

November 3, 2020 Election Night Guide

How Many People Have Already Voted?

In Cuyahoga County, if you already voted by mail or dropped your mail ballot off at the Board of Elections, you can track your ballot here to make sure it will be counted: <https://boe.cuyahogacounty.gov/en-US/track-my-ballot.aspx>

Nationally, more than 93 million people have already voted in the 2020 election, nearly twice as many as voted early in 2016. Those who have voted so far represent about 67% of the total 2016 turnout of 139 million.

- In **Florida**, 8.29 million people have already voted; in 2016, a total of 9.4 million people voted.
- In **Georgia**, 3.89 million have already voted; in 2016, a total of 4.11 million voted.
- In **North Carolina**, 4.35 million have already voted; in 2017 a total of 4.74 million voted.
- In **Pennsylvania**, 2.3 million have voted; in 2016, 6.17 million voted.
- **In Ohio**, 2.2 million voters have cast their ballots, two-and-half times the voters that had cast their ballots by this same time in 2016. In 2016, 5.6 million total votes were cast, for a 71% turnout.

What is the Expected Presidential Voter Turnout in 2020?

Most election experts predict that 150-160 million votes will be cast in 2020. If turnout this year gets to 65% of the nation's voting population, that would mean roughly 150 million ballots are cast. In 2016, by comparison, 139 million votes were cast – a turnout of 60.1% of the voting age population.

The modern standard for presidential turnout is 1908, when 65.7% of eligible voters cast a ballot in the race between William Howard Taft and William Jennings Bryan. Turnout declined steadily for the next 50 years -- although it dipped below 50% of eligible voters only twice: in 1920 and 1924.

In 1960, turnout surged back to near-record levels with 63.8% of eligible voters turning out to choose between John F. Kennedy and Richard Nixon. But after 1960, turnout in presidential elections continued to slide. In 1988, fewer than 53% of eligible voters actually voted, and in the 2000 election, the number was 54.2%.

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Barack Obama's candidacy in 2008 led to the highest voter participation rate in recent memory -- 61.6% of eligible voters -- but that number dipped to 58.6% for his 2012 reelection race.

When Will We Know the Results?

[Twenty-three](#) states have expanded mail, absentee or early voting, meaning [84 percent](#) of American voters now have the option to vote by mail.

[Different states start processing ballots](#) they receive by mail at different times, which means they will count and report those results at different dates.

Only eight states expect to have at least 98 percent of unofficial results reported by noon the day after the election. Twenty-two states and the District of Columbia allow postmarked ballots to arrive after Election Day, so the timing will depend on when voters return them.

- **Pennsylvania** won't start counting mail-in votes until Election Day, and Pennsylvania will keep counting votes received three days after Election Day as long as they were sent in time. Depending on how many voters cast their ballots this way, tallying the vote may take time.
- **Michigan** won't start counting votes until 10 hours before Election Day, and the state's Secretary of State is already preparing the public for a delayed result.
- **Arizona and Florida** begin processing ballots 14 and 22 days before the election, which may put them in a better position to count ballots reasonably promptly.
- **North Carolina** counts absentee ballots as soon as they're received, but the deadline for receiving absentee votes has been extended to Nov. 12.
- **Wisconsin** ballots will likely be counted by Wednesday morning.
- **Nevada** is mailing all its voters ballots, resulting likely in a slow count.
- **Georgia and Texas** should tally most ballots on Nov. 3, but counting may stretch into Wednesday or Thursday.

Results are never official until final certification, which occurs in each state in the weeks following the election.

What are “Provisional Ballots and Naked Ballots?”

The increase in mail voting could also lead to more “*provisional ballots*” cast, increasing the number of ballots counted later. In many states, including Ohio, voters who have their eligibility to vote questioned at the polls may cast a provisional ballot, which is set aside and counted only when eligibility is later confirmed. A provisional ballot is used to record a vote if a voter's eligibility is in question and the voter would otherwise not be permitted to vote at his or her polling place. The content of a provisional ballot is no different from a regular ballot, but it is cast "provisionally" until election officials can verify the voter's eligibility to vote in the particular precinct at that election. Some voters in at least 22 states are required to vote provisionally if they initially request a mail ballot but decide to vote in person instead (other states have different methods to prevent voting twice).

