

Item Name:	Federalism Today
Item Type:	Complex Project
Subject and/or Course:	U.S. Government/Civics, Grade 11-12
Common Core Standards:	<p>CCSS.ELA-LITERACY.RH.11-12.1 Cite specific textual evidence to support analysis of primary and secondary sources...</p> <p>CCSS.ELA-LITERACY.RH.11-12.9 Compare and contrast treatments of the same topic in several primary and secondary sources...</p> <p>CCSS.ELA-Literacy.WHST.11-12.1 Write arguments focused on discipline-specific content....</p> <p>CCSS.ELA-Literacy.WHST.11-12.7 Conduct short as well as more sustained research projects to answer a question...</p> <p>CCSS.ELA-Literacy.WHST.11-12.8 Gather relevant information from multiple authoritative print and digital sources...</p>
Developer/Source:	Published by Summit Public Schools (some modifications made.)
Item Features:	<p>Administration: Curriculum-embedded</p> <p>Length of time for response: Multiple weeks</p> <p>Method of scoring: Analytic Rubric</p> <p>Opportunity for student collaboration: Once a week</p> <p>Opportunity for teacher feedback and revision: Daily</p>

Collection of performance assessment items compiled by



Overview

This learning module will prepare you to write an argument over which level of government, federal or state, should have the authority and power when making and executing laws on controversial issues.

You will research an issue of your choice, write an argument in support of your position, and then present it to a panel of judges.

Standards

AP Standards:

APS.SOC.9-12.I Constitutional Underpinnings of United States Government

APS.SOC.9-12.I.D - Federalism

Objective:

Understand the implication(s) of federalism as a foundation of American government.

Analyze current political issues through the lens of Federalism

Performance Outcomes:

Students will be able to:

- Develop a discipline-specific argument focused on federalism and addressing a specific contemporary issue;
- Locate and use varied sources to understand the topic;
- Compare and contextualize sources to accurately understand them;
- Use and accurately explain evidence from those sources to support their argument;
- Include accurate content and connections to context that support the argument.

Description and Context

Why are some issues, like education, regulated by individual states, whereas others like immigration and interstate commerce fall under the domain of the federal government?

When the framers created the U.S. Constitution they did not envision some of the



controversial issues that exist today. These include, but are not limited to, gay marriage, legalization of drugs (i.e., marijuana), gun control, health care, and education.

Your task is to select an issue you are interested in and make a strong argument about what level of government - state or local - should address that issue. Specifically, consider the implications of which level of government should have the authority and power in executing laws or public policy related to that issue. You will need to reference the U.S. Constitution, Supreme Court precedent, and relevant political, economic, and social contexts to support your argument. After constructing an argumentative claim and selecting high-quality evidence in the essay, you will present your findings and recommendations, in regards to what level of government should have the autonomy to decide the issue, to a panel of experts.

Step 1: Intro to Federalism - Reading and PPT

The purpose of this task is to introduce you to the fundamental concept of Federalism, specifically focusing on the implications of sovereignty between the state and federal government (Hook - parents).

Go over Project Overview and Rubric

Step 2: Case Studies in Federalism

The purpose of this task is for you to show your understanding of how power is distributed between the states and federal government according to the U.S Constitution. Read the three case studies provided and answer the questions at the end of each case. (available from TCI at <http://www.teachtci.com/programs/high-school/government-alive-textbook/power-politics-and-you/table-of-contents.html>)

Work Products

- “Questions for Federalism Case Study”



Step 3: Current Issues and Federalism

The purpose of this task is for you to pick an issue you are currently passionate about or would like to learn more about. You will identify why you are interested in this issue.

Work Products

- “Picking a Current Issue - Real World Context”

Step 4: Research Your Issue – U.S. Constitution, Supreme Court Precedent, and Context

The purpose of this step is for you to illustrate how the U.S. Constitution, Supreme Court precedent, and logic support your position on who should have power to decide over your issue.

Work Products

- “Federalism Project: Researching Your Issue”

Step 5: Federalism Today Rough Draft

You will contextualize your sources and use sentence and paragraph structures such as transitions to add cohesion and organization to the essay as a whole. Organizing evidence in a clear way will also be crucial in effectively supporting your claims and subclaims.

Work Products

- “Federalism Today: Persuasive Essay Outline”
- “Persuasive Essay: The DARE strategy”



Step 6: Federalism Today Peer Edit

You will share your essay with a peer. They will read it and complete the peer review sheet. Take the feedback you have received and revise your essay. You will then submit your final draft.

Work Products

- Peer Review 1 - “Peer Editing Guide”
- Peer Review 2 - “Peer Editing Guide”

Step 7: Federalism Final Draft

After receiving feedback from two of your peers write your final draft and submit it.

Step 8: Present to a Panel of Experts

Organize a presentation for a panel of experts that include public policy consultants, district office representatives, et. al.

