

**CATEGORY 4:**  
**ORGANIZATION AND FUNCTION OF GOVERNMENT**

**SS.7.C.3.1: Compare different forms of government (direct democracy, representative democracy, socialism, communism, monarchy, oligarchy, autocracy).**

1. **Democracy**: Government by the people, both directly or indirectly, with free and frequent elections.
2. **Direct democracy**: Government in which citizens vote on laws and select officials directly.
  - a. Ex. Athens
3. **Representative democracy**: Government in which the people elect those who govern and pass laws; also called a republic. Ex. United States government
4. **Socialism**: An economic and governmental system based on public ownership of the means of production and exchange. Ex. Vietnam
5. **Communism**: a way of organizing a society in which the government owns the things that are used to make and transport products (such as land, oil, factories, ships, etc.) and there is no privately owned property. Ex. China, Cuba
6. **Monarchy**: government of a country that is ruled by a monarch (such as a king or queen)
  - a. Ex. Brunei, Qatar, Oman
7. **Oligarchy**: a government in which a small group exercises control especially for corrupt and selfish purposes; also : a group exercising such control
  - a. Ex. 1<sup>st</sup> and 2<sup>nd</sup> Triumvirate of Rome
8. **Autocracy**: a form of government in which a country is ruled by a person or group with total power.
  - a. Ex. Absolute Monarchs, Dictators

**SS.7.C.3.2: Compare parliamentary, federal, confederal, and unitary systems of government.**

**Unitary Government** – It is often described as a centralized government. It is a government in which all powers held by the government belong to a single, central agency. The central government creates local units of government for its own convenience. Most government in the world are unitary. Great Britain is an illustration of the type. A single central organization – the Parliament- holds all the power of the British government. Local governments do exist but solely to relieve Parliament of burdens it could perform only with difficulty and inconvenience.

**Advantages**

1. Uniform policies, laws, political, enforcement, administration throughout the country
2. Less duplication of services and fewer conflicts between national and local governments
3. Greater unity and stability

**Disadvantages**

1. Central government out of touch with local concerns
2. Slow in meeting local problems
3. If the central government gets too involved in local problems it may not meet the needs of all its citizens

**Confederate Government** – A confederate government is an alliance of independent states. A central organization – the confederate government – has the power to handle only those matters that the member

states have assigned to it. Typically, confederate governments have had limited powers and only in such fields as defense and foreign commerce. In our own history, the United States under the Articles of Confederation (1781 to 1789) and the Confederate States of America (1861-1865) are examples of the form. Confederations are very rare in today's world. The European Union is the closest approach to a confederation today.

#### **Advantages**

1. Keeps power at local levels preventing the growth of a large central government
2. Makes it possible for the several states to cooperate in matters of common concern and also retain their separate identities

#### **Disadvantages**

1. Weakness of central government makes it unable to enforce laws or collect taxes
2. lack of unity and common laws

**Federal Government-** A federal government is one in which the powers of government are divided between a central government and several local governments. An authority superior to both the central and local governments makes this division of powers on a geographic basis; and that division cannot be changed by either the local or national level acting alone. Both levels of government act directly on the people through their own sets of laws, officials, and agencies. In the United States, for example the National Government has certain powers and the 50 states have others. This division of powers is set out in the Constitution of the United States

#### **Advantages**

1. Federal unity but local governments handle local problems
2. Local government/officials have to be responsive to people who elect them
3. Central government can devote more time and energy to national and international problems
4. More opportunities for participation in making decisions – in influencing what is taught in the schools and in deciding where highways and government projects are to be built

#### **Disadvantages**

1. Duplication of services
2. Citizens living in different parts of the country will be treated differently, not only in spending programs, such as welfare, but in legal systems that assign in different places different penalties to similar offenses or that differentially enforce civil rights laws
3. Disputes over power/national supremacy versus state's rights
4. International relations – states may pass laws that counter national policy

### **Parliamentary**

#### **Advantages**

1. The parliamentary form is more suited for countries with deep ideological or religious cleavages or numerous political parties or sectorial factions
2. Parliamentary democracy provides opportunity for the people to make a clear choice of political alternatives.
3. The parliamentary form makes for stability in mature democracies as executive power depends on legislative majorities constituted after parliamentary election

#### **Disadvantages**

1. The political development of the country has not yet reached that level of maturity where political parties have been strengthened around clear-cut national alternatives and ideologies.
2. In the parliamentary form, the representatives of the people are sometime weakened as against the cabinet, which can threaten to make issues matters of "confidence". This can lead to paralyzation of governmental functions.

3. Since the parliamentary form is based on compromises and horse-trading, collective responsibility leads to a weak government.

