Free elections have been the backbone of American democracy for more than 200 years, allowing citizens to regularly express their most closely held values, desires, and concerns. As such, the framers of the Constitution strove to create an electoral system that best reflects and protects the will of the people.

When the president is sworn in on January 20, 2021, he or she will represent the culmination of a complex process—one that combines constitutional provisions, state laws, party rules, and political traditions. But in the end, the electoral system relies on the work of millions of people, whether they are candidates, delegates, electors, or voters. Thus, it is the responsibility of each and every American to know the inner workings of the electoral system, to recognize if and when that system needs to be reformed, and to protect the integrity of campaigns and elections for years to come.

The right to vote—the ability of citizens to choose their own government—is the cornerstone of democracy. While the Constitution mentions only once the central rights of free speech, free assembly, and free exercise of religion, the right to vote appears five separate times in the Constitution and is the right most frequently mentioned in the founding document.1

When the Constitution was ratified in 1788, most states extended the right to vote only to white male citizens who were over the age of 21.2 In subsequent years, several amendments to the Constitution clarified the right to vote and expanded its guarantees beyond the previous limitations.

- **14th Amendment.** Ratified in 1868, the 14th Amendment contains the Constitution’s first mention of the right to vote. It declares that states will lose congressional representation “when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime.”3
• **15th Amendment.** Ratified in 1870, the 15th Amendment guarantees that the right to vote cannot be denied on account of race. It reads, “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.”

• **19th Amendment.** Ratified in 1920, the 19th Amendment guarantees women the right to vote. It declares, “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.”

• **23rd Amendment.** Ratified in 1961, the 23rd Amendment expanded voting rights in presidential elections to residents of the District of Columbia. It grants to the District “a number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a state, but in no event more than the least populous state.”

• **26th Amendment.** Ratified in 1971, the 26th Amendment lowered the voting age from 21 to 18. It reads, “The right of citizens of the United States, who are 18 years of age or older, to vote, shall not be denied or abridged by the United States or any state on account of age.”

Today, voting rights are open to citizens who are at least 18 years old and who meet the registration requirements of their state. State governments, which administer federal elections, have the power to determine their own voting processes, which include how and when voters may register, how and when ballots may be cast, what type of identification voters must present, and whether or not convicted felons have the right to vote.

As of late 2018:

- Two states (Maine and Vermont) do not revoke felons' voting rights, even during incarceration.
- Fourteen states and the District of Columbia revoke felons' voting rights during incarceration, but automatically reinstate those rights upon release.
- Twenty-two states revoke felons' voting rights during incarceration and a subsequent period of time (usually parole and/or probation), but automatically reinstate those rights afterward.
- Twelve states revoke felons' voting rights indefinitely for some crimes, require a governor's pardon for the restoration of voting rights, or require an additional waiting period after parole and/or probation before restoring voting rights.

With the right to vote, citizens have a responsibility to make sure they are eligible, registered, educated, and ready to vote in elections whenever they occur. In addition to local, state, and special elections, federal elections take place every two years, when voters cast ballots to fill every seat in the House of Representatives (the members of which serve two-year terms) and roughly one-third of the seats in the Senate (the members of which serve six-year terms). Every four years, the American people vote on the Tuesday after the first Monday in November to elect or reelect the president.

**What are the voter registration rules in your state?**

Despite the significant implications of these elections, many eligible Americans do not exercise their right to vote. In the 2016 presidential election, FairVote found that only 60.1 percent of the eligible voting population showed up at the polls. That rate stood at 58.2 percent in 2012, 61.6 percent in 2008, 60.1 percent in 2004, and just 54.2 percent in 2000. In fact, the highest rate of presidential election voter turnout in the last century occurred in 1960, when 63.8 percent of the eligible voting population cast a ballot in the race between Vice President Richard Nixon and Senator John F. Kennedy, D-Mass.

**PRESIDENTIAL PRIMARIES AND CAUCUSES**

On November 3, 2020, Americans will go to the polls either to reelect President Donald Trump or to elect a new 46th president. Typically, in a presidential election, voters choose between one Democrat, one Republican, and any third-party candidates who have qualified for the ballot.
So, how do the two major parties choose their nominees? The process begins months before Election Day, as candidates build their campaign organizations; raise money to spend on voter outreach, advertisements, and travel; participate in a series of televised debates; and compete in primaries and caucuses. These primaries and caucuses, adopted in their current form to follow the recommendations of the McGovern-Fraser Commission of 1969–1972, are state elections that commit party delegates to support certain candidates on the basis of popular vote results. After each state party has held its primary or caucuses, the delegates attend their national party convention, where they participate in a roll call vote to formally nominate a candidate.

