

**AP[®] UNITED STATES GOVERNMENT AND POLITICS
2007 SCORING GUIDELINES**

Question 2

6 points

Part (a): 1 point

One point is earned for correctly identifying the establishment clause as the First Amendment clause upon which the United States Supreme Court based its decision for either the *Engel* or *Lemon* case.

Part (b): 1 point

One point is earned for a correct description of the Supreme Court's decision in the case that was selected in part (a).

Acceptable explanations of *Engel v. Vitale*:

- Must say that the decision struck down state-sponsored prayer in school.
- MUST mention state-sponsored or state-organized prayer to get credit.
- MUST indicate that the prayer had some type of official government backing/sponsorship/sanction.
- Do not have to specify "public schools" to get credit.

No point is given if the answer states only that the decision "banned prayer in school."

Acceptable explanations of *Lemon v. Kurtzman*:

- Must say that the decision struck down state funding for private religious schools. (More specifically, it struck down state funding to pay parochial teachers to give instruction in secular subjects.)
- Will receive credit for statements recognizing that there are certain conditions or criteria that are used in determining if a government practice does not violate the establishment clause. Conditions/criteria may include:
 - Secular purpose.
 - Neither enhances nor inhibits religion.
 - No excessive entanglement between government and religion.

Part (c): 1 point

One point is earned for identifying the free exercise clause as the First Amendment clause upon which the Supreme Court based its decision for either *Reynolds v. United States* or *Oregon v. Smith*.

Part (d): 1 point

One point is earned for describing the Supreme Court's decision in the case that was selected in part (c).

An acceptable explanation of *Reynolds v. United States* is:

- The decision restricted/banned/disallowed polygamy.

**AP[®] UNITED STATES GOVERNMENT AND POLITICS
2007 SCORING GUIDELINES**

Question 2 (continued)

No point is earned for saying that the “Supreme Court declared polygamy to be unconstitutional.” Polygamy is a personal action that is illegal but not a governmental action that is unconstitutional.

An acceptable explanation of *Oregon v. Smith* is:

- The decision restricted/banned drug use in religious ceremonies.

No point is earned for saying that the “Supreme Court declared drug use in religious ceremonies to be unconstitutional.” Drug use is a personal action that is illegal but not a governmental action that is unconstitutional.

Part (e): 2 points

One point is earned for each correct description of ways in which other political institutions might limit the impact of Supreme Court decisions.

Acceptable descriptions may include:

- Congressional/state/local legislation.
- Executive branch/state government refusal to enforce a Supreme Court decision; ignoring a Supreme Court decision.
- Judicial appointments.
- Constitutional amendment.
- Change in appellate jurisdiction.

Other political institutions do not have to be identified by name; for example, “Constitutional amendments can be passed to overturn Supreme Court decisions” is acceptable.

In part (e), students do not have to confine their answers to freedom of religion. An acceptable answer, for example, might cite state legislation designed to get around the provisions of *Roe v. Wade* even though the latter obviously does not involve freedom of religion.

A score of zero (0) is earned for an attempted answer that earns no points.

A score of dash (—) is earned for a blank or off-task answer.

(a and B on Baer)

- 2) a) In *Engel v Vitale* the supreme court based its decision on the free speech clause of the 1st amendment.
- b) The supreme court stated that ~~the~~ students cannot be forced to pray in schools because of free speech which is listed in the 1st amendment. Under free speech people can express themselves as they wish and cannot be punished for it, unless it presents a clear and present danger to society.
- c) In *Oregon v Smith* the supreme court based its decision on the free exercise clause of the 1st amendment.
- d) The supreme court stated that drug use during religious ceremonies is allowed as long as it is established that the religion is legitimate and the drugs are used for ~~that purpose~~ a specific religious purpose. These provisions are held under the free exercise clause of the 1st amendment.
- e) One way in which other political institutions may limit the impact of supreme court decisions is through the amendment process. If people are unhappy with an established amendment the supreme court has established, then the people can go through the formal amendment process in order to have it changed. By getting the amendment

2

Write in the box the number of the question you are answering on this page as it is designated in the exam.

2A2

approved by $\frac{2}{3}$ of both ~~the~~ houses and $\frac{3}{4}$ of state legislatures.

Another way in which a political institution may limit the impact of a Supreme Court's decision is through proposing a bill. Getting a law passed through Congress and approved by the president creates a law for everyone to follow that may ~~override~~ override a Supreme Court's decision.

- ↓
- a) In *Lemon v. Kurtzman* the Supreme Court used the establishment clause of the first amendment in making its decision.
- b) The Supreme Court stated that states cannot fund private religious schools because of the establishment clause which calls for a separation of church and state. By providing for a religious school, it promotes that one religion, and ~~connects~~ the church and state uses the state funds for religious purposes.

Write in the box the number of the question you are answering on this page as it is designated in the exam.

