⁵ Erie County Pa. Admin Code Art. 2 §5(D)(2)(b).

		County Executive municipal election, from lists of five names submitted by the county party chairs. If names are not submitted by Jan 31 of the year of appointment, the board can appoint without recommendations, but respective of party affiliation rules. ⁶⁶
Luzerne County Board of Elections and Registrations	Selected by County Council	<p>4 members are appointed based on a majority vote by the County Council. 2 members must be from each party with most and 2nd most votes in the last gubernatorial election. They must have been party members for at least 5 years and remain members of the party for duration of term. Appointments must be made within the first 30 days of the year following the County Council's election. They serve a 4-year term.</p> <p>A 5th member is appointed by the other four, also for a 4-year term. This appointment must happen within 30 days after the other members' appointment.</p> <p>If 30-day requirement is not met in either case, any resident of the county can petition the Court of Common Pleas to make the outstanding appointment. The court then must do this within 30 days of receiving the petition.</p> <p>No member can be an elected official, county employee or member of another county board.⁶⁷</p>
Lackawanna County Board of Elections	Elected	Like in non-home-rule counties, the Board of Elections in Lackawanna County is the same as the Board of Commissioners who are elected every 4 years. ⁶⁸
Northampton County Election Commission	Selected by County Council	<p>There are 5 spots on the commission, with 3 chosen by the county leadership of the majority party and the other 2 chosen by the party in the minority.</p> <p>The County Council then has to approve or reject nominees.⁶⁹</p>

⁶⁶ Lehigh County Charter § 605.

⁶⁷ Luzerne County Charter, § 8.04.

⁶⁸ Lackawanna County, Board of Commissioners PA accessed [10/10/2022](#).

⁶⁹ 69News, [01/21/2021](#).



Vote Counting + Election Certification: Processes and Timeline

Vote Counting and Election Certification: Overview

There are numerous steps and offices involved in the counting of ballots and certification of elections in Pennsylvania. Some of these steps take place years before an election, some in the months leading up to Election Day, and some last for months after. The process points and timelines are broken down by each phase of vote counting and election certification:

- [Pre-Election Processes](#)
- [Early Vote, Absentee Ballot, and Mail-in Ballot Vote Counting Processes and Timeline](#)
- [In-Person Election Day Vote Counting Processes and Timeline](#)
- [Canvass Processes and Timeline](#)
- [Provisional Ballot Processes and Timeline](#)
- [Recount Processes and Timeline](#)
- [Election Certification Processes and Timeline](#)
- [Election Administration Internal Controls](#)
- [Ballot and Election Challenges Processes and Timeline](#)

Note: Where the term “district” is used it can be interchanged with “precinct.”

Pre-Election Processes

The chart below outlines the process points and key dates in the lead-up to election day.

Date	Process Point	Governing Office	Description
At least 4 days before election⁷⁰	Test central tabulation equipment ⁷¹	County Board of Elections	<p>The County Board of Elections tests, or has tested, the central tabulation equipment for accuracy.</p> <p>Each political party can have 1 technically qualified person present during testing who is nominated by the county party chair and deputized by the County Board. That person may perform independent testing of the equipment before, during, and after tabulation so long as it does not interfere with official tabulation efforts.</p> <p>Public notice must be given at least 48 hours in advance.</p>
Pre-election	Appointment of election workers and staff	County Board of Elections	<p>District Election Boards are generally recruited by staff, but formally appointed by the County Board of Elections through majority vote. In counties that use central count, these election workers are also appointed by the County Board.⁷²</p> <p>Short-term staff to assist in canvass, absentee processing, absentee canvass, and computation are also appointed by the County Board.</p>
Pre-election	Appoint overseers ⁷³	Court of Common Pleas	<p>The Court of Common Pleas must appoint overseers if it receives a petition from 5 or more registered electors of the election district. The petition must set forth that the appointment of overseers is a reasonable precaution to secure the purity and fairness of any primary or election in that district.⁷⁴</p> <p>All judges on the court must agree on the appointment. They must appoint 2</p>

⁷⁰ 25 Pa. Stat. Ann. § 3031.14.

⁷¹ 25 Pa. Stat. Ann. § 3031.14.

⁷² This conclusion is drawn from examining examples in county board minutes: Montgomery County Board of Elections Meeting, Minutes: [10/30/2020](#); Cumberland County Bureau of Elections Meeting, Minutes, [5/12/2022](#); Carbon Board of Election Meeting, accessed: [10/14/2022](#); County Board of Elections Meeting, Minutes, [5/26/2020](#); Tioga County Board of Commissioners Meeting, Minutes, [10/13/2020](#); Union County Board of Elections, Minutes, [05/16/2022](#); Westmoreland Bureau of Elections Meeting, Minutes: [9/28/2022](#).

⁷³ 25 Pa. Stat. Ann. § 2685.

⁷⁴ 25 Pa. Stat. Ann. § 2685.

			<p>“judicious, sober, and intelligent” electors of the district.</p> <p>Overseers must be from opposite parties and from the district in which the election is taking place. They must sign returns and in some cases decide differences among the District Board of Elections if needed. Their voice only has weight if they are both agreed on a matter.</p> <p>They must meet the eligibility criteria for serving on an election board.⁷⁵</p>
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Early Vote, Absentee Ballot, and Mail-in Ballot Vote Counting Processes and Timeline

The chart below outlines the process points and key dates involving Early Vote, absentee ballots, and mail-in ballots.

Date	Process Point	Governing Office	Description
Before Election Day	Pre-sorting of absentee ballots	County Board of Elections	<p>Sort and categorize unopened ballots before pre-canvass.</p> <p>Only ballots that are signed are included in the pre-canvass and canvass meetings.⁷⁶</p>
<p>No earlier than 7am on Election Day for ballots received by then. With at least 48 hours public notice.⁷⁷</p> <p>Counties that received Act 88 funding—all but Bradford, Crawford, Montour, and Susquehanna—are required to</p>	Pre-Canvass: absentee and mail-in ballots ⁷⁸	County Board of Elections	<p>For mail-in and absentee ballots that have been received by 7am on Election Day, pre-canvass includes:</p> <ol style="list-style-type: none"> 1) Verifying the eligibility of each voter 2) Examining the envelope and voiding any ballots with contact markings that indicate the voters political affiliation or vote 3) Opening all envelopes 4) Removing ballots from the envelopes 5) Counting, computing and tallying of the votes reflected on the ballots <p>Additional mail-in and absentee ballots can be received until the close of polls.</p> <p>Results cannot be published until after</p>

⁷⁵ 25 Pa. Stat. Ann. § 2685.

⁷⁶ Pennsylvania Department of State, Guidance Concerning Civilian Absentee and Mail in Ballot Procedures, 9, 09/26/2022 (removed from website due to litigation requiring the segregation of undated ballots).

⁷⁷ 25 Pa. Stat. Ann. § 3146.8.

⁷⁸ 25 Pa. Stat. Ann. § 3146.8.



