

MEMORANDUM

To: Interested Parties
From: Center for American Progress
Date: October 25, 2022
Re: Issues Potentially Affecting the 2022 Midterm Elections

As states begin to administer this year’s general elections, election officials and electoral systems are faced with various potential issues impacting the ability to carry out free and fair elections. This memorandum seeks to outline how to address some of the challenges potentially impacting the 2022 election. It is guidance that may be useful to election workers, state and local officials administering elections, members of the media covering the 2022 election, and other stakeholders.

i. Countering election subversion and potential election certification issues

There are growing signs that individuals who believe in election-related conspiracies—both citizens and some election workers—may try to undermine the electoral process directly. Election administrators should take every possible precaution to guard against these [insider threats](#), including the recommendations below.

Election officials should ensure that elections are certified in as timely a manner as possible. It is critical in each election that boards of canvassers and other local officials process results and certify elections in accordance with the law, and as soon on or after election day as is feasible. Unfortunately, there have been several [recent incidents](#) in which local officials, having bought into baseless election conspiracies, refused to certify election results without any evidence that the results were invalid. Local officials should receive any needed training and resources ahead of an election and be reminded by state officials to certify elections promptly.

Local officials should be reminded of their obligations under law, including any penalties for failing to comply. Most states have laws that penalize failures of election officials to fulfil their responsibilities under the election code. For example, [Michigan’s election law provides](#) misdemeanor penalties if any election official “willfully fail[s] to perform a duty imposed upon that person by this act, or disobey[s] a lawful instruction or order of the secretary of state as chief state election officer.” In an environment where many officials have bought into unfounded election conspiracies, issuing reminders in advance of the election that failure to adequately fulfill certain responsibilities can and will be penalized may be an effective deterrent against efforts to subvert the election.

State officials should be prepared to request help from federal law enforcement. If there are serious problems on or after election day, state officials should be in contact with federal law enforcement, who can augment state resources. In some cases, federal law contains protections that go well beyond state law. For example, a relatively infrequently used section of the Voting Rights Act, [section 11\(a\)](#), provides [civil and criminal penalties](#) for any willful failure to “tabulate, count, and report” a valid vote. That could serve as one of several tools to prevent—and deter—subversion of elections, if federal prosecutors are encouraged to use them.

Officials should vet and deploy poll workers carefully to avoid insider threats. Poll workers serve on [the frontlines of democracy](#), and although most poll workers are responsible and civic-minded, there is an increasing likelihood that some new poll workers [may be inclined to undermine election results](#) that they

have been told to view with suspicion. It is important, therefore, to vet potential poll workers, and to manage polling places with this concern in mind, making sure that extra poll workers are on hand if needed. A recent [report of the Alliance for Securing Democracy](#) contains detailed recommendations for poll worker vetting and management, and above all, strongly recommends that any task involving election systems be conducted by at least two poll workers.

ii. Preventing disruptions and violence at polling places and ensuring safe and orderly vote counting

Concerns continue to develop about the potential for various individuals and organized groups to attempt to intimidate voters and election officials at polling places during active voting periods. These may include individual political instigators attempting to cause ripples of disruption within polling places, organized groups seeking to question the validity of voter qualifications – especially women and people of color, and [hate groups](#) seeking to deter historically marginalized groups from participating in the democratic process. Poll workers serve as the first line of defense to safeguard our elections. However, as has been widely reported, [threats to election workers](#) have continued to occur – particularly in closely contested states such as Arizona, Georgia, Michigan, Pennsylvania, and Nevada. These threats on election day may also come from groups and individuals carrying firearms or other weapons to dissuade voters from casting their ballot. Many of the [state](#) and [federal](#) laws that address threats or harassment of election officials depend on the conduct of the threatening individual, so it is important that election officials and the public are educated on what conduct is prohibited so that it may be properly reported to the authorities.

As FBI director Christopher Wray and others have [made clear](#), most of these threats share a genesis in the fraudulent claims associated with the Big Lie that denied the results of the 2020 election. A disturbing through line connects the efforts to undermine the 2020 election, the January 6th attack on the U.S. Capitol, and the normalization of threats and election-related violence. This danger must be taken seriously in every jurisdiction, and it is important that precautions and public education be employed to prepare for possible disruptions. This [article](#) summarizes some of the recent developments in the threat landscape against officials and workers leading up to Election Day, the key federal and state responses over the last two years, and how a failed comprehensive response has allowed threats to persist.

