
The US elections: campaign, transition and inauguration

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Theme

Which are the various elements –beyond the election itself on 5 November– that need to be taken into account for a new White House Administration to get under way.

Summary

There are only a few days to go before a decisive election is held in the US; but the electoral cycle [goes beyond 5 November](#). The primary stage, which enables the presidential and their vice-presidential candidates to be chosen, ended at the start of summer and culminated in the Republican and Democrat conventions in July and August respectively. Now two more phases draw to a close: the electoral campaign, which culminates on 5 November, centred on the so-called swing states and attention focused on elections to the Senate and House of Representatives; and the transition period, when the votes are counted and certified, and the transfer of powers takes place. This will conclude on 20 January with the inauguration of the new occupant of the White House, as stipulated in the 20th amendment to the US Constitution.

Analysis

1. The campaign

The electoral campaign in the US formally began on 3 September 2024, one day after the Labor Day holiday. But the reality is that the starting pistol was fired when Donald Trump [announced his intention to run](#) in the Republican primaries. Now there are only a few weeks remaining a closely contested campaign, with an unexpected new Democrat candidate. Since entering the race at the end of July, Vice-president Harris has been able to improve the position of President Biden in the polls both nationally and in the battleground states. Harris has managed to control the terms of the debate and Trump's campaign has failed in its attempts to link it to a still unpopular President. But although Harris is gaining ground, Trump is not losing support.

Not everything is decided on 5 November. [Voting has already begun](#) in some states, with [Alabama](#) the first to send out its postal votes on 11 September, followed by another nine that started to do so 45 days prior to the elections. These were gradually joined by the remaining states (voting papers for the armed forces and residents abroad were also sent out 45 days prior to polling day). Voting in person also began five weeks before polling day, with Virginia the first state to begin in-person voting, followed by South Dakota and Minnesota.

In the US it is necessary to register in order to vote, making voting a two-step process that sometimes has the effect of disincentivising the electorate. Formerly, the

complicated voting procedures each of the states established, together with a range of other restrictive measures, erected a set of obstacles between voters and ballot boxes, too frequently designed to impede the participation of certain groups of citizens, often identifiable by their ethnicity, race, class, literacy rates or party allegiances. The [registration processes](#) have changed considerably and are less openly discriminatory, extending the deadlines and making the process almost automatic, but they continue to impede some citizens' participation. This is one of the reasons why the turnout in presidential elections has generally been very low, typically hovering around the 50% mark. The 2020 election, however, had the highest turnout of a national election since 1900, with 66% of the population taking part. A new Democrat candidate could once again drive turnout in a tight race and it is expected to match the percentage of previous elections.

The end goal of the two major parties is to amass 270 electors, a simple majority of the Electoral College comprising 538 members.

The Electoral College is a venerable and arcane institution –and by extension, process– which is used only for presidential elections (the popular vote is used to decide all Congressional, state and local elections). This model emerged for the first time in the constitution of 1787. At that time, the idea of using the popular vote to choose the President was explicitly rejected because the founding fathers did not trust voters' ability to make a wise choice. The Electoral College was thus agreed as a compromise between those who thought that Congress should choose the President and others who advocated a direct popular nationwide vote. In its place, state legislatures were charged with appointing electors to form the Electoral College.

The electors are therefore a group of intermediaries appointed by the US Constitution to choose the country's President and Vice-president, and they usually hold an elected office or are significant members of a party. Each of the 50 states is assigned a number of Electoral College members to match its total number of representatives in the Lower House plus its senators. Ratification of the 23rd amendment in 1961 enabled citizens of the District of Columbia to take part in presidential elections too, since when they have had three electors. Forty-eight states and the District of Columbia use a system in which the winner of the popular vote in each of the state elections wins all the electors who have been assigned to the said state. Maine and Nebraska have adopted a different approach. These states assign two electoral college votes to the winner of the popular vote in the state and then one electoral college vote to the winner of the popular vote in each Congressional district (two in Maine, three in Nebraska). The US Constitution created the Electoral College, but did not explain how the votes would be assigned to the presidential candidates, an ambiguity that allowed these two states this exception.