<p>start pre-canvassing absentee and mail-in ballots at 7am on Election Day, and to continue uninterrupted until the vote count is completed.</p>			<p>polls have closed.⁷⁹</p> <p>1 authorized representative of each candidate in an election and 1 representative from each political party are permitted to remain in the room in which the absentee ballots and mail-in ballots are pre-canvassed. No person observing, attending or participating in a pre-canvass meeting may disclose the results of any portion of any pre-canvass meeting prior to the close of the polls.⁸⁰ Ballots also cannot be challenged during the pre-canvass or canvass.⁸¹</p> <p>In some counties, absentee ballot processing does not begin until after Election Day, in which case the pre-canvass and canvass meetings are combined into one step.⁸²</p> <p>Ballots without ID verification are set aside unless and until cured by the voter within the 6 days following the election.⁸³</p>
<p>No earlier than the close of polls on Election Day, no later than the 3rd day following the election on at least 48 hours public notice. Once this meeting begins, it continues until all ballots are counted.⁸⁴</p>	<p>Canvass: Absentee and mail-in ballots⁸⁵</p>	<p>County Board of Elections</p>	<p>The canvass generally follows the same procedure as the pre-canvass to process any ballots not included in the pre-canvass (e.g. ballots received on election day, or after election day in the case of military and overseas votes) except that batches of vote totals can be announced during the canvass since it is occurring after polls are closed.</p> <p>During both the pre-canvass and canvass meetings, the board must segregate any challenged ballots (challenged before the challenge deadline of 5pm on the Friday before Election day), any ballots of a voter deceased before election day, ballots without a signed declaration, ballots without a secrecy envelope and any ballots with a mark that might identify the voter, their political affiliation or</p>

⁷⁹ 25 Pa. Stat. Ann. § 3146.8.

⁸⁰ 25 Pa. Stat. Ann. § 3146.8.

⁸¹ Pennsylvania Department of State, Guidance Concerning Civilian Absentee and Mail in Ballot Procedures, 9, 09/26/2022 (removed from website due to litigation requiring the segregation of undated ballots).

⁸² ABC News, [11/3/2020](#).

⁸³ Pennsylvania Department of State, Guidance Concerning Civilian Absentee and Mail in Ballot Procedures, 10-11, 09/26/2022 (removed from website due to litigation requiring the segregation of undated ballots).

⁸⁴ 25 Pa. Stat. Ann. § 3146.8.

⁸⁵ 25 Pa. Stat. Ann. § 3146.8.

			<p>candidate preference.⁸⁶</p> <p>Ballots without ID verification are also set aside unless and until cured by the voter within the 6 days following the election.⁸⁷</p> <p>The canvass process must continue through the 8th day following the election for valid military-overseas ballots timely received.⁸⁸</p> <p>1 authorized representative of each candidate in an election and 1 representative from each political party shall be permitted to remain in the room in which the absentee and mail-in ballots are canvassed.⁸⁹</p>
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In-Person Election Day Vote Counting Processes and Timeline

The chart below outlines additional process points for vote counting that take place on or immediately after Election Day, after polls close across the state.

Date	Process Point	Governing Office	Description
Immediately after last vote cast⁹⁰	Lock voting equipment	District Election Board	After the last eligible voter has voted the election officers must immediately lock the equipment so that no additional votes can be cast. The District Board, Clerk, and any overseers must certify and sign a report with the following: (1) certification that the machine has been locked against voting and sealed; (2) the number, as shown on the public counter; (3) the number on the seal which they have placed upon the machine; (4) the number registered on the protective counter or device; and (5) the number or other designation of the voting machine. ⁹¹

⁸⁶ Pennsylvania Department of State, Guidance Concerning Civilian Absentee and Mail in Ballot Procedures, 10, 09/26/2022 (removed from website due to litigation requiring the segregation of undated ballots).

⁸⁷ Pennsylvania Department of State, Guidance Concerning Civilian Absentee and Mail in Ballot Procedures, 10-11, 09/26/2022 (removed from website due to litigation requiring the segregation of undated ballots).

⁸⁸ 25 Pa.C.S. § 3511; Pennsylvania Department of State, Guidance Concerning Civilian Absentee and Mail in Ballot Procedures, 11, 09/26/2022 (removed from website due to litigation requiring the segregation of undated ballots).

⁸⁹ 25 Pa. Stat. Ann. § 3146.8.

⁹⁰ 25 Pa. Stat. Ann. § 3066.

⁹¹ 25 Pa. Stat. Ann. § 3066.



Immediately after polls close and the last voter has voted, prior to tabulation⁹²	Cross-check total number of voters against total ballots cast. ⁹³	District Election Board	<p>Officials compare the total number of ballots cast (as well as ballots spoiled, canceled, or returned) against the total number of voters who checked in at that location. Any difference should be reconciled if possible or if not noted on general returns.⁹⁴</p> <p>These numbers must be publicly announced.</p> <p>For paper ballot districts: Before the ballot box is opened, the number of ballots issued to electors (at primaries the number issued to the electors of each party) and the number of ballots (at primaries the number of ballots of each party), if any, spoiled and returned by voters and canceled, shall be announced to all present in the voting room, and entered on the general returns of votes cast at such primary or election.⁹⁵</p>
After polls close, before central tabulation⁹⁶	<p><i>For districts with central tabulation:</i></p> <p>Prepare report and ballots for transport⁹⁷</p>	District Election Board	<p>The Election Judge prepares two reports: (1) of the total number of voters who signed in to vote; and (2) another one of spoiled and unused ballots.⁹⁸</p> <p>The Election Judge is required to deliver the original copy of this report to the County Board of Elections under seal and keep a duplicate.⁹⁹</p> <p>Write-in ballots may be recorded either at the election district or at the counting center.¹⁰⁰</p>
When polls close, after receiving ballots from districts that use central tabulation	Central tabulation for districts that have opted for it ¹⁰¹	County Board of Elections	In some counties votes are tabulated (counted and added together) at a central location. Observers can be present. ¹⁰²

⁹² 25 Pa. Stat. Ann. § 3031.13.

⁹³ 25 Pa. Stat. Ann. § 3031.13.

⁹⁴ 25 Pa. Stat. Ann. § 3031.13.

⁹⁵ 25 Pa. Stat. Ann. § 3061.

⁹⁶ 25 Pa. Stat. Ann. § 3031.13.

⁹⁷ 25 Pa. Stat. Ann. § 3031.13.

⁹⁸ 25 Pa. Stat. Ann. § 3031.13.

⁹⁹ 25 Pa. Stat. Ann. § 3031.13.

¹⁰⁰ 25 Pa. Stat. Ann. § 3031.13.

¹⁰¹ 25 Pa. Stat. Ann. § 3031.14.

¹⁰² 25 Pa. Stat. Ann. § 3031.14.

After polls closed and ballot and voter totals reconciled¹⁰³	<i>Districts with in-house tabulation:</i> Tabulation; publish vote count ¹⁰⁴	District Election Board	<p>After polls close a member of the District Election Board pushes the button on voting machines to cause the machines to add the votes (automatic tabulation). All election officers must be present, including any overseers, and must sign the returns. Anyone refusing to sign must state their reasons for refusing.</p> <p>Write-in votes are recorded on a standard form provided for this purpose.¹⁰⁵</p> <p>1 copy of these results must be publicly posted. A second copy must also be produced. The minority inspector is responsible for keeping a duplicate copy of all records.¹⁰⁶</p> <p>A copy should also be printed for each member of the election board plus a copy for other lawful persons present (overseer, observer, member of the media, candidate, etc.).</p> <p>The Judge and Minority Inspector read from the counter or proof sheet of each machine the total votes for each office, completing the totals for each office before moving on to the next office on the ballot. Totals are then entered on the general returns sheet and audibly announced.¹⁰⁷</p> <p>District totals cards may be used to record both machine tabulated and write-in votes.¹⁰⁸</p>
After tabulation is complete	<i>Districts with in-house tabulation:</i> Lock tabulation machines	District Election Board	<p>After tabulation is complete, tabulation machines must be locked and sealed so no ballots may be deposited or removed, suitably packaged and secured for storage and held for delivery to the county election board.¹⁰⁹</p>

¹⁰³ 25 Pa. Stat. Ann. § 3031.13.

