

**Congress of the United States**  
**Washington, DC 20515**

January 3, 2021

The Honorable Nancy Pelosi  
Speaker of the House  
U.S. House of Representatives  
The Capitol, H-232  
Washington, DC 20515

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
The Capitol, H-204  
Washington, DC 20515

Dear Speaker Pelosi and Leader McCarthy,

We, like most Americans, are outraged at the significant abuses in our election system resulting from the reckless adoption of mail-in ballots and the lack of safeguards maintained to guarantee that only legitimate votes are cast and counted. It is shameful that between both chambers of the U.S. Congress, we have held precisely one hearing on election integrity since Election Day.

The people cannot trust a system that refuses to guarantee that only legal votes are cast to select its leaders. The elections held in at least six battleground states raise profound questions, and it is a legal, constitutional, and moral imperative that they be answered.

But only the states have authority to appoint electors, in accordance with state law. Congress has only a narrow role in the presidential election process. Its job is to count the electors submitted by the states, not to determine which electors the states should have sent.

The text of the United States Constitution, and the Twelfth Amendment in particular, is clear. With respect to presidential elections, there is no authority for Congress to make value judgments in the abstract regarding any state's election laws or the manner in which they have been implemented. Nor does Congress have discretion to disqualify electors based on its own finding that fraud occurred in that state's election. Congress has one job here: to count electoral votes that have in fact been cast by any state, as designated by those authorized to do so under state law.

As of this moment, not a single state has submitted multiple conflicting slates of electoral votes. In other words, every state has sent either (a) Biden electors, or (b) Trump electors. Of the six states as to which questions have been raised, five have legislatures that are controlled by Republicans, and they all have the power to send a new slate of electoral votes to Congress if they deem such action appropriate under state law. Unless that happens between now and January 6, 2021, Congress will have no authority to influence the outcome of the 2020 presidential election.

To take action otherwise – that is, to unconstitutionally insert Congress into the center of the presidential election process – would amount to stealing power from the people and the states. It would, in effect, replace the electoral college with Congress, and in so doing strengthen the efforts of those on the left who are determined to eliminate it or render it irrelevant.

From a purely partisan perspective, Republican presidential candidates have won the national popular vote only once in the last 32 years. They have therefore depended on the electoral college for nearly all presidential victories in the last generation. If we perpetuate the notion that Congress may disregard certified electoral votes—based solely on its own assessment that one or more states mishandled the presidential election—we will be delegitimizing the very system that led Donald Trump to victory in 2016, and that could provide the only path to victory in 2024.

There is one and only one path to victory for President Trump on January 6, 2021, and it depends on state legislatures certifying Trump electors in the states at issue, pursuant to state law and the U.S. Constitution, and based on a finding that votes lawfully cast in November were sufficient to produce a Trump victory. If they believe there was fraud—and if they believe that such fraud affected the outcome of the election—they must, as a body, convene immediately and send us that information, along with certified electoral votes cast by a Trump slate of electors. Absent such action, there is not a constitutional role for Congress to change the outcome of any state's vote.

The text of the Constitution is clear. States select electors. Congress does not. Accordingly, our path forward is also clear. We must respect the states' authority here. Though doing so may frustrate our immediate political objectives, we have sworn an oath to promote the Constitution above our policy goals. We must count the electoral votes submitted by the states.

Sincerely,