

2023



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

## Sample Student Responses and Scoring Commentary Set 2

### **Inside:**

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

- Scoring Guidelines**
- Student Samples**
- Scoring Commentary**

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

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- A.** Identify the clause in the First Amendment that is common to both *Engel v. Vitale* (1962) and *Zelman v. Simmons-Harris* (2002). **1 point**

The establishment clause

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- B.** Explain how the facts in *Engel v. Vitale* and *Zelman v. Simmons-Harris* led to different holdings in the two cases.

**Acceptable responses include:**

**One point** for **describing** relevant information (facts or holding) about the required Supreme Court case. **1 point**

- In *Engel*, a group of parents objected to the daily, voluntary recitation of a nondenominational prayer in schools.
- The Court held that the school sponsorship of prayer violated the establishment clause.

**OR**

**OR**

**Two points** for correctly **explaining** how the facts in *Engel* AND *Zelman* led to different holdings in the two cases. **2 points**

- In *Engel*, parents sued to stop a public school from encouraging prayer. In *Zelman*, people sued to stop the state from letting families pay for religious schools with vouchers. While school prayer was a violation of the establishment clause in *Engel* because the government approved a religious practice, school vouchers were not a violation in *Zelman* because families had the freedom to choose.
  - In *Engel*, parents sued to stop a public school from encouraging prayer. The Court held that the school sponsorship of prayer violated the establishment clause. In *Zelman*, people sued to stop the state from letting families pay for religious schools with vouchers. The Court held that the program did not violate the establishment clause because families were choosing whether to use the vouchers for religious schools.
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- C.** Explain how the holding in *Zelman* might affect educational policy in states with legislatures that support the ruling. **1 point**

**Acceptable explanations include the following:**

States would be more likely to pass laws that allow for public funding of school vouchers.

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**Total for question 3 4 points**

Important: Completely fill in the circle that corresponds to the question you are answering on this page.

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.

A. The clause in the First Amendment that is common in both *Engel v. Vitale* and *Zelman v. Simmons-Harris* is the Establishment Clause.

B. *Engel v. Vitale* ruled that school-led prayer is unconstitutional because students shouldn't feel pressured to participate in a religion they don't belong to. In *Zelman v. Simmons-Harris*, low-income families are given the opportunity to receive education at a private school, whether religiously-affiliated or not. Since the low-income families are given a choice of sending their children to a secular or religious school, religion is not forced upon them. That's why the public funding of a school voucher program that includes religious schools is constitutional, and school-led prayer is unconstitutional.

C. The holding in *Zelman* might affect educational policy in states with legislatures that support the ruling because such states may also wish to have a school voucher program that includes the choice to attend religious private schools.

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Important: Completely fill in the circle that corresponds to the question you are answering on this page.

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.

A. The free exercise clause ~~portion~~ of the First Amendment is common to both Engel v. Vitale and Zelman v. Simmons-Harris.

B. In the landmark Supreme Court case Engel v. Vitale a New York public school instituted a non-mandatory, non-denominational prayer at the beginning of every school day. When this was challenged in the Supreme Court the prayer was ruled unconstitutional as it violated the Wall of Separation between church and state, despite the Free Exercise Clause of the First Amendment. In the case Zelman v. Simmons-Harris the government finding to attend the recipient's choice of a public, private, secular, or religious school was given to a qualifying recipient rather than a state funded school. Since the money was not funding a religious school, but rather an individual the holding in the Zelman v. Simmons-Harris case was that the public funding was constitutional. ~~Since government funding of the~~ Since the public school in Engel v. Vitale was funded by the government, the prayer was deemed unconstitutional, as it broke separation between church and state.

C. The holding in Zelman that the public funding of a school voucher program was constitutional might encourage states with legislatures who support the ruling to change their educational policy to incorporate the same funding program. Since the funding program was implemented to increase academic performance, and it was ruled constitutional, other

Page 6

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● Important: Completely fill in the circle that corresponds to the question you are answering on this page.

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.

states that agree with the plan will also incorporate the funding program to ~~then~~ increase academic performance in their state.

Use a pen with black or dark blue ink only. Do NOT write your name. Do NOT write outside the box.



Important: Completely fill in the circle that corresponds to the question you are answering on this page.

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.

3A. The clause that was common in both cases was the Due Process Clause.