By casting their vote on the election day or beforehand, voters play their role in the formal process of 'selecting' the electors in their state. In most presidential elections in the course of history, the Electoral College has operated without any problem. On five occasions however the winner of the Electoral College has not been the winner of the popular vote. Three of these occurred in the 19th century, none in the 20th century and two in the 21st century. The main problem is that having a President who loses the popular vote despite having won the Electoral College undermines his electoral

legitimacy. In 2000 Vice-president Al Gore won the popular vote against Governor George W. Bush by slightly more than 500,000 votes. In 2016 the results were even more dramatic, with Clinton winning the popular vote by more than 2,800,000 and losing the Electoral College. In the 2020 presidential election, a switch of only 45,000 votes in three states –Wisconsin, Georgia and Arizona– could have created a tie in the Electoral College and forced a contingent election to be held in the House of Representatives. This would have happened even though Joe Biden had won the popular vote by more than seven million votes.

This discrepancy between the Electoral College and the popular vote is generating growing controversy about the electoral system. Moreover, reports of voting irregularities have done nothing to help the electorate feel particularly secure about the integrity of the process. And here another threat must be added. At a time of major income inequality and significant geographical differences between the states, there is a risk of the Electoral College systematically overrepresenting the opinions of a relatively small number of people owing to the structure of the Electoral College itself. As it is currently constituted, each state has two votes in the Electoral College, regardless of the size of its population, plus the additional votes matching its number of members of the House of Representatives. This format overrepresents the small and medium-sized states to the detriment of the large ones. All these objections have led US citizens to increasingly [oppose the Electoral College](#). Six out of 10 would prefer the winner to be the candidate who attracts most votes at the national level, with increasing division along party lines, with Democrats declaring themselves mostly in favour and the Republicans more divided.

The US voting system is therefore structured around the states, which are the important jurisdictional unit of the presidential elections. This causes the political campaigns to focus on a relatively small number of pivotal swing states. These are highly sought-after states that have historically swung between voting for one party or the other in the presidential elections, whereas most states vote systematically for the same party ([between 2000 and 2020, 36 states voted for the same party](#)). For this reason, these states receive a disproportionate amount of attention from polling companies and candidates, who spend more than 75% of their campaign budgets on them, and the claim that ‘every vote counts’ becomes especially apposite in these cases. If no candidate wins a majority of Electoral College votes (they are tied on 269) the presidential election passes to the House of Representatives for a second round. However, in contrast to the usual practice of the House, each state would only receive one vote, decided by the party that controls the state’s delegation to the House of Representatives.

The current electoral cycle will once again be determined by the decisive swing states: Pennsylvania, Michigan and Wisconsin (known as the Rust Belt); and Arizona, Nevada, Georgia and North Carolina (known as the Sun Belt).

When Joe Biden was the Democrat candidate after winning the primaries, his victory required winning the Rust Belt, while the Sun Belt was virtually written off as lost. With Kamala Harris, the party is once again competitive in all seven states and the possible combinations for winning the 270 electoral college votes have risen, while the possibilities of the Republican remain almost unchanged.

Various scenarios have been mentioned depending on the campaign strategy. One possibility is that Harris flips the Biden plan of taking the Rust Belt and claims victory by concentrating on the Sun Belt. This would mean not relying on gaining ground among non-university educated white voters –reducing the possibility of victory in Pennsylvania and Wisconsin– but winning an even higher percentage of white university graduates and ethnically Asian voters than in 2020. She would also need to match the previous election’s results among Black and Latino voters, which would enable her to retain Arizona, Georgia and Nevada, enough to secure a majority of electoral college votes.

A second scenario involves the materialisation of Trump’s supposed gains among Black, Latino and ethnically Asian voters, propelling his return to the White House. Although he would lose the national popular vote, he would win the presidency if he increased his percentage of support among these minorities, gaining Arizona, Georgia, Nevada, Pennsylvania and Wisconsin.

Another possibility is that Harris [secures a good result among voters aged 65 and over](#), which would enable her to retain Michigan, Nevada, Pennsylvania and Wisconsin, accumulating 276 electoral college votes. If this were the case, it would be the first time a Democrat candidate managed to win the support of this group since Al Gore, and would come at a time in which Harris is gaining ground among young voters, albeit not enough. Although neither campaign wants to lose votes, the replacement of young voters by their older counterparts is potentially positive for Harris given that there are [more older people](#) in the US than young people under 30 and they are more likely to sign up to the electoral register and cast their ballot. And although the exact figures differ according to state, older voters constitute a much larger part of the electorate than younger voters in some of the swing states.

