

AP US Government

16 Must Know Concepts to Ace the Test

Copyright © 2015 by Learnerator Education, Inc.

All rights reserved. Neither this book nor any portion thereof may be reproduced or used in any manner whatsoever without the express written permission.

Published in the United States of America.

Table of Contents

Introduction	4
About Us.....	5
Electoral College.....	6
Executive Branch	12
Federalism.....	18
Interest Groups.....	24
Iron Triangle	30
Judiciary Branch.....	36
Key Supreme Court Cases.....	50
The Presidency	56
Mass Media.....	62
Bureaucracy	68
Constitution	74
Civil Liberties.....	81
Political Participation and Voting Behavior	87
Elections	93
Public Opinion.....	100
Printz vs. United States	105
Sign up for Learnerator AP US Government Prep!	108

Introduction

Thank you for downloading, *AP US Government Crash Course: 16 Must Know Concepts to Ace the Test*. These posts are a compilation from our blog, where we review important concepts to know for a variety of AP exams, including AP US Government. You can check out more pointers, including our Ultimate List of AP US Government Tips, at our [blog](#). We hope you find this short collection helpful in your preparation for AP US Government!

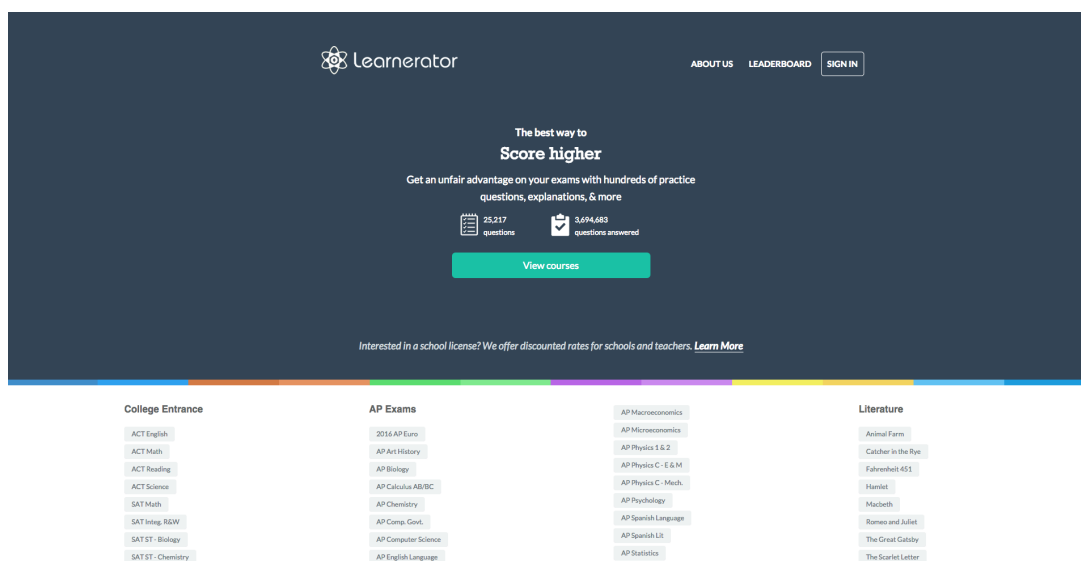
-The Learnerator Team

E-mail us at hello@learnerator.com if you have any questions, comments, or suggestions.

About Us

[Learnerator](http://www.learnerator.com) bridges the gap between learning and mastery by curating high quality practice materials for a variety of difficult academic subject areas. Our online test prep offers:

- Over 500 AP US Government practice questions
- Detailed personalized statistics based on your performance
- A competitive online leaderboard to see how you stand compared to others
- Convenience with anytime access from an Internet-enabled device



Visit us at <http://www.learnerator.com/ap-us-government-politics>

Use **SUPREMECOURT** for 10% off AP US Government

Electoral College

What is the Electoral College?

Because it is unique to our political system, the AP US Government & Politics exam is almost certain to test you on your knowledge of the Electoral College. What is the Electoral College, again? No—it's not somewhere you get accepted to if you get a lot of 5s on your AP exams.

You're probably too young to remember the 2000 presidential election, but you've certainly heard about it, and probably talked about it in class. George W. Bush, was elected despite losing the national popular vote (popular meaning, the most votes) because he was awarded Florida's electoral votes.

Electoral College Origins

The Founding Fathers didn't have much faith in the voters to pick the president without some help from their leaders. They felt that the public had a limited grasp of the issues. So the Electoral College was designed to balance the popular will with political leaders' wisdom. The voters' choices would be filtered through state legislatures.

In a presidential election, each state legislature sends a slate of electors—the number of electors based on a state's number of congressional districts plus two (for its senators) to go to Washington and elect a president.

Most state legislatures selected electors who would vote for the candidate the voters chose—but the Constitution (Article II, Section 1) does not require this.

Then, the candidate who received the majority of the electoral vote became president. Usually—but not always—this candidate also happened to have won the popular vote.

There have been three presidential candidates who won the popular vote but lost the Electoral College vote:

- Samuel Tilden losing to Rutherford B. Hayes in 1876
- Grover Cleveland losing to Benjamin Harrison in 1888
- Al Gore losing to George W. Bush in 2000

There have been a number of elections that came close to having the same mixed result. For example, in 2004, John Kerry lost to George W. Bush by over three million popular votes, but the flip of one state—Ohio—would have made Kerry president. (Surely, the irony would not have been lost on Bush.)

Effects of the Electoral College

The AP US Government & Politics exam will want you to know what the effects of the Electoral College are.

One effect is that which is mentioned above—sometimes the Electoral College flouts the will of the public. Today, all of the state legislatures (with the exceptions of Maine and Nebraska, which award by congressional district) award all of their state’s electoral votes to the popular vote winner in that state. This is referred to as the “winner-take-all” system.

This means that, even if a Republican candidate get millions of votes in California, or a Democrat gets millions in Texas, they still lose all of that state’s electoral votes.

This dynamic has the additional effect of leading candidates to only spend money and campaign in swing states—states where either party’s candidate has a chance of winning the state’s popular vote.

This is why states like Ohio, Virginia and Florida, which are fairly evenly split between Democrats and Republicans, get so much attention from candidates.

How are Electoral College Votes Apportioned?

As mentioned, each state receives a number of electoral votes equivalent to its number of senators and representatives, for a total of 538 electoral votes. The votes are apportioned the same way congressional districts are—every ten years by the Census. A candidate needs 270 electoral votes to become president.

The most populous states have the most electoral votes. In 2016, for example, California will have 55 electoral votes, Texas will have 38, Florida and New York will have 29, and Illinois and Pennsylvania will have 20. It is possible for a candidate to win the presidency with the electoral votes of only the ten most populous states.

On the other hand, sparsely populated states like Montana and Vermont only have three electoral votes. Still—the electoral vote gives these states more influence than a popular vote-based system would. Three electoral votes can change the result in a close electoral vote.

Criticisms of the Electoral College

There are lots of criticisms of the Electoral College.

The most common complaint is that whoever represents the popular will—the winner of the popular vote—should be president. Half a million more voters voted for Al Gore in 2000 than voted for George W. Bush.

The other criticism is that by focusing the presidential contest on the swing states, the Electoral College deprives voters in solidly partisan states (like Republican Texas or Democratic California) from being heard.

It is also said that minority party voters in these states (e.g., Democrats in Texas or Republicans in California) have little incentive to vote, since their votes won't affect the outcome of the election at all.

There have been many efforts to amend the Constitution and do away with the Electoral College over the years, but none of them have picked up much steam.

The Electoral College in Action

The electors meet at state capitols in December to cast their ballots. The ballots are then sealed and sent to Congress, where the president of the Senate—the vice president—opens and counts the ballots in January.

The media is allowed to ask electors how they voted in December, and they typically answer. Most states require electors to cast their ballot for the candidate they were chosen to represent—but some don't.

In 2000, for example, since New Hampshire doesn't require electors to vote for the candidate the voters chose, some pundits thought the state's electors, pledged to Bush, might defect and vote for Gore. They didn't.

If no candidate wins a majority of Electoral College votes—possible in an election with three or more major candidates—the House selects from the top three presidential candidates, and each state gets one vote. D.C. does not get a vote. The winner must get 26 or more state votes, with the House re-voting until this happens.

The Senate selects from the top two vice presidential candidates, and each senator gets one vote. The majority vote winner (51 votes) is sworn in as vice president.

Now let's take a look at a free-response question about the Electoral College.

A Sample Free Response Question

- (a) Describe the winner-take-all feature of the Electoral College.*
- (b) Explain one way in which the winner-take-all feature of the Electoral College affects how presidential candidates from the two major political parties run their campaigns.*
- (c) Explain one way in which the winner-take-all feature of the Electoral College hinders third party candidates.*
- (d) Explain two reasons the Electoral College has not been abolished.*

It's easy to answer (a) – discuss how, for all states except Maine and Nebraska, the winner of the popular vote in a state gets all of its electoral votes.

For (b), you want to discuss the concept of ‘swing states’ – parties closely divided between the states whose electoral votes are up for grabs. Candidates spend time and money here at the expense of solidly partisan states.

Part (c) will require you to discuss the dominance of the two parties, Democratic and Republican, and how third parties are unlikely to get any electoral votes at all—and thus no voice in the Electoral College—unless they outperform the two larger parties.

Part (d) will require you to discuss the amendment process—the only way the Electoral College can be abolished—and how the swing states are unlikely to support decreasing their voice in presidential elections. You will also want to discuss fears that a popular vote-based election would favor big cities and major population centers at the expense of rural and sparsely populated areas. (The argument here is that candidates would only spend time and money in places with lots of votes to be had.)

The Wrap Up

Remember, you are likely to encounter questions about the Electoral College on the AP US Government exam.

- The Electoral College is unique to our democracy. The most important points to remember about it are:
- The Electoral College was created by the Founding Fathers because they believed voters weren't well-informed enough to choose the president on their own
- The Electoral College uses a winner-take all system
- The Electoral College encourages candidates to campaign in 'swing' states where the parties are closely matched
- Occasionally, the winner of the Electoral College (and thus, the presidency) actually loses the popular vote.

Remember, the Electoral College is not as complex as it might seem at first blush. Americans technically vote for electors who support their favored candidate. These 538 electors then convene the month after the election to vote for the president. If you can grasp this idea and the bullet points above, you will be well prepared for Electoral College questions on the US Government & Politics exam.

Executive Branch

An Introduction to the Executive Branch

A substantial portion of the AP US Government & Politics exam will test your knowledge of the three branches of government—executive, legislative and judicial—and how they interact, or ‘check’, each other’s powers. So let’s take a look at the Executive Branch—commonly thought of as the presidency.

The Executive Branch isn’t just the president, though. It’s the president, vice president, and the cabinet—the Secretaries of State, Defense, the Treasury, the Attorney General, and so on. These latter figures manage the bureaucracy.

For most intents and purposes, though, it’s OK to think of the Executive Branch as just the presidency—that is where almost all of its power lies.

Who can be President?

The president is selected by the Electoral College and, according to the Constitution, must be at least 35 years old, a native-born citizen of the United States, and a resident (in other words, living in the US) for at least 14 years.

Until 2009, when President Obama was sworn in, presidents have exclusively been middle-aged white men who served in the Senate or as governor of their state. Some presidents have previously served in the Cabinet.

Origins of the Presidency

Since they had just fought a war against King George, the Founding Fathers were naturally wary of placing too much power in a single, powerful leader. They originally envisioned an ‘executive officer’ who would implement congressional laws.

Gradually they settled on a slightly more powerful executive—a role they envisioned General George Washington filling, as he did—that would have substantial powers, contingent upon congressional involvement.

The Powers of the Presidency

Article II of the Constitution vests the president with the power to command the military, although he must go to Congress to request funding and seek its approval before beginning a war.

In practice, the presidency's war powers have expanded considerably since the Constitution was written, with presidents often beginning military action in 'emergency' situations without consulting the Congress. This trend is quite controversial.

However, this is a key theme in the history of the Executive Branch: since the founding, the president's powers have expanded considerably at the expense of Congress.

The president has the power to sign legislation into law after Congress has passed it. The president can also veto legislation, rendering it null and void.

The veto can be overridden only with two-thirds of the vote in each House of Congress. This means that a veto usually kills a bill—and a veto threat typically discourages a bill from even being brought to the floor.

In modern times, vetoes have rarely been issued because Congress doesn't want to spend time on legislation it knows won't become law. And of course, vetoes are more likely to occur when one party holds the presidency and the other party

controls Congress. (Democratic President Obama's most recent veto was of the Keystone XL pipeline passed by the Republican-controlled Congress.)

The president, with the advice and consent of the Senate, also signs treaties with foreign powers, nominates judges to the federal bench, including the Supreme Court, and nominates members of the Cabinet and for other federal offices.

The president can also pardon people, or commute their sentences, as many state governors can also do.

Administering the Laws

A substantial part of the presidency's powers emanate from its Article II responsibility to administer federal laws. The president uses executive orders, proclamations and memoranda to do this.

When presidents are dealing with an uncooperative Congress, they can get a lot done on their own with these powers.

For example, President Lincoln freed the slaves in Confederate states with the Emancipation Proclamation. Recently, President Obama drastically changed immigration policy against the wishes of the Republican congress with an executive order. He has done the same thing to push his environmental and student loan agenda against the wishes of Congress.

Again, the modern presidency has come to rely more and more on executive orders, proclamations, and memoranda to get things done—expanding the executive's power at the expense of Congress.

Other Powers of the Presidency

Many people don't know the names of their senators or representatives, but almost everyone knows who the president is. For this reason, the president is said

to have a ‘bully pulpit’—in other words, what he says and does are paid attention to by the public and by the media.

The president can influence the public in various ways—via addresses from the Oval Office or Rose Garden, or in the State of the Union, for example—that other government officials can’t.

Also, the president is the unofficial leader of his or her party, and thus can influence—sometimes successfully, sometimes not—the legislative choices the party makes in Congress, and the message it delivers to voters.

