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**Civics 101**

# Electoral College

**Adia Samba Quee:** [00:00:00] Civics 101 is supported in part by the Corporation for Public Broadcasting.

**Archival:** [00:00:05] CBS now estimates because of victories in California, Washington, Oregon...

**Archival:** [00:00:10] CNN right now is moving our earlier declaration of Florida back to the too close to call column...

**Archival:** [00:00:22] He just has to carry one more state and that brings him to 270 electoral votes...Right. Right. And statistically, in terms of the polls overnight...

**Nick Capodice:** [00:00:30] I've loved this since I was a little kid.

**Hannah McCarthy:** [00:00:32] Me too.

**Nick Capodice:** [00:00:33] Staying up late, watching those states get colored in. But today, I want to talk about the real presidential election elections. I should say, fifty one of them. Held on the first Monday after the second Wednesday in December.

**Archival:** [00:00:49] We gather to follow through on the mandate given by the people on the first Tuesday after the first Monday in November. (music montage) Welcome, electors, guests and students from around the state who are in attendance...it is an honor to greet our three electors...the state's four electors...for you, electors who may be moving about the chamber. Please be mindful of the uneven flooring at various places...I will now officially appoint the alternate elector...the votes are 10 votes. Donald J. Trump...You sold out our country.

**Alvin Tillery:** [00:01:37] Well, the framers were very skeptical of democracy, frankly. And so this is why they created this buffer. They didn't believe that the average person could get the job done in the voting booth.

**Nick Capodice:** [00:01:53] That's Alvin Tillery, a political science professor at Northwestern University. And I'm Nick Capodice.

**Hannah McCarthy:** [00:01:57] And I'm Hannah McCarthy.

**Nick Capodice:** [00:01:59] And this is Civics 101, the podcast refresher course on the basics of how our democracy works. And we don't always mention that tagline, Hannah. But today I have to. It is not to address whether we are a democracy or a republic or a representational constitutional democratic republican federation. That's something I'll leave to political scientists. But today we are talking about a very specific, very intentional barrier to direct democracy: The Electoral College. How it works, why we have it, and its potential future.

**Hannah McCarthy:** [00:02:35] Before you go through how it works, I want to go back to what Alvin said about the framers not being fans of democracy and wanting this buffer. Who even came up with the Electoral College?

**Alvin Tillery:** [00:02:48] Hamilton. The genius of the Constitution. The principal author of the Federalist Papers and star of Broadway musicals. It's Hamilton that that came up with the idea of the Electoral College in Federalist Number 68. He says explicitly that they need the Electoral College to prevent the mischief that would ensue from the masses voting for president.

**Nick Capodice:** [00:03:16] And so the popular vote, which is the sheer tally of all the people who voted in the United States, does not determine the presidency. Our system ensures that smaller, lower population states still have a significant impact on who gets elected. And if a candidate gets 270 electoral votes, that's the magic number, 270, they become president.

**Rebecca Deen:** [00:03:39] The Electoral College, first of all, it's not a college. It's not a place. It is the process by which we formally choose the president.

**Nick Capodice:** [00:03:48] This is Rebecca Deen. She's an associate professor of political science and department chair at University of Texas at Arlington.

**Rebecca Deen:** [00:03:54] When we go into the voting booth to choose either President Trump or the Democratic nominee in 2020, we're not actually voting for that person. We're voting for who that person's party have selected as a slate of electors.

**Hannah McCarthy:** [00:04:11] This fact drives me crazy.

**Nick Capodice:** [00:04:13] Which one?

**Hannah McCarthy:** [00:04:14] That when I'm voting for president, I'm not actually.. the vote's like not actually for a president. That drives me crazy. It's for an elector. It's for a person, a person who isn't even on the ballot.

**Nick Capodice:** [00:04:25] Yeah. This is that firewall between the people and the vote for president. In December, that person that you didn't think you were voting for will cast their vote, usually, we'll get into this later boy howdy, usually for the candidate that won that state. It's a winner take all system, all the electoral votes in that state go to one candidate, even if the candidate won by the barest majority.