¹⁰⁴ 25 Pa. Stat. Ann. § 3031.13.

¹⁰⁵ 25 Pa. Stat. Ann. § 3031.13.

¹⁰⁶ 25 Pa. Stat. Ann. § 3031.13.

¹⁰⁷ 25 Pa. Stat. Ann. § 3067.

¹⁰⁸ 25 Pa. Stat. Ann. § 3031.13.

¹⁰⁹ 25 Pa. Stat. Ann. § 3031.13.



<p><i>Districts with in-house tabulation:</i> After tabulation is complete</p> <p><i>Districts with central tabulation:</i> After polls close and report prepared</p> <p>Deadline to deliver all election returns and supplies to County Election Board is 2am the day after the election</p>	<p>Deliver materials to County Election Boards¹¹⁰</p>	<p>District Election Board</p>	<p><i>Districts with in-house tabulation:</i> The Election Judge is responsible for delivering one copy of district totals cards and reporting forms to the County Board of Elections.¹¹¹</p> <p><i>Districts with central tabulation:</i> The Election Judge and the Minority Inspector will transport the ballots and the totals cards over to the County Board of Elections for central tabulation and canvass. The county can also arrange for ballots to be picked up so long as they are transported by 2 people from different parties.¹¹²</p>
<p>Election Day, up to 2am the day after the election¹¹³</p>	<p>Receipt of county returns; made available to the public¹¹⁴</p>	<p>County Board of Elections</p>	<p>County office remains open until all ballot boxes and returns have been received.¹¹⁵</p> <p>The unsealed general returns from the various districts are made open to public inspection at the office of the County Board of Elections as soon as they are received from the Election Judges.¹¹⁶</p>
<p>By 3am the day after Election day¹¹⁷</p>	<p>Submit unofficial returns from precincts to Secretary of the Commonwealth¹¹⁸</p>	<p>County Board of Elections</p>	<p>These are preliminary unofficial totals only, not the result of the canvass.</p>

¹¹⁰ 25 Pa. Stat. Ann. § 3031.13.

¹¹¹ 25 Pa. Stat. Ann. § 3031.13.

¹¹² 25 Pa. Stat. Ann. § 3031.13.

¹¹³ 25 Pa. Stat. Ann § 3152; 25 Pa. Stat. Ann. § 3031.13.

¹¹⁴ 25 Pa. Stat. Ann § 3152.

¹¹⁵ 25 Pa. Stat. Ann § 3151.

¹¹⁶ 25 Pa. Stat. Ann § 3152.

¹¹⁷ 25 Pa. Stat. Ann § 3152.

¹¹⁸ 25 Pa. Stat. Ann § 3152.

Canvass Processes and Timeline

The chart below outlines the process for the canvass that takes place following the initial tabulation of votes.

Date	Process Point	Governing Office	Description
By 9am on the 3rd day following Election Day Notice must be given 1 week in advance¹¹⁹	Compute and canvass returns from districts ¹²⁰ — Step 1: Compare number of votes to number of registered voters	County Board of Elections To complete these tasks, sometimes the County Board divides into sections (with the aid of staff), such as a Returns, Canvass, or Computation Board.	<p>This process is conducted by the Returns Board, which is either an operation of the County Board of Elections directly or sometimes a separate entity appointed by the County Board.</p> <p>The Returns Board receives a list of registered voters and their party affiliations from the County Board of Registration Commissioners and checks the total number of votes or ballots cast against that list. If more votes are cast in a precinct than there are total voters registered (or voters registered to the party in the case of a primary), then the Returns Board has the discretion to conduct a full investigation, summon elections officials and ballot boxes, recount and correct vote totals, and even exclude the returns of the district where this excess vote exists and can't be reconciled.¹²¹</p>
Part of canvass	Compute and canvass returns from districts — Step 2: Cross check total ballots delivered vs. categories of ballots used (cast, canceled, spoiled, etc.)	County Board of Elections To complete these tasks, sometimes the County Board divides into sections (with the aid of staff), such as a Returns, Canvass, or Computation Board.	Compare the total number of ballots issued against total cast, canceled, spoiled, or, in the case of voting machines, review the counters on the machines when delivered against the general returns. Reconcile any discrepancies. ¹²²
Part of canvass	Compute and canvass returns from districts — Step 3: Audit the Election Day count and resolve discrepancies.	County Board of Elections To complete these tasks, sometimes the County Board divides into sections (with the aid of	<i>Paper ballot districts</i> (both precinct and central tabulation): Clerks compare two copies of the general returns to ensure the vote totals on both records of tabulation match. One copy that has been returned unsealed is read aloud and compared to the official copy that has been returned sealed.

¹¹⁹ 25 Pa. Stat. Ann §§ 3153-3154.

¹²⁰ 25 Pa. Stat. Ann §§ 3153-3154.

¹²¹ 25 Pa. Stat. Ann § 3154.

¹²² 25 Pa. Stat. Ann § 3154.

		staff), such as a Returns, Canvass, or Computation Board.	<p>If there is a discrepancy, the County Board of Elections reviews the tabulation sheets. If they match the sealed number, that is the number they use.</p> <p>If the tabulation sheets don't match the official sealed copy of returns, however, then the County Board must order the ballot boxes to be opened and the votes are recounted. This is done in the presence of attorneys, watchers, and candidates interested. If this recount is not sufficient to correct the error, the County Board then summons the election officers and overseers, if any, to appear forthwith with all election papers in their possession.^{123, 124}</p> <p><i>Voting machine districts:</i> Similarly, a sealed and unsealed copy of returns are compared. However, here returns are also compared to proof sheets from the voting machines (assuming the type of voting machine used produced proof sheets). Proof sheets are considered prima facie accurate evidence, so they will go with the vote totals from the proof sheets if there is a discrepancy, unless there is a specific allegation of fraud or error that is proved to the satisfaction of the County Board.¹²⁵</p>
Part of canvass	Compute and canvass returns from districts — Step 4: Possible recount/re canvass	County Board of Elections To complete these tasks, sometimes the County Board divides into sections (with the aid of staff), such as a Returns, Canvass, or Computation Board.	<p>A recount or recanvass is possible as a part of the canvass if there is a discrepancy in the returns of any election district, OR upon petition by any 3 voters of the district (see recount section for more information.) This can include absentee ballots as well as Election Day precinct results.</p> <p><i>Note the Secretary can also order a recount under some circumstances.</i></p>
By 5pm on Tuesday following the election	Compute and canvass returns from districts — Step 5: Transmit signed returns to the Secretary of the	County Board of Elections	At the completion of the canvass, the County Board of Elections records the results and transmits them to the Secretary of Commonwealth. This step

¹²³ 25 Pa. Stat. Ann § 3154.

¹²⁴ This questioning of District Election Board members to help reconcile discrepancies can sometimes be done less formally, such as over the phone. In practice it also appears to be rare. Interview with Election Judge, Allegheny County (Sept 29, 2022).

¹²⁵ 25 Pa. Stat. Ann § 3154.

