



# Voting in U.S. Federal Elections

October 2020

## Architecture for Voting

## Eligibility and Registration

## Voting

## Voting Outcomes

## Interesting Facts

Summary

**ESTABLISHMENT OF FEDERAL CONGRESSIONAL DISTRICTS**  
The U.S. Constitution calls for the election of the President and members of Congress. By law, the number of members of the House of Representatives is fixed at 435. The decennial census determines how these members are apportioned among the states. State legislatures, through redistricting commissions, have the authority to draw boundaries for Congressional districts, which may produce distorted, politically driven results.

Register to Vote

**VOTING ELIGIBILITY AND REGISTRATION**  
All U.S. citizens above the age of 18 years are eligible to vote in federal elections, without regard to race or gender. The U.S. Constitution authorizes state legislatures to establish requirements for "the time, place and manner" (e.g., voting registration, proof of identification, in-person early or day-of voting, and voting by mail or dropboxes via paper ballots) in federal elections. The rules adopted by the state legislatures may impact the ability to vote.

Vote!

**MECHANICS OF VOTING**  
The Tuesday after the first Monday in November is the date fixed for federal elections. To alleviate long lines at the polls on election day and for the convenience of voters, 43 states and the District of Columbia (and Delaware in 2022) allow voters to vote early in person (e.g., three weeks in advance of election day on average). All states permit eligible voters who are unable to vote in person on election day to vote by absentee ballot. In some states these votes may be processed in advance of election day, but the tally of the votes in all states must not be released until after polls close on election day.

Electoral Vote for President

Popular Vote for Congress

**INDIRECT AND DIRECT VOTING**  
In election for seats on the U.S. Senate and House of Representatives, candidates must win the popular vote of his or her state or Congressional district. However, to be elected as President, the national popular vote of citizens does not determine the winner. Instead, a candidate must receive a majority of electoral votes through a process called the Electoral College.

A

### Women's Suffrage

The efforts of women's suffrage organizations led by Susan B. Anthony, Elizabeth Cady Stanton, Lucy Stone, Francis Ellen Watkins Harper, and Carrie Chapman Catt culminated in the adoption in 1920 of the Nineteenth Amendment to the U.S. Constitution, which granted women the right to vote in federal and state elections.

B

### Census Counted Three-Fifths of a Slave to One White Citizen in Determining the Population

At the 1787 Constitutional Convention, to resolve a dispute over whether (and, if so, how) slaves would be counted in determining the total population of primarily Southern states for census purposes (and, thus, the allocation of Congressional seats), the delegates agreed to count three out of every five slaves as people. [U.S. Constitution, Article I, Section 2, Clause 3] This had the effect of giving the Southern states a third more seats in Congress (and the Electoral College). The three-fifths compromise was effectively repealed in 1865 by the Thirteenth Amendment to the U.S. Constitution, which abolished slavery, and was expressly repealed in 1868 upon the adoption of the Fourteenth Amendment (Section 2) of the U.S. Constitution, further benefiting Southern states as a result of the greater apportionment of Congressional seats (and electoral votes) from the full count of former slaves.

C

### Electoral College: The Great Compromise of 1787

The framers of the Constitution established the Electoral College to forge a compromise between those who wanted the President to be elected by members of Congress and those who wanted the President elected by popular vote.

D

### No In-Person Polls (Only Mail-In or Drop-Off Voting)

To encourage informed voting and to make it as easy as possible, in November 2000, Oregon became the first state to conduct elections by automatically mailing ballots to registered voters. Ballots may then either be mailed in or dropped off at designated dropboxes (no in-person voting). The voting rate in presidential elections in Oregon is 70% vs. 55% nationally. Washington, Colorado, Utah and Hawaii also conduct their elections through all-mail/dropbox voting.

E

### Compulsory Voting

In Australia and 20 other countries (e.g., Luxembourg, Uruguay, Costa Rica, and Belgium), voting is mandatory in federal elections on the view that voting is a civic responsibility in a democracy, similar to jury duty, the payment of taxes, compulsory education, and compulsory military service. If an eligible vote fails to vote, he or she is fined. In Australia, over 96% of eligible voters vote. In the U.S. elections, the voting rate is 55% on average in a presidential election year and 40% in off-years (i.e., mid-term elections) when only seats for one-third of the Senate and 100% of the House are up for election. The key argument against compulsory voting views voting as a civic right instead of a civic duty. Under this argument while citizens may exercise their civil rights, they shouldn't be compelled to do so.

