

Mark Scheme (Results)

Summer 2015

Pearson Edexcel GCE in Government and Politics (6GP04/4C)

Paper 4C: Governing the USA



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General Marking Guidelines

• All candidates must receive the same treatment. Examiners must mark the first candidate in exactly the same way as they mark the last.

• Mark schemes should be applied positively. Candidates must be rewarded for what they have shown they can do rather than penalised for omissions.

• Examiners should mark according to the mark scheme not according to their perception of where the grade boundaries may lie.

• There is no ceiling on achievement. All marks on the mark scheme should be used appropriately.

• All the marks on the mark scheme are designed to be awarded. Examiners should always award full marks if deserved, i.e. if the answer matches the mark scheme. Examiners should also be prepared to award zero marks if the candidate's response is not worthy of credit according to the mark scheme.

• Where some judgement is required, mark schemes will provide the principles by which marks will be awarded and exemplification may be limited.

• When examiners are in doubt regarding the application of the mark scheme to a candidate's response, the team leader must be consulted.

• Crossed out work should be marked UNLESS the candidate has replaced it with an alternative response.

Question	Question
Number	
1.	To what extent has the federal government's influence over the
	states increased since 2008?
Indicative content (this is not an exhaustive account of relevant points)	

Since 2008, the fundamental federal structure of the US has remained unaltered, and the states have continued to exercise a considerable degree of independence from the federal government on a variety of issues, including:

- same sex marriage the states' right to determine their own marriage laws was upheld by US v Windsor and same sex marriage is currently legal in 36 states
- voting rights the obligation on some states to obtain 'pre-clearance' from the Justice Department before changing their voting laws was lifted in *Shelby v Holder* and a number have brought in requirements regarding e.g. voter ID
- Medicaid the requirement in the Affordable Care Act that states expand their Medicaid provision was declared unconstitutional in *National Federation v Sebelius*
- gun control a number of states e.g. Maryland have strengthened their own gun control laws after the failure of Congress to pass legislation in 2013
- drug use four states have legalised the recreational use of cannabis in defiance of federal law

The Obama administration has however expanded the influence of the federal government over the states through, e.g.:

- education the Obama administration's 'Race to the Top' programme has given states a financial incentive to adopt the 'Common Core' educational standards
- health insurance -- the Affordable Care Act requires states to run health insurance exchanges, or the federal government runs them itself
- immigration the federal government has sought to stop some states enacting their own immigration legislation, e.g. the legal action taken by the Justice Department against Arizona in *Arizona v US*

A threshold Level 2 response will typically exhibit the following features:

• Some limited knowledge and understanding, some attempt to make a relevant response to the question, but superficial and undeveloped.

A threshold Level 3 response will typically exhibit the following features:

LEVELS	DESCRIPTORS
<i>Level 3</i> (11-15 marks)	 Good to excellent: knowledge and understanding of relevant institutions, processes, political concepts, theories or debates. ability to analyse and explain political information, arguments and explanations. ability to construct and communicate coherent arguments, making good use of appropriate vocabulary.
<i>Level 2</i> (6-10 marks)	 Limited to sound: knowledge and understanding of relevant institutions, processes, political concepts, theories or debates. ability to analyse and explain political information, arguments and explanations. ability to construct and communicate coherent arguments, making some use of appropriate vocabulary.
<i>Level 1</i> (0-5 marks)	 Very poor to weak: knowledge and understanding of relevant institutions, processes, political concepts, theories or debates. ability to analyse and explain political information, arguments and explanations. ability to construct and communicate coherent arguments, making little or no use of appropriate vocabulary.

Question Number	Question
2.	What is the 'living constitution' approach to judicial interpretation and why has it been criticised?

The 'living constitution' approach to judicial interpretation holds that the constitution was written in broad and flexible terms to enable it to be adapted to the needs of a changing society, or in accordance with the 'evolving standards of decency', in the words of Chief Justice Warren; it contrasts with an originalist or strict constructionist approach, which places more value on the literal or original meaning of the constitution.