In voters’ minds, the president is the face of his or her party.

Do not ignore the unenumerated powers of the presidency (the powers that aren’t spelled out in the Constitution) on the AP US Government exam! They are often just as important as the powers given to the president in the Constitution.

How the Public Sees the President

The public holds the president to an extremely high standard of behavior. This has toppled some presidencies (Nixon) and nearly topped others (Reagan, Clinton).

The president’s popularity is often contingent on matters that are largely out of the executive’s hands, with the Number One issue being the state of the economy. Other domestic and international events, though (such as Hurricane Katrina) can affect how the public views the president.

The public often reacts negatively when presidents propose unpopular ideas or actions, such as Obamacare. However, history shows that Americans are usually willing to live with whatever these policies are after the fact.

A Sample Free-Response Question

Let's take a look at a past free-response question about the Executive Branch and determine how we'd answer it:

Though the founders intended Congress to be the leading federal branch, presidents now find themselves with more power.

(a) Identify and describe two ways this trend toward increased presidential power has occurred (excluding presidential authority over the federal bureaucracy).

(b) Explain how presidential authority over the federal bureaucracy has increased executive powers.

OK. For part (a) we're asked to name two ways the president's power has increased, but we can't mention the federal bureaucracy. So we won't mention executive orders or memoranda.

But we can mention how presidents—from Polk sending troops into Mexico to Obama bombing Syria—have gone to war without Congressional approval. We can also mention the increased influence of the 'bully pulpit' in the age of television—today, the presidency's voice is louder than ever.

This is a good way to answer part (a)—with an example of hard power—launching a military action—and soft power—expanding the presidency's rhetorical influence.

For part (b) you should discuss executive orders and memoranda. The president can use executive orders to direct federal agencies to do things within the scope of existing laws—which usually allows considerable leeway. He or she can use memoranda to 'interpret' laws for the bureaucracy—often in a way that is

compatible with the president's views. The Congress has no involvement in this process—even though it writes the laws.

The Wrap Up

The most important things to remember about the presidency are that its powers have increased considerably since the founding; that it has enumerated (listed in the Constitution) as well as unenumerated ('soft') powers; that presidents use memoranda, proclamations and executive orders to wield affect change without Congress' input; and that the public holds the president to high, and often unattainable, standards.

These key points should hold you in good stead as you take the AP US Government & Politics exam.

Federalism

Federalism is a unique idea, particular to American government. So, when you take the AP US Government & Politics exam, you are going to be asked a lot of questions about what federalism is and how it works.

Types of Government Power

Don't be overwhelmed. The framework of the federal system is actually pretty simple. Under federalism, the national—or federal—government has certain powers and the states have other powers.

Let's look at the various types of power, and what level of government wields them.

(1) **Federal powers**, consisting of

- a. Delegated powers: also called express powers, are written in the Constitution.
- b. Implied powers: can be reasonably inferred from the Constitution.
- c. Inherent powers: don't rely on specific clauses of the Constitution but emanate from the nature of the federal government—for example, issues relating to foreign affairs.

(2) **Reserved powers**. These are powers that are neither given to the federal government nor denied to the states. Although these powers are not expressed, they are guaranteed to the states via the 10th Amendment.

- a. In general these powers relate to states being able to govern their internal affairs—e.g., have police and fire departments.

(3) **Concurrent powers**. These powers are held by the federal government and state governments, and include the powers of taxation and to make laws.

(4) **Prohibited powers.** These powers are denied to the federal government or state governments, or both. One example of a prohibited power is the taxing of exports.

The Supremacy Clause

Article VI of the Constitution, the Supremacy Clause, states that the Constitution is the “supreme Law of the Land.” This means that all officials of the country, including state officials, must give oaths to support the Constitution, and states cannot override national powers.

So, from the very beginning the states were viewed as somewhat secondary to the federal government. Over time, states’ powers would increase, to the benefit of the federal government.

Let’s look at how that process played out.

Early Federalism—or Dual Federalism

Up until the Civil War, the original interpretation of federalism was something known as **dual federalism**. This view held that the Constitution had given limited powers to the federal government and left most powers in the hands of the states.

The federal government was held to dominate in its areas of influence (e.g., foreign affairs) and the states in theirs (e.g., slavery or education), with the Supreme Court acting as umpire when disputes arose between the two.

After the Civil War

Dual federalism was criticized for not adequately protecting citizens from states that denied freedom (for example, slavery and Jim Crow laws) and for being ill equipped to handle the social and economic changes affecting the country.

Post-Civil War, federalism has evolved considerably. The causes of this include the Civil War, the territorial expansion of the U.S., America becoming an industrial and international power, the two World Wars and the perceived threats of communism to American interests.

After the Civil War, the biggest change to federalism was the application of federal rights—those contained in the Bill of Rights—to the states. Previously, the Bill of Rights applied only to the federal government; after it applied across-the-board.

Cooperative Federalism

After the Great Depression, cooperative federalism saw the federal government expand its domestic activities. Under this idea, also known as **fiscal federalism**, the federal government sends monies to the states, and attaches stipulations, or rules and regulations, to the funds.

This allows the federal government to exercise much more power over domestic affairs than it was given in the Constitution.

Both liberal and conservative presidents have utilized cooperative federalism to implement their policies. Obamacare contains many instances of cooperative federalism; so too did President Bush's No Child Left Behind law.

The idea of cooperative federalism views federalism as a system to help provide goods and services to citizens. Again, Obamacare is a good example of this, as the federal law set up a framework for state governments to establish statewide exchanges that would provide affordable healthcare options to citizens.

Essentially—the federal government gives the states money and tells them how to spend it. The states thus become agents of federal policy.

Now let's look at some elements of federalism within the federal government.

The Separation of Powers

Inherent to the federal system is the separation of powers within the federal government. This is Government 101. Congress passes legislation and the president signs it into law. If the president vetoes legislation, Congress can override the veto and pass the legislation with the vote of two-thirds of each house.

The Supreme Court can declare acts of Congress or actions by the president unconstitutional. A constitutional amendment is required to subvert this.

Checks and Balances

The veto power is part of the federal system of checks and balances – powers given to each branch of government to prevent unfettered action by the other branches.

The Supreme Court's power to rule acts unconstitutional falls within the system also of checks and balances. This power is known as **judicial review**.

Another example of checks and balances is the requirement that the Senate approve presidential nominees and treaties with other nations.

Let's look at the basic powers that the federal government and the states have.

Basic federal powers

- Taxation
- Raise and maintain the army

- Declare war
- Regulate commerce
- Supreme Court rulings
- Rights incorporated by the 14th Amendment—in other words, the application of the Bill of Rights to the States
- Miscellaneous (laws against kidnapping, crossing state lines to commit crimes, harming federal officials, violating civil rights)

Basic state powers

- Taxation
- Conducting elections
- 10th Amendment rights
- ‘Traditional’ rights such as marriage licenses, business licenses, criminal laws, education

OK. Not too complicated, right? Now let’s take a look at a sample free-response question.

Federalism in the United States has shifted from a form known as “dual federalism” to a newer “cooperative federalism.”

(a) Define these two kinds of federalism.

(b) Explain why this newer concept of “cooperative federalism” favors the powers of the central government.

Part (a) is easy to answer. Again, dual federalism was the view that the federal government and state governments operated in separate spheres, and had few powers, aside from taxation, that overlapped. Cooperative federalism sees the two

levels of government working in tandem on many issues, such as healthcare and education.

Now, let's think about (b). Why does cooperative federalism favor federal power? One word: money. Since the federal government gives its money to the states with strings attached, it can exercise considerable policy control via these strings. Federal highway funds, for example, are contingent on states keeping their drinking ages at 21—otherwise, no more money from Uncle Sam to build roads!

The Wrap Up

This basic overview should serve you well as you prepare for the AP US Government & Politics exam. Remember, though—this is just an outline. You'll want lots of specific examples of cooperative federalism in the event you're asked to answer a federalism-based free-response question.

Interest Groups

The AP US Government & Politics exam will include lots of questions about interest groups. This is because interest groups, while not an institution of government per se, serve a vital role in our democracy. Interest groups inform and influence the legislative process, campaigns and elections, and the way voters perceive issues. As they were about political parties, the Founding Fathers were wary of interest groups—but these groups have an intractable place in American politics, and it is crucial that you understand how they work.

What Interest Groups Aren't

A good way to prepare for questions about interest groups on the AP US Government & Politics exam is to remember what interest groups aren't—they aren't political parties (Democrats or Republicans) and they aren't voting blocs like African-Americans or women.

However, interest groups are made up of groups of like-minded people, and they do represent specific interests that could align neatly with a certain political party or bloc of voters. For example, the NAACP, the National Association for the Advancement of Colored People, is run by and comprised of mostly African-American Democrats.

Interest groups are not provided for in the Constitution. In fact, the founders, such as James Madison, feared the influence of these groups—which they called factions—and hoped the federal system and separation of powers would prevent them from popping up.

Alas! Like political parties, interest groups developed as a result of the political process, spawning around specific issues that are raised in the course of governance.

Interest groups don't nominate candidates for federal office. Only parties do that. They often endorse and provide funding for candidates, though. Emily's List is an interest group that advocates for the election of women—Democrat as well as Republican—to office.

Oftentimes interest groups will be allied more or less with only one political party—NARAL, or the National Abortion Rights Action League, for example, supports mostly Democrats, because Republicans are generally opposed to abortion rights. The Chamber of Commerce mostly supports Republicans.

However, interest groups can and do support candidates from both political parties. The NRA, the National Rifle Association, for example, often supports Democrats who are pro-gun, and, at the same time, the NRA doesn't hesitate to oppose Republicans who support gun control.

How do Interest Groups Work?

Interest groups do many things. They try to educate and influence the public on issues. For example, an environmental group, the Sierra Club, runs television advertisements and holds informational events on issues important to it. Recently, they opposed the creation of the Keystone XL pipeline, successfully lobbying President Obama to veto the bill establishing it.

Interest groups also provide logistical (such as get-out-the-vote) and financial assistance to their favored candidates.

Interest groups also employ **lobbyists** who go to Washington and attempt to enlist political support on behalf of their agenda.

Let's look at lobbying first.

Lobbying

The American people have an overwhelmingly negative view of lobbyists, mostly due to the unprecedented amount of money in modern politics, and the perception that lobbyists bribe members of Congress with money and perks.

The reality is more mixed, though. Congress relies on lobbyists to provide expert information and analysis that can help it draft effective, informed legislation.

Ideally, if there are lobbyists representing every side of an issue, Congress benefits from a level of knowledge and expertise it would lack without the influence of lobbyists.

The flip side is that often, the wealthiest and most powerful interests (for example, the NRA or Big Tobacco) are able to employ more lobbyists and spend more money, and therefore have more influence, in the legislative process.

This is often why issues that have wide national support—for example, stronger gun control laws—fail to go anywhere. Many members of Congress fear backlash from the NRA more than the electoral consequences of ignoring the voters' wishes.

Now let's take a look at electioneering.

Electioneering

Interest groups will contact voters (online, in person or over the phone) and urge them to vote for candidates or ballot initiatives that align with the interest group's agenda.

Interest groups will also launch get-out-the-vote efforts on behalf of candidates and causes.

For example, the AFL-CIO, a labor union whose interests largely align with the Democratic Party's, often provides massive support to Democratic candidates on Election Day. Prior to the election, it will canvass its members to see which candidate they support, and urge their support for the union's favored candidate. On Election Day, they will then call these voters again, reminding them to vote, and in some cases, drive them to the polls.

Interest groups can also run advertisements in favor of candidates and issues, without the cooperation of the candidate. These are called issue ads and will usually make the claim that one candidate is right, and the other candidate wrong, on an issue.

Shaping Public Opinion

As mentioned, interest groups use television commercials and public events, as well as media appearances and research studies, to influence the public, both during and between elections.

Litigating

Another role that interest groups play is in litigating issues that are important to them. A prominent recent example of this trend is the gay marriage movement.

Freedom to Marry, a group that supports same-sex marriage rights, has identified plaintiffs to challenge same-sex marriage bans, funded their lawsuits, and seen tremendous success, with same-sex marriage bans overturned by the courts in over 30 states.

The National Organization for marriage, which opposes same-sex marriage, often provides the same support for those litigating against same-sex marriage.

Lest you forget that money is important in politics, let's look at one more form that interest groups take—PACs, or political action committees.

PACs

PACs register with the Federal Election Commission, or FEC, and give money directly to candidates' campaigns. When money is given directly to a candidate it is called hard money. When it is given to a political party, it is called soft money. PACs also create issue ads, as mentioned before.

Let's take a look at a sample free-response question about interest groups.

Lobbyists wield many forms of power in Washington, D.C.

(a) Identify three ways in which lobbyists wield power in Congress.

(b) Explain reasons why these forms of power are effective.

For (a), you should discuss (1) the informational role lobbyists play, educating lawmakers on issue; (2) the electioneering lobbyists do, supporting candidates with money and organizational efforts; and (3) the role lobbyists play in shaping public opinion, thus altering the political terrain legislators work on.

The answer to (b) is a bit more open-ended. To keep your answer organized and on-track, you should watch your reasons to each of the types of power identified in part (a).

Explain that lawmakers have limited resources and therefore rely on lobbyists' research and information; that PAC funds are tempting to politicians because raising money on their own is time-consuming and expensive in itself, and therefore gives lobbyists a lot of influence; and that a legislative battle can be lost

before it is over—such as Hillary Clinton’s failed 1992 healthcare reform bill—if lobbyists are able to convince the public one way or another.

The Wrap Up

Now that you have a basic idea of what interest groups are and what lobbyists do, be sure you have plenty of examples of interest groups to use when you make your points on the AP US Government & Politics exam. Good luck!

Iron Triangle

In American politics, there are official as well as unofficial institutions that shape the development of policy and the administration of government. The AP US Government & Politics exam will test your knowledge of these institutions, as well as *how these institutions work together*.