**Primaries.** Most states hold a primary—a statewide election in which voters cast a secret ballot for their preferred candidate. Some states have an open primary, in which registered voters may choose from any of the candidates, no matter their party affiliation. Other states have a closed primary, in which voters may choose only from the candidates of their registered party. (A primary can also be partially open, partially closed, or open for unaffiliated voters only.)

**Caucuses.** In fewer states, at least one of the political parties chooses to hold caucuses instead of participating in a state primary. A caucus is a party meeting in which participants, usually registered party voters, show support for their preferred candidates by raising their hands or breaking into groups. The results are used to select delegates for county, state, and national nominating conventions. Caucuses often attract fewer—but more politically engaged—voters than primaries.

Most state parties choose to hold a primary instead of caucuses because primary elections are funded by the states. In return, the parties must abide by state laws that govern when the election is to be held and what type of primary—open or closed—it will be. If the state party wants to move the date or more tightly control who may vote, it can choose to fund caucuses instead.

**View the 2020 calendar of presidential primaries and caucuses**

In 2020, the first four states—Iowa, New Hampshire, Nevada, and South Carolina—will hold their influential primaries or caucuses in February, with the remaining states following in March, April, May, and June. New Hampshire has held the first primary in the nation since 1920, and has even written this requirement into state law. (The law reads, “The presidential primary election shall be held on the second Tuesday in March or on a Tuesday selected by the secretary of state which is seven days or more immediately preceding the date on which any other state shall hold a similar election, whichever is earlier.”) Iowa has held the first caucuses for both parties since 1976, as state law similarly mandates that the Iowa caucuses be held at least eight days before any other nominating contest.

So, why does the order of states’ primaries and caucuses matter so much? The early contests are important to candidates because they offer an opportunity to gain momentum on the national stage. In fact, only one major party candidate since 1976—Governor Bill Clinton, D-Ark.—has secured the nomination without winning Iowa or New Hampshire. The small geographic size of Iowa and New Hampshire has historically allowed candidates to meet face to face with a large number of voters, allowing Americans across the country to see how the candidates interact with citizens. But in recent years, some policymakers, activists, and voters have questioned the wisdom of granting so much influence
to two states, especially two small states that are not demographically representative of the nation. To minimize the significance of Iowa and New Hampshire, the political parties—particularly Democrats—have supported moving forward the dates of other states’ primaries and caucuses.\textsuperscript{19} Nevada and South Carolina, for example, have moved into third and fourth place, and vote ahead of the handful of states that go to the polls on March 3, 2020, which is also known as Super Tuesday.\textsuperscript{20}

However, it is not just the winner of the primaries and caucuses that counts—it is how many delegates the candidates are able to secure from the results of the vote.

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DELEGATES

In order to become the Democratic or Republican nominee for president, a candidate must perform strongly enough in the primaries and caucuses to win a majority of the party's convention delegates. In 2016, the Democratic nominee had to win a simple majority (2,382) of the 4,763 delegates to the Democratic National Convention in Philadelphia; the Republican nominee had to win a simple majority (1,237) of the 2,472 delegates to the Republican National Convention in Cleveland.\textsuperscript{21}

So, how exactly does a candidate’s performance in primaries and caucuses translate into delegate support? Both parties allocate a number of delegates to each state on the basis of population, party loyalty, and several other factors. In most states, these delegates are then awarded to candidates on the basis of the votes they receive in the state primary or caucuses. These “pledged” or “bound” delegates are split between at-large delegates (awarded on the basis of the outcome of the statewide vote) and district-level delegates (awarded on the basis of the vote totals in each congressional district).\textsuperscript{22}

The two parties use different formulas to determine how many delegates each candidate receives. Democrats allocate delegates proportionally only to the candidates who clear a certain threshold—15 percent of the vote—in the state primary or caucuses. (If no candidate receives 15 percent of the vote, the threshold to earn delegates becomes 50 percent of the vote received by the frontrunner. If only one candidate clears 15 percent of the vote, that candidate wins every pledged delegate.)\textsuperscript{23}

How many Democratic delegates are at stake in each state?