F

### Long Voting Lines

Black and Latino voters wait in line 45% longer than whites at polling locations.

Process

**1 States Govern Voting Rules**  
**State Legislatures Determine Voting Rules**  
State legislatures have the authority under the U.S. Constitution to determine "the time, place, and manner" of holding federal elections for members of the Senate and House of Representatives, by popular vote, and the President, by an electoral system [U.S. Constitution, Article I, Section 4, and Article II, Section 1, respectively]

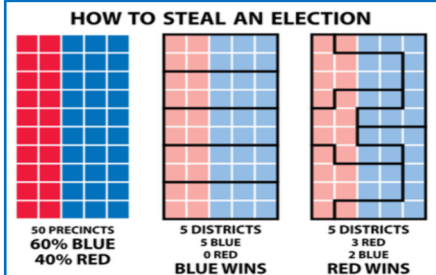
**2 Census Determines the Number of House Representatives in a State**  
The U.S. Constitution provides that the members of the House of Representatives must be apportioned among the 50 states according to the population of a state relative to the population of the entire country. [U.S. Constitution, Article I, Section 2] To determine state population size, a census is conducted once every ten years by the U.S. Census Bureau under the Department of Commerce. The number of Congressional districts in a state may shift based on increases or decreases in population over the previous decade. This reapportionment of seats in the House of Representatives (and the resulting change in electoral votes) reflects the geographic swings in population and, thus, shifts in political power in the U.S.

**3 House of Representatives Members Fixed at 435**  
In 1929, Congress capped the number of members in the House of Representatives at 435. Given a population of 335 million citizens, this translates into one representative per 770,000 residents. However, each state is guaranteed at least one member in the House of Representatives. Otherwise, states with fewer than 770,000 residents would have no representation in the House. The states of Montana, Delaware, North Dakota, South Dakota, Alaska, Vermont, and Wyoming fall into this category.

**4 State Legislatures Draw Congressional Districts**  
The vote for the President and two Senators in each state (and for the lone House member in a state having only one representative) is statewide. However, in states that are apportioned more than one member of the House of Representatives, state legislatures must draw Congressional districts and conduct district-wide elections. Eligible voters residing within a given Congressional district may only vote for the House candidates seeking to represent that district.

**5 Redistricting Occurs Every 10 Years: Gerrymandering**  
Within states that are apportioned more than one member of the House of Representative, Congressional districts are redrawn (based on census data) every 10 years. In 25 states, Congressional districts are drawn by state legislatures. In the other states, the districts are determined by commissions of political appointees or independent members. As a result, redistricting commissions have the ability to gerrymander, which is the practice of drawing of districts for the purpose of conferring undue political advantage on the political party in power.

**6 ABUSE Implement Gerrymandering**  
The illustration demonstrates how to neutralize or overtake the voting power of the majority by gerrymandering voting districts:



**7 REFORM Reduce Gerrymandering by Independent Committees**  
The political science of drawing districts is so refined that gerrymandering (i.e., drawing districts in unusual patterns to consolidate common groups of voters into a few select districts, as opposed to dispersing their voting power) can effectively limit the voting power of a group of voters. Fair-minded states have incorporated independent advisory boards or committees in the redistricting process in order to reduce the influence of partisan motivation.

**8 Who Gets to Vote?**  
**Eligible to Vote**  
A resident is eligible to vote if he or she:  
• is a U.S. citizen, including foreign-born, naturalized citizens  
• meets the state's residency requirements  
• is 18 years of age, on or before Election Day  
• is registered to vote by your state's voter registration deadline

**9 Not Eligible to Vote**  
A resident is not eligible to vote if he or she is:  
• a non-citizen, including permanent legal residents (i.e., green card holders)  
• a convicted felon, depending on the state  
• mentally incapacitated, depending on the state  
• a U.S. citizen residing in five of the six U.S. territories (i.e., Guam, American Samoa, Northern Mariana Islands, Puerto Rico, U.S. Virgin Islands, but excluding Washington, D.C.), for President in the general election

**10 What About the Six U.S. Territories?**  
The six U.S. territories do not have a voting member in the Senate or the general assembly of the House of Representatives. However, each territory is entitled to elect one delegate to the House of Representatives. Delegates may vote in committee meetings, introduce legislation, and have other floor privileges.

