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National Popular Vote, With All its Flaws, Is Worth Serious Look



By [Jerry Goldfeder](#)

All of this is to say that there are of course legal and policy issues confronting those who wish to abolish or reform the anti-democratic Electoral College. The NPV, with all of its flaws, is worth a serious look.

I was delighted to read William Josephson’s comprehensive analysis of the National Popular Vote (NYLJ, Jan. 7) in response to my suggestion that the New York bar take up its cause (NYLJ, Dec. 17). While I may not agree with all of his points, readers should be aware that Mr. Josephson is an expert in the history and implementation of the electoral college system. Although he did not reference his own work in the area, I am happy to do so—and recommend to readers interested in the subject that they review his scholarly articles on the subject. See, e.g., “The Electoral College and the Popular Vote,” 12 J. L. & Pol. 665 (1996).

His fundamental disagreement in supporting the NPV involves a point on which he is absolutely correct: that when electors act “on their own”—consistent with the constitution’s original intent—the United States Congress counts their votes, even when state law purportedly forbids it. Therefore, a state that embraces NPV may not be able to control its electors any more than a state can now.

All of this is to say that there are of course legal and policy issues confronting those who wish to abolish or reform the anti-democratic Electoral College. The NPV, with all of its flaws, is worth a serious look.

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