**Hannah McCarthy:** [00:04:49] So who are the electors? How do they get picked?

**Nick Capodice:** [00:04:52] Electors are usually chosen by their party at their state's nominating convention. Sometimes it's like more of an honorific position, like Bill Clinton was chosen in 2016 to be a elector for the state of New York. So he cast his electoral vote for his wife, Hillary. The electoral vote in December usually takes place at the state house and it could be just like 20 minutes or can be like a whole day long affair with songs and speeches and bells and whistles and ricketa-racketa.

**Hannah McCarthy:** [00:05:18] Ok. And how many total electors are there?

**Rebecca Deen:** [00:05:23] So there are 535 electors. And that's exactly the same as the congressional delegation. So every state has to that represents the senators and then they have as many as they have congressional districts. D.C. also gets three.

**Nick Capodice:** [00:05:39] So the grand total is 538. For example, New Hampshire has two congressional districts. We have two members in the House of Representatives in Washington, D.C.. So add that to our two senators and we have four, four electoral votes. Now, California has 53 seats in the House. So it has with its senators 55 electoral votes.

**Hannah McCarthy:** [00:06:01] There are states who do it differently, right?

**Nick Capodice:** [00:06:03] That's right. Slightly differently, because Article 2, which is amended by the 12th Amendment, is what lays out the electoral college. But the rules about who the electors cast their votes for, that's left entirely to the states. This winner take all system is not in the constitution, which is why Maine and Nebraska are a little bit different.

**Rebecca Deen:** [00:06:24] And Maine in Nebraska do it kind of interestingly, the mechanism for allocating those electors is a reflection of both the state and the two congressional districts. Maine and Nebraska, both are fairly sparsely populated states and they have two congressional districts. So the two electors that represent the Senate go based on the statewide popular vote. But then congressional District 1, that elector representing that district goes for what that district voted for, and congressional district 2, how that person how that district voted. It's kind of interesting.

**Hannah McCarthy:** [00:07:02] And the determination of how many seats in the House a state has that is based on population, right?

**Rebecca Deen:** [00:07:11] That's exactly right. So that leads to the next obvious conversation, which is the U.S. Census.

**Alvin Tillery:** [00:07:17] After every decennial census, we determine who lives where, we do a count, and some states lose seats in the House and others gain. And so the seats move around as population moves around.

**Nick Capodice:** [00:07:32] And that number of House seats, it is capped at 435. It shall not raise or lower. the 2020 presidential election will use the electoral map based on the data from the 2010 census. We do a new census every 10 years in the U.S. and 2024 is going to be the first presidential election that apportions or assigns seats in the House and therefore electoral votes based on the new 2020 census. And according to projections from the election data services, New York's on track to lose two electoral votes and Texas and Florida are going to get 3 and 2 votes, respectively.

**Hannah McCarthy:** [00:08:06] Seriously?

**Nick Capodice:** [00:08:07] Yeah, the population in the south is growing and it has been for a long time. And now we come to what many consider one of the biggest critiques of the Electoral College, which is the question of who benefits the most from it. And Alvin said this has been an issue from the very start.

**Alvin Tillery:** [00:08:24] So that apportionment process, if you're a southern slave holder like Madison, counting your slaves who can't vote in that process is gonna tip the scales of not only the House of Representatives, but also presidential elections to the Southerners. And this is why so many of our first seven presidents, I think four or five of the first seven are Southern slave-owning men, right? And so this is part of the benefit that they get. But that process of apportionment is one that we still live through today, one we're fighting about today.

**Archival:** [00:09:02] Trump says he's working on a way to bypass a Supreme Court ruling and add a citizenship question to the 2020 census.

