

THE JUDICIAL BRANCH

127. What is the “supreme law of the land”?

The Constitution, laws of the United States made pursuant to the Constitution, and treaties made under authority of the United States comprise the “supreme law of the land.” Judges throughout the country are bound by them, regardless of anything in separate State constitutions or laws.

128. What is the main principle of the system of justice in the United States?

The guiding principle of the U.S. system of justice, "Equal Justice Under Law," is engraved in the Vermont marble pediment above the portico of the U.S. Supreme Court Building.

THE COURTS OF THE UNITED STATES

129. By what authority are the Federal courts established?

Article III of the Constitution provides that there shall be one Supreme Court and such inferior courts as the Congress may ordain and establish. Additionally, Article I, Section 8 provides that Congress has the power "to constitute tribunals inferior to the Supreme Court." The Judiciary Act of 1789 formally established the Supreme Court and Federal court system.

130. What is the highest court and how is it organized?

As mandated by the Constitution, the Supreme Court of the United States is the highest court. The Court has been composed of the Chief Justice of the United States and since 1869, eight Associate Justices. Congress, which governs the Court's organization by legislation, has varied the number of Associate Justices from 6 to 10 over the history of the Court. Congress now requires six Justices for a quorum.

131. What is the jurisdiction of the Supreme Court?

The Constitution provides that in all cases affecting ambassadors to the United States, other public ministers and consuls, and those in which a State is party, the Supreme Court has original jurisdiction. This was modified by the 11th amendment to preclude citizens of one State from suing another State. Additionally, the Constitution provides that Congress may regulate the appellate jurisdiction of the Court. Congress has authorized the Supreme Court, among other things, to review decisions of the lower Federal courts and the highest courts of the States.

132. What is the process by which the Supreme Court reaches a decision and who sets this process or procedure?

The internal review process of the Court has largely evolved by custom while the procedure to be followed by petitioners to the Court are established in rules set forth by the Court.

After individually examining each case submitted, the Justices hold a private conference to decide which cases to schedule for oral argument, which to decide without argument, and which to dismiss. If at least four Justices agree, a case will be taken by the Court for a decision, with or without oral argument, and the other requests for review will be dismissed. If oral argument is heard, a total of 1 hour is generally allowed the parties to argue the issues and respond to questions from the Justices. Later, in conference, the Justices make their decision by simple majority or plurality vote. A tie vote means that the decision of the lower court is allowed to stand. Such a vote could occur when one or three Justices do not take part in a decision.

133. How does the Supreme Court cope with the large number of decisions which it receives on appeal from State and Federal courts?

Each year the Court receives more than 4,500 decisions from State and lower Federal courts. While examining all of the cases submitted, the Court agrees to hear oral arguments on some 200 each term. Also, the Justices, without hearing oral arguments, decide a limited number of other cases—usually fewer than 100. The rest of the petitions for review are either denied or dismissed.

134. Who writes the opinions of the Supreme Court?

When the Justices have decided a case, the Chief Justice, if voting with the majority, will assign an Associate Justice to write the opinion of the Court. If the Chief Justice is in the minority, the senior Associate Justice in the majority will make assignment. The individual Justices may, of course, write their own concurring or dissenting opinions in any decision.

135. Why is so much importance placed on a Supreme Court decision?

Article VI of the Constitution provides that the Constitution and the laws of the United States made "in Pursuance thereof" shall be the supreme law of the land. Thus, when the Supreme Court decides a case, particularly on constitutional grounds, it becomes guidance for all the lower courts and legislators when a similar question arises. And under its power of judicial review, the Court can declare laws unconstitutional, thus, making them null and void.

136. What are the District Courts, and how are they organized?

The 94 district courts, created by Congress, are the trial courts in the Federal judicial system. It is in these courts that most Federal cases are first tried and decided. There is at least one district court in each State for a total of 89 in the 50 States, plus one in each territory: the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands. Each court has from 1 to 28 judges and trials in these courts are generally heard by a single judge.

137. What are the Courts of Appeals and how are they organized?

Often called circuit courts, they are divided geographically into 12 circuits, each having from 6 to 28 judges. The jurisdiction of these courts covers appeals from the District Courts and appeals from actions of Government agencies. Cases are generally presented to the courts sitting in panels consisting of three judges. There also is a Court of Appeals for the Federal Circuit with a nationwide jurisdiction and which reviews lower court rulings in, among other things, patent, trademark, and copyright cases.

138. What other Federal courts are there?

There are several special courts of the United States that have jurisdiction over specialized subjects. The jurisdiction of each court is indicated by its title: The U.S. Claims Court hears various kinds

of claims against the United States; the Court of International Trade hears claims against the Government arising from Federal laws governing import transactions; the Tax Court adjudicates controversies involving deficiencies or overpayment of taxes; the U.S. Court of Military Appeals reviews court-martial convictions of all of the armed services; and the Court of Veterans Appeals reviews decisions of the Board of Veterans Appeals. Also, there are a few other courts composed of regular U.S. district and appellate judges who render this service in addition to their regular duties.

THE JUSTICES AND JUDGES

139. What are the qualifications required to be a Justice of the Supreme Court?

There are neither constitutional nor statutory qualifications for appointees to the Supreme Court. Determining the qualifications of the individuals selected is left up to the President, who nominates, and the Members of the Senate, who confirm individuals to the Court.

140. What is the tenure of a Federal judge?

Judges of the Claims Court, Tax Court, Court of Military Appeals, and Court of Veterans Appeals have terms of 15 years, and judges of the territorial District Courts in Guam, the Virgin Islands, and the Northern Mariana Islands have 10-year terms. Otherwise, the judges of the courts mentioned in the preceding questions, including the Supreme Court, courts of appeals, and most Federal district courts, have "good behaviour" tenure as specified in the Constitution. This is generally considered to be life tenure.

141. Why do most Federal judges have "good behaviour" tenure?

The framers of the Constitution believed that by allowing this tenure and prohibiting the diminution of a judge's compensation while in office, the independence of the Federal judiciary could be preserved. Thus, if a judicial decision displeased the executive or legislature, or a majority of the population, the judges could not be punished for it. This judicial independence was considered to be a key part of the system of checks and balances established by the Constitution.

142. How and for what reasons may judges with "good behaviour" tenure be removed from office?

As officers of the United States, such judges may be removed from office by impeachment for treason, bribery, or other high crimes and misdemeanors. One statute specifically states that Justices or judges appointed under the authority of the United States who engage in the practice of law are guilty of a high misdemeanor. Otherwise, it is up to Congress to determine if certain judicial misbehavior meets the understanding of a high crime and misdemeanor.

143. What is the oath of office for Federal judges and Justices?

A Federal statute provides that each Justice or judge of any court created by enactment of Congress shall take the following

oath before performing the duties of office: *I do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as * * * under the Constitution and laws of the United States. So help me God.*”