Power and Its Limits

Read how constitutional rules shape the modern presidency.

USG.C.4.2 "Examine the scope and powers of the executive branch as delineated in Article II of the Constitution of the United States of America. Identify the constitutional qualifications, term of office..."

NAME _____ DATE _____

1 READ AND MARK

Read it twice

YOUR JOB Underline each power or limit on presidential action. Circle the amendments and number the places where Congress gives an agency authority.

Who Can Act in a Crisis?

1. Imagine voters choosing a president during a financial panic. Article II requires the president to be a natural-born citizen, at least 35 years old, and a U.S. resident for 14 years. It gives the president a four-year term. The 12th Amendment requires separate electoral votes for president and vice president, replacing the original method. The 20th moves the term's start to January 20; the 22nd generally limits a president to two elections. Under the 25th, the vice president succeeds a president who dies or resigns, or serves as acting president during a declared inability. The House impeaches, but only the Senate can convict and remove.

2. Hamilton argued in Federalist No. 69 that the president would differ from a king. Congress, not the president, could declare war, and treaties required Senate approval. Article II makes the president commander in chief, grants a qualified veto that Congress can override, and directs the president to take care that laws are faithfully executed. Today, presidents direct large executive departments through appointed secretaries. These secretaries make up most of the Cabinet, which advises the president but has no collective constitutional power to pass laws. A modern president may order military operations without a formal declaration of war, a practice that raises debate about limits on executive power.

3. During the 20th century, crises and new markets led Congress to create more federal agencies. In 1913, Congress established the Federal Reserve to manage monetary policy and help stabilize the banking system. In 1934, Congress created the Securities and Exchange Commission, or SEC, to enforce securities laws and regulate markets. Both have some independence from day-to-day presidential direction. Congress uses its Article I lawmaking powers to give agencies specific duties through statutes; Article II requires the president to carry out federal laws. An agency can issue binding rules only when a statute authorizes them, and courts can review whether it exceeded that authority.

2 ANSWER WITH EVIDENCE

Use the passage

1. How do the 12th, 20th, and 22nd Amendments change presidential elections or terms?

2. How do the 25th Amendment and impeachment address different reasons a president might stop serving?

3. What limits on war and treaty powers did Hamilton describe, and what modern practice raises a question about those limits?

4. Why can the SEC issue binding rules, and how does its relationship to the president differ from that of Cabinet secretaries?

3 YOUR TURN

Your own words

Congress is considering an independent agency to protect online privacy. A president claims the agency could ban all social media whenever the president wishes. Write three or four sentences advising a lawmaker about statutory authority, presidential power, and how the agency would differ from a Cabinet department.

ANSWER KEY

Power and Its Limits

HIGH SCHOOL · USG.C.4.2

PART 1 · READ AND MARK

Underline each power or limit on presidential action. Circle the amendments and number the places where Congress gives an agency authority. Accept any marking that follows this job and points at the right text.

PART 2 · ANSWERS

#	QUESTION	ANSWER
1	How do the 12th, 20th, and 22nd Amendments change presidential elections or terms?	**The 12th requires separate electoral votes for president and vice president. The 20th sets the term's start at January 20, and the 22nd generally limits a president to two elections.**
2	How do the 25th Amendment and impeachment address different reasons a president might stop serving?	**Under the 25th, the vice president succeeds a president who dies or resigns, or acts as president during a declared inability. In impeachment, the House brings charges, and the Senate can convict and remove the president.**
3	What limits on war and treaty powers did Hamilton describe, and what modern practice raises a question about those limits?	**Congress declares war, and the Senate must approve treaties. Presidents now sometimes order military operations without a formal declaration of war.**
4	Why can the SEC issue binding rules, and how does its relationship to the president differ from that of Cabinet secretaries?	**Congress can authorize SEC rules through a statute. The SEC has some independence from day-to-day presidential direction, while the president directs executive departments through secretaries who also advise the president.**

PART 3 · YOUR TURN (SAMPLE ANSWER)

Congress could create an independent online privacy agency and authorize it by statute to set specific data-collection rules. Without statutory authority to ban social media, the agency could not issue such a ban simply because the president wanted it. Unlike a Cabinet department led by a secretary, an independent agency would have some independence from day-to-day presidential direction. Article II would still require the president to ensure that federal laws are faithfully executed.

Accept equivalent explanations that distinguish statutory authority from a president's wishes. For the open task, students should not claim that an independent agency is entirely outside the executive branch.