It has been criticised because:

- if justices 'legislate from the bench', it gives the court the appearance of a political/legislative role which undermines the separation of powers
- if they are free to read values into the constitution, it is very likely that justices will simply impose their own
- the court is unelected and unaccountable, and undermines its legitimacy if it is seen to be advancing its own agenda; the lack of checks on the court can lead to accusations of an 'imperial judiciary'
- rights which 'living constitution' justices read into the text are likely to be seen to lack legitimacy and cause dissent e.g. the history of protest against the abortion rights created in *Roe*
- every other law is 'dead' in the sense that its meaning does not alter over time, and the constitution in particular is supposed to embody enduring values – if it requires alteration, there is an amendment process

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Question Number	Question
3.	Assess the significance of the exclusive powers of the Senate.
Indicative conten	t (this is not an exhaustive account of relevant points)
Senate, and can ach will also be rewarde	comment on the significance of the exclusive powers of the nieve the full range of marks solely through this approach. They ed if they choose to comment on the significance of these powers ers they share with the House or the House's exclusive powers.
confirmation	rs of the Senate are: of presidential appointments – especially significant in relation to

- confirmation of presidential appointments especially significant in relation to Supreme Court nominations; few are rejected but the need to gain a Senate majority will be an important factor in the president's choice, especially if the Senate is controlled by the opposing party to his own
- treaty ratification most treaties are ratified but the need for a 2/3 majority and consequently for some degree of bipartisan support will influence the president's negotiations
- conduct trial / deliver verdict in impeachment proceedings only rarely required but obviously highly significant when it is
- election of vice-president if no majority in the Electoral College very rarely used
- the filibuster increasingly used and significant; any remotely contentious legislation is now likely to be filibustered by the minority party, meaning that 60 votes are required for it to advance

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Question Number	Question
4.	To what extent does the Speaker of the House of Representatives remain a powerful political figure?

The Speaker is not a non-partisan role and promotes the legislative agenda of the majority party. S/he has a number of significant formal powers, including the power to:

- act as presiding officer in the chamber
- interpret and enforce the rules of the House
- refer bills to standing committees of his choosing
- appoint select committee and conference committee chairs
- appoint majority party members of the House Rules Committee

The power of the Speaker within the House has fluctuated over time; since the 80s, and the ideological polarisation of the two parties, it has grown and when the House is controlled by the non-presidential party, the Speaker effectively becomes the leader of the opposition. When the Speaker and the president are of the same party, e.g. Dennis Hastert during George W. Bush's presidency, s/he may have a lower profile, but still have an important role in promoting the president's agenda. Newt Gingrich who became Speaker in 1995 on a platform hostile to President Clinton, is credited with concentrating power in the office through such means as:

- appointing committee chairs and ignoring seniority
- weakening committee chairs by imposing a three term limit on them
- bypassing committees entirely by establishing leadership task forces to process legislation.

The process of centralisation of power continued under Nancy Pelosi. The current speaker, John Boehner, has had more difficulty than his predecessors in controlling his own party, particularly those elements sympathetic to the Tea Party, and on several occasions has had to abandon the 'Hastert rule' of only bringing to the floor bills supported by a majority of Republicans. This was the case with the vote to end the government shutdown in October 2013.

A threshold Level 2 response will typically exhibit the following features:

• Some limited knowledge and understanding, some attempt to make a relevant response to the question, but superficial and undeveloped.

A threshold Level 3 response will typically exhibit the following features:

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Question Numbe	r Question		
Question Numbe			
5.	Assess the importance of the factors which influence presidents in their choice of cabinet members.		
Indicative cont	Indicative content (this is not an exhaustive account of relevant points)		
Candidates shou some factors wil The factors whic the recruit the buildir congressn bringing the strengther represent	Id recognise that at different times and under different presidents I be more important than others. In influence presidents in their choice of cabinet members include: tement of policy specialists ing of links with Congress through the appointment of serving then and senators rusted advisers into government hing links with key racial groups and with women ing different wings of the party and different regions of the country. I 2 response will typically exhibit the following features: knowledge and understanding, some attempt to make a relevant		
response to t A threshold Leve • A range of	he question, but superficial and undeveloped. I 3 response will typically exhibit the following features: clear knowledge and understanding, explicitly addressing the n detail or evidence to develop.		
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Level 1	Very poor to weak:
(0-5 marks)	 knowledge and understanding of relevant institutions, processes, political concepts, theories or debates. ability to analyse and explain political information, arguments and explanations. ability to construct and communicate coherent arguments, making little or no use of appropriate vocabulary.

