



We the People
THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education and funded by the U.S. Department of Education under the Education for Democracy Act approved by the United States Congress.

STATE HEARING QUESTIONS 2013–2014

Unit One: What Are the Philosophical and Historical Foundations of the American Political System?

1. The Declaration of Independence has been described as “the most revolutionary political statement in American History.”* What new ideas about government and its purposes are set forth in the Declaration and why might they be considered “revolutionary”?

- What principles expressed in the Declaration are traceable to John Locke and other natural rights philosophers?
- Why do you think the Declaration is one of the most imitated or copied documents in the world today?

* Alan Dershowitz, *America Declares Independence* (New York: John Wiley and Sons, 2003), 1 and 7–8.

2. Why did the Founders believe that a constitution should function as a type of higher law?

- In what important ways does a higher law differ from a statute enacted by a legislature?
- Evaluate the Founders’ claim that direct democracy was more likely to ignore constitutional limits than representative government? What evidence—historical and contemporary—can you offer in support of your position?

3. What important principles of modern constitutionalism were set forth in the Magna Carta?

- What is the rule of law and how did the Magna Carta establish it?
- How did the Magna Carta help to establish what today is called “due process of law”?



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Unit Two: How Did the Framers Create the Constitution?

- 1. “The doctrine of separation of powers was adopted by the Convention of 1787 not to promote efficiency, but to preclude the exercise of arbitrary power. The purpose was not to avoid friction but...to save the people from autocracy.”*** How would you explain the doctrine of separation of powers, and what are its major features?
 - Why did the Framers believe that mere separation of powers was not enough? Why did they think the different branches would also need “checks” on one another? What provisions of the Constitution enable one branch to “check and balance” the power of another?
 - In Federalist 48, Publius writes that “power has an encroaching nature, and it should be effectually restrained.... After theoretically dividing the classes of power into legislative, executive or judiciary, the next and most difficult task is to provide some practical security for each against the invasion of the others.”** Do you agree or disagree? Why? What evidence—historical or contemporary—can you cite to fortify your answer?
- 2. The Articles of Confederation were the first of two blueprints for a United States government. Although the Articles had serious weaknesses, government under the Articles should be credited for some important achievements. What were the major defects of the Articles and why did they impede the development of a national government?**
 - What were the major achievements of government under the Articles?
 - In what ways, if any, are the weaknesses of the Articles comparable to the weaknesses of the United Nations and/or the European Union?
- 3. What was the Great Compromise and why was it such a contentious issue at the Philadelphia Convention?**
 - Evaluate this argument advanced at the time of the Convention. In the House of Representatives, “the states are represented in proportion to their inhabitants—here the separate interests will operate with their full force, and the violence of parties can be restrained and quieted only by a body of men less local and dependent.”*
 - Evaluate this counterargument currently being advanced. The Great Compromise “guaranteed that the American constitutional system would forever fall short of the one person one vote rule that is the defining norm of modern democracy... simply because the accident of their residence in less populous states gives them a bigger political bang for the electoral buck.”**

*Noah Webster, “An Examination of the Leading Principles of the Federal Constitution” (October 10, 1787), in *The American Republic: Primary Sources*, Bruce Frohnen, ed. (Indianapolis: Liberty Fund, 2002), 286.

***The Annotated U.S. Constitution and Declaration of Independence*, Jack N. Rakove, ed. (Cambridge, MA: The Belknap Press, 2009), 42.



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Unit Three: How Has the Constitution Been Changed to Further the Ideals Contained in the Declaration of Independence?

1. What important purposes are served by the right to amend the Constitution guaranteed by Article V?

- Evaluate James Madison's claim in Federalist 43* that the Constitution "guards equally against the extreme facility which would render the Constitution too mutable [easily changed], and that extreme difficulty which might perpetuate its discovered faults."
- Some critics of the amending process contend that amendments, once proposed, should be submitted to popular vote, bypassing state legislatures. Do you agree or disagree? Why?

* *The Federalist*, Michael Loyd Chadwick, ed. (Springfield, CA: Global Affairs Publishing, 1987), 237.

2. How does the right to due process of law protect an individual's right to life, liberty, and property?

- How would you distinguish between procedural and substantive due process?
- How is due process related to natural rights philosophy and the principle of limited government?

3. Why has controversy over gun control and the meaning of the Second Amendment continued from the time of the First Congress to the present day?

