

# Connecticut Debate Association

## Novice Scrimmage—Online

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**Resolved: The US Presidential election should be decided by a simple majority vote.**

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## The Electoral College: Top 3 Pros and Cons

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The debate over the continued use of the Electoral College resurfaced during the 2016 presidential election, when Donald Trump lost the general election to Hillary Clinton by over 2.8 million votes and won the Electoral College by 74 votes. The official general election results indicate that Trump received 304 Electoral College votes and 46.09% of the popular vote (62,984,825 votes), and Hillary Clinton received 227 Electoral College votes and 48.18% of the popular vote (65,853,516 votes).[1]

Prior to the 2016 election, there were four times in US history when a candidate won the presidency despite losing the popular vote: 1824 (John Quincy Adams over Andrew Jackson), 1876 (Rutherford B. Hayes over Samuel Tilden), 1888 (Benjamin Harrison over Grover Cleveland), and 2000 (George W. Bush over Al Gore). [2]

The Electoral College was established in 1788 by Article II of the US Constitution, which also established the executive branch of the US government, and was revised by the Twelfth Amendment (ratified June 15, 1804), the Fourteenth Amendment (ratified July 1868), and the Twenty-Third Amendment (ratified Mar. 29, 1961). Because the procedure for electing the president is part of the Constitution, a Constitutional Amendment (which requires two-thirds approval in both houses of Congress plus approval by 38 states) would be required to abolish the Electoral College. [3] [4] [5] [6]

### Should the United States Use the Electoral College in Presidential Elections?

#### *Pro 1*

The Founding Fathers enshrined the Electoral College in the US Constitution because they thought it was the best method to choose the president.

Using electors instead of the popular vote was intended to safeguard against uninformed or uneducated voters by putting the final decision in the hands of electors most likely to possess the information necessary to make the best decision; to prevent states with larger populations from having undue influence; and to compromise between electing the president by popular vote and letting Congress choose the president. [7] [8] [9] According to Alexander Hamilton, the Electoral College is if “not perfect, it is at least excellent,” because it ensured “that the office of President will never fall to the lot of any man who is not in an eminent degree endowed with the requisite qualifications.” [7] The Founders wanted to balance the will of the populace against the risk of “tyranny of the majority,” in which the voices of the masses can drown out minority interests. [10]

#### *Pro 2*

The Electoral College ensures that all parts of the country are involved in selecting the President of the United States.

If the election depended solely on the popular vote, then candidates could limit campaigning to heavily-populated areas or specific regions. To win the election, presidential candidates need electoral votes from multiple regions and therefore they build campaign platforms with a national focus, meaning that the winner will actually be serving the needs of the entire country. Without the electoral college, groups such as Iowa farmers and Ohio factory workers would be ignored in favor of pandering to metropolitan areas with higher population densities, leaving rural areas and small towns marginalized. [11] [12] [13]

#### *Pro 3*

The Electoral College guarantees certainty to the outcome of the presidential election.

If the election were based on popular vote, it would be possible for a candidate to receive the highest number of popular votes without actually obtaining a majority. [11] This happened with President Nixon in 1968 and President Clinton in 1992, when both men won the most electoral votes while receiving just 43% of the popular vote. [11] The existence of the Electoral College precluded calls for recounts or demands for run-off elections. The electoral process can also create

a larger mandate to give the president more credibility; for example, President Obama received 51.3% of the popular vote in 2012 but 61.7% of the electoral votes. [14] In 227 years, the winner of the popular vote has lost the electoral vote only five times. [2] This proves the system is working.

#### *Con 1*

The reasons for which the Founding Fathers created the Electoral College are no longer relevant.

Modern technology allows voters to get necessary information to make informed decisions in a way that could not have been foreseen by the Founding Fathers. Also, while Alexander Hamilton in 1788 saw the electors as being “free from any sinister bias,” members of the Electoral College are now selected by the political parties and they are expected to vote along party lines regardless of their own opinions about the candidates. [7] [4] [16] Just as several voting laws that limited direct democracy in the Constitution have been modified or discarded throughout history, so should the Electoral College. As a result of Constitutional amendments, women and former slaves were given the right to vote, and Senators, once appointed by state legislatures, are now elected directly by popular vote. [15] The vice presidency was once awarded to the runner up in electoral votes, but the procedure was changed over time to reflect the reality of elections. [17]

#### *Con 2*

The Electoral College gives too much power to "swing states" and allows the presidential election to be decided by a handful of states.