Question Number	Question	
6.	To what extent is the US constitution anti-democratic?	

Ways in which the constitution could be considered anti-democratic include: Checks and balances/separation of powers

creates a system in which it is too easy for a minority to block legislation; the composition of the legislature with two equal chambers elected by different constituencies, and in the Senate at different times, means the popular will is difficult to identify and act on

Senate

originally unelected, still two per state regardless of population Electoral College

- method of indirect election, and even though all electors now formally pledged to candidates, 'faithless electors' can vote as they see fit
- distortion of popular vote means that the winner of the popular vote may still lose the election

amendment procedure

too difficult - means updating can be resisted by a determined minority, e.g. the failed attempts to ratify the ERA

Supreme Court

- power of the unelected court over the constitution means it can strike down laws passed by elected legislatures
- because judicial review is not explicitly detailed in constitution, there are no effective formal checks

Ways in which the constitution could be considered not to be anti-democratic include: checks and balances/separation of powers

- the extensive checks and balances means legislation is always carefully considered and a full range of views are brought to bear on it
- Electoral College
 - faithless electors have never affected the result •
 - distortion of popular vote usually works to strengthen the mandate of the winner, only very occasionally does the loser of the popular vote win

amendment procedure

difficulty of amendment is essential to preserve key principles of constitution from short-lived waves of sentiment – the passage of the Prohibition amendments shows the process should be more demanding if anything

A threshold Level 2 response will typically exhibit the following features:

Some limited knowledge and understanding, some attempt to make a relevant response to the question, but superficial and undeveloped.

A threshold Level 3 response will typically exhibit the following features:

A01	Knowledge and understanding	
<i>Level 3</i> (9-12 marks)	Good to excellent knowledge and understanding of relevant institutions, processes, political concepts, theories or debates.	
<i>Level 2</i> (5-8 marks)	Limited to sound knowledge and understanding of relevant institutions, processes, political concepts, theories or debates.	
<i>Level 1</i> (0-4 marks)	Very poor to weak knowledge and understanding of relevant institutions, processes, political concepts, theories or debates.	
A02	Intellectual skills	
<i>Level 3</i> (9-12 marks)	Good to excellent ability to analyse and evaluate political information, arguments and explanations.	
<i>Level 2</i> (5-8 marks)	Limited to sound ability to analyse and evaluate political information, arguments and explanations.	
<i>Level 1</i> (0-4 marks)	Very poor to weak ability to analyse and evaluate political information, arguments and explanations.	
A02	Synoptic skills	
<i>Level 3</i> (9-12 marks)	Good to excellent ability to identify competing viewpoints or perspectives, and clear insight into how they affect the interpretation of political events or issues and shape conclusions.	

<i>Level 2</i> (5-8 marks)	Limited to sound ability to identify competing viewpoints or perspectives, and a reliable awareness of how they affect the interpretation of political events or issues and shape conclusions.	
<i>Level 1</i> (0-4 marks)	/ery poor to weak ability to identify competing viewpoints or perspectives, and a little awareness of how they affect the nterpretation of political events or issues and shape conclusions.	
A03	Communication and coherence	
<i>Level 3</i> (7-9 marks)	Good to excellent ability to construct and communicate coherent arguments, making good use of appropriate vocabulary.	
<i>Level 2</i> (4-6 marks)	Limited to sound ability to construct and communicate coherent arguments, making some use of appropriate vocabulary.	