**SS.7.C.3.3: Illustrate the structure and function (three branches of government established in Articles I, II, and III with corresponding powers) of government.**

**Article 1** establishes the first of the three branches of the government, the Legislature.

Section 1 establishes the name of the Legislature to be The Congress, a bicameral, or two-part, body.

Section 2 defines the House of Representatives, known as the lower house of Congress. It establishes a few minimum requirements, like a 25-year-old age limit, and establishes that the people themselves will elect the members for two years each. The members of the House are divided among the states proportionally, or according to size, giving more populous states more representatives in the House. The leader of the House is the Speaker of the House, chosen by the members.

Section 3 defines the upper house of Congress, the Senate. Again, it establishes some minimum requirements, such as a 30-year-old age limit. Senators were originally appointed by the legislatures of the individual states, though this later changed. They serve for six years each. Each state has equal suffrage in the Senate, meaning that each state has the exact same number of Senators, two each, regardless of the population. This Section introduces the Vice-President, who is the leader of the Senate (called the President of the Senate); the Vice-President does not vote unless there is a tie.

Section 4 says that each state may establish its own methods for electing members of the Congress, and mandates, or requires that Congress must meet at least once per year.

Section 5 says that Congress must have a minimum number of members present in order to meet, and that it may set fines for members who do not show up. It says that members may be expelled, that each house must keep a journal to record proceedings and votes, and that neither house can adjourn without the permission of the other.

Section 6 establishes that members of Congress will be paid, that they cannot be detained while traveling to and from Congress, that they cannot hold any other office in the government while in the Congress.

Section 7 details how bills become law. First, any bill for raising money (such as by taxes or fees) must start out in the House. All bills must pass both houses of Congress in the exact same form. Bills that pass both houses are sent to the President. He can either sign the bill, in which case it becomes law, or he can veto it. In the case of a veto, the bill is sent back to Congress, and if both houses pass it by a two-thirds majority, the bill becomes law over the President's veto. This is known as overriding a veto.

There are a couple more options for the President. First, if he neither vetoes a bill nor signs it, it becomes a law without his signature after 10 days. The second option is called a pocket veto. It occurs if Congress sends the bill to the President and they then adjourn. If the President does not sign the bill within 10 days, it does not become law.

Section 8 lists specific powers of Congress, including the power to establish and maintain an army and navy, to establish post offices, to create courts, to regulate commerce between the states, to declare war, and to raise money. It also includes a clause known as the Elastic Clause which allows it to pass any law necessary for the carrying out of the previously listed powers.

Section 9 places certain limits on Congress. Certain legal items, such as suspension of habeas corpus, bills of attainder, and ex post facto laws are prohibited. No law can give preference to one state over another; no money can be taken from the treasury except by duly passed law, and no title of nobility, such as Prince or Marquis, will ever be established by the government.

Section 10, finally, prohibits the states from several things. They cannot make their own money, or declare war, or do most of the other things prohibited Congress in Section 9. They cannot tax goods from other states, nor can they have navies.

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**Article 2 establishes the second of the three branches of government, the Executive.**

Section 1 establishes the office of the President and the Vice-President, and sets their terms to be four years. Presidents are elected by the Electoral College, whereby each state has one vote for each member of Congress. Originally, the President was the person with the most votes and the Vice-President was the person with the second most, though this is later changed. Certain minimum requirements are established again, such as a 35-year minimum age. Presidents must also be a natural-born citizen of the United States. The President is to be paid a salary, which cannot change, up or down, as long as he is in office.

Section 2 gives the President some important powers. He is commander-in-chief of the armed forces and of the militia (National Guard) of all the states; he has a Cabinet to aid him, and can pardon criminals. He makes treaties with other nations, and picks many of the judges and other members of the government (all with the approval of the Senate).

Section 3 establishes the duties of the President: to give a state of the union address, to make suggestions to Congress, to act as head of state by receiving ambassadors and other heads of state, and to be sure the laws of the United States are carried out.

Section 4 briefly discusses the removal of the President, called impeachment.

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**Article 3** establishes the last of the three branches of government, the Judiciary. Section 1 establishes the Supreme Court, the highest court in the United States. It also sets the terms of judges, of both the Supreme Court and lower courts: that they serve as long as they are on "good behavior," which usually means for life (no Justice and only a few judges have ever been impeached). It also requires that judges shall be paid.

Section 2 sets the kinds of cases that may be heard by the federal judiciary, which cases the Supreme Court may hear first (called original jurisdiction), and that all other cases heard by the Supreme Court are by appeal. It also guarantees trial by jury in criminal court.

