

Will Hurricane Sandy Delay the Presidential Election?

With millions of Americans still without power in the Northeast—and Election Day less than a week away—we’ve received a number of questions about the election. Can it be delayed? Will it be delayed? Does the president have the power to delay an election?

The short answers are: Yes (at least in theory), no and no.

The date of the popular vote for electors to the electoral college is set by a federal law, the Presidential Election Day Act of 1845, which sets Election Day as the Tuesday following the first Monday in November of a presidential election year. As with any federal law, it can be repealed, replaced or amended by Congress, but there is no indication that Congress is taking any electoral action in response to Sandy.

Further, the Election Day Act does not give the president any authority at all to delay Election Day, nor does the Constitution give him any such power.

In reality, Election Day is a simultaneous set of 50 state elections designed to select the “electors” who actually select the president. Because the elections are state elections, state authorities administer and govern the election and can, for example, provide for early voting or even extend the voting hours on Election Day itself. But even they do not have the authority to overrule the provisions of the Election Day Act.

Election Day will happen *on schedule*. Let neither rain nor sleet nor snow nor floods keep you from the polls (unless, of course, it’s too dangerous to leave your house or shelter).

Click here to read the original story at ACLJ.