

**AP[®] UNITED STATES GOVERNMENT AND POLITICS
2010 SCORING GUIDELINES**

Question 4

5 points

Part (a): 2 points

One point is earned for each explanation of how each of the following limits the powers of the **national executive**.

- Federalism — divides power between national and state governments, which limits the authority of the national executive.
- Checks and balances — the response must explain how other branches of government can check (limit, restrict) what the executive can do. A correct example of a check or balance on the national executive is acceptable to earn this point.

Part (b): 2 points

One point is earned for each explanation of how each of the following limits the powers of the **national government**.

- Establishment Clause — prevents the national government from establishing a national religion or taking any action that would show preferential treatment for one religion over another.
- Guarantee of a public trial — requiring trials to be open to the public limits the government's ability to violate the rights of citizens.

Part (c): 1 point

One point is earned for an explanation of how one of the following limits the power of **state governments**.

- Citizenship Clause — provides a national definition of citizenship that states cannot violate; requires states to provide citizenship guarantees to all who meet the definition of citizen.
- Selective incorporation — prohibits states from denying Bill of Rights provisions regarding freedom of expression, rights of the accused or privacy.

A score of zero (0) is assigned to an answer that is attempted but earns no points.

A score of dash (—) is assigned to an answer that is blank or off task.

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

Question 4A

Leaf 2

The system of federalism helps to limit the powers of the national executive. Federalism is the separation of power between the state governments and the national government. The United States uses a system of "marble cake federalism," where the responsibilities of both the federal and state governments overlap, and both cooperate to implement public policy. This cooperation places a limit on the national executive because the President must be concerned with the opinions of the state governments. He cannot simply do whatever he wants; due to their relationship within federalism, the executive's ~~power~~ power is limited by ~~his~~ ^{its} responsibility to the states.

The system of checks and balances also helps to limit the powers of the executive. The judicial and legislative branches both have checks on the executive, so that no branch can gain too much power. The judicial branch can declare acts of the executive branch unconstitutional, and the legislative branch can override ~~a veto~~ presidential vetoes (by a 2/3 rds vote) and impeach the president (House impeaches, Senate conducts impeachment trial). Thus, checks and balances of the other two branches help limit the power of the national executive.

The powers of the national government are limited by provisions in the Bill of Rights. One such provision is the establishment clause. This clause states that the government ~~cannot~~ ^{cannot} establish a religion for the country. There is a

Question 4A

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"Wall of separation" that exists between "church and state."

The Lemon Test confirms that the government must have purely secular interests in any involvement with a religious institution, thus limiting its power.

Another provision is the guarantee of a public trial. This limits the powers of the federal government because it makes the government responsible to public opinion. There are no private trials to protect or hide the government's actions; everything involving a case is free to the public's view. Because of this, the national government must act carefully and wisely during any court case in order to try to maintain a popular public opinion, thus limiting its power.

The process of selective incorporation serves to limit the powers of the state governments. Selective incorporation is the gradual process by which the Bill of Rights was nationalized, or applied to the states. Selective incorporation made every state responsible for protecting its citizens' rights as stated in the Bill of Rights. Before this process, only the federal government was responsible for this. Yet, because ~~the~~ ~~process~~ of selective incorporation, states are equally as responsible for upholding the Bill of Rights. This is a limit upon state power because ~~the~~ ~~process~~ ~~is~~ ~~an~~ ~~example~~ states have much less power over citizens now than they are fully responsible for protecting them with regard to the first ~~ten~~ ~~amendments~~ ten amendments.

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

4B

1 of 2

(a) The national executive is limited by federalism and checks and balances. Federalism limits because federalism is the separation of national and state governments. The national executive cannot enforce laws at the state level because of federalism. State executives must enforce them. Checks and balances limit the national executive powers because the system of checks and balances is supposed to check the branches of government from getting too powerful. For example, if the national executive makes rules and regulations that give the executive power, the judicial branch can check the executive by declaring the rules and regulations unconstitutional. Also, Congress can hold oversight hearings, clarify a law, or adjust the executive branch's funds. ☆

(b) The establishment clause limits national government because it cannot create a national church. The Founders knew from experience that a national church gave the national government ^{power} therefore restricting the power to create one. Also from experience, the Founders

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wanted to guarantee public trial. If there were no trial, the national government could imprison anyone for any reason. How does this limit the national government? It does this by limiting their policing power and promoting justice and reasoning. This provision ~~also~~ guarantees that the national government cannot do whatever it wants - like imprisoning someone for any reason.