Section 3 defines, without any question, what the crime of treason is.

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**SS.7.C.3.4: Identify the relationship and division of powers between the federal government and state governments.**

**Delegation of powers:** refers to the different powers granted respectively to each of three branches of government—executive, legislative, and judicial

**Federalism:** A principle of government that defines the relationship between the central government at the national level and its constituent units at the regional, state, or local levels. Under this principle of government, power and authority is allocated between the national and local governmental units, such that each unit is delegated a sphere of power and authority only it can exercise, while other powers must be shared

**Concurrent power:** is a political power independently exercisable by both federal and state governments in the same field of legislation. It is the power shared by the federal and state governments. Concurrent Powers include: Enforce the laws, establish courts, collect taxes, Borrow money, provide for the general welfare

**Enumerated power:** is a political power specifically delegated to a governmental branch by a constitution. It is a governmental power that is described in a foundation document such as a constitution. Enumerated power is also termed as express power. Enumerated Powers, which include: Regulate trade, Coin Money, Provide an army and navy, Conduct foreign affairs, Set up federal courts

**Reserved Powers :** State Powers, which include: Regulate trade within the state, establish local government systems, conduct elections, establish public school systems

## **FEDERAL VS. STATE POWERS**

### **Federal Powers**

**Express powers:** Powers that the Constitution explicitly grants the federal government.

1. Collect taxes
2. Regulate interstate commerce
3. Coin money, regulate currency, set standards of weights and measures
4. Declare war
5. Raise and maintain an army and navy

**Implied powers:** Based on the elastic clause (Art. I, Sec. 8, cl. 5), powers considered “necessary and proper” for carrying out the enumerated (or express) powers

1. For example, in 1791, Federalists in Congress argued that the creation of a national bank was “necessary and proper” for Congress to execute its enumerated powers to coin and borrow money and regulate currency. *McCulloch v. Maryland* (1819) confirmed Congress’s right to found this national bank.

**Denied powers:** Powers that the Constitution explicitly denies to the federal government. These include:

1. The writ of habeas corpus cannot be suspended unless in cases of rebellion or invasion, when deemed necessary to national safety.
2. No bill of attainder or ex post facto law can be passed.
3. “Supreme law of the land”: the Constitution and federal laws take precedence over state laws (Art. 6)

### **State Powers**

**Powers reserved for the states:** “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people” (Tenth Amendment in the Bill of Rights)

**Concurrent powers:** Powers allotted to both state governments and the federal government.

1. The power to levy taxes

2. The power to borrow money
3. The power to charter corporations
- 4.

#### **State-to-state relations:**

1. Full faith and credit clause: Each state must honor other states' public acts and records
2. A citizen of one state is a citizen of every state and is entitled to all the privileges and immunities of those states.
3. Anyone who is charged with a crime in one state and escapes to another state must be returned to the state where the crime was committed.
4. Congress may admit new states to the Union, but no new states can be created within the boundaries of existing states without the approval of Congress and the state legislatures concerned.

#### **SS.7.C.3.5: Explain the Constitutional amendment process.**

##### **Amendment procedures outlined in the U.S. Constitution**

Article V of the U.S. Constitution outlines two methods for introducing amendments to the U.S. Constitution. These methods are:

- a) Two-thirds of each house of Congress votes to amend the U.S. Constitution followed by three-fourths of the state legislatures (or conventions of the state legislatures) approving of the amendment.
- b) A national convention where two-thirds of all states are represented votes to introduce an amendment followed by three-fourths of the state legislatures (or conventions of the state legislatures) approving of the amendment.

Both circumstances require that three-fourths of the state legislatures (or conventions of the state legislatures) approve an amendment before it becomes part of the U.S. Constitution. The second method, where amendments are introduced in state legislatures, has never been successfully used. All ratified amendments have been proposed in Congress. The amendment procedure in many ways reflects a states' rights approach, where the state legislatures or their conventions are responsible for ratifying all amendments whether introduced by national convention or in Congress.

##### **Constitutional amendments over time**

The Constitution has been amended 27 times; **the first 10 amendments**, collectively known as the Bill of Rights were ratified in 1791. The last time that the Constitution was amended was in 1992.

