

Dred Scott v. Sanford (1857)

Document Based Question for Advanced Placement U.S. History Classes

LEARNING OBJECTIVES:

1 Students apply the following constitutional principles to analyze the legal controversies surrounding the case of *Dred Scott v. Sanford* (1857).

- Federalism: a system of dual sovereignty in which the people delegate certain powers to the national government, while the states retain other powers; and the people, who authorize the states and national government, retain all freedoms not delegated to the governing bodies.
- Due process: government must interact with all citizens according to the duly-enacted laws, applying these rules equally among all citizens.
- Liberty: Except where authorized by citizens through the Constitution, government does not have the authority to limit freedom.

2 Students analyze how the two sides in the *Dred Scott* decision interpreted the same Founding documents and came to such different conclusions.

ACTIVITIES:

1 Have students read the Case Background essay on page 13 of the attached lesson. Discuss as needed.

2 Have students brainstorm relevant facts that they may already know about the context of this case. Students may suggest the following:

- Details about Dred Scott's life story
- Constitutional references such as the Three-Fifths Compromise, Fugitive Slave Clause, Due Process Clause, etc.
- Events related to addition of territories and new states up to the 1850s, for example those resulting from the Mexican cessions of 1848, "Bleeding Kansas," and the presidential election of 1856.

3 Analyze the prompt in the Key Question on page 14: "Analyze how the two sides in the *Dred Scott* decision interpreted the same Founding documents and came to such different conclusions."

- What are the two sides?
- What did each side want?
- How did each side interpret critical phrases differently?

4 Depending on your students' familiarity with the process of answering DBQs and writing essays, you may wish to provide them with a template such as the following for writing their thesis statements:

- "The two sides in the *Dred Scott v. Sanford* controversy came to such different conclusions in interpreting the same Founding documents because, while the side supporting Dred Scott emphasized, the side representing Sanford emphasized....

DRED SCOTT v. SANFORD ACTIVITIES CONTINUED

5 Guide students in a walk-through of the document list provided on page 14. Without actually reading the documents at this time, just have them skim the list and consider how each document named here may or may not prove to be related to the constitutional issues at stake in the *Dred Scott* decision.

6 Divide the class into 3 groups and assign each group the task of analyzing documents according to the Documents Summary table on page 233 of the accompanying Teacher Toolbox.

- Group 1: Documents A, B, C, D
- Group 2: Documents E, F, G, H
- Group 3: Documents I, J, K, L, M

7 Have Groups 1 and 2 report the results of their analysis, allowing other students in the class to fill in their Documents Summary tables.

8 Take a vote—How do your students think the Supreme Court should have decided the *Dred Scott* case? See end of Background Essay on page 13:

- Did Scott have standing to sue?
- Were Blacks entitled to rights as citizens?
- Could Congress restrict the rights of states to decide if they would be slave or free?

9 Have Group 3 report the results of their analysis of documents assigned to them, and allow other students to take notes on the Documents Summary table.

10 As needed for your students, discuss the Tips for Thesis Statements and Essays on pages 236-237 of the accompanying Teacher Toolbox.

11 Depending on your students' familiarity with the process of answering DBQs, select from the following activities:

- Work in a small group to compose a thesis statement.
- Work in a small group to outline an essay response to the Key Question.
- Work in a small group to write the essay.
- Work independently on any of the above activities.
- Work in a small group to apply peer grading standards to any of the above activities. See Rubrics on pages 238 and 239.

DRED SCOTT v. SANFORD (1857)

DIRECTIONS

Read the Case Background and Key Question. Then analyze Documents A-M. Finally, answer the Key Question in a well-organized essay that incorporates your interpretations of Documents A-M, as well as your own knowledge of history.

Case Background

The period between the ratification of the Constitution and the Civil War was marked by increased efforts for the abolition of slavery. As the country grew, free states began to outnumber slave states in number and population. The abolitionist forces gained political strength. The Northwest Ordinance and the Missouri Compromise created vast new territories which Congress declared must be free states upon admission to the Union.