**11 Historical Changes in Voting Eligibility**  
**1870 No Denial of Vote Based on Race:** The federal government and each state may not deny a U.S. citizen the right to vote based on that citizen's "race, color, or previous condition of servitude." [15th Amendment of the U.S. Constitution]  
**1920 No Denial of Vote Based on Sex:** The federal government and each state may not deny or abridge a U.S. citizen's right to vote on account of sex. [19th Amendment of the U.S. Constitution]  
**1961 Vote Granted to Citizens in District of Columbia:** U.S. citizens residing in the District of Columbia gained the right to vote in presidential elections. [23rd Amendment of the U.S. Constitution]  
**1964 No Poll Taxes as Condition of Voting:** Congress and the states are prohibited from conditioning the right to vote in federal elections on payment of a poll tax or other types of tax. [24th Amendment of the U.S. Constitution]  
**1971 No Denial of Vote Based on Age if 18 Years of Age:** The federal government and the states are prohibited from using age as a reason for denying the right to vote to U.S. citizens who are at least 18 years old. [26th Amendment of the U.S. Constitution]

**12 Registration Application**  
Citizens must register to vote in their state of residence. The registration process includes completing, prior to the state deadline, an application confirming eligibility and personal information (e.g., name, address, phone number, date of birth, sex, race, and Social Security number or driver's license number).

**13 ABUSE Deny Felons the Right to Vote**  
**Disenfranchisement of Felons.** The Sentencing Project projects that 5.2 million (2.3% of eligible voters) will not be able to vote in 2020 due to felony convictions. **Racial Disparity.** Broken down by race, 6.3% of eligible Black voters will be disenfranchised due to a felony conviction versus 1.8% of non-Black voters. Three states in the Northeast (Maine, Vermont, and Massachusetts) have virtually no disenfranchisement; even prisoners can vote. All other states impose restrictions on voting rights for voters in prison, on parole, or on probation (and, in 11 states, even after the felon has completed his or her sentence). In Tennessee 20% of eligible Black voters are disenfranchised. Other states have high rates of Black voter disenfranchisement: 33% in Wyoming and 10% in each of Alabama, Arizona, Florida, Iowa, Kentucky, Mississippi, Nebraska, South Dakota, and Virginia.

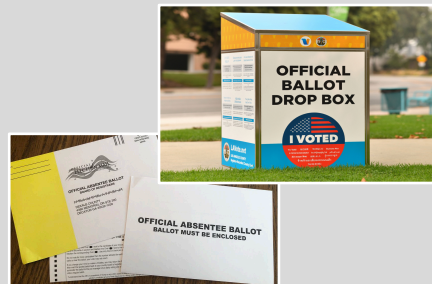
**Impediments to Restoration.** In 10 states, convicted felons can never vote. In all other states (including Florida), felons who have completed their sentences are eligible to vote. However, Florida's Republican-controlled State Senate passed a law requiring felons to pay outstanding fines, courts fees, and restitution before they are deemed to have "served their sentence" and regain their right to vote. In late September 2020, billionaire and former New York City Mayor Michael Bloomberg and others paid the outstanding fines of 32,000 felons in Florida to enable them to vote in the 2020 election.

**14 REFORM Improve Voter Engagement with Sensible, Efficient Reforms**  
There are 233.7 million eligible voters in the U.S. Of these voters, only 128 million (55%) will vote in any presidential election. The demands of standing in line for hours in order to vote, a sense that one's vote does not make a difference, apathy, and the cumbersome nature of qualifying to vote (e.g., paperwork to register to vote or obtain an absentee ballot) dampen enthusiasm for voting. To address the lack of engagement, some states have made voting as easy as possible (e.g., Oregon). Mechanisms include registering citizens automatically or by checking a box upon the renewal of their driver's license, car tag renewals, and the filing of tax returns.

**In-Person Voting and Voting by Mail/Dropbox**  
**15 In Person Early Voting**  
**Early Voting Locations**  
Voters may vote at any early voting location in the county where the voter is registered.  
**16 Voter Identification**  
Most states require a voter to show some form of ID, and in half the states, this must be a photo ID.  
• Forms of photo IDs include driver's license, U.S. passport or a state issued voter identification card.  
• Forms of non-photo ID include birth certificates, social security card, bank statement and utility bills.



