

About Understanding Civics

CREATING AMERICAN GOVERNMENT

Influences on American Government

Modern American government has been influenced by a wide variety of sources. The concept of democracy (rule of the people) itself was born in ancient Greece. (The word combines the Greek words *dēmos*, meaning people, and *kratos*, meaning rule.) Though other Greek city-states used various systems of democracy, the Athenian version (ca. 460 BCE–ca. 320 BCE) was the most developed. All male citizens of Athens could meet in the Assembly and vote on issues of the day. The assembly could accommodate up to six thousand participants and met at least once per month. Issues were decided based on a majority vote. In addition to the Assembly, a Council of Five Hundred citizens was chosen by lot to supervise the Assembly and create the voting agenda. Council members served for one year.

In contrast to Athenian direct democracy, ancient Rome was for much of its history a republic (ca. 509 BCE–ca. 27 BCE). Roman citizens elected officials to govern, and these officials were responsible to the voters. Bodies of the Roman government included the consuls, the Senate, and multiple assemblies. The consuls were two high-ranking officials who proposed laws and commanded the army. The consuls had limited powers because each one could veto the other's actions—an early form of checks and balances. Originally, only upper-class Romans (patricians) took part in government. Eventually, lower-class citizens (plebeians) also gained a voice. As in Athens, women did not participate in government.

By the time the first colonists were settling in North America, the idea of limited government had long been accepted in England. This idea was set out in the Magna Carta of 1215 CE, when English nobles, angry with the policies of King John, forced the king to sign a document that acknowledged their rights and limited the monarch's absolute power. The Magna Carta states that the monarch must follow the law (the rule of law), guarantees jury trials, forbids excessive fines and punishments, protects personal property, and prohibits taxation without representation. The English monarchy remained strong in the centuries after the Magna Carta, but Parliament—England's assembly of nobles—also gained influence.

In the late 1600s, conflicts between the kings and the English people and Parliament culminated in 1688 when King James II abdicated, and Parliament installed William III and Mary II as monarchs in the Glorious Revolution. William and Mary's coronation was conditional on their acceptance of the English Bill of Rights, passed by Parliament in 1689. The English Bill of Rights included several provisions later included in American government, such as a right to petition the government, the right to a jury trial, and a prohibition on cruel punishment. It also established the principle that the monarch's rule was contingent on the consent of Parliament. As such, the monarch had no power to interfere with parliamentary elections and debates.

The Haudenosaunee (Iroquois) Confederation also influenced American government. The Haudenosaunee Confederation was a group of five Indigenous nations of northeastern North America that created a form of constitutional government they called the Great Law of Peace. The law guaranteed freedom of religion, freedom of expression, and other rights later included in the U.S. Constitution. Under the Great Law of Peace, each group was also allowed a certain number of representatives in an assembly called the Grand Council, which adjudicated conflicts among the nations.

American Colonial Governments

From the establishment of the earliest American colonies, the vast distance between England and its North American holdings inevitably led colonists to practice a certain amount of self-governance. Though each colony was officially governed by a charter—a written agreement between the colony and either the British monarch or Parliament—for practical purposes the colonists made most of their own decisions.

The first colonial representative legislature was the Virginia House of Burgesses, created in 1619. All thirteen British colonies eventually established their own representative legislatures, with members elected by property-owning male colonists. Though each colony's legislature was headed by a governor appointed by Britain, the legislatures often controlled the governors' pay and could circumvent the governors' wishes. Colonial legislatures thus enjoyed a great deal of freedom. Britain allowed this autonomy as long as colonial laws did not interfere with British law.

In 1620, a group of English Separatists with a charter issued by the Virginia Company became lost and landed in present-day Massachusetts instead of Virginia. Because they were outside the bounds of Virginia, their charter was not valid. They created the Mayflower Compact, a framework for government that essentially declared that they would conduct their own affairs. Massachusetts did eventually gain a royal charter, but the Separatists set a precedent of self-government. In town meetings, people in communities throughout New England came together to discuss local issues and make decisions. Unlike colonial elections, in which only male property owners could vote, all adult male taxpayers could participate in town meetings.