	Commonwealth		includes in-person Election Day, absentee, and mail-in results. These returns must be signed and attested by the Clerk and all members of the County Board. Returns are considered unofficial for 5 days following the signed attestation in order to allow for a possible challenge or recount (see section on recounts below). ¹²⁶
After receiving results from counties	Conduct canvass ¹²⁷	Secretary of the Commonwealth	The Secretary tabulates, computes, and canvasses results from counties for all statewide and national offices and statewide ballot measures. ¹²⁸

Provisional Ballot Processes and Timeline

The chart below outlines the steps related to processing and counting of provisional ballots. These steps usually take place a few days after Election Day.

Date	Process Point	Governing Office	Description
Typically a few days after Election Day, up to a week after	Provisional ballot processing	County Board of Elections	<p>While not expressly included in statutes, provisional ballots are provided to voters where their eligibility to cast a regular ballot can not be determined at the polling place.</p> <p>The County Board of Elections has discretion to decide when they want to process provisional ballots within the week after Election Day. They are required to give notice.</p> <p>The County Board determines whether a provisional ballot should be counted. Before including the provisional in the count, the County Board must ensure the voter has not already cast another ballot (in person or by mail) in the election and confirm the voter is registered and eligible to vote in this election.</p> <p>For each provisional ballot, the County Board makes a formal determination that it is either 1) to be counted in full, 2) to be</p>

¹²⁶ 25 Pa. Stat. Ann § 3154.

¹²⁷ 25 Pa. Stat. Ann. § 3159.

¹²⁸ 25 Pa. Stat. Ann. § 3159; 3158.



			<p>counted in part, or 3) that the ballot must be rejected.</p> <p>If the ballot is being rejected in full or in part, the County Board must record the reason(s) for the rejection. Counties are prohibited from counting a provisional ballot from another county.</p> <p>Provisional ballots can sometimes be used as a sort of cure for mail-in or absentee ballots. If a voter's mail-in or absentee ballot is rejected because of something other than their eligibility to vote (like a missing signature or missing secrecy sleeve) a provisional ballot cast by that voter can be counted.¹²⁹</p>
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Recount Processes and Timeline

Recounts in Pennsylvania take place prior to certification of election results, and are automatic if the margin is within a certain range. A recount can also take place on petition from electors or a decision of the County Election Board.

Automatic Recount: A recount is automatic by statute if the margin is half a percent or less. A defeated candidate may waive the recount by requesting so by 12pm on the second Wednesday following the election.¹³⁰ It is the Secretary of the Commonwealth's duty to petition the relevant County Boards of Elections if the margin is half a percent or less according to the unofficial returns.

Recount based on finding of a discrepancy or by petition of voters: A County Board of Elections is required to conduct a recount in any particular district if they find a discrepancy in the returns. Additionally, any three qualified electors are empowered to petition for a recount, and they can petition either the County Board of Elections or the Court of Common Pleas in the relevant district to do so.

Risk Limiting Audit: The Secretary of the Commonwealth has issued new guidance this year requiring each county to perform a pre-certification partial hand-count. These hand count totals

Butler County Board of Elections conducted a hand recount of three precincts during the 2020 General Election in order to both increase confidence in elections by showing the accuracy of machine counting and in order to demonstrate how lengthy and resource intensive a full hand-count of ballots (or even a statistical sampling by hand-count) would be.¹³¹

¹²⁹ PA Department of State, Provisional Voting Guidance, [10/21/2020](#).

¹³⁰ Pennsylvania Department of State, Statewide Return and Recount Directive and Procedures, 3, [11/01/2020](#).

¹³¹ Governing.com, accessed: [10/17/2022](#).



are compared with machine count totals for selected batches of ballot.

The charts below outline the processes and timelines for each type of recount.

Recanvass or Recount During County Canvass

Date	Process Point	Governing Office	Description
During canvass, anytime before the completion of computing the returns for the county	Order district or county recount or recanvass	County Board of Elections	<p>The County Board of Elections must order a recount:</p> <ul style="list-style-type: none">• If they determine there is a discrepancy in returns in any district, or• On petition from any 3 voters of any district when accompanied by an affidavit claiming error (even if that error is not visible on the face of the returns). The petition does not have to state the reasons. <p>The County Board must give notice in writing to the proper custodian of voting machines, and to each candidate, and to the county chairman of each party or political body affected by the recount or recanvass.</p> <p>Each such candidate may be present in person, or be represented by an attorney. More generally, any party affected by the recount may have up to 2 representatives present.¹³²</p>

¹³² 25 Pa. Stat. Ann. § 3154.



Automatic Statewide Recount

Date	Process Point	Governing Office	Description
Called for no later than 5pm on the 2nd Thursday following the election and must give 24-hour notice to every candidate and party chair affected by recount¹³³	Order statewide recount and/or recanvass	Secretary of the Commonwealth	<p>The Secretary orders a recount if the unofficial returns submitted by the County Boards indicate the margin is .5% or less. The losing party has the right to waive the recount.</p> <p>The Secretary must issue notice to candidates and parties by press release, website, or other means. The recount order will be posted on the Department of State's website.</p>
No later than 5pm on Friday after the election¹³⁴	Submit recount procedure form to the Secretary of the Commonwealth	County Board of Elections	The County Board of Elections submits a form outlining recount procedure to be followed by the county in case of recount. All ballots must be counted using manual, mechanical, or electronic devices of a different type than that used for the specific election.
Before certification	Conduct district or county recount ¹³⁵	County Board of Elections	<p>The County Board follows the procedure outlined in their recount procedure form.</p> <p>All ballots containing overvotes, undervotes, or marginal marks must be counted manually.¹³⁶</p> <p>Recount results must be recorded on Recount Tabulation Reporting Form.¹³⁷</p>
No later than noon on day following completion of recount	Transmit results of recount to the Secretary of Commonwealth ¹³⁸	County Board of Elections	The County Board of Elections must submit the results of the recount to the Secretary of the Commonwealth. ¹³⁹

¹³³ 25 Pa. Stat. Ann. § 3154(g); PA Department of State, Statewide Return and Recount Directive and Procedures, 3, [11/01/2020](#).

¹³⁴ PA Department of State, Statewide Return and Recount Directive and Procedures, 3, [11/01/2020](#).

¹³⁵ 25 Pa. Stat. Ann. § 3154.

¹³⁶ 25 Pa. Stat. Ann. § 3154; PA Department of State, Statewide Return and Recount Directive and Procedures, 3, [11/01/2020](#).

¹³⁷ PA Department of State, Statewide Return and Recount Directive and Procedures, 3, [11/01/2020](#).

¹³⁸ 25 Pa. Stat. Ann. § 3154.

¹³⁹ PA Department of State, Statewide Return and Recount Directive and Procedures, 3, [11/01/2020](#).

Recount by Petition to Court of Common Pleas

Date	Process Point	Governing Office	Description
Petition must be filed within 5 days of the canvassing returns; recount must happen within 20 days of the election for machine recanvassing, 4 months for paper ballot recanvassing	Conduct district recanvass/recount ¹⁴⁰	Court of Common Pleas	<p>It is mandatory for the Court of Common Pleas, or any one judge of the court, to conduct a recount/recanvass if they are presented with a petition filed by 3 qualified electors alleging that they believe that fraud or error “was committed in the computation of the votes cast for all offices or for any particular office or offices in such election district, or in the marking of the ballots, or otherwise in connection with such ballots.”</p> <p>Petitioners do not need to specify in their petition the particular act of fraud or error which they believe to have been committed, nor to offer evidence to substantiate the allegations of their petition.¹⁴¹</p> <p>Petitioners must file in each district separately if they wish to petition for multiple recounts, and pay separate bonds for each, unless they provide prima facie evidence to support their claims, in which case a single petition suffices.</p> <p>Petitioners are granted 5 additional days to file additional petitions should fraud be found as a result of their first petition.</p> <p>The court is required to provide notice to all candidates and parties so that they may be present at the recount.</p>

¹⁴⁰ 25 Pa. Stat. Ann. § 3261.

