



AP U.S. Government and Politics

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Professional Development
Workshop Materials

**Special Focus:
Interconnections—
Teaching Across the Field**

Federalism

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Federalism is one of the cornerstone principles in American government. It is essential that students who study American government understand the concepts of federalism and all that it entails. The following “talking points,” recommended readings, and follow-up activities should assist you and your students in understanding the complexities of federalism and its connections to Congress, the presidency, and the courts.

Talking Points

It is good to begin with a discussion that students can relate to their own lives. One topic that most students find relevant is obtaining a driver’s license. Once this has been explored, ask how many students registered to vote or had the option while obtaining their license. You may get varying responses, but some will probably say they did. Segue this into a discussion about whether it is a good idea to register while you obtain a license. Once all have decided that it is a good idea, ask why many states opposed this idea. Bring up the ideas around unfunded mandates as an introduction to federalism.

This approach also lends itself to a discussion about the drinking age and highway funds.

- The substantive model of democracy says that the government will make laws that legislators feel are in the best interest of citizens. What the scenario tells us, and also in general, is that states will give up sovereignty in exchange for money from the federal government.
- Sovereignty is the quality of being supreme in power or authority.
- Congress recognized the sovereignty of states by not legislating a national drinking age.

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I. Theories of Federalism

Federalism is a political system where local units of government, as well as the national government, can all make final decisions with respect to some governmental activities.

It is not easy to draw a line between what is state and what is federal (e.g., the state militia is both state and federal).

A. Dual Federalism

- Main elements:
 1. Supporters believe that the necessary and proper clause should be narrowly interpreted; the national government rules by enumerated powers only.
 2. The national government has a limited set of constitutional purposes, which limits the powers of the national government.
 3. Nation and states are sovereign within their sphere, which means states are sovereign over many areas of policy.
 4. The relationship between nation and states is best characterized by tension rather than cooperation.
- States' rights are primary in dual federalism.
- Dual federalism is described as “layer-cake federalism.” The powers of national and state governments are as separate as the layers on a cake. Each government is supreme in its own “layer.”
- Dual federalism is the practice of allowing states and the nation to exercise power separately in areas of legitimate concern to them.
- Dual federalism has been challenged. Some critics say that if the national government is really a creation of the states, then it is a creation of the original 13 states. Ratification was by people, not states; conventions, not some legislatures. Many critics do not favor federalism.

B. Cooperative Federalism

- This phrase was coined in the 1930s. Those who are for cooperative federalism support a strong, active, national government.
- They support the necessary and proper clause of the Constitution.
- There are three main elements to cooperative federalism:
 1. National and state agencies work together jointly.
 2. State and nation routinely share power.
 3. Power is not concentrated on any government level or in any agency; there are many centers of influence.

- Cooperative federalism is known as a “marble cake.” Critical to cooperative federalism is its view of the supremacy clause, which says the highest law is the Constitution, federal laws, and treaties, and these laws must be obeyed when in conflict with state laws.
- A critical difference between dual and cooperative federalism is how each interprets the elastic clause and the Tenth Amendment:

Dual federalism: Narrow interpretation of elastic clause (implied power) and states’ rights

Cooperative federalism: Broad interpretation of necessary and proper clause and what the Tenth Amendment actually states

- Conservatives favor the layer-cake metaphor, and liberals favor the marble cake or cooperative federalism.

II. The Dynamics of Federalism: Legal Sanctions and Financial Incentives

- The balance of power between nation and states has always been a matter of politics. The federal government has assumed many functions.
- Why the power shifted from the states to the federal government:
 1. Historical circumstances (e.g., the Civil War)—States threatened to secede, and national government had to step in.
 2. Constitutional amendments (e.g., the Fourteenth, Sixteenth, and Seventeenth Amendments limited states rights)—The Fourteenth Amendment was due process and equal protection; the Sixteenth mandated income tax; the Seventeenth created a direct election for senators.