However, slave states remained steadfast in their claim that slavery was a state issue and helped pass two federal fugitive slave laws, gaining national recognition of their legal rights against abolitionists who helped slaves escape. Federal law now required the return of the slaves to their owners.

Into the midst of this turmoil, Dred Scott, a slave, filed a case in Federal Circuit Court in St. Louis, Missouri. Scott claimed that because he had lived for ten years in both a free state (Illinois) and a free territory (Wisconsin), he had been made a free man. His owner did not deny that Scott and his family had resided in Wisconsin and Illinois, but claimed Scott lacked standing to sue, as he was not a citizen of the United States.

The Court looked at the case in the broadest possible terms, using it as a platform to decide: 1) Did Scott have standing to sue? 2) Were blacks entitled to rights as citizens? And, 3) Could Congress restrict the rights of states to decide if they would be slave or free?

KEY QUESTION

Analyze how the two sides in the *Dred Scott* decision interpreted the same Founding documents and came to such different conclusions.

Documents you will examine:

- A Runaway Slave Advertisement, 1769
- B The Declaration of Independence, 1776
- C Draft Declaration of Independence, 1776
- D Preamble to the United States Constitution, 1789
- E The United States Constitution, 1789
- F The Missouri Compromise, 1820
- G Anti-Abolitionist Handbill, 1837
- H Fugitive Slave Act of 1850
- I Majority Opinion (7-2), *Dred Scott v. Sanford*, 1857
- J Dissenting Opinion, *Dred Scott v. Sanford*, 1857
- K Frederick Douglass, Speech on the *Dred Scott* Decision, 1857
- L Abraham Lincoln, Speech on the *Dred Scott* Decision 1857
- M "The Political Quadrille, Music By Dred Scott," 1860

DOCUMENT A

Runaway Slave Advertisement, 1769



RUN away from the subscriber in *Albemarle*, a Mulatto slave called *Sandy*, about 35 years of age, his stature is rather low, inclining to corpulence, and his complexion light; he is a shoemaker by trade, in which he uses his left hand principally, can do coarse carpenters work, and is something of a horse jockey; he is greatly addicted to drink, and when drunk is insolent and disorderly, in his conversation he swears much, and in his behaviour is artful and knavish. He took with him a white horse, much scarred with traces, of which it is expected he will endeavour to dispose; he also carried his shoemakers tools, and will probably endeavour to get employment that way. Whoever conveys the said slave to me, in *Albemarle*, shall have 40 s. reward, if taken up within the county, 4 l. if elsewhere within the colony, and 10 l. if in any other colony, from
THOMAS JEFFERSON.

The Virginia Gazette; Williamsburg, September 14, 1769.
Reproduction of newspaper. Courtesy of the Virginia Historical Society, Richmond

- ▶ **What is this ad for, and who wrote it?**

DOCUMENT B

The Declaration of Independence, 1776

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed....

- ▶ **According to this document, what is the purpose of government?**

DOCUMENT C

Draft Declaration of Independence, 1776

Note: This section of Thomas Jefferson's original draft Declaration of Independence was deleted by the Continental Congress.

He [the British King] has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating & carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither...Determined to keep open a market where MEN should be bought & sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce.

- ▶ **With what does Jefferson charge the English King?**
- ▶ **How does this deleted paragraph inform the meaning of “all men” in Document B?**

DOCUMENT D

Preamble to the United States Constitution, 1789

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

- ▶ **Based on your readings of Documents B and C, who are “We the people?”**

DOCUMENT E

The United States Constitution, 1789

The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person....

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states....

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

- ▶ **Who are the “such persons” referenced in this excerpt?**
- ▶ **According to the Constitution, what level of government has the power to regulate slavery?**

DOCUMENT F

The Missouri Compromise, 1820

[I]n all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the state, contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited: Provided always, That any person escaping into the same, from whom labour or service is lawfully claimed, in any state or territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labour or service as aforesaid.

- ▶ **Can Congress limit slavery in the Louisiana Territory under the provisions in Document E?**

DOCUMENT G

Anti-Abolitionist Handbill, 1837

OUTGRAGE.