Work Products

- “Federalism Presentation Rubric”

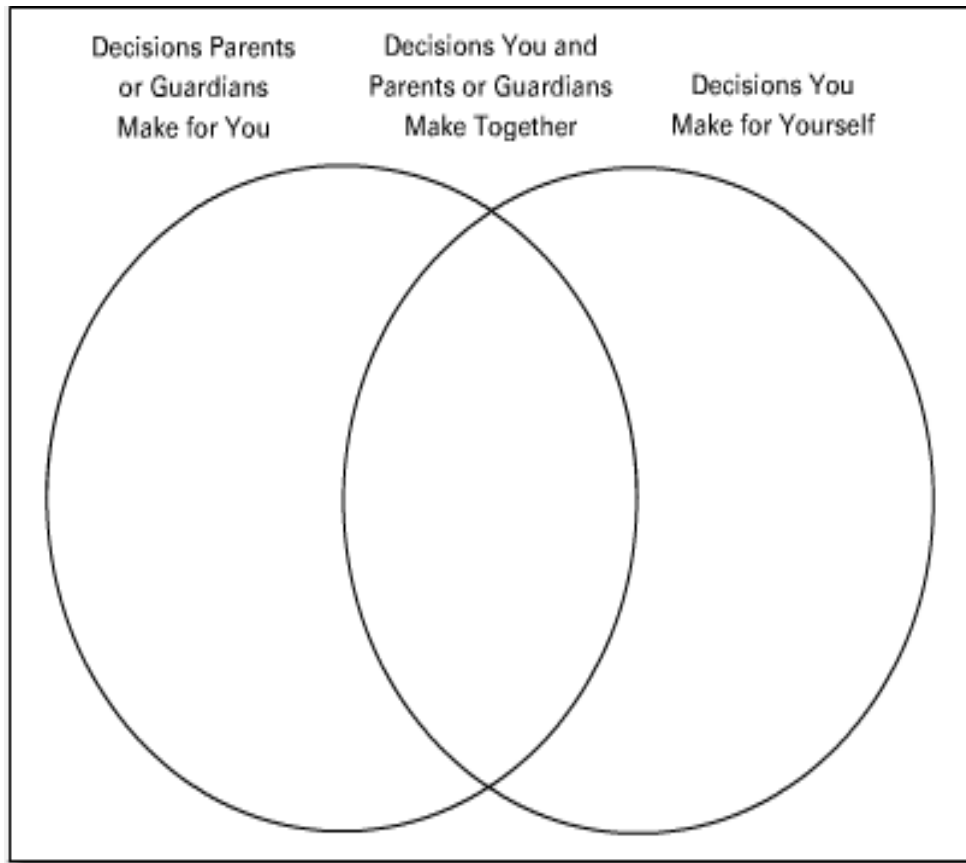


SAMPLE STUDENT MATERIALS AND TASK ARTIFACTS

Introductory Hook: Federalism: Your parents and You!	Page 7
Project Overview	Page 8
Introduction to Federalism: Reading	Pages 9-16
Picking a Current Issue—Real World Context	Page 17
Researching your Issue	Page 18
Persuasive Essay Outline	Page 19
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Peer Editing Guide	Pages 21-22
Rubric	Pages 23-24
Sample of Student Work	Pages 25-27



Federalism: Your parents and you!



1. What types of decisions do your parents or guardians make for you? What types of decisions do you make for yourself? What types of decisions do you make together?
2. Why are some decisions shared while others are not?
3. What are the benefits of making decisions this way? What are the drawbacks?
4. How do you think this system of making decisions is similar to the way power flows between national and state governments?

Federalism: State and National Powers

Who should have the power in our government?

How does power flow through our federal system of government?

Directions:

You will research an issue of your choice and answer the following question:

What level of government - state or federal - should have the power to make laws regarding the following issues?

Issues to choose from:

Gun Control
Legalization of Drugs (i.e. Marijuana)
Healthcare
Environmental Issues
Immigration
Education
Voting Rights
Assisted Suicide
Minimum Wage

Make sure you use the U.S. Constitution and decisions handed down by the Supreme Court to support your argument. Use these terms within your evidence to support your argument:

Tenth Amendment
Reserved Powers
Concurrent (shared) Powers
Expressed (Enumerated) Powers
Commerce Clause
Privileges and immunities clause
New Federalism
Block Grants
Necessary and Proper Clause

Directions:

Step 1: Complete the Federalism Case Studies Packet

Step 2: Pick an issue that you are passionate about or want to learn more about.

Step 3: What does the Constitution, Supreme Court precedent, and “logic” say about your issue and who has the power to make decisions regarding your issue?

Step 4: Write a persuasive/argumentative essay

☐ Step 4a: Have a peer review your essay

Step 5: Present your argument to an expert panel



Federalism: National, State, and Local Powers

EQ: How does power flow through our federal system of government?

