

The Electoral College

7/6/2020

Please Note: NCSL does not have the names of the individual presidential electors in each state, nor does NCSL have their contact information. You must contact either your state's election officials or political parties for information.

Overview



The Electoral College is a unique method for indirectly electing the president of the United States. It was established by [Article II, Section 1, Clause 2 of the U.S. Constitution](#) and modified by the [12th](#) and [23rd](#) Amendments.

The Electoral College consists of a total of [538 members](#), one for each U.S. senator and representative, and three additional electors representing the District of Columbia. Each state has a number of electoral votes equal to the combined total of its congressional delegation, and each state legislature is free to determine the method it will use to select its own electors.

Currently, all states select electors through a popular vote (although how that vote works can differ), but that was not always the case throughout American history. In many states, the state legislature selected electors, a practice which was common until the mid-1800s.

The Electoral College in 2020

The following is a summary of how the Electoral College will work in the 2020 presidential election:

- **Spring and Summer 2020: *Nomination of Electors.*** The political parties in each state nominate their electors. Parties and states have different ways of going about this, but a party's presidential electors are generally loyal or consistent party members. The parties want to be sure they can rely on their electors to cast their votes for the party's nominee for president.
- **Nov. 3, 2020: *Election Day,*** when voters in each state will select their presidential electors. The names of electors are not on the ballot in most states. Rather, when a voter casts a vote for a presidential candidate, s/he is also casting a vote for the electors already selected by the party of that candidate. If a majority of voters in a state vote for the Republican candidate for president, the Republican slate of electors is elected. If a majority vote for the Democratic candidate, the Democratic slate of electors is chosen.
- **Dec. 8, 2020: *Deadline for Resolving Election Disputes.*** All state recounts and court contests over presidential election results must be completed by this date.
- **Dec. 14, 2020: *Meeting of the Electors.*** The electors meet in each state and cast their ballots for president and vice president. Each elector votes on his or her own ballot and signs it. The ballots are immediately transmitted to various people: one copy goes to the president of the U.S. Senate (who is also the vice president of the United States); this is the copy that will be officially counted later. Other copies go to the state's secretary of state, the National Archives and Records Administration, and the presiding judge in the district where the electors meet (this serves as a backup copy that would replace the official copy sent to the president of the Senate if it is lost or destroyed).
- **Dec. 23, 2020: *Deadline for Receipt of Ballots.*** The electors' ballots from all states must be received by the president of the Senate by this date. There is no penalty for missing this deadline.

- **Jan. 6, 2021:** *Counting of the Electoral Ballots.* The U.S. Congress meets in joint session to count the electoral votes.
- **Jan. 20, 2021:** *Inauguration Day.* The president-elect becomes the president of the United States.

Nomination of Electors

The U.S. Constitution does not specify procedures for the nomination of candidates for presidential elector. The two most common methods the states have adopted are nomination by state party convention and by state party committee. Generally, the parties select members known for their loyalty and service to the party, such as party leaders, state and local elected officials and party activists. In some states, the electors' names appear on the ballot along with the names of the candidates for president and vice president. However, in most states, electors' names are not printed on the ballot. When a voter casts a vote for a candidate for President of the United States, s/he is in actuality casting a vote for the presidential electors who were selected by that candidate's party.

Awarding Electoral Votes

All 50 states and the District of Columbia use one of two methods for awarding their electoral votes:

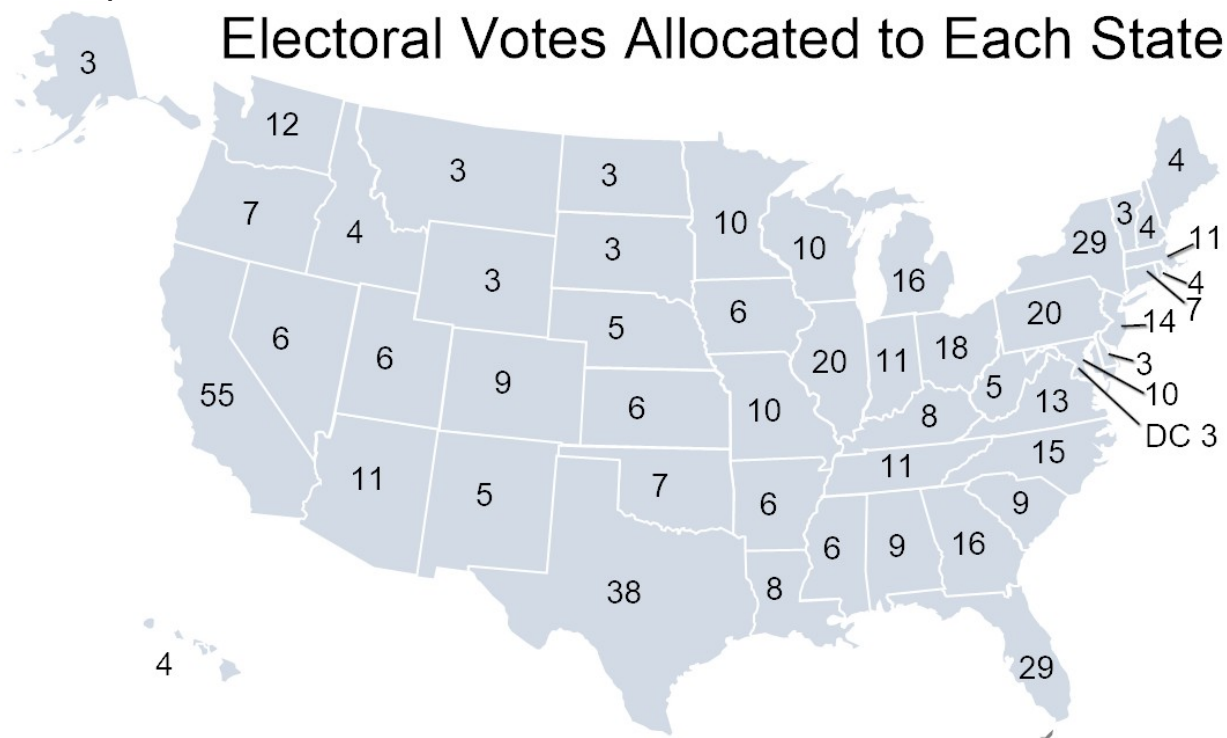
The Winner-Take-All System

In 48 states and the District of Columbia, when a candidate for president wins a state's popular vote, that party's slate of electors will be the ones to cast the vote for president of the United States in December. For example, Florida has 29 electoral votes. If President Donald Trump wins the state's popular vote on Nov. 3, the 29 electors nominated by the Republican Party in Florida will be selected. These 29 people will gather on Dec. 14 to cast their votes for president of the United States.

The District System

Maine and Nebraska are the only states that do not use a winner-take-all system. Instead, in these two states, one electoral vote is awarded to the presidential candidate who wins the popular vote in each congressional district, and the remaining two electoral votes are

awarded to the candidates receiving the most votes statewide. This is known as the district system. It is possible under the district system to split the electoral vote for the state. This happened in 2008 in Nebraska: Barack Obama won the electoral vote in the congressional district including Omaha, while John McCain won in the state's other two districts and won the statewide vote as well, securing the state's two at-large votes. Thus, when the Nebraska presidential electors met in December 2008, there were four Republican electors and one Democrat. That election was the first time Nebraska's electoral vote was split.



Reforming the Electoral College

In the years since the highly controversial 2000 presidential election, bills have been introduced in every state in the country to change the process for selecting electors. During the period of 2001-2006, most Electoral College reform bills proposed switching to the district system. None of these bills passed. In the years since, attention has largely shifted to the National Popular Vote (NPV). This is an idea that would allow states to bypass the Electoral College without amending the U.S. Constitution. When a state joins the NPV Compact, it

promises that it will give all of its electoral votes to the party that wins the *national* popular vote, rather than the party that wins the *state* popular vote. For instance, if the Democratic candidate won the popular vote in California, but the Republican candidate won the popular vote nationwide, California would be required to send the Republican slate of electors to the meeting of the electors. The NPV has not yet taken effect; states with a total of at least 270 electoral votes must join before it can function. [Read more about the National Popular Vote.](#)

The idea of abolishing the Electoral College and instead electing the president by direct popular vote comes about every few years. Abolishing the Electoral College requires an amendment to the US Constitution. There are two ways to do that:

- Congress can propose an amendment by a two-thirds vote of both chambers. The amendment then has to be ratified by the legislatures of three-fourths of the states. All existing amendments to the Constitution were made in this manner.
- The legislatures of two-thirds of the states can petition Congress to convene a Constitutional Convention. At a Constitutional Convention, any part of the Constitution could be amended; action is not restricted to the sections governing the Electoral College or any other part of the Constitution. Again, any proposed amendment would have to be ratified by three-fourths of the states. This method has never been invoked.

Faithless Electors

There is no federal law or constitutional provision requiring electors to vote for the party that nominated them, and over the years a number of electors have voted against the instructions of the voters. In 2004, a Minnesota elector nominated by the Democratic Party cast a ballot for John Edwards, the vice presidential running mate of John Kerry-- thought to be an accident. Electors generally are selected by the political party for their party loyalty, and many are party leaders, and thus not likely to vote other than for their party's candidate.

In 2016, there were seven faithless electors, the most since 1972— three Democratic electors from Washington state cast their votes for

Republican Colin Powell, instead of Democrat Hillary Clinton; one Democratic elector from Washington state cast his vote for Faith Spotted Eagle, a woman who is a member of the Yankton Sioux Nation; one Democratic elector from Hawaii cast his vote for Bernie Sanders, instead of Hillary Clinton; one Republican elector from Texas cast his vote for John Kasich, instead of Donald Trump; and one Republican elector from Texas cast his vote for Libertarian Ron Paul. The last time an elector crossed party lines was in 1972, when an elector nominated by the Republican Party cast his ballot for the Libertarian ticket.

Some states have passed laws that require their electors to vote as pledged. These laws may either impose a fine on an elector who fails to vote according to the statewide or district popular vote, or may disqualify an elector who violates his or her pledge and provide a replacement elector. In July 2020, the U.S. Supreme Court ruled that it is constitutional for states to enact this type of law. The states with laws that attempt to bind the votes of presidential electors are below:

States With Laws That Attempt to Bind the Votes of Presidential Electors

Alabama	Mississippi
Alaska	Montana
Arizona	Nebraska
California	Nevada
Colorado	New Mexico
Connecticut	North Carolina
Delaware	Oklahoma
District of Columbia	Ohio
Florida	Oregon
Hawaii	South Carolina
Indiana	Tennessee
Maine	Vermont
Maryland	Virginia
Massachusetts	Washington

Michigan	Wisconsin
Minnesota	Wyoming

Most of the laws cited above require electors to vote for the candidate of the party that nominated the elector, or require the elector to sign a pledge to do so. Some go further: Oklahoma imposes a civil penalty of \$1,000; in North Carolina, the fine is \$500, the faithless elector is deemed to have resigned, and a replacement is appointed. In South Carolina, an elector who violates his or her pledge is subject to criminal penalties, and in New Mexico a violation is a fourth degree felony. In Michigan and Utah, a candidate who fails to vote as required is considered to have resigned, and a replacement is appointed.

Additional Resources

- [U.S. National Archives and Records Administration](#)
- [National Popular Vote](#)