



CONSTITUTIONAL LIMITS ON THE POWERS OF GOVERNMENT

SS.7.CG.1.9 Describe how the U.S. Constitution limits the powers of government through separation of powers, checks and balances, individual rights, rule of law and due process of law.

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2023 BENCHMARK UPDATES

- Updated from SS.7.C.1.7
 - Changed from “Describe how the Constitution limits the powers of government through separation of powers and checks and balances.” to Describe how the U.S. Constitution limits the powers of government through separation of powers, checks and balances, individual rights, rule of law and due process of law.”
- Depth of Knowledge Changes within Benchmark
 - No changes
- Benchmark Clarification Changes
 - Changed from “Students will explain the concept of limited government ~~as set forth~~ in the U.S. Constitution.” to “Students will explain the concept of limited government in the U.S. Constitution.”
 - Changed from “Students will describe and distinguish between ~~the concepts of~~ separation of powers and checks and balances.” to “Students will describe and distinguish separation of powers and checks and balances.”
 - Changed from “Students will ~~be able to~~ recognize examples of separation of powers and checks and balances.” to “Students will recognize examples of separation of powers and checks and balances.”
 - Addition of “Students will recognize the influence of the U.S. Constitution on the development of other governments.”
- Vocabulary Changes
 - Addition of “individual rights”, “rule of law”, and “due process”

Essential Teacher Content Background Information

[Teacher Content Notes Not Appropriate For Student Use]

This section addresses the following topics:

1. Limited Government and Natural Rights
2. Separation of Powers and Checks and Balances
3. Rule of Law and Due Process
4. Influence of the U.S. Constitution on the Development of Other Governments

1. Limited Government and Natural Rights

The Founding Fathers were deeply concerned about the government abusing its power. It was reasoned that when a government abused its power, it deprived the citizens of their liberty. As liberty was a fundamental God-given right, assurances had to be made to protect the people from the government abusing its power.

The Founding Fathers consulted the works of many political philosophers, including John Locke (1632-1704), when they developed government structures that protected the people from government abusing its powers. According to Locke, men lived in a “state of nature,” which meant that one is allowed to conduct one’s life as one best sees fit, free from the interference of others. There is no government in a state of nature, and people are assumed to be equally responsible for protecting each others’ “life, health, liberty and possessions”. The laws by which people lived were derived from God, and these laws included the notion that people were forbidden from harming one another. Thus, the state of nature is a state of liberty where persons are free to pursue their own interests provided that, in doing so, they do not harm one another.

Still, it is not uncommon for property disputes to arise. Under the state of nature, there is no government to appeal one’s grievances against one person who has stolen property or liberty (i.e. making a person a slave). Under the law of nature, men are allowed to defend their lives and their property, which includes the right to kill others who threaten their property or liberty. This meant that there was no civil authority to settle disputes and put the community at risk for an outbreak of war due to the lack of a civil government.

According to Locke, civil governments were established for the sake of protecting property. Property is the basis for Locke’s argument for both a social contract and civil government because it is the protection of that property (property protection extends to a person so that one has dominion over their own bodies) that compels men to choose a civil government and abandon the notion of living in a state of nature. The social contract is a voluntary agreement between the people and the government.

These ideas show that people are born with God given (natural) rights that are protected by civil governments. Governments are created to protect that which belongs to the people. However, governments are limited in their regulation of human behavior to the extent to which the people themselves believe does not infringe on their God-given freedoms. The people enter into a social contract voluntarily, provided that the government is formed in a way that respects natural rights and is derived from the consent of the governed.

2. Separation of Powers and Checks and Balances

The U.S. Constitution is organized around a separation of powers system that utilizes checks and balances. The powers to legislate, enforce and adjudicate are separated into three different branches of government. These branches may not function with complete independence. The founding fathers feared that branches functioning independently might still abuse their power. Thus, while there are separate branches of

government, and each is vested with specific powers, this does not mean that each branch operates without some level of oversight from one or both other branches.

Baron de Montesquieu's (1689-1755) 1748 work, *The Spirit of the Laws* (French: *L'Esprit des Loix*), on the theory of separation of powers and checks and balances had a strong influence on the founding fathers. Montesquieu argued that "government should be set up so that no man need be afraid of another," which was well received by the founding fathers, particularly James Madison, who believed that a clearly defined and balanced separation of powers system that utilized checks and balances would provide a stable foundation for the new government.

Montesquieu argued that a government should be created to accommodate separate branches of government with equal but different powers. This way, power would not be concentrated with one individual or group of individuals. Liberty was threatened if power became concentrated in one place; thus, no branch of government could threaten the freedom of the people.