Introduction:

You might not expect the gray wolf to be involved in a power struggle between the national government and state wildlife agencies. Under our federal system of government, states traditionally exercised control over wildlife within their borders. Wolves were universally viewed as threats to people and livestock. In fact, many states paid residents a bounty, or reward, for every wolf they killed. As a result, by the mid-1900s, wolves had all but disappeared from every state except Alaska.

Concern over the dwindling population of once-common animals such as the gray wolf led Congress to pass the Endangered Species Act in 1973. This law gave control of endangered animals to the U.S. Fish and Wildlife Service. Once the gray wolf came under federal protection, state bounties were banned and the hunting of wolves was outlawed in most areas. A person found guilty of killing a wolf could be punished with a fine of \$100,000 and a year in jail.

The Fish and Wildlife Service also worked to restore endangered species to habitats where they had once flourished. As part of this effort, federal officials reintroduced gray wolves to Yellowstone National Park in 1995. No wolves had been seen in the park, which includes parts of Idaho, Montana, and Wyoming, since 1939.

The return of wolves to Yellowstone Park triggered a storm of protest from nearby sheep and cattle ranchers. Fearing wolf raids on their livestock, they urged state officials to wrest control of the growing wolf population away from the federal government. Fish and Wildlife Service officials resisted these efforts, fearing that handing over wolf management to the states could lead to overhunting and even extinction.

By early 2007, the wolf population in Idaho and Montana had grown to the point at which the Fish and Wildlife Service agreed to return management of wolves back to state agencies. Wyoming, however, had not yet developed a management plan that both state and federal officials found acceptable.

This long and often-heated debate over who should manage the gray wolf is an example of the kinds of conflicts that can arise in a federal system of government. This chapter will trace the evolution of federalism in the United States over the past two centuries, including the important role of state and local governments within our federal system of government.



1. Why did the gray wolf population become a government issue?
2. What were the national (federal) government's arguments?
3. What were the state governments' arguments?
4. How do you think power might flow through our federal system of government?

Section 2: The Establishment of a Federal System

The United States was the first nation-state founded with a federalist system of government. The adoption of such a system by the framers of the Constitution was not so much a choice as a necessity. The delegates attending the Constitutional Convention in 1787 knew full well that the 13 states would be reluctant to give up any real power to a national government. As a result, the framers were careful to spell out how power should be divided among the national government and state governments.

The Constitutional Division of Powers

The U.S. Constitution divides powers into three categories: expressed, concurrent, and reserved. The diagram on the opposite page shows how these powers are distributed between the national and state governments.

Expressed powers are powers specifically granted to the national government. The Constitution lists only 17 of these specific powers. Some, such as the power to coin money or to make treaties with other countries, are delegated exclusively to the national government. Others, such as the power to levy taxes, are concurrent powers shared by the national and state governments.

The Constitution says little about the powers reserved by states. But it does place some requirements on state governments. The Full Faith and Credit Clause, for example, insists that states recognize, honor, and enforce one another's public actions. Because of this clause, a driver's license issued by your home state is recognized as legal in any other state.

In addition, the Privileges and Immunities Clause says a state cannot discriminate against residents of other states or give its own residents special privileges. This means that if you move to a new state, you will enjoy all of the rights given to any other citizen of that state.

The Tenth Amendment further clarifies the constitutional division of powers by declaring that powers not specifically delegated to the national government are reserved for the states. These reserved powers include overseeing public schools, regulating businesses, and protecting state resources. The states also reserve the power to



establish and regulate local governments.

The Benefits of a Federal System

While the framers had little choice but to create a federal system of government, they could see several benefits of federalism. Four of the most important are listed below.

Federalism protects against tyranny of the majority. By dividing power among several units of government, federalism makes it difficult for a misguided majority to trample the rights of a minority. If a minority group feels abused in one state, its members can move to a state where their rights are more likely to be respected.

Jonah Goldberg, an editor with the National Review, compared the states to housing dorms on a hypothetical college campus to describe how this protection benefits a diverse population. On this campus, roughly half of the students like to have loud parties every night, while the other half like to have peace and quiet for studying. He wrote,

A purely democratic system where all students get to decide dorm policy could result in the tyranny of 51 percent of the students over 49 percent of the students. The party-hardy crowd could pass a policy permitting loud music and . . . parties at all hours of the night. Or if the more academically rigorous coalition won, they could ban “fun” of any kind, ever . . .

But, if you allowed each individual dorm to vote for its own policies, you could have a system where some dorms operate like scholarly monasteries and other dorms are more fun than a pool party . . . Theoretically, 100 percent of the students could live the way they want. Maximized human happiness!

—Jonah Goldberg, “United States of Happiness,” *National Review Online*, 2004

Federalism promotes unity without imposing uniformity. As Goldberg’s example suggests, federalism allows groups with different values and different ways of life to live together in peace. Likewise, federalism allows states to pass laws that reflect the needs and goals of their citizens while still remaining part of the union of states. All states, for example, support public education for young people. But how schools are funded and regulated differs from state to state, depending on local preferences.