The policymaking relationship between congressional committees, the bureaucracy and interest groups is referred to as the Iron Triangle.

What is an Iron Triangle?

The Iron Triangle is a *concept, not an institution*. It is the idea that committees in the House and Senate, federal departments and agencies, and think tanks and interest groups all work together to develop and conserve their own power, and expand their political influence.

There are agencies of the federal government, such as the Department of Veterans Affairs, that are tasked with providing services to consumers—the American public. This DFA, for example, provides veterans with medical and financial benefits.

In Congress, there are corresponding committees and subcommittees—such as the House Committee on Veterans Affairs—that make policy on matters relating to veterans affairs, including what types of benefits to give to veterans and how to disperse them.

Outside of government, there are various interest groups, such as the VFW—the Veterans of Foreign Wars—that advocate for veterans. This advocacy includes performing research and issuing reports about veterans' issues, as well as educating and lobbying Congress.

These three groups—congressional committees, bureaucracies and interest groups—have a symbiotic relationship. *They are the corners, or bases, of the Iron Triangle.*

It is in the best interest of the Department of Veterans Affairs to keep its corresponding congressional committee satisfied, as it votes on issues—especially, funding—that will affect bureaucrats' jobs and career prospects, as well as expand their operations, along with their influence.

It is in the interest of both congressional committees and the bureaucracy to keep the interest groups satisfied, as the interest groups provide them with policy expertise they might not otherwise have, and spend lavishly on campaign donations and other forms of political assistance.

Interest groups also have a big influence on public opinion, via advertising campaigns and through grassroots outreach, and can thus shape the public's perception of the congressional committees and bureaucracy.

If members of Congress and bureaucrats are perceived to be doing lousy jobs, their careers are in jeopardy. On the flip side, if the interest groups approve of a congressman's or a bureaucrat's work, they can help improve his public image and influence.

The interest groups work so closely with congress and the bureaucracy in order to see their policy goals implemented. For example, if the VFW wants more money for veterans' housing, its efforts will revolve around that goal.

And so, the links between these three bases of power form the sides of the Iron Triangle.

Easy enough, right? Now let's look at some of the implications of these relationships.

Benefits of the Iron Triangle

In order to pass quality legislation, Congress needs access to lots of research and expertise. It would be impossible for Congress, or the bureaucracy, to employ a team of experts to deal with every issue that comes before it.

In this sense, the relationship these institutions have with interest groups is very beneficial to the public. The interest groups have experts and specialized knowledge, and can help Congress craft effective legislation.

Furthermore, these interest groups—and in particular, think tanks—can serve as farm teams for future government employees. If Democrats, for example, are out of power for four years, with Republicans controlling the presidency, House and Senate, the Democrats' allied interest groups can help them formulate new policies and ideas to present to the American public.

When Democrats are elected, some employees of these interest groups and think tanks might be hired to work in the bureaucracy, giving the government the benefit of their knowledge.

Drawbacks of the Iron Triangle

The interest groups, bureaucracy and congressional committees are each other's constituents, as opposed to consumers. The consumers are the American people. When federal agencies and members of Congress become more interested in satisfying their constituents—to get campaign donations, for example—than their consumers, the American public loses out.

The various Iron Triangles that form are often called *sub-governments*, as they are often impregnable, durable and incredibly influential. This too, while building

their expertise, makes them less responsive to the demands of the public, and even to the influence of elections. Most bureaucrats remain in place even after a switch in party control of the presidency or Congress.

These sub-governments can produce sub-par legislation that benefits only the interest groups that are a part of the sub-government, or narrow, pork-barrel policies that benefit only one, small segment of the population.

For example, if interest groups representing Big Oil or the timber industry have a massive amount of influence over the Environmental Protection Agency or its environmental committees in the House and Senate, environment-friendly legislation and policies might not be passed.

Instead, policies favoring the expansion of drilling and logging might be favored. A financial imbalance creates a big difference in the political clout of interest groups. Big Oil has hundreds of millions, environmental groups much less, for example—and so Big Oil has a louder voice in Congress and the bureaucracy.

Other Aspects of the Iron Triangle

As mentioned, sometimes the employees of interest groups go to work for the government. The reverse happens, too: sometimes, after years in Congress, a member retires and is rewarded with a high-paying job at a think tank or interest group. This is sometimes referred to as a ‘golden parachute.’

In recent years, laws have been passed to restrict employment relationships between members of Congress and interest groups—there is a two-year ban on lobbying, for example—but the problem persists. A member of Congress is likely to take the demands of an interest group very seriously if a upper-six-figure job awaits when his or her term in Congress expires.

It's a relatively simple concept, which boils down to the old adage—you scratch my back, I'll scratch yours.

Issue Networks

In some readings you will see Iron Triangles referred to as *issue networks*. They are the same thing. An Iron Triangle typically forms around a specific issue—healthcare, trade, transportation, etc.

A Practice AP US Government Free-Response Question

Let's look at part of a free-response question that asks about Iron Triangles.

Interest groups seek to influence political processes in ways that benefit their members. In doing so, however, they may not act in the overall public interest.

(a) Explain how interest groups use issue networks (also known as iron triangles) to influence government decision making.

First, don't forget that iron triangles and issue networks are the same thing. Multiple-choice questions might not make this clear. Now, here you can give a pretty straightforward answer. Interest groups use iron triangles to provide the government with policy knowledge, lobby the government, and provide government officials with campaign donations. All of these activities are intended to influence government policy.

Key Takeaways

There are a few simple points to remember about Iron Triangles as you prepare for the AP US Government & Politics exam:

- The issues that come before the government are now so vast and complex that small government units (like congressional committees) now find themselves in charge of specific areas of policymaking.
- All three of the main groups in these Iron Triangles benefit from keeping the relationships in place.
- Lobby and interest groups keep government officials who support their pet issues in power and help the officials to maintain their contracts, jobs and benefits.
- The American public—the consumers—sometimes benefit from Iron Triangles, but often don't.

As you prepare for the AP US Government & Politics exam, have some specific examples of Iron Triangles/issue networks so that you can illustrate your points.

Judiciary Branch

The Judiciary Branch is a vast and complex part of American government, and the AP US Government & Politics exam will test your knowledge of its intricacies.

You won't be required to know as much as a law student does. But you should have a firm grasp of the different courts that exist, and what type of issues and cases they deal with.

Civil Cases Versus Criminal Cases

There are two different kinds of cases that courts hear. The first are *civil cases*.

Civil cases relate to claims, suits, contracts and licenses. For example, a retailer sues a manufacturer for delivering it defective products. Or, a woman sues her car's manufacturer because she was injured when her airbags failed to deploy.

Courts also hear *criminal cases*. State courts handle almost all criminal cases. Criminal cases relate to illegal actions, or wrongful acts. Only criminal cases can result in imprisonment. Criminal cases can also result in fines.

Now, how do courts decide these cases?

Four Types of Law Used in Courts

There are four different types of law that the courts use when they decide cases.

These types are:

- *Common law*: precedents set by courts of the past, including colonial courts, English courts and (in the case of Louisiana) French courts.
- *Statutory law*: laws that are created by legislative bodies.

- Administrative law: the rules and regulations promulgated by government agencies.
- Constitutional law: refers, of course, to the Constitution and to the concept of judicial review, which is discussed below.

Now that you have a basic idea of the types of cases and laws the courts deal with, let's take a look at the concept of the two-court system.

The Two-Court System

Under Federalism, the federal government and state governments operate independently and also work together. This is true of the court system as well.

Each state has its own judicial system, and the states handle almost all of the civil and criminal cases in the country. The states have appeals courts, as does the federal judiciary.

The federal judiciary has *exclusive jurisdiction*—meaning, sole authority—over issues arising from interstate activities, conflicts with federal authorities, issues related to the Bill of Rights, and federal crimes. State courts are not involved in these issues.

However, in some cases, federal and state jurisdiction overlaps. This is called *concurrent jurisdiction*.

Both state and federal courts can hear disputes among people from different states. The same rule applies in cases where a citizen has committed a crime that violates both state and federal law.

Issue Guide for State and Federal Courts

Here's a nifty guide to the issues that are exclusive to the state and federal courts, respectively:

Exclusive to state courts:

- Most civil disputes between citizens
- Most criminal disputes
- Appeals of state court decisions are sent to state appeals courts, with the last court, usually the state supreme court, being the “court of last resort”

Exclusive to federal courts:

- Federal civil disputes
- Federal criminal cases
- Citizens of one state versus another state
- Counterfeiting US currency
- Mail fraud
- Kidnapping
- Interstate trade conflicts
- National banking conflicts
- Border issues
- Crossing state lines with the intent to commit a crime
- Abridging or denying citizens' civil rights
- Conflicts with federal officials or agencies
- Conflicts over patents, copyrights and customs issues

Layers of the Courts

It would be too time-consuming to review the layers of courts in every state, and the AP exam graders certainly won't expect you to know all of them.

However, the layers of state courts generally mimic the federal court system, with a few minor differences.

Let's take a look at the various levels of federal courts, starting at the bottom:

- *District courts* are where cases begin.
- If an appeal is granted in a case, it then moves to a *court of appeals (also called circuit courts)*. There are 12 federal courts of appeals.
- If a further appeal is allowed, a case then heads to the *Supreme Court*, the highest court in the land.

There are some special federal courts, too. These are at the district level and deal with technical issues:

- Bankruptcy Courts
- US Court of Federal Claims
- US Court of International Trade
- US Tax Court
- Foreign Intelligence Surveillance Court

Congress is empowered to create new courts as it sees fit. This is usually done when the district courts see an influx of technical cases that they lack the expertise to adjudicate properly.

The Supreme Court is unique, and has areas of exclusive authority (or *original jurisdiction*) that other courts don't.

So, let's take an in-depth look at the Supreme Court.

The Supreme Court

Article III of the US Constitution lists a few areas where the Supreme Court has original jurisdiction. These areas are:

- Cases involving ambassadors and public ministers
- States suing other states, *e.g.*:
 - Disputes concerning boundaries
 - Water rights or mineral rights

Because of its immense responsibilities and limited time, the Supreme Court is unique among courts in that it has the ability to select which cases it hears.

The Supreme Court's most important and highest-profile responsibility is *judicial review*. Judicial review is the ability to declare government laws and actions unconstitutional.

Judicial Review in the Supreme Court

In *Marbury v. Madison*, a dispute over government appointments decided in 1803, the Supreme Court first held that a law was contrary to the constitution, and thus null and void. (In this case, the law gave the court the power to force President Jefferson to deliver papers to Congress.)

Thus, in rejecting a small increase in its authority, the Court affected an even larger expansion of its power. And with this case began the Court's tradition of judicial review.

You may remember a few summers ago when the court ruled that the individual mandate portion of the ACA, or Affordable Care Act was constitutional, or when the Court found the Defense of Marriage Act, or DOMA, unconstitutional.

These rulings are examples of the court exercising its power of judicial review.

Another major activity of the Supreme Court is *incorporation*. Let's review what that is.

Incorporation—Applying the Bill of Rights to the States

Prior to the Civil War, the federal and state governments operated in largely separate spheres. The Bill of Rights, the first ten amendments to the Constitution, was only applied to the federal government.

This allowed the states to abridge citizens' fundamental freedoms, such as the freedom of speech, if they so chose. And some of them did. Particularly when those citizens were African-American.

This changed after the Civil War. The 14th Amendment, passed in 1868, changed how the Bill of Rights was applied. Essentially, it said that the states had to protect the same rights the federal government did. But before the states were to be held accountable under the Bill, the Supreme Court had to *incorporate* the various rights.

In various cases since the mid-1800s, the Court has incorporated the following rights:

- Privacy (not specifically listed in the Bill of Rights but interpreted to exist through several amendment cases)
- Free speech, press, religion, assembly and petition, “association,” per the 1st Amendment
- Gun rights, per the 2nd Amendment
- Protection against search and seizure, per the 4th Amendment

- Exclusion of evidence (implied by some 4th Amendment cases)
- Protections against self-incrimination, confronting witnesses, guarantee of a partial jury, speedy trial, right to counsel, and a public trial, per the 6th Amendment
- Prohibition of cruel and unusual punishment, per the 8th Amendment

Now let's take a look at the individuals who populate these courts—the judges.

Judges

Judgeships are prestigious positions. Judges hold lifetime appointments, in part to insulate them from outside pressures that might hurt their impartiality in deciding cases.

Judges are nominated by the president and confirmed by the Senate. In general, Democratic presidents choose liberal judges, and Republican presidents choose conservative judges.

Liberal judges tend to have a more open interpretation of the Constitution—believing that it is a living, breathing document whose meanings adapt to the challenges of the day.

Conservative judges are often called *strict constructionists*—they believe the Constitution should be read exactly as is the Founders wrote it. They base their decisions on what the Constitution's meaning would have been at the time.

Judicial confirmations can be extremely tumultuous, partisan affairs. This is because judges' decisions have liberal and conservative slants.

Any time there is a Supreme Court vacancy (there are nine seats on the Court), there is a contentious battle between the president and the opposition party over

who will be confirmed. Bitter confirmation hearings, filibusters and failed nominations are not unpopular.

Of the current justices, President Obama appointed two, Elena Kagan and Sonia Sotomayor. President George W. Bush appointed Samuel Alito and Chief Justice Roberts. President Clinton appointed Stephen Breyer and Ruth Bader Ginsburg. President George H. W. Bush appointed Clarence Thomas. President Ronald Reagan appointed Anthony Kennedy and Antonin Scalia.

Can you guess the current partisan split in the Supreme Court? Did you guess 5-4. If so, you'd be right: the four justices appointed by Democrats lean liberal, while the five appointed by Republicans lean conservative.

However, Anthony Kennedy is often a 'swing' vote, meaning that he occasionally votes with the liberals, especially on cases related to civil rights. Presidents, particularly Republican presidents, have been frustrated in the past when their nominees strayed from party dogma.

Republican Presidents George H. W. Bush and Gerald Ford appointed two of the most liberal Supreme Court justices of recent years, David Souter and John Paul Stevens, respectively.