Fellow Citizens,

AN

ABOLITIONIST,

of the most revolting character is among you, exciting the feelings of the North against the South. A seditious Lecture is to be delivered

THIS EVENING,

at 7 o'clock, at the Presbyterian Church in Cannon-street. You are requested to attend and unite in putting down and silencing by peaceable means this tool of evil and fanaticism. Let the rights of the States guaranteed by the Constitution be protected.

Feb. 27, 1837. *The Union forever!*

Facsimile

- ▶ This poster mentions the “rights of the States.” What specific right does this mean?
- ▶ Is there a potential conflict between the “rights of the States” and “The Union forever!”?

DOCUMENT H

Fugitive Slave Act of 1850

[W]hen a person held to service or labor in any State or Territory of the United States, (has) heretofore or shall hereafter escape into another State or Territory of the United States, the person or persons to whom such service or labor may be due ... may pursue and reclaim such fugitive person, either by procuring a warrant from some one of the courts, judges, or commissioners ... for the apprehension of such fugitive from service or labor, or by seizing and arresting such fugitive...

- ▶ How does the Fugitive Slave Act of 1850 expand the protections given to slave owners in Documents E and F?

**Majority Opinion (7-2), *Dred Scott v. Sanford*, 1857**

The language of the Declaration of Independence is ... conclusive: ... 'We hold these truths to be self-evident: that all men are created equal.' ...[I]t is too clear for dispute, that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted this declaration. ... They perfectly understood the meaning of the language they used, and how it would be understood by others; and they knew that it would not in any part of the civilized world be supposed to embrace the negro race, which, by common consent, had been excluded from civilized Governments and the family of nations, and doomed to slavery....

The brief preamble [to the Constitution] ... declares that it is formed by the people of the United States; that is to say, by those who were members of the different political communities in the several States; and its great object is declared to be to secure the blessings of liberty to themselves and their posterity. It speaks in general terms of the people of the United States, and of citizens of the several States, when it is providing for the exercise of the powers granted or the privileges secured to the citizen. It does not define what description of persons are intended to be included under these terms, or who shall be regarded as a citizen and one of the people....

[T]here are two clauses in the Constitution which point directly and specifically to the negro race as a separate class of persons, and show clearly that they were not regarded as a portion of the people or citizens of the Government then formed.

[T]he right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, like an ordinary article of merchandise and property, was guaranteed to the citizens of the United States, in every State that might desire it, for twenty years. And the Government in express terms is pledged to protect it in all future time, if the slave escapes from his owner. This is done in plain words—too plain to be misunderstood. And no word can be found in the Constitution which gives Congress a greater power over slave property, or which entitles property of that kind to less protection than property of any other description. The only power conferred is the power coupled with the duty of guarding and protecting the owner in his rights.

- ▶ **According to this document, how and why does the Constitution protect slavery?**
- ▶ **According to this document, why were slaves not considered to be people?**

DOCUMENT J

Dissenting Opinion, *Dred Scott v. Sanford*, 1857

[The] question is whether any person of African descent, whose ancestors were sold as slaves in the United States, can be a citizen of the United States. If any such person can be a citizen, this plaintiff has the right to the judgment of the court that he is so, for no cause is shown by the plea why he is not so, except his descent and the slavery of his ancestors....

To determine whether any free persons, descended from Africans held in slavery, were citizens of the United States ... at the time of the adoption of the Constitution of the United States, it is only necessary to know whether any such persons were citizens of either of the States under the Confederation at the time of the adoption of the Constitution.

Of this there can be no doubt. At the time of the ratification of the Articles of Confederation, all free native-born inhabitants of the States of New Hampshire, Massachusetts, New York, New Jersey, and North Carolina, though descended from African slaves, were not only citizens of those States, but such of them as had the other necessary qualifications possessed the franchise of electors, on equal terms with other citizens....

Did the Constitution of the United States deprive them or their descendants of citizenship?

