

# THE CONSTITUTION AND THE FEDERAL JUDICIARY

Article III of the United States Constitution establishes the judicial branch as one of the three separate and distinct branches of the federal government. The other two are the legislative and executive branches.

The federal courts often are called the guardians of the Constitution because their rulings protect rights and liberties guaranteed by the Constitution. Through fair and impartial judgments, the federal courts interpret and apply the law to resolve disputes. The courts do not enact the laws; that is the responsibility of Congress. Nor do the courts have the power to enforce the laws; that is the role of the President and the many executive branch departments and agencies.



The founders of the nation considered an independent federal judiciary essential to ensure fairness and equal justice for all citizens of the United States. The Constitution they drafted promotes judicial independence in two major ways. First, Article III federal judges are appointed for life, and they can be removed from office only through impeachment and conviction by Congress of

“Treason, Bribery, or other high Crimes and Misdemeanors.” Second, the Constitution provides that the compensation of Article III federal judges “shall not be diminished during their Continuance in Office,” which means that neither the President nor Congress can reduce the salary of a federal judge. These two protections help an independent judiciary to decide cases free from popular passion and political influence. ■

## U.S. CONSTITUTION ARTICLE III

The judicial power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

# THE FEDERAL COURTS IN AMERICAN GOVERNMENT

The three branches of the federal government—legislative, executive, and judicial—operate within a constitutional system of “checks and balances.” This means that although each branch is formally separate from the other two, the Constitution often requires cooperation among the branches. Federal laws, for example, are passed by Congress and signed by the President. The judicial branch, in turn, has the authority to decide the constitutionality of federal laws and resolve other disputes over federal laws, but judges depend upon the executive branch to enforce court decisions.



## The Federal Courts and Congress

The Constitution gives Congress the power to create federal courts other than the Supreme Court and to determine their jurisdiction. It is Congress, not the judiciary, that controls the type of cases that may be addressed in the federal courts.

Congress has three other basic responsibilities that determine how the courts will operate. First, it decides how many judges there should be and where they will work. Second, through the confirmation process, Congress determines which of the President’s judicial nominees ultimately become federal judges. Third, Congress approves the federal courts’ budget and appropriates money for the judiciary to operate. The judiciary’s budget is a very small part—two tenths of one percent—of the entire federal budget.

## The Federal Courts and the Executive Branch

Under the Constitution, the President appoints federal judges with the “advice and consent” of the Senate. The President usually consults senators or other elected officials concerning candidates for vacancies on the federal courts.

The President’s power to appoint new federal judges is not the judiciary’s only interaction with the executive branch. The Department of Justice, which is responsible for prosecuting federal crimes and for representing the government in civil cases, is the most frequent litigator in the federal court system. Several executive branch agencies assist the judiciary with its administrative operations. The United States Marshals Service, for example, provides security for federal courthouses and judges, and the General Services



Administration builds and maintains federal courthouses.

Specialized subject-matter courts and boards, and numerous federal administrative agencies adjudicate disputes involving specific federal laws and benefits programs. These non-judiciary courts and tribunals include the United States Tax Court, the United States Court of Appeals for the Armed Forces, and the United States Court of Appeals for Veterans Claims.

While these courts, also known as Article I courts, are not part of the judicial branch, Congress created them to maintain a certain degree of independence and to operate impartially and without political influence. The decisions of these agencies and courts are in some cases appealable to the Article III courts.

### **The Federal Courts and the Public**

With certain very limited exceptions, each step of the federal judicial process is open to the public. Many federal courthouses are historic buildings, and all are designed to inspire in the public a respect for the tradition and purpose of the American judicial process.

An individual citizen who wishes to observe a court in session may go to the federal courthouse, check the court calendar, and watch a proceeding. Anyone may review the pleadings and other documents in a case by going to the clerk of court's office and viewing the appropriate case file using an electronic access terminal. Unlike most state courts, however, the federal courts are just beginning to permit limited live television or radio coverage of some civil trials.