Federalism creates “laboratories” for policy experiments. The flexibility of federalism allows states to act as testing grounds for innovative solutions to common problems. U.S. Supreme Court Justice Louis Brandeis once noted,

It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory and try novel social and economic experiments without risk to the rest of the country.

—Justice Louis Brandeis, dissent in *New State Ice Co. v. Liebmann*, 1932

If a state tries a new idea and succeeds, other states will follow suit. On the other hand, if an experimental policy fails, the problems that result are limited to one state. In some cases, a failure may provide lessons to others about better ways to implement policies.

Federalism encourages political participation. Finally, federalism provides an



opportunity for people to be involved in the political process closer to home than the nation's capital. As Goldberg observed,

The more you push . . . decisions down to the level where people actually have to live with their consequences, the more likely it is they [the people] will be a) involved and interested in the decision-making process, and b) happy with the result. Federalism . . . requires the consent of the governed at the most basic level. Sure, your side can lose an argument, but it's easier to change things locally than nationally.

The Drawbacks of a Federal System

For all of the benefits, there are drawbacks to a federal system. One is the lack of consistency of laws and policies from state to state. This can create problems when people move from state to state. Drivers who cross state lines, for example, may not be aware that the speed limits and traffic laws of one state may not apply to the next. Teachers and other professionals often face hurdles when they move from state to state. A teaching credential valid in one state may not allow a teacher to teach in another state without additional testing or coursework.

Another drawback of our federal system is the tension it sometimes creates between state and federal officials. The Constitution does not always draw a clear dividing line between national and state powers. For example, it does not specify whether control of wildlife should be a federal or a state responsibility. The same can be said for other issues, such as regulating air quality and providing health care to the poor. When questions arise over who is in charge, it is often left to the Supreme Court to draw the line between the state and federal authority.

Section 3 - The Evolution of Federalism

There are approximately 88,000 national, state, and local units of government in the United States. The diagram on the opposite page shows how that total breaks down into a pyramid of governments. Not surprisingly, with so many different units of government at work in this country, relations among the different levels have evolved and changed over time.

Dual Federalism: A Layer Cake of Divided Powers

The framers of the Constitution disagreed among themselves about the ideal balance of power among the different levels of government. But they did agree, as James Madison wrote in The Federalist No. 45, that the powers of the national government were “few and defined” and the powers of the states “numerous and indefinite.”

From 1790 to 1933, national and state governments maintained a fairly strict division of powers. Political scientists sometimes refer to this system as **dual federalism**, or “layer cake” federalism. In such a system, the two levels of government are part of the whole, but each has its own clearly delineated responsibilities.

During the era of dual federalism, the Supreme Court sometimes played the role of referee between the states and the national government. In the case of *McCulloch v.*



Maryland (1819), which was discussed in Chapter 4, the Court made it clear that federal laws took precedent over state laws when the two came into conflict.

A few years later, the Court further clarified the roles of the state and national governments, this time in the regulation of commerce. The case of *Gibbons v. Ogden* (1824) arose when the New York State legislature granted Aaron Ogden a monopoly on steamboat operations between New York and New Jersey. Ogden went to court in New York to force a rival steamboat operator, Thomas Gibbons, off the river. When the state court ruled in Ogden's favor, Gibbons appealed the decision to the Supreme Court.

Lawyers for Gibbons argued that New York had no authority to limit commerce on waterways between states. The Supreme Court agreed. Chief Justice John Marshall concluded that the Constitution clearly gives control of trade among the states to the national government. As a result, New York's grant of a monopoly to Ogden was unconstitutional.

The Gibbons decision drew a sharp line between state and federal power. The national government controls **interstate commerce**, or trade among the states. The states control **intrastate commerce**, or trade within their borders. This clear division of power was typical of how federalism worked during the dual federalism era.

Cooperative Federalism: A Marble Cake of Mixed Powers

The Great Depression of the 1930s led to a very different conception of federalism. As the Depression deepened, the efforts of state governments to feed the hungry and revive the economy proved inadequate. In desperation, Americans turned to the national government for help.

On taking office in 1933, President Franklin Roosevelt launched a flurry of legislation known as the New Deal. These New Deal programs ushered in a new era of shared power among national, state, and local governments. Unlike in the past, when officials at different levels had viewed each other with suspicion, they now worked together as allies to ease human suffering.

Political scientists refer to this new era as one of **cooperative federalism**, or "marble cake" federalism. Political scientist Morton Grodzins wrote of the federalist system during this period,

When you slice through it you reveal an inseparable mixture of differently colored ingredients . . . so that it is difficult to tell where one ends and the other begins. So it is with the federal, state, and local responsibilities in the chaotic marble cake of American government.

—"The Federal System," 1960

The diagram on this page illustrates the differences between dual (layer cake) and cooperative (marble cake) federalism.