So what, exactly, do these Supreme Court Justices do every day?

How the Supreme Court Functions

As mentioned, the Court can't handle most of the cases that are referred to it, so in almost all cases, it *remands*, or makes final, the lower court's decision.

An application to have the Supreme Court hear a case is called a *writ of certiorari*.

Typically, interest groups and other interest parties will submit *amicus curiae*, or “friend of the court,” briefs, in order to convince the Supreme Court why it is important that it hear a case.

It takes only four justices to agree for the entire Court to hear a case.

Usually the nine justices of the Court can’t come up with a single decision on a case, so several opinions are issued.

The first is the *majority opinion*, which requires at least five votes. This opinion has the force of law.

A *minority opinion* is written by between one and four judges and explains why they disagree with the majority.

The minority opinion has no immediate affect, but it can influence future justices if an issue is ever decided again in the future, especially if the liberal-conservative balance of the Court changes.

A third type of opinion is called a *concurrent opinion*. In a concurrent opinion, a justice or justices agree with the ultimate conclusion of the majority, but might disagree with the way the majority arrived at its decision, or with a few points the majority made. The concurrent opinion spells out these differences. As with a minority opinion, it has no immediate effect.

Although minority and concurrent opinions can hold influence in the future, the Supreme Court doesn’t change its rulings all the time, based purely on the ideologies of the justices that sit on the bench.

In fact, the Court closely adheres to the rule of *stare decisis*, meaning “let the decision stand.” Under *stare decisis*, only in special circumstances should the Court overturn its earlier rulings.

When politicians and media figures don’t like the way the Court has ruled, they talk a lot about judicial activism and judicial restraint. Let’s define what those terms mean.

Judicial Activism and Restraint

Judicial activism refers to judges or justices issuing a ruling that supports a particular political agenda, or that has a direct impact on policy. Many find this inappropriate, believing that a judge should not let personal beliefs influence his or her decision in a case.

This belief, *judicial restraint*, holds that policy decisions should be left to legislative bodies and the executive branch, because the judiciary is supposed to be like an umpire—interpreting and applying the law, not making it.

Importantly, judicial activism and judicial restraint don’t exclusively correspond to liberal and conservative activism. There are conservative judges who exercise judicial activism, as well as liberal judges who show great deals of judicial restraint.

Judicial liberals tend to support broad interpretations of the so-called Elastic Clause (all things “necessary and proper”), which generally gives the government more avenues for action. They also favor broad interpretations of civil rights acts and laws, are pro-choice (favoring abortion rights), and favor affirmative action and a strong separation between church and state.

Judicial conservatives want strict limits on government power, more local and state control of civil rights issues, are pro-life (against abortion), oppose

affirmative action, and believe that communities should be able to limit lifestyle choices (for example, criminalizing sodomy).

Most judges, however, will tell you that they're apolitical—that their decisions are based solely on the wording of laws and the requirements of the Constitution. Depending on your politics, you may or may not believe them.

Since the justices are given lifetime appointments and constitute their own branch of government, whom do they report to?

No anyone, really. Judges and justices can be impeached and removed from office for bad behavior, but this is rare. And the Chief Justice doesn't really have any special powers over the other justices.

Let's look more closely at this position.

Chief Justice

The chief justice isn't in charge of the other justices. The court is named after him (for example, the current court is called the Roberts Court, after Chief Justice John Roberts).

When the chief votes with the majority, he gets to decide who will write the majority opinion, and often assigns it to himself.

Sometimes, the chief justice uses this assignment strategically, offering the privilege of writing the majority opinion to a justice that might be on the fence about a certain case.

The chief justice also serves as the guide and the chairman of the Court's meetings.

There have been a number of important Supreme Court chief justices that you will want to know for the AP US Government & Politics exam.

Important Chief Justices

- John Marshall, who served from 1801-35, helped establish many court powers.
- Roger Taney, serving 1836-64, favored state power.
- Earl Warren, 1953-69, oversaw major civil rights changes and cases.
- William Rehnquist, 1986-2005, was a major conservative influence.

Don't be too overwhelmed. Although this is a lot of information, the basic structure of the judiciary mimics the federalist nature of the rest of the government. Pay attention to patterns and trends.

Now that we've done a thorough overview of the judiciary, let's take a look at a sample free-response question.

The judicial system of the United States is still the most “federal” part of the government.

- (a) Explain how the court system is “federal” in structure.*
- (b) Describe three kinds of authority federal courts control and explain how this authority is evidence of federalism.*
- (c) Describe two kinds of authority state courts control and explain how this authority is evidence of federalism.*

OK—this is a pretty straightforward question. For (a) you'll want to discuss how the state and federal courts operate independently as well as concurrently. There is separation as well as overlap. This is the essence of federalism.

For (b), don't be tripped up by the word 'authority'—what the question means is, what types of cases can federal courts decide that state courts can't? You have a list above. Let's take civil rights, disputes between states, and counterfeiting US currency.

Authority over civil rights is evidence of federalism because the Bill of Rights applies to the federal government as well as the states—the two levels of government act together to protect citizens' rights.

The federal judiciary handling disputes between states is evidence of federalism because it facilitates effective state-level government by providing a neutral umpire for disputes.

Federal authority over counterfeiting currency is evidence of federalism because the US government issues currency for the entire nation, and there must be one standard for citizens in each of the states to trust the value of currency they spend and receive.

For (c), you're asked to do the same thing, except talk about state courts' authority. Two examples from the above list are: civil cases and criminal cases. These are both examples of federalism because the states can have their own, state-specific laws relating to civil issues and crimes. Louisiana, for example, uses French common law, while Massachusetts uses English common law.

Now, let's wrap up.

The Wrap Up

Here are the five most important things you need to know about the judiciary for the AP US Government & Politics exam:

- The judiciary system in the US is divided between state and federal jurisdictions. The state courts have control over most civil and almost all criminal cases.
- The 14th Amendment, passed in the wake of the Civil War, dramatically changed the legal system in the US. It applied the Bill of Rights to the states and required all states to provide citizens with equal protection and due process.
- Although they are supposed to be apolitical, federal court judges and justices have liberal and conservative biases. Influenced by their biases, the judges steer the courts in liberal and conservative directions.
- The Supreme Court hears only a few of the cases sent to it on appeal. Usually these cases are of national significance and deal with the constitutionality of government actions.
- The courts don't improvise much. They have careful, structured methods to decide cases, define rights and decide which citizens are influenced by their decisions.

Most importantly, remember that the judiciary mirrors the other aspects of the federal system, with federal and state courts operating separately as well as in cooperation. The Supreme Court has a unique place in the judicial firmament as a result of its special responsibilities.

Key Supreme Court Cases

The Supreme Court has issued thousands of opinions, but some of its decisions have either had a profound impact on American history or continue to influence American government today.

The following is a comprehensive list of these cases. You are certain to be asked about some of them on the AP US Government & Politics exam.

Case	Year	Holding (opinion)
Marbury v. Madison	1803	Establishes judicial review.
McCulloch v. Maryland	1819	Expands federal “implied powers”
Gibbons v. Ogden	1824	Establishes Congress’s power to regulate interstate commerce.
Dred Scott v. Sanford	1857	Says that slaves are not citizens.
Munn v. Illinois	1876	Says that states can regulate privately owned business to protect the public’s interests
Plessy v. Ferguson	1896	Holds that separate but equal facilities for African-Americans are constitutional
Schenck v. US	1919	Allows limits to speech based on the “clear and present danger” principle
Gitlow v. New York	1925	Incorporates free speech to apply to the states
Near v. Minnesota	1931	Says there can be no prior restraint of publication based on freedom of the press
Korematsu v. US	1944	Says that the government can intern (imprison) citizens during wartime emergencies
Brown v. Board of Ed.	1954	Overtured <i>Plessy</i> ruling in regard to

		public schools.
Roth v. US	1957	Obscenity is not protected by free speech rights
Mapp v. Ohio	1961	Defines “unreasonable search and seizure” and regulates the use of warrants to obtain evidence
Baker v. Carr	1962	Holds the court may intervene in appointment cases and that every citizen’s vote carries equal weight
Engle v. Vitale	1963	Says that there can be no school-led prayer in public schools
Gideon v. Wainright	1963	Requires that states provide defendants with attorneys in state courts
Heart of Atlanta v. US	1964	Says that the Commerce Clause applies to private and interstate business
Griswold v. Connecticut	1965	Citizens have an implied right to privacy, including the right to use contraceptives
Miranda v. Arizona	1966	Says that police must explain the rights of the accused at the time of arrest
Terry v. Ohio	1968	Police can search and seize if they have probable cause
Lemon v. Kurtzman	1971	Establishes the Lemon Test, which allows for some government aid to parochial schools
N.Y. Times v US	1971	Limits prior restraint of the press
Miller v. California	1973	Holds that community standards determine what obscenity is
Roe v. Wade	1973	Establishes a woman’s right to an abortion under specific circumstances
US v. Nixon	1974	Holds that executive privilege does not

		extend to criminal cases
Gregg v. Georgia	1976	Holds that the death penalty does not violate the Constitution
Buckley v. Valeo	1976	Establishes campaign money limits but also holds that contributions are a form of speech
Regents v. Bakke	1978	Race can be considered in admissions, but no racial quotas are allowed
New Jersey v. TLO	1985	School searches without warrants are allowed
Hazelwood v. Kuhlmeier	1988	School newspapers can be censored by teachers and administrators
Texas v. Johnson	1989	Flag burning is a form of free speech
Planned Parenthood v. Casey	1992	States can put some restrictions on abortion
Santa Fe ISD v. Doe	2000	There can be no school-led prayers at extracurricular events
Bush v. Gore	2000	Ended the election recount in Florida, which led to George W. Bush winning the 2000 presidential election
Gratz v. Bollinger	2003	Affirmative action in college admissions is OK but must be limited
McDonald v. Chicago	2010	Incorporated the 2 nd Amendment right to bear arms to the states
Citizen's United v. FEC	2011	Removed campaign contribution limits for business and unions

It is important that you know the bare-bones facts of these cases. It's not a bad idea to make flashcards with the names and dates of the cases on the front, and the holdings on back, to help you memorize the information.

There's a decent chance you will be asked to discuss a few cases in more detail, particularly the cases pertaining to the Bill of Rights and civil liberties.

So, let's take a closer look at a select few of these cases.

Freedom of Religion Cases

In *Engle v. Vitale*, the Court struck down a New York state nondenominational prayer that began with the words "Almighty God, we acknowledge our dependence on thee..."

Lemon v. Kurtzman set guidelines to help determine whether government action crosses the church-state line. These guidelines are: the purpose of the legislation must be secular, not religious; its primary affect must neither enhance nor inhibit religion; and it must avoid an "excessive entanglement of government with religion."

Freedom of Speech Cases

In *Schenck v. United States*, the majority ruled that Schenck did not have the right to print, speak or distribute materials against US efforts in World War I because a "clear and present danger" existed.

New York Times v. US, famously known as the Pentagon Papers case, held that the government did not have the right to prohibit the New York Times from publishing information about the history of US involvement in the Vietnam War.

Citizens United v. FEC held that corporate funding of political advertisements that did not specifically endorse a candidate was constitutional under the First Amendment and could not be limited.

Right to Privacy Cases

Griswold v. Connecticut held that Americans had a right to privacy that was implied by other constitutional protections and that this meant the state could not prohibit the use of contraceptives.

Roe v. Wade used the concept of being “secure in their persons” to hold that abortions are constitutionally protected.

The federal judiciary provides some more summaries of important cases [here](#).

A Practice AP US Government Free-Response Question

Now let’s look at part of a sample free-response question and figure out how to answer it.

The First Amendment includes two clauses relating to the freedom of religion.

- (a) *Select one of the following cases and identify the First Amendment clause upon which the United States Supreme Court based its decision.*
- Engle v. Vitale (*school prayer*)
 - Lemon v. Kurtzman (*state funding for private religious schools*)
- (b) *Describe the Supreme Court’s opinion in the decision you selected in (a).*

OK, this shouldn’t be too difficult. For (a), let’s pick *Lemon v. Kurtzman*.

We know that the First Amendment says “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

Kurtzman deals with the Establishment Clause, because it aims to allow for government funding of the secular aims of parochial (religious) schools without funding religion itself.

For part (b), the answer is simple. All we have to do is write down how the case was decided. The Court allowed government funding for parochial schools, as long as three guidelines were met:

- The purpose of the legislation must be secular, not religious
- Its primary affect must neither enhance nor inhibit religion
- it must avoid an “excessive entanglement of government with religion.”

Remember the Most Salient Facts of Cases

The key for doing well on questions about Supreme Court cases on the AP US Government & Politics exam is to memorize the most salient facts about the important cases. Use flashcards, or do drills with a classmate to commit these cases to memory.

The Presidency

Many of the Founding Fathers didn't even want a president, fearful that a powerful chief executive would become like another King George—who they had just fought a revolution to get away from. Yet, it was also believed that our nascent republic needed a unifying figure—and at that time, the figure took the form of one man, General George Washington.

The presidency was written with Washington in mind, and his role was tailored to not be too powerful. Washington is still often cited as the ideal president, but the powers of the presidency have increased considerably, through executive actions, Court decisions and the acquiescence of Congress.

The Original Plan

In the Founders' original plan, the main role of the president was to be a national figurehead, to react to Congressional laws and executive their implementation, and to serve as the representative of the country in foreign affairs. The president also could, if he so wished, suggest legislative priorities.

While the president was allowed to command the military, make appointments and treaties and veto laws, the Congress was given considerable power—mostly the power of the purse and approval—over these presidential prerogatives.

What the Constitution Says About the Presidency

Article I of the Constitution, which deals with the executive, is actually quite short, and mostly lists the requirements to hold the office. These are that the president must be a native-born citizen, at least 35 years old and a resident of the US for at least 14 years.

The president is selected via the Electoral College and can serve no more than two terms (this latter requirement is via the Twenty-Second Amendment, enacted after President Franklin Roosevelt served an unprecedented four terms during the Great Depression and World War II.

