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

## Sample Student Responses and Scoring Commentary Set 1

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

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

**A.** Identify the civil liberty that is common in both *Citizens United v. Federal Election Commission* (2010) and *McCutcheon v. Federal Election Commission* (2013). **1 point**

- Freedom of speech is the civil liberty that is common to both cases.

**B.** Explain how the decision in *Citizens United v. Federal Election Commission* relates to the reasoning in *McCutcheon v. Federal Election Commission*.

**Acceptable explanations include:**

**One point** for **describing** relevant information about the decision in the required Supreme Court case. **1 point**

- The Supreme Court in the *Citizens United* decision ruled that the First Amendment includes protections for independent spending in political campaigns as free speech.

**OR****OR**

**Two points** for correctly **explaining** how the decision in *Citizens United v. Federal Election Commission* relates to the reasoning in *McCutcheon v. Federal Election Commission*. **2 points**

- These were both cases that considered whether campaign finance laws passed by Congress were constitutional. In both cases the Supreme Court held that spending limitations were in violation of the free speech clause of the First Amendment.

**C.** Explain how the decision in *McCutcheon v. Federal Election Commission* can be used to support the participatory, pluralist, or elite model of democracy. **1 point**

**Acceptable explanations include the following:**

- The decision held that limits on political contributions were unconstitutional, which supports the elite model because it facilitates the power of wealthier people or groups to influence the outcome of elections.
- The decision supports the pluralist model because groups combine the power of like-minded individuals who will be able to raise and spend more than they could individually to attempt to influence the outcome of elections.
- The decision supports the participatory model because it allows individuals to contribute to election campaigns, which is a form of participation.

**Total for question 3 4 points**



Begin your response to each question at the top of a new page. Do not skip lines.

3a) The civil liberty that is common in both *Citizens United v. Federal Election Commission* (2010) and *McCutcheon v. Federal Election Commission* (2013) is that of free speech and consequently the ability to participate in politics. One aspect of free speech is the freedom to say who you support in an election. Both *Citizens* and *McCutcheon* confirmed that limiting this form of free speech in the form of campaign contributions was unconstitutional. This also limited the ability of people to participate in politics, which is unconstitutional and also falls under the category of free speech.

b) The decision in *Citizens* and that in *McCutcheon* both involve people's abilities to donate money in campaigns. *Citizens* ruled that limiting the amount of money a business donated to a campaign violated the right of free speech as in the First Amendment. *McCutcheon* did this as well but in the realm of individuals. It ruled that individuals could not be limited in their campaign contributions.

c) The decision in *McCutcheon* can be used to support the elite model of democracy. This model states that the upper class elites of society (those with greater influence and money) rule and regulate the federal government. ~~Limiting~~ Allowing unlimited campaign contributions to individuals <sup>as in the *McCutcheon* decision</sup> only affects those who are capable of giving ~~sa~~ unlimited campaign contributions aka the wealthy,

Question 1   Question 2   Question 3   Question 4



Begin your response to each question at the top of a new page. Do not skip lines.

upperclass elites. They can now influence political elections (and therefore who gets elected and runs the federal government) endlessly, which is the exact definition of the elite model of democracy.



Begin your response to each question at the top of a new page. Do not skip lines.

- A. The civil liberty common in both *Citizens United* and *McCutcheon* is the First Amendment right to Freedom of Speech, in this case, political speech.
- B. In *Citizens United*, individual rights were used to determine that corporations, like individuals, possess the rights to support and contribute money to a political candidate. In *McCutcheon*, an individual's rights also extended to <sup>no matter how many</sup> contributing money to a candidate. Both cases ruled that the individual right of political free speech applies to the subject of political contributions and endorsement.
- C. The decision in *McCutcheon* can be used to support the pluralist form of democracy, where only certain groups of individuals and corporations that are able to afford to contribute/support candidates and campaigns, are able to do so. It is not inclusive of all citizens, but it is also not an incredibly selective/elite handful of people that are able to contribute, given the ability to as a result of the ruling in *McCutcheon*.