The two main political parties can count on winning the electoral votes in certain states, such as California for the Democratic Party and Indiana for the Republican Party, without worrying about the actual popular vote totals. Because of the Electoral College, presidential candidates only need to pay attention to a limited number of states that can swing one way or the other. [18] A Nov. 6, 2016 episode of PBS NewsHour revealed that “Donald Trump and Hillary Clinton have made more than 90% of their campaign stops in just 11 so-called battleground states. Of those visits, nearly two-thirds took place in the four battlegrounds with the most electoral votes — Florida, Pennsylvania, Ohio, and North Carolina.” [19]

#### *Con 3*

The Electoral College ignores the will of the people.

There are over 300 million people in the United States, but just 538 people decide who will be president. In 2016, Hillary Clinton won the popular vote by more than one million votes, yet still lost the election on electoral votes. [14] Even President-elect Donald Trump, who benefitted from the system, stated after the 2016 election that he believes presidents should be chosen by popular vote: “I would rather see it where you went with simple votes. You know, you get 100 million votes and somebody else gets 90 million votes and you win.” [20] Just as in 2000 when George W. Bush received fewer nationwide popular votes than Al Gore, Donald Trump will serve as the President of the United States despite being supported by fewer Americans than his opponent. [2]

The Founding Fathers created the Electoral College as a compromise between electing the president via a vote in Congress only or via a popular vote only. The Electoral College comprises 538 electors; each state is allowed one elector for each Representative and Senator (DC is allowed 3 electors as established by the Twenty-Third Amendment). [3] [4] [5] [6]

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## **United States Electoral College**

From Wikipedia, the free encyclopedia

The Electoral College is a body of electors established by the United States Constitution, which forms every four years for the sole purpose of electing the president and vice president of the United States. The Electoral College consists of 538 electors, and an absolute majority of at least 270 electoral votes is required to win the election. According to Article II, Section 1, Clause 2 of the Constitution, each state legislature determines the manner by which its state's electors are chosen. The number of each state's electors is equal to the sum of the state's membership in the Senate and House of Representatives; currently there are 100 senators and 435 representatives.[1][2][3] Additionally, the Twenty-third Amendment, ratified in 1961, provides that the District established pursuant to Article I, Section 8 as the seat of the federal government (see, District of Columbia) is entitled to the number it would have if it were a state, but in no case more than that of the least populous state.[4] U.S. territories are not entitled to any electors.[5][6]

Following the nationwide presidential election day, on the Tuesday after the first Monday of November, each state counts its popular votes according to that state's laws to designate presidential electors. In forty-eight states and D.C., the winner of the plurality of the statewide vote receives all of that state's electors; in Maine and Nebraska, two electors

are assigned in this manner and the remaining electors are allocated based on the plurality of votes in each congressional district.[7] States generally require electors to pledge to vote for that state's winner; to avoid faithless electors, most states have adopted various laws to enforce the elector's pledge.[8] Each state's electors meet in their respective state capital on the first Monday after the second Wednesday of December to cast their votes.[7] The results are counted by Congress, where they are tabulated in the first week of January before a joint meeting of the Senate and House of Representatives, presided over by the vice president, as president of the Senate.[7][9] Should a majority of votes not be cast for a candidate, the House turns itself into a presidential election session, where one vote is assigned to each of the fifty states. Similarly, the Senate is responsible for electing the vice president, with each senator having one vote.[10] The elected president and vice president are inaugurated on January 20.

The suitability of the Electoral College system is a matter of ongoing debate. Supporters of the Electoral College argue that it is fundamental to American federalism, that increases the political influence of small states by the "plus two" Senate count over the number of state Representatives. The geographic dimension of the Electoral College requires candidates to appeal to voters outside large cities. Parties must form national coalitions with moderating appeals, contributing to stability of the two-party system.[11] Presently, a decisive choice for president is made without the challenges and recounts in every state that would follow a nationwide popular vote.[12]

Critics of the Electoral College argue that the Electoral College is less democratic than a national direct popular vote and is subject to manipulation because of faithless electors.[13][14] Opponents argue that the system is antithetical to a democracy that strives for a standard of "one person, one vote" because it can thwart a presidential choice by the voters with a national majority.[15] There can be elections where one candidate wins the popular vote but another wins the electoral vote, as in the 2000 election and 2016 election.[16] Individual citizens in less populated states with 5% of the Electoral College, have proportionately more voting power than those in more populous states,[17] and candidates can win by focusing their resources on just a few "swing states".[18]