Election day poll workers and election officials involved in vote counting procedures and post-election processes must receive step-by-step instructions for responding to potential disruptions and ensuring their personal safety is maintained. States and localities should continue to be in close coordination to prepare for potential threats; for instance, in Michigan, [Secretary of State Jocelyn Benson](#) has made \$8 million available to local officials to bolster security and preparedness. The [US Election Assistance Commission](#) has other resources available including a clearinghouse for election officials and election day poll workers that contain proactive steps to maintain security. State and local officials should continue to access de-escalation [trainings](#) and lift-up [de-escalation](#) techniques in their published guidance as many did during the 2020 election. It is also important that poll workers and elections officials receive guidance and training on how to maintain their safety after election day, as some have experienced threats and harassment that stretch for [months](#) beyond the election period in some cases.

Officials should publish usable explainers of state open and concealed carry laws and guidance for what amounts to illegal armed intimidation. While only a handful of states [explicitly ban](#) firearms at polling places, others ban or restrict their possession in or near schools and religious buildings and on government property that often serves as a location for polling places, vote counting centers, or both. To

the extent possible, officials should select secure public facilities that allow them to limit the potential for those that may pose security threats by carrying firearms or other weapons.

Depending on state law, officials may not have the authority to determine who can observe election activities like vote counting, though where possible, officials should consider denying access to those suspected of ill-intent. Officials should do everything possible to ensure public transparency of the counting process, including through live feeds at counting centers and frequent public updates.

Officials should continue their partnership with uniformed on-duty law enforcement at vote counting locations, especially in jurisdictions with broadly permissive public observation rules. As the 2020 vote tabulation process illustrated, law enforcement officials were key to [thwarting potential attacks on the vote counting process](#) and ensuring the safety of election officials as [rowdy and potentially armed crowds](#) gathered at counting centers. It is important that law enforcement stationed at vote counting centers employ de-escalation techniques wherever possible. In addition to the continued coordination to report threatening activities to state and/or federal law enforcement authorities, elections officials should be preparing voters to report such activities to appropriate authorities and/or nonpartisan voter protection hotlines.

Officials should continue to rely on and use the Department of Homeland Security's resources to make security improvements to polling places and election facilities.

iii. Countering Mis and Dis -information

Many election administrators are already familiar with the threats posed by election disinformation. From billboards to radio to social media, bad actors have long attempted to suppress votes among communities of color, sway elections, and undermine election integrity. Russian interference attempts in 2016 and the mainstreaming of the “Big Lie” by extremists in 2020 starkly illustrated the threat.

Heading into 2022, election administrators must again be prepared to earn and defend public trust in the elections process. In contrast to the 2020 cycle, there are arguably fewer unknowns: for example, the public is more accustomed to vote-by-mail, drop boxes, and the extended period of ballot-counting that follows election night. However, as discussed, the known threat has worsened: an unprecedented number of commentators and candidates are advancing false claims about the democratic process and election integrity. This dialogue has created a media environment that is highly charged with false claims and vulnerable to manipulation.

Threats to election integrity are not only about procedure, but perception: public perception that diverges from the reality of well-administered, secure elections is a threat to their legitimacy. Thus, it is more important than ever for election officials to communicate clearly, loudly, and proactively. It is thus imperative that the public hear from government leaders and election administrators not only on participation in and results of elections, but also on the security, integrity, and process of local or state election administration itself. The Center for American Progress supports election administrators in this effort and recommends the following best practices.

Clearly communicate about election processes and security, well in advance of any erroneous claims. Regular, public communication about the security and integrity of the local election process can “pre-bunk” false claims to the contrary. Fact-checks of false claims usually fail to achieve the same level

of distribution and visibility of the false claims they correct. Moreover, priming people with the facts before they encounter a false claim reduces the likelihood they will accept the false claim at face value. Thus, when it comes to combating election disinformation, an ounce of “inoculation” is worth a pound of cure. Visually engaging information provided and promoted directly on the platforms where voters already get their news and information, prior to any specific disinformation narratives emerging, can make communities significantly more resilient to disinformation.

Pay special attention to providing resources in all languages of likely voters, wherever those voters receive their news and information. Special, multi-stakeholder efforts should be made to communicate about election participation, results, and integrity in languages other than English. Because so many election resources are provided in English, some disinformation producers will intentionally target the vacuum of authoritative information in other languages. Election officials have a critical role to play in filling the information voids by providing official resources and results in all the languages spoken in their jurisdiction. As Equis Research notes regarding Spanish disinformation and Latino communities in the U.S., it is not that communities who speak other languages are more “susceptible” to disinformation, but rather, they are [informationally underserved](#). Providing culturally and linguistically appropriate resources in the information channels and community networks of non-English speaking communities is a critical part of mitigating the impact of election disinformation.