The president has various foreign policy powers—as commander-in-chief of the military and negotiator of treaties with foreign powers. The powers of the presidency have expanded considerably in this realm over the years, mostly due to Congress’ acquiescence. Various presidents have gone to war—although they don’t call it *war*—in so-called emergency situations without Congressional approval. President Obama’s recent airstrikes on Syria are an example of this.

Congress for the most part has been happy to go along with this expansion, as most legislators would rather not take a public stand on a war that could go either way—although they are happy to criticize the president and express their disapproval when things go badly.

Domestically, the president has the power to appoint federal judges, the most important of these appointments being Supreme Court justices. The Senate must confirm all of the president’s judicial nominees, as well as his nominees to executive offices such as attorney general or secretary of state—and this often results in stalemate when the presidency and the Senate are controlled by different parties. It is not uncommon for nominees to bow out of the process when it becomes clear Congress will not accept them.

The president can also veto legislation passed by Congress—and Congress can only override his veto if it can muster two-thirds of both the House and Senate, which almost never happens. (Although it has.)

Finally, the president has the power to pardon people or commute their sentences, and to administer the laws. Let's look a bit more closely at this aspect of the president's powers.

The Secret Power of the Presidency: Administering Federal Laws

These days, it's typical for the presidency and the Senate to be controlled by one party (in recent history, the Democrats) and the House of Representatives controlled by another party (right now, Republicans). This makes it incredibly difficult for presidents to pass their agendas. So presidents often rely on their powers of administration to affect policy changes without the cooperation of Congress.

The president can issue an *executive order* which has the force of law and is directed at a federal agency. The president interprets a preexisting law and orders the agency to amend its functioning in accordance with the order. This is the method by which President Obama recently made major changes to US immigration policy and our policy toward Cuba. Naturally, Congress is rarely happy with executive orders.

A *proclamation* is a ceremonial action and does not have the force of law, but presidents often use it to please certain groups or make a statement about policy. President Lincoln's Emancipation Proclamation remains the most famous of these actions.

Finally, *memoranda* are issued to agencies concerning single projects, and can be used by a president to emphasize or deemphasize parts of laws, depending on his agenda.

Presidential Popularity

Americans are more aware of the president than they are of any other politician in the country, including their own senators and representatives. The president is the most-covered politician by the press. And this makes sense, as he has the most power to influence the direction of the country. His ability to do so, though, is affected by his popularity.

Presidential popularity is very susceptible to the state of the economy. A good economy—even if it isn't because of his policies—bolsters a president, while a bad economy—even if it isn't his fault—hurts a president.

Presidents usually get a honeymoon period at the beginning of their presidency, with high approval ratings, only to see these ratings taper off to along partisan lines. (Democrats usually approve of Democratic presidents, and vice-versa.)

The president's personal behavior also affects his popularity. Watergate finished President Nixon, and President Clinton was initially harmed over his relationship with intern Monica Lewinsky, only to see his approval skyrocket when Republicans overreached and tried to impeach him.

The President as Party Leader

Whether Democrat or Republican, the president is also the face of his party—and his personal popularity will affect how his party does in presidential election years as well as in midterm elections.

Presidents tend to see their party penalized in midterm elections as voters focus on the perceived flaws of the administration and opt to give the other party a try. This results in divided government.

Let's take a look at an AP US Government & Politics free-response question (FRQ).

A Sample AP US Government & Politics Free-Response Question

Presidential approval ratings fluctuate over the course of each presidential administration.

- (a) Identify two factors that decrease presidential approval ratings, and explain why each factor has that effect.*
- (b) Identify two factors that increase presidential approval ratings, and explain why each factor has that effect.*

For question (a), we must discuss the state of the economy. Because voters are less focused on political issues than they are on jobs and pocketbook issues, their view of the economy colors their opinion of the president. When the economy is doing well, the president benefits.

Also, presidential approval ratings fluctuate based on what point in their term they are at—at the beginning of a president's term, when Americans have high hopes for him, he tends to have a high approval rating (often referred to as a honeymoon period). As time wears on and their policies become clear, however, their approval tends to drop along party lines.

For (b), we are doing the reverse of what we did in (a). One reason a president's approval rating drops are personal foibles. Here you can use the example of President Nixon and the Watergate scandal, which destroyed his presidency. Also, in reverse to the first part of question (a), when the economy is doing badly, the president's approval ratings tank.

The Wrap Up

Remember that the Constitution says very little about the president although he is the most important officeholder in the country. Remember that the presidency's powers have expanded considerably over time, both in the realm of foreign policy and military affairs and through the use of executive orders.

Remember that the public is fickle in its estimations of its presidents, especially when it comes to how the economy is doing. Have a basic idea of the specific powers of the presidency as laid out in the Constitution—treaties, appointments, vetoes, commanding the military, etc.

Mass Media

The mass media—sometimes referred to as the Fourth Estate—is as an essential part of our system of government and politics as the presidency or the Congress. It was not written into the Constitution explicitly, but the First Amendment does contain a clause specifically devoted to freedom of the press—so even at the Founding, the authors of the Constitution knew what a vital instrument of democracy the media was.

The ideal of media sees it as a neutral, entirely objective group of people who report only the facts and don't skew their coverage in favor of one party or the other. However, in practice this has never been the case—and lately the trend toward party bias in media outlets has been admitted and even promoted by news networks such as Fox (which is right-leaning) and MSNBC (which is left-leaning).

Let's begin our review by looking at the history of the media in America:

A History of the Media in the US

The media has been a force for shaping public opinion and educating the citizenry since colonial times, when various essays, leaflets and books advocated monarchist and democratic positions, and after the Revolution, federalist and antifederalist views.

The early newspapers were quite biased—in fact, considerably so even by today's standards. After radio and television were invented, politicians could deliver speeches and messages directly to the public without the filter of media opinion. Now, the Internet offers voters an endless supply of information—biased or neutral—from a variety of sources, including old-media institutions such as newspapers as well as people's personal blogs.

The Task of the Media

The media is only a part of government in theory. In reality it is a business enterprise that must make a profit as well as strive to deliver truthful reportage to the public. These motives are often at odds with each other, as advertisers might not like certain aspects of an outlet's reporting, or the owner of a media outlet, with his or her own political views and agenda, might not approve of news coverage favorable to the opposition.

During the early years of the American public, there was no such thing as a daily newspaper. Newspaper editors were loyal to party bosses, and their papers contained scandalous headlines and salacious articles designed to sell papers and move public opinion for or against preferred parties and candidates.

There have always been accusations of bias in the media. During the nineteenth and twentieth centuries, this bias was seen as favoring Republicans. Now, and since the 1960s, the media has been accused of having a more liberal bias and favoring Democrats.

What Are the Goals of the Modern Media?

The two main areas of interest for the media are the public agenda and campaigns and elections.

Journalists observe and report on the operation of government, in particular focusing on where government *isn't* working, rather than where it is. (Outrage sells more copies than satisfaction.) The media's choices on what to report and what not to report are crucial, as the government is more likely to respond to the issues that voters are hearing about.

Because the media focuses so intensely on candidates and campaigns, many politicians have media handlers who are hired to shape media coverage and thus, bolster the politician's public image. Candidates are frequently criticized for

being too ‘handled’ and not letting their true selves shine through, but oftentimes this is because the media pounces if a politician speaks off the cuff and says something dumb. It’s a self-enforced cycle.

How Do Americans Consume their Media?

As mentioned previously, Americans are not extremely engaged with political news. The news they do get is mostly from television. Each broadcast network (ABC, NBC, CBS, etc.) has a nightly national newscast as well as a local newscast, and several cable networks, such as MSNBC, Fox and CNN run news coverage 24/7.

The Internet as a source of news is growing in popularity rapidly, and will likely outpace television at some point. This doesn’t negate the impact of existing news organizations like The New York Times or CNN, though—they as well as most other media outlets now have a significant online presence, with both print and video journalism available. Blogs and Internet-only outlets are becoming popular, too.

The downside of rapid news delivery—particularly television and the Internet—is that falsehoods and erroneous reporting, as well as rumors, can circulate rapidly. Once an idea is lodged in the public consciousness, it is hard to change the public’s mind—even when the correct facts are revealed.

The Negative Effects the Media Has on Our Politics and Government

Because the media is quick to condemn presidents following gaffes, they tend not to speak off the cuff, and instead use polled talking points, Teleprompters and prepared answers to respond to media questions. The president rarely answers media questions at all—aside from a few press conferences a year, the press is

mainly dealt with by the White House Communications office and the press secretary.

Candidates often require the media to submit questions in advance, prior to press conferences or debates, so that they are not taken off-guard. Oftentimes the president won't even hold a press conference related to an issue until he has good news or favorable developments to report.

This dynamic leaves the public craving authenticity and spontaneity in their politicians—things that they rarely get and likely won't anytime in the future.

Why don't we take a look at a sample free-response question (FRQ) that you might find on the AP US Government & Politics exam?

A Sample AP US Government & Politics Free-Response Question

In the 1990s presidential election campaigns became more candidate-centered and less focused on issues or party labels. This change has been attributed both to how the media cover presidential campaigns and to how candidates use the media.

- (a) Identify and explain two ways in which the media have contributed to candidate-centered presidential campaigns.*
- (b) Identify and explain two ways in which presidential candidates' use of the media has contributed to candidate-centered campaigns. Your answer should not simply be a discussion of presidential primary elections.*

Our answer to (a) is relatively straightforward. One reason that campaigns are more candidate-centered is that the media tends to focus more on the horserace and the personality of candidates than the issues. This means candidates must be

perceived as likeable—the kind of guy you’d want to have a beer with, as they say—and strong and principled. (Among many other so-called positive personality traits.)

Another reason is that the public—and thus the media—does not have patience for exhaustive discussions of the pros and cons of public policy. Thus, candidates do things that get headlines—emphasize their trustworthiness over the other candidate, or their experience compared to the other candidate’s. This type of comparison is easier for the voters to understand and more interesting for the media to cover.

For (b) the question is flipped. One way presidential candidates’ use of the media has contributed to candidate-centered campaigns is, advertisements. Negative advertising in the media in particular focuses not on the merits of policy, but on the merits of the person. (Think about the Swift Boat ads against John Kerry, or Hillary Clinton’s red phone ad against Barack Obama.)

Another way this happens is that candidates are reluctant to get specific on ideas with the media, because they are afraid that their plans will be picked apart. Their opponents do the same, and, left with little policy to analyze, the media instead focuses on what the candidates are like (e.g., Gore is stiff, Bush is unintelligent).

Again, it’s a cycle.

The Wrap Up

You should know that the media is biased and always has been. You should know that candidates and the media have a mutually dependent but also hostile relationship. You should know the different sources of news for Americans—newspapers, radio, TV and the Internet—as well as the names of a few news outlets (Fox, The New York Times, NPR, etc.).

You should also be more well aware than the average vote about what the media covers and why. And if you can do all that, you will do quite well on any AP US Government & Politics exam questions about the media.

Bureaucracy

No matter which party controls the presidency or the Congress, the bureaucracy has continued to grow. In fact, one of the most conservative presidents in recent memory, George W. Bush, expanded the bureaucracy considerably in the wake of 9/11. An entirely new federal department, the Department of Homeland Security, was created to deal with domestic terror threats.

Like the media, the bureaucracy is often referred to as the Fourth Branch of government. In reality it is a part of the executive branch. The heads of the various departments—the secretary of state or defense or the attorney general—are nominated by the president and confirmed by the Senate.

Early on in our democracy, the bureaucracy was often used for patronage—the supporters of whatever politician was in power were appointed cushy federal jobs in exchange for their support. This largely changed as a result of widespread corruption and incompetence during the late 1800s.

Although they don't create policy per se, federal agencies do have policymaking capability. Since the Great Depression and World War II, federal agencies have implemented scores of public policies on issues ranging from business, education, general welfare and public safety.

So What Exactly Are the Powers of the Bureaucracy?

The federal bureaucracy has wide-ranging powers over American citizens and businesses. Some complain about this, maintaining that since bureaucrats are unelected, they shouldn't wield such vast power over the day-to-day affairs of Americans. The bureaucracy controls how most tax dollars are spent, too.

The two primary powers of the bureaucracy are *rule making* and rule adjudication. Although the Congress writes laws, these laws don't have

comprehensive instructions on how to carry them out—this task is left to bureaucrats, and gives them substantial leeway to interpret laws as they see fit (as well as how the president directs them through memoranda and executive orders).

When federal agencies create rules, they often have public hearings to allow for citizens' input. When there is a violation of bureaucratic rules, by a citizen or business, the bureaucracy has the final say.

What Controls Are There on the Federal Bureaucracy?

The president has control over agencies' budgets, as does the Office of Management and Budget, or OMB. The president can strip an agency of its power by failing to allocate it any funds. Courts can limit bureaucratic power through their rulings, and Congress can rewrite laws affecting how agencies are run, and what their missions are.

What Does the Bureaucracy Look Like?

There are two events that make the bureaucracy grow—wars and economic declines. During these times, the government allocates more funding and expands programs. Once an agency is created or given money, however, and programs are created, they are very hard to dismantle. This why bureaucracies grow even when the president is an advocate of smaller government.

Since the bureaucracy deals with so much, including maintenance of the highways and distribution of Social Security checks, it employs millions—roughly three million—people around the country. Some areas of the country have high numbers of federal employees, particularly Virginia and Maryland, which abut the federal capitol.

These days, bureaucracies aren't really depositories for big donors. (Ambassadors' posts are another story). Most bureaucrats are hired using the results of exams such as the Civil Service Exam and the Foreign Service Exam, and are highly trained and competent.

As mentioned, the bureaucracy is mostly part of the executive branch. Executive branch departments include the fifteen departments (cabinet-level posts) such as the Department of State, the Department of Commerce and the Department of Health and Human Services (HHS). One recent major program, Obamacare, comes under the purview of HHS.