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### **Contemporary issues**

Arguments between proponents and opponents of the current electoral system include four separate but related topics: indirect election, disproportionate voting power by some states, the winner-takes-all distribution method (as chosen by 48 of the 50 states), and federalism. Arguments against the Electoral College in common discussion focus mostly on the allocation of the voting power among the states. Gary Bugh's research of congressional debates over proposed constitutional amendments to abolish the Electoral College reveals reform opponents have often appealed to a traditional republican version of representation, whereas reform advocates have tended to reference a more democratic view.[150][151][152]

### ***Criticism***

#### *Nondeterminacy of popular vote*

The elections of 1876, 1888, 2000, and 2016 produced an Electoral College winner who did not receive at least a plurality of the nationwide popular vote.[153] In 1824, there were six states in which electors were legislatively appointed, rather than popularly elected, so it is uncertain what the national popular vote would have been if all presidential electors had been popularly elected. When no candidate received a majority of electoral votes in 1824, the election was decided by the House of Representatives and so could be considered distinct from the latter four elections in which all of the states had popular selection of electors.[154] The true national popular vote was also uncertain in the 1960 election, and the plurality for the winner depends on how votes for Alabama electors are allocated.[155]

Opponents of the Electoral College claim such outcomes do not logically follow the normative concept of how a democratic system should function. One view is the Electoral College violates the principle of political equality, since presidential elections are not decided by the one-person one-vote principle.[153] Outcomes of this sort are attributable to the federal nature of the system. Supporters of the Electoral College argue candidates must build a popular base that is geographically broader and more diverse in voter interests than either a simple national plurality or majority. Neither is this feature attributable to having intermediate elections of presidents, caused instead by the winner-takes-all method of allocating each state's slate of electors. Allocation of electors in proportion to the state's popular vote could reduce this effect.

Proponents of a national popular vote point out that the combined population of the 50 biggest cities (not including metropolitan areas) amounts to only 15% of the population.[156] They also assert that candidates in popular vote elections for governor and U.S. Senate, and for statewide allocation of electoral votes, do not ignore voters in less populated areas.[157][better source needed] In addition, it is already possible to win the required 270 electoral votes by winning only the 11 most populous states; what currently prevents such a result is the organic political diversity

between those states (three reliably Republican states, four swing states, and four reliably Democratic states), not any inherent quality of the Electoral College itself.[158]

#### *Comparison of the four elections in which the Electoral College winner lost the popular vote*

Elections where the winning candidate loses the national popular vote typically result when the winner builds the requisite configuration of states (and thus captures their electoral votes) by small margins, but the losing candidate secures large voter margins in the remaining states. In this case, the very large margins secured by the losing candidate in the other states would aggregate to a plurality of the ballots cast nationally. However, commentators question the legitimacy of this national popular vote. They point out that the national popular vote observed under the Electoral College system does not reflect the popular vote observed under a National Popular Vote system, as each electoral institution produces different incentives for, and strategy choices by, presidential campaigns.[159][160] Because the national popular vote is irrelevant under the electoral college system, it is generally presumed that candidates base their campaign strategies around the existence of the Electoral College; any close race has candidates campaigning to maximize electoral votes by focusing their get-out-the-vote efforts in crucially needed swing states and not attempting to maximize national popular vote totals by using finite campaign resources to run up margins or close up gaps in states considered "safe" for themselves or their opponents, respectively. Conversely, the institutional structure of a national popular vote system would encourage candidates to pursue voter turnout wherever votes could be found, even in "safe" states they are already expected to win, and in "safe" states they have no hope of winning.

#### *Exclusive focus on large swing states*

According to this criticism, the Electoral College encourages political campaigners to focus on a few so-called "swing states" while ignoring the rest of the country. Populous states in which pre-election poll results show no clear favorite are inundated with campaign visits, saturation television advertising, get-out-the-vote efforts by party organizers, and debates, while "four out of five" voters in the national election are "absolutely ignored", according to one assessment.[162] Since most states use a winner-takes-all arrangement in which the candidate with the most votes in that state receives all of the state's electoral votes, there is a clear incentive to focus almost exclusively on only a few key undecided states; in recent elections, these states have included Pennsylvania, Ohio, and Florida in 2004 and 2008, and included Colorado in 2012. In contrast, states with large populations such as California, Texas, and New York, have in recent elections been considered "safe" for a particular party — Democratic for California and New York and Republican for Texas — and therefore campaigns spend less time and money there. Many small states are also considered to be "safe" for one of the two political parties and are also generally ignored by campaigners: of the 13 smallest states, six are reliably Democratic, six are reliably Republican, and only New Hampshire is considered as a swing state, according to critic George C. Edwards III in 2011.[153] Edwards also asserted that in the 2008 election, the campaigns did not mount nationwide efforts but rather focused on select states.[153]