A key ingredient in marble cake federalism was a mix of federal **grants-in-aid** programs. Grants-in-aid are funds given by the federal government to state and local governments for specific programs, such as aid to the unemployed. Such grants had long been used by the national government, but only for very narrow purposes. Roosevelt greatly expanded the use of grants-in-aid to get help to the needy. In 1927,



shortly before the Depression began, federal funds made up less than 2 percent of state and local government revenues. This figure jumped to just over 13 percent early in the New Deal and remained near there until 1960.

Regulated Federalism: More Money with More Strings Attached

A generation later, President Lyndon Johnson set out to expand on the New Deal by creating what he called the Great Society. The Great Society was a set of programs designed to end poverty, eliminate racial injustice, and improve the environment.

Like Roosevelt, Johnson looked to state and local governments to carry out many of his new programs. As during the New Deal, the federal government provided funding in the form of grants. But unlike earlier grants-in-aid, Great Society grants often came with strict regulations as to how the money could be spent. Johnson called his partnership with state and local governments creative federalism. Political scientists, however, prefer the more descriptive term **regulated federalism**.

Johnson's Great Society legislation led to a huge increase in federal involvement in state and local governments. Political scientist Timothy Conlan observed that by the end of the 1960s,

The federal government became more involved in virtually all existing fields of governmental activity—including many that had been highly local in character (for example, elementary and secondary education, local law enforcement, libraries, and fire protection). In addition, new public functions were established, such as adult employment training, air pollution control, health planning, and community antipoverty programs.

—Timothy Conlan, *From New Federalism to Devolution: Twenty-Five Years of Intergovernmental Reform*, 1998

Although state and local governments welcomed the new influx of federal funds, they were not happy about the federal regulations that came with the money. They were even less happy about the rapid growth of **unfunded mandates** that began in the 1960s. These are programs and regulations imposed on state and local governments by Congress without adequate funding, if any, attached to them.

Unfunded mandates were attractive to members of Congress, since members could declare that they were solving problems without having to raise taxes to fund the solutions. Instead, the mandates put the burden of paying for those solutions on state and local governments. In effect, Congress provided the recipe for solving problems but required state and local governments to provide the ingredients—both money and people—to make those solutions work.

New Federalism: Returning Power to the States

The rapid expansion of federal power in the 1960s alarmed people who valued state and local control. While running for president in 1968, Richard Nixon promised voters that he would restore “true” federalism by reigning in federal power. Nixon called his pledge to return power to the states the **new federalism**. Political scientists call these more recent efforts to return power to the states **devolution**.



Devolution began slowly in the 1970s and 1980s, first under President Nixon and later under President Ronald Reagan. Both presidents tried to shift power back to the states by encouraging them to write their own “recipes” for solving problems. The national government’s role was reduced to providing ingredients, mostly in the form of federal funds.

Devolution picked up speed in 1994, when Republicans gained control of Congress for the first time in 40 years. Once in power, the new Republican majority enacted the Unfunded Mandates Reform Act. The purpose of this 1995 law was to stop Congress from burdening states with responsibilities without providing adequate funding.

A year later, Congress pushed devolution still further when it overhauled the nation’s welfare system. In the past, federal officials had closely regulated how states gave out welfare payments to needy families. The 1996 Personal Responsibility and Work Opportunity Reconciliation Act, more commonly known as the Welfare Reform Act, returned control of welfare systems to state governments.

The federal government continued to provide “ingredients” in the form of **block grants** to the states. But unlike the highly regulated grants-in-aid that funded Great Society programs, block grants left states free to decide how best to spend the money they received. One of the requirements imposed on state welfare programs was that they limit the time a person could receive federally funded welfare payments to five years.

Support for Devolution from the Supreme Court

In recent years, the Supreme Court has contributed to devolution in a series of decisions limiting federal power. One of the first involved the Gun-Free School Zones Act of 1990, a law passed by Congress to create “gun free” zones around public schools. Soon after the law’s passage, Alfonso Lopez Jr., a high school student in Texas, was convicted of violating the law by taking a gun to school. Lopez appealed his conviction on the grounds that Congress lacked the power to regulate gun possession in schools.

United States v. Lopez reached the Supreme Court in 1994. The government argued that possession of a firearm in a school zone could lead to violent crime. Such criminal activity, in turn, could discourage travel in the area. Therefore, the law was a legitimate use of Congress’s power to control interstate commerce.

The Court did not agree. It struck down the 1990 act as an unconstitutional expansion of federal power. In his decision, Chief Justice William Rehnquist wrote,

To uphold the Government’s contentions here, we would have to pile inference upon inference in a manner that would . . . convert congressional authority under the Commerce Clause to a general police power of the sort retained by the States. Admittedly, some of our prior cases have taken long steps down that road . . . but we decline here to proceed any further. To do so would require us to conclude that . . . there never will be a distinction between what is truly national and what is truly local . . . This we are unwilling to do.