3. Rule of Law and Due Process

Additionally important components of the U.S. Constitution are the inclusion of rule of law and due process of law. These two principles were important to the Founders, and accusations in the Declaration of Independence assert that these principles were both violated under British rule.

Due process of law is the idea that people accused of a crime still have individual rights, that the process of weighing their accused crimes must take place fairly, following an established standard, before they can lose either their life or freedom. In the Declaration of Independence, Jefferson writes about "*depriving us in many cases, of the benefits of Trial by Jury*". In the U.S. Constitution, this principle is reflected in the Fifth Amendment when it states: "*No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, ...nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law;*"

Rule of law is the idea that those who govern must also follow the same laws as everyone. No one is above the law. In the U.S. Constitution this principle is reflected in Article VI when it states: "*This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; ...shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.*"

4. Influence of the U.S. Constitution on the Development of Other Governments

The U.S. Constitution has served and continues to serve as a model for other governments both at home and abroad. Elements of our constitution and governmental structure such as limited government, separation of powers, checks and balances, and providing individual rights to the people, serve as examples and references for the development of other governments. The similarities may be seen through borrowed passages and language in other constitutions.

In the United States, all fifty state constitutions have been influenced by the U.S. Constitution. They all resemble the national Constitution in their separation of powers into executive, legislative, and judicial branches, as well as stipulate checks and balances on power. They all also contain some version of a bill of rights, protecting individual rights and promoting the concept of limited government. As supreme law of the land, the U.S. Constitution continuously influences the development of state constitutions and laws. For example, prior to being readmitted to the Union after the Civil War, states that succeeded had to draft new state

constitutions that reflected the Reconstruction amendments (13th, 14th, 15th).

Americans have influenced the writing of constitutions for nations throughout the world. Written in 1787, ratified in 1788, the U.S. Constitution is the world's longest surviving written government charter. It has served as a model for centuries, especially for countries that undergo democratic revolutions. Examples of nations who have at some point in their constitutional history used the U.S. Constitution as a model include, but are not limited to: France, Mexico, Philippines, Japan, India, Australia, Canada, Switzerland, and Guatemala.

Lesson Summary

ESSENTIAL QUESTION		
How does the Constitution limit the powers of the government? How did the U.S. Constitution influence the development of other governments?		
BENCHMARK		
SS.7.CG.1.9 Describe how the U.S. Constitution limits the powers of government through separation of powers, checks and balances, individual rights, rule of law and due process of law.		
CIVICS EOC REPORTING CATEGORY		
N/A		
OVERVIEW		
In this lesson, students will demonstrate an understanding of how the U.S. Constitution limits the powers of government through separation of powers and checks and balances, individual rights, rule of law and due process of law.		
BENCHMARK CLARIFICATIONS		
<ul style="list-style-type: none">• Students will explain the concept of limited government in the U.S. Constitution.• Students will describe and distinguish between separation of powers and checks and balances.• Students will analyze how government power is limited by separation of powers and/or checks and balances.• Students will recognize examples of separation of powers and checks and balances.• Students will recognize the influence of the U.S. Constitution on the development of other governments.		
BENCHMARK CONTENT LIMITS		
N/A		
CIVICS CONTENT VOCABULARY		
<ul style="list-style-type: none">• checks and balances, constitutional government, due process, individual rights, limited government, rule of law, separation of powers		
INSTRUCTIONAL STRATEGIES		
Close reading of complex text	Role play	Analyzing similarities and differences
MATERIALS		
<ul style="list-style-type: none">• Student access to copies of the U.S. Constitution text (print or digital)• U.S. Constitution: Interesting Fact slide• U.S. Constitution image (external link)• U.S. Constitution Scavenger Hunt		

- U.S. Constitution Key Terms activity sheet
- U.S. Constitution Vocabulary slides
- You Be The President, You Be Congress, and You Be The Supreme Court activity sheet
- Florida Constitution Preamble slide
- Global Influences of the U.S. Constitution reading (external link)
- Comparing Constitutions activity sheet

B.E.S.T. STANDARDS

- ELA.7.R.3.2- Paraphrase content from grade-level texts.
- ELA.7.V.1.1- Integrate academic vocabulary appropriate to grade level in speaking and writing.
- ELA.V.1.3- Apply knowledge of context clues, figurative language, word relationships, reference materials, and/or background knowledge to determine the connotative and denotative meaning of words and phrases, appropriate to grade level.
- ELA.K12.EE.1.1- Cite evidence to explain and justify reasoning.

