

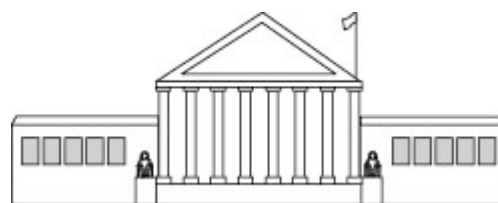
Judicial Branch

Article III of the Constitution established the judicial branch of government with the creation of the Supreme Court. This court is the highest court in the country and vested with the judicial powers of the government. There are lower Federal courts but they were not created by the Constitution. Rather, Congress deemed them necessary and established them using power granted from the Constitution.

Courts decide arguments about the meaning of laws, how they are applied, and whether they violate the Constitution. The latter power is known as [judicial review](#) and it is this process that the judiciary uses to provide [checks and balances](#) on the legislative and executive branches. Judicial review is not an explicit power given to the courts but it is an implied power. In a landmark Supreme Court decision, *Marbury v. Madison* (1803), the courts' power of judicial review was clearly articulated.

The Supreme Court

The Constitution established the Supreme Court as the highest court in the United States. The authority of the Court originates from Article III of the U.S. Constitution and its jurisdiction is set out by statute in Title 28 of the [U.S. Code](#).



One of the Supreme Court's most important responsibilities is to decide cases that raise questions of constitutional interpretation. The Court decides if a law or government action violates the Constitution. This is known as [judicial review](#) and enables the Court to invalidate both federal and state laws when they conflict with the Constitution. Since the Supreme Court stands as the ultimate authority in constitutional interpretation, its decisions can be changed only by another Supreme Court decision or by a constitutional amendment.

Judicial review puts the Supreme Court in a pivotal role in the American political system, making it the referee in disputes among various branches of the Federal, as well as state governments, and as the ultimate authority for many of the most important issues in the country. For example, in 1954, the Court banned racial segregation in public schools in *Brown v. Board of Education*. The ruling started a long process of desegregating schools and other institutions.

The Supreme Court exercises complete authority over the federal courts, but it has only limited power over state courts. The Court has the final word on cases heard by federal courts, and it writes procedures that these courts must follow. All federal courts must abide by the Supreme Court's interpretation of federal laws and the Constitution of the United States. The Supreme Court's interpretations of federal law and the Constitution also apply to the state courts, but the Court cannot interpret state law or issues arising under state constitutions, and it does not supervise state court operations.

Usually cases are first brought in front of lower (state or federal) courts. Each disputing party is made up of a petitioner and a respondent.

Once the lower court makes a decision, if the losing party does not think that justice was served, s/he may appeal the case, or bring it to a higher court. In the state court system, these higher courts are called appellate courts. In the federal court system, the lower courts are called United States District Courts and the higher courts are called United States Courts of Appeals.

Most cases do not start in the Supreme Court. Though not often exercised, original jurisdiction gives the Court the power to sit as a trial court to hear cases affecting ambassadors and other foreign officials, and in cases in which a state is a party. Only disputes between two or more states must be heard initially in the Supreme Court. The 1997-98 dispute between New York and New Jersey over the ownership of Ellis Island is an example of the Supreme Court exercising original jurisdiction.

If the higher court's ruling disagrees with the lower court's ruling, the original decision is overturned. If the higher court's ruling agrees with the lower court's decision, then the losing party may ask that the case be taken to the Supreme Court. But as previously mentioned, only cases involving federal or Constitutional law are brought to the highest court in the land.

Approximately 7,500 cases are sent to the Supreme Court each year. Out of these, only 80 to 100 are actually heard by the Supreme Court. When a case comes to the Supreme Court, several things happen. First, the Justices get together to decide if a case is worthy of being brought before the Court. In other words, does the case really involve Constitutional or federal law? Secondly, a Supreme Court ruling can affect the outcome of hundreds or even thousands of cases in lower courts around the country. Therefore, the Court tries to use this enormous power only when a case presents a pressing constitutional issue.

Once the Justices decide to take a case, the lawyers for each side have one-half hour in which to present their side of the case in what is called "oral argument." The Justices can interrupt to ask questions at any time. It is considered a great honor for a lawyer to argue, or present, a case before the Supreme Court. A lot of hard work goes into preparing the case, which also includes long and detailed written arguments from both sides.

The Supreme Court convenes, or meets, the first Monday in October. It stays in session usually until late June of the next year. When they are not hearing cases, the Justices do legal research and write opinions. On Fridays, they meet in private (in "conference") to discuss cases they've heard and to vote on them.

It takes a majority of Justices to decide a case. If the Chief Justice sides with the majority, he will write the majority opinion, or assign it to one of the other Justices on the majority side to write. If the Chief Justice is not in the majority, the most senior Justice (the one who has served on the court the longest) writes the opinion or assigns it to another Justice. These opinions are carefully worded since they become the basis upon which similar future cases are argued. Justices on the minority side are free to write dissenting, or differing, opinions.

The Supreme Court is made up of nine Justices. One of these is the Chief Justice. They are appointed by the President and must be approved by the Senate. Once a person has been approved by the Senate and sworn in as a Supreme Court Justice, s/he remains in the job for life. The only way a Justice may leave the job is to resign, retire, die, or be impeached by the House and convicted by the Senate. No Justice has ever been removed by impeachment. There are no official qualifications in order to become a Justice, although all have been trained in the law and most pursued legal and political careers before serving on the Court. Several justices served as members of Congress, governors, or members of the Cabinet. One president, William Howard Taft, was later appointed chief justice.

The number of Supreme Court Justices has changed over the years. Initially, the Court was made up of six Justices who had been appointed by George Washington. The first time they met was February 1, 1790. The number of Justices has been as high as 10. President Franklin D. Roosevelt tried to raise the number to 15 at one point, but the number has been nine since 1869.