

Biden's '1619 Commission' Is Unconstitutional, So Is Trump's '1776 Commission'

Yesterday was Constitution Day, when Americans honor the moment when the delegates to the Constitutional Convention signed this extraordinary document in Philadelphia in 1787.

Sadly, recent University of Pennsylvania civics [surveys](#) reveal that 37 percent of American adults cannot name one right protected by the First Amendment of the U.S. Constitution, and only 39 percent can name the three branches of government. Additionally, there have been recent concerns about national division and a perceived abandonment of our shared history and underlying philosophy, including debate over the widespread adoption of *The New York Times's* [flawed](#) 1619 Project in classrooms throughout the country.

It is understandable for us to be concerned about a crisis in civics education. Often, a proposed solution to this concern is to add more force to the mix: Make kids learn about history and government – or else. Use *my* preferred curriculum, *my* worldview. The debates that frequently rage in education revolve around whose curriculum, whose worldview should be imposed – paid for, of course, by all taxpayers.

To commemorate Constitution Day yesterday, President Donald Trump gave an impassioned [speech](#) at the National Archives Museum in Washington, DC emphasizing a renewed dedication to our country's founding principles. Yet, in trying to inspire respect for the Constitution, the president may have inadvertently compromised it.

Trump called for a national commitment to “patriotic education” and proclaimed that he would sign an executive order to create the “1776 Commission” that would ensure that

this patriotic education gets promulgated in schools throughout the country.

This may sound like a positive initiative – an effort to bring together a fractured country and remind us all of American exceptionalism. But especially on Constitution Day, it's important to remember that there is no constitutional role for the federal government in education.

If this administration uses the unjust powers of the federal government to push “patriotic education” in schools, then another administration could use these same expanded powers to push “critical theory education” or any other vision of what U.S. schools should be required to teach. This would further weaken local control of schooling and have widespread implications for American education in all its forms.

Emboldening the federal government to execute education policy may seem appealing when your preferred politician or party is in power, but that power remains when leadership inevitably sways to another politician or party. If you wouldn't support a Biden “1619 Commission,” then you shouldn't support Trump's “1776 Commission.” If you wouldn't support mandatory “[critical race theory](#)” taught in your local schools, then you shouldn't support mandatory “patriotic education” either.

The Founding Fathers understood this. They recognized the tendency in human nature toward controlling others and pushing our will upon them. In framing the Constitution, they intentionally limited the powers of the federal government to certain enumerated functions, while allowing the states more autonomy and discretion.

As James Madison [wrote](#) in *The Federalist Papers*, no. 45: “The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.” Education is not mentioned anywhere in the U.S. Constitution and is not

one of the enumerated powers of the federal government.

Indeed, the U.S. Department of Education has been [unconstitutional](#) since its creation in 1979. It continues to assume more influence in American education, from overseeing the No Child Left Behind Act (NCLB) and the Every Student Succeeds Act (ESSA), to setting expectations for curriculum frameworks, standardized testing, and accountability.

These are responsibilities better left to the states – just as the Constitution says. The [Tenth Amendment](#) reminds us that any “powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

One of the primary causes of Americans’ increasingly divisive political conflicts is that the federal government has gotten too big. It has amassed more powers than the Constitution allows, and wields unprecedented control over the lives of American citizens. Each national election feels overwhelmingly consequential, because it is. Whoever wins gets to push their agenda and ideology onto the states and the people in the way that the Founders feared.

Imagine where this could lead. If the federal government continues to expand control over state and local education, then national elections could result in a whiplash of policies that are added or removed every four to eight years. Your kindergartener might learn one nationally prescribed worldview that changes entirely by the time she is in middle school.

One could argue that although it shouldn’t be, the federal government is currently entangled in education policy and therefore its attempts to influence teaching and learning are justified. But, a key objective for the federal government should be to minimize its role in education and push policies to the states. For example, Trump was right to reinforce the need for school choice in yesterday’s speech, but these school

choice policies should be enacted at the state level, without interference from politicians in Washington, DC.

State-level school choice policies make it possible for families to vote with their feet, choosing states with their preferred public school curriculum or greater access to other education options. That is one of the great virtues of America's federal structure, as enshrined in the Constitution. On the other hand, a nationwide curriculum or educational approach would trap American families and erode freedom and choice.

If the federal government shrank to its intended size, concentrating only on its constitutionally enumerated powers, national elections wouldn't be so fraught. The federal government would have no control over education and no authority to create coercive commissions that tell citizens' what to believe. Power would be rightfully disbursed to the states, with 50 different approaches to education and other social policies. There would be no federal 1776 Commission and no nationally-imposed "patriotic education," just as there could be no 1619 Commission and no nationally-imposed "critical theory" education. The Constitution would then be preserved and honored as the Founders intended.

Truly patriotic education can only be achieved in a constitutional, and therefore patriotic, manner.

—


This article was originally published on FEE.org. Read the [original article](#). 

Image Credit:

Flickr-Gage Skidmore, CC BY-SA 2.0