There are also independent agencies with very specific tasks. These include the Consumer Product Safety Commission, which regulates product safety and issues recalls; the Environmental Protection Agency, which regulates air, land and water quality; the Federal Reserve (or, "the Fed"), which sets interest rates and regulates national banking and US bond markets; and NASA, or the National Aeronautics and Space Administration, which conducts space research.

Just because these agencies are not in the executive branch does not make them less important or powerful. In fact, with his ability to set interest rates, the Fed chairman has sometimes been referred to as the real most powerful man in the world.

Iron Triangles

A concept you will hear in AP US Government & Politics is *iron triangle*. Iron triangles are relationships between federal agencies, the congressional committees that oversee them, and interest groups. These three institutions interact frequently and tend to influence each other's decisions. Since interest groups can provide money and grassroots support to politicians, committees tend to give interests groups' opinions considerable sway in the policymaking process.

Bureaucrats like to make nice with legislators, too, as the legislatures could easily cut the agency's budget in future years. Both agencies and legislators benefit from the specialized research and other information the issue groups can provide. And—when they retire from government—interest groups provide bureaucrats and politicians with cushy, lucrative jobs in the private sector.

OK—now why don't we take a look at a sample free-response question from a past AP US Government & Politics exam?

A Sample AP US Government & Politics Free-Response (FRQ) Question

The federal bureaucracy as part of the executive branch exercises substantial independence in implementing governmental policies and programs. Most workers in the federal bureaucracy are civil-service employees who are organized under a merit system.

- (a) Define one key characteristic of the merit system.*
- (b) For each of the following, describe one factor that contributes to bureaucratic independence.*
 - *The structure of the federal bureaucracy*
 - *The complexity of public policy problems*
- (c) For each of the following, explain one Constitutional provision that it can use to check the bureaucracy.*
 - *Congress*
 - *The courts*
 - *Interest groups*

This seems like a long, involved question, but the answers are actually quite straightforward and short. For (a), we can simply note that a characteristic of the

merit system is that bureaucrats are hired based on their score on an exam, such as the Civil Service Exam or the Foreign Service Exam.

For (b), we'll note that the structure of the federal bureaucracy favors its independence since it is so vast—and dispersed across the country—that it is difficult for the other parts of the government to exert direct influence on every single employee. Thus, each agency typically has more control over its employees than Congress or the president does. The complexity of public policy problems gives agencies relative autonomy because they specialize in these issues, so Congress and the president are reliant on their advice and information to make decisions. Thus, the bureaucracy, in a way, can write its own ticket.

For (c), you have simple answers to give for each of the questions. Congress can check the bureaucracy by cutting or eliminating its budget. The courts can check the bureaucracy by invalidating their actions, if they are viewed as unconstitutional. And finally, interest groups can check the bureaucracy by clogging the pipeline of information that they deliver, or by lobbying Congress to stop the bureaucracy from doing something, or to order the bureaucracy to do something.

The Wrap Up

Remember how vast the bureaucracy is and how much influence it has on the day-to-day operation of government. Keep in mind that the bureaucracy is always growing, even under small-government presidents, and that it grows particularly during wartime and economic crises. And remember that it is very hard to shrink the size of the bureaucracy—once you give a benefit, it's hard to take it away.

You should also try to remember the names of a few executive branch agencies (State) and a few independent agencies (NASA) and be able to say what they do

in a nutshell. This will help you if you encounter an FRQ about the bureaucracy on the AP US Government & Politics exam.

Constitution

It is arguably the most revered document in the world. Countless countries, after revolution or liberation, have looked to it to guide their own nation-building processes. The Constitution, written in the wake of the failed Articles of Confederation and ratified by the states in 1789, outlines the structure and function of our government and also, through the Bill of Rights and subsequent amendments, guarantees our civil rights and liberties.

Americans are proud of their Constitution and are highly reluctant to allow any changes to it, which is why in our nation's entire history it has only been amended 27 times, and only after considerable struggle. Many worthy amendments—such as the Equal Rights Amendment—have failed to pass because of this sentiment.

The Constitution is only five pages long. It merely outlines the structure and basic functions of government; it was left up to Congress to create laws that would govern the activities of quotidian life. The meaning of the Constitution, when it is unclear, is left up to the Supreme Court to decide. Over the years, the Court has supplanted the Constitution with a wide body of constitutional law, which has clarified and at times expanded Americans' rights and liberties.

The Constitution of 1787

The Constitution contains seven articles. Most of the Constitution deals with the legislature, or Congress (Article I). The founders considered Congress to be the primary branch of the new government—as opposed to the presidency. Records of the Constitutional Convention show that most of the time was spent dealing with Article I.

The only real specifics contained in the Constitution—things like the Speaker of the House and the President of the Senate—pertain to the Congress. Congress is

also given 17 specific duties, such as regulating interstate commerce and creating roads.

The Executive

Most of the details about the executive—the president—in Article II deal with the Electoral College, and many of those details have been amended over the years. There is minimal job description provided for the president and most of his powers are checked by Congress or open to interpretation. The Founders did not intend to create a powerful presidency.

The Judicial Branch

Article III of the Constitution deals with the judiciary and like Article II does not contain much detail. There is a minimal description of the Supreme Court, and an outline of the process by which new federal courts can be created if the need arises. Much of the article deals with how judges are appointed and how they can be removed from office.

Then, much of Article III deals with treason.

Articles IV, V and VI

These amendments describe how the states interact, how amendments can be created and establish the legal status of the federal government. Article IV contains the “Full Faith and Credit” clause, meaning that the states must respect the laws of the other states. Article VI gives the Constitution its “supremacy” status.

Article VII

This article deals with ratification—i.e., how the states can approve the new Constitution. The Constitution was officially ratified in 1788, when nine states had approved it. However, the nation waited for two key states—Virginia and

New York—to also ratify the Constitution before it held elections for Congress and president.

After this, North Carolina reversed itself and ratified, and Rhode Island, the lone holdout among the 13 colonies, finally ratified in 1791.

The Bill of Rights and Other Amendments

There was considerable opposition to the new Constitution from the anti-Federalists, particularly in New York, Virginia and North Carolina, three of the states that ratified near the end. The anti-Federalists insisted that clearer limits be placed on federal power, so the Federalists agreed to add a series of new amendments as soon as the Congress could form, in 1789.

James Madison, who was originally elected as a member of the House of Representatives, led the drafting of what became the Bill of Rights—the first ten amendments to the Constitution. These amendments are:

- **First Amendment:** deals with freedom of religion, speech, press, assembly and petition.
- **Second Amendment:** deals with the right to bear arms.
- **Third Amendment:** prohibits the forced quartering of troops.
- **Fourth Amendment:** prohibits unreasonable search and seizure.
- **Fifth Amendment:** concerns indictments, the prohibition on double jeopardy (being tried twice for the same crime) and just compensation.
- **Sixth Amendment:** guarantees a speedy public trial, the right to confront witnesses and to seek counsel.
- **Seventh Amendment:** guarantees a jury in civil trials.
- **Eighth Amendment:** concerns excessive bail and cruel and unusual punishments.
- **Ninth Amendment:** specifies the rights that are retained by the people.

- Tenth Amendment: specifies the rights that are retained by the states—basically, all those not enumerated in the Constitution.

Initially the Bill of Rights was viewed as only applying to the federal government. Since the passage of the Fourteenth Amendment, the Supreme Court has slowly applied these requirements to the states as well, in a process known as *selective incorporation*.

Subsequent Amendments

The Constitution has changed surprisingly little since the Bill of Rights passed. Since then, there have only been 17 amendments, and most of them are technical. These include:

- Eleventh Amendment: the rules for lawsuits against states.
- Twelfth Amendment: concerns separate votes for president and vice-president.
- Seventeenth Amendment: concerns the direct election of senators.
- Twentieth Amendment: gives a new starting date for federal terms.
- Twenty-Second Amendment: establishes a two-term limit for presidents.
- Twenty-Third Amendment: gives Washington, D.C. three electoral votes.
- Twenty-Fifth Amendment: establishes rules for succession of the president dies in office or becomes incapacitated.
- Twenty-Seventh Amendment: establishes Congressional pay rises.

The more substantive amendments are the following:

- Thirteenth Amendment: abolishes slavery.
- Fourteenth Amendment: makes former slaves citizens and entitles them to due process and equal protection under the law.
- Fifteenth Amendment: guarantees voting rights for former slaves.

- Sixteenth Amendment: establishes a federal income tax.
- Nineteenth Amendment: gives women the right to vote.

Two amendments cancel each other out. These are the Eighteenth and Twenty-First Amendments, the first of which began Prohibition (which forbid alcohol) and the latter, which ended Prohibition.

Judicial Interpretation

Various amendments have been proposed over the years—notably, the Equal Rights Amendment, which would have guaranteed certain civil rights and liberties for women—but have failed to pass. In recent times, some politicians have called for a constitutional amendment to regulate the flow of money in politics.

This is in response to recent decisions of the Supreme Court such as *Citizens United*. Since *Marbury v. Madison*, the Court has been the arbiter of disputes over what the Constitution means—including what rights it guarantees. While the Constitution does not explicitly guarantee a right to privacy, for instance, the Court has found that this right is implied by other parts of the Constitution.

Now let's take a look at a sample free-response question.

A Sample AP US Government & Politics Free-Response Question (FRQ)

The framers of the Constitution created a political system based on limited government. The original Constitution and the Bill of Rights were intended to restrict the powers of the national government. Later constitutional developments also limited the powers of state governments.

(a) *Explain how each of the following limits the powers of the national executive.*

- *Federalism*
- *Checks and balances*

(b) *Explain how each of the following two provisions in the Bill of Rights limits the powers of the national government.*

- *Establishment clause*
- *Guarantee of a public trial*

(c) *Choose one of the following and explain how it limits the power of state governments.*

- *Citizenship clause of the Fourteenth Amendment*
- *Selective incorporation*

This is an involved question, but also fairly straightforward. For (a), we know that federalism limits the power of the federal government because the national and state governments share governing powers. Checks and balances limit the powers of the national executive because Congress and sometimes, the courts must approve many of his actions.

For (b) we know that that Establishment Clause prohibits the establishment of a state religion, like in the United Kingdom. In not being able to sanction one religion over another, the national government is unable to enforce its will through the institution of the church. The guarantee of a public trial ensures that the national government cannot lock up its critics or opponents on a pretense in order to suppress dissent.

For (c), let's choose *selective incorporation*. We know that selective incorporation applies the Bill of Rights, which was originally only applied to the national government, to the states. This means that states are limited in the rights they can restrict—and many did, before the passage of the Fourteenth Amendment.

The Wrap Up

The Constitution is not a difficult document to understand because it is so short and contains so little detailed information. Remember this. Remember that the Constitution deals mostly with the Congress and that the amendments were added to please the anti-Federalists.

You should also be aware of the Court's role in interpreting the Constitution, and of the fact that it has hardly changed since it was written; mostly the laws written by Congress and the Court's body of constitutional law govern our country.

Civil Liberties

Learnerator has a lot of great content dealing with civil liberties, but you can consider this a good review of the concept, with a few specifics.

Civil liberties are different than civil rights. Civil liberties are basic freedoms guaranteed to all Americans, regardless of race, sex or creed. Civil rights are protections from discrimination afforded to various minority groups (most notably in American history, African Americans).

Almost all civil liberties are established in the Bill of Rights. It was adopted in 1791, two years after the Constitution was ratified. Anti-Federalists had insisted upon the Bill, the first ten amendments to the Constitution, from Virginia and New York.

The most notable thing about the Bill of Rights is that it contains a number of ‘negative’ statements—phrases explicitly prohibiting the national government from certain actions, rather than granting the liberties to citizens explicitly. These negative statements include:

- “Congress shall make no law...” abridging freedom of religion, speech, press, assembly or petition.
- “The right of people to keep and bear arms shall not be infringed.”
- “No soldier shall...be quartered.”
- “The right of the people...shall not be violated...” regarding unreasonable searches and seizures.
- “No person shall be held...” to be a witness against himself, in double jeopardy, or “deprived of life, liberty, or property without due process of law...”
- “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

This should help you get the gist of what civil liberties are—rights of the people that the government cannot take away.

The Concept of Dual Citizenship

Initially, the Bill of Rights applied only to the federal government. The state governments had their own constitutions, and the Founders largely believed that they should decide for themselves what civil liberties their citizens would be granted. This changed after the Civil War and the passage of the Fourteenth Amendment, when the Supreme Court began *selectively incorporating* various rights to apply to the states.

The first *selective incorporation* case was *Gitlow v. New York* (1925), where the Court said that “freedom of speech and of press—which are protected by the First Amendment from abridgement by Congress—are among the fundamental personal rights and ‘liberties’ protected by the due process clause of the 14th Amendment from impairment by the States.”

The Various Civil Liberties

This review will not go into the details of the Supreme Court decisions clarifying and defining each of the various civil liberties the Bill of Rights guarantees, but it will provide a list of some key cases you should review to fully understand the dimensions of each liberty.

It is most important to remember that there are qualifications to the civil liberties in order to promote order and the public good. A famous example of this is that, despite the freedom of speech, you may not yell “Fire!” in a crowded theatre, because it would cause panic.

The First Amendment protects freedom of religion. There are two important clauses in this amendment regarding religion—the Establishment Clause, which

says that there shall be no official state religion, and the Free Exercise Clause, which states that individuals may practice whichever religion they choose.

Some key court cases dealing with the freedom of religion are *Engle v. Vitale* (1962), *Lemon v. Kurtzman* (1971), and *Lee v. Weisman* (1992).

The First Amendment also protects freedom of speech and of the press. Speech and the rights of the press can be limited only to protect national security interests, mostly. Some key cases here are:

- *Schenck v. United States* (1919),
- *Chaplinsky v. New Hampshire* (1942)
- *New York Times v. Sullivan* (1964)
- *Tinker v. Des Moines* (1969)
- *New York Times v. United States* (1971)
- *Texas v. Johnson* (1988)
- *McConnell v. Federal Election Commission* (2003)
- *Citizens United v. Federal Election Commission* (2010)

Freedom of assembly is guaranteed by the First Amendment and, again, can be restricted only for reasons of public safety.