**Alvin Tillery:** [00:09:09] This is what Mr. Trump's citizenship question on the upcoming 2020 census is about. Well, if we can just count the citizens or add the question that will lead immigrants from Latin America, Asia and Africa to not answer their doors, to not answer correctly, and that will bolster the movement of seats away from them to white populations, white rural populations. And that's a good thing for the Republican Party.

**Hannah McCarthy:** [00:09:41] Okay. Is Alvin saying that the Electoral College continues to benefit one region or one party over another?

**Alvin Tillery:** [00:09:49] Yeah, I mean, it really is the power engine of the Republican Party today, is it? It explains a lot of their behavior. They are a minority party. Fewer than a third of the voting age population identifies as Republican. But when you look at where those persons are dispersed geographically has a result of racial segregation and Jim Crow, it gives them a huge advantage in the Electoral College.

**Nick Capodice:** [00:10:20] And of course, the reverberations of this is that it affects how presidential campaigns are run. And because we don't have a popular vote system, campaigning is a state by state business. During the run up to the 2016 election, 375 of the 399 campaign events were in the same 12 states. And in the first five weeks of the campaign, 33 states were totally ignored.

**Hannah McCarthy:** [00:10:47] All right. But if we did switch to a popular vote system, wouldn't that totally revolutionize the way that we campaign in this country?

**Nick Capodice:** [00:10:54] It would completely change how we campaign for president. It wouldn't even be in states. It would be in cities, high population cities. Candidates would spend all their time and ad power in New York, Los Angeles, Chicago and Houston.

**Hannah McCarthy:** [00:11:07] Going back to what Alvin said about how the Electoral College currently favors one party. Is there any momentum to, if not abolish it, change how it works?

**Nick Capodice:** [00:11:20] Abolishing it or changing it would require a constitutional amendment. So that's two thirds of both houses. But it also requires three quarters of all states to get on board. And I don't think that the 14 lowest population states would really get behind a movement to remove their electoral power. However, Rebecca told me that there is a roundabout way that the system is being altered as we speak,.

**Rebecca Deen:** [00:11:45] And something that's very concrete that's going on is that a number of states have come together and they're almost all Democratic Party controlled states, they've come together and they've said if we can get enough states that would constitute 270 Electoral College votes to agree, then our electors will choose the popular vote, the person who won the popular vote nationally, even if my individual state chose the other candidate. So in other words, they're trying to make the Electoral College moot, right? They're trying to to make it inconsequential by saying if we can get enough people who would, enough states whose electors would reflect this magic 270, then we pledge that our electors will go with the national popular vote.

**Hannah McCarthy:** [00:12:45] Wow. How many states have agreed to do this so far?

**Nick Capodice:** [00:12:48] 15 states and Washington, D.C. So that's 196 electoral votes. And there's another workaround that hasn't so far really affected an outcome of an election, but it has certainly been in the news.

**Archival:** [00:13:02] Gregg Jarrett here in the strategy room, a Republican member of the Electoral College Christopher Suprun of Texas is vowing to cast his vote against Donald Trump.

**Christopher Suprun:** [00:13:13] My name is Christopher Suprun. I'm a paramedic, father and husband. And in 2016, I was the faithless elector from Texas.

**Hannah McCarthy:** [00:13:19] Faithless elector.

**Nick Capodice:** [00:13:20] A faithless elector. That is an elector who does not vote for the candidate that won in that state. So when the Senate certified the electoral count from Texas, Donald Trump did not get all the votes. Chris and another Republican elector had concerns about foreign interference in the election and they voted for someone else.

**Archival:** [00:13:40] It appears therefore that Donald J. Trump from the state of New York received 36 votes for president. John R. Kasich of the state of Ohio receives one vote for president Ron Paul in the state of Texas...

**Christopher Suprun:** [00:13:52] I was told point blank on the floor of the state House of Representatives that my career would be over. I would never be able to work with Republicans again. And at the same time, I was getting threats on Twitter saying, are you out of your mind? You can't possibly take those votes away from us. My, my children have been threatened. My wife's been threatened multiple ways, literally six days after the vote, we spent Christmas in a La Quinta. So the repercussions were serious, but people were very unhappy. We were trying to, quote, undo the election.

