



The Electoral College

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What is the Electoral College?

The Electoral College is how the United States selects the next President and Vice President. Voters do not directly elect the President or Vice President. Instead, voters vote for their preferred President and Vice President pair. Electors who have pledged to support those candidates vote for President and Vice President.

Wait, what? Voters don't elect the President?

No, not really. The 538 electors do from the states do.

Then how do we select a new President? Why that way?

The answer is long and complicated. Let's start with an easier question: How did the Framers originally envision the Electoral College?

Okay, how did the Framers originally set up the Electoral College? Why did they choose this particularly system?

We have to go back to hundreds of years ago. After America won independence from Great Britain, delegates from each of the newly independent thirteen states held the Constitutional Convention in 1787. They considered several methods of choosing the President. These methods included selection by Congress, by state legislatures, and by direct popular vote, and a few other methods. Convention delegates, however, were not satisfied with these options. In part, they argued whether the President should represent the States or should represent the People.

The Framers disliked the idea of Congress electing the President, because it might invite political bargaining, corruption, and unseemly politics. It would also upset the checks and balances between the legislative and executive branches.

The Framers disliked the idea of state legislatures choosing the President, because candidates might become too beholden to state legislatures and erode federal power. They

previously had problems with a weak federal government under the Articles of Confederation, so they wanted to avoid repeating the same mistake.

Some of the Framers had a grave mistrust of political parties and of direct democracy. They also worried people would lack information about candidates, particularly about candidates from other states. It would be difficult, if not nearly impossible, to run a nationwide campaign through all the states in those days, since it was just horses and printing presses. The Framers also feared that people would only choose the candidates from their home states.

They finally came to a compromise and combination of these systems, what we call the Electoral College, though the phrase “Electoral College” is not in the Constitution. In theory, the most informed individuals from each state would select a President based on the candidate’s merit alone, regardless of political party or home state. The electors would have independent judgment and not be bound to vote for a particular party or candidate.

Article Two of the Constitution specifies that each state must appoint electors. Each state receives two electors automatically, plus additional electors based on population size. That means even the smallest state receives at least three electors. Then these electors would gather in their own states to vote. They did not meet in a large conference. So, for example, the electors from Minnesota might never meet the electors from Texas.

They would select the President and Vice President on behalf of the states. Each elector received two votes: one to go to anyone, and another to go to someone who was not from their own state. The person with the majority of electoral votes became President. Whoever gained the next-greatest amount of electoral votes became Vice President. So the President and Vice President ran in the same race: first place went to the President and second place went to the Vice President.

How has the Electoral College changed since 1787?

The Twelfth Amendment

After a few election cycles, two political parties formed. These two parties offered joint tickets. A joint ticket is a partisan vote for both a President and Vice President together. The electors of each party would manipulate their votes to assure that their two candidates won President and Vice-President jointly, forgoing the original concept that the second place candidate, usually of the political party opposite of the first place candidate, would win the Vice Presidency. This eventually resulted in a tie between Thomas Jefferson and Aaron Burr. The House of Representatives eventually broke this tie after 36 tries, lots of negotiations, and unsavory political dealings.

To avoid that kind of mess in the future, the states ratified the Constitution in September 1804 with the Twelfth Amendment. The Twelfth Amendment kept the electors and Electoral College, but vastly changed the voting process for the President and Vice

President. Now, rather than cast two votes for President, each elector must cast one vote for President and a separate vote for Vice President. The President and Vice President no longer are in the same race.

The Twenty-Third Amendment

The states ratified the Twenty-Third Amendment in March 1961. It grants the District of Columbia the number of electors as the smallest state, despite not being a sovereign state. This was a compromise to allow the District some representation in selecting the President and Vice President, but without granting the District full statehood.

States' Laws about Electors

Each state's legislature chooses how to select its electors. The states' methods of selecting electors over the years have also changed greatly. At first, some state legislatures chose electors themselves. Other states choose direct popular vote by Congressional district or at large. Some adopted a hybrid method.

Today, all state legislatures have chosen democratic vote to be the method for appointing electors. Party committees or the presidential campaign committees nominate the electors to each head election official in each state, usually the Secretary of State. The electors who have pledged to vote for the winning President and Vice President joint ticket become the electors for the state in the Electoral College.

Most states have chosen a "winner-take-all" approach. This approach means if that presidential candidate wins a plurality of votes in the general election, that candidate wins *all* of the state's electors. A plurality is winning more votes than any other candidate, but that does not necessarily mean a majority of the votes. For example, if three candidates won 40%, 35%, and 25% of the votes respectively, the candidate with 40% of the votes would win the state's electors.

Maine and Nebraska do not use the winner-take-all approach. They instead use a proportional delegation of electors. They apportion their electors by each congressional district. This means that electors from different congressional districts might choose different presidential candidates.

In addition to changes in selection of electors, some states have also adopted faithless elector laws. These laws mean that if a person becomes an elector, they *must* vote for their pledged President-Vice President candidate pair as they had promised. In some states, faithless electors face criminal penalties. These laws prevent electors from usurping the preference of the voters; however, these laws also prevent the electors from using independent judgment as originally intended by the Framers.

That is a lot of history to take in. Can you remind me what the Electoral College looks like today after all those changes?

