

AP Government Study Guide

Unit Four: Institutions: Presidency and Congress

Congress

- Congress has two bodies, the House and the Senate, in order for a bill to pass it must be passed by both houses
- After a congressmen proposes a bill, the Speaker (in the house) or the Majority leader (Senate) gives that bill to a committee, which gives it to a subcommittee
- Congress holds hearings to oversee the executive
- Incumbents have great chances of winning reelection
- Has power to create executive agencies (for example the clean air and water act established the EPA)
- Authorizes and appropriates money for the executive
- Approves the budget

How they Vote

- Sometimes politicians “trade” votes, a process known as **logrolling**
- Politicians like to add on extra, unrelated programs to bills that will benefit their constituents, these additions are known as **pork barrel spending**

The House of Representatives

- The house is regarded as the “lower house”
- States are given representatives based on population
- Impeaches members of executive, judicial
- **Representatives serve two year terms**
- Each rep. represents a certain congressional district
- The House has a **Rules Committee** – determines whether bills have closed rule (no amendments, time limit on debate) or open rule (open to relevant, germane amendments, no time limit)
- The Leader of the House is the Speaker of the House who assigns people to a committee that assigns people to committees, directs floor debate, and gives bills to appropriate committee

Senate

- Senate is considered the “upper house” – older and wiser
- Each state has two senators (equal representation)
- Tries impeached members of executive, judicial
- **Senators serve six year terms**
- The senate has the responsibility of confirming presidential appointments and nominees, ratifying treaties, and confirming the budget
- There is no rules committee, debate is always unlimited
- Because debate is unlimited, the minority party can **filibuster** – kill a bill by continuing to talk
- To end debate and a filibuster, **cloture** (a vote by 3/5 of the senate) is required
- Senate can also add **riders** (irrelevant amendments) to bills

Committees

- Most work is done in committees (especially in house)
- Most bills DIE in committee

Committee Type	Description	House Examples	Senate Examples
Standing Committee	Permanent panel with full legislative functions and oversight responsibilities. The members become experts	Appropriations – sets specific expenditure for the federal government Rules – determines under what rules bill comes to floor	Armed Services – oversees military and Defense Foreign Relations – provides foreign policy leadership
Subcommittee	Formed to tackle specific tasks within standing committee	Livestock, Dairy, and Poultry (subcommittee of agriculture)	Health Care Subcommittee (subcommittee of finance committee)
Select or Special Committee	Temporary groups with limited purposes (investigation)	House Watergate Committee	Select committee on Ethics

Joint Committee	Includes members of both houses to perform housekeeping tasks of studies	Joint Economic Committee	Joint Economic Committee
Conference Committee	Special type of joint committee that reconciles senate and house versions of a bill	Conference committees formed as needed	Conference committees formed as needed

President

- Requirements for office
 1. Natural born citizen
 2. At least 35 years old
 3. Resident of America for at least 14 years
- Powers as Commander in Chief (civilian power over military)
 1. Head of Army and Navy
 2. Head of National Guard
- Powers as Chief Executive of Government
 1. "Faithfully execute" the laws
 2. require opinions of heads of agencies
 3. grant pardons except in cases of impeachment
 4. nominate judges to federal courts and nominate cabinet (confirmed by senate)
 5. call for special session of congress
- Powers in Foreign Affairs
 1. appoint ambassadors
 2. make treaties (to be confirmed by senate)
 3. send troops anywhere in the world if Congress authorizes it or during national emergency (War Powers Act) The president has 48 hours to justify in writing to congress why troops were sent, and 60 days before he must withdraw troops (unless congress extends time)
- Legislative Powers
 1. Give State of the Union address to Congress to push his agenda
 2. recommend and suggest bills for congress
 3. call special sessions of congress
 4. veto bill (can be overturned by 2/3 of congress)
 5. pocket veto – not signing a bill within 10 days and having Congress adjourn
- Cabinet – president picks (senate confirms) the heads of the 15 most important agencies, these agencies help execute the law
 1. Department of Defense, Department of State, Department of Treasury...