Lower the risk of unnecessarily amplifying disinformation by developing a plan ahead of time for whether and when to respond publicly to false claims online. In some cases, attempts to debunk disinformation can inadvertently amplify that disinformation to a wider audience than it reached in the first place. This leaves decision-makers in a tricky spot: at what point is a false claim threatening enough that it merits being publicly addressed? Simply erroneous claims with little reach might be better unaddressed, whereas widespread, highly misleading narratives are more clearly worth addressing. The best way to prepare to answer this question is for communications staff to determine response plans ahead of time. The [Election Protection Anti-Disinformation Working Group](#), based on the work of leading disinformation experts at [GQR](#), recommends assessing the claims on a matrix of “*How likely is this message to cause voter harm?*” by “*How likely is this message to reach voters?*” In assessing the likelihood of harm and the likelihood of gaining a wide reach, they recommend assessing:

- Audience (Is the target audience a group of special concern, such as historically disenfranchised voters or younger voters?);
- Reach (Is the content reaching many people and trending toward a wider audience? Is it from a source with a wide following?);
- Content (Is it likely to suppress the vote? Is it likely to put poll workers at risk?); and
- Engagement (Are many people in your jurisdiction interacting with the content? Are leaders in your community amplifying the disinformation?)

Determining, in advance, a spectrum of responses for those incidents that are low risk (unlikely to cause harm, unlikely to reach voters), medium risk, and high risk (likely to cause harm, likely to reach voters) can better ground the decision of whether and how to respond publicly. Higher risk incidents may demand a public response, stakeholder engagement with trusted messengers and journalists, reporting to national groups or law enforcement, emergency litigation, paid inoculation response ads or messaging, ongoing monitoring, and reporting to social media groups. Lower risk incidents may only require monitoring for escalation and reporting to social media platforms or allied groups, but no public response or further action.

Build contacts with social media company representatives ahead of time to become a trusted flagger that can request the removal of false claims. In the instance that a high-risk disinformation narrative is threatening election administration, requesting removal from a social media platform may be in order. Many platforms have user reporting and flagging tools available to all users. These systems are, generally, more responsive to volume (more reports may get a faster response) but review through the standard process may still take days. Some platforms offer trusted flagger programs, which may expedite the review process for vetted groups on topics for which they run flagger programs. Regardless, reaching out to social media platforms to establish a line of communication prior to a rapid response scenario may greatly aid swifter review and takedown in the case of a high-risk incident.

Continue putting out the facts on election results, process, and security—even and especially after polls have closed. The period after the polls close is a critical window for communicating the efficacy, security, and integrity of the election. From election night through to the certification of votes, bad actors will seize on uncertainty, a lack of results, or procedural confusion to baselessly delegitimize the election, organize disruption of ongoing processes, falsely declare victory or fraud, and otherwise erode the legitimacy of the election process and results. In the 2020 report, [*Results Not Found: Addressing Social Media's Threat to Democratic Legitimacy and Public Safety After Election Day*](#), the Center for American Progress outlined the post-election threats to the 2020 election in detail, up to and including the potential for violence on January 6th. Again for 2022, communicating what to expect on and after election night to voters in advance can help make them more resilient to false claims in the post-election period. Continued public messaging and engagement, as outlined above, throughout this period of uncertainty is essential for communicating success, rebuffing baseless attacks, shoring up voters' trust, and ensuring the continuing legitimacy of democratic process.

iv. Ensuring accessibility for voters

Accessibility in elections continues to be one of the largest challenges facing American democracy and should be thought of as a wide range of factors including but not limited to: accessibility for voters with disabilities (physical, mental, developmental disabilities), for elderly voters, voters with limited proficiency in English, and voters who have historically faced barriers to voting (such as voters of color, voters living on reservations, and even students).

Since the 2020 election, we've seen states [diverge](#) even more from each other in terms of accessibility. Many states passed laws to roll back accessibility including by banning [curbside](#) (drive-through) voting, [limiting assistance](#) to voters at the polls and for completing mail-in ballots, restricting [ballot collection](#) procedures, and tightening voter ID laws to [exclude student IDs](#). Additionally, many of these voters will face another major challenge for this election compared to the 2020 general election, because nearly all states that made exceptions during the pandemic allowing all voters to cast a ballot by mail, did not make those changes permanent. And while voters with disabilities do qualify for voting by mail, many of the aforementioned groups of voters do not.