The Declaration of Independence

The colonies' de facto independence eventually led them in 1776 to declare legal independence from Britain, after the Crown and Parliament began to limit colonists' self-governance. The Declaration of Independence, authored primarily by Thomas Jefferson, has four parts. The preamble states the document's purpose: to explain why the colonies are declaring their independence from Great Britain. The next part explains the political ideas behind their actions. The third and longest part lists all the charges against the king, and the fourth part lists the rights that the new nation is claiming for itself.

In general, Jefferson and the signers of the Declaration, like the Framers of the later Constitution, were educated men who drew on ancient Greek and Roman ideas about government. They also drew on the works of European philosophers and political theorists of the Enlightenment period, such as John Locke. Underlying Enlightenment thought were the convictions that reason was the basis of all knowledge and that all received ideas could and should be tested by reason.

Jefferson applied these Enlightenment ideas when writing the Declaration of Independence. He began with the theory of natural rights, which argued that every human being has certain basic rights solely by virtue of their being human. From this assumption, Jefferson followed Locke in arguing that people institute government in order to preserve these rights and that when government fails to safeguard these rights, people have a right to change the government. The Declaration is an example of social contract theory, and it is the first time that theory was put into practice.

“All Men Are Created Equal”

Natural equality is the basic assumption of the Declaration: every human is equal to every other by virtue of their equal humanity. Equal rights does not mean that every person should necessarily have the same amount of education, money, or possessions. It is also important to note that in the 1700s, equality was assumed to apply only to white, Christian males. Not all people, such as women and African Americans, received equal treatment.

Natural Rights

What rights does a person have by virtue of being human? The first sentence of the Declaration identifies these rights as “life, liberty, and the pursuit of happiness.” The Declaration states that these are unalienable (“inalienable” in some versions)—that is, they cannot be taken away by any person or government. It is important to note that the signers agreed that these rights were only examples of the rights people have.

Government’s Responsibility

The second sentence of the second section of the Declaration states, “That to secure these rights, governments are instituted among men.” According to the Declaration, people establish governments and agree to give up some of their freedom in order to ensure that their rights are guaranteed and protected; that is the purpose of government.

“It Is the Right of the People . . . to Institute New Government”

If a government does not protect the rights of its citizens, asserts the Declaration, then its citizens have the right “to alter or abolish it” and to establish a new government. Jefferson explains in the next few sentences that changing a government is not something to be done lightly. He then outlines a long list of the king’s abuses, including the following:

- quartering large bodies of armed troops among the colonists;
- cutting off colonists’ trade with all parts of the world;
- imposing taxes on the colonies without their consent;
- depriving colonists of the benefits of trial by jury.

THE U.S. SYSTEM OF GOVERNMENT

The U.S. Constitution

The United States has a constitutional government, that is, one in which the law both specifies and limits what government may do. The Constitution is the highest law in the land. No actions of either the legislative or executive branches may violate the Constitution. The judicial branch determines the constitutionality of the other branches' actions—laws, executive orders, regulations, and so on. (Note that this power of judicial review is not included in the Constitution. It was first established in the landmark Supreme Court case of *Marbury v. Madison* [1803].)

Today, the United States has the oldest operative written constitution in the world. One of the reasons for its success is its adaptability. The delegates built an amendment process into the document. Yet only twenty-seven amendments have been added since ratification, and the Constitution remains remarkably similar to what it was in 1789. There are five basic principles on which the Constitution rests:

1. popular sovereignty—the will of the people;
2. federalism—the division of power among national and state governments;
3. separation of powers—the division of power among executive, legislative, and judicial branches;
4. checks and balances among the three branches of government; and
5. limited government—limits on the powers of the federal and state governments that protect individuals' rights and liberty.

The Bill of Rights

The first ten amendments to the Constitution are known as the Bill of Rights. The Bill of Rights codifies what are considered foundational rights in the United States.