Suggested Student Activity Sequence & Pace

DAY	ACTIVITY SEQUENCE
DAY 1	<ol style="list-style-type: none"> 1. To begin the lesson, share the following information with students using the “U.S. Constitution: Interesting Fact” slide. 2. Ask the students to reflect on the shared fact, writing thoughts in a notebook or on paper to the following: Why do you think the U.S. Constitution has lasted for so long? What are the pros/cons of being governed under a constitution that is over 230 years old? 3. Have students share out responses. 4. Lead students to the understanding that the U.S. Constitution has been able to be successful for a long period of time for multiple reasons. From the construct of the amendment process to the foundational principles that will be looked at in this lesson, the intentionality of the Framers has paid off. They were able to strike a balance between government power and individual rights. 5. Ask students the following question: What historical civilizations, people, and documents influenced the Framers' views on government? 6. Have students share out responses. Answers should include: Ancient Greece, Ancient Rome, Judeo-Christian, John Locke, Baron de Montesquieu, Enlightenment, the British government, Magna Carta, Mayflower Compact, English Bill of Rights, <i>Common Sense</i>, etc. 7. Project the “U.S. Constitution” image from the National Archives website. Ask students to identify the document and share out any additional information they may know about it. 8. Lead students to the understanding that they are looking at the U.S. Constitution and that the U.S. has a constitutional government. The U.S. Constitution is the supreme law of the land. 9. Explain to students that today they are going to get to know the structure and core principles of the U.S. Constitution a little better. 10. Place students into pairs. 11. Pass out a “U.S. Constitution Scavenger Hunt” to each student and provide each pair access to a copy of the U.S. Constitution text Teacher Note: As the U.S. Constitution will be a continuously referenced document throughout the Civics course, many teachers will acquire a set of ‘pocket constitutions’ that can be kept on hand in the classroom for student use. Another option is a printed or digital version from either the National Archives or The National Constitution Center. 12. Read the opening text together as a class and review the directions below. 13. Provide time for the pairs to complete the activity sheet, circulating the room to monitor for engagement and providing any needed assistance as they work. 14. Towards the end of the class period, bring the entire class back together and review. Teacher Note: Use the answer key below to guide discussion.

DAY 2	<ol style="list-style-type: none"> 1. Have the students take back out their “U.S. Constitution Scavenger Hunt” from yesterday. 2. Pass out a “U.S. Constitution Key Terms” activity sheet to each student. 3. As a class, using the “U.S. Constitution Vocabulary” slides, review the definitions for the following key principles found in the U.S. Constitution: separation of powers, checks and balances, individual rights, rule of law, and due process of law. As you go through each term, have the students write a definition in their own words in column three on the key terms handout.
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	<p>Teacher Note: If you have already taught SS.7.CG.1.1, SS.7.CG.1.2, SS.7.CG.1.3, and/or SS.7.CG.1.4 then this should serve as a review. If not, this will serve as a preview.</p> <ol style="list-style-type: none"> After reviewing each term/definition, have the students return to their “U.S. Constitution Scavenger Hunt” and locate an example of the principle. Have them record that example in column four on the key terms handout. Explain to students that today, they are going to take a closer examination of separation of powers and checks and balances. Ask students the following questions: How many branches of government do we have? In very general terms, what does each branch do? (3; legislative makes laws, executive enforces laws, judicial reviews/interprets laws) Place students into three groups, assigning each group a branch of government. Pass out one of the following activity sheets to each group: “You Be The President”, “You Be Congress”, and “You Be The Supreme Court.” Explain to students that each activity sheet includes a summary of the powers for the branch of government they’ve been given, a list of how that branch can check the other two, and a role-play scenario. Instruct students to read the first three sections of the activity sheet that outline the powers of the branch and the powers that branch has to check the other two branches. Pose the following question for discussion: What is the difference between ‘separation of powers’ and ‘checks and balances’? Instruct students to read through the ‘Directions for Part One’ section of the scenario activity on the sheet. Provide time for students to complete the task by developing two additional actions they might take, given their constitutional powers, to accomplish their goal. Bring the three groups together to present their scenarios. Begin by having members of the executive branch go first, presenting their scenario and the actions they plan to take to accomplish their goals. After the executive branch group presents, direct student attention to the ‘Directions for Part Two’ section of the scenario activity on the sheet and read through the directions as a whole class. Provide the other two groups with time to brainstorm ways in which their assigned branch might use its constitutional power to check the actions of the branch that just presented. <p>Teacher Note: The presenting group may need to repeat elements of their scenario or proposed actions while the other two groups work.</p> <ol style="list-style-type: none"> Repeat steps 15-19 with presentations made by the legislative and judicial groups. Have students return to their individual seats and take back out their “U.S. Constitution Key Terms” activity sheet from the beginning of class. Provide students time to answer the final question on the bottom of the sheet, using both their understanding of the terms and their experience in today’s activity.
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DAY 3	<ol style="list-style-type: none"> Project the “Florida Constitution Preamble” slide and have students review. Explain to them that this is the opening line of the current Florida Constitution. Ask students: Does this language sound familiar? Where have you seen/heard it before? Lead students to an understanding that the Preamble of the Florida Constitution is modeled off the Preamble to the U.S. Constitution. The U.S. Constitution has served and continues to serve as a model for other governments both at home and abroad.
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4. Project or pass out the “[Global Influence of the U.S. Constitution](#)” reading from the National Archives.
5. Read the article, highlighting ways in which the U.S. Constitution influenced other governments, paying particular attention to some of the specific principles mentioned.
Teacher Note: This reading may be done teacher-directed/whole class, or the reading could be printed and students could read/highlight individually or in small groups.
6. Discuss some of the influences as a whole-class.
7. Place students into pairs or small groups if not already.
8. Give each student a copy of the “Comparing Constitutions” activity sheet.
9. Explain to students that they are going to compare some excerpts from the U.S. Constitution with excerpts from the Mexican Constitution in an attempt to recognize the influence of one over the other.
10. While students read and identify similarities and differences, circulate the room to monitor for engagement and assist as needed.
11. After groups complete the handout, review how the U.S. Constitution compares to the Mexican Constitution, taking a few responses for each question and allowing students to revise their answers based on their peers’ responses.
Teacher Note: Use the answer key provided to guide discussion.
12. Finish the lesson by completing a checking for understanding (Formative Assessment):
Instruct students to write a well-crafted informative response to the following prompt:
Prompt
American historian George Athan Billias wrote “*the influence of American constitutionalism abroad was profound in the past and remains a remarkable contribution to humankind’s search for freedom under a system of laws*”.
In your own words, explain what he means by this, and describe how the U.S. Constitution achieves *freedom under a system of laws*.