That Constitution was ordained and established by the people of the United States, through the action, in each State, or those persons who were qualified by its laws to act thereon in behalf of themselves and all other citizens of that

State. In some of the States, as we have seen, colored persons were among those qualified by law to act on this subject. These colored persons were not only included in the body of “the people of the United States” by whom the Constitution was ordained and established, but, in at least five of the States, they had the power to act, and doubtless did act, by their suffrages, upon the question of its adoption. It would be strange if we were to find in that instrument anything which deprived of their citizenship any part of the people of the United States who were among those by whom it was established.

- ▶ **What historical evidence does the author use to support the claim that “colored persons” were citizens?**
- ▶ **How does this dissent differ from the majority opinion in Document I?**

DOCUMENT K

Frederick Douglass, Speech on the *Dred Scott* Decision, 1857

I have a quarrel with those who fling the Supreme Law of this land between the slave and freedom. ...[The Constitution says] “We, the people”—not we, the white people—not we, the citizens, or the legal voters—not we, the privileged class, and excluding all other classes but we, the people; not we, the horses and cattle, but we the people—the men and women, the human inhabitants of the United States, do ordain and establish this Constitution.

I ask, then, any man to read the Constitution, and tell me where, if he can, in what particular that instrument affords the slightest sanction of slavery?

Where will he find a guarantee for slavery? Will he find it in the declaration that no person shall be deprived of life, liberty, or property, without due process of law? Will he find it in the declaration that the Constitution was established to secure the blessing of liberty? Will he find it in the right of the people to be secure in their persons and papers, and houses, and effects? Will he find it in the clause prohibiting the enactment by any State of a bill of attainder?

These all strike at the root of slavery, and any one of them, but faith-fully carried out, would put an end to slavery in every State in the American Union.

- ▶ **According to Douglass, what are the most important guarantees of the Constitution?**

DOCUMENT L

Abraham Lincoln, Speech on the *Dred Scott* Decision, 1857

Chief Justice Taney, in delivering the opinion of the majority of the Court, insists at great length that Negroes were no part of the people who made, or for whom was made, the Declaration of Independence, or the Constitution of the United States. ...[T]he Chief Justice does not directly assert, but plainly assumes, as a fact, that the public estimate of the black man is more favorable now than it was in the days of the Revolution. This assumption is a mistake. ...In those days, our Declaration of Independence was held sacred by all, and thought to include all; but now, to aid in making the bondage of the Negro universal and eternal, it is assailed, and sneered at, and construed, and hawked at, and torn, till, if its framers could rise from their graves, they could not at all recognize it. ...I had thought the Declaration contemplated the progressive improvement in the condition of all men everywhere; but no, it merely “was adopted for the purpose of justifying the colonists in the eyes of the civilized world in withdrawing their allegiance from the British crown, and dissolving their connection with the mother country.” Why, that object having been effected some eighty years ago, the Declaration is of no practical use now—mere rubbish—old wadding left to rot on the battle-field after the victory is won.

And now I appeal to all—are you really willing that the Declaration shall be thus frittered away?—thus left no more at most, than an interesting memorial of the dead past? ...shorn of its vitality, and practical value; and left without the germ or even the suggestion of the individual rights of man in it?

- ▶ **How does Lincoln’s reading of the Declaration of Independence differ from Chief Justice Taney’s in Document I?**

DOCUMENT M

“The Political Quadrille, Music By Dred Scott,” 1860



- ▶ According to the artist, how did various political candidates react to the *Dred Scott* case?

DIRECTIONS

Answer the Key Question in a well-organized essay that incorporates your interpretations of Documents A-M, as well as your own knowledge of history.

KEY QUESTION

Analyze how the two sides in the *Dred Scott* decision interpreted the same Founding documents and came to such different conclusions.

THE ISSUE ENDURES

Amendment XIV (1868)

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

- ▶ **Explain how this amendment to the Constitution “overruled” the *Dred Scott* decision.**

APPENDIX

TEACHER TOOLBOX

Classroom Applications

Case Briefing Sheet

Constitutional Issue Evidence Form

Documents Summary

Attorney Document Analysis

Moot Court Procedures

Tips for Thesis Statements and Essays

Rubric for Evaluating a DBQ Essay on a 9-Point Scale

Key Question Scoring Guidelines for All Essays

CLASSROOM APPLICATIONS

Scaffolding questions are provided as an option. Teachers of AP or honors classes may choose not to have students write answers to these.