The Second Amendment protects the right to keep and bear arms. The modern interpretation of this is that Americans have a right to own any type of gun they want, although there is good evidence that the Founders intended this amendment to mean that states could have their own militias. Still, the Second Amendment is zealously protected today by Court decisions, including *United States v. Miller* (1939) and *District of Columbia v. Heller* (2008). Very few restrictions on gun ownership are allowed, to the consternation of gun control advocates and families of gun death victims.

The right to privacy has been interpreted by the Court from the substance of the Third and Fourth Amendments and features prominently in cases involving reproductive rights. Some crucial cases here are *Griswold v. Connecticut* (1965) (this case established the right to privacy), *Roe v. Wade* (1972) and *Planned Parenthood v. Casey* (1992).

Procedural Rights

Substantive rights are liberties that the government may not infringe upon, as outlined above; substantive rights are guidelines on how the government must treat you in certain situations.

The Fifth, Sixth and Seventh Amendments deal with procedural due process, mostly specifying how citizens accused of crimes must be treated. Citizens are guaranteed a trial by a jury of their peers, no excessive bail, protection from double jeopardy (being tried twice for the same crime) and protection from cruel and unusual punishment. There has been considerable debate recently over whether the death penalty constitutes cruel punishment.

Now, let's take a look at part of a practice free-response question (FRQ):

A Sample AP US Government & Politics Free-Response Question (FRQ)

Individuals often form groups in order to promote their interests. The Constitution contains several provisions that protect the rights of individuals who try to promote their interests in a representative democracy.

(a) Explain two provisions in the Bill of Rights that protect individuals who try to influence politics.

There are multiple ways you could answer this question, so let's explore a few of them. The First Amendment contains many protections for those who try to influence politics. Freedom of the press guarantees that individuals cannot be punished for publishing information unfavorable to or criticizing the government, or advocating that government policies go in a different direction. The protection of freedom of speech does mostly the same thing. So too does the protection of assembly and petition—groups may form and protest against the government, picket government buildings or have demonstrations in favor of political issues that the government may or may not like.

The procedural rights contained in the Fifth, Sixth and Seventh Amendments guarantee that an individual cannot be persecuted by the justice system for holding views that are anathema to the government. If these protections weren't in place, it would be possible for the government to jail individuals it disagrees with for made-up or petty charges, as is often done in third-world countries and places such as Russia and China. Political discourse is vibrant in the US because of all these protections.

The Wrap Up

The body of constitutional law established by the Supreme Court is the richest source of information on our civil liberties, as the Bill of Rights does not contain all of the various “what-if” scenarios that Court cases puzzle out. Our civil liberties, depending on how you look at it, either expand or become further defined, with every Court decision touching upon them.

The Fourteenth Amendment, which applied the Bill of Rights to the states through *selective incorporation* (this is a very important concept to understand), dramatically expanded the civil liberties of Americans by protecting them from the whims of the states. Prior to selective incorporation, the states were free to limit citizens' civil liberties as they saw fit—and they did, particularly in regard to

freedom of speech and the press, as well as procedural due process. This has changed today thanks to the Supreme Court.

Political Participation and Voting Behavior

Political participation in the US is low. This includes the number of people who vote in elections (in presidential election years, when turnout is highest, it is still around 60 percent), volunteer or donate to campaigns and get involved in other ways, such as joining interest groups or taking part in letter-writing campaigns.

Participation in the political process is strongly correlated to two factors—education and income. The more educated or wealthy an individual is, the more likely he is to vote, donate money to a candidate, rally for a political cause or run for office. The ideological effect of education tends to be liberal; for wealth, it is conservative. (Although this correlation is not ironclad.)

Americans do agree on certain things, though. They believe that everyone should have freedom, equality of opportunity and in individual rights. (Yes, sometimes these beliefs are in contradiction with each other. Just another quirk of American politics.)

Americans tend to inherit their family's political views and level of political participation. They are largely centrist—favoring neither party exclusively. Oftentimes they vote in divided governments, with a Democratic president and Senate and a Republican House.

Traditions of Citizen Behavior

Although the Democratic and Republican parties have not always been the two dominant political parties, Americans have mostly gravitated toward two major parties—whether they be the Democrats and Republicans or the Democratic-Republicans and the Whigs.

Although Americans say they want more party choices, no major third parties have gained steam due to the first-past-the-post and winner-take-all electoral systems and the long periods of growth and economic prosperity that have mostly kept Americans content with what they are being offered. Also, most Americans have moderate political views—unlike in Europe, where scores of parties pop up with an array of far-right and far-left leanings.

In the early days of the Republic, to be a liberal was to favor decentralized power—in other words, more power for the states and less for the federal government. To be a conservative, like Alexander Hamilton, was to advocate for Federalist views, such as a strong national government.

Today the reverse is true—liberals prefer a strong national government with more powers, and conservatives, small government, with more powers reserved for the states.

Participation and Voting

Voter turnout has decreased considerably since the early days of the Republic, but keep in mind that this is in part due to the dramatic expansion of the franchise. At first, only adult, white, male landowners were allowed to vote; now all citizens over 21, with a few exceptions, may vote. Still, the decrease in voter turnout has been remarkable over the past four decades. (Although it can go up during exciting elections—the 2008 election, which saw Barack Obama elected as the first black president, saw a spike in turnout).

Some reforms have made voter registration faster and easier. Still, maneuvers such as voter ID laws have been implemented in some states to make it harder for groups unsupportive of the party in power—mainly, African Americans—to vote. The Justice Department and the courts have some power to curb these laws and in some cases, have. The advocates of voter ID laws say they are needed to

prevent voter fraud, but in fact there is very little evidence of voter fraud anywhere in the country.

Participation and Civic Responsibility

In the US there are various civic groups, many of which are political in nature. For example, the League of Women Voters, the National Rifle Association or the Daughters of the American Revolution are all groups Americans can join. It is considered virtuous to belong to civic groups, yet few Americans actually do.

There are civic groups for every cause under the sun—education, medical issues, environmental protection—you name it. These groups rely on citizens volunteering their time, paying dues as well as making donations. These civic groups, many of them single-issue groups, lobby members of Congress and the president to pass legislation favoring their causes.

These groups exercise their will through paid advertisements, letter-and-email-writing campaigns, social media campaigns, donations to political causes and candidates and grassroots campaigning.

The Political Spectrum

No discussion of voting and political participation in America is complete without a look at the political spectrum in America—the places where large groups of Americans stand ideologically. The following is an (incomplete) glance at this spectrum, with some liner notes on how the various groups usually vote.

Socialists are very few in number in the US and believe that state solutions are best for our problems. They advocate for things such as state ownership of public utilities (gas, electricity, the Internet, etc.) and programs such as universal healthcare. These voters usually vote Democratic but are known to support third-party candidates such as Ralph Nader (the Green Party) if the Democratic candidate is insufficiently liberal. These voters abandoned Democratic

presidential nominee Al Gore in key places (namely Florida) in the 2000 election and it likely cost him the presidency.

Liberalism is the belief that government intervention in the marketplace is a force for good. These voters are typically Democrats. Millennials (those born between 1980 and 2005), highly-educated voters, women and minority groups tend to be liberals and constitute the second-largest ideological chunk of voters in the US.

Populism holds both liberal and conservative views—favoring government regulation of the marketplace and some economically liberal policies, but also conservative policies in areas such as social issues. A populist, for example, might support universal healthcare, but oppose gay marriage. Populists are up for grabs by either party but lately have trended Republican. Blue-collar voters tend to be populists.

Conservatism favors minimal government interference in the marketplace and traditional social policies. Most Republicans are conservatives, although conservatism represents a wide array of views, some more mainstream, others more extreme (such as the Tea Party). Conservatives are consistently ranked ahead of liberals as the largest block of voters in the US.

Libertarianism is the opposite of populism in the sense that it favors as little governmental interference in the marketplace as well as in people's social lives. Think of populism as representing maximum government action in all spheres, and libertarianism as favoring minimal government action in all spheres. Libertarians tend to vote Republican, although the party's resistance to reproductive rights and gay marriage puts off younger libertarians and they mostly either sit out of elections or support Democrats.

OK—now let’s take a look at a sample free-response question dealing with political participation and voting:

A Sample AP US Government & Politics Free-Response Question (FRQ)

In the United States political system, there are several linkage institutions that can connect citizens to government. Elections constitute one such institution. Because of low voter turnout, elections represent an imperfect method of linking citizens to their government. Even when there is low voter turnout, however, other linkage institutions can connect citizens to government.

(a) Describe how each of the following is related to the likelihood of voting.

- *Age*
- *Education*

(b) Identify one current government electoral requirement that decreases voter turnout. Explain how it decreases voter turnout.

(c) Identify one linkage institution other than elections and explain two ways it connects citizens to government.

This question is practically a gift, because it is very straightforward and easy to answer. For (a), we know that education tends to make voters more aware of the issues and their ability to influence which policies are enacted, and thus increases their likelihood of voting. Voting tends to increase with age, with young voters not participating as much as elderly voters—with all of their free time in retirement—voting way out of proportion with their percentage of the population. (This is why politicians are loathe to mess with Social Security or Medicare.)

For (b), we have discussed that voter ID laws enacted in various states has the effect of decreasing voter turnout, particularly among African Americans, because many of these voters do not hold official government ID. The Justice Department

and the courts have blocked some the more egregious examples of laws designed to limit black turnout, but some remain in effect.

For (c), a linkage institution between individuals and government would be a group such as the League of Women Voters, which organizes women to press for policies that have women's interests in minds. These groups inform women of issues that are before the Congress or that need a hearing, and organize them in various ways to press for change.

The Wrap Up

Make sure that you know that voter participation is low in the US and that Americans are largely in agreement on fundamental issues. Conservatives are a slightly larger group than liberals, although 'emerging' groups such as the Millennials, women, and minority groups tend to be liberals. This could significantly change the landscape of American politics in the coming decades.

Know the names of some interest groups and how Americans might be involved in them. Understand where Americans differ on political issues and some of the reasons why. It is very easy to predict how an American will vote (and if he/she will vote) based on demographic characteristics. Understand this, too.

Elections

Elections happen often in the US, and for a variety of offices—president, governor, senator, and in some states, even for judges or dogcatchers, among many others.

However, voters and the media pay attention mostly to the federal elections that happen in even-numbered years—called presidential elections (for years when the president is elected, the next being 2016) and mid-term elections (for elections when only members of the Senate and House of Representatives are elected, the next being 2018). Turnout is highest for presidential elections, which, since they elect the highest officeholder in the land, get the most media and voter attention.

Most state governors and other statewide officeholders are elected in the mid-term elections (a few states do this in presidential election years and others do it in the odd-numbered year after a presidential election).

The Constitution laid out provisions for voting, and originally restricted the franchise to white, landowning males—of course it has now been extended to all Americans 18 years or older, with a few exceptions in certain states. And, decades after the Jim Crow era ended, there is still discrimination at the polls.

Despite the right to vote being a sacred right many around the world don't have, Americans aren't particularly motivated to exercise it—turnout for elections in presidential years hovers at around 60 percent, with turnout in midterm election years even lower.

How Do You Win An Election in the US?

Unlike many countries around the world, the US uses almost exclusively a first-past-the-post system. This means that the winner of the plurality of votes wins

the office. Candidate A gets 40 percent of votes, Candidate B 30 percent and Candidate C 30 percent. Candidate A wins, even if, say, the combined 60 percent of voters voting for Candidates B and C favor liberal policies over A's conservative policies.

Some states use runoff voting, where an election is held, and then the top two vote-getters face off again, so that one candidate gets a majority of votes. However, this is rare.

Restrictions on Voting

Most states require voters to register before they vote (except North Dakota). A national law cuts off certain types of federal funding to states if they don't allow voters to register when they visit the DMV, so all states except those allowing same-day registration let voters register when they renew or receive their drivers licenses.

Voters can register with a party or as unaffiliated. In some states, in order to run for office as a member of a certain party, you must be registered with that party. Many Americans—majorities in almost every state—choose not to register with a party.

Prohibiting convicted felons from voting, even if they are over 18, is allowed, and some states, such as Florida, choose to do this.

Federal Elections

As mentioned, federal elections—elections for the House of Representatives, Senate and president—get the most media and voter attention.

The first round of voting takes place a few months before the general election and is called a primary election. A primary election chooses the nominees for each

party's line on the ballot. These elections typically occur from the early summer to the early fall.

These elections get much less attention than general elections, with voter turnout extremely low and limited mostly to party loyalists—in some states, only registered members of a party can vote in its primary elections—although they can be very important. In cities, states or district heavily loyal to one party—where, say, a Democrat stands no chance of winning the general election—the Republican primary typically decides who the next elected official will be, and vice-versa.

In an open primary, voters can vote in a party primary regardless of their party affiliation.

To be elected to the House, you must be 25 years old; to be elected to the Senate, you must be 30 years old; and to be elected president you must be 35 years old.

Members of the House are elected every two years—which leads to a grueling campaigning and fundraising schedule that is often criticized. Senators, intended to provide wisdom and stability to the Republic, hold six-year terms, the longest federal terms there are (aside from the lifetime appointments for judges), with a third of the Senate being up for election every two years.

The president, of course, serves a four-year term and may only run for reelection once. The president is technically not elected directly by the people, but rather through the Electoral College.

It's About Candidates, Not Parties

The Founding Fathers were wary of parties, and hoped they wouldn't form. In fact, President Washington wasn't a member of any political party—although they formed very quickly.

Still, the fact that parties aren't mentioned in the Constitution has had somewhat of a spillover effect—voters pay much less attention to parties, and more to the candidates themselves, especially for prominent offices. Candidates' personalities tend to be a big part of voters' and the media's analysis of their fitness for office, and personal scandals, tics and the like can play a big role in whether or not a candidate is elected.