The national government has had to rely on incentives and sanctions to expand its powers.

A. Legislation in the Elastic Clause

The elastic clause gives Congress the power to make laws that are necessary and proper. This helps Congress increase its powers.

Change often comes in times of crisis and national emergency (e.g., the Civil War, the civil rights movement, and the Depression). The national government must respond. It responds by enacting legislation to deal with the problem.

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B. Judicial Interpretation

Since 1937, the Supreme Court has almost always supported the national government in contests involving the balance of power between the nation and the states. In cases where states have tried to limit personal freedom, federal courts have stepped in to overrule them.

Growth of the national government has also come from the interpretation of the Constitution by the Supreme Court.

The Fourteenth and Fifteenth Amendments have increased the powers of the national government.

The courts have made states redraw lines to show a shift in populations so that districts would reflect one-man/one-vote in elections.

C. Grants-in-Aid

This is money paid by one level of government to another. Many grants must be matched by state money.

There are two forms of grant-in-aids: categorical grants and block grants.

1. Categorical grants are for specific purposes. There is little independence on how the money will be spent. There are two types of categorical grants:
 - a. Formula grants—A formula is used to determine who is eligible and how much they will get. Some things to consider would be state per-capita income, number of school-age children, and number of families below the poverty line.
 - b. Project grants—Grants awarded on the basis of competitive applications (e.g., spousal abuse, homelessness, AIDS).
2. Block grants have a broad general purpose. Recipients have considerable freedom in how to allocate the money (e.g., community service, criminal justice).

Grants-in-aid are a method to redistribute income, to remove gross inequality among states and its people.

Sometimes the use of formulas to determine who benefits from grants becomes political in Congress. (Each congressman wants to make sure his/her state receives as much as possible.)

The national government controls grants to states through rules, regulations, and restrictions to make sure the money is used for the purpose it was given.

III. The Developing Concept of Federalism

A. McCulloch v. Maryland

Under the necessary and proper clause, Congress had the power to create a national bank, the Second Bank of the United States. The U.S. Supreme Court agreed that the national government has powers in addition to those explicitly granted in the Constitution.

B. States Rights and Dual Federalism

According to some scholars, slavery was not the major issue for fighting the Civil War. The real issue was federalism in the Constitution, or “states’ rights.”

C. The New Deal and its Consequences

The national government assumed responsibilities for providing relief after directing economic recovery after the Great Depression. Congress came up with programs to restore economic activity and ease unemployment.

Through regulations attached to funds, the national government extended its powers and control over states. The Supreme Court did not get involved in legislation passed by Congress at first but later struck down pieces of regulatory legislation that dealt with wages, working hours, and business competition.

Later, the courts altered course and upheld the Social Security Act and other New Deal measures. People wanted the courts to address national problems. The New Deal was critical in reshaping federalism in the United States.

D. Desegregation and the War on Poverty

Matters of race relations have generally been left to the states, but in 1954 the Supreme Court ruled that schools segregated by race were inherently unequal. Congress later passed the Civil Rights Act of 1964 and the Voting Rights Act of 1965, which provided voter qualifications.

Lyndon Johnson’s War on Poverty brought about a large amount of social legislation and increased the scope of the national government. Any time historical circumstances change, power tends to shift back and forth between states and the national government. Since the 1960s, federalism has changed, and we now have what is known as “picket-

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fence federalism.”

Picket-fence federalism crosses government lines and connects the officials who work at different levels of government. National, state, and local governments are no longer separate, distinct layers—they interact. Emphasis is placed on intergovernmental relations. We look at how one level is connected to or interdependent on the other levels. The fence slats represent interests of lobbyists, groups that are inside and outside the government. Since the 1960s, the federal government has given aid to local government and community groups. It has provided money for crime control, fire protection, home insulation, and so on. The result is that we have become a hyperpluralist democracy. Every conceivable group has an interest group.

