

The Electoral College

The electoral college is not a place or an institution. It is simply the process by which Americans elect the President. Article II of the U.S. Constitution grants to each state a number of presidential electors that equals its total number of U.S. senators and representatives. In addition, the 23rd amendment to the Constitution gives the District of Columbia the same number of electors it would have if it were a state. Officially, it is the country's 538 electors who elect the President. To win the presidency, a candidate must receive at least 270 electoral votes.

At first, it was mainly the state legislatures who chose their state's presidential electors, but that changed in the 1800s. Today in each of the states it is the popular vote that determines who the electors are. In 48 states and the District of Columbia, the candidate who wins the statewide popular vote gets all of the state's electoral votes. In Maine and Nebraska, however, one electoral vote goes to the candidate who wins the popular vote in each of the state's Congressional districts.

Sometime before the presidential election, the various political parties in each state nominate individuals to serve as electors. The individuals who actually become electors in each state are those who belong to the same party as the presidential candidate who wins the state's popular vote. In 32 states and the District of Columbia, there are laws that require the electors to vote for their party's candidate, and the U.S. Supreme Court has upheld these laws as constitutional.

Five times in U.S. history (1824, 1876, 1888, 2000 and 2016), a candidate has lost the national popular vote, but won in the Electoral College and become President. The reason this can happen is because

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the number of each state's electors is based only partly on the size of its population; every state has two U.S. Senators and two associated Electoral College votes, regardless of its population. Therefore, smaller states have slightly more Electoral College votes than they would otherwise. This was one of the compromises that our country's founders agreed to in order to motivate the smaller states to ratify the Constitution and join the new nation. As a result, the outcomes of the Electoral College vote and the popular vote can and sometimes do differ.

Many polls have shown that a majority of Americans would prefer that the national popular vote determines who wins the presidency. Similarly, a number of political commentators have expressed the belief that the direct, popular election of the President is more democratic than the Electoral College. Furthermore, if it weren't for the Electoral College, presidential candidates would campaign in many more states around the country, rather than focusing their efforts only on states where the race is close, as they invariably do. That would connect Americans more closely with presidential elections and the political process.

Since our nation's beginning, there have been more than 700 proposals in Congress to amend the Constitution and do away with the Electoral College. This has easily been the top issue generating interest in constitutional change. Yet no proposed amendment has succeeded and a potential amendment now faces two hurdles. First, it would need the support of less populous states whose influence on the election of the president would decrease somewhat if the amendment were successful. Second, a significant number of Republicans would

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need to favor such an amendment, but Republicans would have lost the presidential election in two of the last six elections, namely 2000 and 2016, without the Electoral College. Given these hurdles and the fact that it takes 38 states to ratify an amendment, ratification is an uphill challenge.

However, there is an alternative to a Constitutional amendment that might succeed in reforming the Electoral College. The National Popular Vote Interstate Compact is an agreement among participating states to award all of their electoral votes to the presidential candidate who wins the national popular vote. The agreement would be activated once it is legally agreed to by a number of states whose electoral votes equal or exceed 270. If states representing 270 or more electoral votes joined the compact, that would guarantee that the popular vote winner would win the election, since they would receive the necessary 270 or more electoral votes. However, after it is activated, the compact would become inactive if enough states withdrew to drop the group's collective electoral votes to less than 270. As of October 2022, 15 states (including some of the most and least populous) and the District of Columbia had joined the compact. Together, they account for 195 electoral votes or 72% of the needed amount. You can learn more about the compact, including its status in every state, by visiting the nationalpopularvote.com website.