

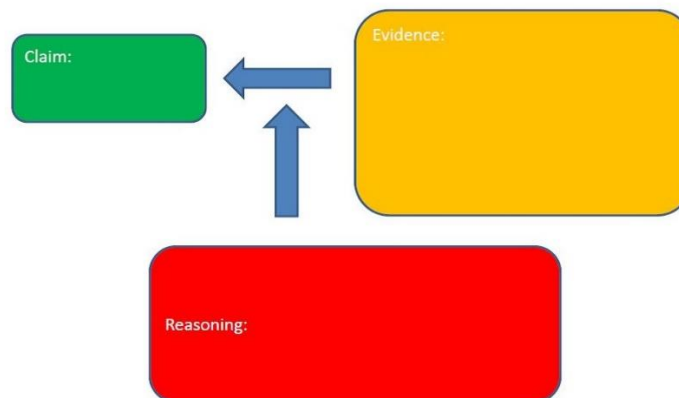


The United States Constitution Argument-Based Study Resource

Directions

Working in pairs, students should complete the argument-based questions within each category of study of the United States Constitution.

As a reminder, the most widely used and fundamental model in academic argumentation is a variation of the Toulmin model, in which a **claim** is the view, interpretation, or conclusion which the argument advances; **evidence** is the objective, factual support for the claim, and **reasoning** is the analytical explanation for how the evidence proves the claim true.



Students should complete or wholly construct arguments in response to prompts below, based on their knowledge of the Constitution: its foundations, Articles, and Amendments. They will also create counter-arguments and refute counter-



arguments, drawing again from factual information related to the Constitution.

Any time students are asked for evidence in the argument-based prompts below, they are required to cite three distinct, specific, fact-based points of information from the U.S. Constitution.

Constitution Arguments: Foundations

1) Provide specific and factual evidence, along with your own reasoning, to support the following argumentative claim.

Claim: The Constitution establishes national supremacy of the U.S. government.

Evidence (factual information):

Reasoning (analysis that explains how the evidence proves the claim):

2) Provide specific and factual evidence, along with your own reasoning, to support the following argumentative claim.

Claim: The Constitution is a rigid, rather than a flexible, document.

Evidence (factual information):



Reasoning (analysis that explains how the evidence proves the claim):

3) Identify two possible counter-arguments (the claims only, without evidence and reasoning) that would respond to the argument that the Constitution is rigid, not flexible.

Counter-Argument 1

Counter-Argument 2

4) For this argument, the argumentative claim and evidence is provided. Come up with analytical reasoning that connects the each of the two pieces of evidence to the claim.

Claim: The concept of “separation of powers” in the U.S. Constitution helps protect against a move toward tyrannical rule.

Evidence (factual information):

A. The Articles reserve the power to make and change federal laws to the Congress; the executive branch has the power to enforce them and represent the U.S. with other nations; and the judicial branch has the power to interpret laws.



B. The 10th Amendment of the Constitution reserves rights not expressly granted to the national government to the state and local governments.

Reasoning (analysis that explains how the evidence proves the claim):

5) For this argument, the reasoning is provided. Identify evidence that both supports the argumentative claim and fits with the provided reasoning.

Claim: The concept of the “social contract,” as developed by 17th and 18th century European philosophers John Locke and Jean-Jacques Rousseau, had a significant influence over the writing of the United States Constitution.

Evidence (factual information):

Reasoning (analysis that explains how the evidence proves the claim):

In locating the original source of political authority in the people, through this principle of “popular sovereignty,” Locke established the philosophical basis for drafting a constitution to outline how that power can be used by a government to write and enforce laws to control the behavior of the people in a society. No longer would a society’s rules be determined by the will of a single, divinely identified ruler or ruling family. And in going further to identify the purpose of governance as protection of human liberty, Rousseau’s view of the social contract helped the framers of the Constitution emphasize the limits and boundaries of governmental authority, found throughout the Articles and Amendments.



6) Complete the argumentative claim, and provide evidence and reasoning to support it.

Claim: The Articles of Confederation (of 1781 – 1788) failed because they _____

_____.

Evidence (factual information):

Reasoning (analysis that explains how the evidence proves the claim):

Constitution Arguments: Articles

7) Provide specific and factual evidence, along with your own reasoning, to support the following argumentative claim.

Claim: The bicameral national legislature – the U.S. Congress – is framed in Article I in such a way that reveals a wariness of direct democracy and a concern about what be called “mob rule.”

Evidence (factual information):

Reasoning (analysis that explains how the evidence proves the claim):



8) For the following argument, the evidence and reasoning is provided. Compose an argumentative claim to complete the argument.

Claim: _____
_____.