~~© State power is limited by the citizenship clause of the 14th amendment. State governments cannot make laws excluding anyone. State goes at the time~~

State governments are limited by selective incorporation. Selective incorporation is applying the Bill of Rights to ^{the} state level. By having to comply with certain amendments, the state government has less control - it loses/limits its power. For example, a state cannot prohibit free speech that criticizes the state government. Criticism makes the state gov less powerful. Not being able to control speech limits state power.

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

4C

1 of 2

a. The core of Federalism is separation of powers, as outlined by James Madison, Alexander Hamilton, and John Jay in the Federalist's Papers. The idea of Federalism limits the executive in that he does not have control over everything. Also, Amendment 10 states any power not reserved to the national government is reserved to the states. Checks and balances is another component of Federalism, and also limits the power of the Executive. Congress can try and impeach the president while the Supreme Court can declare presidential acts unconstitutional and nullify them.

b. The establishment clause provides freedom of speech, the press, and religion. The national government cannot impede any of the former unless there is a clear and present danger which can be contested in the ~~best~~ guarantee of a trial. In this way, the government cannot effectively tell the people how to act and believe, and are pressured to act carefully and unselfishly for fear of the press, which has strong influence on constituents. If the government does something harmful or disagreeable, the press will (hopefully) relay the information to the people who might be less inclined to vote for them again. Right to a public trial prevents the government from infringing on habeas corpus, (no unjust detainment) and from trying individuals with dissenting opinions with the government.

c. The citizenship clause prevents discrimination (hopefully), and guarantees equal protection under the law. This prevents the state from segregating

4C

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

of schools, preventing ~~them~~ some from voting, and limiting abortions. This keeps the state fair and unbiased towards dealing with different racial groups and individuals. Selective incorporation is the application of the Bill of Rights to the states. This prevents the states from infringing on the basic rights of people such as in *Mapp v. Ohio* where evidence was thrown out of court due to the employment of unreasonable search and seizure which is prohibited in the Bill of Rights. Selective incorporation protects individual's ^{rights} from the state, like in *Texas v. Johnson*, where it was decided that Texas was infringing on free speech when it decided that flagburning was ~~not~~ illegal.

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2010 SCORING COMMENTARY

Question 4

Overview

This question was intended to have students evaluate limitations on the powers of government in three different contexts: limitations on the national executive, limitations on the national government and limitations on state governments. For the national executive, part (a) asked for limitations on powers provided by federalism and by checks and balances. For the national government, part (b) asked for limitations provided by the establishment clause and the guarantee of a public trial. For the state governments, part (c) asked for limitations provided by the citizenship clause of the Fourteenth Amendment or the selective incorporation of the Bill of Rights.

Sample: 4A

Score: 5

In part (a) the student earned 1 point for explaining that federalism limits the power of the executive because of “the separation of power between the state governments and the national government,” which ensures that the president “cannot simply do whatever he wants.” The student earned 1 point for explaining how checks and balances limit the power of the executive by providing both descriptions and appropriate examples.

In part (b) the student earned 1 point for explaining how the establishment clause limits the national government by stating that “the government cannot establish a religion for the country.” The student earned 1 point for explaining how the guarantee of a public trial limits the national government by stating: “There are no private trials to protect or hide the government’s actions.”

In part (c) the student earned 1 point for explaining how selective incorporation limits states.

Sample: 4B

Score: 4

In part (a) the student earned 1 point for explaining that federalism limits the power of the national executive because the “national executive cannot enforce laws at the state level.” The student earned 1 point for explaining, through the use of an appropriate example, how checks and balances limit the national executive.

In part (b) the student earned 1 point for explaining how the establishment clause limits the national government because “it cannot create a national church.” The student does not provide a valid explanation of how the guarantee of a public trial limits the national government and therefore earned no point.

In part (c) the student explains how selective incorporation limits states: “By having to comply with certain amendments, the state government has less control — it loses/limits its power.” The student also provides the example of free speech.

Sample: 4C

Score: 2

In part (a) the student does not provide a correct explanation of how federalism limits the national executive and therefore earned no point. The student did earn 1 point for explaining, through the use of appropriate examples, how checks and balances limit the power of the national executive.

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Question 4 (continued)

In part (b) the student incorrectly explains the establishment clause and therefore earned no point. The student does not correctly explain how the guarantee of a public trial limits the national government and therefore earned no point.

In part (c) the student earned 1 point for explaining how selective incorporation limits states.