Court dockets and case files also are available on the Internet through the Public Access to Court Electronic Records system (known as "PACER"), at [www.pacer.uscourts.gov](http://www.pacer.uscourts.gov). In addition, every federal court maintains a website with information about court rules and procedures. A list of these local court websites is available on the judiciary's official website at [www.uscourts.gov](http://www.uscourts.gov).

The right of public access to court proceedings is partly derived from the Constitution and partly from court tradition. By conducting their judicial work in public view, judges enhance public confidence in the courts and allow citizens to learn first-hand how our judicial system works.

Although there is a very strong presumption that all court records and proceedings are open to the public, public access may be limited in some situations. In a high-profile trial, for example, there may not be enough space in the courtroom to accommodate everyone who would like to observe. Access to the courtroom also may be restricted for security or privacy reasons, such as the protection of a juvenile or a confidential informant. Finally, certain documents may be placed under seal by the judge, meaning that they are not available to the public. Examples of sealed information include confidential business records, certain law enforcement reports, and juvenile records. ■

# STRUCTURE OF THE FEDERAL COURTS

The Supreme Court is the highest court in the United States. Article III of the U.S. Constitution created the Supreme Court and authorized Congress to pass laws establishing a system of lower courts. In the federal court system's present form, 94 district-level trial courts and 13 courts of appeals sit below the Supreme Court.

## **Trial Courts**

The U.S. district courts are the primary trial courts of the federal court system. Within limits set by Congress and the Constitution, the district courts have jurisdiction to hear nearly all categories of federal cases, including both civil and criminal matters. There are 94 federal judicial districts, including at least one district in each state, the District of Columbia, and Puerto Rico. Each district includes a U.S. bankruptcy court as a unit of the district court.

There are two special trial courts that have nationwide jurisdiction over certain types of cases. The Court of International Trade addresses cases involving international trade and customs issues. The United States Court of Federal Claims has jurisdiction over most claims for money damages against the United States, disputes over federal contracts, unlawful "takings" of private property by the federal government, vaccine injury cases, and a variety of other claims against the United States.

Three territories of the United States—the Virgin Islands, Guam, and the Northern Mariana Islands—have U.S. district courts that hear federal cases, including bankruptcy cases.