Each state gets the number of electors equal to the number of Senators and Representatives it has in Congress. Thus, each state gets two electors automatically. Each state also gets additional electors based on population, one elector for approximately every 700,000 residents, with a minimum of at least one additional elector. For example, Wyoming's census count in 2010 was 563,767, so it has three electors, the smallest number possible. Minnesota had 5,303,925 residents in 2010, so it has ten electors. And California, which had 37,254,503 residents in 2010, has 55 electors, the largest number out of all the states. The District of Columbia also gets three electors. There are 538 electors total.

Voters from each state vote for a President and Vice President. The electors who pledged for the most popular candidates in the state (or Congressional district, if from Nebraska or Maine) then vote as electors for that President and Vice President in separate votes. The candidate from each race (President and Vice President) with at least 270 electoral votes wins the election. In modern practice, however, electors basically vote for a partisan joint ticket for President and Vice President, e.g., Trump/Pence or Hillary/Kaine.

What are the practical effects of the current Electoral College system?

Favors states with large rural areas or low populations

Because every state receives at least two electors regardless of population size, voters in smaller states receive some additional power when translated into votes at the Electoral College. For example, if the United States used a national popular vote, each person's vote would weigh the same. In practice, due to the Electoral College, each person's vote "weighs" differently. A person's vote in Wyoming, for example, weighs 3 times more than their vote would weigh under a national popular vote. A person's vote in Minnesota weighs 1.08 times as much than it would under national popular vote. And a person's vote in California weighs .85 times as much.

Favors white, conservative, Christian voters

Rural and less populous states statistically tend to be mostly white, conservative, Christian voters. Because those states receive favor under the Electoral College, the preferences of white, conservative, Christian voters receive some advantage in presidential elections.

Requires geographic distribution of popular support to win

The winner-take-all system and Electoral College require candidates to seek support across several, entire states, rather than focus on a few metropolitan areas. Under a national popular vote, a candidate could win voters only in densely populated cities and ignore rural areas. Under the current system, however, candidates must win support from many geographically distributed areas to win the Electoral College.

Promotes a two-party system and discourages third parties

Due to the methods of voting at the state level, it is extremely difficult for a third-party candidate to win *any* electoral votes, let alone enough to win the presidency. Voting for a third-party candidate is sometimes seen as a “wasted” vote. The same problem happens at the Electoral College level as well; if an elector votes for a third-party candidate, one might consider a “wasted” vote.

Emphasizes federalism and depreciates democracy

The winner of the popular vote at the national level does not necessarily win the Electoral College. This has happened only five times: 1824, 1876, 1888, 2000, and now 2016. Many people may feel frustrated that the people’s favored candidate did not win the election. The current system emphasizes federalism and representation of the states, while it depreciates direct democracy and representation of the people.

Allows electors to usurp voters’ choice with independent judgment

Without faithless elector laws, electors are free to select whomever they wish in the Electoral College. This means that an elector might choose a candidate at the last moment, despite a state’s clear preference for a different candidate. From 1787 through 2015, there have been only 157 faithless electors. None have been prosecuted.

Precludes nation-wide recounts

Because voters choose electors at the state level, recounts need to happen only at the state level. For example, in 2000, the presidential election depended on a recount only of Florida. Under a national popular vote, however, a recount process might require a recount of the *entire nation*. This would be very difficult.

Forces candidates to ignore partisan safe states and to focus primarily on populous swing states

Due to limitations on time, energy, and money, candidates focus their campaigns where they can be most effective on winning the Electoral College. Republican presidential candidates do not campaign in California, a safe Democratic state, because they would have almost no chance of winning the plurality of votes. For the same reason, Democratic presidential candidates do not often campaign in deeply Republican Texas. On the other hand, Ohio

and Florida are swing states that are worth many electoral votes. They receive a large amount of attention during presidential campaigns.

Discourages people from voting due to these effects

For example, a person might not vote in California because their vote does not “weigh” as much as a person’s vote in Wyoming. Or a Democrat in Texas might not vote because they know that the Republican candidate will win the state. Others might think that the election seems unfair because only swing states or electors’ votes really matter. These problems discourage people from voting not only in the presidential elections, but also possibly from voting at all, even in down-ballot elections.

What are some proposed alternatives to the current system?

There are many proposals, but two tend to receive the most attention these days.

Proportionally Distributed Electors

The first proposal is to replace the winner-take-all approach with proportional distribution of electors within states, like Nebraska and Maine. Electors would not vote on behalf of the entire state, but would instead vote on behalf of a Congressional district or through some other method of distribution. This method likely would de-emphasize rural areas and give some power to metropolitan areas. It still, however, would have many of the same practical effects the system currently has.

National Popular Vote

The second proposal is to use the national popular vote. The national popular vote proposal comes in two forms: interstate compact and constitutional amendment.

For the interstate compact, states would agree to pass state laws so that whoever won the national popular vote would receive the state’s electors. The electors would vote for the national popular vote winner regardless of who won that particular state’s popular vote. The Electoral College would stay in effect as a formal matter, but the national popular vote winner would always win. There is some debate about the constitutionality of this kind of interstate compact.

For the constitutional amendment approach, states would ratify the Constitution to replace the entire Electoral College system with a national popular vote. This proposal is unlikely to pass because too many less populous states and swing states have too much power to lose by switching away from the Electoral College.