¹⁴¹ 25 Pa. Stat. Ann. § 3161(a).



Appeals of Recounts

Date	Process Point	Governing Office	Description
After recount	Hear appeals to recount ¹⁴²	Commonwealth Court or Court of Common Pleas	<p>Recounts ordered by the Secretary of the Commonwealth are appealed to the Commonwealth Court. Recounts ordered by the County Boards of Elections are appealed to the local Court of Common Pleas.</p> <p>To appeal the recount, 3 qualified voters make the same kind of petition they would make to bring a recount in the first instance.¹⁴³</p> <p>The court on an appeal shall have full power and authority to hear and determine all matters pertaining to any fraud or error committed in any election district to which such appeal relates, and to make such decree as right and justice may require.</p> <p>The official certification of the election district is suspended until the appeal is finished.¹⁴⁴</p>

Risk-Limiting Audit

Date	Process Point	Governing Office	Description
During canvass/pre-certification	Pre-certification risk-limiting audit ¹⁴⁵	County Board of Elections	<p>The Secretary of the Commonwealth issued a directive requiring a risk-limiting audit pre-certification under a provision of the election code that permits the Secretary to require reports from County Boards of Elections.¹⁴⁶</p> <p>The County Boards must appoint an audit board, and each ballot audited must be reviewed by at least two members. The Audit Board can include members of the public, elections office staff, and/or precinct officials.</p>

¹⁴² 25 P.S. § 3157.

¹⁴³ 25 Pa. Stat. Ann. § 3261.

¹⁴⁴ 25 P.S. § 3157.

¹⁴⁵ PA Department of State, Risk Limiting Audit Directive, [09/30/2022](#).

¹⁴⁶ PA Department of State, Risk Limiting Audit Directive, [09/30/2022](#); 25 Pa. Stat. Ann. § 2621.



			A random selection of ballots batches are manually reviewed for one or more randomly selected races to see if they match the machine count. This can be the same group of ballots as used in the statistical sample. ¹⁴⁷
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Election Certification Processes and Timeline

The chart below outlines the process points for election certification, the process by which a winner is named and notified for county-wide and statewide offices. Certification takes place after the completion of the county and statewide canvasses.

Date	Process Point	Governing Office	Description
5 days after the unofficial returns are submitted to the Secretary or 5 days after appeals, recount, or recanvass, if applicable	Certification of results for offices within the county ¹⁴⁸	County Board of Elections	County Board of Elections certifies results computed during the canvass 5 days after they submitted the unofficial returns to the Secretary of the Commonwealth, unless revisions are necessary, in which case the returns are certified after corrections have been made. ¹⁴⁹ The County Board retains one copy of the certified results. ¹⁵⁰
After county certification	Issue certificates to offices within the county ¹⁵¹	County Board of Elections	The County Board of Elections issues certificates of election to the successful candidates for all offices filled by the votes of the electors of said county, or of any part thereof. ¹⁵² Where an office spans multiple counties but is not statewide, the county with the largest number of registered voters voting on the office issues the certificate. ¹⁵³
After county certification, county certifications due by 5pm on	Tabulation and certification of election results ¹⁵⁴	Secretary of The Commonwealth	Signed canvass returns from County Boards of Elections remain unofficial for 5 days after they are received by the Secretary of the Commonwealth. After that 5-day period, or 5 days after any

¹⁴⁷ PA Department of State, Risk Limiting Audit Directive, [09/30/2022](#).

¹⁴⁸ 25 Pa. Stat. Ann § 3154.

¹⁴⁹ 25 Pa. Stat. Ann § 3154.

¹⁵⁰ 25 Pa. Stat. Ann § 3158.

¹⁵¹ 25 Pa. Stat. Ann § 3154.

¹⁵² 25 Pa. Stat. Ann § 3154.

¹⁵³ 25 Pa. Stat. Ann § 3160.

¹⁵⁴ 25 Pa. Stat. Ann. § 3159.



<p>Tuesday following election</p>			<p>recount or recanvass, if applicable, they become the certified returns.¹⁵⁵</p> <p>After receiving these returns, the Secretary of the Commonwealth then tabulates, computes, and canvasses the votes cast for U.S. Senators, U.S. Representatives, Governor, Lieutenant Governor, Auditor General, State Treasurer and Secretary of Internal Affairs, Judges of the Supreme Court, Judges of the Superior Court and judges of other courts of record, including associate judges, senators and representatives in the General Assembly, and all questions voted for by the electors statewide.¹⁵⁶</p> <p>The Secretary then certifies and files the tabulations in his office.¹⁵⁷</p> <p>The Secretary provides certified copies of the results to the entities that then issue commissions to those elected officials. This will happen even if an election is contested.</p> <p>For judges or other offices that are commissioned by the Governor, the Secretary of the Commonwealth provides a certified copy of the results to the Governor, and the Governor then issues the commissions.¹⁵⁸</p>
<p>After certification</p>	<p>Deliver returns to the General Assembly for the Governor's and other statewide executive offices' elections¹⁵⁹</p>	<p>Secretary of the Commonwealth</p>	<p>The Secretary of the Commonwealth, at the first meeting of the General Assembly following the election of a Governor, Lieutenant Governor, Secretary of Internal Affairs, Auditor General, or State Treasurer, delivers to the President of the Senate the returns of elections for all such offices, who shall open and publish them in the presence of members of both houses of the General Assembly.</p> <p>The Secretary also issues certificates for these offices and presents them to the</p>

¹⁵⁵ 25 Pa. Stat. Ann § 3154.

¹⁵⁶ 25 Pa. Stat. Ann. § 3158; 3159.

¹⁵⁷ 25 Pa. Stat. Ann. § 3159.

¹⁵⁸ 25 Pa. Stat. Ann. § 3160.

¹⁵⁹ 25 Pa. Stat. Ann. § 3165.



			Governor to issue commissions. ¹⁶⁰
Between 12 and 1pm on the 1st Tuesday in January of odd-numbered years	Issue certificates of election to state House and Senate members ¹⁶¹	Secretary of the Commonwealth	<p>The Secretary of the Commonwealth issues certificates of election to the elected members of the Senate and House of Representatives of the Commonwealth.</p> <p>If the General Assembly convenes in December after their election, the returns are presented on the 1st day of the special session.¹⁶²</p>
After receiving tabulation report from the Secretary	Issue certificates of election for federal offices, commissions for some state offices ¹⁶³	Governor	<p>The Governor issues and delivers certificates of elections for U.S. Senators and Congress members under the seal of the Commonwealth, signed by the Governor, and attested by the Secretary of the Commonwealth.¹⁶⁴</p> <p>The Governor also transmits the returns of these elections to the President of the United States Senate, in the case of the election of a United States Senator, and to the Speaker of the House of Representatives of the United States, in the case of the election of representatives in Congress.¹⁶⁵</p> <p>The Governor also issues commissions for some state offices after the Secretary of the Commonwealth prepares the certificates (see above).</p>

¹⁶⁰ 25 Pa. Stat. Ann. § 3165.