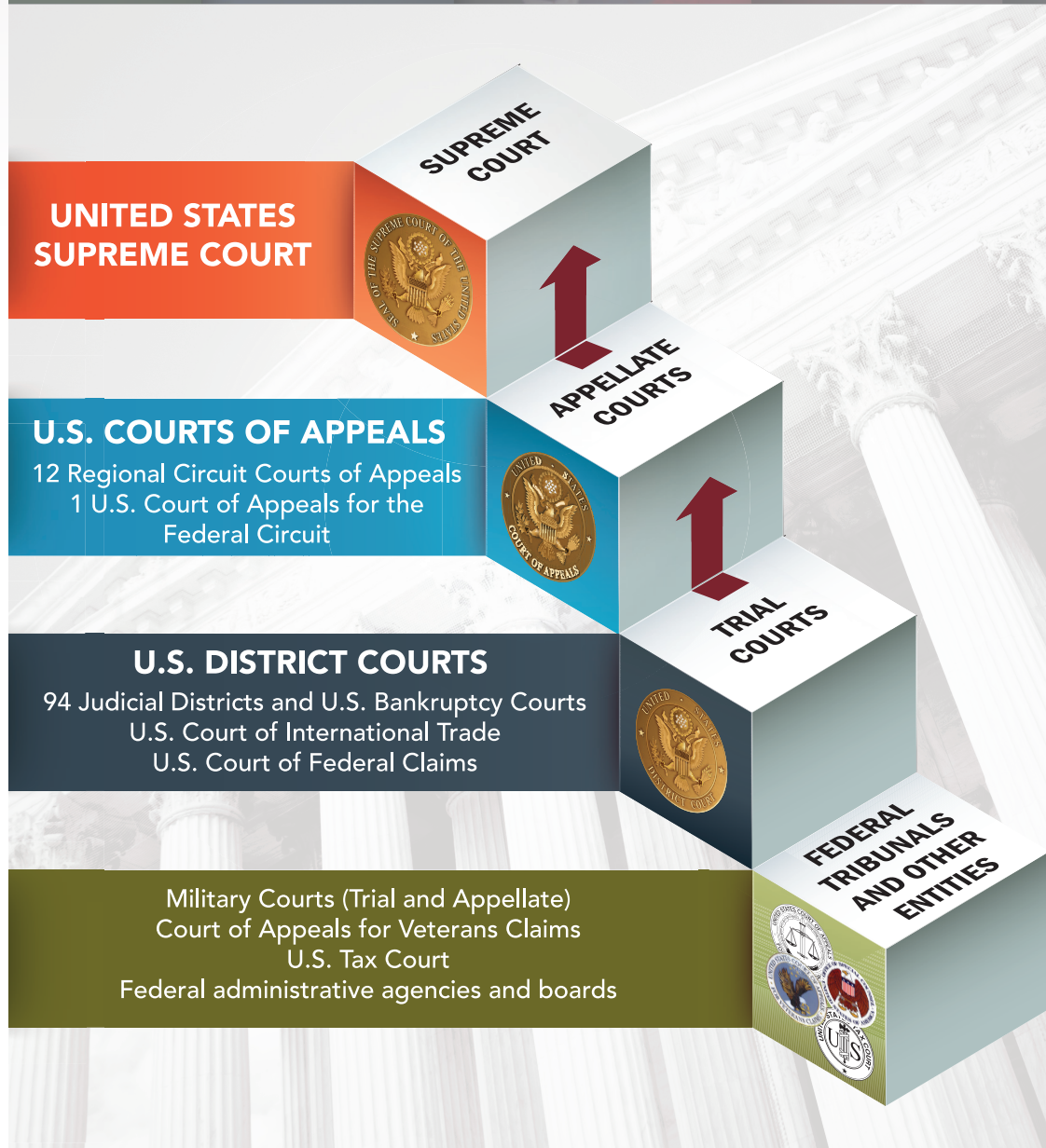
## **Appellate Courts**

The 94 judicial districts are organized into 12 regional circuits, each of which has a United States court of appeals. A court of appeals hears challenges to district court decisions from courts located within its circuit, as well as appeals from decisions of federal administrative agencies. In addition, the Court of Appeals for the Federal Circuit has nationwide jurisdiction to hear appeals in specialized cases, such as those involving patent laws and cases decided by the Court of International Trade and the Court of Federal Claims.

## **United States Supreme Court**

The U.S. Supreme Court consists of the Chief Justice of the United States and eight associate justices. At its discretion, and within certain guidelines established by Congress, the Supreme Court hears a small percentage of the cases it is asked to decide each year. Supreme Court cases are usually selected either because the lower courts have differed, or "split," on a legal issue or they involve important questions about the Constitution or federal law. ■

# THE UNITED STATES FEDERAL COURTS





# THE JURISDICTION OF THE FEDERAL COURTS

Before a federal court can hear a case, or “exercise its jurisdiction,” certain conditions must be met.

First, under the Constitution, federal courts exercise only “judicial” powers. This means that federal judges may interpret the law only through the resolution of actual legal disputes, referred to in Article III of the Constitution as “Cases or Controversies.” A court cannot attempt to correct a problem on its own initiative, or to answer a hypothetical legal question.

Second, in an actual case or controversy, the plaintiff in a federal lawsuit also must have legal “standing” to ask the court for a decision. That means the plaintiff must have been aggrieved, or legally harmed in some way, by the defendant.