Context/Background information for some documents is provided as an option to brief students on historical/legal context and significance.

DBQ Strategies:

- Write the Key Question on the board and give each student a copy of one document. Ask this question: Does this document help you to answer this question? If so, how? If not, what additional information might you need? Allow students 3-4 minutes to answer these questions. Then, have students pair up, sharing their documents and answering the same questions. Have each pair join another and repeat the process. Finally, bring the entire class together and answer the Key Question as a group.
- Write the Key Question on the board and spend one class period having students analyze documents and answer the scaffolding questions, followed by one class period writing their answers to the key question.
- Divide students into pairs or trios and assign one or more documents per group. Then ask groups to report on their documents to the class, being sure that they explain how their specific documents can help to answer the Key Question.
- Go over DBQs as a large group, using scaffolding questions and key questions as discussion prompts.
- Give students the documents from a case and have them craft a key question.
- Have students complete a Case Briefing Sheet (see p. 231) to reinforce key concepts.
- Have students determine for each document which side would be more likely to use it in oral argument of the case. (See graphic organizers, p. 232.)
- Conduct a Moot Court presentation (see p. 235 for directions).
- Lightning Round Moot Court: This strategy might be especially helpful to provide a quick review of a number of cases. Assign two students to each case—one to present the petitioner’s position and one to present the respondent’s. Each student has two minutes to present his/her position to the entire class, which then must vote on this question: Is the law in question a valid exercise of government power under the relevant constitutional principles?
- Have students conduct research to discover more details about the people involved in a case, and then report to the class.
- Develop an illustrated timeline to depict changes and trends in interpretation of a given constitutional principle.
- Develop political cartoons to highlight the important issues in a case.

ONLINE RESOURCES

Consult any of the following websites for additional resources to learn more about the Supreme Court and landmark cases.

<http://billofrightsinstitute.org/resources/educator-resources/landmark-cases/>
www.oyez.org
<http://www.streetlaw.org/en/landmark.aspx>
<http://www.supremecourt.gov/>
<http://www.law.cornell.edu/supct/cases/name.htm>
<http://www.scotusblog.com/>

CASE BRIEFING SHEET

Case Name and Year: _____

Facts of the Case: _____

What is the constitutional question that the Supreme Court must answer?
(This is a yes/no question and spells out the specific part of the Constitution at issue.)

What constitutional principles are indicated in the case? _____

Summary of one side's arguments:

Summary of the other side's arguments:

How would you decide the case and why? _____

How did the Supreme Court majority decide the case and why? _____

What were the main points raised in any dissenting opinions? _____

What other Supreme Court cases are related in important ways? _____

CONSTITUTIONAL ISSUE EVIDENCE FORM

How would you use the documents provided to answer the constitutional question?

Case Name and Year:

Constitutional Issue:

Yes (Source/Evidence)		No (Source/Evidence)	

DOCUMENTS SUMMARY

Use this form to develop an overview of the evidence available.

Document name & date	Author	Answer to scaffolding question	How each side might use this document to answer the Key Question —OR— What is the main idea of this document?

ATTORNEY DOCUMENT ANALYSIS

Use this form to show which attorney would probably use each document provided, and why.

Petitioner	Both sides	Respondent
Additional notes: How did majority/dissenting opinions align with each attorney's position?		

MOOT COURT PROCEDURES

Preparation

- Encourage students to use the background knowledge they have developed. Attorneys and Justices of the U.S. Supreme Court apply a great deal of background and historical knowledge.
- Caution students that “gotcha” questions within the classroom context are not productive. “Justices” should not ask questions that, based on their background and class activities, would not be fair game.
- Decide whether students will be allowed to use online resources via their smartphones during the exercise—there are good arguments both for using and for not using them.
- Recommendation—do not allow “Justices” to interrupt the attorneys in the first time or two that you run moot courts. They can ask their questions at the end of each attorney’s oral arguments.
- Encourage teamwork among “attorneys” in their presentations. Each team should have a lead attorney, but others will help fill in as needed.