When the Constitution was originally written, some delegates wanted to clearly identify citizens' rights that should be protected from a strong federal government. Others opposed adding a bill of rights for three reasons: (1) state constitutions already protected citizens' rights; (2) other limits placed on the federal government in the Constitution provided protection; and (3) identifying specific rights to be protected might leave room for the government to violate rights that weren't listed. In the end, the delegates chose not to add a bill of rights at that time. The absence of a bill of rights caused many colonists to oppose ratification. They became known as Anti-Federalists. Anti-Federalists argued that the Constitutional Convention was supposed to revise the Articles of Confederation, not wholly replace that document. They also argued that the new Constitution gave too much power to the national government. Anti-Federalists in many states—particularly the key states of Massachusetts and Virginia—refused to ratify the Constitution unless a bill of rights was added to protect civil liberties and limit the power of the national government.

The Federalists, those who supported the Constitution, agreed to enact a list of amendments that would codify and guarantee certain basic rights. The result was the Bill of Rights. The Bill of Rights mostly protects rights against the federal government, although the Supreme Court has extended most of these rights to protect people against state governments as well.

Amendment	Right	Meaning
First	Freedom of religion, speech, press, assembly, and petition	The government may not establish an official religion, prevent anyone from practicing their faith, or penalize the followers of any religion. The government may not punish people for expressing their opinions through speeches or printed matter (except in cases of libel and slander) nor interfere with news reporters investigating government officials. It may not stop people from gathering for peaceful meetings. It must consider people's demands to end injustices.
Second	Right to bear arms	"A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."
Third	Limits on quartering (housing) troops	"No soldier shall in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be proscribed by law." Quartering of soldiers was an abuse complained of in the Declaration of Independence.
Fourth	Protection against unlawful search and seizure	The government may not search a person or their property unless it first obtains a warrant from a judge. The application for the warrant must show "probable cause" (reasons) for believing the search will produce specific evidence of a specific crime. This amendment was intended to protect privacy and security and prevent officials from using searches to harass critics and opponents.
Fifth	Due process: rights of an accused person in a criminal proceeding	A person accused of a crime may only be held if a grand jury decides that there is enough evidence to warrant a trial. Due process requires that officials treat accused persons reasonably and fairly, according to established law and procedures.
Sixth	Rights to a speedy and fair trial by a jury	In addition to the rights to a speedy and fair trial, this amendment covers the right of a defendant to be told the charges against them, to question the government's witnesses and call witnesses in defense, and to be represented by an attorney.
Seventh	Rights in a civil suit	Parties to a civil lawsuit are entitled to a jury trial.
Eighth	Protection against cruel and unusual punishment	This amendment says that fines imposed as punishment for a criminal conviction must be reasonable. It also says that bail—a security deposit paid by an accused person, enabling the person to be free while they await trial—must not be excessive. It also prohibits cruel and unusual punishments. This is generally taken to mean that the punishment must be proportional to the crime.
Ninth	Nonenumerated rights: powers reserved to the people	The people have rights that are not listed in the Constitution, but which belong to them as members of a democratic nation.
Tenth	Powers reserved to the states or people	The Tenth Amendment protects limited government: the federal government has only the powers granted to it by the Constitution.

Immigration and Citizenship

The first permanent English settlement in the Americas was established at Jamestown, Virginia, in 1607. By the time of the American Revolution, the eastern seaboard from Maine to Georgia had a population of two million European settlers and their descendants—many of them immigrants from England,

Ireland, and Germany. In addition, an estimated half a million Africans lived in the country, most of whom were enslaved.

Between 1790 and 1815, another 250,000 Europeans immigrated to the United States, and between 1820 and 1860, some 4.6 million more arrived, most of them after 1840 and many of them from Ireland. The first half of the 1800s saw two million Irish emigrate, pushed out of Ireland by the potato famine and oppressive British rule. These newcomers joined earlier immigrants, such as the English, Irish, and Germans, as well as the Dutch, French, and Swedish, in building the United States.