Third, the case must present a category of dispute that the law in question was designed to address, and it must be a complaint that the court has the power to remedy. In other words, the court must be authorized, under the Constitution or a federal law, to hear the case and grant appropriate relief to the plaintiff.

Finally, the case cannot be “moot,” that is, it must present an ongoing problem for the court to resolve. The federal courts, thus, are courts of “limited” jurisdiction because they may only decide certain types of cases as provided by Congress or as identified in the Constitution.



Although the details of the complex web of federal jurisdiction that Congress has given the federal courts is beyond the scope of this brief guide, it is important to understand that there are two main sources of the cases coming before the federal courts: “federal question” jurisdiction and “diversity” jurisdiction.

In general, federal question jurisdiction arises in cases that involve the U.S. government, the U.S. Constitution or federal laws, or controversies between states or between the United States and foreign governments. A case that raises such a “federal question” may be filed in federal court. Examples of such cases might include a claim by an individual for entitlement to money under a federal government program such as Social Security, a criminal prosecution by the government that alleges someone violated a federal law, or a challenge to actions taken by a federal agency.

A case also may be filed in federal court based on the “diversity of citizenship”

of the litigants, such as between citizens of different states, or between U.S. citizens and those of another country. To ensure fairness to the out-of-state litigant, the Constitution provides that such cases may be heard in a federal court. An important limit to diversity jurisdiction is that only cases involving more than \$75,000 in potential damages may be filed in a federal court. Claims below that amount may only be pursued in state court. Moreover, any diversity jurisdiction case regardless of the amount of money involved may be brought in a state court rather than a federal court.

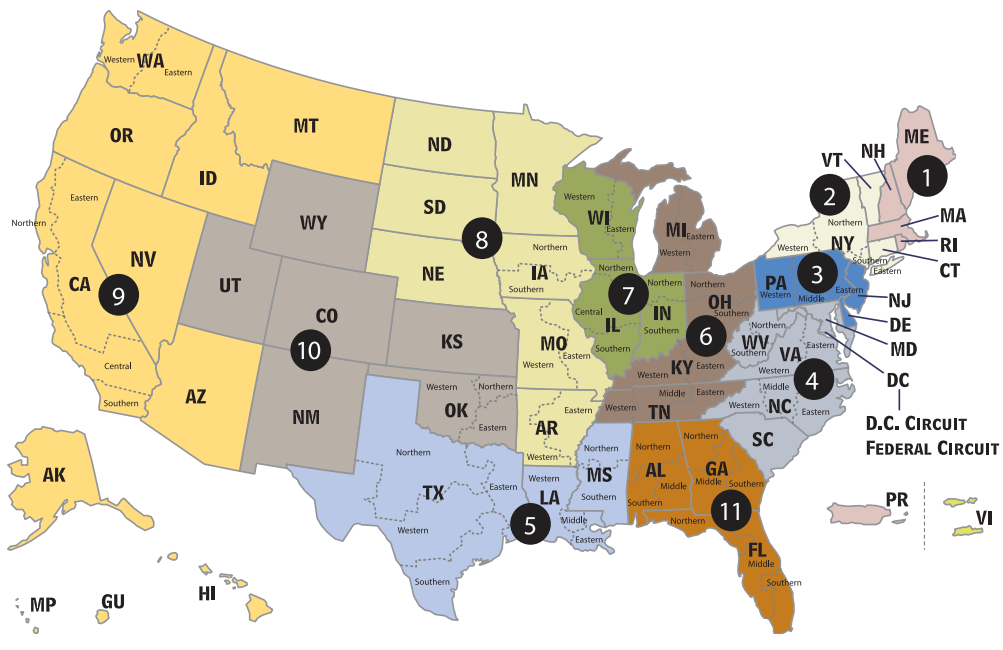
Federal courts also have jurisdiction over all bankruptcy matters, which Congress has determined should be addressed in federal courts rather than the state courts. Through the bankruptcy process, individuals or businesses that can no longer pay their

creditors may either seek a court-supervised liquidation of their assets, or they may reorganize their financial affairs and work out a plan to pay their debts.