3B. In *Engel v. Vitale* the issue was that there was a non-mandatory non-denominational prayer playing over the PA. While it wasn't mandatory, the prayer was ruled as being unconstitutional due to the fact that students heard it no matter what and couldn't avoid it—a violation of their civil rights. On the other hand while in the *Zelman v. Simmons-Harris* case a religious institute was being funded—it was not the only thing being funded. Both religious and non-religious private schools were funded, there was no discrimination against either one. As a result the funding was deemed constitutional as both forms of private were treated equally.

3C. To avoid controversies in their educational policies, states with legislatures that agree with the ruling are more likely to be more inclusive with their policies. Educational policies will be geared towards all types of schools, religious and non-religious. If educational policies fail to do this any type of school can claim they're not being represented equally which can lead to lawsuits.

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Use a pen with black or dark blue ink only. Do NOT write your name. Do NOT write outside the box.

### Question 3

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

#### Overview

This SCOTUS Comparison question asked students to read a summary of a nonrequired case (*Zelman v. Simmons-Harris*) and compare it to a course required case (*Engel v. Vitale*). Students were given several tasks, including identifying the clause in the First Amendment that is common to both cases. Additionally, they were asked to explain how the facts in *Engel v. Vitale* and *Zelman v. Simmons-Harris* led to different holdings in the two cases. Lastly students were required to explain how the holding in *Zelman* might affect educational policy in states with legislatures that support the ruling.

These increasingly challenging tasks required a thorough understanding of the facts in *Engel v. Vitale*, as well as proficiency in the skill of comparison between the required and nonrequired case. Additionally, students were asked to integrate relevant course concepts into the Supreme Court case comparison.

#### Sample: 3A

##### Score: 4

In part A the response earned 1 point by correctly identifying the establishment clause as being common to both cases.

In part B the response earned 2 points. One point was earned for accurately explaining the facts of *Engel v. Vitale*, by stating, “Engel v. Vitale ruled that school-led prayer is unconstitutional because students shouldn’t feel pressured to participate.” The response earned the second point because it accurately explains how the facts in *Engel* and *Zelman* led to different holdings in the two cases with regard to giving the families the freedom of choice on how to use the vouchers. The response states, “Since the low-income families are given a choice of sending their children to a secular or religious school, religion is not forced upon them.” The response then explains why the holding is different by stating, “That’s why the public funding of a school voucher program that includes religious schools is constitutional, and school-led prayer is unconstitutional.”

In part C the response earned 1 point for accurately explaining how the holding in *Zelman* might affect educational policy. It states, “The holding in *Zelman* might affect educational policy in states with legislatures that support the ruling because such states may also wish to have a school voucher program that includes the choice to attend religious private schools.”

#### Sample: 3B

##### Score: 3

In part A the response did not earn a point because it incorrectly identifies the free exercise clause, not the establishment clause, as the clause common to both cases.

In part B the response earned 2 points. One point was earned for accurately explaining the facts of *Engel v. Vitale* by stating that “a New York public school instituted a non-mandatory, non-denominational prayer at the beginning of every school day. When this was challenged in the Supreme Court the prayer was ruled unconstitutional.” The response earned the second point

### Question 3 (continued)

because it accurately explains how the facts in *Engel* and *Zelman* led to different holdings. The response states, “In the case *Zelman v. Simmons-Harris* the government funding to attend the recipient’s choice of ... school was given ... Since the money was not funding a religious school, but rather an individual the holding in the *Zelman v. Simmons-Harris* case was that the public funding was constitutional.”

In part C the response earned 1 point for accurately explaining how the holding in *Zelman* might affect educational policy in a state by stating, “The holding in *Zelman* that the public funding of a school voucher program was constitutional might encourage states with legislators who support the ruling to change their educational policy to incorporate the same funding program.”

**Sample: 3C**

**Score: 1**

In part A the response did not earn a point because it incorrectly identifies the “Due Process Clause” as the clause that is common to both cases.

In part B the response earned 1 point by accurately explaining the facts of *Engel v. Vitale* by stating that “the issue was that there was a non-mandatory non-denominational prayer playing over the PA. While it wasn’t mandatory, the prayer was ruled as being unconstitutional due to the fact that the students ... couldn’t avoid it.” The response did not earn the additional part B point because it does not accurately explain how the facts in *Engel* led to different holdings in the two cases as it does not explicitly explain that freedom of choice on how to use the vouchers is a key difference.

In part C the response did not earn a point. Although the response mentions “states with legislatures that agree with the ruling are more likely to be more inclusive with their policies,” being more inclusive does not explain how the holding in *Zelman* might affect educational policy in that state with regard to the public funding of school vouchers mentioned in the prompt.