2 (two)

2B

In the Supreme Court case of Engel v. Vitale, the Supreme Court based the decision it made off of the establishment clause in the first amendment. In this case, the Supreme Court decided that required school prayer is unconstitutional, even if it is non-denominational.

In the Supreme Court case of Reynolds v. United States, the Supreme Court based the decision it made off of the establishment clause in the first amendment. In this case, the Supreme Court decided that having multiple wives is bad, and that even though it is part of the religious foundation of Mormonism, it is still illegal. Political institutions can limit the impact of Supreme Court cases by endorsing loop holes in decisions and by supporting the defendant in the cases.

A) In Engel v. Vitale the First Amendment clause that was violated was separation of church and state.

B) The Supreme Court declared that because it was a public school, funded by the state, ~~that~~ it was not constitutional for there to be a school prayer.

C) In Reynolds v. United States the 1st amendment clause that was associated with this case is

~~the freedom of religion or the separation of church and state.~~
The government cannot tell a man how many girlfriends he can have.

D) However, the government is not going to facilitate to the whim of religion. There needs to be separation, if they allowed polygamy then it opens the gate to absurd "religious" traditions (like human sacrifice.)

e) If the ~~the~~ bureaucracy does not like the courts ruling as it goes from one level to the next it can slowly change or be

2

Write in the box the number of the question you are answering on this page as it is designated in the exam.

2 C 2

carried out differently than the Supreme Court expected. "The law" is merely a dead letter if there is no one to re-enforce it". The Bureaucracy could ~~interpret~~ interpret the ruling ~~entirely~~ but about the ruling entirely. It could slip through the cracks, therefore it would limit the impact of the Supreme Court decisions.

AP[®] UNITED STATES GOVERNMENT AND POLITICS

2007 SCORING COMMENTARY

Question 2

Overview

The primary intent of this question was not to test students on their knowledge of Supreme Court cases per se, but rather to assess their understanding of religious freedom and the fact that there are *limits* to the freedom of religion. This question required students to identify the two First Amendment clauses relating to religion, and then, via two Supreme Court cases, students had an opportunity to show how the Supreme Court has imposed limits on freedom of religion. To facilitate student responses to parts (b) and (d), students were cued to the topic of each case within the question. The question tests whether students with a basic factual understanding of religious freedom could use that understanding in an analytic way.

A secondary intent of the question was to determine if students understood that even though the Supreme Court can make a decision, other political institutions can limit the impact of such a decision.

Sample: 2A

Score: 5

In part (a) the response earned 1 point for identifying the establishment clause as being used in *Lemon v. Kurtzman*.

In part (b) the response earned 1 point for describing the Supreme Court's decision in *Lemon v. Kurtzman*: "states cannot fund private religious schools ..."

In part (c) the response earned 1 point for identifying the free exercise clause as being used in *Oregon v. Smith*.

In part (d) the response did not earn a point because the response incorrectly describes the Supreme Court's decision in *Oregon v. Smith*.

In part (e) the response earned 1 point for describing a way in which other political institutions might limit the impact of Supreme Court decisions: "One way... is through the amendment process ... [b]y getting the amendment approved by 2/3 of both houses and 3/4 of State legislatures." The response earned a second point in part (e) by describing another way in which other political institutions might limit the impact of Supreme Court decisions: "Getting a law passed through Congress and approved by the president ... may override a Supreme Court[']s decision."

Sample: 2B

Score: 3

In part (a) the response earned 1 point for identifying the establishment clause as the basis for the decision in *Engel v. Vitale*.

In part (b) the response earned 1 point for stating that "required school prayer is unconstitutional ..."

In part (c) the student incorrectly identifies the establishment clause and therefore earned no point.

**AP[®] UNITED STATES GOVERNMENT AND POLITICS
2007 SCORING COMMENTARY**

Question 2 (continued)

In part (d) the response earned 1 point for stating that “having multiple wives . . . even though it is part of the religious foundation of Mormonism, it is still illegal.”

In part (e) the response did not earn a point because the answer does not address ways that other political institutions might limit the impact of Supreme Court decisions.

Sample: 2C

Score: 1

In part (a) the response did not earn a point because it incorrectly identifies the First Amendment clause addressed in *Engel v. Vitale* as “seperation [*sic*] of church and state.”

In part (b) the response did not earn a point because it does not tie the *Engel v. Vitale* decision to state-sponsored prayer.

In part (c) the response did not earn a point because it incorrectly identifies “freedom of religion” as the First Amendment clause associated with *Reynolds v. United States*.

In part (d) the response did not earn a point because it incorrectly describes the decision in *Reynolds v. United States*.

In part (e) the response earned 1 point for describing a way in which other political institutions might limit the impact of Supreme Court decisions: “If the [bureaucracy] does not like the courts ruling . . . it can slowly change or be carried out differently than the Supreme Court expected . . . The [bureaucracy] could forget about the ruling entirely.”