**Voting by Mail or Dropbox**  
**17 Obtaining Absentee Ballot**  
Depending on the state, a voter will be sent a ballot automatically or must request one. In a state where a ballot must be requested, a voter must explain why he or she will be unavailable to vote in person on election day.  
**18 Submitting Absentee Ballot**  
Voters may drop their absentee ballot (a) in the mail or in dedicated ballot drop boxes on or before election day or (b) at a polling place in the county where the voter is registered on election day.



**In Person Day-Of Voting**  
**19 Determination of Election Day**  
The Presidential Election Day Act of 1845 was passed to establish a uniform time for electing the president and vice-president. To enable devoutly religious voters of the day to attend church on Sunday, travel to the polling location on Monday, and vote on Tuesday before farmers sell their produce at market on Wednesday, election day was set as the Tuesday following the first Monday in November.  
**20 Voter Identification**  
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• Forms of photo IDs include driver's license, U.S. passport or a state issued voter identification card.  
• Forms of non-photo ID include birth certificates, social security card, bank statement and utility bills.



**21 ABUSE Reduce Number of Ballot Drop Boxes**  
Texas is among the most restrictive states for mail-in voting. Its Republican governor limited the number of ballot drop boxes to one per county, even in counties with millions of voters and a broad geographic footprint.

**22 ABUSE Restrict Polling Place Access**  
Republican-controlled states that have reduced polling places and reduced staffing, in part due to coronavirus concerns, resulted in reduced access and longer wait times.

**23 ABUSE Curtail Postal Service**  
The effective functioning of the U.S. Postal Service is a precondition for establishing a vote-by-mail program. President Trump has acknowledged that voting-by-mail would lead to a spike in turnout that would not "work our well for Republicans." In response, Trump has attempted to destabilize the Postal Service by installing new Postmaster General Louis DeJoy, a Trump loyalist and major donor. In August 2020, Postmaster DeJoy voiced concerns about the Postal Service's ability to deliver mail-in ballots prior to election deadlines due to the increase in mail-in ballots. In addition, he has implemented operational and policy changes that have slowed mail delivery by eliminating overtime pay and decommissioning high-volume/high-speed sorting machines.

**24 REFORM Develop Online Voting**  
Given improvements in technology that enable most of the important functions of our lives to be conducted online (e.g., registering to vote, banking, filing of tax returns, payment of taxes and refunds, shopping, and working or going to school from home), it is reasonable to inquire why web-based voting is not available. At the moment, the critical infrastructure to prevent cyber intrusions and hacking will not be ready for several years.

**25 ABUSE Shorten Early Voting Windows**  
In states that allow early voting, the date that early voting begins may be as early as 45 days before the election, and the average starting time for early voting is 22 days before the election. One means of limiting the ability to vote is to shorten in-person early voting election windows to, say, 7-10 days before the election.

**26 ABUSE Reject Mail-In Ballots**  
Due to a record number of mail-in voters in the 2020 election, the rejection rates for absentee ballots that do not comply with state rules is expected to rise. Based on 2016 rejection rates, at least one million, and as many as two million, ballots will be rejected in this election. Reasons for rejection include failure to sign the ballot, failure to get a witness to sign the ballot (where required), insufficient postage, and not placing the ballot into a sealed inner envelope, among other things.

**27 REFORM Establish Election Day Holiday**  
To increase voted turnout, consideration is being given to establish a federal holiday where eligible voters would be given a paid day off to vote. A handful of states and territories have made election day a state holiday (New York, Hawaii, Kentucky, Delaware, Louisiana, Montana, New Jersey, West Virginia, Virginia, Puerto Rico, and the Northern Mariana Islands).

**28 REFORM Grant Paid Time Off**  
California requires that employees that are otherwise unable to vote are given two hours paid time off at the beginning or end of their shift. Employers could also be encouraged to provide paid time off for workers who vote. More than 600 companies have already agreed to do so (including Coca-Cola, Apple, Best Buy, Gap, Nike, JP Morgan, and Twitter).

**31 Disproportionate Weight of Small States**  
Seven states have only three electors: one for each Senator and House representative. (The District of Columbia also has three electors.) One criticism is that, due to the equal distribution of Senators among the 50 states and the guaranteed minimum of one member of the House of Representative, small states have undue representation in the Electoral College relative to states with large populations such as Texas, California, Florida and New York. For example, Wyoming, with a population of 570,000, has 3 Electoral College votes, whereas California, with a population 70 times larger at 40 million, has 55 Electoral College votes, only 18 times more electors than Wyoming. Because a change in or away from the electoral system would require amending the U.S. Constitution, change is unlikely.