Divide class into 3 groups: 9 Justices, advocates for the petitioner, and advocates for the respondent (A fourth group could be journalists.)

- Give time for planning: Justices decide what questions they want answered in oral arguments; advocates for each side plan their oral arguments.
- Allow equal time for presentation of each side, including interruptions from Justices (or not—your choice). In the U.S. Supreme Court, each side has 30 minutes, and the Justices interrupt continuously.
- Justices deliberate and announce decision. Deliberation is actually done in strict privacy in the U.S. Supreme Court conference, but you decide for your class.

At the beginning of each session of the Supreme Court, the Marshal of the Court (Court Crier) announces:

“Oyez! Oyez! Oyez! All persons having business before the Honorable, the Supreme Court of the United States, are admonished to draw near and give their attention, for the Court is now sitting. God save the United States and this Honorable Court!”

The Chief Justice will begin the oral argument phase by saying, “Petitioner, you may begin.”

The petitioner’s attorney says, “Mr. Chief Justice, and may it please the Court...”

Debrief: Discuss both the content of the case (Constitutional principle and its application) and the processes employed. Consider thinking and planning process, civil discourse process, and the application of these skills outside the classroom.

TIPS FOR THESIS STATEMENTS AND ESSAYS

Thesis Statement: The thesis statement condenses your arguments to a nutshell and appears in the opening paragraph, but it is not written until AFTER you have planned your overall response. (Planning process shown in table below.)

A good thesis statement—

- Fully addresses all parts of the prompt, while acknowledging the complexity of the issue.
- Clearly takes a side—makes a declarative statement that one thing was more important, more persuasive, etc. than another. Since the verb in the prompt is often something like “assess” or “evaluate,” the thesis statement should show which side the writer takes.
- Suggests a “table of contents ”or road map for the essay—shows what elements enter into consideration.
- Begins an essay that is proven by abundant and persuasive facts and evidence.

In a DBQ essay, the student writes a well-organized response to target a specific prompt, analyzing pertinent documents in order to support his/her thesis. The steps described here will guide the process of handling the documents. (For Advanced Placement US History the response must include BOTH outside information AND information from the documents. On US History AP exams, one of the essays that must be written under timed conditions is the DBQ.)

DBQ Do and Don't

Steps	Do	Don't
1. Analyze the prompt and divide it into its components. A graphic organizer helps with this step.	Fully address the prompt. It is better to address all parts of the prompt, even if you must do some in a way that is less complete, than to spend all your time on just one of two parts or 3 of 4 parts.	Neglect part of the prompt because you spent too much time on the part you know more about.
2. Plan to prove your point. It is best to begin by planning the overall structure BEFORE even looking at the documents.	Organize your thoughts before writing the thesis statement. What are the logical points your essay needs to include?	Write a “laundry list” that simply summarizes each document.

Steps	Do	Don't
3. Check the documents to see how you can use them as tools.	Strive to use all the documents; but be sure you accurately understand their main ideas.	Take quotes or ideas out of context to use them in a manner other than the author intended.
4. Ask yourself when writing every paragraph: "How does this help to prove my thesis?"	Analyze to prove the position asserted in the thesis statement. Analysis is not the same thing as description or narrative. Merely making a series of true statements is not analysis. Key to analysis—is the essay answering the "So what?" question?	Use 1st-or 2 nd -person pronouns "I think the Supreme Court has the authority to use judicial review because..." "Have you ever wondered how the Supreme Court got the authority to overturn federal laws?"
5. Manage time wisely; writing long quotes will eat up thinking time.	Use relevant facts, evidence, proof. A well-chosen brief phrase in quotations and worked into your own sentence is powerful.	Use lengthy quotes. Pad the paper in an attempt to conceal a lack of analysis.
6. Give credit to sources.	Cite sources using the author's name and/or document title.	Write "According to Document B,..."
7. Think as you write!	Let logic and analysis drive the essay.	Let documents drive the essay.

