

# The Constitution Free Response Question Assignment

*Use your newfound knowledge of the Constitution to complete the following free response question.*

The framers of the Constitution devised a federal system of government that affected the relationship between the national and state governments.

- a. Compare state sovereignty under the Articles of Confederation and under the Constitution.
  - b. Explain how each of the following has been used to expand the power of the federal government over the states.
    - Commerce clause
    - Mandates
  - c. Explain how each of the following has played a role in the devolution of power from the national government to the states.
    - Block grants
    - Supreme Court decisions
- A. Under the Articles of Confederation, the states were very much what they were called: states. With the Articles in place, the states operated practically as independent countries who conferred with one another over certain matters that the Federal government had power over. The Federal government was weak and ineffectual, unable to even levy taxes. The states had to be asked. This was a loose union, not conforming to modern definitions of a unified country. This contrasts with the Constitution, which established that the Federal government was supreme above all. Despite the misgivings of the Founding Fathers, the Federal government was made stronger because of how poorly the Articles of Confederation had gone.
- B. Since its inception, the Federal government has grown and grown. This is observable through such examples as the Commerce clause, which handed power over interstate commerce to the Federal government. It is argued that as the Commerce Clause was written, it was not intended to be interpreted broadly, but with a broad interpretation, the Federal government gained significant influence over intrastate and interstate commerce, regulation, and control of navigable waters. They were given the power to regulate money and regulate foreign trade, powers initially not held under the Articles of Confederation, but given to them in the Constitution as part of the plan for a stronger Federal government. Mandates have helped to expand the power of the Federal government by essentially forcing the hand of state governments, demanding the state and local governments acquiesce to the will of the Federal government, performing certain actions. Examples include the Americans with Disabilities Act and Medicaid; it was not arguable whether the states had to obey. States had to acquiesce to federal authority in these cases.
- C. The power of the federal government has been at times combated through certain practices. Block grants, unlike mandates, do not require states to perform certain actions or meet certain conditions in use of the given money, instead being sums

given by the federal government to the states to be used as determined by the states. As such, a state is not forced to conform to viewpoints agreed upon by a majority of others or a majority of lawmakers in the Federal government, instead acting as its own government, selected by the state's people, choose; this does not mean, necessarily that there aren't constraints on how they will use it, just that the State government decides how to use it instead of the Federal government. Supreme Court decisions and interpretations, despite sometimes lending fuel to arguments for expanded federal power, have also limited the power of the Federal government. There was a period known as the 'devolution revolution' in the late 1990s and early 2000s that saw the Supreme Court decide in several cases that handed power back to the states. *US v. Lopez* saw the Federal Congress being made unable to utilize the Commerce Clause to prohibit firearms in school zones, and *US v. Morrison* also saw it decided that attacks on women were not matters associated with interstate commerce. In these cases, the Federal government was made unable to determine the laws in these matters, even though the Commerce Clause was invoked as justification. Thus, power was handed back to the States to decide how to regulate firearms in regards to school zones and how to deal with violence against women.