Workers and officials should develop accessibility [checklists](#) to ensure that accessible voting equipment at all polling locations is set up and operational by the time voting begins, as often voters still have to self-identify a disability and wait for election workers to set up equipment for them. With the resources and time available, workers and officials must also do everything in their power to ensure that designated voting locations are physically accessible - including the outside of buildings and parking lots.

Workers and officials must receive training in assisting and checking in voters with disabilities, ensuring voter privacy, and laws and procedures for assisting both voters with disabilities and voters with limited proficiency in English. They should also prepare and be ready to provide [written](#)

[resources](#) on the check-in and voting process, as well as inform voters at check-in about their right to assistance and accessible voting equipment.

Officials should launch or continue public communication campaigns to ensure all voters understand eligibility for voting by mail and requesting mail-in ballots as well as voter identification laws, especially in states where laws have changed since the 2020 election cycle. Despite some states trying to [restrict officials' discretion](#) over voting by mail practices, in jurisdictions where officials have maintained discretion over mail-in voting practices, officials should increase efforts to proactively provide ballot applications and informational materials on voting by mail.

Officials should consider adopting additional accessible options in jurisdictions where permissible for practices such as curbside voting, pop-up voting locations prior to election day that can offer both voters in very rural or urban jurisdictions additional voting options, selective overnight voting for shift workers, and ensure that drop boxes are placed so that they can be available 24/7.

Officials should continue to work with tribal governments to improve accessibility prior to Election Day including providing accessible and translated information on voting options, designating additional ballot pick off and drop off locations for mail-in ballots where possible, and providing accurate and comprehensive information on permissible ballot collection procedures. Voting rights organizations should continue to develop procedures for how to best assist voters while complying with state laws restricting ballot collection given recently enacted laws and [litigation](#).

Universities, colleges, and community colleges should distribute information on voting in and around campus as well as information on voting by mail and voter registration where possible. Student organizations should also provide information on how to vote by mail, same-day voter registration, early voting, information on any specific voting requirements affecting students, and organize ballot collection efforts where permissible.

v. **Navigating new restrictive voting and election-related laws**

Free and fair elections are the cornerstone of democracy. Yet, since the November 2020 election, [21 states have passed](#) harmful new laws making it harder for people to vote or easier for partisan officials to sabotage valid elections with which they disagree. Most of these new laws, often in so-called “battleground” states, are rooted in the Big Lie of widespread election fraud. First, [many of these new laws](#) are aimed at suppressing voters, especially people of color and other marginalized communities. For example, some states have substantially curtailed vote-by-mail and drop box options, shortened voting hours, made it easier to remove valid voters from voting rolls, eliminated Election Day registration, and even outlawed volunteers from giving food and water to voters standing in long lines. Second, [many of these new laws](#) make it far easier for partisan officials to sabotage valid election results. For example, some states have given more authority to partisan legislatures to intervene in proper election administration, reduced the authority of non-partisan election officials and criminalized some of these officials' potential actions, and empowered partisan poll watchers to interfere in unbiased election administration.

With only days to go before Election Day, there is little that can be done to change new restrictive state laws, although some court challenges remain ongoing, which could affect the implementation of some laws. Until Congress passes comprehensive legislation to protect free and fair elections, lawmakers, election officials, and other stakeholders must navigate new restrictions and help all eligible Americans exercise their right to vote to the maximum extent possible.

Secretaries of state – or whoever is designated as the top election official in a state – must take active steps within their lawful authority to ensure a free and fair election. As a baseline matter, secretaries of state should not yield to inappropriate political pressures, as they are the guardians of free and fair elections. Instead, they should actively push back against election-related disinformation and implement voting laws in ways that expand voting access. Secretaries of state must continue overseeing broad efforts to educate and prepare voters about the full range of voting options and changes in longstanding rules, and then work with local election officials to ensure that voters are updated in real time about changes to voting rules (especially resulting from court actions) or changes in polling locations. Where state laws allow it, these officials must give voters easy access to same-day voter registration during the early voting period and on Election Day. Secretaries of state must also continue to work closely with local election officials to guarantee that polling places are secure and accessible, voting equipment properly functions, election workers can do their jobs safely and effectively, and ballot tracking systems are fully functional. Finally, it is imperative that secretaries of state determine before Election Day the full scope of their election-related authorities and be prepared to be contacted by election officials asking for time-sensitive assistance; ideally, they should develop and disseminate plans clearly delineating what situations trigger emergency actions.