Republicans employ a similar proportional approach for primaries and caucuses that are held on or before March 14, but the party allows the threshold for winning delegates to be as high as 20 percent of the vote. The Republican National Committee also allows state parties to institute a threshold for a candidate to receive all of the state’s at-large and bonus delegates. After March 14, state Republican parties allow the use of proportional allocation, a winner-take-all system, or a hybrid system of awarding delegates.\textsuperscript{24} Eight states and one territory—Arizona, Delaware, Florida, Montana, Nebraska, New Jersey, Ohio, South Dakota, and the Northern Mariana Islands—chose the winner-take-all delegate approach in the 2016 Republican race.\textsuperscript{25}

How many Republican delegates are at stake in each state?

To make matters more complicated, not all convention delegates are bound by the popular vote in the primaries and caucuses. The delegates to the Democratic National Convention include several hundred superdelegates—a group of elected officials and party leaders who are free to support any candidate they choose. Since 1984, superdelegates have made up between 14 percent and 20 percent of delegates to the Democratic National Convention; in 2016, there were 712 superdelegates.\textsuperscript{26} On the Republican side, several states and territories—Colorado, North Dakota, Wyoming, American Samoa, and Guam—chose not to hold a primary or caucuses in 2016, allowing approximately 150 “unbound” delegates to support any candidate at the convention.\textsuperscript{27}
Every four years, each of the two major political parties comes together several months before Election Day to hold a national convention—a multi-day party gathering at which delegates vote to officially nominate the candidates for president and vice president and to adopt a national party platform.

Recent conventions have been little more than ceremonial, as one candidate in each party has won a majority of delegates in the primaries and caucuses, leading their competitors to drop out of the race. As a result, the conventions have served mostly to project an image of party unity and to allow the candidates to promote themselves and their platforms on national television.

But before the adoption of the modern system of primaries and caucuses, conventions were unpredictable affairs, as delegates secretly courted candidates, shifted their allegiances, made behind-the-scenes compromises, disagreed over the tenets of the party platform, and stormed off the convention floor in protest. Among the most dramatic of conventions was the 1968 Democratic National Convention in Chicago, where Vice President Hubert Humphrey secured the majority of delegates controlled by the party establishment despite sitting out the primary campaign. Tensions were already high due to opposition to the Vietnam War (reflected in the presidential campaign of anti-war Senator Eugene McCarthy, D-Minn.) and the assassination of candidate and Senator Robert Kennedy, D-N.Y., only months before. As Vice President Humphrey—who was perceived to be the heir to President Lyndon Johnson’s war policies—won the nomination, Senator McCarthy’s supporters felt betrayed by the party, leading to fierce arguments on the convention floor and protests that descended into violence on the streets of Chicago.

Since that time, primaries and caucuses have eliminated much of the uncertainty surrounding conventions. However, a contested convention can still occur if one of the following situations arises:

- No candidate has won a majority of delegates by the beginning of the convention.
- A candidate enters the convention with a majority of delegates but a rival refuses to exit the race.
- No candidate wins a majority when the delegates vote at the convention.

So, how does the voting process work at a convention? At the Democratic National Convention, the party asks pledged delegates “in all good conscience” to “reflect the sentiments of those who elected them” and to vote for the candidate to whom they are pledged. (Technically, however, they are not legally bound to do so.) Superdelegates, meanwhile, are not allowed to participate in the first round of voting if their support is going to be the deciding factor in choosing the nominee—a new rule adopted by the party in 2018. If no candidate wins a majority in the first round of voting, superdelegates are allowed to participate in subsequent rounds and most pledged delegates become unpledged.

On the Republican side, most delegates—approximately 95 percent of the 2,472 delegates in 2016—are bound to vote for their assigned candidate on the basis of the results of the state primary or caucuses. If no candidate wins a majority on the first ballot, many delegates are free to support whomever they wish on the second ballot. Had President Trump not won the 2016 nomination on the first ballot, a complicated set of state and party rules would have allowed 57 percent of Republican delegates to be unbound in the second round of voting, and 81 percent to be unbound in the third round.

At a contested convention, there is no telling how many rounds of voting it could take for a candidate to secure a majority of delegates. In 1924, it took Democrats 103 rounds to nominate former Ambassador John Davis, who eventually lost to incumbent President Calvin Coolidge. Another source of drama at a contested convention are the convention rules, which are set, changed, and finalized by the delegates themselves. If delegates wish to vote for a candidate other than the one to whom they are bound, they can theoretically vote to change the rules and unbind themselves—a prospect that has been called “the nuclear option.”