¹⁶¹ 25 Pa. Stat. Ann. § 3164.

¹⁶² 25 Pa. Stat. Ann. § 3164.

¹⁶³ 25 Pa. Stat. Ann. §§ 3163-3165.

¹⁶⁴ 25 Pa. Stat. Ann. § 3163.

¹⁶⁵ 25 Pa. Stat. Ann. § 3163.

Election Administration Internal Controls

The chart below outlines the processes related to ensuring safe and secure vote counting and election certification processes.

Most of these process points take place on an as-needed basis, though some are time-bound if relevant to specific portions of the vote counting and election certification processes (e.g. need to take place before a canvass or issuing a certification).

Date	Process Point	Governing Office	Description
Any point during canvass or recanvass	Investigate fraud, preserve evidence of fraud for prosecution, otherwise work with District Attorney to prosecute fraud ¹⁶⁶	County Board of Elections	The Board is authorized to investigate election frauds, irregularities and violations of election law, and to report all suspicious circumstances to the District Attorney. ¹⁶⁷
Anytime before or after the election, done at the discretion of the Secretary	Examine and re-examine voting machines ¹⁶⁸	Secretary of the Commonwealth	<p>The Secretary of the Commonwealth appoints three examiners: one expert in patent law, two experts in mechanics, and requires a report from them. The Secretary conducts their own review of machines and writes their own report, attested by signature and the seal of the office, stating whether, in their opinion and in consideration of the reports of the examiners, the machine examined can be safely used by electors at elections.¹⁶⁹</p> <p>Various requirements are also set out by statute.¹⁷⁰ 10 voters can also petition the Secretary to reexamine any voting machine.¹⁷¹</p>
Throughout election	Administrative and operational oversight of elections ¹⁷²	Chief Clerk or Election Director	<ul style="list-style-type: none"> - Oversees election activities generally - Implements departmental policies and procedures - Supervises other staff - Oversees absentee ballot processing - Communicates updates and reports to Board of Elections¹⁷³

¹⁶⁶ 25 Pa. Stat. Ann. § 2642.

¹⁶⁷ 25 Pa. Stat. Ann. § 2642.

¹⁶⁸ 25 Pa. Stat. Ann. § 3006.

¹⁶⁹ 25 Pa. Stat. Ann. § 3006.

¹⁷⁰ 25 Pa. Stat. Ann. § 3007.

¹⁷¹ 25 Pa. Stat. Ann. § 3006.

¹⁷² See e.g. Luzerne County Job Opportunities, accessed [10/16/2022](#); Chester County, Director of Voter Services, accessed [10/16/2022](#); PennLive, [05/17/2021](#).

¹⁷³ See e.g. Luzerne County Job Opportunities, accessed [10/16/2022](#); Chester County, Director of Voter Services, accessed [10/16/2022](#); PennLive, [05/17/2021](#).

During or after the election	Oversight of elections through appointment of overseers ¹⁷⁴	Court of Common Pleas	<p>The Court of Common Pleas can appoint election overseers if deemed necessary to protect the integrity of an election in a particular district, on petition from five voters in the district. Two overseers, from different political parties, are appointed.</p> <p>The court is authorized to reject votes if overseers are not allowed access or if they are driven away from the polls by violence or intimidation. The court is given wide discretion to act as they “may deem necessary to a just and proper disposition of the case.”¹⁷⁵</p>
During canvass	Take action in light of evidence of error or fraud	County Board of Elections	<p>Evidence of error or fraud should not stop a county from computing and certifying the votes. However, clear guidance is not provided in the statute as to how they should resolve issues of fraud. If any error or fraud is discovered, the county board shall compute and certify the votes “justly” regardless of any fraudulent or erroneous returns presented to it, and shall report the facts to the district attorney of the proper county for action.¹⁷⁶</p>

Ballot and Election Challenges Processes and Timeline

Challenges and appeals within the election process are largely conducted after Election Day and overseen by the County Board of Elections, Court of Common Pleas, and Commonwealth Court. The chart below outlines the processes related to challenges and appeals during the election process.

Date	Process Point	Governing Office	Description
No later than 7 days after deadline to file challenges Challenge deadline is 5pm the Friday	Hear challenges to absentee ballot applications or ballots ¹⁷⁷	County Board of Elections	<p>Any voter who pays a deposit of \$10 per ballot can challenge an absentee ballot. Challenged ballots are set aside in a sealed container held in the custody of the County Board of Elections until a formal hearing can take place. All voters whose ballots are challenged and those who made the challenge should be given notice where possible.¹⁷⁸</p>

¹⁷⁴ 25 Pa. Stat. Ann. § 2686.

¹⁷⁵ 25 Pa. Stat. Ann. § 2686.

¹⁷⁶ 25 Pa. Stat. Ann. § 3154.

¹⁷⁷ 25 Pa. Stat. Ann. § 3146.8.

¹⁷⁸ 25 Pa. Stat. Ann. § 3146.8.



before Election Day			<p>Testimony heard during a hearing on a challenge is not bound by PA rules of evidence.¹⁷⁹</p> <p>No challenges may be made to mail-in or absentee ballot applications after 5:00pm on the Friday before the election. No challenges may be made to mail-in and absentee ballots at any time based on signature analysis.¹⁸⁰</p> <p>Ballot applications can only be challenged on the basis that the applicant is not qualified to vote.¹⁸¹ This could also include that a voter is not qualified to vote by absentee ballot, which requires an excuse. Note not all mail-in ballots are absentee ballots falling under this requirement.¹⁸²</p>
Appeal must be filed within 2 days of decision	Decide appeals to County Board of Elections ballot challenge decisions ¹⁸³	Court of Common Pleas	<p>Decisions on challenges by the County Board of Elections can be appealed to the Court of Common Pleas by “any person aggrieved by the decision.” While an appeal is pending the County Board cannot open or tally the challenged votes that are the subject of that appeal.¹⁸⁴</p> <p>Challenged ballots that are found to be valid at the conclusion of the appeal are then added to the official returns.¹⁸⁵</p>
Appeal must be filed 2 days after decision issued; judge is required to set hearing within 3 days of receiving filing fees	Hear appeals to any decision made by the County Board of Elections related to computation or canvassing of returns or recounts ¹⁸⁶	Court of Common Pleas	The County Board of Elections decision made during canvass or computation (including recounts) can be appealed to the Court of Common Pleas ¹⁸⁷

¹⁷⁹ 25 Pa. Stat. Ann § 3146.8.

¹⁸⁰ Pennsylvania Department of State, Guidance Concerning Civilian Absentee and Mail in Ballot Procedures, 10, 09/26/2022. (removed from website due to litigation requiring the segregation of undated ballots).

¹⁸¹ Pennsylvania Department of State, Guidance Concerning Civilian Absentee and Mail in Ballot Procedures, 10, 09/26/2022. (removed from website due to litigation requiring the segregation of undated ballots).

¹⁸² 25 Pa. Stat. Ann. § 3146.1.

¹⁸³ 25 Pa. Stat. Ann. § 3146.8.

¹⁸⁴ 25 Pa. Stat. Ann. § 3146.8.

¹⁸⁵ 25 Pa. Stat. Ann. § 3146.8(g)(7)

¹⁸⁶ 25 Pa. Stat. Ann. § 3157.

