Who Has Authority?

Federalism, tribal sovereignty, and an Oklahoma court decision

OKH.C.5.4 "Describe the American system of federalism as it relates to the division, function, and sharing of powers among levels of government, using historical examples and including Tribal relationships to the state government."

NAME _____ DATE _____

1 READ AND MARK

Read it twice

YOUR JOB Underline one federal power, circle one state power, and number two examples of governments sharing work or authority. Use your marks to track how power is divided and shared.

One Place, Several Governments

1. A truck crosses an Oklahoma highway that connects several states. Who sets the rules it follows? The Constitution gives the federal government powers such as regulating trade between states. Oklahoma sets traffic rules and runs its highway patrol. Both levels help build roads: federal grants can support a project, while state officials plan and maintain many highways. This division is federalism, not a rule that every problem belongs to only one government. When a road crosses a reservation, however, a third government may have authority too. Tribal nations are sovereign governments, not departments of Oklahoma.

2. In the 1830s, the United States forced the Muscogee (Creek) Nation from its homeland to Indian Territory. Federal treaties promised the Nation a new homeland there. Oklahoma became a state in 1907, and state officials later treated much of that land as if the reservation no longer existed. In 2020, the U.S. Supreme Court ruled in McGirt v. Oklahoma that Congress had never ended the Muscogee Reservation. A state cannot erase a reservation by acting as though it is gone. This ruling changed which government could prosecute some crimes, but it did not make every issue on the reservation a federal issue.

3. For certain serious crimes committed by tribal citizens on the Muscogee Reservation, federal authorities, rather than Oklahoma, have prosecution authority under federal law. The Nation also has its own government and courts, with powers that depend on the people and offense involved. Oklahoma still governs many matters involving nontribal residents, subject to federal law and the facts of each case. Governments also work together: Oklahoma and tribal nations can make agreements to coordinate policing or other services. An agreement shares work; it does not turn a tribal nation into a state agency. Treaty promises, federal law, and tribal sovereignty all shape that relationship.

2 ANSWER WITH EVIDENCE

Use the passage

1. How do federal and state responsibilities differ for the highway in the first paragraph, and where do they overlap?

2. How did the 2020 ruling challenge the way Oklahoma had treated Muscogee land after statehood?

3. For certain serious crimes committed by tribal citizens on the Muscogee Reservation, how is prosecution authority divided among federal, state, and tribal governments?

4. Why can Oklahoma and a tribal nation agree to coordinate policing without the tribal nation becoming part of the state government?

3 YOUR TURN

Your own words

A tribal nation and Oklahoma want to create a flood-warning plan for communities on a reservation. Write four sentences explaining a possible role for the tribal, state, and federal governments, and use one historical detail from the passage to explain why the state must work with the tribal nation as a separate government.

ANSWER KEY

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HIGH SCHOOL · OKH.C.5.4

PART 1 · READ AND MARK

Underline one federal power, circle one state power, and number two examples of governments sharing work or authority. Use your marks to track how power is divided and shared. Accept any marking that follows this job and points at the right text.

PART 2 · ANSWERS

#	QUESTION	ANSWER
1	How do federal and state responsibilities differ for the highway in the first paragraph, and where do they overlap?	**The federal government regulates trade between states, while Oklahoma sets traffic rules and runs its highway patrol. Both can support road projects through federal grants and state planning or maintenance.**
2	How did the 2020 ruling challenge the way Oklahoma had treated Muscogee land after statehood?	**Oklahoma had treated much of the land as though the reservation no longer existed. The Court ruled that Congress had never ended the reservation, so the state could not erase it by acting as though it was gone.**
3	For certain serious crimes committed by tribal citizens on the Muscogee Reservation, how is prosecution authority divided among federal, state, and tribal governments?	**Federal authorities, rather than Oklahoma, have prosecution authority under federal law. The Muscogee Nation also has courts, whose authority depends on the people and offense involved.**
4	Why can Oklahoma and a tribal nation agree to coordinate policing without the tribal nation becoming part of the state government?	**They are separate governments. An agreement lets them share work while the tribal nation keeps its sovereign status.**

PART 3 · YOUR TURN (SAMPLE ANSWER)

The tribal government could decide how to warn its communities, while Oklahoma could coordinate alerts in nearby areas. The federal government could offer funding if a grant is available. The governments could agree to share information so warnings reach people quickly. The 2020 McGirt ruling recognized that Congress had not ended the Muscogee Reservation, so Oklahoma cannot treat the tribal government as one of its agencies.

Accept other plausible flood-warning roles that distinguish federal, state, and tribal authority. Historical support may refer to the treaties, Oklahoma statehood, or the McGirt ruling, but it must not describe a tribal nation as a branch of state government.