

# What If Scenarios if the Impossible Happened in a Presidential Election Year

## The Electoral College in 2020

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*The peaceful transition of power as a result of elections is essential to the peaceful function of government in a democracy. The peaceful transition applies to both elected individuals and to political parties. The United States is a competitive democracy with two political parties representing different ideas and philosophies about political power, individual rights, and laissez-faire capitalism. In this year's presidential election, the threats of foreign interference, mail-in ballots, inconclusive election results, the age of the presidential candidates, the impact of the Covid-19 pandemic, the importance of elections to the Legislative Branch, appointments to the Electoral College, and the significance of the popular vote are important in the education of students.*

### The 'What If' Scenarios: Constitutional Cliffhangers!

#### Before Election Day

1. **What if** one of the candidates for President and Vice-President died after they were nominated by their political party's national convention but before Election Day?
2. **What if** the president-elect died between Election Day and the first Monday after the second Wednesday in December when the Electoral College voted? (December 14, 2020)
3. **What if** the president-elect died after the Electoral College voted in December but before the new session of Congress convened on January 6, 2021?
4. **What if** the Vice-President-elect died between Election Day and the Monday after the second Wednesday in December when the Electoral College voted?
5. **What if** the Vice-President-elect died after the Electoral College voted in December but before the new session of Congress convened on January 6, 2021.
6. **What if** the President-elect died after the House of Representatives validated the Electoral College votes and selected the President but before Inauguration Day?
7. **What if** the President-elect died after the House of Representatives validated the Electoral College votes and selected the President but before Inauguration Day?

#### After Election Day

1. **What if** the Electoral College could not meet in some of the 50 states on December 14, 2020 because of Covid-19?
2. **What if** the current President of the United States declared a national emergency (because of Covid-19, protests and violence, or another issue) and our country was on lockdown with travel prohibited?

3. **What if** the election results were not public by December 8, 2020? Would the Electoral College be postponed?
4. **What if** the election results were contested when the U.S. Congress meets in a joint session to count the electoral votes? **What if** both houses are Republican? **What if** the House chooses Joe Biden and the results are challenged, who makes the decision? **What if** the Senate chooses Mike Pence as the Vice-President and the selection of a President has not been made by January 20, 2021?
5. **What if** Mike Pence, as Speaker of the Senate, disqualifies votes for Joe Biden making it impossible for a majority of the states to vote for Joe Biden?
6. **What if** the electric power grid of the United States in major cities in states where the election could be close (Detroit, Chicago, Milwaukee, Philadelphia, etc.) and the votes in these large cities were incomplete or challenged?
7. **What if** the U.S. Postal Service finds millions of ballots at the end of November that were not delivered on or before November 3, 2020? Should these ballots be counted?

#### **A Crisis in January**

1. **What if** the United States was attacked or became involved in an undeclared military conflict after the Electoral College voted in December but before Inauguration Day?
2. **What if** Speaker of the House, Nancy Pelosi, claims that Mike Pence and the Republicans are stealing the election and she uses the 25<sup>th</sup> Amendment (Presidential Succession Act) to become the 'Acting President' on January 20, 2021?? **What if** the House selected someone other than Nancy Pelosi as Speaker of the House in January?
3. **What if** Speaker of the House Nancy Pelosi asserted that she should be the Acting President if the election results are not decided as of January 20, 2021 with Chief Justice John Roberts administering the Oath of Office and Attorney General William Barr challenging her because she is from the Legislative Branch and the opposite political party of Trump and Pence and the Senate majority. **What if** William Barr administers the Oath of Office to Secretary of State Mike Pence?

#### **The Timeline of the 2020 Election of President**

**Nov. 3, 2020:** *Election Day*, when voters in each state will select their presidential electors. The names of electors are not on the ballot in most states. Rather, when a voter casts a vote for a presidential candidate, s/he is also casting a vote for the electors already selected by the party of that candidate. If a majority of voters in a state vote for the Republican candidate for president, the Republican slate of electors is elected. If a majority vote for the Democratic candidate, the Democratic slate of electors is chosen.

**Dec. 8, 2020:** *Deadline for Resolving Election Disputes.* All state recounts and court contests over presidential election results must be completed by this date.

**Dec. 14, 2020:** *Meeting of the Electors.* The electors meet in each state and cast their ballots for president and vice president. Each elector votes on his or her own ballot and signs it. The ballots are immediately transmitted to various people: one copy goes to the president of the U.S. Senate (who is also the vice president of the United States); this is the copy that will be officially counted later. Other copies go to the state's secretary of state, the National Archives and Records Administration, and the presiding judge in the district where the electors meet (this serves as a backup copy that would replace the official copy sent to the president of the Senate if it is lost or destroyed).

**Dec. 23, 2020:** *Deadline for Receipt of Ballots.* The electors' ballots from all states must be received by the president of the Senate by this date. There is no penalty for missing this deadline.

**Jan. 6, 2021:** *Counting of the Electoral Ballots.* The U.S. Congress meets in joint session to count the electoral votes.

**Jan. 20, 2021:** *Inauguration Day.* The president-elect becomes the president of the United States.

**Suggested Activities:**

1. Structured class debate on scenarios of interest.
2. Publish a class blog for your school or community on the constitutional process for selected scenarios.
3. Produce a video on selected scenarios and the constitutional process.
4. Invite lawyers or college professors to your school (or virtual school) to learn different perspectives on selected scenarios.
5. Rate the scenarios that are the most likely to be concerned about. (top three or five)

**Resources**

[U.S. Constitution](#) (Death of a Presidential Candidate)

[Teaching History.org](#) (Death of the candidate for President or Vice-President)

[National Constitution Center](#) (12<sup>th</sup> Amendment)

[National Constitution Center](#) (22<sup>nd</sup> Amendment)

[National Constitution Center](#) (25<sup>th</sup> Amendment)

[Vermont Public Radio](#) (Death of the Candidate for President or Vice-President)

[The Atlantic](#) (The Inadequacy of America's Election Laws after Election Day)

[National Public Radio](#) (Insurrection Act)

[Brennan Center for Justice](#) (Insurrection Act)

[Brookings and the LawFare Institute](#) (A Presidential Succession Nightmare)