Another possible scenario is a chaotic electoral result –with few patterns or consistent tendencies in the battleground states– which could lead to a narrow victory for Trump. A case in point would be the mid-term elections of 2022, which produced very different results from one state to another, with the Democrats doing well in states like Michigan, Pennsylvania and Colorado and the Republicans dominating in New York, California and Florida.

Finally, it is important not to overlook what is normally referred to as the ‘October surprise’, an event, whether deliberate or spontaneous, that can influence the result in November. Some believe that it has already taken place and it could be [the dockers’ strike on the East Coast](#), or Iran’s attack on Israel, which threatens an even wider war, or the most recent 165-page filing by Special Counsel Jack Smith in the federal case against Donald Trump for subverting the 2020 presidential election. Or perhaps the surprise is still to come. Most commentators tend to believe that such a surprise no longer applies, however.

The 2016 presidential race was influenced a month before the election by the reopening of the investigation into Hillary Clinton’s e-mails which, according to some, [cost her the election](#). The distinctive characteristic of the current presidential election, however, is immobility. In fact, the only thing that has seriously shifted the polls was Joe Biden’s withdrawal from the race and his replacement by Kamala Harris as the Democrat

candidate. But neither Biden's poor debating performance, nor the first assassination attempt on Trump, nor the second caused a major change in the polls. This stability reflects the [calcified state of current US politics](#), with US citizens politically split down the middle and deeply polarised in their opinions.

The conclusion is that [everything remains up for grabs](#) in a tight presidential race, although Kamala Harris has clearly increased her possible combinations for securing 270 electors. But as well as the presidential campaign, it is important not to lose sight of what is at stake in the Senate and the House of Representatives, which is by no means trivial. Regardless of who wins the election, if one of the two chambers falls into the hands of the opposing party, it will change the victor's options when it comes to governing.

2. Congress

The 435 seats of the House of Representatives are also up for re-election in November – Representatives' terms last for two years– as well as a third of the 100 Senate seats – Senators' terms last for six years–. This difference in the duration of terms means that the House of Representatives tends to reflect popular passions and passing enthusiasms, whereas the Senate tempers the enthusiasm with wisdom and experience.

Congress is the branch closest to the ground. It is the point of entry through which ordinary citizens try to influence politics and unlikely as it may seem, congressmen and women devote considerable time to finding out what their voters want. Congress is also the place where the contradictory opinions and priorities of a large, diverse and energetic country come together and frequently collide. It forces its members to find enough points in common to be able to pass laws in their own chamber, in the other chamber, and subsequently obtain the President's signature. It requires negotiation and compromise, and when Congress works well, it produces legislation capable of garnering widespread support throughout the country. Lastly, part of the work of Congress consists of controlling and supervising the executive branch. There can be no doubt that this function can be used to pursue partisan ends, but also to ensure that the institutions and bureaucrats are truly serving the US people as they should. It would be no surprise if a Republican majority were to constitute a partner less willing to arrive at compromises with a Democrat White House, with a legislative blockade and an aggressive use of Congressional tools to attack and goad the new Administration. The same may be expected if the opposite holds true, although the Biden Administration has shown that it still believes in bipartisan politics, because during its mandate it has managed to push through three major legislative packages with the help of Republican votes.

Among the powers wielded by the upper chamber is the ability to institute dismissal procedures against senior federal officers (impeachment), but it is also charged with exercising the power of evaluation and approval in matters of treaties and plays an important role in the confirmation (or rejection) of certain nominations (around 1,200 of the President's 4,000 political nominations), such as ambassadors and senior judges. It also proposes legislation, draws up and amends draft bills, oversees the federal budget and approves the treaties with foreign nations negotiated by the executive power.

Everything seems to indicate that the Senate could revert to Republican hands. But the Senate usually requires a majority of 60 out of 100 to get most legislative initiatives over the hurdle of delaying tactics, known as the filibuster, making it essential to find consensus with the other side. And if this cannot be achieved, government is fundamentally done through executive orders. Recent forecasts suggest that whoever wins it will be a chamber almost as evenly split as the current one (49 Republican senators and 51 Democrats). In the event of a tie in the number of senators, majority control will depend on the candidate who wins the presidential race (the Vice-president has the casting vote, if necessary).

