

JUDICIAL BRANCH

SS.7.CG.3.9 Explain the structure, functions and processes of the judicial branch of government.

TABLE OF CONTENTS

Essential Teacher Content Background Information	2
Lesson Summary	6
Suggested Student Activity Sequence & Pace	8
Civics Content Vocabulary	10
Additional Resources, Answer Keys, and Sources	12

2023 BENCHMARK UPDATES

- Updated from SS.7.C.3.8
 - Changed from, “~~Analyze~~ the structure, functions, and processes of the ~~legislative, executive, and~~ judicial branches.” to “Explain the structure, functions and processes of the judicial branch of government.”
- Updated from SS.7.C.3.11
 - Changed from, “~~Diagram the levels~~, functions, and ~~powers of courts at the state and federal levels~~.” to ““Explain the structure, functions and processes of the judicial branch of government.”
- Depth of Knowledge Changes within Benchmark
 - Changed from, “Analyze” to “Explain”
- Benchmark Clarification Changes
 - (SS.7.C.3.8) Changed from “Students will examine the processes of the ~~legislative (e.g., how a bill becomes a law, appointment confirmation, committee selection), executive (e.g., executive order, veto, appointments), and~~ judicial (e.g., judicial review, court order, writ of certiorari, summary judgment) branches of government.” to “Students will examine the processes of the judicial branch (e.g., judicial review, court order, writ of certiorari, summary judgment).
 - (SS.7.C.3.11) Changed from “Students will distinguish between the ~~levels~~, functions, and powers of courts at the state and federal levels.” to “Students will distinguish between the structure, functions and powers of courts at the state and federal levels.”
 - (SS.7.C.3.11) Changed from “Students will compare appellate and trial processes.” to “Students will compare the trial and appellate processes.”
 - (SS.7.C.3.11) Deletion of “Students will examine the significance of the role of juries in the American legal system.”
- Vocabulary Changes
 - No changes

Essential Teacher Content Background Information

[Teacher Content Notes Not Appropriate For Student Use]

This section addresses the following topics:

1. The Federal Court System
2. The Power of Judicial Review and Interpreting the U.S. Constitution
3. The Court System in Florida

The U.S. court system is composed of several parts. Article III of the U.S. Constitution creates the U.S. Supreme Court; all other courts, which are inferior to the U.S. Supreme Court, are created, supported and mandated by Congress.

1. The Federal Court System

The vague nature of the judiciary branch is that there is no set number of judges on the U.S. Supreme Court (tradition keeps the number at nine; this number is not a constitutional requirement) or on any other court, and there is no set number of courts. It is up to Congress to choose the number of U.S. Supreme Court members and of other courts. The U.S. Constitution requires that U.S. Supreme Court justices “hold their offices during good behavior” which translates to lifetime appointments unless removed by Congress.

Cases that are first heard by the U.S. Supreme Court (“original jurisdiction”) tend to involve disputes, which may include conflicts between two states, between the president and Congress, or cases where a state is a party. All other cases come before the U.S. Supreme Court in its role as the highest court of appeal. The U.S. Constitution is very specific as to which types of cases may come before it as cases of original jurisdiction, which cannot be rejected. The Constitution is otherwise vague as to which types of cases are to be heard on appeal. All cases are decided with a majority vote.

The bulk of the Court’s work is appellate cases. Any case submitted on appeal may be rejected; in a typical year, the U.S. Supreme Court is asked to grant a hearing (“writ of certiorari”) to approximately 10,000 appeals cases; it accepts about 1%, or 75-80 cases, which require four votes in order to be “granted cert”. For cases not granted a writ of certiorari, the decision made at the most recent court is deemed the final decision in that case. Cases decided by the U.S. Supreme Court may not be appealed.

2. The Power of Judicial Review and Interpreting the U.S. Constitution

The design of the court system, where there is no set number of judges or courts, and that judges remain in office for life, retirement, or unlikely removal, indicates that, except in limited cases of original jurisdiction, the courts were not expected to be very powerful. Had the Founders believed that the courts might abuse their power, they may have been more specific in their design of the courts, set terms of office for judges, or otherwise provided for judicial accountability.

