



AP[®] United States Government and Politics 2005 Scoring Commentary

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AP[®] UNITED STATES GOVERNMENT AND POLITICS
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Question 1

Overview

The intent of this question was to have students demonstrate knowledge and understanding of the complex relationship between public opinion and United States political institutions. Specifically, the question asked students to describe ways in which the United States Supreme Court is insulated from public opinion, as well as ways in which public opinion constrains the behavior of the Court.

Sample: 1A

Score: 6

In part (a) the essay correctly describes the presidential appointment process as an insulating factor since the justices “are not directly voted on” (1 point). The student further correctly describes how justices are insulated from public opinion because they serve on the Supreme Court for life, “which in turn exempts them from campaigning for reelection and winning votes” (1 point).

In part (b) the student explains how the nomination/approval process keeps the justices from deviating from public opinion since the president and Congress “represent the people” and will select justices to represent the people’s interest (2 points). The student further explains that since the Supreme Court lacks the power to enforce its decisions, it must rely on “other branches,” which are representatives of the people, to implement those decisions (2 points).

Sample: 1B

Score: 4

In part (a) the student correctly describes the appointment of judges and writes that “they never need to run in a popular election,” and this insulates them from public opinion (1 point). The essay identifies the second insulating factor as life terms and judges not needing “to worry that their actions or decisions will anger the public” (1 point).

In part (b) the student suggests that decisions outside of public opinion would be “difficult to uphold.” However, this does not reach the scoring guidelines’ standard of “reliance on other public officials to execute decisions” and therefore earned no points. The essay correctly explains the approval process as a factor that keeps the Supreme Court from deviating too far from public opinion, since senators might be held accountable for an unpopular appointee when they run for reelection (2 points).

Sample: 1C

Score: 1

In part (a) the student correctly describes that “Justices have life terms, so they don’t have to make decisions exactly how the majority of people want them to” (1 point). The student’s discussion of *Brown v. Board of Education* is not tied to a conceptual factor (such as the Court’s ability to control its own docket) that insulates the Supreme Court from public opinion and therefore earned no point.

In part (b) the student makes the irrelevant point that the Supreme Court does not drift from public opinion because “the people believe in what the Constitution says and/or how the Supreme Court interprets the Constitution.” Thus, this explanation earned no points. The student does not attempt to explain a second factor that keeps the Court from deviating from public opinion and therefore earned no points.

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**AP[®] UNITED STATES GOVERNMENT AND POLITICS
2005 SCORING COMMENTARY**

Question 2

Overview

This question was intended to test students' knowledge and understanding of federalism as a dynamic and core feature of the United States political system. Specifically, the question was concerned with the expansion of national government power and the relative increase in federal power over those of the states. It asked students to indicate their understanding of the growth in national government power as a consequence of specific constitutional provisions, as well as the growth of national powers at the expense of state authority via enactment and implementation of specific congressional acts.

Sample: 2A

Score: 5

In part (a) the student correctly identifies the “necessary and proper” clause by saying that this is the power that allows “Congress the right to do whatever it sees as important, and to enact legislation” (1 point). The essay provides no explanation for how the necessary and proper clause has been used over time to expand federal power and therefore earned no point here. The student correctly describes the commerce clause as giving the federal government the power to regulate “commerce between states” (1 point). The student correctly explains how the commerce clause has been used over time to expand federal power by stating that “the federal government has wielded immense power over the states” and that it “has been expanded so much that it now holds influence in things like travel” (1 point).

In part (b) the student correctly identifies a provision of the Civil Rights Act of 1964 by writing that it “banned discrimination in public places” (1 point). The student explains that “any discrimination, normally monitored by state governments, is now a federal issue . . . subject to the jurisdiction not of the state or local governments, but of the federal government” (1 point).

Sample: 2B

Score: 3

In part (a) the student correctly describes the power to tax and spend by stating that “Congress is allowed to levy taxes and spend the money where it sees fit” (1 point). The essay does not explain how this has been used over time to expand federal power and thus earned no explanation point. The student incorrectly describes the “necessary and proper” clause, and there is no mention of its law-making aspect. Therefore, the essay did not earn points here.

In part (b) the student correctly identifies a provision of the Americans with Disabilities Act by stating that the “Act was geared toward the discrimination of [*sic*] Americans with disabilities in the workforce” (1 point). The student explains that “This act went against state policies who [*sic*] did not mandate the hiring of people with disabilities and proved the supremacy of the federal government in overturning state legislation” (1 point).

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2005 SCORING COMMENTARY**

Question 2 (continued)

Sample: 2C

Score: 1

In part (a) the student incorrectly describes the “necessary and proper” clause. Since there is no mention that the clause applies to law-making, this part of the response earned no points. The student correctly describes the commerce clause but does not explain how it has been used over time to expand federal power (1 point).