Many constitutional amendments exhibit a relationship to one another as to their theme or timeframe in which they were ratified. For example, the Bill of Rights reflects the Anti-Federalist founders' fears that the federal government would infringe on basic personal and political rights including the right of political expression and the right to due process in criminal proceedings and other matters. **The Civil War Amendments**, Amendments 13 through 15, were ratified between 1865 and 1870, and were part of the post-Civil War Reconstruction. These amendments eliminated slavery, defined citizenship, and prevented the states from denying citizens the right to vote. Southern states were expected to ratify these amendments following the Civil War in exchange for monetary support from the federal government. Three 20th century amendments reflect concerns about a presidency growing too powerful; the **20th amendment**, ratified 1933, reduces the lame duck period between Election Day and Inauguration Day, the **22nd amendment** (1951) limits the presidency to two four year terms (plus up to two years in those cases where the vice-president becomes president due to death, resignation or removal), and the **25th amendment** (1967), which provides that the vice-president shall become acting president during such time that the president is alive but otherwise unable or unwilling to serve.

Three amendments deny states the right to limit voting rights to certain populations. The **15th amendment** (1870) forbids states from denying citizens the right to vote based on race, color or previous condition of servitude while the **19th amendment** (1920) forbids states from denying citizens the right to vote on account of sex. Finally, the **26th amendment** (1971) extended voting rights to all citizens 18 years and older.

The last constitutional amendment, which denies Congress the right to raise its own pay (Congress may vote to raise the pay of the next Congress; Congresses last two years), was originally approved by Congress in 1789 but was not ratified until 1992. This amendment had no ratification deadline. When Congress introduces an amendment, it may include a ratification deadline (typically seven years) although one is not required.

Only one amendment has been rescinded. The **18th amendment** that prohibited the manufacture, sale, or transportation of alcohol was ratified in 1919. It was rescinded with the **21st amendment** in 1933. Since then, there has been some debate about rescinding other amendments, such as the **22nd amendment** which limits presidential terms.

### **SS.7.C.3.8: Analyze the structure, functions, and processes of the legislative, executive, and judicial branches.**

The United States government is made up of three separate branches: the legislative, the executive, and the judicial. Each branch is organized very differently, has different jobs and responsibilities, and has its own unique set of powers.

#### The Legislative Branch

The legislative branch includes the House of Representatives and the Senate. Together they are the lawmaking body of the United States called Congress. Article I of the Constitution discusses the powers and organization of Congress. The main job of Congressmen/Congresswomen is to make laws.

At the federal level, the process of how a bill becomes a law can be difficult. Each bill begins as an idea. An idea for a law can come from U.S. Representatives, Senators, the president, or even ordinary citizens.

An idea for a law is called a bill. Bills can be proposed in either chamber (house) of Congress (the House of Representatives or the Senate). Depending on which chamber of Congress proposes the bill, it will be sent to the appropriate committee that deals with the topic of the bill. That committee will do research on the bill. There are many committees in Congress, and every member of Congress serves on one or more committees.

After the committee does its research and discusses the bill, the committee decides if the bill should move to the next step in becoming a law. If the committee agrees to move the bill ahead, the bill moves to the full chamber of Congress where the bill was first introduced (either the House of Representatives or the Senate) so that it can be debated and then voted on. If that chamber of Congress votes for the bill (for example, the U.S. House of Representatives), the bill then moves to the other chamber of Congress (for example, the U.S. Senate) for more debate and discussion. Finally, the other chamber of Congress will vote on the bill. If members of that chamber vote for the bill, the president will then be asked to sign the bill and make it become a law.

If there are more than 10 days left in the congressional session, the president may take one of three actions: 1) The president may choose to sign the bill into law, 2) the president may choose to veto (reject) the bill, or 3) the president may choose to take no action on the bill. A bill becomes law if the president takes no action on the bill and there are at least 10 days left in the congressional session. When the president takes no action with fewer than 10 days left in the congressional session, this is called a pocket veto.

## The Executive Branch

The second branch of the United States government is the executive branch. The executive branch includes the President and Vice President. The main job of the executive branch is to enforce the laws. Article II of the Constitution discusses the powers of the president.

If the president does not agree with a particular bill that Congress has passed, the Constitution gives the president the power to veto the bill. This is an important part of the system of checks and balances to make sure that no branch of government has too much power over the others.

If a bill does become law, the president as chief executive of the nation must make sure that laws passed by Congress are enforced.

The president also has the power to issue executive orders, which are decisions that have the force of law. For example, an executive order signed by President Franklin Roosevelt in 1942 allowed the forced internment of U.S. citizens of Japanese descent during World War II. Executive orders do not have to be approved by Congress, although the U.S. Supreme Court may find them to be unconstitutional and strike them down. This is another example of checks and balances.

The president has the power to nominate (choose) people to serve in different government positions. These are known as presidential appointments. Examples of presidential appointments include the president's cabinet, U.S. Supreme Court justices, and ambassadors to different countries. As a part of the checks and balances system, the Senate must approve presidential appointments. This is a check on the president's power to nominate people who may not be qualified for a certain position or who may have problems that would keep them from being effective in their position.