Question	Question
Number	
7.	'The President cannot always have the foreign policy he wants.' Discuss.
Indicative conte	nt (this is not an exhaustive account of relevant points)
 war-making deploy arme the attempt Powers Act as constitut to a halt an use the cou the presiden Congress is the presiden doesn't nee the Suprem policy in 19 	ggests the president can determine foreign policy includes: - the president's power as commander in chief means he can d forces without congressional authorisation by Congress to reassert war-making authority through War 1973 has been unsuccessful: no president has ever recognized it ional, it has never been successfully used to bring military action d the judiciary has resisted attempts by members of Congress to rts to enforce it, see e.g. <u>http://tinyurl.com/njvhhyz</u> nt is dependent on Congress for financing of military action, but very reluctant to be seen to abandoning troops in the field nt can make executive agreements with other countries and d the 2/3 majority in Senate required for a formal treaty e Court affirmed the pre-eminence of the president in foreign 36 in <i>US v Curtiss-Wright</i> and then in 2015 in <i>Zivotofsky v Kerry</i>
 Evidence which suggests the president cannot determine foreign policy includes: Congressional leaders may intervene in foreign policy e.g. the Boehner invitation to Netanyahu to address Congress in 2015 presidential actions are often checkable by Congress, e.g. President Obama announced the resumption of diplomatic relations with Cuba in 2014 but lifting trade and travel restrictions requires the repeal of Helms-Burton trade - fast-track authority has lapsed since 2007 and Congress refused to renew it for the Trans-Pacific Partnership in 2015 treaties - executive agreements expire after the departure of the president who issued them; only a few treaties are formally rejected by the Senate, but the CTBT was rejected 1999 federal bureaucracy - several federal agencies a have stake in foreign policy, e.g. State Department. Defense Department, NSC, CIA, all with different priorities and potentially pulling in different directions some pressure groups are highly influential and may resist the presidential agenda, e.g. the role of the Israeli lobby over Middle Easy policy public opinion - post-Vietnam, presidents are highly sensitive to public reaction to troop casualties 	
Some limited k	2 response will typically exhibit the following features: mowledge and understanding, some attempt to make a relevant e question, but superficial and undeveloped.
• A range of c	3 response will typically exhibit the following features: lear knowledge and understanding, explicitly addressing the detail or evidence to develop.

A01	Knowledge and understanding	
<i>Level 3</i> (9-12 marks)	Good to excellent knowledge and understanding of relevant institutions, processes, political concepts, theories or debates.	
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A02	Intellectual skills	
<i>Level 3</i> (9-12 marks)	Good to excellent ability to analyse and evaluate political information, arguments and explanations.	
<i>Level 2</i> (5-8 marks)	Limited to sound ability to analyse and evaluate political information, arguments and explanations.	
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AO2	Synoptic skills	
<i>Level 3</i> (9-12 marks)	Good to excellent ability to identify competing viewpoints or perspectives, and clear insight into how they affect the interpretation of political events or issues and shape conclusions.	
<i>Level 2</i> (5-8 marks)	Limited to sound ability to identify competing viewpoints or perspectives, and a reliable awareness of how they affect the interpretation of political events or issues and shape conclusions.	
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Question Number	Question
8	To what extent has the Supreme Court advanced conservative values since 2005?

Since 2005 four new justices have joined the court; three were like-for-like replacements, Roberts for Rehnquist, Sotomayor for Souter, Kagan for Stevens, and did not affect the ideological balance. The fourth replacement, Alito, replaced O'Connor, and was seen to move the balance towards the right, giving conservatives a 5-4 majority. In this situation, it was expected that the court would more assertively advance conservative values.

Cases in which conservative values have been advanced by the Supreme Court since 2005 include:

- *Citizens United* election expenditure
- Heller/McDonald gun rights
- Shelby states' exemption from the Voting Rights Act
- *Hobby Lobby* religious rights of businesses

Cases in which conservative values have not been advanced by the Supreme Court since 2005 include:

- Sebelius individual mandate of the Affordable Care Act
- Hamdan rights of terrorist suspects
- Boumediene rights of terrorist suspects
- Graham death penalty restrictions
- Windsor same sex marriage rights
- *Perry* same sex marriage rights

Cases in which liberals and conservatives have voted together since 2005 include:

- *Snyder* freedom of expression
- Brown prisoner rights
- *Riley* cell phones' protection from unreasonable searches

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SUMMARY A2 MARKING GRIDS

These grids should be used in conjunction with the fuller Level descriptors.

	Excellent	15
Level 3	Very good	13-14
	Good	11-12
	Sound	10
Level 2	Basic	8-9
	Limited	6-7
	Weak	4-5
Level 1	Poor	2-3
	Very poor	0-1

PART A - SHORT QUESTIONS (15 marks)

PART B – ESSAY QUESTIONS (45 marks)

AO1 / AO2 / Synopticity		
Level 3 (Good to excellent)	9-12	
Level 2 (Limited to sound)	5-8	
Level 1 (Very poor to weak) 0-4		

A03	
Level 3 (Good to excellent)	7-9
Level 2 (Limited to sound)	4-6
Level 1 (Very poor to weak)	0-3

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