¹⁸⁷ 25 Pa. Stat. Ann. § 3157(a).



Depends on the issue	Hearings related to contested elections ¹⁸⁸	Commonwealth Court	<p>A single judge can constitute a quorum and make decisions related to elections.¹⁸⁹</p> <p>If the court finds a person was not legally elected, the commission is voided.¹⁹⁰</p>
<p>Within 2 days of count, recount or recanvass decision</p> <p>Judge must set a hearing on the matter 3 days after receiving court fee.</p>	Appeals related to counts or recounts issued by Secretary of Commonwealth ¹⁹¹	Commonwealth Court	<p>Any person aggrieved by any order or decision of any County Board of Elections in the course of a recount ordered by the Secretary of the Commonwealth has 2 days to file an appeal.</p> <p>The Commonwealth Court has jurisdiction over any decisions on count or recount made by the Secretary of the Commonwealth. They must set a hearing within 3 days of receiving the filing fee, and must provide notices to the County Board 2 days before the hearing.¹⁹²</p> <p>The court on an appeal shall have full power and authority to hear and determine all matters pertaining to any fraud or error committed in any election district to which such appeal relates, and to make such decree as right and justice may require.¹⁹³</p>

¹⁸⁸ 42 Pa.C.S.A. § 764.

¹⁸⁹ Pa. R.A.P. 3102.

¹⁹⁰ 25 Pa. Stat. Ann. § 3160.

¹⁹¹ 25 Pa. Stat. Ann. § 3157.

¹⁹² 25 Pa. Stat. Ann. § 3157.

¹⁹³ 25 Pa. Stat. Ann. § 3157.

Analysis of Threats + Vulnerabilities

The Threat of Decentralization

Pennsylvania's decentralized system of election administration yields vote counting and election certification processes to the County Elections Boards. While state law provides general uniformity in these processes, there are notable areas in which County Elections Boards have broad discretion. Below are examples of ways in which these areas of discretion may threaten vote counting and election certification:

Competing guidance from the Secretary of the Commonwealth and County Boards of Elections

In Pennsylvania, the Secretary of the Commonwealth issues guidance documents to assist in interpreting election law, but these documents typically do not themselves have the force of law.¹⁹⁴

County Boards of Elections have in the past issued their own guidance, sometimes contradicting the Secretary's.¹⁹⁵ Some counties look to the courts to clarify the law rather than defer to the Secretary of the Commonwealth.¹⁹⁶ **This can lead to confusion and inconsistency across the state,**

In the 2022 primary, Butler County (along with three other PA counties including Fayette)²⁰⁰ refused to certify mail-in ballots where envelopes were not dated despite guidance from the Secretary of the Commonwealth to do so (following

¹⁹⁴ See PA Department of State, Election Directives and Guidance, accessed [10/22/2022](#).

¹⁹⁵ See NBC Philadelphia, [10/12/2022](#).

¹⁹⁶ See, e.g., Dauphin County Meeting, Minutes: [6/29/2022](#). Perry County Board of Elections Meeting, Minutes: [11/2/2020](#).

²⁰⁰ New York Times, 07/22/2022.

and could result in a certain kind of ballot being counted in one county but not another.

3rd Circuit guidance for Lehigh County 2021 case).²⁰¹

This is actively playing out in a dispute regarding undated or misdated absentee ballot envelopes.¹⁹⁷ The Secretary of the Commonwealth has issued guidance that these ballots should be accepted,¹⁹⁸ but this was challenged by counties issuing their own guidance. A lawsuit filed by the Republican National Committee and other Republican groups¹⁹⁹ seeks a resolution and clarity before Election Day. This uncertainty is a source of confusion for election officials and voters alike, and can undermine confidence in the vote counting and election certification processes. It also leaves the door open for federal legal challenges post-election.

Discretion to decide staffing and resources

In addition to providing interpretive guidance that may undermine guidance from the Secretary of the Commonwealth, County Boards of Elections have the ability to decide staffing and resources for their counties.²⁰²

District Election Boards are generally recruited by staff, but formally appointed by the County Board. In counties that use central count, these election workers are also appointed by the County Board.²⁰³ As the volume of mail-in ballots increased, some counties also had to contract out to private mail processing companies. This discretion of the County Election Boards in how they decide staffing may result in the appointment of anti-democratic individuals, or could result in insufficient resources and staff or lack of properly trained staff if the County Board fails to properly anticipate or account for their needs.²⁰⁴

¹⁹⁷ NBC Philadelphia, [10/12/2022](#).

¹⁹⁸ Pennsylvania Department of State, Guidance Concerning Civilian Absentee and Mail in Ballot Procedures, 9, 09/26/2022. (removed due to litigation)

¹⁹⁹ Democracy Docket, Republicans Sue Pennsylvania Over Undated and Wrongly Dated Mail-in Ballots [10/21/2022](#).

²⁰¹ Mesa, Mark, AP Online Article, accessed: 10/14/22.

²⁰² 25 Pa. Stat. Ann. § 2643.

²⁰³ This is drawn from examining examples in county board minutes. Montgomery County Board of Elections Meeting, Minutes: [10/30/2020](#); Cumberland County Bureau of Elections Meeting, Minutes: [5/12/2022](#); Carbon County Board of Elections Meeting, accessed: [10/14/2022](#); McKean County Board of Elections Meeting, Minutes: [5/26/2020](#); Tioga County Board of Commissioners Meeting, Minutes: [10/13/2020](#); Union County Board of Elections, Minutes: [05/16/2022](#); [Westmoreland County Board of Elections Meeting, Minutes: 9/28/2022](#).

²⁰⁴ One Franklin County official noted that many counties had to use this firm and his comments implied that he believed in-house processing by experienced election staff was the superior option: "A lot of the wards or counties had to be contracted out to a mail processing company. We were able...to keep it in-house, and the same staff that did absentees for years are now doing the mail-ins." Herald-Mail Media, Carley Bonk, [6/4/2020](#).

Discretion in how to process, pre-canvass, and canvass absentee and mail-in ballots

Unless there is a controlling court decision, County Board of Elections members exercise their discretion during the pre-processing, pre-canvass, and canvassing of absentee ballots to make decisions about each ballot's validity that will impact whether or not that vote is counted. This includes the decision to accept undated or wrongly dated ballots, depending on how the County Board interprets the legal requirements or how much they defer to the Secretary of the Commonwealth.²⁰⁵

Discretion in the County Board of Elections canvass process generally

There is very limited discretion in the tabulation of votes generally. However, the results of an entire district can be thrown out by the County Board if they find a precinct where more voters are listed as having signed in to vote than there are registered voters for that area. This would presumably only be a vulnerability if there was illegality or serious error at the District level to cause this mismatch. However, it is worth keeping in mind given the attempts to place fake ballots at the polling places that have been seen already this year.²⁰⁶ Where the County Board can determine the proper results in the district (such as resolving the discrepancy on the rolls or identifying any fake ballots), it is supposed to include the correct results in the total count. However, a board controlled by anti-democratic members might use this as an excuse to throw out all votes in such a district instead.

Additionally, the County Board is authorized to investigate fraud, and to aid the district attorney in prosecuting fraud, but there are few parameters placed on that power, leaving the possibility of abuse of that power by an anti-democratic County Board. The statutory language says that County Boards are required to compute and certify the vote “justly regardless” of fraud.²⁰⁷ This power presents the potential for the vote total or outcome to be manipulated, including possibly that a County Board could either ignore clear evidence of fraud or error and try to willfully ignore problems or could attempt to use the evidence of fraud to “correct” the vote total to try to certify what they believe is the “just” total for their county.

