



**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.

## **MINNESOTA**

### **STATE HEARING QUESTIONS 2016–2017**

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

- 1. The U.S. Constitution was influenced by the Founders' thoughts and views about government. How are their ideas about classical republicanism and natural rights philosophy represented in our governmental institutions and public policies today?**
  - What are the major differences between classical republicanism and natural rights philosophy?
  - What might be the possible consequences for society if either individual rights or the common good (general welfare) are emphasized at the expense of the other?
- 2. The Declaration of Independence says “governments are instituted among men, deriving their just powers from the consent of the governed.” From what source do the people derive the right to establish government?**
  - How is “consent of the governed” related to the concept of popular sovereignty?
  - Presidential candidate Bernie Sanders said “It’s about a grassroots movement of Americans standing up and saying: ‘Enough is enough. This country and our government belong to all of us, not just a handful of billionaires.’” Does social contract theory give the people justification for resistance and revolution?

\*<https://berniesanders.com/press-release/bernie-sanders-i-will-be-a-candidate-for-president/>



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#### **Unit Two: How Did the Framers Create the Constitution?**

**1. Why did the Founders choose to establish a representative democracy rather than a “pure” or “direct” version of democracy?**

- What are the advantages and disadvantages of representative democracy?
- Some people contend that instead of representing states or other geographic areas, representatives should reflect social, economic, or ethnic groups and perhaps even gender groupings. Do you agree or disagree? Why?

**2. The Framers invented a new political system that political scientist Richard Neustadt has called “a government of separated institutions sharing powers.”\* Is this an accurate description? Why or why not?**

- To what extent were the Federalist - Antifederalist debates a discussion of the newness of this system?
- To what extent are these debates still relevant today?

*\*Richard E. Neustadt. Presidential Power and the Modern Presidency, New York: Free Press, 1959,1990.p.29.*



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

1. President Lyndon B. Johnson signed the Voting Rights Act into law on August 6, 1965, saying, “Today is a triumph for freedom as huge as any victory that has ever been won on any battlefield. Yet to seize the meaning of this day, we must recall darker times.”\* Why did Congress think it was necessary to pass the Voting Rights Act?

- How did the decision in *Shelby County v. Holder* in 2013 impact voting rights? Since then, how have legislatures addressed voting rights, voter fraud, and disenfranchisement and how have the courts ruled in cases challenging the laws?
- What is the greater threat to our democracy, voter fraud or lack of voter participation?

\* Lyndon B. Johnson, “Remarks on the Signing of the Voting Rights Act” (speech, Capitol Rotunda, Washington D.C., August 6, 1965), <http://millercenter.org/president/speeches/speech-4034>.

2. The Fourteenth Amendment’s promise, said one of its key advocates, was to give “to the humblest, the poorest, the most despised ...the same rights and the same protection before the law as it gives to the most powerful, the most wealthy, or those most haughty.”\* Do you think this promise is being realized in the United States today? Why or why not?

- How would you differentiate among equality of condition, equality of opportunity, and equal protection of the laws?
- Under what circumstances, if any, is it justifiable to treat people unequally? Describe the circumstances and explain your position.

\*Senator Jacob A. Howard, R. Mich (1863-1871), quoted in Irving Brant *The Bill of Rights, Indianapolis: Bobbs Merrill, 1965, p. 337.*



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

**1. Hamilton in Federalist #70 argues for strong executive power. He reasoned that “all men of sense will agree on the necessity of an energetic executive.”**

- How would you describe an “energetic executive” and do you agree with Hamilton that one is needed? Why or why not?
- What would you tell Hamilton about the Presidency today?

**2. Former Congressman Lee Hamilton once said, “Congress is the most important link between the American people and their national government.”\* Do you agree with Congressman Hamilton’s statement? Why or why not?**

- What are the advantages and disadvantages of the two-year term for members of the House of Representatives?
- Given the demographics of Congress, versus the demographics of the people of the United States, do you believe that Congress truly represents the American people? Explain.

\* Lee H. Hamilton, “Ten Things I Wish Political Scientists Would Teach about Congress” (Pi Sigma Alpha Lecture, American Political Science Association annual meeting, Washington, D.C., August 31, 2000), <http://centeroncongress.org/ten-things-i-wishpolitical-scientists-would-teach-about-congress>.



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

1. In *Brandenburg v. Ohio* the Supreme Court created a two-part test for limiting free expression. Speech can be limited if it is “directed to inciting or producing imminent lawless action and is likely to incite or produce such action.”\* What are the arguments for and against using this test to limit free expression?

- With social media’s ability to mobilize people to engage in potentially violent action, does this two-part test need to change?
- People have relied on the first amendment’s protection for provocative speech to inspire people who are exercising their right to peaceably assemble. In what circumstances, if any, should this right be limited? Explain.

\* *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

2. Chief Justice John Roberts stated, “The fact that technology now allows an individual to carry such information in his hand does not make the information any less worthy of the protection for which the Founders fought. Our answer to the question of what police must do before searching a cell phone seized incident to an arrest is accordingly simple—get a warrant.”\* Do you agree or disagree with the decision of the Supreme Court? Explain your position?

- When is it reasonable, if ever, to conduct a search and seizure without a warrant? Why?
- Does the government have a compelling interest in collecting and storing internet communications? Why or why not? Should the collection of such information by the government require a warrant? Why or why not?

\* *Riley v. California*, 573 US \_ (2014).



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

1. **“Diversity is the great issue of our time...Many claims advanced under the banners of diversity, difference and cultural pluralism are worth heeding...Yet an uncritical embrace of diversity may obscure the need to promote citizenship and the elements of a health civic life.”\* Do you agree or disagree with this judgment of an American scholar? Why or why not?**

- What forms of diversity do you think are “worth heeding” in a democratic society? Why?
- President Wilson argued that a person whose primary identity is with a particular group in America “has not yet become an American.”\* Do you agree or disagree? Why?

\* Steven Macedo, *Diversity and Distrust: Civic Education in Multicultural Democracy*. Cambridge: Harvard University Press, 2000, pp. 1 and 6.

2. **The U.S. Constitution says very little about the relationship between the national and state governments and American Indian nations. Yet tribal sovereignty establishes a unique relationship between American Indian nations and the United States government. How would you characterize this unique relationship?**

- According to David E. Wilkins, “tribal citizens who live within reservations enjoy tribal, state, and federal citizenship.”\* What are the advantages and disadvantages of tribal citizenship?
- If tribal law conflicts with United States constitutional law, which law should prevail? Why?

\* David E. Wilkins and Heidi Kiiwetinepinesik Stark, *American Indian Politics and the American Political System*, 3rd ed. (Latham, MD: Rowman & Littlefield Publishers, Inc., 2011), 113.