## The Judicial Branch

The third branch is the judicial branch. The judicial branch includes the Supreme Court, federal courts, and state courts. Article III of the Constitution outlines the U.S. court structure.

The U.S. Supreme Court is the highest court in the nation. In most cases, the Supreme Court has appellate jurisdiction, which means it has the power to review cases that have already been decided in lower courts. Sometimes the U.S. Supreme court has original jurisdiction, which means the Court has the power to hear a case first. For example, cases involving disagreements between two states would be first heard by the U.S. Supreme Court.

There are thousands of requests for appeals to be heard by the Supreme Court each year. Fewer than 100 are likely to be accepted. Once the Supreme Court reviews an appeal, the Court decides whether or not to hear the case. The Court will issue a writ of certiorari if the Court decides to accept the case on appeal. Because most cases that are accepted by the Supreme Court on appeal deal with constitutional questions, the Supreme Court uses its power of judicial review. Judicial review means that the Supreme Court can decide whether or not a law is constitutional. This power was not originally written into the US Constitution. Instead, the Supreme Court interpreted the Constitution to mean that it does have this power in the *Marbury v. Madison* case.

Courts use different processes to conduct their work. For example, courts issue court orders, which are documents requiring that someone do or not do something. Sometimes, the two opponents in a case may try to speed up the court process by requesting a summary judgment. A summary judgment is decided on the basis of evidence given to the court and keeps the case from going to trial.



The U.S. federal system (federalism) allows the national and state governments to share powers and responsibilities. Lawmaking is a power that is shared at each level of government – local, state, and federal.

At the local level, depending on how the local government is organized, lawmakers could be called city commissioners, city council members, county commissioners, or mayors. The number of commissioners and/or council members depends on how the city or county government is organized. These local government officials pass ordinances that govern the people who live in villages, towns, cities, and counties.

Florida state government is organized like the federal government. There is a state house of representatives and a state senate made up of state representatives and state senators. They are all called state legislators. State representatives are elected for two-year terms, and state senators are elected for four-year terms. State legislators create state laws (statutes) that govern the people who live in the state.

At the federal level, each state has a certain number of U.S. Representatives based on the state's population. Each state also has two U.S. Senators. U.S. Representatives serve two year terms and have no term limits. U.S. Senators serve six-year terms and have no term limits. Together, U.S. Representatives and U.S. Senators make up the Congress. Congress enacts federal laws, called acts, which govern the people of the entire nation.

Local governments pass laws that govern the people living in their villages, towns, cities, or counties. Local laws are called ordinances.

State governments pass laws that govern the people living in the state. State laws are called statutes.

The federal government passes laws that govern the entire nation. Federal laws are called acts.

### **Lawmaking at the Local Level**

It is the job of local governments to make communities better places to live. To do this job, local lawmakers have the power to pass ordinances. Ordinances are laws that govern a local community. Ordinances must not conflict with state laws, called statutes, or with federal laws, called acts. Local law enforcement groups (like the police force or sheriff's department) are in charge of enforcing both ordinances and state statutes.

### **Lawmaking at the State Level**

An idea for a law can come from state legislators, the governor, or even ordinary citizens. The process for a bill becoming a law can be as difficult as it is at the federal level. An idea for a law that is proposed in the state legislature is called a bill. Bills can be proposed in either the Florida House of Representatives or the Florida Senate. The Florida House or Senate committee that the bill is assigned to does research on the bill. There are many different committees that have specific issues they deal with. Every state legislator serves on one or more committees.

After the committee completes its research and discusses the bill, the committee decides if the bill should move forward. If the committee goes ahead with the bill, the bill moves to the full chamber of the legislature where the bill was first introduced (the Florida House or Senate). The members of that chamber debate and vote. If that chamber votes for the bill (for example, the Florida House of Representatives), it then moves to the other legislative chamber (for example, the Florida Senate) for more debate and discussion. Finally, the other legislative chamber will vote on the bill. If members of that chamber vote for the bill, the governor will then be asked to sign the bill into law.

If the Florida process of how a bill becomes a law sounds familiar, that is because it is almost identical to the way a bill becomes a law at the federal level. The state legislature has various committees like Congress does.

Also like Congress, the state legislature committees study bills, hold hearings, and revise bills if necessary. Finally, just as in the federal government, both legislative chambers (the Florida House of Representatives and the Senate) must approve a bill, and the governor must sign it before it becomes law.

### Lawmaking at the Federal Level

At the federal level, an idea for a law can come from U.S. Representatives, Senators, the President, or even ordinary citizens.