- Evaluate the argument that the Second Amendment refers to the institutional right of states to maintain militia units and is therefore a collective right.
- Evaluate the argument that the Second Amendment refers to the individual's right to keep and bear arms.



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Unit Four: How Have the Values and Principles Embodied in the Constitution Shaped American Institutions and Practices?

1. Evaluate the argument in Federalist 62* that the United States needs both a House of Representatives and a Senate because “single, large assemblies have the propensity to yield to the impulse of sudden, violent passions and be seduced by factious leaders into intemperate, pernicious resolutions.”

- Why do you think the Constitution provides that “all Bills for raising revenue shall originate in the House of Representatives” and that the House “shall have the sole Power of Impeachment”?
- In your opinion has the Senate properly used or has it abused its power to review treaties and confirm nominations? What evidence can you offer to support your position?

* Federalist 62 in *The Federalist Papers in Modern Language*, Mary E. Webster, ed. (Bellevue, WA: Merril Press, 1999), 253.

2. What are the major differences between the United States Congress and the British Parliament?

- What are the advantages and disadvantages of mingling executive and legislative powers?
- Members of Congress and the president serve fixed terms. In a parliamentary system, the government “fails” and must call new elections if it loses popular support on major issues. Which is preferable? Why?

3. How does the use of committees in Congress promote or undermine the principles of representation, majority rule, and limited government?

- Evaluate the claim that “votes on the floor of the Senate or House may finally determine the success or failure of a proposal, but the important decisions that determine its ultimate fate have normally already been made in the committee that considered it.”*
- Some scholars contend that there are now too many committees and subcommittees in Congress and that they have become “little legislatures.”** Do you agree or disagree? Why?

* Robert A. Heineman, Steven A. Peterson, and Thomas H. Rasmussen, *American Government*, Second Edition (New York: McGraw Hill, 1995), 158.

** Roger Davidson and Walter J. Oleszek, *Congress and Its Members*, Third Edition (Washington, D.C.: Congressional Quarterly Press, 1996), 1960.



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Unit Five: What Rights Does the Bill of Rights Protect?

- 1. How do the rights found in the U.S. Constitution and the Bill of Rights reflect the influence of natural rights philosophy and classical republicanism?**
 - How would you distinguish between a declaration of rights and a bill of rights incorporated into a constitution? Why is that distinction important?
 - How would you distinguish between positive and negative rights and the obligations they impose upon governments?

- 2. In the 1928 wiretapping case of *Olmstead v. United States*, Justice Louis Brandeis wrote a dissent arguing for a general right to privacy. He stated, “The makers of our Constitution...sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be left alone—the most comprehensive of rights and the right most valued by civilized men.” Do you agree or disagree with Justice Brandeis? Why or why not?**
 - Where in the Constitution and the Bill of Rights might the right to privacy be implied?
 - Under what circumstances, if any, is it appropriate for government to limit individual liberty in order to promote national security?

- 3. What is the relationship of the right of trial by jury to natural rights philosophy and to the principle of limited government?**
 - Evaluate the criteria for a fair trial as set forth in the Sixth Amendment.
 - What is the importance of the right to counsel, particularly in the adversary system of justice?



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Unit Six: What Challenges Might Face American Constitutional Democracy in the Twenty-first Century?

- 1. What are the principal differences between natural rights philosophy and classical republicanism in respect to the rights and responsibilities of citizenship?**
 - Do you agree or disagree with the Founders that republican self-government requires a greater measure of civic virtue than other forms of government? What evidence can you offer to support your answer?
 - Why did the Founders believe that religion and education were essential for republican self-government? Are those beliefs still valid today? Why or why not?

- 2. What are the major issues in the current debates in Congress about immigration and citizenship?**
 - How is citizenship defined in the Fourteenth Amendment and how has that definition altered the relationship between the nation and the states?
 - Should the Fourteenth Amendment be changed to reflect additional or different criteria for citizenship? Explain and justify your response.

- 3. “History has amply proved the virtue of political activity by minority, dissident groups, who innumerable times have been the vanguard of democratic thought and whose programs were ultimately accepted.”* Do you agree or disagree with the opinion expressed here? Why? What evidence can you offer to support your position?**
 - Which, if any, of the goals dissident groups hoped to achieve put them in “the vanguard of democratic thought”? Why?
 - How would you explain the concept of civil disobedience and why have minorities often employed civil disobedience in an effort to achieve their goals?

* Chief Justice Earl Warren, *Sweezy v. New Hampshire* (1957).