If the past is any guide, federalism will continue to evolve in the future. Devolution may continue to shift power back to the states in some areas, such as gun control. In other



areas, such as dealing with terrorism, the national government may expand its power. What is certain is that the debate over how power should be shared will continue.

Do This: After reading section 3 create a timeline in your notebook, and place each of these terms along it:

- Dual federalism
- Cooperative federalism
- Regulated federalism
- New federalism (devolution)

For each term, include the approximate dates that this type of federalism existed and a simple illustration. Also briefly explain how national and state powers were defined during each period.



Step 3: Pick an issue that you are passionate about or want to learn more about.

Why did you choose this issue?

How does this issue impact you?

What does this issue “look like” in your community, state, or country?

Who do you think should have the power to make decisions, laws, rules, etc., concerning your issue?



Federalism Project

Researching Your Issue

Research your issue to find evidence to develop your position on whether the state or the federal government should have power to legislate on the topic you chose.

Your paper & presentation should discuss:

- Context/Background information on your issue (*you should have a quick 30 second summary of the history and debate that surrounds your topic*)
- Arguments in favor of the federal government
- Arguments in favor of the state government
- Constitutional justification for your claim (clauses, articles, powers, amendments, etc.)

Answer the following questions as you research your issue:

1. What is the central debate with your issue?
2. What current events or historical details are important to know in regards to your issue?
3. What is the **state's perspective** (1-2 Paragraphs) on this issue?
4. What is the **federal government's** (1-2 Paragraphs) perspective on this issue?
5. Does the Constitution support State or Federal Power for your issue?
 - a. Which expressed, concurrent, or reserved powers apply to your issue? Explain.
 - b. Are there any amendments that relate to your issue? Explain.
 - c. Does the Commerce Clause, Supremacy Clause, or Elastic Clause apply to your issue? Explain.
6. What Supreme Court decisions have discussed your issue, what was their decision?



Federalism and Current Issues Persuasive Essay and Presentation

I. Introduction: Analysis of issue through providing context (This is the introduction of your essay)

1. What is the state's position/perspective on this issue? How does that clash with the federal government's laws, opinions, etc.?

What is the Federal Government's position/perspective on the issue? How does that clash with the states?

II. Facts of Federalism and the U.S. Constitution (This is the body of your essay)

1. What does the constitution say about your issue?

2. Which of the expressed, concurrent, and/or reserved powers in the U.S Constitution connect to your issue?

3. What positive and negative impacts does this issue have on the community if the federal government has the power?

4. What positive and negative impacts does this issue have on the community if the state government has the power?

KEY TERMS you need to include

Commerce Clause, Supremacy Clause, or Elastic Clause, Amendments, Expressed, Concurrent, or Reserved Powers, Marble Cake Federalism, Dual Federalism, New Federalism,

III. Prediction and Recommendation (Conclusion to Essay)

Prediction: Based on your research, what might you guess will happen next between the state and the federal government? Who appears to be winning the fight?

Recommendation:

What do you think should happen in order to best support your issue and what is best for the community/state?



Persuasive Writing/Argument: The DARE Strategy

THIS IS FOR THE BODY OF YOUR ARGUMENT!!

Directions: You will develop a short persuasive speech for a panel of judges. To prepare you will fill in the matrix below using the DARE writing strategy. Make sure to refer to your resources and guiding questions in order to have legit facts and substance.

One strategy for persuasive writing is creating paragraphs in the following order:

DARE:

- **D**evelop topic sentence
- **A**dd supporting ideas (evidence!!)
- **R**eject an argument for other side
- **E**nd with conclusion

Develop topic sentence	Example 1: The Dream act must get passed!! Example 2: The Dream act will destroy American society!
Add supporting ideas	Example 1: Undocumented students have a right to an education and deserve a chance to get legal status. Example 2: The Dream Act will give amnesty to people who have broken our immigration laws and encourage more people to come here illegally!
Reject an argument for other side	Example 1: Undocumented students are not criminals, they want to go to college so they can be productive members of society. Example 2: Undocumented students don't deserve the same rights as documented students because they are breaking our immigration laws.
End with conclusion	Example 1: Therefore, you must pass the Dream Act! Example 2: That is why you must oppose the Dream Act!



Peer Editing Directions Worksheet: *After following the directions, write advanced or needs work for each element. Then give a specific suggestion for how the writer can improve that part of the paper.*

Directions	Advanced (Yes/ Extensively) OR Needs Work	Give one specific suggestion for the writer. How can he or she improve this part of the paper?
1. Does the essay clearly take a stance on which level of government should address the issue?		
2. To what extent are the US Constitution and Supreme Court precedents cited?		
3. What evidence is used to support the level of government that should address the issue?		
4. Is there elaboration and analysis of the evidence?		



5. Are the sources accurately contextualized to provide the reader a better sense of their importance?		
6. Is there a coherent structure to the essay that incorporates transitions and paragraph structures to add clarity to the essay?		