An idea for a law is called a bill. Bills can be proposed in either chamber (house) of Congress (the U.S. House of Representatives or the U.S. Senate). Depending on which chamber of Congress proposes the bill, it will be sent to the appropriate committee that deals with the topic of the bill. That committee will do research on the bill. There are many committees in Congress, and every member of Congress serves on one or more committees.

After the committee does its research and discusses the bill, the committee decides if the bill should move to the next step of becoming a law. If the committee agrees to move the bill ahead, the bill moves to the full chamber of Congress where the bill was first introduced (either the U.S. House of Representatives or the U.S. Senate) so that it can be debated and then voted on. If that chamber of Congress votes for the bill (for example, the U.S. House of Representatives), the bill then moves to the other chamber of Congress (for example, the U.S. Senate) for more debate and discussion. Finally, the other chamber of Congress will vote on the bill. If members of that chamber vote for the bill, the president will then be asked to sign the bill and make it become a law.

If there are more than 10 days left in the congressional session, the president may take one of three actions: 1) The president may choose to sign the bill into law, 2) the president may choose to veto (reject) the bill, or 3) the president may choose to take no action on the bill. A bill becomes law if the president takes no action on the bill and there are at least 10 days left in the congressional session. When the president takes no action with fewer than 10 days left in the congressional session, this is called a pocket veto.

### **SS.7.C.3.9: Illustrate the law making process at the local, state, and federal levels.**

#### Levels of Government

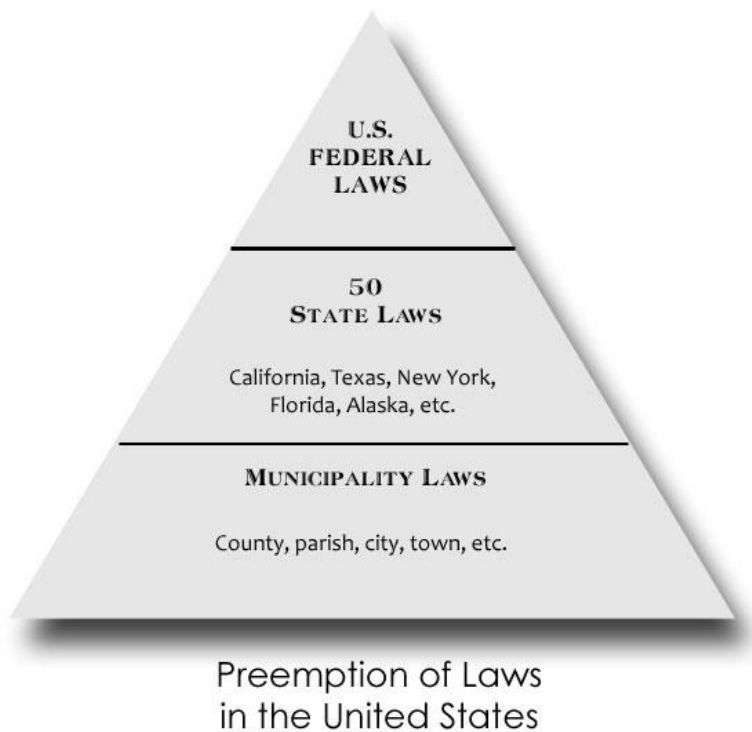
In the United States, different kinds of laws are passed at federal, state, and local levels. Preemption is the doctrine by which federal laws are designated supreme over state and local laws.

The federal government is responsible for some types of laws, such as those pertaining to national defense, currency, interstate commerce, patents, and so forth. State and local governments may not pass these kinds of laws, nor may they pass laws that conflict with federal laws.

The state governments may pass laws that are not explicitly reserved by the federal government. State laws affect the citizens and property in that state only. State laws may not conflict with federal laws.

Local governments, also called municipalities, include counties, parishes, cities, towns, and so on. Local governments may pass laws that are not reserved by the federal government or the state. Local laws affect the citizens and property in that municipality only. Generally, local laws may not conflict with state law, but there are some exceptions.

Municipalities' laws do not usually apply to other municipalities, even if one municipality is located inside another. Cities and towns are located inside counties and parishes, but they do not have to follow county or parish law. Cities and towns may pass their own laws, which are valid inside city or town limits. County and parish laws usually apply only to unincorporated areas of that county or parish. However, small cities and towns may not have the resources to enforce their own laws; in this case, the town may adopt county laws and rely on the county to enforce those laws.