RUBRIC FOR EVALUATING A DBQ ESSAY ON A 9-POINT SCALE

Adapted from AP US History guidelines

Score (Grade)	Thesis	Analysis (tends to be the most difficult component)	Entire Prompt	Documents	Outside Info (required for AP class)	Organization & Writing Skill	Errors
8-9 (95-100)	Contains a well-developed thesis which clearly addresses all aspects of the prompt and shows organizational roadmap	Effective analysis which shows & proves relationships; fully answers the “so what?” questions; more analytical than narrative.	Addresses all aspects of the prompt, though coverage may be slightly uneven	Effectively and appropriately uses all—(or almost all) documents	Supports thesis with substantial and relevant outside information.	Clearly organized & well-written—evident on first reading, but we’ll read it again just for pleasure.	May contain minor errors.
5-6-7 (80-85-90)	Contains a thesis which addresses the prompt	Limited analysis; mostly descriptive; knowledge & comprehension level in use of facts	Slightens or neglects some parts of the prompt	Uses some documents effectively	Supports thesis with some outside information	Acceptable organization; language errors do not interfere with comprehension and do not indicate misunderstanding of the topic	May contain errors that do not seriously detract from quality of the essay
2-3-4 (65-70-75)	Presents a limited, confused and/or poorly developed thesis	Simplistic explanations that do not indicate mastery of the content; may list facts without analysis	Deals with one aspect of the prompt in a general way or with additional parts in a superficial way	Quotes or briefly cites some documents, but does not use them as tools to support thesis	Contains little outside information	Demonstrates weak organizational and/or writing skills which interfere with comprehension	May contain major errors
0-1 (60 & below)	Contains no thesis or a thesis which does not address the prompt	Shows inadequate or inaccurate understanding of the prompt	Ignores part of the question	Contains little or no understanding of the documents or ignores them completely	Includes inappropriate, off-target, or no outside information	Is so poorly organized or written that it is difficult to understand	Contains numerous errors, both major and minor
-	Response is completely off-target. Examples: “I didn’t have to pay for this exam and I’m not wasting my time on it”; “I know nothing about the prompt, but let me tell you about snow-boarding...”; “My former boyfriend is the world’s biggest jerk and here’s why...”						

KEY QUESTION SCORING GUIDELINES FOR ALL ESSAYS

The Good-Excellent Essay

- Asserts a strong, clear, and well-developed thesis in response to the key question.
- Supports the thesis with outstanding analysis of Founding documents, custom, legal precedent and contemporary views.
- Intelligently applies and/or critiques the Court's opinion(s).
- Effectively uses many documents and incorporates prior knowledge.
- Contains only minor errors; is clearly organized and exceptionally well-written.

The Average-Good Essay

- Asserts a thesis in response to the key question.
- Supports the thesis with some analysis of Founding documents, custom, legal precedent and/or contemporary views. Analysis of some aspects may be cursory or absent.
- Critiques and/or applies the Court's opinion(s), but may demonstrate less command of nuance than the Good-Excellent Essay.
- Effectively uses many documents and incorporates prior knowledge.
- Contains few significant errors; is acceptably organized and written.

The Below Average-Average Essay

- Asserts a limited thesis or does not fully address the key question.
- Analysis is largely incomplete, superficial, or incorrect; may merely paraphrase or quote documents.
- Contains simplistic or incorrect application/critique of the Court's opinion(s).
- Uses few documents and incorporates little prior knowledge.
- Contains some significant errors and is poorly organized and written.

The Poor-Below Average Essay

- Lacks a thesis.
- Exhibits inadequate understanding of the question and the documents.
- Offers no application/critique of the Court's opinion(s).
- Uses very few documents and incorporates no prior knowledge.
- Contains numerous significant errors and is poorly organized and written.

ANSWER KEY

UNIT ONE: Federal Courts in History

Marbury v. Madison

Document A: The Supreme Court, and not the people or their representatives, would be sovereign. Further, he argues that since judges are not elected and “subject to no controul,” they will use their power to override the will of the people simply at the “sense of the judges.”

Document B: It has “neither force nor will.”

Document C: No law that contradicts the Constitution is valid.

Document D: The Courts

Document E: 1. The power to judge the constitutionality of laws. 2. The Constitution.