A practically tied Senate would therefore limit the ambitions of both the Republican and the Democrat agendas and the only bearing they would be able to exert on the fiscal domain would rely on a procedure known as 'reconciliation', which enables the Senate to use a simple majority to modify income and expenditure. This is particularly important for next year, when many of the cuts imposed during the first Trump Administration come to an end.

For its part, the House of Representatives can initiate impeachment against federal office-holders by voting for articles of dismissal that are then sent to the Senate; it is also empowered to approve and reject presidential nominations and international treaties. But it also has the power to investigate specific cases and matters related to the executive, judicial and other branches of the state, which includes the authority to summon witnesses and documents, hold public hearings and send the results to committees for review and create specific committees for this purpose. This power of oversight has been used aggressively by the Republicans in the last two years, for example against the head of Homeland Security, Alejandro Mayorkas, and the son of the incumbent President, Hunter Biden.

The lower chamber also holds the purse strings. On its own the House of Representatives cannot pass bills into law, but it can refuse to endorse them, or to grant them money, and it can threaten to shut down government. The current Republican majority has sought to hold the debt limit hostage in an attempt to force spending cuts and has frozen additional funding of Ukraine for months, and could do so again in the future. More spending aimed at countries such as Ukraine and Taiwan, or to confront the world's authoritarian regimes, could prove even more difficult if the lower chamber is in Republican hands, because they seem to be determined to go ahead with cutting what they deem to be superfluous expenditure.

It is not clear who is going to control the 435 seats of the House of Representatives, which is a toss-up between the two parties, albeit with a narrow advantage for the Democrats. Securing a majority is in any event crucial for both parties.

3. Transition

After the election is held on 5 November, the 538 electors travel to the capitals of their respective states –on the Monday following the second Wednesday of December– to elect the President of the US. These citizens, chosen for their loyalty to their political party, will vote for the presidential candidate who has won the popular vote in their state.

Here something comes into play that until recently had remained in relative obscurity: the counting and certification of the ballot.

Immediately after the 2020 presidential election, at least 17 election officers from the counties of six swing states tried to block the certification of the total votes cast in their respective counties, alleging electoral fraud. Such an attempt to block certification was hitherto unprecedented. Although all the attempts foundered, the contested certifications might potentially have derailed the election.

In 2022, during the mid-term elections, at least 22 county election officials voted in favour of delaying certification in key battleground states, an increase of almost 30% compared with 2020. In some cases the officials managed to stall –although ultimately not block– the certification.

In the first eight months of 2024, at least eight county officials have already voted against certifying primary or special election results. Everything suggests that interference in certification could return after the 2024 presidential election, given that the trend that has been evident since 2020.

It is possible that there will once again be a degree of chaos and confusion in the certifications at the local level –less so at the state level– but dozens of local officials are already lined up and prepared to ensure that the certification process goes ahead with the changes instituted since 2020 to prevent political interference in the process. If a local entity refuses to certify, the courts will intervene to force certification. Despite misgivings it is therefore necessary to trust the process.

When the electors have voted for the presidential candidate who has won the popular vote in their respective states, the next step is a joint session of Congress held at the Capitol building to count the electoral votes and declare the result of the election. Since the mid-20th century, this joint session has been held on 6 January at 13:00. The incumbent Vice-president chairs the meeting and opens the votes of each state in alphabetical order. At the end of the count, the Vice-president announces the name of the next President. At this point the presidential race will have officially ended, paving the way to the presidential inauguration on 20 January.

The states expect that their electors will respect the will of their voters in the Capitol. In other words, the electors pledge to vote for the winner of the popular vote in their state. However, the constitution does not oblige them to do so, which enables there to be ‘faithless electors’. In 1796 Samuel Miles was the first to cast his vote in favour of a candidate who had not won the popular vote in his state. In the 2016 election, seven electors ignored the dictates of the popular vote in their state, this being the highest number in any modern election. In a highly polarised political context in which people harbour strong feelings towards particular candidates, it is possible –but still rather unlikely– that future faithless electors could tip the presidency in one direction or another. However, 38 states and Washington DC have laws in place that force the electors to vote for their party’s official candidate. A 2020 Supreme Court decision ruled that the states are authorised to impose sanctions –including fines, replacement as an elector and a

possible trial— against ‘faithless electors’ or those who vote against the popular vote in their state.