The power of the courts changed considerably in the early 19th century when the U.S. Supreme Court took on the role of interpreter of the U.S. Constitution. In *Marbury v. Madison* (1803) ([Summary](#) available, “*Marbury v. Madison*”), the U.S. Supreme Court decided that it had the sole right to decide whether an Act of Congress or the president violated the U.S. Constitution. In essence, the Court decided that it had the power to make law through a process called “case law” where the Court interprets what the U.S. Constitution means and whether, based on that meaning, a law is nullified because it is incongruent with the U.S. Constitution. Later, following ratification of the 14th Amendment in 1868, the U.S. Supreme Court’s power of judicial review grew

to include states such that the U.S. Supreme Court may now declare state laws unconstitutional. These case law processes have broadened the role of the U.S. Supreme Court because it gives the Court powers beyond those stated in the U.S. Constitution.

3. The Court System in Florida

Article V of the Florida Constitution lays out the organization of the state's judicial branch, dividing the judiciary into a supreme court, district courts of appeal, circuit courts and county courts. Judges at the city and county level are elected by local constituents, while state court judges, including supreme court justices, are appointed by the governor for a six year term after which they appear on the ballot where the people decide in a yes/no vote whether to retain them for another term.

4. The Supreme Court of Florida

Florida's highest Court in Florida is the Florida Supreme Court, which is composed of seven justices. At least five justices must participate in every case and at least four must agree for a decision to be reached. The Florida Supreme Court must review final court orders imposing death sentences, district court decisions declaring a State statute or provision of the State Constitution invalid and other matters. The Court is responsible for disciplining and removing judicial officers.

5. Lower Courts in Florida

The Florida Supreme Court never hears the bulk of trial court decisions that are appealed. Rather, three-judge panels of district courts of appeal review them. In each district court, the district court judges within the district select a chief judge.

District courts of appeal may hear appeals from final judgments and review certain non-final orders. By general law, the district courts have been granted the power to review final actions taken by state agencies in carrying out the duties of the executive branch of government. District courts may issue summary judgments, which are judgments issued without a trial.

Decisions of the district courts of appeal represent the final appellate review of litigated cases. A person who is displeased with a district court's express decision may ask for review in the Florida Supreme Court and then in the U.S. Supreme Court, but neither tribunal is required to accept the case for further review. Most are denied.

Most jury trials take place before one judge sitting as judge of the circuit court. The circuit courts are sometimes referred to as courts of general jurisdiction, in recognition of the fact that most criminal and civil cases originate at this level. The Florida Constitution provides that a circuit court shall be established to serve each judicial circuit established by the Legislature, of which there are twenty. Within each circuit, there may be any number of judges, depending upon the population and caseload of the particular area.

Circuit courts have general trial jurisdiction over matters not assigned by statute to the county courts and also hear appeals from county court cases. Circuit courts are simultaneously the highest trial courts and the lowest appellate courts in Florida's judicial system.

6. County Courts

Florida's constitution establishes a court in each of Florida's 67 counties. The number of judges in each county court varies with population and caseload. To be eligible for the office of county judge, a person must be

eligible to vote in that county and have been a member of The Florida Bar for five years; in counties with a population of 40,000 or less, a person must only be a member of The Florida Bar to be a county judge. County judges are eligible for assignment to circuit court, and are frequently assigned within the judicial circuit that embraces their counties.

The trial jurisdiction of county courts is established by statute. The jurisdiction of county courts extends to civil disputes involving \$15,000 or less. The majority of non-jury trials in Florida take place before one judge sitting as a judge of the county court. The county courts are sometimes referred to as "the people's courts," because a large part of the courts' work involves citizen disputes, such as traffic offenses, misdemeanors, and small monetary disputes.

Florida Supreme Court

Court Description	Jurisdiction
The Supreme Court of Florida is the highest court in the state and is headquartered in the Supreme Court Building in Tallahassee. Seven justices make up the court. To hear a case, at least five justices must participate, and four of the seven must reach agreement for a decision to be handed down on a case.	The Supreme Court's jurisdiction is defined by the Florida Constitution. The Court must review final orders regarding death sentences, as well as district court decisions declaring State statutes or provisions of the state Constitution invalid. Finally, the Florida Supreme Court also sets rules which govern the practices and procedures in all Florida courts.

