

**4.5**

**What is the Judicial Branch?**



**As a Young Political Scientist, I will be able to...**

The background of the entire slide is a close-up, slightly blurred image of the American flag, showing the stars and stripes in warm, golden tones.

**Why is the Judicial branch & law important? What rights do we have?**

**In the Articles of Confederation, the nation didn't have a national judiciary**

**Laws were established on a state by state basis, issues were often misguided or never examined**

**Congress created a Supreme Court to oversee the laws & interpret them for the entire U.S.**

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# Court Systems

**We have two separate systems. Federal court & State courts**

**Inferior Courts-** lower federal courts under the Supreme Court

**Constitutional Courts-** Courts that exercise judicial power of U.S. with Supreme Court

**Special Courts-** Hearing cases based on Congress such as Appeals for Veterans



# **Jurisdiction**

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**The Authority of a court to hear & (try) decide a case**

**Federal courts hear cases based on subject matter or the parties involved**

**Subject matter must involve a federal question involving the Constitution or federal statute or treaty**

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# Parties

**1. U.S. or one of its officers or agencies**

**2. An ambassador or other rep of a foreign government**

**3. One of the states suing another or a resident suing a state**

**4. A citizen of one state suing another from a different state**

**5. A U.S. citizen suing another foreign government or resident**

**6. Suing someone of the same state with land claims in different states**

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# Law Terms

**Plaintiff-** Person who files a suit & brings the case to court.

**Defendant-** The person against who the claim is made

# **Federal Judges & Court Officers**

**Congress recommends someone for a federal judge & the president can appoint**

**Judge has no requirements & does not have to have a professional background in law**



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# Judicial Philosophy

**Judicial Restraint-** Belief that judges decide on the original intent of the Framers and...

**Precedent-** A prior judicial decision that serves as a guide for settling later cases of similar nature

**Judicial Activism-** Changes in law should be interpreted & applied of ongoing social changes

# **Life as a Judge**

**Judges are appointed for life & “hold office during good behavior”**

**Judges can only be removed via impeachment.  
Special courts only serve for 8-15 years**

**Congress sets the salaries of federal judges & provides a generous retirement for them.**

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# **Appointments**

**Presidents & the Senate appoint a U.S. Attorney for each federal district.**

**U.S. Marshalls are also appointed & make arrests in federal criminal cases.**

**Each federal district also has at least 1 bankruptcy judge.**



# **Composition of the Court**

**Supreme Court is the only court created by the Constitution**

**The head is the Chief Justice & the others are associate justices**

**Throughout our history the number of judges has fluctuated but now we have 9 members**



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# Judicial Review

**Supreme Court is the law of the land & the last resort for all federal law**

**Judicial Review-** The ability to decide the constitutionality of an act of government

**The constitution does not expressly define judicial review, but it is an implied power**

# **Marbury V. Madison**

**This is the case that set in stone the idea of  
Judicial Review.**

**The Supreme court will mostly hear cases about  
how federal law is interpreted & applied**

# Appealing to the Supreme Court

**The Supreme court will hear only a few cases each term & petitions are often denied**

**At least 4 of the 9 judges must agree to a case for it to be heard**

**Writ of Certiorari-** Lower court must send up a record to Supreme Court to review.

**Certificate-** When a lower court asks the Supreme Court to certify an answer to a specific question



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# Hearing a Court Case

**Terms run from the 1<sup>st</sup> Monday in October to June/July. The rest of the months the Court reviews**

**They will hear cases in 2 week cycles & then recess for 2 weeks for consideration**

**Briefs-** Detailed written statements to present arguments before the court  
***-DEFINE & SKETCH***



# Hearings Continued

**The Solicitor General**- Principal officer in Dept. of Justice & chief trial lawyer

Supreme Court will meet in Conference to decide conclusions

When a case is considered & decided, a written decision is released

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# Opinions

**Majority Opinion-** Opinion of the Court & written declaration of the case

**Cases are expected to follow precedent! This is important for split decision cases**

**Concurring Opinion-** Written point by other members of court not addressed in Majority Opinion

**Dissenting Opinion-** Written point by the justices who do not agree with the Court's majority decision.

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# District Courts

**Criminal Cases-** a Defendant is tried for committing some actions that Congress has defined as a federal crime

**Civil Case-** noncriminal cases such as a breach of contract or money damages

**U.S. is always a party to a federal criminal case**

**Most decisions made in district courts are final & are not appealed**

# Structure & Role of Court of Appeals

**These courts serve as “gatekeepers” to the Supreme Court**

**Docket-** List of cases to be heard

**We have 13 appeals courts in the U.S. Members of the Supreme court used to have to travel to hear cases**

**Courts review **records-** the transcript of the proceedings made in the trial court**



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# **Military Justice-Special Courts & Commissions**

**Military Courts make rules & regulations for military services**

**Courts-martial-** Courts that serve discipline needs for military. 2/3 of jury make decisions

**Civilian Tribunal-** Appeal court for the Armed Forces  
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**There is a court for appeals for veterans. Military commissions created for terrorists (controversial)**