Begin your response to each question at the top of a new page. Do not skip lines.

In the case of *McCutcheon v. Federal Election Commission* (2013), the court ruled that it is **unconstitutional** to prohibit a citizen from donating to as many candidates as they want because it is an individual's right to participate in the electoral process and in the case of *Citizens United v. Federal Election Commission* (2010) the same civil liberty is used. Individuals have the right to participate in the electoral process because the Constitution states a government by and for the people. Both court cases deal with the reasoning that it is the right of the people to participate and petition the government. Due to these rulings the decision in *McCutcheon v. Federal Election Commission* supports the elite and participatory models of democracy. The elite model is where only the wealthy and elites rule society. This court case relates to the elite model because McCutcheon had the ability to participate in the electoral process because of his wealth and social status. Most citizens are unable to contribute \$33,088 to six per candidates because they can't



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Begin your response to each question at the top of a new page. Do not skip lines.

afford it and this means that only the elite and wealthy are able to participate in the electoral process. The participatory model of democracy because the government is one that the people can openly participate in such as donating money or voting which is what McCutcheon did. McCutcheon is participating in government by donating money to many candidates therefore supporting the elite and participatory models of democracy.

### Question 3

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

#### Overview

This question expected students to read a case summary of a nonrequired Supreme Court case (*McCutcheon v. Federal Election Commission*) and compare it to a case required in the course (*Citizens United v. Federal Election Commission*). Students were asked to identify the civil liberty that is common to both cases. Students were then asked to explain how the decision in *Citizens United v. Federal Election Commission* relates to the reasoning in *McCutcheon v. Federal Election Commission*. Finally, students were expected to explain how the decision in *McCutcheon v. Federal Election Commission* can be used to support the participatory, pluralist, or elite model of democracy.

#### Sample: 3A

##### Score: 4

In part A the response earned 1 point for correctly identifying the civil liberty by stating, “The civil liberty that is common in both ... is that of free speech.”

In part B the response earned 2 points for correctly explaining how the decision in *Citizens United v. FEC* relates to the reasoning in *McCutcheon v. FEC* by stating, “Citizens ruled that limiting the amount of money a business donated to a campaign violated the right of free speech ... *McCutcheon* did this as well but in the realm of individuals.”

In part C the response earned 1 point for explaining how the decision in *McCutcheon v. FEC* supports the elite model of democracy by stating, “Allowing unlimited campaign contributions to individuals ... only affects those who are capable of giving unlimited campaign contributions aka the wealthy ... [t]hey can now influence political elections ... endlessly.”

#### Sample: 3B

##### Score: 3

In part A the response earned 1 point for correctly identifying the civil liberty by stating, “The civil liberty common in both *Citizens United* and *McCutcheon* is the First Amendment right to Freedom of Speech.”

In part B the response earned 2 points for correctly explaining how the decision in *Citizens United v. FEC* relates to the reasoning in *McCutcheon v. FEC* by stating, “Both cases ruled that the individual right of political free speech applies to the subject of political contributions and endorsement.”

In part C the response did not earn a point for explaining how the decision in *McCutcheon v. FEC* supports the elite, pluralist, or participatory model of democracy. The response does not demonstrate an understanding of the pluralist form of democracy.

#### Sample: 3C

##### Score: 1

In part A the response did not earn a point for correctly identifying the civil liberty.

In part B the response did not earn a point for correctly explaining how the decision in *Citizens United v.*



### Question 3 (continued)

*FEC* relates to the reasoning in *McCutcheon v. FEC*. The response does not explain how both cases applied free speech protections to an outcome related to campaign finance.

In part C the response earned 1 point for explaining how the decision in *McCutcheon v. FEC* supports the participatory model of democracy by stating, “*McCutcheon v. Federal Election Commission* supports the ... participatory models of democracy. ... because the government is one that people can openly participate in such as donating money.”