5.4 US Federalism: The Changing Relationship Between Federal and State Government

EDEXCEL 9PL0 · about 60 minutes · Write-in edition

Total Marks

Name: _____ Date: ____ / ____ / _____

Answer ALL questions. Write full sentences for the extended and levels-marked questions (questions 3 and 4). Allow approximately 70 minutes for this pack: allocate about 20 minutes to the short and mid-length items and 50 minutes to the two levels-marked questions.

1 State one way the Commerce Clause has been used to expand federal authority, naming a relevant policy area.

(Total for Question 1 is 2 marks)

2 Explain the concept of New Federalism promoted in the late 20th century and name one policy instrument associated with it.

(Total for Question 2 is 4 marks)

3 Using the two short source extracts below about federal drug policy and states legalising recreational cannabis, evaluate the argument that federal power is constrained by state-level policy divergence. Source A: 'The Controlled Substances Act (CSA) remains federal law classifying marijuana as illegal; federal prosecutors retain discretion, but Congress and the Department of Justice can enforce the CSA across all states.' Source B: 'Since the 2010s numerous states have legalised recreational cannabis and implemented state regulatory systems, creating de facto legal markets in conflict with federal law; these states rely on state licensing, taxation and policing rather than federal approval.' Using these sources and your knowledge of US federalism, evaluate the extent to which state policy divergence constrains federal power over drugs.

(Total for Question 3 is 12 marks)

4 Evaluate the view that federal government power has grown at the expense of the states in the US federal system.

(Total for Question 4 is 30 marks)

5 Explain two ways modern federal-state conflicts over healthcare policy illustrate the changing balance of power, using recent US federal and state actions.

(Total for Question 5 is 4 marks)

6 State two Supreme Court rulings that significantly limited federal Commerce Clause power since the mid-1990s and give the year of each ruling.

(Total for Question 6 is 5 marks)

Mark scheme · 5.4 US Federalism: The Changing Relationship Between Federal and State Government

Question 1

identifies one use, e.g. regulating drugs across state lines or civil rights enforcement under interstate commerce powers	**B1**
links to a policy area, e.g. drug trafficking or civil rights legislation	**B1**

Answer: For example, the Commerce Clause has been used to justify federal regulation of drugs that cross state lines and to support federal civil rights laws affecting businesses engaged in interstate commerce.

Question 2

identifies New Federalism as devolution of responsibilities to states and a preference for state-level solutions	**B1**
identifies a policy instrument, e.g. block grants	**B1**
explains how block grants work, e.g. federal funds given with fewer strings attached allowing state discretion	**B1**
gives a brief example or effect, e.g. Temporary Assistance for Needy Families (TANF) replaced AFDC in 1996 as a block grant example	**B1**

Answer: New Federalism refers to a late 20th-century trend of returning responsibilities to the states and using instruments that increase state discretion. Block grants are a key tool: the federal government provides lump-sum funding with fewer conditions so states can set policy, as exemplified by federal welfare reform in 1996 when AFDC was replaced by the TANF block grant.

Question 3

Level 0 No relevant content.	**0**
Level 1 Basic description of sources or general statements about federal and state roles in drug policy with little analysis or use of the source material.	**1-3**
Level 2 Clear use of the sources with some developed analysis showing how federal law and state divergence interact; limited evaluation and few supporting examples beyond the sources.	**4-6**
Level 3 Good analysis driven by the sources and contextual knowledge: explains mechanisms that constrain federal enforcement and the countervailing federal tools that limit state divergence; includes specific examples and weighs strengths and limits of the argument.	**7-9**
Level 4 Sophisticated evaluation using the sources and wide contextual knowledge. Offers a balanced judgement on the extent of constraint, discussing prosecutorial discretion, federalism doctrines, political constraints on federal enforcement, and the continuing supremacy of federal law in principle, supported by well-chosen evidence.	**10-12**

Indicative content:

- Source A emphasises the formal supremacy of federal law under the Controlled Substances Act and the theoretical power of federal prosecutors and Congress to enforce a national prohibition against marijuana.
- Source B documents practical state-level policy divergence where states create regulatory systems, tax revenue, and policing priorities that treat recreational cannabis as legal, producing a legal and administrative gap with CSA federal prohibition.
- Evidence that state divergence constrains federal power: political costs and resource limits make sustained federal enforcement across many states politically difficult; prosecutorial discretion and the Department of Justice guidance choices have historically limited federal raids in states with regulatory regimes; states create local legal protections, tax systems and licensing that make enforcement complex.
- Counterevidence that federal power remains significant: federal supremacy means the CSA still criminalises marijuana and federal authorities can, in principle, arrest or prosecute across state lines; Congress could change policy nationally; federal banking and interstate commerce restrictions still create legal hurdles for state-legal markets.
- Legal and institutional tensions: Supreme Court Commerce Clause jurisprudence, and cases such as Gonzales v. Raich (2005) upholding some federal authority over local cultivation under commerce power, show that courts can support federal reach even where states diverge, but later political practice and enforcement priorities limit that reach.
- Political developments: bipartisan congressional proposals and federal executive guidance have shifted over time, and recent federal moves to ease banking or reschedule substances show federal power can adapt to state divergence, sometimes ceding space through legislation or administrative action.
- Balanced judgement might conclude that state policy divergence does constrain federal power in practical, operational terms, reducing the reach and political will for enforcement, but it does not eliminate federal supremacy; federal law retains ultimate authority, and federal instruments remain available if political will emerges to enforce them.