Evidence (factual information):

Article I, section 8, is often called the “elastic clause.” It reads: Congress has the power “To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”

Reasoning (analysis that explains how the evidence proves the claim):

This clause is highly expansive. Not only does it give Congress the right to do anything it wishes to do, as long as it can justify its actions as fulfilling its Constitutionally-specified authorities, it also seems to suggest that Congress is the lead authority of the full national government, and has final say over the activities and conduct of all departments or individuals in the government.

9) Provide specific and factual evidence, along with your own reasoning, to support the following argumentative claim.

Claim: Article II of the Constitution emphasizes the President’s role as a representative of and decision-maker for the United States in its business and relations with other nations over his role in domestic public policy.

Evidence (factual information):



Reasoning (analysis that explains how the evidence proves the claim):

10) For this argument, the argumentative claim and the evidence is provided. Come up with analytical reasoning that connects the each of the two pieces of evidence to the claim.

Claim: Article III of the Constitution is actually fairly limiting in how it defines the jurisdiction of the federal judiciary.

Evidence (factual information):

Article III, Section 2, lays out the specific parties to a civil or criminal suit that trigger the role of the federal judicial branch. This section states that the federal judiciary has jurisdiction in cases involving foreign representatives or nations, or disputes between states, or between citizens of different states.

Reasoning (analysis that explains how the evidence proves the claim):

11) Provide specific and factual evidence, along with your own reasoning, to support the following argumentative claim.

Claim: There are important examples in 21st century America of the rights and provisions governing citizens in Article IV of the Constitution.

Evidence (factual information):



Reasoning (analysis that explains how the evidence proves the claim):

12) Complete the argumentative claim, and provide evidence and reasoning to support it.

Claim: The law (or policy) proposed by _____ that would _____

probably violates the Constitution in at least one of its provisions in Articles IV – VII.

Evidence (factual information):

Reasoning (analysis that explains how the evidence proves the claim):

Constitution Arguments: Amendments

13) Provide specific and factual evidence, along with your own reasoning, to support the following argumentative claim.



Claim: The four clauses of the First Amendment are fundamentally connected into a coherent whole conception of the most important characteristics of personal liberty.

Evidence (factual information):

Reasoning (analysis that explains how the evidence proves the claim):

14) Identify two possible counter-arguments (include claims and some evidence or reasoning to support the claims) that would respond to the argument that the Second Amendment allows for substantial gun control regulation.

Counter-Argument 1

Counter-Argument 2

15) Choose one of the three clauses of the Fifth Amendment and argue that it is more important for personal liberty than the other two.



Claim: Even though the whole Amendment has great weight, the _____
_____ [due process, criminal procedure, or takings] clause of the
Fifth Amendment is a more important protection of individual liberty than the other
two clauses are.

The _____ clause is more important than the _____ clause because:

**The _____ clause is also more important than the
_____ clause because:**

16) Provide specific and factual evidence, along with your own reasoning, to support the following argumentative claim.

Claim: The Eighth Amendment’s prohibition of “cruel and unusual punishment” demonstrates the flaws in an “originalist” approach to interpreting the Constitution.

Evidence (factual information):

Reasoning (analysis that explains how the evidence proves the claim):



17) Provide specific and factual evidence, along with your own reasoning, to support the following argumentative claim.

Claim: The Ninth Amendment fails to achieve its original historical objective to ensure that the enumeration of individual liberties in the Bill of Rights would not amount to, in effect, an implicit constriction of these freedoms to those specified in the Constitution.

Evidence (factual information):

Reasoning (analysis that explains how the evidence proves the claim):

18) For this argument, the argumentative claim and the evidence is provided. Come up with analytical reasoning that connects the each of the two pieces of evidence to the claim.

Claim: The Fourteenth Amendment’s due process clause has been interpreted by the U.S. Supreme Court overly broadly, enabling unelected judges to create their own Constitutional rights not explicitly in the document and not validated by the democratic political process.

Evidence (factual information):

A. In 1965 the Supreme Court found in *Griswold v. Connecticut* that there is a “right to privacy” to be found in the “penumbra” of the First, Third, and Fourth Amendments.



B. Following *Griswold*, the Supreme Court has used the Fourteenth Amendment to identify substantive due process rights to the use of contraception (*Eisenstadt v. Baird*, 1972), to have an abortion (*Roe v. Wade*, 1973), and to marry a partner of one's same sex (*Obergefell v. Hodges*, 2015).

Reasoning (analysis that explains how the evidence proves the claim):

Now, identify two possible counter-arguments (include claims and some evidence or reasoning to support the claims) that would respond to the argument that the Fourteenth Amendment extends substantive due process rights by undemocratic judicial fiat.

Counter-Argument 1

Counter-Argument 2