- 2. **Office of Management and Budget** – writes budget (must be confirmed by the senate)
- **Council of economic advisers** – part of executive office, help advise the president on economic issues
- Informal Powers of the President
 1. **Executive orders** – orders written by president or agency that have the weight of law. There are several ways to undo executive orders: president can rescind it, next president can rescind it, the supreme court can rule it unconstitutional
 2. **Executive privilege** – right of president to keep certain documents private if pertaining to national security (in *USA vs. Nixon* the supreme court ruled that executive privilege is NOT unlimited)
 3. **Agenda Setting** – president sets out the legislation he wants passed (he uses his bully pulpit)
 4. **Impoundment** – ability to refuse to spend money appropriated by congress (this was ruled unconstitutional)

Oversight

Presidential Oversight	Congressional Oversight	Judicial Oversight
The president controls the agencies' budget access. President appoints heads to departments and can issue executive orders	Congress can create/abolish agencies. Senate confirms all presidential appointees to the bureaucracy. Congress must authorize agencies to spend money. Congress must also appropriate (fund) all government agencies and programs. In some cases congress may use committee clearance – the ability of a committee to review and approve decisions of agencies. Congress may hold committee hearings to hold agencies responsible, congress may also launch investigations of the bureaucracy. Congress can punish agencies by cutting their funding.	Federal Courts can use their power of judicial review to determine whether an act taken by a department was unconstitutional