**SS.7.C.3.11: Diagram the levels, functions, and powers of courts at the state and federal levels**

The framers of the U.S. Constitution wanted the federal government to have only limited power. Therefore, they limited the kinds of cases federal courts can decide. Most laws that affect us are passed by state governments, and thus state courts handle most disputes that govern our daily lives. Federal courts also serve an important role. They defend many of our most basic rights, such as freedom of speech and equal protection under the law. This is the fundamental idea behind Federalism, which means a government in which power is divided between one national government and other, smaller state or regional governments.

State Courts	Federal Courts	State or Federal Courts
Crimes under state legislation. State constitutional issues and cases involving state laws or regulations. Family law issues. Real property issues. Most private contract disputes (except those resolved under bankruptcy law). Most issues involving the regulation of trades and professions. Most professional malpractice issues. Most issues involving the internal governance of business associations such as partnerships and corporations. Most personal injury lawsuits. Most workers' injury claims. Probate and inheritance matters. Most traffic violations and registration of motor vehicles.	Crimes under statutes enacted by Congress. Most cases involving federal laws or regulations (for example: tax, Social Security, broadcasting, civil rights). Matters involving interstate and international commerce, including airline and railroad regulation. Cases involving securities and commodities regulation, including takeover of publicly held corporations. Admiralty cases. International trade law matters. Patent, copyright, and other intellectual property issues. Cases involving rights under treaties, foreign states, and foreign nationals. State law disputes when "diversity of citizenship" exists.	Crimes punishable under both federal and state law. Federal constitutional issues. Certain civil rights claims. "Class action" cases. Environmental regulations. Certain disputes involving federal law.

	Bankruptcy matters. Disputes between states. Habeas corpus actions. Traffic violations and other misdemeanors occurring on certain federal property.	
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The Federal Court System	The State Court System
<b>STRUCTURE</b>	
<ul style="list-style-type: none"> <li>Article III of the Constitution invests the judicial power of the United States in the federal court system. Article III, Section 1 specifically creates the U.S. Supreme Court and gives Congress the authority to create the lower federal courts.</li> </ul>	<ul style="list-style-type: none"> <li>The Constitution and laws of each state establish the state courts. A court of last resort, often known as a Supreme Court, is usually the highest court. Some states also have an intermediate Court of Appeals. Below these appeals courts are the state trial courts. Some are referred to as Circuit or District Courts.</li> </ul>
<ul style="list-style-type: none"> <li>Congress has used this power to establish the 13 U.S. Courts of Appeals, the 94 U.S. District Courts, the U.S. Court of Claims, and the U.S. Court of International Trade. U.S. Bankruptcy Courts handle bankruptcy cases. Magistrate Judges handle some District Court matters.</li> </ul>	<ul style="list-style-type: none"> <li>States also usually have courts that handle specific legal matters, e.g., probate court (wills and estates); juvenile court; family court; etc.</li> </ul>
<ul style="list-style-type: none"> <li>Parties dissatisfied with a decision of a U.S. District Court, the U.S. Court of Claims, and/or the U.S. Court of International Trade may appeal to a U.S. Court of Appeals.</li> </ul>	<ul style="list-style-type: none"> <li>Parties dissatisfied with the decision of the trial court may take their case to the intermediate Court of Appeals.</li> </ul>
<ul style="list-style-type: none"> <li>A party may ask the U.S. Supreme Court to review a decision of the U.S. Court of Appeals, but the Supreme Court usually is under no obligation to do so. The U.S. Supreme Court is the final arbiter of federal constitutional questions.</li> </ul>	<ul style="list-style-type: none"> <li>Parties have the option to ask the highest state court to hear the case.</li> </ul>
	<ul style="list-style-type: none"> <li>Only certain cases are eligible for review by the U.S. Supreme Court.</li> </ul>
<b>SELECTION OF JUDGES</b>	
<p><b>The Constitution states that federal judges are to be nominated by the President and confirmed by the Senate.</b></p> <p>They hold office during good behavior, typically, for life. Through Congressional impeachment proceedings, federal judges may be removed from office for misbehavior.</p>	<p><b>State court judges are selected in a variety of ways, including</b></p> <ul style="list-style-type: none"> <li>election,</li> <li>appointment for a given number of years,</li> <li>appointment for life, and</li> <li>combinations of these methods, e.g., appointment followed by election.</li> </ul>
<b>TYPES OF CASES HEARD</b>	
<ul style="list-style-type: none"> <li>Cases that deal with the constitutionality of a law</li> <li>Cases involving the laws and treaties of the U.S.</li> <li>Ambassadors and public ministers</li> <li>Disputes between two or more states</li> <li>Admiralty law, and</li> <li>Bankruptcy.</li> </ul>	<ul style="list-style-type: none"> <li>Most criminal cases, probate (involving wills and estates)</li> <li>Most contract cases, tort cases (personal injuries), family law (marriages, divorces, adoptions), etc.</li> </ul> <p>State courts are the final arbiters of state laws and constitutions. Their interpretation of federal law or the U.S. Constitution may be appealed to the U.S. Supreme Court. The Supreme Court may choose to hear or not to hear such cases.</p>