Rubric for History/Social Science Research or Inquiry, Grade 12

The ability to reason, problem-solve, develop sound arguments or decisions, and create new ideas by using appropriate sources and applying the knowledge and skills of a discipline.

	EMERGING	E/D	DEVELOPING	D/P	PROFICIENT College Ready	P/A	ADVANCED College Level
INQUIRY¹ <i>What is the evidence that the student can ask a historical/social science question?</i>	<ul style="list-style-type: none"> Question's relevance to the topic is unclear Question is too broad or narrow in scope to allow for adequate investigation 		<ul style="list-style-type: none"> Question is relevant to the chosen topic Question is specific and targeted enough to guide initial investigation 		<ul style="list-style-type: none"> Question is relevant and important in relation to the chosen topic Question can be investigated given available resources 		<ul style="list-style-type: none"> Question is relevant and important in relation to the chosen topic Question is specific and challenging and can be investigated given available resources
ARGUMENT <i>What is the evidence that the student can develop a historical/social scientific argument?</i>	<ul style="list-style-type: none"> Thesis is unclear or underdeveloped Makes unclear or irrelevant claims One claim dominates the argument and alternate or counterclaims are absent 		<ul style="list-style-type: none"> Thesis is relevant to the prompt or research question Makes claims relevant to the thesis Mentions questions or counterclaims 		<ul style="list-style-type: none"> Thesis clearly answers the prompt or research question Makes relevant, specific claims that support the thesis Discusses questions or counterclaims 		<ul style="list-style-type: none"> Thesis is precise and nuanced and clearly answers the prompt or research question Makes relevant, specific, and significant claims that support the thesis Develops and responds to questions or counterclaims to sharpen the argument
EVIDENCE <i>What is the evidence that the student can select sources and support the argument?</i>	<ul style="list-style-type: none"> One or two credible sources that share perspective are consulted Evidence is over-reliant on one source. Evidence is irrelevant OR absent 		<ul style="list-style-type: none"> Multiple credible sources are consulted Refers to evidence from few sources Evidence, including information and quotations, is included and supports the argument 		<ul style="list-style-type: none"> Sources consulted are credible and vary in perspective OR format (e.g., text, graphic, visual media, etc.) Evidence from relevant primary and secondary sources is used in major parts of the argument Evidence, including information and quotations, is explained to support the argument 		<ul style="list-style-type: none"> A variety of sources, both in perspective AND format (e.g., text, graphic, visual media, etc.) are consulted Evidence from relevant and significant primary and secondary sources is used throughout the argument A synthesis of evidence clearly, accurately, and convincingly supports the argument

¹ This domain is to be scored only for tasks that require that students design their own projects.



<p>ANALYSIS <i>What is the evidence that the student can analyze sources?</i></p>	<ul style="list-style-type: none"> Information from sources is indiscriminately presented as fact One source dominates the argument 		<ul style="list-style-type: none"> Uses the date or origins of a source to pose questions Compares points of view or information from different sources 	<ul style="list-style-type: none"> Uses the date and origins of a source to accurately understand its contents or author's point of view Compares sources and notes discrepancies between them 	<ul style="list-style-type: none"> Uses the dates and origins of sources to accurately understand authors' purposes and perspectives and content of the sources Compares sources, noting discrepancies and challenging them with other information or explaining them
<p>CONTENT <i>What is the evidence that the student knows and can use accurate and relevant historical/social scientific content?</i></p>	<ul style="list-style-type: none"> Historical/social scientific content is absent and/or contains significant inaccuracies Connections to particular historical/social science contexts are absent 		<ul style="list-style-type: none"> Historical/social scientific content is limited but accurate Mentions relevant (e.g. historical, political, social, cultural) contexts in relation to topic 	<ul style="list-style-type: none"> Content is detailed, accurate, and supports the argument Includes a discussion of relevant (e.g. historical, political, social, cultural) contexts 	<ul style="list-style-type: none"> Content is accurate, conveys depth and breadth of knowledge on topic, and seamlessly supports the argument Situates issue in relevant and significant (e.g. historical, political, social, cultural) contexts



SAMPLE OF STUDENT WORK

The legalization of marijuana has been a hot debate in the United States since its boom in popularity as a recreational drug in the past 2-3 decades.¹ Before its ban in the majority of the country in 1931, the plant was widely used across the world, elite and commoners alike. In fact, it was required for citizens of Virginia in 1619 to grow hemp since it was a “strategic necessity” to the colony. Even our Founding Fathers, George Washington and Thomas Jefferson, grew the plant on their land. Going a step further, Abraham Lincoln admitted that he loved nothing more than to sit outside his home with a “sweet pipe of hemp.”² However, the Founders did not find it necessary to monitor policies related to the use of marijuana in the Constitution, so we are left to assume which level of government gets control over the issues. This room for interpretation is what causes the very hot debates between federal and state powers over the issue. However, the power of logical assumption leads us to believe that our Founders would have wanted the individual states to control the use of marijuana for its citizens.