#### *Discouragement of turnout and participation*

Except in closely fought swing states, voter turnout is largely insignificant due to entrenched political party domination in most states. The Electoral College decreases the advantage a political party or campaign might gain for encouraging voters to turn out, except in those swing states.[163] If the presidential election were decided by a national popular vote, in contrast, campaigns and parties would have a strong incentive to work to increase turnout everywhere.[164] Individuals would similarly have a stronger incentive to persuade their friends and neighbors to turn out to vote. The differences in turnout between swing states and non-swing states under the current electoral college system suggest that replacing the Electoral College with direct election by popular vote would likely increase turnout and participation significantly.[163]

#### *Obscuring disenfranchisement within states*

According to this criticism, the electoral college reduces elections to a mere count of electors for a particular state, and, as a result, it obscures any voting problems within a particular state. For example, if a particular state blocks some groups from voting, perhaps by voter suppression methods such as imposing reading tests, poll taxes, registration requirements, or legally disenfranchising specific minority groups, then voting inside that state would be reduced, but as the state's electoral count would be the same, disenfranchisement has no effect on the overall electoral tally. Critics contend that such disenfranchisement is partially obscured by the Electoral College. A related argument is the Electoral College may have a dampening effect on voter turnout: there is no incentive for states to reach out to more of its citizens to include them in elections because the state's electoral count remains fixed in any event. According to this view, if elections were by popular vote, then states would be motivated to include more citizens in elections since the state would then have more political clout nationally. Critics contend the electoral college system insulates states from negative publicity as well as possible federal penalties for disenfranchising subgroups of citizens.

Legal scholars Akhil Amar and Vikram Amar have argued that the original Electoral College compromise was enacted partially because it enabled Southern states to disenfranchise their slave populations.[165] It permitted Southern states to disenfranchise large numbers of slaves while allowing these states to maintain political clout within the federation by using the Three-Fifths Compromise. They noted that James Madison believed the question of counting slaves had presented a serious challenge, but that "the substitution of electors obviated this difficulty and seemed on the whole to be liable to the fewest objections." [166] Akhil and Vikram Amar added:

The founders' system also encouraged the continued disenfranchisement of women. In a direct national election system, any state that gave women the vote would automatically have doubled its national clout. Under the Electoral College, however, a state had no such incentive to increase the franchise; as with slaves, what mattered was how many women lived in a state, not how many were empowered ... a state with low voter turnout gets precisely the same number of electoral votes as if it had a high turnout. By contrast, a well-designed direct election system could spur states to get out the vote.[165]

#### *Lack of enfranchisement of U.S. territories*

U.S. territories are not entitled to electors in presidential elections. Constitutionally, only U.S. states (per Article II, Section 1, Clause 2) and Washington, D.C. (per the Twenty-third Amendment) are entitled to electors. As a result of this restriction, roughly four million Americans in Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, American Samoa, and Guam, do not have a vote in presidential elections.[5][167] Various scholars consequently conclude that the U.S. national-electoral process is not fully democratic.[168][169] Guam has held non-binding straw polls for president since the 1980s to draw attention to this fact.[170][171] The Democratic and Republican parties, as well as other third parties, have, however, made it possible for people in U.S. territories to vote in party presidential primaries.[172][173]

#### *Advantage based on state population*

Researchers have variously attempted to measure which states' voters have the greatest impact in such an indirect election.

Each state gets a minimum of three electoral votes, regardless of population, which gives low-population states a disproportionate number of electors per capita.[167] For example, an electoral vote represents nearly four times as many people in California as in Wyoming.[167][174] Sparsely populated states are likely to be increasingly overrepresented in the electoral college over time, because Americans are increasingly moving to big cities and because cities are growing especially in the biggest states.[167] This analysis gives a strong advantage to the smallest states, but ignores any extra influence that comes from larger states' ability to deliver their votes as a single bloc.