For example, in a special election (an election that is held when a candidate resigns from or dies in office) in Massachusetts in 2010, after Senator Ted Kennedy (D) died, heavily Democratic Massachusetts elected a Republican, Scott Brown, to replace him, despite the state's heavy Democratic tilt. This was largely because voters saw the Democratic candidate, Martha Coakley, as unlikable.

Campaigns

People often complain that there is too much money in politics, but the Supreme Court, in decisions such as *Citizens United*, has mostly held that money is speech, and so corporate donations continue to flow into campaign coffers, with only moderate limits.

Campaigns are often fought over the airwaves—with radio and television advertisements, many of them negative attack ads—and now, on the Internet. In primary campaigns, candidates mostly position themselves to be in the mainstream of their party (for Democrats, liberal; for Republicans, conservative), and then in the general election they pivot to the middle, to try and appeal to as wide a group of voters as possible.

Sometimes, a primary challenge can be more dangerous to an elected official than a general election. In 2010 and 2012, a few establishment Republican incumbents were knocked out of office by Tea Party (i.e., far right) challengers, only to see Democrats win the seats in the general election.

Presidential campaigns are multiple-year affairs that involve the *invisible primary*—raising money, picking up endorsements and party support—and actual primaries, as well as caucuses, where voters gather in a room to form groups in support of a candidate, rather than cast a secret ballot. Iowa and New Hampshire always hold—unfairly, many say—the first caucus and primary, respectively.

These primaries and caucuses elect delegates to a national convention who will eventually vote for a party's nominee. The Democrats also have *superdelegates*, party officeholders and loyalists who get a vote at the convention, who can sway the nomination one way or the other. In the close Democratic primary of 2008 between Hillary Clinton and Barack Obama, many thought that the superdelegates might have to decide the nomination.

Restrictions on Voting

Despite amendments to the Constitution to protect voting rights, many states are now enacting voter ID laws, which largely prevent African-American voters who do not have photo IDs, from voting. These laws have been challenged in court with some success but continue to pose a problem for some voters.

Let's take a look at a sample free-response question about elections:

A Sample AP US Government & Politics Free-Response Question

3. Nominees for the presidency of the two major parties are chosen by delegates at national conventions. How these delegates are chosen varies across states and between the political parties.

(a) Define each of the following methods used by states to choose delegates to party conventions.

- *Open primary*
- *Caucus*

(b) Republican Party rules permit winner-take-all primaries. Describe one consequence of this rule for the Republican nomination process.

(c) The Democratic Party has used superdelegates in the presidential nominating process since 1984. Explain why the use of superdelegates increases the influence of party leaders in the Democratic nomination process.

(d) Explain why a candidate's strategy to win the nomination is often different from the strategy developed to win the general election.

OK. This is a very specific question, but also fairly straightforward. Let's tackle

(a). An open primary is a primary in which any voters, regardless of their party affiliation, can vote in a party's primary. In other words, a Republican is permitted to vote in a Democratic primary, and vice-versa.

For (b), we know that winner-take-all means that the person with the most votes gets all of the delegates. This means that the candidate with plurality support—even if he is more conservative (or less conservative) than the Republican electorate as a whole—is likely to win the nomination. This trend explains why the Republican party has had relatively moderate nominees compared to the ideology of its base in recent elections.

For (c), it's fairly obvious to state that since superdelegates are party leaders, having a direct vote at the convention allows them a stronger hand in who the party's presidential nominee is. In particularly close primary elections, such as 2008, the superdelegates can potentially decide who their party's nominee is, harkening back to the days of smoke-filled rooms.

Finally, (d). Knowing the difference between primary electorates—mostly party loyalists who are either liberal or conservative—and general electorates—mostly disengaged Americans with middle-of-the-road views, we know that Democratic candidates must emphasize their liberal credentials and Democratic primaries, and Republicans must emphasize their conservative credentials. In the general election, both party's nominees must change tack and emphasize their moderate credentials to win over a larger, more middle-of-the-road electorate.

The Wrap Up

Understand the difference between winning a primary and general election. Know that the Founders were wary of parties and did not include them in the Constitution, but that they sprung up anyway.

Be aware that most Americans are disengaged from the elections process and pay more attention to candidate personalities than party labels. Know the difference between a mid-term and presidential election.

Public Opinion

Public opinion is a pretty simple concept, but it is important to have a proper understanding of it for the AP US Government & Politics exam.

Today, we measure public opinion mostly through polling—taking small, representative samples of the population and quizzing them about their views on political issues, public policy and candidates via neutral questions.

You might not be all that surprised to learn that Americans don't particularly care for politics all that much—they're much more concerned with jobs and money issues—and these concerns color their opinions about politics quite a bit.

What Exactly Is Public Opinion?

Public opinion is a political science term that measures how citizens feel about their leaders, candidates for office, issues and institutions that control the laws and government.

Political leaders gauge public opinion to find out how much support there is for their policies, as well as to find out what issues are on voters' minds. Sometimes government officials need to know if the voters will follow laws that are passed—and polling is a good way to find out.

As mentioned, pocketbook issues are of the most importance to voters, and thus the state of the economy and jobs can often sway public opinion, as well as elections. When economic conditions are good, the incumbent party wins; when they are bad, the incumbent party loses.

This was proven true again in 2008, when Barack Obama (D) was elected over John McCain (R) as the economy headed into a deep recession under then-president, Republican George W. Bush. Two years later, Democrats were

trounced in the midterm elections, losing control of the House of Representatives as the economy continued to hobble along.

How Do Political Opinions Form?

A dynamic known as *political socialization* typically determines how a person arrives at his or her political views. Family typically determines people's values, and thus their concerns, party loyalties and sense of trust in their government. People with wealth and education are also more likely to be involved in politics than poorer, less-educated people—a fact that has a significant impact on public policy and the results of elections.

How Opinion Data Is Used—and by Who

These days it is relatively easy for pollsters to gather public opinion data. Telephones, television, radio and the Internet are ways to shape, as well as measure, public opinion. Political groups use this data to uncover voting patterns, make projections about where the economy is headed, and even to develop fundraising strategies.

Most parts of the government use opinion data. The president's staff monitors his or her popularity and influence and the impact of presidential media appearances—such as the State of the Union address. Likewise, members of Congress use polling to gather data on support for proposed bills, the popularity of existing legislation and—yes—their images.

Public opinion about the president tends to go in waves. When a president is first elected, he has a honeymoon period of about two or three months where his approval rating comes close to two-thirds of the population. Once his policies and actions begin to be debated, though, the approval rating tends to drop along partisan lines. Then, the president's rating waxes and wanes with the tide of the economy.

How Polls Are Conducted, and Its Effects

Polls have been conducted to monitor public opinion since the Franklin Roosevelt administration, at the onset of the Great Depression. George Gallup—after whom the now-famous institute is named—used demography and statistics to track the public’s moods.

There is only one instance of polling incorrectly predicting the winner of a presidential election—in 1948, when pollsters believed Thomas E. Dewey would defeat the sitting president, Harry Truman. (This is where the famous, “Dewey Defeats Truman” headline comes from.)

The drawback to polling is that leaders tend to focus on it when crafting legislation or proposing ideas—sometimes at the expense of pressing action that is needed in an area of public policy. After all, the public, as the Founders anticipated, aren’t too well-versed in the issues. Thus, important policy changes needed in areas like immigration and taxes have been avoided.

Polling also tends to discourage unknown candidates from running for office or raising money. The media tends to follow candidates with high polling data more closely, and donors want to give candidates who actually have a chance of winning their money.

Why don’t we look at a sample free-response question on public opinion and see how we’d answer it on the AP US Government & Politics exam? This one is from 2011.

A Sample US Government & Politics Free-Response Question (FRQ)

2. *Public opinion polls are a way to link the public with elected officials.*

Members of Congress often use polls to understand the views of their constituents, but they must also pay attention to other political considerations.

a. Identify two characteristics of a valid, scientific, public opinion poll.

b. Explain why each of the following enhances the influence of public opinion on the voting decisions of members of Congress.

- *Strong public opinion as expressed in polling results*
- *Competitive re-elections*

c. Explain why each of the following limits the influence of public opinion on the voting decisions of members of Congress.

- *Legislators' voting records*
- *Party leadership*

This question is very straightforward. For (a) we need to mention that a valid and scientific public opinion poll takes a *representative* sample of the citizenry and asks them *neutral* questions.

For (b) we have to provide two examples of how Congress is influenced by the results of polls. Strong public opinion affects members' votes because they are unlikely to take a stance on legislation that is contrary to the vast majority of their constituents' beliefs. This ties into the second answer, as competitive reelection campaigns are likely to encourage members of Congress into voting the way their constituents want even more, so they can be returned to office.

As far as (c) goes, we should note that the voting records of legislators are often monitored by interest groups that can provide lots of campaign cash and firepower—friendly or otherwise—to advance or harm the legislator's career and goals. The priorities of interest groups are often at odds with public sentiment.

Another point to make is that, when a candidate is in the party leadership, or is being pressured by the leaders of his party, he is more likely to vote the ‘party line,’ even if it is against the wishes of his constituents. This is because party leaders also control access to funds and decide which legislators get placed on which committees. And party loyalty is a prerequisite for favorable treatment.

The Wrap Up

You need to remember a few key things. First, political leaders are highly reliant on public opinion polls for almost every decision that they make. Second, voters’ opinions are mostly influenced by two their upbringing and the state of the economy. And finally, voters aren’t all that tuned into politics—so their opinions on legislation might not be in line with the wisest policies.

Printz vs. United States

The Supreme Court rules on scores of cases each year, and thus there are thousands of decisions to be read through. However, only some are of vital importance to American government and politics, and thus only some are important to know about for the AP US Government & Politics exam.

One such case is *Printz v. United States* (1997), a case that found unconstitutional some interim provisions of the Brady Handgun Violence Prevention Act, so named after an assistant to the president who took a bullet during an assassination attempt on President Reagan.

About the Brady Handgun Violence Prevention Act

Before delving into details about the Brady Act, it is necessary to examine the Gun Control Act of 1968, to which Brady was an amendment.

The Gun Control Act of 1968 prohibited certain groups of people from owning firearms—convicted felons, those guilty of domestic violence or stalking offenses, people with felony warrants, fugitives, illegal aliens, those with restraining orders against them and the mentally ill.

The Brady Handgun Violence Prevention Act went a step further and established an electronic/phone-based background check, called the National Instant Criminal Background Check System, to prevent members of these prohibited groups from purchasing handguns.

Interim Provisions of the Brady Act

Because the background check system would take a while to set up, Congress established interim provisions that were intended to perform the same function. Those selling firearms were supposed to have the customer fill out a Brady form,

on which they had to swear they were not member of one of the prohibited groups.

This form then went to the area's chief law enforcement officer, who was supposed to verify the information within five days.

The Lawsuit

Law enforcement officers in Arizona and Montana challenged the law, on the grounds that the federal government was not permitted to compel state officials to do anything.

The initial district court decision found that the interim provisions were indeed unconstitutional, but that they were severable from the rest of the law, so it invalidated that portion and left the rest intact. The Ninth Circuit reversed this on appeal, holding that all parts of the act were constitutional.

The case reached the Supreme Court, where the local officials prevailed, 5-4. Justice Antonin Scalia, writing for the slim majority, held that, although the constitution does not contain a provision explicitly prohibiting the practice of compelling state officials to perform tasks, there is a prohibition in “historical understanding and practice, the structure of the Constitution, and in the jurisprudence of this Court.”

The Majority's Reasoning

Scalia referenced federalism and the idea of *dual sovereignty*, the concept that the state and federal governments occupy different spheres. To allow the federal government to compel state officials to perform actions on its behalf would mean the federal government could increase its powers beyond what the Founders intended.

The Court also held that it was the president's power to execute the laws, so any law that compelled state officials to do so without the input of the president was in contradiction to the Constitution. This power referred to by the Court is called the *unitary executive theory*.

The Court relied upon precedent, such as *New York v. United States*, as well as the wording of the Constitution, to reach its decision.

The Dissent

Justice Stevens wrote that the Commerce Clause of the Constitution, in addition to the Necessary and Proper Clause, allows Congress to pass whatever laws are necessary and proper to carry out its previously enumerated powers.

Effects of the Decision

The decision did not have much of an immediate effect, as most local officials supported the act and complied with it anyway.

Although at the time it was considered a victory for states' rights and limits on federal power, the ideological affect of *Printz* today is reversed today in the wake of 9/11. *Printz* is now used mostly by liberal local officials to refuse compliance with what are seen as conservative national security measures.

The Wrap Up

Remember that in answering questions about Court cases, the most important thing is to remember the holding and the political significance of the decision, rather than the specifics. So, it is less crucial that you know who James Brady was, or who wrote the decision, and more essential that you remember the case's effect on states rights and local officials' compliance with federal government directives today.

Sign up for Learnerator AP US Government Prep!



- Over 500 AP US Government practice questions aligned for the new 2014-2015 exam
- Detailed personalized statistics based on your performance
- A competitive online leaderboard to see how you stand compared to others
- Convenience with anytime access from an Internet-enabled device

College Entrance

- ACT English
- ACT Math
- ACT Reading
- ACT Science
- SAT Math
- SAT Integ. & GW
- SAT ST - Biology
- SAT ST - Chemistry

AP Exams

- 2016 AP Euro
- AP Art History
- AP Biology
- AP Calculus AB/BC
- AP Chemistry
- AP Comp. Govt.
- AP Computer Science
- AP English Language

AP Courses

- AP Macroeconomics
- AP Physics 1 & 2
- AP Physics C - E & M
- AP Physics C - Mech.
- AP Psychology
- AP Spanish Language
- AP Spanish Lit.
- AP Statistics

Literature

- Animal Farm
- Catcher in the Rye
- Fahrenheit 451
- Hamlet
- Macbeth
- Romeo and Juliet
- The Great Gatsby
- The Scarlet Letter

Visit us at <http://www.learnerator.com/ap-us-government-politics>

Use **SUPREMECOURT** for 10% off AP US Government