

# ***Bost v. Illinois*: Candidates’ right to sue over election laws**

## **Implications for local election officials**

February 2026

### **At a glance**

Last month, the U.S. Supreme Court [ruled](#) that candidates have the right to sue (“standing”) in federal court over state election rules they believe are unlawful, without having to prove they’ve been harmed.

**Why this matters:** This decision could change when election lawsuits are filed. While it may lead to more litigation overall, more challenges may come earlier in the election cycle rather than the week of the election.

#### **What this means for local election officials:**

- **Lawsuits earlier in the election cycle:** Challenges to state and local election practices related to ballot counting may be filed well before Election Day.
- **Potentially fewer last-minute challenges and disruptions:** Earlier filings may decrease the number of last-minute court orders that disrupt election administration.
- **Legal defenses to late challenges may be stronger:** If lawsuits are filed close to Election Day or soon after, attorneys defending challenged election laws can rely on the *Bost* decision’s emphasis on the *Purcell* doctrine, which discourages federal courts from changing election rules just before an election. The decision also could strengthen a laches defense, which applies when a plaintiff waits too long to sue, resulting in a delay that would unfairly harm the defendants.

## Deeper dive

On January 14, 2026, the Supreme Court [ruled](#) in a 7-2 opinion authored by Chief Justice John Roberts that candidates for office inherently have “standing to challenge the rules that govern the counting of votes in [their] election” in federal court.<sup>1</sup> The candidate does not need to show any “substantial risk that a rule will cause them to lose the election, prevent them from achieving a legally significant vote threshold, or damage their reputation or finances” in order to establish standing.<sup>2</sup> The upshot is that by loosening federal court standing requirements for candidates, this ruling will possibly *increase* litigation over the validity of state laws governing ballot counting in federal court — but perhaps *decrease* the amount of such litigation that is filed near or during an election.

## The decision

A plaintiff must demonstrate that they have a right to litigate their problem in court—this right to litigate is called “standing.” To demonstrate standing, they must show that they have been or will soon be injured by the conduct that they are challenging in the lawsuit, and that the court can likely help resolve the problem. There are some longstanding categories of injuries that are sufficient to show standing including, for example, being forced to spend money.

In this case, a candidate for office and two prospective presidential electors attempted to sue Illinois over the state law that allows mail-in ballots to be counted if they are postmarked by Election Day and arrive at the relevant elections office within two weeks, claiming that the grace period violates federal law governing election administration.<sup>3</sup> Rather than issuing an opinion on the ballot receipt law, the District Court and Circuit Court both found that the plaintiffs did not have standing to sue. The Circuit Court noted that Candidate Bost had won his last election by 75%, any risk to re-election would be speculative until ballots were counted, and that money spent monitoring the polls because of this issue would be voluntary.<sup>4</sup>

The Supreme Court disagreed with the District Court and Circuit Court, finding that candidates for office have standing to challenge election rules concerning how ballots are counted in their election, because they can be injured simply by having to compete with election rules that they believe are unlawful. Or, as Justice Roberts put it, “Win or lose, candidates suffer when the process departs from the law.”<sup>5</sup>

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<sup>1</sup> *Bost v. Illinois State Bd. of Elections*, 607 U.S. ----, 2026 WL 96707, at \*6 (Jan. 14, 2026).

<sup>2</sup> *Id.* at \*4.

<sup>3</sup> *Id.* at \*2.

<sup>4</sup> *Id.* at \*3.

<sup>5</sup> *Id.* at \*3.

# What it means for local election officials

**Local election officials can likely expect more federal litigation about state laws governing how ballots are counted.** By creating this blanket standing rule, it will become easier for candidates to sue earlier in an election cycle to challenge these laws, including laws that are aimed at ensuring that there are fewer barriers to counting ballots. Candidates will not need to show that counting or not counting a certain kind of ballot could result in losing an election, for example, something that is difficult to allege until ballots are being counted.

On the other hand, by allowing candidates to initiate litigation before having to demonstrate that the targeted election process creates a specific injury, it may be easier for states and local governments to ward off federal lawsuits that are brought on the eve of an election or right after the election. There are already two defenses against such litigation: laches and the *Purcell* principle.

- Generally speaking, “**laches**” is a defense that the plaintiffs’ delay in bringing the case was unreasonable and could be unfair to the defendant.
- The ***Purcell* principle** is a doctrine that counsels federal courts against changing the rules of elections at the last minute.<sup>6</sup>

By opening up the field so that candidates may sue before their victory is at risk or before they expend additional resources because of a particular state election law, courts may be more likely to find that such claims are barred by laches. And in the *Bost* opinion itself, Chief Justice Roberts invoked *Purcell* and emphasized the “dire” consequences of court intervention after ballots have been counted.<sup>7</sup> An attorney defending a local jurisdiction’s enforcement of the state law could have an easier time getting a dismissal early in a case that is filed right before or after an election, and litigants may think twice about filing near-election lawsuits at all.

**The bottom line is that the *Bost* decision may increase the amount of litigation challenging state election laws, but decrease such litigation close to the election itself.**

*Note: The Supreme Court will issue a separate opinion in [Watson v. RNC](#), the ongoing challenge to a Mississippi law that requires mail ballots sent by Election Day to be counted if they arrive within a few days after Election Day. PRP filed a [brief](#) on behalf of local election officials supporting those grace periods.*

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<sup>6</sup> *Purcell v. Gonzalez*, 549 U. S. 1, 4–5 (2006) (per curiam); see also *Republican National Committee v. Democratic National Committee*, 589 U. S. 423, 424 (2020) (per curiam) (“This Court has repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an election.”).

<sup>7</sup> *Bost*, No. 24-568, 2026 WL 96707, at \*4.

## Get support

Public Rights Project's **Election Protection Hub** offers direct legal support, training, and technical assistance to local elections officials across the country.

We have additional resources on near-election litigation. If you are an attorney and would like to review legal research on this topic, please reach out to us: [elections@publicrightsproject.org](mailto:elections@publicrightsproject.org)