In part (b) the response earned no points because there is no valid identification and explanation of a specific provision of the Clean Air Act.

AP[®] UNITED STATES GOVERNMENT AND POLITICS
2005 SCORING COMMENTARY

Question 3

Overview

“Selective incorporation” is the United States Supreme Court’s gradual application of the Bill of Rights of the United States Constitution to the states on a piecemeal, case-by-case basis through use of the Fourteenth Amendment’s due process clause. This question asked students to demonstrate their understanding of this concept. Specifically, students were asked to choose two of the following civil liberties and explain how each was incorporated using a specific and relevant Supreme Court decision: rights of criminal defendants, First Amendment, and privacy rights.

Sample: 3A

Score: 5

In part (a) the student does not define what is meant by selective and thus did not earn the point. The student defines incorporation using the Fourteenth Amendment and its due process clause (1 point).

In part (b) the essay describes *Roe v. Wade* and a woman’s right to privacy pertaining to abortion (1 point). The student explains how the Court used the Fourteenth Amendment to incorporate this right (1 point).

In part (b), the essay describes the criminal defendant’s right against self-incrimination and right to counsel incorporated in *Miranda v. Arizona* (1 point). The student explains how the Court used the Fourteenth Amendment to incorporate these rights (1 point).

Sample: 3B

Score: 3

In part (a) the student defines selective by stating: “Selective incorporation is the process of applying the bill of rights [*sic*] to the states [*sic*] by a case by case basis” (1 point). Since the Fourteenth Amendment is not cited, the student did not earn the second point for part (a).

In part (b) the essay identifies *Gideon v. Wainwright* and the criminal defendant’s right to counsel (1 point). The student does not explain how the Court used the Fourteenth Amendment to incorporate that right and thus did not earn the explanation point.

In part (b) the essay describes *Roe v. Wade* and women’s right to privacy as it pertains to abortion (1 point). The student does not explain how the Court used the Fourteenth Amendment to incorporate this right and therefore did not earn the explanation point.

**AP[®] UNITED STATES GOVERNMENT AND POLITICS
2005 SCORING COMMENTARY**

Question 3 (continued)

Sample: 3C

Score: 1

In part (a) the student does not define what is meant by selective or cite the role of the Fourteenth Amendment in incorporation and thus earned no points.

In part (b) the student cites *New York Times v. United States*. This did not earn a description point since it is not a case involving incorporation. Because the essay did not identify a relevant case, the response did not earn the explanation point.

In part (b), the student describes *Roe v. Wade* and a woman's right to privacy as it pertains to abortions (1 point). The student does not explain how the Court used the Fourteenth Amendment to incorporate that right; therefore, the response earned no explanation point.

AP[®] UNITED STATES GOVERNMENT AND POLITICS
2005 SCORING COMMENTARY

Question 4

Overview

The intent of this question was to examine students' knowledge and understanding of major campaign finance reform proposals that have been debated and acted upon by the United States Congress. Students were required to define two of three specified reform proposals and describe an argument made by proponents in favor of the proposal, as well as an argument made by opponents of the proposal.

Sample: 4A

Score: 6

In part (a) the student defines soft money as donations aimed at “‘party building’” and “‘get-out-the-vote’ campaigns” (1 point). The student describes an argument in favor of eliminating soft money by explaining that soft money is used to circumvent hard money restrictions. The student states “that soft money is a ... misuse of the system that limits the FEC’s ability to regulate elections” (1 point). The student describes an argument against eliminating soft money by stating that soft money is “meant for ‘party building’” and that soft money constitutes free speech (1 point).

In part (b) the student accurately defines increasing individual contribution limits (1 point). The student describes an argument in favor of raising limits by stating that proponents believe that individuals deserve “to express political speech through their donations” (1 point). The student describes an argument against raising limits by stating that limits are needed to restrict the influence of the wealthy, or “big, powerful individuals” (1 point).

Sample: 4B

Score: 4

In part (a) the student incorrectly defines limiting independent expenditures by stating that the individual candidate would be restricted from spending his/her own personal wealth. The student describes an argument in favor of eliminating independent expenditures by stating that this “levels the playing field in elections” (1 point). The student does not describe an argument against the elimination of independent expenditures and therefore earned no point.

In part (b) the student defines raising the limits on individual contributions to a campaign (1 point). The student describes an argument in favor of raising individual limits by explaining that this will decrease the influence/power of PACs (1 point). The student describes an argument against raising individual limits by stating that it would “buy influence” (1 point).

Sample: 4C

Score: 1

In part (a) the definition of eliminating soft money is incorrect. There are no correct descriptions of arguments for or against the elimination of soft money. Therefore, the response earned no points in this section.

In part (b) the student defines raising the limits on individual contributions to a campaign (1 point). The descriptions of arguments for and against raising the limits on individual contributions are incorrect, and the response earned no points here.

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