District Courts of Appeal

Court Description	Jurisdiction
Most trial cases undergoing appeal are reviewed by three-judge panels of the District Courts of Appeal (DCA). The Florida Constitution provides that the Legislature divide the State into appellate court districts each under a DCA. Currently six DCAs serve Florida, with the districts headquartered in Tallahassee, Tampa, Daytona Beach, Lakeland, West Palm Beach, and Miami Each district court is presided over by a chief judge, chosen by the other district court judges within the DCA, who is responsible for the administrative duties of the court.	District Courts of Appeal have appellate jurisdiction for final judgements, and have jurisdiction to review certain non-final orders as well as final actions taken by state agencies carrying out the duties of the executive branch. DCAs have authority to issue writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus, as well as all other writs necessary to the complete exercise of their jurisdiction. DCA decisions represent the final appellate review of litigated cases. A person unhappy with a DCA's decision may seek redress by asking the Florida Supreme Court to review the case and, if still unhappy, a writ of <i>certiorari</i> from the United States Supreme Court, though the vast majority of such requests are denied.

Circuit Courts

Court Description	Jurisdiction
Most jury trials in Florida take place before a single judge presiding over a circuit court. Circuit courts in Florida are sometimes referred to as 'courts of general jurisdiction', in that circuit courts possess original jurisdiction for the majority of criminal and civil cases in the state.	Circuit courts have general trial jurisdiction over matters not assigned by statute to the county courts as well as appellate jurisdiction for county court cases, making circuit courts simultaneously the highest trial courts and the lowest appellate courts in Florida's judicial system.

<p>The Florida Constitution provides that the Legislature establish circuit courts to serve each judicial circuit. Currently Florida has twenty circuits. The number of judges within each circuit vary, depending on factors such as population and caseload within the circuit. Circuit court judges are elected by the voters of the circuits in nonpartisan, contested elections and serve six year terms. Each circuit court is presided over by a chief judge, chosen from among the circuit judges and county judges in each circuit to carry out administrative responsibilities for all trial (both circuit and county) courts within the circuit.</p>	
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County Courts

Court Description	Jurisdiction
<p>The Florida Constitution establishes a county court in each of Florida's 67 counties. The number of judges in each county court varies with the population and caseload of the county. To be eligible for the office of county judge, one must be eligible to vote in the county and a Florida Bar member for at least five years except in counties with a population of 40,000 or less when the person must only be a member of The Florida Bar. County judges serve for six years. County judges are eligible for assignment to circuit court, and they are frequently assigned as such within the judicial circuit that embraces their counties.</p>	<p>The trial jurisdiction of county courts is established by statute. The jurisdiction of county courts extends to civil disputes involving \$50,000 or less. Most non-jury trials in Florida take place before one judge sitting as a judge of the county court. The county courts are sometimes referred to as "the people's courts," probably because a large part of the courts' work involves citizen disputes, such as traffic offenses, less serious criminal matters (misdemeanors), and relatively small monetary disputes.</p>

Adapted from <https://www.flcourts.gov/Florida-Courts/Supreme-Court-of-Florida> and <https://www.flcourts.gov/Florida-Courts>

Lesson Summary

ESSENTIAL QUESTION		
How do the structure, functions, and processes of the judicial branch vary at the national, state, and local levels of government?		
BENCHMARK		
SS.7.CG.3.9 Explain the structure, functions and processes of the judicial branch of government.		
CIVICS EOC REPORTING CATEGORY		
N/A		
OVERVIEW		
In this lesson, students will learn about the structure and specific processes for the judicial branch of government and how the functions of interpreting the law are carried out.		
BENCHMARK CLARIFICATIONS		
<ul style="list-style-type: none"> Students will examine the processes of the judicial branch (e.g., judicial review, court order, writ of certiorari, summary judgment). Students will distinguish between the structure, functions and powers of courts at the state and federal levels. Students will recognize that the powers and jurisdiction of the state and federal courts are derived from their respective constitutions. Students will compare the trial and appellate processes. 		
BENCHMARK CONTENT LIMITS		
N/A		
CIVICS CONTENT VOCABULARY		
<ul style="list-style-type: none"> appeal, appellate court, case, Chief Justice, circuit courts, civil case, county court, court order, criminal case, District Court of Appeals, Florida Circuit Court, Florida County Court, Florida Supreme Court, judgment, judicial branch, judicial review, jurisdiction, justice, law, original jurisdiction, summary judgment, trial court, U.S. Circuit Court of Appeals , U.S. District Courts, U.S. Supreme Court, writ of certiorari 		
INSTRUCTIONAL STRATEGIES		
Close reading of complex text	Collaborative learning	Compare/Contrast
MATERIALS		
<ul style="list-style-type: none"> What is the Judicial Branch of the U.S. Government? video (external link) Judicial Branch in a Flash reading Judicial Branch in a Flash activity sheet 		