Civics Content Vocabulary

Word/Term	Definition
checks and balances	a principle of the federal government, according to the U.S. Constitution, that allows each branch of government to limit the power of the other branches
constitutional government	a form of government based on a written set of laws that all citizens agree to; in this form of government, the constitution is the highest law of the land
due process	the idea that people accused of a crime still have individual rights, that the process of weighing their accused crimes must take place fairly, following an established standard, before they can lose either their life or freedom
individual rights	rights guaranteed or belonging to a person
limited government	a government that has been limited in power by a constitution, or written agreement
rule of law	the idea that those who govern must also follow the same laws as everyone; no one is above the law
separation of powers	the structure of the federal government, according to the U.S. Constitution, that sets up three branches with their own distinct powers and responsibilities

ADDITIONAL RESOURCES

[Civics 360 Resources](#)

Florida Department of Education's Civic Literacy Reading List

- N/A

ANSWER KEYS

Sample Answers: U.S. Constitution Scavenger Hunt

Sample Answers: U.S. Constitution Key Terms activity sheet

Note: Answers for the “You Be The President”, “You Be Congress”, and “You Be The Supreme Court.” activity will vary too greatly for an answer key.

Sample Answers: Comparing Constitutions activity sheet

Written Response: Sample Scoring Rubric

SOURCES

U.S. Constitution image from the National Archives: <http://www.ourdocuments.gov/doc.php?doc=9#>

U.S. Constitution text from The National Constitution Center: <https://constitutioncenter.org/the-constitution>

U.S. Constitution text from the National Archives:

<https://www.archives.gov/founding-docs/constitution-transcript>

1917 Mexican Constitution: https://www.constituteproject.org/constitution/Mexico_2015.pdf?lang=en

Separation of Powers Lesson Plan from The National Constitution Center:

<http://constitutioncenter.org/learn/educational-resources/lesson-plans/separation-of-powers>

Global Influence of the U.S. Constitution article from the National Archives:

<https://prologue.blogs.archives.gov/2021/09/17/global-influence-of-the-u-s-constitution/>

Florida Constitution: <https://www.flsenate.gov/laws/constitution>

Billias, George (2009). *American Constitutionalism Heard Round the World, 1776-1989: A Global Perspective*. New York: New York University Press.

Constitution Day from the United States Senate:

<https://www.senate.gov/about/origins-foundations/senate-and-constitution/constitution-day.htm#:~:text=More%20than%20two%20centuries%20after,citizens%20and%20their%20elected%20officials.>