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# AP<sup>®</sup> United States Government and Politics

## Sample Student Responses and Scoring Commentary Set 1

### **Inside:**

#### **Free-Response Question 3**

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**Question 3: SCOTUS Comparison****4 points**

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- A** Identify the constitutional clause that is the basis for the decisions in both *United States v. Lopez* (1995) and *Wickard v. Filburn* (1942). **1 point**

**Acceptable response:**

- Commerce Clause

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- B** Explain how the facts in *United States v. Lopez* and *Wickard v. Filburn* led to different holdings. **1 point**

**Examples of acceptable responses may include the following:**

**One point** for **describing** relevant information (facts or holding) about the required Supreme Court case.

- In *Lopez*, a student was found to have possessed a weapon on school grounds.
- In *United States v. Lopez*, the Court held that gun possession was not an economic activity that could be considered interstate commerce.

**OR**

**Two points** for correctly **explaining** how the facts in *United States v. Lopez* and *Wickard v. Filburn* led to different holdings.

**OR****2 points**

- In *Lopez*, a gun was brought into a school and the Court held this was not an economic activity and therefore not subject to the Commerce Clause. However, in *Wickard v. Filburn*, the Court determined Filburn could be punished under federal law for growing excess wheat for personal consumption because it could have an indirect effect on the economy of other states and was therefore covered by the Commerce Clause.

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- C** Explain how the holding in *Wickard v. Filburn* reflects the concept of federalism. **1 point**

**Examples of acceptable responses may include the following:**

- In *Wickard*, the Supreme Court held that economic activity in one state could be regulated by the federal government when it impacts the economic activity of another state.
  - The holding in *Wickard* shows that the struggle for power between the states and the federal government sometimes favors the federal government as seen by the Court making activities performed entirely in one state subject to the Commerce Clause.
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A) The constitutional clause that is common to both *United States v. Lopez* and *Wickard v. Filburn* is the commerce clause.

B) The facts in *United States v. Lopez* and *Wickard v. Filburn* led to different holdings due to the different natures of the case. In *United States v. Lopez*, Congress had passed the Gun Free School Zone Act (GFSZA), which prohibited bringing firearms within the vicinity of any school within the nation. A kid brought a gun to school, and was arrested under the GFSZA. Later, he claimed that Congress had exceeded its power with the commerce clause by passing the GFSZA. The Supreme Court had sided with Lopez, stating Congress indeed did exceed its authority within passing the GFSZA, as the commerce clause, the pretense in which Congress passed it under, did not affect guns, as there was no "interstate" commerce in the context of bringing a gun to school. On the other hand, within *Wickard v. Filburn*, the context was growing wheat within the economy. Congress was deemed to have power to regulate the amount of wheat he could grow, as it was determined that it could have an indirect effect on economics in other states. So, if he did grow more wheat than he was supposed to, the effect of supply and demand could drive prices down within his state, which could affect the price within neighboring states. This interstate effect that could happen from the growth of more wheat from Filburn is the reason why *Wickard v. Filburn* led to a different holding than *United States v. Lopez*.

C) Federalism is the concept of power within the national government over its smaller republics, in this case states. So, when Congress passed the Agricultural Adjustment Act, it is able to enforce it across all of the states, using its enumerated powers from the United States Constitution. Within the decision, the Supreme Court states how Congress has the power to regulate economic activities within a state that has an effect on interstate commerce. This shows the power that the national government has on certain states within some key aspects of governance.

A. The constitutional clause that is common to both *US v. Lopez* and *Wickard v. Filburn* is the commerce clause.

B. In *United States v. Lopez*, the case regarded a man bringing a gun into a school zone, which does not fall under the commerce clause as Congress cannot regulate an issue that does not involve an effect on multiple states and their economies. However, in *Wickard v. Filburn*, there was a possibility that the activities of Filburn could have an effect on the economy of other states, which made his case fall under the commerce clause in Article I of the Constitution, leading to a different holding.

C. The holding in *Wickard v. Filburn* involved the involvement and responsibilities of both the state and the national government. The national government passed the Agricultural Adjustment Act of 1938, and the state of Ohio enforced the law, reflecting the idea of federalism.

A. The clause that is common to both *United States v. Lopez* and *Wickard v. Fillburn* is the commerce clause.

B. The facts in *United States v. Lopez* led to the Supreme court siding with Lopez due to the second amendment allowing the right to own a firearm. The facts in *Wickard v. Fillburn* led to the Supreme court siding against Fullburn due to Article 1 of the constitution allowing Congress authority to regulate activities in a single state, even when they only had indirect effect on the economy.

C. The holding in *Wickard v. Fillburn* shows that the Federal government held power in more ways than one, for example, indirect powers through laws passed and the implied effect from those laws.

### Question 3

**Note:** Student samples are quoted verbatim and may contain spelling and grammatical errors.

#### Overview

**NEW for 2025:** The question overviews can be found in the *Chief Reader Report on Student Responses* on [AP Central](#).

#### Sample: 3A

**Score: 4**

**Part A Score: 1**

**Part B Score: 2**

**Part C Score: 1**

The response earned 1 point in Part A. The response correctly identifies the Commerce Clause.

The response earned 2 points in Part B. The response states “A kid brought a gun to school, and was arrested under the GFSZA,” which demonstrates an understanding of the facts *United States v. Lopez*. The response also states, “On the other hand, within *Wickard v. Filburn*, the context was growing wheat within the economy. Congress was deemed to have power to regulate the amount of wheat he could grow, as it was determined that it could have an indirect effect on economics in other states.” This explains the facts of *Wickard v. Filburn* and how the holding in this case is different from *United States v. Lopez*.

The response earned 1 point in Part C. The response correctly states, “the Supreme Court states how Congress has the power to regulate economic activities within a state that has an effect on interstate commerce. This shows the power that the national government has on certain states within some key aspects of governance.” This correctly explains how the holding in *Wickard v. Filburn* shows that economic activity in one state could be regulated by the federal government when it impacts the economic activity of another state.

#### Sample: 3B

**Score: 3**

**Part A Score: 1**

**Part B Score: 2**

**Part C Score: 0**

The response earned 1 point in Part A. The response correctly identifies the Commerce Clause.

The response earned 2 points in Part B. The response states “bringing a gun into a school zone.” This correctly demonstrates an understanding of the facts in the required Supreme Court case. The response that “Congress cannot regulate an issue that does not involve an effect on multiple states and their economies. However, in *Wickard v. Filburn*, there was a possibility that the activities of Filburn could have an effect on the economy of other states, which made his case fall under the commerce clause in Article I of the Constitution, leading to a different holding” correctly explains the holding of the required case and how that holding is different from the provided case.

**Question 3 (continued)**

The response earned 0 points in Part C. While the response makes statements about the holding of the provided case and about legislation passed at both the national and state levels, these statements do not demonstrate an understanding of federalism nor do they explain how that holding might reflect federalism.

**Sample: 1C****Score: 1****Part A Score: 1****Part B Score: 0****Part C Score: 0**

The response earned 1 point in Part A. The response correctly identifies the Commerce Clause.

The response earned 0 points in Part B. While the response correctly describes the holding of the provided case, the response cannot earn points because it did not provide accurate information about the facts or holding of the required case (Lopez) or explain how the holdings in both cases were different.

The response earned 0 points in Part C. The response does not demonstrate an understanding of federalism or correctly explain how the holding in the provided case reflects the concept of federalism.