- Judicial Branch Vocabulary activity sheet
- U.S. & Florida Constitution-Judicial Branch slides
- The Federal and State Court System Guided Notes
- The Federal and State Court System slides
- Judicial Branch: Test Your Knowledge slides

B.E.S.T. STANDARDS

- ELA.7.R.2.1- Explain how individual text sections and/or features convey a purpose in texts.
- ELA.7.R.3.2- Paraphrase content from grade-level texts.
- ELA.V.1.3- Apply knowledge of context clues, figurative language, word relationships, reference materials, and/or background knowledge to determine the connotative and denotative meaning of words and phrases, appropriate to grade level.
- ELA.K12.EE.1.1- Cite evidence to explain and justify reasoning.

Suggested Student Activity Sequence & Pace

DAY	ACTIVITY SEQUENCE
DAY 1	<ol style="list-style-type: none"> 1. To start the lesson, have students brainstorm a list of what they think are the roles and responsibilities of the judicial branch. 2. Have students share their answers and compile a list on the board or in a document. 3. Explain to students that the judicial branch is the third branch of government and that it interprets the laws. 4. Watch the “What is the Judicial Branch of the U.S. Government?” video from the History Channel. Have students write down three things they learned from the video and one question they still have about the judicial branch. 5. Allow students to share their learning from the video and answer any questions that are relevant to the lesson. 6. Hand out the “Judicial Branch in a Flash” iCivics reading and the “Judicial Branch in a Flash” activity sheet. 7. Begin reading with the students and working on the questions that align with the reading. 8. Release responsibility to the students to work individually or in pairs. 9. As a whole group, review the correct answers. 10. Hand out the “Judicial Branch Vocabulary” activity sheet to review processes of the judicial branch. 11. Begin the activity by reading the first section together and summarizing the central idea from the reading. 12. Next, students will draw a picture to help them signify the importance of what they read. Continue this process for the next two sections. 13. When students have completed the activity, have them share their central ideas for the writ of certiorari and the summary judgment sections. If students missed anything, encourage them to add to their activity sheet. 14. To wrap up the lesson, review any questions that are relevant to the lesson.
DAY 2	<ol style="list-style-type: none"> 1. Review with students that there is both a federal court system and a state court system. To understand these two levels and their jurisdictions, they will look at the U.S. and Florida constitutions. 2. Read aloud Article III, Section 1 from the U.S. Constitution on the “U.S. & Florida Constitution-Judicial Branch” slides. 3. Work with the students to break down and summarize Article III as a whole group. Teacher Note: Students should take away these key points: The Supreme Court is the highest court, Congress can create other inferior, or lower courts, Judges can hold their office while demonstrating good behavior, Congress cannot lower a judge’s salary during their time in office. 4. Next, read aloud Article V from the Florida Constitution from the “U.S. & Florida Constitution-Judicial Branch” slides and ask students to share out the different courts they see in Article V (Supreme Court, District Courts of Appeal, Circuit Courts, and County Courts). 5. Ask the students to summarize what they have learned from both constitutions. Key points should include the following: <ul style="list-style-type: none"> ■ The U.S. Constitution establishes a Supreme Court and Congress can create inferior courts.

	<ul style="list-style-type: none"> ■ The Florida Constitution outlines the structure of courts for the state. This structure includes a Supreme Court, District Courts of Appeal, Circuit Courts, and County Courts. <ol style="list-style-type: none"> 6. Now it is time for students to put everything together and truly distinguish between the structure, function, and powers of courts at the state and federal level. Pass out “The Federal and State Court System Guided Notes” to the students and have them complete the notes as you project the “The Federal and State Court System” slides and discuss. Teacher Note: You can use the information from Teacher Background Knowledge to add to your explanations. 7. Once students have completed their guided notes, have them use these notes to apply their knowledge to the “Judicial Branch: Test Your Knowledge” slides from iCivics. Teacher Note: This can be done in small groups or as a whole group. 8. Using Slides 4-16 of the deck, review the court systems with your students. Teacher Note: By using Present/Slideshow mode, the answers will not be visible until you click the slide a second time. Click a third time to move to the next slide. 9. Checking for Understanding (Formative Assessment): Instruct students to write a well-crafted response to the following prompt: The judicial branch is responsible for running the court systems and deciding on cases. Imagine that you were selected to be a U.S. Supreme Court Justice and explain what your job would be like and why it is important to the judicial branch. Cite evidence from the video and your handouts, explaining your response.
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Civics Content Vocabulary