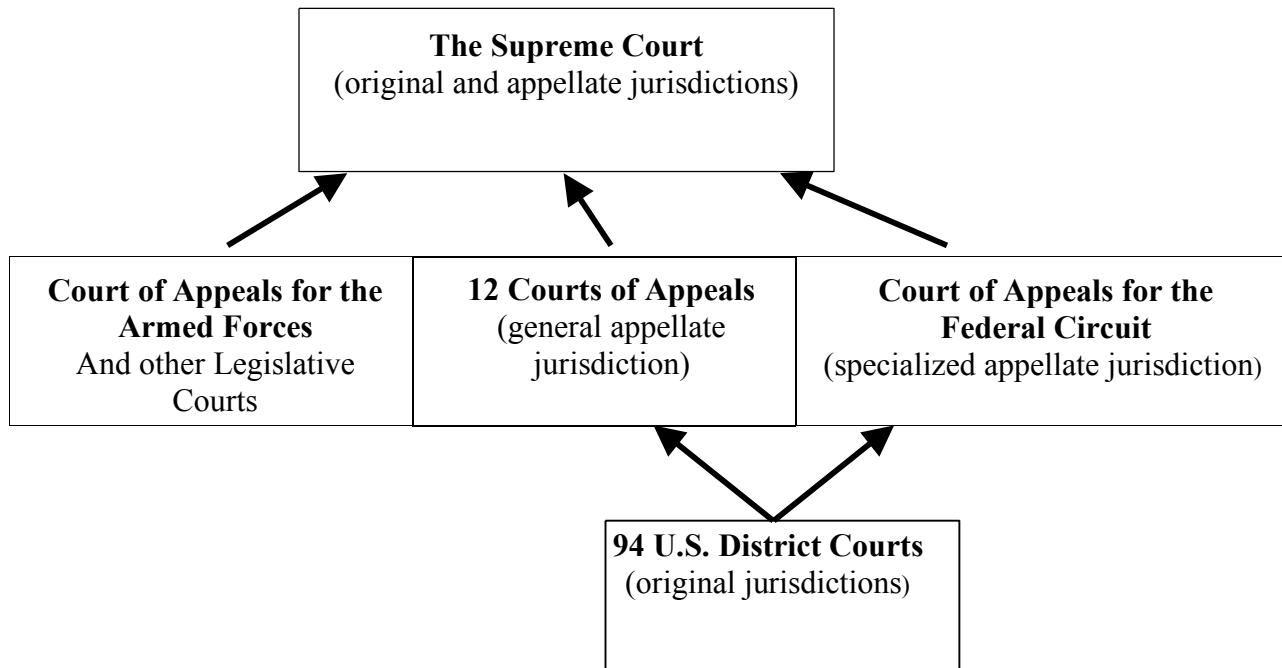
The Judicial Branch

- The judicial branch was never expected to grow as powerful as other branches
- 1787--1865 – Court asserts federal supremacy
- 1865--1937 – Court puts restrictions on government
- 1937--2010 – Court deals primarily with individual freedoms
- **Criminal Law** – type of law dealing with crimes and their punishments
 - Protects interests of state (state vs. individual)
 - Between prosecutor (government) and defendant
 - Defendant must be guilty “beyond reasonable doubt” to be convicted
 - Conviction results in removal of “life, liberty, or property”

- **Civil Law** – type of law dealing with the rights and relationships of citizens
 - Protects interests of individual (individual vs. individual)
 - Between plaintiff and defendant
 - A preponderance of evidence (above 50%) is necessary
 - If convicted, there are monetary penalties
- Based on principle of **judicial review** – allows judges to interpret the Constitution and deem something unconstitutional
- **Stare Decisis** – the rule of precedent, whereby a rule or law contained in a judicial decision is viewed as binding on judges whenever the same question is raised “let the decision stand”
- **Strict--constructionist approach** – the view that judges should decide cases strictly on the basis of the language of the laws and the constitution
- **Judicial Restraint** – principle that courts will not overturn previous decisions
- **Activist approach** – the view that judges should discern the general principles underlying the constitution, and apply them to modern circumstances. These justices typically try to overturn precedent

Structure of the Federal Courts

- Each state has at least one district court
- 94 district courts in the 50 states, the District of Columbia and the Commonwealth of Puerto Rico.
- District judges are bound by the precedents of higher courts
- Federal judges are appointed by the president, and confirmed by the senate
- If for whatever reason the supreme court is tied, then the precedent set forth by the previous court is maintained WITHIN THAT DISTRICT
- **District Courts** – the lowest federal courts, where federal trials usually go first, use jury
- **Courts of Appeals (circuit courts)** – Federal courts that hear appeals from district courts, no juries, decisions made by panels of appointed judges. To get here someone must claim that their constitutional rights have been violated
- **Supreme Court** – Hears appeals of appeal court rulings (somebody appeals the decision of the circuit court). 4 of 9 justices must agree to hear case (**writ of certiorari**). Supreme Court has original jurisdiction in cases between states or with foreign ambassadors



Appointing Judges

1. The president's staff presents him with possible nominees (typically other judges), FBI does background check, president looks at previous record of the individuals, conducts **litmus test** (determines political views), uses **senatorial courtesy** (uses preferences of senators from the district where the judge will serve) and finally selects nominee
 2. The Senate Judiciary committee members and staff review candidates, interest groups campaign for/against nominees, senate judiciary committee holds hearing, asking nominee questions, finally votes up/down on whether to send recommendation to the full senate
 3. The full senate has open floor debate on nominee, votes on confirmation
 4. If confirmed, the judge is given an oath of office by the Chief Justice
 - Because judges serve life terms, there is no political pressure on them to rule a certain way, and they are allowed to act independently

The Court

- To apply for writ of certiorari costs \$300. A cheaper means is to use **in forma pauperis** – in which poor people have their cases heard in federal court for free
- Sovereign Immunity – rule that citizens cannot sue the government without the government's consent
- Class-action Suit – a case brought by someone to help him or her and all others who are similarly situated

- Brief – a written statement by an attorney that summarizes a case and the laws and rulings that support it
- **Amicus Curiae** – brief submitted by a third party “friend of the court” (typically an interest group)
- **Opinion of the Court** – a signed opinion by the majority that decided the ruling in a case
- Concurring Opinion – a signed opinion that agrees with majority for other reasons
- **Dissenting Opinion** – a signed opinion from the justices on the losing side