**SS.7.C.2.6: Simulate the trial process and the role of juries in the administration of justice.**

<http://www.youtube.com/watch?v=7KwD8Go3Vgs>

### **SS.7.C.3.13: Compare the constitutions of the United States and Florida.**

#### 1. THE ELEMENTS OF STATE CONSTITUTIONS

Similarly to the U.S. Constitution, state constitutions include

- a) an enumeration of fundamental rights (bill of rights)
- b) a division of powers among three branches of government
- c) an impeachment process
- d) a constitutional amendment process

Unlike the U.S. Constitution, the majority of state constitutions also contain

- a) allowances for direct democracy
- b) provisions for the creation of local governments
- c) provisions for public education
- d) a balanced budget requirement
- e) guidelines for conducting elections

2. The purposes of a constitution provide a framework for government, limits government authority, protects the rights of the people.
3. The basic outline of the U.S. and Florida constitutions (both have articles, amendments, and preambles).
4. The U.S. Constitution is the supreme law of the land.
5. Students will compare the amendment process of the U.S. and Florida constitutions.

#### **A. 5 Ways to Amend Florida's Constitution**

Florida has more ways to amend its constitution than any other state. Article XI of Florida's Constitution explains the five methods to amend Florida's Constitution. Regardless of the method, all proposed constitutional amendments must be approved by a majority (50%+1) of voters on Election Day.

##### 1. Method Name

- a. Ballot Initiative Process: A committee must register with Secretary of State. The committee must collect 611,009 (for 2006) signatures with certain percentages coming from each congressional districts.
- b. Constitutional Convention: Florida voters may call a constitutional convention by collecting a designated amount of signatures and then gaining a majority of the vote to the question "Shall a constitutional convention be held?"
- c. Constitutional Revision Commission: Composed of 37 members, this commission meets every 20 years to examine the constitution of the state and propose the amendments deemed necessary.
- d. Legislative Joint Resolution: The Florida Legislature can pass a joint resolution supported by three-fifths of the membership of each house of the legislature.
- e. Taxation and Budget Reform Commission: This 22-member Commission will meet in 2007 and every 20th year thereafter.

#### **B. Amendment process of the U.S. Constitutions**

1. Article V of the U.S. Constitution outlines two methods for introducing amendments to the U.S. Constitution. These methods are:

- a) Two-thirds of each house of Congress votes to amend the U.S. Constitution followed by three-fourths of the state legislatures (or conventions of the state legislatures) approving of the amendment.
- b) A national convention where two-thirds of all states are represented votes to introduce an amendment followed by three-fourths of the state legislatures (or conventions of the state legislatures) approving of the amendment.

Both circumstances require that three-fourths of the state legislatures (or conventions of the state legislatures) approve an amendment before it becomes part of the U.S. Constitution. The second method, where amendments are introduced in state legislatures, has never been successfully used. All ratified amendments have been proposed in Congress. The amendment procedure in many ways reflects a states' rights approach, where the state legislatures or their conventions are responsible for ratifying all amendments whether introduced by national convention or in Congress.

**SS.7.C.3.14: Differentiate between local, state, and federal governments' obligations and services.**

<b>Exclusive Powers of the Federal Government</b>	<b>Exclusive Powers of State Governments</b>	<b>Powers Shared by the Federal and State Governments</b>	<b>Services Typically Provided by Local Government</b>
*Print money (bills and coins)	Establish local governments	Establish courts	Education
* Declare war	Issue licenses (driver's, marriage, etc.)	Create and collect taxes	Police
* Establish an army and navy	Regulate intrastate commerce	Build highways	Fire
*Enter into treaties with foreign governments	Conduct elections	Borrow money	Human Services
* Regulate commerce between states and international trade	Ratify amendments to the U.S. Constitution	Make and enforce laws	Public Works (construction and maintenance of all county owned or operated assets, and services like sewers, solid waste and storm water management)
*Establish post offices and issue postage	Provide for public health and public safety	Charter banks and corporations	Urban Planning/Zoning
*Make laws necessary to enforce the Constitution	Exercise powers neither delegated to the national government or prohibited from the states by the U.S.	Spend money for the betterment of the general welfare of residents	Economic Development
	Establish a State Constitution (e.g., set legal drinking and smoking ages)	Transportation	Parks and Recreation