The Declaration of Independence, one of the most important documents written by the Founders, officially claims the freedom of the States from King George III and the British government. With the title of “Free and Independent” states comes the privilege to have “full power...to establish Commerce”. Each state has the ability to found its individual trade, obviously under the assumption that the trade is legal by Constitutional means. This claim is immediately countered by Section 8, Clause 3, which gives Congress the power “to regulate Commerce...among the several States”. So, by the words of our Founders, the state shall be given the capacity to oversee the trade within its own borders. As soon as this business departs the states’ bounds, it is in full control of Congress. This gives states the power to legalize marijuana as long as the selling of such product is to stay within the state’s limits.

The enumerated power in Section 8, Clause 3 of the Constitution is what has allowed Congress to assume control of the marijuana industry. Their manipulation of this power has allowed them to ban the use of marijuana under the hypothetical situation that the legalization in one state will lead to interstate commerce, which is technically their area of control. The elastic clause (Section 8, Clause 13) allows Congress to make laws “necessary and proper” to help them execute their literal powers. The 9th Amendment of the Constitution counters the elastic clause by not allowing any of the enumerated powers to be “construed” with the intention to “disparage other [rights] retained by the people”. Basically, Congress is not allowed to misuse the implied powers delegated to them by the elastic clause if it means less Constitutional rights for the people, i.e. the right to create commerce within their state. Though this doesn’t specifically give power to the state, it denies the power to the federal government. So we can already see how the Founding Fathers would have wanted to restrict the federal government’s power on the issue, leaving the control to the states.



The federal government, despite its restrictions, has continued to show a tenacity to control medical marijuana. Recently, Federal agents have closed down hundreds of medical marijuana dispensaries on the Pacific Coast alone. Dispensaries in California, Washington, and Oregon have been shut down left and right. The dispensaries were opened under their respective state laws, many of which were passed in the late 1990's (California - 1996^a, Oregon - 1998^b, and Washington - 1998^c), which allowed carded patients to grow, buy, and possess marijuana from certified businesses. Even though these businesses were operating under very strict and specific laws to serve the state, the laws still opposed a very important federal law: the Controlled Substances Act, enacted in 1970. Under the Controlled Substances Act, marijuana is classified as a Schedule 1 drug, which have “no currently accepted medical use”.³ In the eyes of the national government, marijuana is a drug so severe that it doesn't get the credit of a medicine, despite its healing properties.⁴ This classification allows the federal government to view dispensaries as dangerous establishments which tear the thread of society, no matter how lawful the establishment is.

The recurring conflict is the contradiction of powers. On one hand, the states are insisting they have full power over the legalization and distribution of marijuana within their state borders. On the other, the federal government actively opposes this idea by shutting down hundreds of medical marijuana dispensaries across the country. Individual states have passed laws which are perfectly legal by the intrastate commerce guaranteed in the Declaration of Independence. California, for example, passed the Compassionate Use Act in 1996 which “allows patients with a valid doctor's recommendation” to buy medical marijuana from a licensed dispensary.⁵ Dispensaries such as Oaksterdam University ran courses on how to properly grow marijuana and sold marijuana to patients under the restrictions of this law. Unfortunately, this business was shut down this past summer due to its violation of the federal law. This situation is a perfect embodiment of the crisis; legal by some state standards, illegal by national standards.

The legalization of marijuana is a decision best left to the states. An individual territory should be able to have control over its own commerce. Whether or not a single state sells medical marijuana to its patients is none of the federal government's business, at least as far as the Founding Fathers are concerned. However, once the distribution of medical marijuana becomes a corporation that intends to provide marijuana across America, government agents like the DEA are able to step in and monitor. This type of agreement would create a peaceful balance amongst the people. If such boundaries were clear and consistent, tension between the people and the feds would die down. But since the federal government keeps punishing people for what they understood as perfectly legal, the confusion causes anger and frustration. Had both parties paid attention to what the Founding Fathers clearly would have wanted, much debate would cease and a rightful placement of power would follow.



1. <http://www.dutch-passion.nl/en/grow-info/cannabis-plants/> (accessed 9/17)
 2. <http://www.huffingtonpost.com/robbie-gennet/on-role-models-and-their-b-164387.html> (accessed 9/17)
 3. http://www.deadiversion.usdoj.gov/21cfr/cfr/1308/1308_11.htm (accessed 9/20)
 4. <http://www.benefitsofmarijuana.com/benefits.php> (accessed (9/30)
 5. <http://www.cdph.ca.gov/programs/mmp/pages/compassionateuseact.aspx> (accessed 9/24)
- a. http://norml.org/legal/item/california-medical-marijuana?category_id=835 (accessed 9/30)
 - b. http://norml.org/legal/item/oregon-medical-marijuana?category_id=835 (accessed 9/30)
 - c. <http://norml.org/legal/item/washington-medical-marijuana> (accessed 9/30)