Local election administrators, who carry out the nuts and bolts of elections, must use the full range of their legal authority to administer this election in a voter-friendly manner. Just as with secretaries of state, local election officials play crucial roles in educating and preparing voters and keeping them updated in real time about changes to voting rules or polling locations. One core component of their job is to ensure all voting equipment is fully tested and ready for use and that there are enough election employees and poll workers to staff every part of the election process. With Covid-19 still a threat to people’s health, these local officials must provide safe polling places and sufficient protective gear for voters and workers who request it. Local election officials must also take the following steps, among many others: use the maximum time under the law permitted for early voting days and voting hours; allow voters reasonable opportunities to fix mail ballot errors; coordinate and report threats and violence to state and/or federal law enforcement authorities; and ensure polling places post clear signage with relevant instructions (sometime in multiple languages) about how voters can report concerns. As discussed above, during a time of rampant election-related disinformation, local officials should also actively brief their communities and the media, in order to fight back against falsehoods that result in voter disenfranchisement.

Private organizations and stakeholders, often working with election officials, must help educate voters and facilitate their participation in this election. Especially considering new voter suppression laws, private, non-partisan organizations can play a key role in educating and preparing voters to participate as fully as possible in this election. This includes instructing voters how to report suppressive or threatening activity to election authorities, law enforcement authorities, and/or nonpartisan voter protection hotlines. Importantly, these organizations should be fully prepared to assist voters in filing emergency lawsuits to extend voting hours or take other emergency measures if polling places are disrupted or long lines prevent timely voting.

The media should report about the success of election administration but also thoroughly investigate and report allegations of election-related malfeasance, in a timely manner. Free and fair elections are undergoing an extreme stress test, and this will be the first general election to occur under the election laws that states passed since 2020. Reporters located in states with new restrictive laws should cover the 2022 election with these voter suppression and election subversion provisions in mind, including how these laws may unduly hamper the right to vote in long-marginalized communities or

thwart the will of the people to duly choose their desired leaders. And reporters must remember that merely because turnout increased in some places during this year's primary elections – and may increase during the general election – this does *not* disprove the existence of new barriers to voting. In many cases, it may simply mean that voter education and mobilization efforts sufficiently overcame some suppressive hurdles.

vi. Recruiting and retaining sufficient numbers of poll workers

Poll workers are [vital for this upcoming election](#). These individuals – who temporarily staff polling stations and perform other election administration duties, often voluntarily – will help this election run smoothly and give their communities a meaningful voice in our democratic system, even in the face of new anti-voter laws. City or county offices, staffed by permanent employees, typically oversee the administration of elections, but they rely on temporary poll workers to assist with a full range of tasks, which can include setting up and staffing polling locations, checking in voters, assisting with voting machines, answering call center phones, and processing or counting ballots. Poll workers must perform their assignments impartially and without disrupting election administration.

Ideally, stakeholders have recruited enough poll workers to reduce the chances of longer lines to vote, longer wait times, and the closing of insufficiently staffed polling places. States set their own rules for poll worker qualifications, including residency and age. Some jurisdictions pay poll workers, and most jurisdictions provide necessary pre-Election Day training. Retaining a stable cadre of diverse poll workers is important not only for this election but for future elections.

Election officials and community stakeholders must do everything they can to recruit and retain poll workers for this election. In 2020, CAP [published a report](#) detailing a wide range of innovative methods for interested parties to recruit and retain a diverse range of poll workers, including persons who are young, tech-savvy, or bilingual. For example, election officials may need to make last-minute decisions to offer extra pay to poll workers, provide paid leave for city workers to serve as poll workers, or activate back-up poll workers. Election officials must devote resources to fully train poll workers to handle their duties, especially at a time when new laws are being implemented and will cause voter confusion. Training must include how to deal with third parties or partisan poll watchers who try to intimidate voters – and how to report disturbances to appropriate authorities.

Election officials must protect the health and safety of poll workers. Some poll workers, especially elderly, disabled, and immunocompromised persons, may face continued risks to working at crowded polling places while the Covid-19 virus still circulates. Therefore, election officials should have adequate amounts of personal protective equipment, such as masks and gloves, for poll workers who request them.

Communities must herald poll workers. Poll workers are champions of democracy who are committed to their country and communities. Election officials, the media, private organizations, and other stakeholders should publicly herald poll workers for the vital function they play, which also helps future recruitment and retention efforts.