

# An Electoral College primer

**Michael Taylor, CFA**  
Investment Strategy Analyst

## What is the Electoral College?

As November 3 approaches, the odds of a tight or even contested election appear to be a significant possibility. In a close race, the popular vote could point to one candidate but the Electoral College (EC) could name the other candidate as the winner. In fact, in two of the past five presidential elections, it was the Electoral College, and not the popular vote, that determined the winner. But what exactly is the EC and how does it work?

Established by the Constitution and ratified by the 12th Amendment, the EC formally elects the U.S. president and vice president. In 1804, the EC was refashioned to distribute political power away from the most populous states to less-populated ones. Today, the number of electors matches the number of representatives (435) and senators (100) plus 3 electors for Washington, D.C., for a total of 538 members. A presidential candidate needs 270 electoral votes to win the election.

The number of electors per state is based on a state’s population. States with the most electoral votes are California, Texas, Florida, New York, Illinois, and Pennsylvania. Since 1988, California and New York have voted Democratic and Texas has voted Republican. The Rust Belt states that were disproportionately affected by offshoring of manufacturing over the past few decades — Ohio, Michigan, Indiana (11 electoral votes, see Table 1), and Wisconsin (10) — have fairly sizable electoral votes and have often served as battleground states for presidential campaigns.

**Table 1. Top 10 states with the most electoral votes**

State	Electoral votes
California	55
Texas	38
Florida	29
New York	29
Illinois	20
Pennsylvania	20
Ohio	18
Georgia	16
Michigan	16
North Carolina	15

Source: Ballotpedia.org

Florida and North Carolina have also been common battleground states. In 2000, it took nearly five weeks and a 5-4 Supreme Court ruling to call the Bush-Gore election. Ultimately, Bush beat Gore in Florida by a mere 537 votes to win the election. This is why candidates have targeted battleground or “swing” states, where the electoral votes could steer an election outcome.

Each state legislature is free to choose its method for awarding electoral votes. Currently there are two:

**Two of the past five U.S. presidential elections were won by candidates who lost the popular vote: Bush (2000) and Trump (2016).**

**The 1887 Electoral Count Act requires electors to the Electoral College to be selected no more than 41 days after the election: December 14, 2020, for this election.**

**The U.S. Electoral College electors formally will cast their votes on December 14, 2020. On January 6, 2021, Congress will meet to count the votes and declare the winner.**

*Winner-take-all system:* Forty-eight states and Washington, D.C., use this method. The candidate who wins a majority of a state's popular vote receives all of the state's electoral votes, regardless of how wide or narrow the victory. For example, if Biden were to win in Illinois, he would claim all 20 votes from the state's electorate.

*District system:* Maine and Nebraska use this method. One electoral vote is awarded to the candidate who wins the popular vote in each congressional district, and the remaining two electoral votes (from the senators) are awarded to the candidate who received the most votes statewide.

### Tiebreaks and succession plans

In the current system, a 269 split vote is possible. In the event of a tie, or if neither candidate secures a majority of the 538 electoral votes, the House of Representatives decides the outcome. Each state delegation casts 1 vote, and a simple majority of 26 votes is needed to win. The Senate would determine the vice president with each senator casting 1 vote, and 51 votes are needed to win.

It is unclear how this year's election will unfold. With the potential for delays in vote tallies, the possibility of a disputed outcome is growing. In a contested election, the 1887 Electoral Count Act stipulates electors must be chosen no more than 41 days after Election Day: December 14, for this election. If the outcome remains undecided by Inauguration Day, the Presidential Succession Act of 1947 provides for the performance of the duties of the president in case of the removal, resignation, death, or inability of the president and vice president. In this case, the speaker of the House would assume the position of acting president until a winner is determined.

### Could the Electoral College be abolished?

Although only 5 of the 58 U.S. presidential elections were won by candidates who lost the popular election (1824, 1876, 1888, 2000, and 2016), calls for abolishing the EC and electing a president by popular vote resurface periodically.<sup>5</sup> But abolishment would require a constitutional amendment approached in one of two ways:

- Congress could propose an amendment by a two-thirds vote of both chambers. The amendment must then be ratified by legislatures of three-fourths of the states.
- Two-thirds of state legislatures could petition Congress to convene a Constitutional Convention. At the Convention, any part of the Constitution, including the EC, could be amended. A proposed amendment must then be ratified by three-fourths of the states. This method of ratification has never been invoked.

Although it is not impossible, we believe abolishing the EC would be an extraordinarily difficult feat to achieve.

### Key takeaways

- Established by the Constitution and ratified by the 12th Amendment, the Electoral College (EC) is the formal body that elects the president and vice president of the U.S.
- A presidential candidate needs 270 electoral votes to win the election.
- States with the largest electorates include California, Texas, New York, and Florida. We look for Battleground states with sizable electorates, like Pennsylvania and North Carolina, to potentially help steer the election.

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<sup>5</sup> "5 Presidents Who Lost the Popular Vote But Won the Election," July 23, 2020, <https://www.history.com/news/presidents-electoral-college-popular-vote>