Explore some of the most famous moments in convention history

Ultimately, the goal of both parties is to emerge from the conventions with nominees for president and vice president, an official platform, and voters who are unified and enthusiastic about the upcoming election.
Each qualified citizen is responsible for casting his or her own ballot on Election Day, but it is not the national popular vote that determines the next president. That job falls to the Electoral College, a body of 538 electors established by Article II of the Constitution.

Under the Electoral College system, each state has as many electors as it has representatives and senators in Congress; the 23rd Amendment gave the District of Columbia three electors as well. When voters go to the polls in a presidential election, they are actually voting for a slate of electors who will cast the state’s electoral votes for a particular pair of presidential and vice presidential candidates.

In most states, the candidate who wins a majority of the state popular vote wins every electoral vote. (Maine and Nebraska, however, employ a district system, in which two at-large electors vote for the winner of the state popular vote and district electors vote for the winner of the popular vote in each congressional district.) To win the presidency, a candidate must capture at least 270 electoral votes.

If there is a deadlock or if no candidate receives a majority of electoral votes, the election of the president moves to the House. In such a scenario, each state delegation casts one vote for any of the top three presidential contenders to determine the winner. Only two presidential elections—those of President-elect Thomas Jefferson in 1800 and President-elect John Quincy Adams in 1824—have been decided in the House. A deadlock also sends the election of the vice president to the Senate, allowing each senator to cast a vote for one of the top two vice presidential candidates. Only one vice presidential election—in 1836—has been decided in the Senate.

Once the election is decided, Congress meets in a joint session on January 6 to witness the vice president open the electoral votes from each state. The vice president passes the votes to four tellers—two representatives and two senators, who announce the results—and declares the name of the next president at the end of the count.

So, what is the reasoning behind the use of the Electoral College? The framers of the Constitution established this system as a compromise between a popular vote and the election of the president by Congress. Over the years, the system has helped ensure that candidates do not focus their campaigns solely on highly populated urban centers with large numbers of voters. Instead, candidates must compete for electoral votes all over the country by addressing the concerns of voters in rural and small states as well.

But the Electoral College has also generated significant controversy. Use of this system has led to several instances in which a candidate has won the popular vote but lost the electoral vote, thus losing the presidency.

- In 1824, Senator Andrew Jackson, D-Tenn., won the popular vote but lost to President-elect Adams.
- In 1876, Governor Samuel Tilden, D-N.Y., won the popular vote but lost to President-elect Rutherford B. Hayes.
In 1888, President Grover Cleveland won the popular vote but lost to President-elect Benjamin Harrison.

In 2000, Vice President Al Gore won the popular vote but lost to President-elect George W. Bush.

In 2016, former Secretary of State Hillary Clinton won the popular vote but lost to President-elect Trump.\(^{43}\)

In response to these occurrences, some states have signed on to the National Popular Vote movement. When a state passes legislation to join this pact, it pledges that all of the state’s electoral votes will go to the presidential candidate who wins the nationwide popular vote. However, the legislation will take effect only if states with a majority of electoral votes join the pact. As of June 2019, 15 states and the District of Columbia (which have 196 electoral votes between them) have joined the effort.\(^{44}\)

Third-party candidates have also struggled to succeed in the Electoral College system. In 1992, for example, businessman Ross Perot won 19 percent of the nationwide popular vote but did not win a single electoral vote, as he was not particularly strong in any one state. As a result of controversies such as these, more than 700 proposals have been introduced in Congress over the last two centuries to reform or abolish the Electoral College. In fact, there have been more proposed constitutional amendments to reform the Electoral College than there have been on any other subject.\(^{45}\)

CONCLUSION

The question of how to best conduct elections is not a new one, but it remains a vitally important one. The opportunity to elect the president comes only once every four years, but the electoral process is always in motion. It is up to individual citizens to decide which candidates they support, what roles they are going to play in the electoral system, and whether or not their voices are truly being heard.


5. U.S. Constitution. Amendment XIX.

6. U.S. Constitution. Amendment XXIII.

7. U.S. Constitution. Amendment XXVI.


19. Ibid.


34. Ibid.
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