

2018 STATE BAR STUDENT ESSAY CONTEST



Framework for Freedom

Sponsored by the Modrall Sperling Law Firm in honor of James E. Sperling

\$1,000, \$750 and \$500 Awards
Plus \$500 Teacher Award

Separation of Powers: Framework for Freedom

Deadline: Friday, March 2

Required Length: 1,000–1,500 words

- ★ Essays will be judged by a distinguished panel of lawyers, judges, State Bar staff and educators.
- ★ Essays will be evaluated according to content, originality, writing skills and a public school essay scoring rubric.
- ★ All materials and a writing tutorial are available at www.nmbar.org/EssayContest

For Students

- ★ Essay Contest Flyer
- ★ Official Essay Contest Rules and Requirements
- ★ Essay Contest Tutorial

- ★ Official Entry Form
- ★ View Past Winning Essays
- ★ Essay Contest Submission

For Teachers

- ★ Standards and Benchmarks Information
- ★ Public Schools Generic Essay Scoring Rubric

Visit us online at www.nmbar.org/EssayContest for additional help and hints.

Opportunities for High School Students

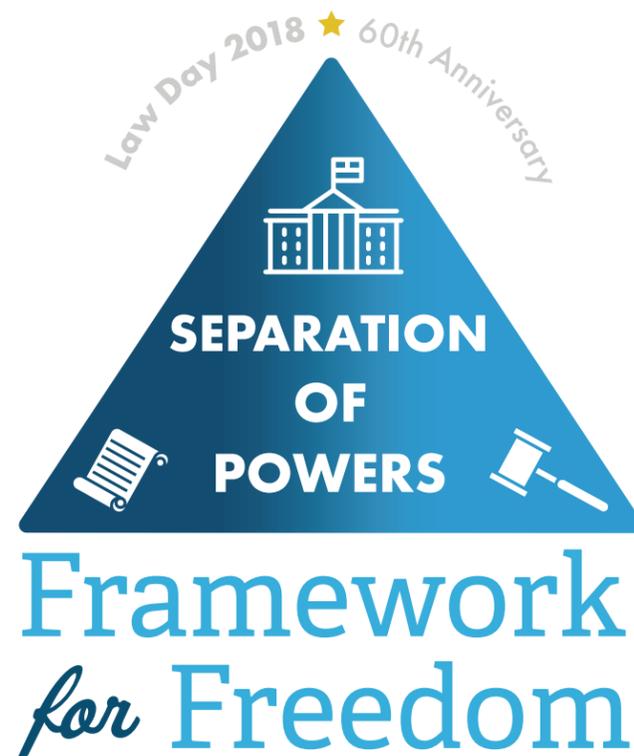
Win up to \$1,000!

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Framework for Freedom

*See
inside for
details.*



The U.S. Constitution establishes a system of government with distinct and independent branches—legislative, executive, and judicial. These three separate branches share power, and each branch serves as a check on the power of the others. As detailed in the Federalist Papers, James Madison believed that the Constitution’s principles of separation of powers and checks and balances preserve political liberty. In that work, James Madison declared,

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

Alexander Hamilton had a different point of view and stated, “Give all the power to the many, they will oppress the few. Give all the power to the few, they will oppress the many.”

In 1912 New Mexico became the 47th state. In order to become a state it had to adopt its own constitution. The New Mexico Constitution directs in part,

The powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial, and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments, shall exercise any powers properly belonging to either of the others, except as in this constitution otherwise expressly directed or permitted.

Under the federal constitution the executive branch of government is made up of two elected positions, President and Vice President. Under the New Mexico constitution, the executive branch of government contains many elected positions, such as: Governor • Lt. Governor • Secretary of State • Attorney General • Treasurer • Auditor • Commissioner of Public Lands • Public Regulation Commission • Public Education Commission. These constitutionally elected offices operate in cooperation with, but independent from the Governor’s Office.

The Law Day 2018 theme enables us to reflect on the separation of powers as fundamental to our constitutional purpose. After all, we the people must continually act to ensure that our constitutional democracy endures, preserving our liberties and advancing our rights.

Below you will find questions that ask you to discuss the “separation of powers” and “checks and balances” within New Mexico’s branches of government. Please answer the following questions:

1. What “checks and balances” exist within New Mexico’s three branches of government?
2. How does a “separation of powers” coupled with “checks and balances” impact the power of a democratic majority over the minority?

Suggested Research:

- Undermining Checks and Balances: The Fallout of *Maestas v. Hall*, 44 N.M. L. Rev. 277 (Spring 2014)
- Separation of Powers Doctrine in New Mexico, 4 Nat. Resources J. 2 (Spring 1964)
- *Mowrer v. Rusk*, 95 N.M. 48, 618 P.2d 886
- *State of New Mexico, ex. rel. The New Mexico Legislative Council v. Honorable Susana Martinez*, Docket No. S-1-SC-36422, April 21, 2017

Legal Writing Basics

Although following a specific format is not required, a persuasive essay with “legal formatting” is strongly recommended to achieve the true “flavor” of legal writing. Further, even though portions of statutes/law are included, the excellent essay will include additional statutory or case research. As in real life, sometimes there is not enough information presented to answer a legal question.

Attorneys follow proper rules of written form to make their documents easier to read. The generally accepted form of a legal argument is an outline.

First, a brief summary of the facts should introduce the reader to the event in question. Second, the legal argument is presented. There is generally more than one argument in a legal memo or brief. Each question that accompanies the essay topic contains a legal argument. Your response would normally contain subparts to go with each of these questions. Each subpart would contain: a heading, which states your conclusion in one sentence; a statement of the applicable legal rule; your application of the facts given to the legal rule; and a conclusion, summarizing the key points leading to your conclusion. Participants are encouraged to include a works cited page and should cite sources appropriately.

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Modrall Sperling Law Firm



Modrall, Sperling, Roehl, Harris & Sisk, PA is proud to honor the late James E. Sperling through sponsorship of the State Bar of New Mexico Student Essay Contest. Mr. Sperling practiced law with the Modrall firm from 1946 until his death in 1991 and served for many years as the firm’s president. An avid outdoorsman, Mr. Sperling had a life-long interest in natural resources law, and he developed and managed the firm’s natural resources department.

Mr. Sperling also dedicated years of public service to the New Mexico legal community. He chaired the New Mexico Federal Judicial Selection Committee and the Admissions and Grievance Committee of the United States District Court for the District of New Mexico. He served for many years on the New Mexico Judicial Standards Commission and numerous other state and federal committees. He also taught oil and gas law at the University of New Mexico School of Law and authored several scholarly articles on natural resources law.

Aside from the laurels associated with an extraordinary legal career, Mr. Sperling was a person of tremendous warmth, generosity and humility. He was a man of few words, but those he spoke were, as one of his colleagues put it, “nigh-on-perfect.” During the latter years of his practice, much of Mr. Sperling’s time was devoted to advising his law partners and training the new attorneys at the firm. His legacy to New Mexico lawyers and aspiring lawyers is his example of approaching law practice with unwavering integrity and complete dedication to the interests of one’s clients.