

Trump's playbook to win regardless of election night results



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OPINION

Election deniers (defined by *USA Today* as those who have publicly denied the legitimacy of the 2020 election) are positioned as election officials to scan the ballots to challenge their validity.

If Donald Trump loses to Kamala Harris, the election denier's objections will become material for lawyers filing lawsuits to challenge state or county results. Judges on various levels, including the Supreme Court, can toss the decision of who the next president is to the state legislature or directly to the House of Representatives.



Results put plan in motion

Multiple polls show that the presidential race between Vice President Kamala Harris and former president Donald Trump is too close to call. However, after the initial votes are released, Trump will likely again ignore the results if he loses.

I will not explore how he will respond or what actions he could take if he wins; that is a different problem. I also am not addressing the issue of intentional violence to overturn the results, as happened with the mob attacking Congress in 2020. Instead, I'm examining how Trump can legally play the political system.

Trump's election-night statements will dominate the media and the public's minds more than Harris's because his personality makes a sport of breaking the norms of presidential conduct.

Trump and his vice president candidate partner, J.D. Vance, have already gone there, refusing to acknowledge that they would concede should Harris win the 2024 election. They condition any concession upon the election being honest and fair. However, Trump has repeatedly said the election will not be fair if he loses. Most recently, in Juneau, Wisconsin, Trump declared at his campaign rally, "They're going to cheat. It's the only way they're going to win. And we can't let that happen, and we can't let it happen again." Throughout our nation's history, every presidential candidate assisted in transferring presidential authority to the opponent — until Trump refused to accept defeat in 2020.

The first vote tallies on election night will determine what political disruptions Trump may ignite in the six weeks before December 17, 2024, when the electors meet in their respective states to cast their votes and have them tabulated.

Swing state vote tallies will be incomplete

All six swing states will report an initial vote count by 8:30 p.m. Eastern Time on the evening of election day. The count will show who is ahead, but in tight races, a

winner will not be confirmed until days later, when all legitimate votes are included.

North Carolina election officials estimate that 80 percent of the total vote could be announced right after polls close at 7:30 p.m. However, absentee ballots that arrive as late as November 12 will be counted and could determine the outcome.

While Georgia polls close at 7 p.m., the secretary of state told WSB-TV, "For the races that are very, very close, we believe that we'll have them by Wednesday or Thursday at the latest." Michigan's secretary of state estimates that it could take until Friday, November 8, for all ballots to be counted and a winner to be declared.

The final count in Pennsylvania, the state with the most electoral votes, will be delayed the longest. Around half of the absentee ballots can't be processed until two days before the polls close. Since absentee ballots account for the majority of votes, the count will take days for many counties.

These four swing states have a total of 66 electoral votes. Arizona and Wisconsin, the last two swing states to release their ballots, have a total of 21. The soonest they could confirm the presidential

tallies would be Wednesday at the end of the day.

Except for North Carolina, Joe Biden won the other five swing states, which gave him 77 electoral votes, putting him over the top to win the election. The media and the candidates will be razor-focused on the first vote count in these six swing states. The candidate leading in all swing states will likely be our next president.

First count to signal storm

Suppose Harris leads in all the swing states. In that case, Trump will declare massive fraud and repeat the accusation he made during his Republican National 2020 Convention acceptance speech, "The only way they can take this election away from us is if this is a rigged election."

If he splits the leads with Harris, it's a bit trickier for him. Trump doesn't want to jeopardize losing states he won with a recount. So, he will focus on the swing states he lost.

Election denier officials are Trump's Fifth Column. They are ready to save him from defeat by attempting to stop the certification of ballot tallies based on possible fraud. Trump will defend them as patriotic citizens, keeping our country safe from an invasion

of illegal immigrant voters.

With 69% of Republicans and Republican leaners saying Biden's win was not legitimate, there is a good chance many of them will be counting and certifying the election results on the county level. Most are not occupying elected positions; they may be appointed or, most likely, be volunteers. Naturally, they are prepared to see a 2024 Trump election loss as a repeat of 2020's "corrupt" process. They can object to validating votes that they consider to be illegally cast for any number of reasons. But let's be clear: election deniers are working within the legal process until they break explicit regulations or violate constitutional rights defined by the courts.

In a war analogy, they are Trump's foot soldiers. But to be successful, they need heavy arterial cover. And that is expensive and highly technical power. In the political world, it's the law firms.

Handoff to lawyers

Trump's playbook moves to winning the election through his law firms defending the election-denier officials questioning the validity or just tossing out ballots. Their objective was made very reachable in 2024.

● ANDREI COJOCARU/ECONOMIST



Trump's playbook moves to winning the election through his law firms defending the election-denier officials questioning the validity or just tossing out ballots. Their objective was made very reachable in 2024. That's because the Republican-controlled state legislatures in the swing states established voting procedures that are easy to accidentally violate because of their specificity in the ballot instructions for the vote to be validated. Those errors will be the most straightforward targets for lawsuits.



Pro-Trump demonstrators gather for a "Stop the Steal" rally at the Georgia State Capitol in Atlanta in 2020.
● DUSTIN CHAMBERS/
BLOOMBERG



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According to Reuters, in the last presidential election, Trump unleashed a barrage of over 50 lawsuits alleging election fraud and other irregularities, claiming that he lost due to massive fraud.

This year, the Republican National Committee has already filed over a hundred pre-election lawsuits. The Trump campaign will continue with a legal onslaught to eliminate ballots where errors are found, betting that more Democratic than Republican votes will be tossed out.

Trump hopes to overturn tallies in courts

The best protection for receiving honest election results rests with nonpartisan judges who follow the letter of the law. However, all laws are subject to interpretation. Trump appointed many federal judges because they were members of the Federalist Society.

State courts are not part of the federal system and, therefore, are not appointed by the president. While the Federalist Society has supported the election of its members or sympathizers to elected judicial seats, most state judges lean either conservative or liberal. At this time, few are committed to a particular political dogma and will follow the law's letter.

The non-profit Brennan Center concluded that voter certification is not a discretionary act. Unless state judges use some of the Federalist Society's questionable theories, they will rule, as they have always done, that election officials are legally obligated to count all the votes. This is how the state judges in Arizona and Georgia ruled.

Georgia state Judge Robert McBurney ruled, just three weeks before this November's election, that county election officials "have a mandatory fixed obligation" to count all votes despite any perceived fraud. They can bring their concerns to the appropriate district attorney, who will determine the course of future actions. In 2022, Arizona county officials broke tradition and voted against certifying the election results based on vague doubts about voting machines. A state judge subsequently ordered them to certify. A year before, Trump unsuccessfully lobbied the Detroit County election board members to reject votes based on his claims that the election was stolen from him.

As a proactive protective procedure, the Brennan Center published a series of state-by-state guides laying out the legal protections for election certification in each battleground state and the process to ensure that officials carry out that duty.

Trump's law firms don't need to win their lawsuits; they only need the court to kick the final decision over to the state legislature.

During the 2020 presidential election, conservative politicians and justices argued that the "independent state legislature"