IV. New, Newer, Newest Federalism

A. Nixon’s New Federalism: Revenue Sharing

Revenue sharing had two parts: general revenue sharing and special revenue sharing.

General revenue sharing provided new money to be used as state and local governments saw fit. There were few strings attached. It offered more flexibility on the state and local levels in deciding how the money was to be spent.

Special revenue sharing was a plan to consolidate existing categorical grant programs. Money available under several categorical programs in a particular area would be combined into one large block grant. Congressmen did not like this because they had little control over these grants.

B. Ronald Reagan and George H. W. Bush

Reagan was a strong advocate of states’ rights. Categorical grants decreased somewhat. The amount of federal grant money that state and local governments received decreased. States were expected to pick up the cost of programs the federal government created, such as health care for the poor and Medicaid, or eliminate them. A result of Reagan’s cutback of aid to the states was an increase in state action to promote social equality.

C. Consequences of New Federalism

Every president since Nixon has pledged to decrease the scope of the federal government. State and local governments have enacted or raised taxes to pay for public services that were once the shared responsibility under cooperative federalism.

V. Contemporary Federalism and Dilemmas of Democracy

When Reagan became president, conservatives thought that he would do away with the liberal welfare state and end social and political equality at the price of freedom. They were for states rights. Conservatives thought that states would work harder to keep taxes down, would not support social programs, and would be less likely to pass stiff laws regulating business. Liberals thought that what conservatives wanted would lead to social and political inequality.

VI: Federalism and the Values of Freedom, Order, and Equality

Contrary to what the conservatives wanted and the liberals expected, states were willing to approve tax increases for social programs and education. States took on antitrust legislation, civil rights laws, and affirmative action. States are now willing to set higher standards than the feds to protect welfare payments and employment benefits and to set reasonable minimum standards for product safety. They also need to maintain order by protecting the lives of citizens. In these ways, the system of cooperative federalism supports a pluralistic democracy.

Follow-Up Activities

1. Have students research grants. Many Web sites offer information on how grants work and their requirements. As students peruse each grant, have them identify whether the grant is from the federal government, state government, a corporation, or a nonprofit. Have students search for federal grants and report back the requirements. Possible sites: www.grants.gov, www.fedgrants.gov, www.sba.gov/expanding/grants.html.
2. Develop a grant proposal dealing with a current issue in your state. The grant should be for three years. Divide the students in the class into groups, and have each group “apply” for the grant. The application does not have to be lengthy. When each group is done, have them come to the front, read their application, and draw an envelope. In the envelopes, have the following scenarios for the groups’ grant applications.
 - A. Your grant application has been fully funded for three years. Good luck.
 - B. Your grant was fully funded for one year, and then Congress cut the funding.
 - C. Your grant was not funded. Please try again.
 - D. Your grant was fully funded for three years, but the Supreme Court decided that federal funding of that issue violates the Constitution. Your funding has been terminated.
 - E. Your funding was granted, but Congress has diverted your funding to the war

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effort. Due to this, your funding has been terminated until further notice.

- F. Your funding was not granted, but the president has decided, along with Congress that your state must implement your grant idea. Your state must pick up all costs.

Have each group read the scenario and discuss their options. After every group has participated, discuss the ramifications and the parallels to federalism.

References

Talking points adapted from:

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Wilson, James Q., and John J. DiIulio, Jr. *American Government: Institutions and Policies*. 7th ed. Boston: Houghton Mifflin, 1998.

Additional Recommended Readings for Students

Broder, David. *A Republic Subverted. American Government: Readings and Cases*. 14th ed. Ed. by Peter Woll. New York: Longman, 2002.

Bryce, James, and Michael Kinsley. "Does Federalism Encourage Good Government?" In *Point-Counterpoint: Readings in American Government*. 4th ed. Ed. by Herbert M. Levine. New York: St. Martin's Press, 1992.

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