**Nick Capodice:** [00:14:23] So far in U.S. history, there's been 167 faithless electors. Though I have to add, 71 of those were from a very small amount of elections where the candidate had died before the Electoral College vote. But electors don't always have the choice to be faithless or faithful. 32 states have legislation that requires you to cast your vote for the state winner. And in most of those 32, your vote wouldn't even count. You're replaced by an alternate. This happened in 2016 as well. Three would-be faithless electors were replaced. And there is disagreement, Hannah, as we speak among the circuit courts on whether or not this is constitutional. And the Supreme Court is deciding right now whether or not it's going to hear the case. This could forever alter the legality of the faithless elector. When Chris was explaining his thoughts to me on the role of electors, he referenced where we started. The words of Alexander Hamilton.

**Christopher Suprun:** [00:15:18] Well, as a faithful elector, I obviously endorse the view of Federalist 68 that electors are not an accounting procedure. If they were, there would be no need to have people assigned to those roles. And an elector should vote their conscience if for some reason they think their party, gets it very wrong. If there's some cause that an elector feels bound, that they need to vote for someone other than the candidate they are, quote, assigned to. I think they should vote that way.

**Nick Capodice:** [00:15:46] There is a chance that in our lifetimes the Electoral College will be, if not abolished, altered by state legislation to work a different way. So to finish up, I asked Alvin, what are the arguments for keeping it? What are the arguments for getting rid of it?

**Alvin Tillery:** [00:16:02] Well, the arguments for keeping it remain the arguments for putting it in place in the first place. It leads politicians running for president to not ignore states like, I don't know, New Hampshire or Rhode Island or Wyoming, Montana, places where populations are smaller. If you can win a good combination of those states with tiny populations, you don't have to spend all of your resources in New York, Illinois, California and Texas. Right. So that's the argument for keeping it together. Arguments against it are that it has anti-democratic origins. But let's be explicit. The framers would be appalled by the way the Electoral College works today, right? The entire point for them was a bulwark against tyranny. The entire point for them was to have electors being faithless, right? Electors to be free agents. The point is that they would be electing people of high virtue that would be able to discern whether or not someone had the moral virtues and the sensibilities to lead the nation. And so this idea that we should have reforms to make it more democratic, I think that they would think that that's preposterous, right. And I think that on its face is the argument against it that we are so far removed from a society with these notions, these ancient and notions of virtue that were largely exclusionary, that we should just scrap it and let the people vote.

**Nick Capodice:** [00:17:59] Should we keep it should we leave it? Should we scrap it should we bleep it? Tweet us. Tweet your argument for or against the Electoral College @civics101pod. And that's about it. They'll just about do it. That's the end of the Electoral College and the end of our series on presidential elections. We're going to be back in two weeks with another episode. Today's show is produced by me Nick Capodice with you, Hannah McCarthy. Thank you.

**Hannah McCarthy:** [00:18:23] Our staff includes Jackie Fulton, Erica Jannik as our executive producer and the only vote that matters.

**Nick Capodice:** [00:18:28] Maureen McMurray majored in mischief at the Electoral College campus in Leominster.

**Hannah McCarthy:** [00:18:31] Special thanks to Jeanette Senecal from the League of Women Voters and Brady Carlson for all of his presidential knowledge.

**Nick Capodice:** [00:18:38] ABC Brady. Always Book Carlson.

**Hannah McCarthy:** [00:18:41] Music in this episode is by Chris Zabriskie, KieloKaz, Kariatida, Emily Sprague, Ikimashoo Aoi, Patrick Patrikios, and this is BAD SNACKS.

**Nick Capodice:** [00:00:00] Civics 101 is a production of NHPR and is made possible in part by the Corporation for Public Broadcasting