Question 4

Level 0 No relevant content.	**0**
Level 1 Basic knowledge of federalism with limited analysis. May list developments such as the Commerce Clause or New Deal without linking them to an argument that federal power has grown.	**1-7**
Level 2 Clear, accurate knowledge of multiple developments (e.g. New Deal expansion, Commerce Clause cases, federal grants) and some analysis of how these increased federal power. Evaluation present but could be one-sided or limited in depth.	**8-15**

Level 3 Detailed, accurate knowledge and sustained analysis: explains mechanisms of federal growth (constitutional interpretation, grants, conditional funding, national crises), examines countervailing trends (judicial restraint, New Federalism, block grants, state innovation), and begins to weigh their relative importance. **16-23**

Level 4 Sophisticated, well-evidenced evaluation that balances historical and contemporary evidence. Thorough AO1 knowledge of landmark cases and policy developments, strong AO2 analysis of causal mechanisms, and AO3 judgement on the extent of federal growth versus enduring state power. Reaches a clear, supported conclusion. **24-30**

Indicative content:

- Evidence for growth of federal power: New Deal era expansion through federal programmes and regulatory agencies established broad national roles in welfare, labor and economic regulation; the Commerce Clause was interpreted expansively in many 20th-century cases, enabling federal regulation of previously local matters.
- Federal fiscal tools: categorical grants, conditional funding and intertwined federal-state programmes such as Medicaid give the federal government leverage to set national policy by tying funds to conditions, diminishing pure state autonomy.
- National crises and events: wars, economic depressions and national emergencies often expand federal authority and institutional capacity, shifting long-term balances in favour of the national government.
- Judicial support and limits: while early 20th-century jurisprudence often allowed federal expansion, later Supreme Court decisions such as United States v. Lopez (1995) and United States v. Morrison (2000) signalled judicial constraints on Commerce Clause reach, highlighting limits to federal growth.
- Evidence of enduring or resurging state power: the New Federalism movement, block grants (e.g. TANF), and state-level policy innovation on healthcare, cannabis, and environmental regulation show states reclaiming policy space and tailoring programmes to local preferences.
- Practical constraints on federal power: political costs, administrative capacity and prosecutorial discretion can limit federal enforcement even where legal authority exists, as in federal responses to state cannabis legalisation.
- Complex interaction: federal growth is not uniform across all policy areas; some domains such as national defence and monetary policy are clearly national, while others like criminal law, education and public health show continuing state significance and frequent tension.
- Judgement: a high-quality answer weighs the scale and persistence of federal growth against clear countervailing evidence of state resilience and occasional retrenchment, concluding that federal power has grown significantly in many areas, but that states retain substantial autonomy and capacity to shape policy, so the growth is significant but not absolute.

Question 5

one way: federal initiatives like the Affordable Care Act use conditional funding and federal standards to shape state policy **B1**

development, e.g. federal Medicaid expansion incentives under ACA **B1**

second way: states use waivers or reforms to resist or reshape federal policy, e.g. Section 1115 Medicaid waivers or state-level public option proposals **B1**

development/example of state pushback or innovation, e.g. states declining Medicaid expansion or implementing their own programmes **B1**

Answer: One example is the Affordable Care Act, which expanded federal influence via Medicaid expansion incentives and federal standards; states could accept or decline expansion, illustrating federal leverage through conditional funds. Another example is states using Section 1115 waivers or their own innovations to resist or adapt federal policy, demonstrating that states retain tools to reclaim policy space or tailor implementation to local priorities.

Question 6

one ruling named correctly, e.g. United States v. Lopez **B1**

correct year for that ruling, e.g. 1995 cao **B1**

second ruling named correctly, e.g. United States v. Morrison **B1**

correct year for that ruling, e.g. 2000 cao **B1**

brief development showing these decisions limited Commerce Clause scope **B1**

Answer: United States v. Lopez (1995) and United States v. Morrison (2000); both cases limited the scope of the Commerce Clause by ruling that Congress had exceeded its commerce power in those instances, marking a judicial check on federal expansion.