Essential Questions

- What are the major powers of the Executive, Legislative and Judicial branches?
- How do checks and balances keep each of the three branches from becoming too powerful?
- How did the Founding Fathers strike a balance between State and Federal power?
- How are amendments proposed and ratified?
- What is the significance of the Bill of Rights?
- How do people interpret the Constitution?
- Who’s included in “We the People”?
- How did the Founding Fathers handle slavery?
Article I: Legislative Branch

Congress = Bicameral (2 houses: House & Senate)
- Senate: min. age = 30; 6-year term; 2 per state; 100 total
- House: min. age = 25; 2-year term; proportional; 435 total

Today, both houses elected by direct popular vote
- Until 1913, Senate elected by state legislatures

Powers of BOTH houses:
- To pass a bill, need a majority vote in both houses
- Congress initiates and enacts ALL laws
  - Borrow money, establish trade policy, regulate immigration, maintain army & navy, declare war, all taxation, etc.
Article I: Legislative Branch

House of Representatives: Special powers
- Introduce budget and all tax-related legislation
- Power to impeach (accuse) gov’t officers
- Votes in the House always need a majority to pass

The Senate’s Special powers
- Ratifies treaties (by 2/3 vote)
- Tries impeached officers (by 2/3 vote)
- Approves all officers appointed by President (by majority)
  - E.g., ambassadors, members of cabinet, SC justices, judges
Article II: Executive Branch

Chief Executive = President (POTUS)
- Min. age = 35 – must be born in U.S. – serves 4-year terms (max. 2 elected terms)

Key powers of the POTUS
- **Commander-in-Chief** of Armed Forces
- May make treaties w/ foreign countries (Senate approves)
- Makes appointments (Senate approves)
- May suggest legislation to Congress (but can’t introduce)
- Can accept or veto laws
  - Congress can overrule veto with **2/3 vote** in each House
Article II: Executive Branch

Powers of the Vice President:

1) To take over if the POTUS is unable to serve
2) To cast a tie-breaking vote in the Senate

Executive Branch also includes...

Cabinet offices: originally 3 – now 15, including...
- State, Treasury, Defense, Agriculture, Health & Human Services, Homeland Security, Energy, Education, etc...

Independent agencies: hundreds today, including...
- FBI, CIA, Federal Election Commission, Peace Corps, Post Office, Securities and Exchange Commission, etc...
Article III: Judicial Branch

**Judiciary** = court system
- Interpret law and judge when it’s been broken

**Supreme Court** (SCOTUS): at the top, one of a kind
- 9 justices (fixed now, though # has varied over the years)
  - Appointed by president & confirmed by Senate
  - Serve until death, retirement or impeachment

#1 Goal: Judge whether laws & actions are constitutional
- We call this process **judicial review**
- Not explicitly described in Constitution – est’d. in 1803 case

SCOTUS usually reviews cases on appeal from lower courts
Article III: Judicial Branch

More on SCOTUS...

- Usually reviews cases on appeal from lower courts
- Once they pass a ruling, it’s the **supreme law of the land**
- Rarely judges guilt or innocence in criminal cases
- Ditto for damages in civil cases

Lower courts:

- Congress establishes lower federal courts for criminal and civil cases
- States, cities & counties est. their own courts to enforce law at the local level
Article IV: State vs. Federal

FYI, “federal” here means “national”

Under Articles of Confed, states had too much power

But, anti-Federalists fear Constitution will give federal gov’t too much power, lead to tyranny

FF’s strike delicate balance between state & federal

Powers given to federal gov’t are exclusively federal

Article IV: States must respect each other’s laws

But, this can get tricky in practice (What about gay marriage? Abortion? Medical marijuana? Assisted suicide?!) 

10th Amendment: If Constitution doesn’t call it a federal power, it’s a state power – at least in theory…
Article V: Amendments

Amendment = change to Constitution; needs 2 steps:

STEP #1: Proposal (2 ways to do this)
- a) 2/3 vote in both houses of Congress
- b) Calling a national convention (either Congress or states)

STEP #2: Ratification (only 1 way)
- Must be ratified by state legislatures in 3/4 of states

Only 27 amendments total throughout U.S. History
- First 10 are called the Bill of Rights
- “The true brilliance of the Founding Fathers – in writing the Constitution, they anticipated that they couldn’t anticipate everything.”
The Bill of Rights: Highlights

Main purpose: protect individual rights from gov't power

1st – Freedom of speech, freedom of the press, and freedom of assembly

2nd – Right to “keep and bear arms”

4th – Right to protection from “unreasonable searches and seizures”

5th – Right to “due process of law”

6th – Right to a “speedy and public trial...by jury” with the “assistance of counsel”

8th – Protection from “cruel and unusual punishment”
Interpreting the Constitution

The Constish: short, dense, & often vague

- Original document is approx. 4,500 words
- The Bill of Rights is just 482!
- And yet, people have written millions of pages interpreting and arguing over their meaning

2 illustrative examples:

- **8th Amendment:** What exactly constitutes “Cruel and unusual punishment”?
- **Elastic Clause** (Article I, Sec. 8): “Congress shall have Power to make all Laws which shall be necessary and proper for carrying into execution the foregoing powers.”
Interpreting the Constitution

Elastic / Necessary and Proper clause leads to two opposite ways of interpreting the Constitution…

**STRICT Interpretation:**
- If it isn’t in the Constitution => must be illegal
- Gov’t should pursue **ONLY** those means necessary
- Usually leads to **smaller** national gov’t with **weaker** powers

**LOOSE Interpretation:**
- If it isn’t in the Constitution => it’s fair game!
- In general, gov’t can pursue **ANY** means necessary
- Leads to **bigger** national gov’t with **greater** powers
Who’s “We the People”?

- Constitution says **nada** about citizenship or voting
  - Thus, left to states to decide, courts to interpret

- Overwhelmingly, AA’s, NA’s and women get zero rights
  - **One rare exception**: rich women vote in NJ from 1789-1807
  - Women won’t actually get the vote nationally until _____ with the passage of the _____ Amendment

- **BUT**, back in the late 1700s, citizenship and vote basically limited to white property-owning men
What about slavery?

First, some background:
- By 1787, six northern states had abolished slavery
- BUT, U.S. still has **600,000 slaves** – 20% of total pop.
- 25 of the 55 FF’s at Constitutional Convention had slaves

Constitution either **postpones** or **reinforces** slavery:
- **3/5 Compromise:** Slaves count as 3/5 of a person for counting purposes (impacts representatives, taxes)
- Congress banned from banning slave trade until **1808**
- Fugitive slave clause mandates return of runaway slaves

*Ominous words from the Father of the Constitution…*