“*Naked ballots*” are essentially completed ballots that have been placed directly into a return envelope and are missing a secrecy envelope. Mail-in ballots in Pennsylvania come with three components: the ballot that you fill-out by selecting candidates, the secrecy envelope that you place your ballot in, and the declaration envelope which you will sign after placing your secrecy-envelope in the enclosed ballot. “Naked ballots” have garnered attention because the Pennsylvania Supreme Court recently declared that ballots returned without a secrecy envelope are invalid, and therefore counties will reject them. The naked ballot issue could lead to as many as 100,000 discarded ballots.

How Long Will the Vote Count Take in Ohio?

In Ohio, election results will begin coming in shortly after polls close at 7:30 p.m. Absentee votes are already being processed and should be among the first to be counted. This quick reporting will set Ohio apart from other states in the Midwest. Ohio’s largest counties – including Cuyahoga -will be required to report votes every 15 minutes. Other counties will report every half hour.

Absentee votes will be counted if they arrive within 10 days after Election Day, as long as they’re postmarked by Nov. 2. That’s why the Ohio Secretary of State is going to report outstanding absentees on election night.

More than 8 million people have registered to vote in Ohio, the second highest on record since 2008. About 2.97 million early ballots were requested, and about 2.59 million have been returned. That exceeds Ohio’s early-voting record, which was the 1.89 million votes cast before Election Day in 2016.

Final, official vote totals won’t be certified and reported until Nov. 18.

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Why Don't We Pay Attention on Election Night to the Results in Every State?

The reason is that we do not elect our President by a direct national popular vote. Rather, [Article II, Section 1 of the U.S. Constitution](#) provides that the Electoral College is the formal body which elects the President and Vice President of the United States.

As a practical matter, for the purpose of the Electoral College, we are the United States of America.

Under the current Electoral College system, the winner takes all. That means the winner in Ohio gets all of Ohio's electoral votes whether he wins by one vote or a million votes. If you live in a state where you are in the distinct political minority, the vote in your state is reliably clear in advance, so there is no reason for a presidential candidate to pay much of any attention to your state. This forces presidential candidates to focus their efforts on about a dozen "swing" battleground states where the election can go either way every four years. Every four years, the major parties effectively write off about 38 states because they are almost certain to go for the Republican or Democratic candidate.

In 2012 all of the 253 general-election campaign events were in just 12 states, and two-thirds were in just 4 states (Ohio, Florida, Virginia, and Iowa). Thirty-eight states were completely ignored.

Similarly, in 2016, almost all campaign events (94%) were in 12 states. Two-thirds of the events (273 of 399) were in just 6 states (OH, FL, VA, NC, PA, MI). The key to President Trump's 2016 win came in just three states — Pennsylvania, Wisconsin, and Michigan — where he beat Hillary Clinton by a combined total of just under 78,000 votes out of more than 13 million cast. In 2000, George W. Bush won the presidency by winning Florida but just 537 votes.

This year, 12 states have received 97% of the general-election campaign events (158 of 163) by the major-party presidential and vice-presidential candidates during the first 9 weeks of the 2020 campaign (August 28 to October 29, 2020). 8 states have received 85% of the events (139 of 163), namely **Florida, Pennsylvania, Michigan, North Carolina, Wisconsin, Ohio, Nevada, and Arizona.**

I recently participated in a national virtual debate about whether we should abolish the Electoral College. I think we should abolish it, but regardless of your views, the Electoral College will determine who is our next President. *See here:*

[Braver Angels/City Club Electoral College Debate](#).

What are the 2020 Swing Battleground States?

Most political analysts have identified 13 states as the 2020 swing states. I have boldfaced the 8 states most likely to determine the outcome.

- 1. Florida (29 electoral votes)**
- 2. Georgia (16)**
3. Iowa (6)
- 4. North Carolina (15)**
- 5. Arizona (11)**
- 6. Michigan (16)**
7. Minnesota (10)
8. Nevada (6)
9. New Hampshire (4)
- 10. Ohio (18)**
- 11. Pennsylvania (20)**
12. Texas (38)
- 13. Wisconsin (10)**

Is Ohio Still a Swing State?

Yes, Ohio is still among the top ten swing states, but when President Trump won Ohio in 2016 by 8 points, Ohio dropped from its historical position as the top swing state in the country. Nonetheless, no state has been a swing state more often than Ohio. Ohio has voted with the national winner in presidential elections 14 straight times, starting with the 1964 election of Democrat Lyndon Johnson over Republican Barry Goldwater.

Florida is a distant second, picking the winner in each of the last six presidential elections. Iowa has done so in four straight elections. In 2016, Michigan, Pennsylvania and Wisconsin were the key swing states. This year, it is predicted by most that Pennsylvania and Florida will be the top swing states.

