

# AP<sup>®</sup> UNITED STATES GOVERNMENT AND POLITICS 2011 SCORING GUIDELINES

## Question 1

### 5 points

#### Part (a): 1 point

One point is earned for a correct definition of judicial review. An acceptable definition of judicial review is the power of the court to rule on the constitutionality of laws, acts, statutes, executive orders.

#### Part (b): 1 point

One point is earned for an acceptable explanation that demonstrates how judicial review empowers the Supreme Court to exercise power relative to the other branches of government within the system of checks and balances by including one of the following:

- It gives the Court the power to overturn laws passed by Congress/legislative branch or actions taken by the president/executive branch.
- It gives the Court the power to limit actions taken by Congress/legislative branch or the president/executive branch.

#### Part (c): 1 point

One point is earned for correctly describing the process through which the Court grants a writ of certiorari by including both of the following:

- A reference to lower courts
- A reference to the rule of 4

#### Part (d): 2 points

One point is earned for a correct explanation of how stare decisis influences decisions made by justices when deciding cases heard by the Court. One point is earned for a correct explanation of how judicial activism influences decisions made by justices when deciding cases heard by the Court.

An acceptable explanation of how stare decisis influences justices includes one of the following:

- Justices defer to prior Supreme Court decisions.
- Justices apply precedent to current cases and rule based on past decision.

An acceptable explanation of how judicial activism influences justices includes one of the following:

- Justices are more likely to strike down laws and policies as unconstitutional.
- Justices are influenced by the future/societal ramifications/needs of the nation.

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.

I A

1 of 2

Ⓐ Judicial Review, established in the case *Marbury v. Madison*, allows for the Supreme Court to ~~not~~ determine and ~~set~~ rule on the constitutionality of any decisions made by Congress or the president.

Ⓑ Judicial Review empowers the Supreme Court within the system of checks and balances by giving the Supreme Court checks on both Congress (Legislative Branch) and the President (Executive Branch). The Supreme Court can check both of these branches of government by determining the constitutionality of their actions while the Supreme Court justices, themselves, generally serve for life and have very few checks on them. This empowers the Supreme Court.

Ⓒ The Court grants a writ of certiorari by generally using the rule of 4 where 4 justices, or judges, ~~at least~~ must wish to take a case from a lower court for additional review or appeal. Once a writ of certiorari is granted, the Court takes control and precedence of that case.

Ⓓ Stare Decisis, or "to stand decided," influences decisions made by individual justices by generally causing them to stand on the ruling made in an earlier case by a different judge that deals with the same ideas as the current case at hand. They stand on an earlier case's decision and rule the same.

1 A

2012

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

① Continued... way as the precedents. This is very common and keeps ~~the~~ a lot of reverse rulings from happening.

Judicial ~~activism~~ activism influences decisions made by justices when deciding on a case heard by the court because this can cause justices to make new rulings and actively change or carefully review cases, instead of keeping stare decisis. Judicial activism causes many overtures on earlier precedents and sets new precedents depending on the views of the judges and the mood of the country at the time. In a judicially active court, many new decisions are made and precedents changed.

Judicial Review, established after the Supreme Court case Marbury vs. Madison, allows the Supreme Court to decide if an act by the executive branch or Congress is constitutional.

With the establishment of judicial review, the Supreme Court gained its power to check if laws passed by Congress are constitutional.

The process of granting a writ of certiorari in the Court is to bring a case from a lower court to the Supreme Court to be heard. The court hears mostly appellate cases which have already been decided and are now going to be challenged.

Stare Decisis literally means "let the decision stand". Individual justices use previous decisions made in court cases to use as precedent in deciding cases that are relatable or share the same issue in the future. Also, individual justices may use Judicial activism when deciding cases heard by the Court. Judicial activism means to take the

1 B

2012

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Constitution and loosely interpret it so that it can be applied to this day and age. Opposite to judicial restraint, the individual justices that use judicial activism do not interpret the Constitution literally or word for word but apply it to present day issues.

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

1c

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The United States Supreme Court can only hear a small fraction of the cases that are sent to them each year. Judicial review is a power given to the Supreme Court to decide the case and if there is an aspect of the case that they consider to be unconstitutional. The influence of judicial review is empowering ~~to~~ to the Supreme Court Justices as a strong checks and balances, especially on the two other government branches, can be used. If the president's amendment or policy is passed through Congress, the Supreme Court must wait until a case involving the new law gets to them through the extensive court system. Then the Supreme Court can rule that the law is indeed unconstitutional, though they do not have any power to enforce their decision. Judicial activism is when individual supreme court justices use all their power to get a certain decision.

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## 2011 SCORING COMMENTARY

### Question 1

#### Overview

The intent of this question was to examine students' knowledge of judicial review and their understanding of how judicial review empowers the Supreme Court within the system of checks and balances, how the United States Supreme Court grants a writ of certiorari, and how stare decisis and judicial activism influence decisions made by individual justices when deciding cases heard by the Court. The question asked students to (a) define judicial review; (b) explain how judicial review empowers the Supreme Court within the system of checks and balances relative to the other branches; (c) describe the process through which the Court grants a writ of certiorari; and (d) explain how stare decisis and judicial activism influence decisions made by individual justices when deciding cases heard by the Court.

#### Sample: 1A

##### Score: 4

In part (a) the response earned 1 point for defining judicial review as allowing “the Supreme Court to determine and rule on the constitutionality of any decisions made by Congress or the president.”

In part (b) the response does not provide an adequate explanation of how judicial review empowers the Supreme Court to exercise power relative to the other branches of government and received no point.

In part (c) the response earned 1 point for correctly describing the process through which the Court grants a writ of certiorari by identifying “a lower court” and “the rule of 4.”

In part (d) the response earned 1 point for correctly explaining that stare decisis “influences decisions made by individual justices by generally causing them to stand on the ruling made in an earlier case ... and rule the same way as the precedent.” The response also earned 1 point for correctly explaining how judicial activism influences decisions: “[T]his can cause justices to make new rulings and actively change or carefully review cases” and can cause “many overturns on earlier precedents and sets new precedents.”

#### Sample: 1B

##### Score: 3

In part (a) the response earned 1 point for defining judicial review as allowing “the Supreme Court to decide if an act by the executive branch or Congress is constitutional.”

In part (b) the response does not provide an adequate explanation of how judicial review empowers the Supreme Court to exercise power relative to the other branches of government and received no point.

In part (c) the response does not correctly describe the process through which the Court grants a writ of certiorari and therefore earned no point.

In part (d) the response earned 1 point for correctly explaining how stare decisis influences decisions by stating that “[i]ndividual justices use previous decisions made in Court ... as precedent in deciding cases.” The response also earned 1 point for correctly explaining how judicial activism influences decisions: “[W]hen deciding cases heard by the Court ... [j]udicial activism means to take the Constitution ... so that it can be applied to this day and age” and “apply it to present day issues.”

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**Question 1 (continued)**

**Sample: 1C**

**Score: 1**

In part (a) the response earned 1 point for defining judicial review as “the Supreme Court can rule that the law is indeed unconstitutional.”

In part (b) the response does not provide an adequate explanation of how judicial review empowers the Supreme Court to exercise power relative to the other branches of government and received no point.

In part (c) the response does not correctly describe the process through which the Court grants a writ of certiorari and therefore received no point.

In part (d) the response does not provide an adequate explanation of how stare decisis or judicial activism influences judicial decisions and therefore earned no points.