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Education, the Constitution, and Federal Overreach

According to the U.S. Department of Education, 8% of education funding comes from the federal government and the Department of Education has the third largest discretionary budget among the Cabinet agencies, behind only the Department of Defense and the Department of Health and Human Services.¹ The federal government routinely lays claim to the area of education, but it does so in violation of the United States Constitution and the intent of the Founding Fathers.

Although it does not specifically address the topic of education, the Constitution clearly prohibits the federal government from handling it. Article I, Section 8 of the United States Constitution names the powers granted to Congress and Article I, Section 9 of that document lists the powers forbidden to Congress; neither list includes the power to control education. Likewise, the Constitution does not include any section or amendment that specifies that states have the power to control education. However, the Founding Fathers had the foresight when writing the Bill of Rights to include the Tenth Amendment, which says, "The 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." This means that because the Constitution does not specifically give the federal government the power to control education, the states are to maintain jurisdiction over the matter.

The Tenth Amendment demonstrates the founding Fathers' desire to limit federal powers and reserve most jurisdiction to the states. James Madison wrote, "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." Describing the State's jurisdiction, he continues, "The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."² Madison is emphasizing dispersion of power; if the states are capable of dealing with an issue and the

¹ "The Federal Role in Education." [www2.ed.gov](http://www2.ed.gov/about/overview/fed/role.htm). 07/21/2016. U.S. Department of Education. Accessed 07/31/2016 <http://www2.ed.gov/about/overview/fed/role.htm>

² James Madison. "The Federalist No. 45." [Constitution Society](http://www.constitution.org/fed/federa45.htm). Accessed 07/31/2016. <http://www.constitution.org/fed/federa45.htm>