The greatest period of immigration to America occurred between 1880 and 1920, when approximately twenty-three million immigrants arrived. Immigration records were not well kept during that time, and it is impossible to know the exact number of immigrants who entered the country. By 1914 and the onset of World War I in Europe, one-third of all Americans were either immigrants themselves or had at least one parent who was an immigrant. However, later immigrants came from different parts of Europe than the earlier immigrants. The new immigrants—those who came after the Civil War through the mid-1900s—were primarily from southern and eastern Europe, including Russia, Italy, Poland, and Austria-Hungary. Between 1890 and 1917, about 75 percent of immigrants to the United States came from these countries. The 1882 Chinese Exclusion Act and 1924 Asian Exclusion Act limited the number of immigrants to the United States from Asia, a result of racial prejudice.

For most of U.S. history, racial minorities were denied full citizenship rights. The Naturalization Act of 1790 restricted citizenship to “free white persons” of “good moral character.” This law was enforced until 1952, although even then only small numbers of immigrants from Asia and Africa were allowed to become naturalized citizens. Even U.S.-born Black Americans were not considered U.S. citizens until the passage of the Fourteenth Amendment in 1868. Native Americans were not considered U.S. citizens until the passage of the Indian Citizenship Act in 1924.

The Immigration and Naturalization Act of 1965 formally removed racial bias from U.S. immigration laws. Since its passage, immigrants to the United States have increasingly come from Asia, Africa, and Latin America. Since 2009, more Asian immigrants than Hispanic immigrants have arrived in the United States in most years. In 2019, the top five countries of origin for immigrants in the United States were Mexico, China, India, the Philippines, and El Salvador.

State Government

After the colonies had declared their independence as the United States of America, Congress encouraged the new states to write constitutions. As the subsequent thirty-seven states were admitted to the Union, each had to develop its own constitution.

These state constitutions and the laws that the individual states have passed or will pass are subordinate to the U.S. Constitution, which is the highest law of the nation. Article VI of the Constitution, which the new states agreed to obey, articulates this.

The state governments are organized similarly to the federal government. Each state has executive, legislative, and judicial branches. A governor heads the executive department. Most states have a lieutenant governor and also a cabinet that oversees the departments responsible for carrying out the laws. The legislative branch makes the state’s laws. All the states except Nebraska have upper and lower lawmaking bodies. Nebraska has just one legislative body.

The state courts hear many more cases than federal courts. States have general trial courts that hear most civil and criminal cases; specialized trial courts, such as family or tax courts; and appellate courts including a state supreme court, which is the court of last appeal in the state court system. Thirty-nine states have intermediary courts of appeals, which hear routine appeals on trials. Like the U.S. Supreme Court, the supreme courts in those thirty-nine states hear only cases that might impact the law as it is written and has been interpreted. Thirty-six states have some form of elected judges, while judges in the other fourteen states are appointed.

Local Government

The United States is composed of fifty states and almost ninety thousand local government units. A local government unit may be a county, municipality (e.g., city, town, village), township, school district, or a special district, such as a flood control district or a fire protection district. In all, 18.7 million people worked for state and local governmental units in 2020, and that number has been rising since the 1960s, while the number of federal civilian employees has been declining since the early 1990s.

Type	Purpose	Functions	Officials
County (parish in Louisiana, borough in Alaska)	Administrative arm of state government	Keeps birth, death, marriage, land records; maintains roads and bridges; maintains countywide law enforcement and court systems; collects taxes; registers voters and supervises elections; provides public welfare on a community-wide basis	Commissioner, clerk, sheriff—elected officials
Township	Administrative arm of state or county government in most places where they exist	Similar to county purposes	Board supervisor, possibly other department heads—elected officials
Municipality (city, town, village)	Operates most services for communities	Maintains streets, parks, and recreation programs; manages water and sewer systems; collects trash; provides fire and police protection; manages public hospitals and health programs; operates public transportation systems; manages housing and urban development programs	Elected mayor and elected council or elected council and appointed manager
School district	Operates a locality's school district; most school systems are their own district; an exception is Hawaii, which operates the state's schools	Operates a community's schools, or schools in more than one community if a regional or consolidated school district	Elected school board and hired administrators
Special district	Provides a single service over a wide area that may include several cities or townships or even counties	Great variety of types: fire, flood control, sewage treatment, libraries	No typical organizational structure; may be elected or appointed policy-making board