No Republican has ever won the presidency without winning Ohio, and since the advent of the modern two-party system, only two Democrats have ever won the presidency without winning Ohio: Grover Cleveland in 1884/1892 and John F. Kennedy in 1960. Since 1944, Ohioans have sided with the losing candidate only once – opting for Nixon over Kennedy in 1960. Ohio has voted 7 times for the Republican nominee, and 5 times for the Democratic nominee, in the past dozen presidential elections.

In 2000, President George W. Bush carried Ohio by more than 118,000 votes on his way to defeating Democrat Al Gore. Four years later, Ohio took center stage nationally as President Bush's victory in Ohio cinched his electoral college win over Democratic candidate John Kerry by a narrow 2% margin. President Barack Obama won Ohio in 2008 by earning more than 2.9 million votes, which stands as the highest vote total for a presidential candidate in the state in the past five elections. Obama won here again in

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2012, albeit with 112,000 less votes than the previous election. His opponent, Republican Mitt Romney, received 2.66 million votes. President Donald Trump won with 2.84 million votes in 2016, defeating Hillary Clinton by more than 446,000 votes.

Ohio has been losing population (relative to the country as a whole) and we have lost about 1/3 of our electoral vote clout since the 1960s. We lost two electoral votes after the 2010 Census and we are on track to lose one more after the 2020 presidential election.

How Has Cuyahoga County Voted in Past Presidential Elections?

2016

Registered Voters - 891,568
Ballots cast - 617,356
Hillary Clinton- 398,276 (65.41%)
Donald Trump- 184,212 (30.25 %)

2012

Registered Voters - 927,996
Ballots Cast - 650,437
Barack Obama- 447,273 (69.32%)
Mitt Romney- 190,660 (29.55%)

What Role Will the Courts Play in the Election?

No matter the outcome, it is almost certain that there will be litigation in the courts post-election. Watch the 2020 Election Litigation Tracker here:

<https://www.scotusblog.com/election-litigation/>

Lawyers have already filed [more than 300 lawsuits](#), across 44 states, over issues related to pandemic voting. The most important cases are in the battleground states on which the presidential election or Senate control could hinge.

Here are some recent developments:

Pennsylvania: The U.S. Supreme Court recently refused to expedite a review of the Pennsylvania Supreme Court's decision to allow a three-day extension of the deadline for mail-in ballots.

North Carolina: Republicans have asked the Supreme Court to block the state's board of elections from extending the deadline to receive mail ballots. The board has said ballots can arrive until Nov. 12, as long as they were mailed by Election Day.

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Wisconsin: The Wisconsin Supreme Court ruled that ballots must arrive by 8 p.m. on Election Day to count. (A lower-court ruling would have allowed state officials to count any mailed ballots postmarked by Election Day and received up to six days later.)

Nevada: The Trump campaign has sued to stop the counting of absentee ballots in the Las Vegas area, hoping to challenge the signatures on many ballots.

Michigan: A judge recently overturned an order by the Secretary of State and ruled that people could carry unconcealed guns at polling places on Election Day.

Could this Election go Beyond November?

December 8 is known as the “safe harbor” deadline for appointing the 538 men and women who make up the Electoral College. The electors do not meet until six days later, December 14, but each state must appoint them by the safe-harbor date to guarantee that Congress will accept their credentials. The controlling statute says that if “any controversy or contest” remains after that, then Congress will decide which electors, if any, may cast the state’s ballots for president.

As long as the states collectively nominate 538 electors that represent the popular result, with one candidate securing 270 electoral votes, the suspense should end here.

If, on the other hand, there are competing claims about who won a state — and competing slates of electors — things could get complicated.

On December 14, the Electoral College votes. This is usually a formality. But it’s possible that state officials of different parties will submit different slates of electors. That would replicate what happened in the disputed Hayes-Tilden presidential election of 1876, when rival slates of electors sent to Congress their conflicting submissions, each claiming authority under state law.

Then, on January 6, 2021, the sitting Vice President announces those votes to Congress, certifies the result, and names the President-Elect and vice president-Elect.

If the election is still disputed at this point, with one or more states submitting conflicting electoral votes, the outcome is up

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to the new, just-elected Congress, but with Vice President Pence as the presiding officer.

If neither party has a majority in both houses of Congress, we could end up in a difficult situation. It is possible to end up in a situation where both candidates have a plausible claim to the presidency.