Countervailing analyses which do take into consideration the sizes of the electoral voting blocs, such as the Banzhaf power index (BPI) model based on probability theory lead to very different conclusions about voters relative power.[clarification needed] In 1968, John F. Banzhaf III (who developed the Banzhaf power index) determined that a voter in the state of New York had, on average, 3.312 times as much voting power in presidential elections as a voter in any other U.S. state.[175] It was found that based on 1990 census and districting, individual voters in California, the largest state, had 3.3 times more individual power to choose a president than voters of Montana, the largest of the states allocating the minimum of three electors.[176] Because Banzhaf's method ignores the demographic makeup of the states, it has been criticized for treating votes like independent coin-flips. More empirically based models of voting yield results that seem to favor larger states less.[177]

#### *Disadvantage for third parties*

See also: Duverger's law and Causes of a two-party system

In practice, the winner-take-all manner of allocating a state's electors generally decreases the importance of minor parties.[178] However, it has been argued[who?] that the Electoral College is not a cause of the two-party system, and that it had a tendency to improve the chances of third-party candidates in some situations.[179][page needed][failed verification]

#### **Support**

*Half the population lives in these counties.*

Maintenance of the federal character of the nation

The United States of America is a federal republic that consists of component states. Proponents of the current system argue the collective opinion of even a small state merits attention at the federal level greater than that given to a small, though numerically equivalent, portion of a very populous state. The system also allows each state the freedom, within constitutional bounds, to design its own laws on voting and enfranchisement without an undue incentive to maximize the number of votes cast.



For many years early in the nation's history, up until the Jacksonian Era, many states appointed their electors by a vote of the state legislature, and proponents argue that, in the end, the election of the president must still come down to the decisions of each state, or the federal nature of the United States will give way to a single massive, centralized government.[180]

In his book *A More Perfect Constitution*, Professor Larry Sabato elaborated on this advantage of the Electoral College, arguing to "mend it, don't end it," in part because of its usefulness in forcing candidates to pay attention to lightly populated states and reinforcing the role of states in federalism.[181]

#### *Enhancement of the status of minority groups*

Instead of decreasing the power of minority groups by depressing voter turnout, proponents argue that by making the votes of a given state an all-or-nothing affair, minority groups can provide the critical edge that allows a candidate to win. This encourages candidates to court a wide variety of such minorities and advocacy groups.[180]

#### *Encouragement of stability through the two-party system*

Proponents of the Electoral College see its negative effect on third parties as beneficial. They argue that the two party system has provided stability because it encourages a delayed adjustment during times of rapid political and cultural change. They believe it protects the most powerful office in the country from control by what these proponents view as regional minorities until they can moderate their views to win broad, long-term support across the nation. Advocates of a national popular vote for president suggest that this effect would also be true in popular vote elections. Of 918 elections for governor between 1948 and 2009, for example, more than 90% were won by candidates securing more than 50% of the vote, and none have been won with less than 35% of the vote.[182]

#### *Flexibility if a presidential candidate dies*

According to this argument, the fact the Electoral College is made up of real people instead of mere numbers allows for human judgment and flexibility to make a decision, if it happens that a candidate dies or becomes legally disabled around the time of the election. Advocates of the current system argue that human electors would be in a better position to choose a suitable replacement than the general voting public. According to this view, electors could act decisively during the critical time interval between when ballot choices become fixed in state ballots[183] until mid-December when the electors formally cast their ballots.[184] In the election of 1872, losing Liberal Republican candidate Horace Greeley died during this time interval, which resulted in disarray for the Democratic Party, who also supported Greeley, but the Greeley electors were able to split their votes for different alternate candidates.[185][186][187] A situation in which the winning candidate died has never happened. In the election of 1912, vice president Sherman died shortly before the election when it was too late for states to remove his name from their ballots; accordingly, Sherman was listed posthumously, but the eight electoral votes that Sherman would have received were cast instead for Nicholas Murray Butler.[188]

#### *Isolation of election problems*

Some supporters of the Electoral College note that it isolates the impact of any election fraud, or other such problems, to the state where it occurs. It prevents instances where a party dominant in one state may dishonestly inflate the votes for a candidate and thereby affect the election outcome. For instance, recounts occur only on a state-by-state basis, not nationwide.[189] However, results in a single state where the popular vote is very close — such as Florida in 2000 — can decide the national election.[190]

#### **Public opinion**

Most polls since 1967 have shown that a majority of Americans favor the president and vice president being elected by the nationwide popular vote, instead of by the Electoral College,[191][192] though polls taken since 2016 have shown an increase in support for keeping the Electoral College. A Gallup poll taken just after the 2016 election showed that Americans' support for keeping the Electoral College system for electing presidents had increased sharply, from 35% in 2011 to 47% in 2016. Support among Democrats for amending the Constitution in favor of using the popular vote rose from 69% to 81% and support among Republicans fell from 54% to 19%.[193] According to a Pew Research poll done in March 2018, 75% of Democrats supported moving to a popular-vote system compared to 32% of Republicans, with overall support for a popular vote at 55% for versus 41% against.[194]

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