Although federal courts are located in every state, they are not the only forum available to potential litigants. In fact, the great majority of legal disputes in American courts, civil or criminal, are addressed in the separate state court systems. State courts have jurisdiction over virtually all divorce and child custody matters, probate and inheritance issues, real estate questions, and juvenile matters, and they handle most criminal cases, contract disputes, traffic violations, and personal injury cases. In addition, certain categories of legal disputes may be resolved in special courts or entities that are part of the federal executive or legislative branches or state and federal administrative agencies. ■

## Geographic Boundaries

of United States Courts of Appeals and United States District Courts



# UNITED STATES JUDGES

The work of the federal courts touches upon many of the most significant issues affecting the American people, and federal judges exercise wide authority and discretion in the cases over which they preside. This section discusses how federal judges are chosen, and provides basic information on judicial compensation, ethics, and the role of senior and recalled judges.

## Appointment and Compensation

Justices of the Supreme Court, judges of the courts of appeals and the district courts, and judges of the Court of International Trade are appointed under Article III of the Constitution by the President of the United States with the advice and consent of the Senate. Article III judges are appointed for life, and they can only be removed from office through the impeachment process. Although there are no special qualifications to become a judge of these courts, those who are nominated are typically very accomplished private or government attorneys, judges in state courts, magistrate judges or bankruptcy judges, or law professors. The judiciary plays no role in the nomination or confirmation process.

Bankruptcy and magistrate judges are judicial officers of district courts. The President and Senate have no role in their selection. Congress determines the number and location of bankruptcy judges; they are appointed by the courts of appeals. The



district court determines the number and location of magistrate judges and appoints them. Judges of the Court of Federal Claims are appointed by the President with the advice and consent of the Senate.

Each court in the federal system has a chief judge who, in addition to hearing cases, has administrative responsibilities relating to the operation of the court. The chief judge is normally the judge who has served on the court the longest. Chief district and court of appeals judges must be under age 65 to be designated as chief judge. They may serve for a maximum of seven years and may not serve as chief judge beyond the age of 70.

All federal judges receive salaries and benefits that are set by Congress.



## CODE OF CONDUCT FOR UNITED STATES JUDGES

A judge should uphold the integrity and independence of the judiciary.

A judge should avoid impropriety and the appearance of impropriety in all activities.

A judge should perform the duties of the office fairly, impartially, and diligently.

A judge may engage in extrajudicial activities that are consistent with the obligations of judicial office.

A judge should refrain from political activity.

### Judicial Ethics

Federal judges abide by the Code of Conduct for United States Judges, a set of ethical principles and guidelines adopted by the Judicial Conference of the United States. The Code of Conduct provides guidance for judges on issues of judicial integrity and independence, judicial diligence and impartiality, permissible extra-judicial activities, and the avoidance of impropriety or even its appearance.

Judges may not hear cases in which they have personal knowledge of the disputed facts, a personal bias concerning a party to the case, earlier involvement in the case as a lawyer, or a financial interest in any party or subject matter of the case.

Many federal judges devote time to public service and educational activities. They have a distinguished history of service to the legal profession through

their writing, speaking, and teaching. This important role is recognized in the Code of Conduct, which encourages judges to engage in activities to improve the law, the legal system, and the administration of justice.

### Senior and Recalled Judges

Court of appeals, district court, and Court of International Trade judges have life tenure, and they may retire if they are at least 65 years old and meet certain years of service requirements. Most Article III judges who are eligible to retire decide to continue to hear cases on a full-time or part-time basis as “senior judges.” Retired bankruptcy, magistrate, and Court of Federal Claims judges also may be “recalled” to active service. Without the efforts of senior and recalled judges, the judiciary would need many more judges to handle its cases. ■