Word/Term	Definition
appeal	a request, made after a trial, asking a higher court to decide whether that trial was conducted properly
appellate court	any court that has the power to hear appeals from lower courts
case	a matter that goes before a judge or court of law
Chief Justice	the head justice; the Chief Justice is “first among equals”
circuit courts	a court for a defined region of a state (usually including several counties) that has specific divisions and hears cases involving more serious crimes (felonies) and civil cases involving large amounts of money (more than \$1000)
civil case	a case involving the rights of citizens
county court	a court that hears both civil and criminal cases involving less serious crimes or minor issues for one specific county
court order	a formal statement from a court that orders someone to do or stop doing something
criminal case	a case involving someone who is accused of committing an illegal activity
District Court of Appeals	an appellate court in the state court system that reviews decisions made by the lower trial courts
Florida Circuit Court	the courts that have general jurisdiction over matters not covered by the county courts
Florida County Court	the courts where most non-jury trials occur; they are referred to as “the people’s courts” because they handle minor disagreements between citizens and minor criminal offenses
Florida Supreme Court	the highest court in Florida
judgment	a formal decision given by a court
judicial branch	the branch of government that interprets the laws made by the legislative branch
judicial review	the power of the judicial branch to review the actions of the executive and legislative branches and determine whether or not they are unconstitutional (this includes laws passed by Congress); the U.S. Supreme Court case <i>Marbury v. Madison</i> established this power such actions are consistent with the U.S. Constitution
jurisdiction	the right and power for courts to hear a case, interpret and apply the law
justice	the title given to judges of the U.S. Supreme Court and Florida Supreme Court

law	a rule established by government or other source of authority to regulate people's conduct or activities
original jurisdiction	the power of a court to be the first to hear a case on a specific topic
summary judgment	a judgment decided by a trial court without that case going to trial; a summary judgment is an attempt to stop a case from going to trial
trial court	the local, state, or federal court that is the first to hear a civil or criminal case; involves a hearing and decision with a single judge, with or without a jury
U.S. Circuit Court of Appeals	the courts where parties who are dissatisfied with the judgment of a U.S. District court may take their case
U.S. District Courts	the courts where most federal cases begin, the U.S. District Courts are courts of original jurisdiction and hear civil and criminal cases
U.S. Supreme Court	the highest court of the United States; it sits at the top of the federal court system
writ of certiorari	the procedure to see if the U.S. Supreme Court will hear a case; a writ of certiorari is issued when a higher level court agrees to hear an appeal of an inferior court's decision

ADDITIONAL RESOURCES

[Civics 360 Resources](#)

Florida Department of Education's Civic Literacy Reading List

- *Government and Democracy* by Charlie Ogden

ANSWER KEYS

Sample Answers: Judicial Branch in a Flash activity sheet

Sample Answers: Judicial Branch Vocabulary activity sheet

Sample Answers: The Federal and State Court System Guided Notes

Judicial Branch: Test Your Knowledge slides (answers in Speaker Notes)

Written Response: Sample Scoring Rubric

SOURCES

Teacher Background Knowledge: <https://www.flcourts.gov/Florida-Courts/Supreme-Court-of-Florida> and <https://www.flcourts.gov/Florida-Courts>

Judicial Branch video: <https://www.youtube.com/watch?v=9giPmCWnepU>

Judicial Review:

<http://www.uscourts.gov/uscourts/educational-resources/get-involved/legal-concepts/judicial-review.pdf>

Writ of Certiorari: <http://dictionary.law.com/default.aspx?selected=164>

Court Order and Summary Judgment: <http://www.wisegeek.com/what-is-a-court-order.htm#didyouknowout>

Judicial Branch in a Flash iCivics reading:

https://www.icivics.org/sites/default/files/2022-02/Judicial%20Branch%20In%20A%20Flash_Student%20Docs.pdf

Court Quest Extension Pack iCivics activity:

<https://www.icivics.org/teachers/lesson-plans/court-quest-extension-pack>

Information on Federal and Florida State Court systems:

<http://www.uscourts.gov/about-federal-courts/court-role-and-structure>, <http://www.flcourts.org/>, and

http://www.floridasupremecourt.org/pub_info/system2.shtml.