²⁰⁵ Pennsylvania Department of State, Guidance Concerning Civilian Absentee and Mail in Ballot Procedures, 9, 09/26/2022 (removed from website due to litigation requiring the segregation of undated ballots). Note that this is the subject of active litigation including a recent court order requiring Counties to segregate these ballots. Philadelphia Inquirer, [11/01/2022](#).

²⁰⁶ See WSBTV.com [10/19/2022](#) “Georgia Secretary of State’s Office believes that the ballot wasn’t created to add just a single additional vote to the tally of a specific series of candidates, but rather to cast doubt on election integrity across the state.”

²⁰⁷ 25 Pa. Stat. Ann § 3154.

Refusal to certify election results

County Boards of Elections are required by statute to certify the results of their canvass. Even in the case of evidence of fraud they must continue to “justly” certify the results. Nonetheless, refusal to sign and transmit the canvass to the Secretary of the Commonwealth could delay the final result of the election, undermining confidence in the process.

We have seen examples of *individual* members of County Boards violating this duty. Thankfully, there are checks on this individual discretion with the generally three-person (though in home-rule counties sometimes larger) makeup of the boards and the requirement that a majority of the Board approves all Board decisions. In the cases where one person refused to certify the election, the other two members voted to certify, and the results were certified accordingly. However, this presents a potential vulnerability if two County Board members join forces to refuse to certify the election results. While the courts would likely step in to remedy this, it would nevertheless cause delay.

Notable Vulnerabilities at the County Level

The following are counties where a voting majority on the local governing body or county election board could pose a threat to election integrity based on public statements made by those members, or other research findings:

- Bedford County, 2-1 voting majority
- Berks County, 2-1 voting majority
- Bradford County, 2-1 voting majority
- Butler County, 2-1 voting majority
- Columbia County, 2-1 voting majority
- Fayette County, 2-1 voting majority
- Fulton County, 2-1 voting majority
- Greene County, 2-1 voting majority
- Lancaster County, 2-1 voting majority
- Luzerne County, 7-4 voting majority
- Lycoming County, 2-1 voting majority
- Washington County, 2-1 voting majority
- Westmoreland County, 2-1 voting majority
- Wyoming County, 2-1 voting majority

One notable anomaly is Tioga County, which has a rare uniform political composition of County Commissioners, due to one Republican commissioner’s election as a write-in candidate on the Democratic ticket.²⁰⁸

²⁰⁸ Wellsboro Gazette, [11/19/2019](#)

Additional Vulnerabilities

In addition to the vulnerabilities due to decentralization of power to the County Election Boards, there are other notable threats to monitor.

Under-resourcing

In 2020, the Center for Tech and Civil Life, a nonprofit that provides grants for election administration, provided over \$350 million to election administration in 49 states.²⁰⁹ Because of unfounded allegations that these funds influenced elections, the Pennsylvania legislature barred private funding.²¹⁰ To fill the funding gap, the state enacted Act 88, which provides \$45 million in state grants to County Boards of Elections to administer elections.²¹¹ Act 88 was meant to fill the need for additional resources, but it comes with strings attached.

Statutorily, County Boards can choose to delay counting absentee and mail-in ballots until three days after the election, allowing them to focus resources on in-person ballots on Election Day.²¹² However, Act 88 requires election administrators to begin pre-canvassing absentee and mail-in ballots at 7am on Election Day and continue uninterrupted until the vote count is completed. This requirement was meant to encourage quicker processing of mail-in and absentee ballots and potentially reduce some of the delays seen in 2020. However, it didn't fix the real underlying issue with the delay, which is the inability of counties to conduct most processing steps before Election Day. Instead, some counties who accepted the funding have noted that the shift in resources to fulfill the absentee ballot timing requirement may result in the rest of their processes being understaffed.²¹³

Additionally, four counties — Bradford, Crawford, Montour, and Susquehanna — decided not to apply for the funding, potentially resulting in insufficient funding to conduct their elections.²¹⁴

This move to ban outside funding in elections, therefore, represents a vulnerability because election administrators may be left under-resourced, whether or not they applied for the Act 88 grant.

²⁰⁹ Center for Tech for Civic Life, COVID-19 Response Grants, accessed [10/21/2022](#).

²¹⁰ Democracy Docket, Pennsylvania Bans Private Funding in Election Administration, Approves State Grants, [07/14/2022](#).

²¹¹ York Daily Record [10/11/2022](#).

²¹² 25 Pa. Stat. Ann. § 3146.8.

²¹³ Philadelphia Inquirer, [08/19/2022](#).

²¹⁴ Philadelphia Inquirer, [08/19/2022](#).

Power to overturn election results by the Court of Common Pleas

The Courts of Common Pleas, a trial-level court with 60 districts across the Commonwealth, has certain oversight into the elections process.

They hear appeals to ballot challenges which can impact individual votes, but they also can “cause the vote to be correctly counted” during recounts, and can make decisions during recount appeals that can change the final vote count in a particular county or even statewide.²¹⁵

The Courts of Common Pleas can also appoint overseers to monitor elections, and the court has the power to discard ballots in districts in which the overseers are driven away from the polls.

The judges on these courts are elected, so there is great opportunity for an anti-democratic individual to serve on this court. While typically the majority of a three-judge panel will need to agree to dispose of a case, some of these powers are held by a single judge.

Commonwealth Court’s hearing of disputes, challenges, and appeals

The Commonwealth Court is an appellate court in the Pennsylvania judiciary consisting of nine elected judges (with one current vacancy). It is tasked with hearing in the first instance any disputes brought by the Secretary of the Commonwealth, which could include lawsuits brought to challenge competing guidance from the County Boards of Elections.

The Commonwealth Court also conducts hearings related to contested elections, and can void commissions if they find the commission to be unlawfully issued. The President Judge, in particular, has power to determine which judges on the court will sit on a panel to hear election disputes, and can decide whether it should be a three-judge panel or up to seven *en banc*. A President Judge interested in overturning election results appears to have the power to appoint sympathetic judges to election cases.

Finally, the Commonwealth Court hears appeals to recounts issued by the Secretary of the Commonwealth, and is given broad statutory powers to “make such decrees as right and justice may require.” They can also suspend the certification process. It does not seem very difficult for a radical individual to run for and win one of these seats. Although it would be difficult for a single rogue judge to operate on his or her own, two judges could cause a lot of damage if they were seated on the same panel.

²¹⁵ 25 P.S. § 3261.

Numerous avenues to recounts and election challenges

Any three qualified voters in an election district can challenge election results, resulting in a full recount. They do not have to allege particular facts substantiating their allegations, they just have to pay a nominal bond.

Additionally, the County Board of Elections can order a recount if it deems fit, with broad discretion on when to issue that order. Conversely, the Secretary of the Commonwealth is only empowered to order a recount if the margin is within the statutory requirement for an automatic recount. This ability for voters and the County Boards to instigate recounts is unlikely to result in a change in election results because the process for counting votes does not allow much discretion, but such a recount would slow down the process of certifying the vote count, undermining confidence in elections and causing uncertainty.

The pre-certification risk-limiting audit is also a new procedure for Pennsylvania this year. Again, it is not likely to change any outcomes, but could slow down the process and create additional pressure on already resource-constrained departments.