Document F: To rule in cases that involve the Constitution and all federal laws and treaties. Congress can determine the “exceptions” to judicial power/ interpretation.

Document G: Yes.

Document H: To issue writs of mandamus.

Document I: The states.

Document J: 1. Because it is the “province and duty of the judicial department to say what the law is,” and the Constitution is the fundamental law. 2. To declare void laws that conflict with the Constitution.

Document K: Hamilton describes a weak judiciary whereas Jefferson identifies one that has grown very strong.

Dred Scott v. Sanford

Document A: To find a runaway slave. Thomas Jefferson.

Document B: To protect rights such as “life, liberty and the pursuit of happiness”

Document C: 1. Perpetuating slavery in the colonies. 2. Some will say that by using the word “men,” Jefferson equates slaves with free men, born with equal natural rights. Other students may say, however, that because Congress deleted the paragraph, it rejected this definition of “all men.”

Document D: Some students will say it refers to citizens; others will say voting citizens; others will say it refers to all people.

Document E: 1. Slaves 2. States have the power until 1808. Congress may have the power to regulate slavery thereafter.

Document F: Yes

Document G: 1. To regulate slavery 2. Individual states may have different views on slavery, while the Union may require a national policy. Not all states may be happy with a national policy on slavery.

Document H: Free states had to assist in the capture of runaway slaves.

Document I: 1. Through its provisions safeguarding the property rights slaveowners had in their property: slaves. 2. They were not part of the “political communities” that ratified the Constitution. Slaves were property, not persons.

Document J: 1. The fact that several states defined “free native-born inhabitants” as citizens with full voting rights. 2. The majority opinion in *Scott v. Sanford* focused on whether slaves were people or property; the dissenting opinion

focused on whether or not they were citizens.

Document K: All the provisions that guarantee liberty.

Document L: Lincoln viewed the document as an eternal statement of the human rights held by all people. Taney focused on the contemporary circumstances under which it was written.

Document M: These 1860 presidential candidates (Clockwise from top right: Lincoln, Bell, Douglas, Breckenridge/Buchanan) felt compelled to react, but in different ways and for different reasons.

United States v. Nixon

Document A: Powers are separated so that one branch does not become too powerful.

Document B: Giving it the power to govern, with enough limits so liberty is not lost.

Document C: 1. To protect from foreign attack, provide for a steady administration of laws, protect property and justice, and secure liberty from ambition, faction and anarchy. 2. Unlike the president, the king of England is not personally responsible for his actions and is unaccountable to the people. The king may exercise his powers alone, whereas the President's power is subject to checks and balances.

Document D: Jackson is acting like a king, exercising his powers in ways that trample the Constitution.

Document E: The House asked why the police commissioners of Baltimore were arrested; Lincoln refused.

Document F: 1. Not to allow defense employees to testify to Congress. 2. The right to keep information and advice secret if it goes against the public interest or the nation's safety.

Document G: 1. Nixon is portrayed as a king. The top of the Capitol dome

is missing, indicating destruction of Congress's power to check the actions of the executive. Nixon is exercising a monarch's powers without regard to checks and balances, despite Hamilton's assurances. 2. It uses similar imagery and makes a similar argument.

Document H: 1. The need to protect confidentiality in communications between "high government officials and those who advise and assist them" and the doctrine of separation of powers. The Court held that it was too broad of a claim and executive privilege could not possibly be absolute. 2. If there were a need to protect "military, diplomatic, or sensitive national security secrets."

Document I: Nixon was deliberately leaving out incriminating evidence by hiding information he did not want others to hear and in fact, was a "crook."

Document J: The powers of government clash.

UNIT TWO: Equal Protection and Affirmative Action

Plessy v. Ferguson

Document A: All people are born with an equality of rights.

Document B: Blacks may be inferior to whites in their faculties. Jefferson does not say blacks do not have equal rights.

Document C: 1. Slaves. 2. Three-fifths of the total slave population was added to the total free population to determine the state population for purposes of representation and taxation.

Document D: Powers not given to the federal government remain with the states and the people.

Document E: Jefferson is open to being proved wrong. Nevertheless, even if