Moreover, after the assault on the Capitol on 6 January 2021, Congress approved a series of reforms that would make it more difficult for partisan actors to manipulate the results of future presidential elections. In 2022 the [Electoral Count Reform and Presidential Transition Improvement Act](#) gave even greater clarity to the [specific functions and duties](#) of the Congress and Vice-president in counting the Electoral College certificates and ensures that the Congress receives and considers the electoral votes that truly reflect the election results.

It is said that if Kamala Harris wins the election on 5 November, she will need to defend her victory until January precisely due to the uncertainties surrounding the count and certification of the votes, above all in light of the Republican candidate’s declarations and the fear that he is already manoeuvring in advance of what may take place. The institutions have taken steps to ensure that the final results are a true reflection of the votes cast. There may be episodes of chaos and confusion mainly at a local level and, in particular, pre-meditated news stories about electoral fraud and doubts about the results. But nobody doubts that whoever finally takes possession of the White House will be the winner of the contest.

4. Transfer of powers

The constitution has virtually nothing to say about presidential transitions, apart from the fact that the next President will take up office on 20 January. But there is a federal law, [the Presidential Transition Act](#), originally approved in 1963, which establishes certain processes and requirements that apply both before and after elections, in the event of a new President coming to power. It does not say anything about the outgoing President having to invite his successor to the White House or personally cooperate with him in any way. This is only a tradition, but a tradition that no outgoing Administration had ever failed to observe until it was broken in 2020 with Donald Trump as outgoing President, who also decided not to attend his successor’s inauguration.

A peaceful handover of power —above all from one political party to another— is arguably the ultimate expression of the rule of law. It was George Washington’s great contribution to the US political tradition when he voluntarily gave up the presidency. The spectacle of an outgoing President —Donald Trump— behaving in a way that had never been seen before was profoundly corrosive to US democracy.

The process of presidential transition therefore exists in a symbolic way, with the ritual of one President yielding power to another displaying a society that respects the law, where the will of the electorate holds sway. But there is also a practical level. The federal government of the US is one of the largest organisations in the world and the process of transferring control from one group of political actors to another is extraordinarily complex.

The presidential transition is therefore also a process of planning a new presidential mandate. And the presidential candidates achieve this by establishing transition teams,

organisations that are legally separate from the presidential campaigns. The transition teams are responsible, among other things, for investigating the backgrounds of personnel, for planning policies and management programmes for turning campaign promises into governance. There are thousands of real-time decisions that have to be taken from the moment the future President takes office. And a longstanding tradition has developed whereby, as soon as the result of the election is known, the outgoing Administration –if the Administration is changing– undertakes to help the incoming Administration take up the reins.

The key is that whoever occupies the White House should be ready to govern from the very first day of taking up residence. An incoming President is responsible for making more than 4,000 political nominations, overseeing a budget of approximately US\$6 trillion and managing an enormous organisation that employs more than two million federal workers and more than two million service personnel and reserve forces. If the process is delayed or is not completed effectively, it could even have implications for national security. In the elections that took place in 2000, when the Supreme Court took 35 days to rule on the electoral dispute in Florida between George W. Bush and Al Gore, the Clinton Administration decided not to give access to either of the two teams and wait until the final resolution of the dispute. This led to a truncated transition that had a negative impact on national security, as the Commission on the 9/11 attacks on the US found, concluding that the shortened transition from the Clinton to the Bush Administration was a factor that [contributed to the country's vulnerability](#) to terrorist attacks.

Conclusions

Only a few weeks remain before the 5 November polling day in the US, thereby bringing to an end a tight race that will be decided by a handful of states and relatively few votes. But it is not only the presidency that is at stake; the result in the Senate and the House of Representatives will determine the future Administration's room for manoeuvre.

But the contest will not end there. If Trump wins, the US should prepare for a transfer of power to a new Administration that is shaping up to be disruptive, especially on the domestic stage. If Harris wins, she will also need to defend her victory over Donald Trump until the day of her inauguration. However, the institutions have taken sufficient steps to ensure that there is a peaceful transition of power in spite of the narratives being advanced by Trump and the suspicion that he could try to repeat what happened between November 2020 and January 2021.

Even if the transfer passes off smoothly, the narratives of the Republican Party are already having a tremendously corrosive effect. In addition, there is the damage being inflicted on the position of the US in the world and the trust that citizens may have in their government. There is a significant difference between wanting US democracy to work, while acknowledging severe problems, and a widespread effort to undermine people's fundamental faith in the democratic process.