## **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 |
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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](http://www.oyez.org) 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** |
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| 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** |
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| 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 *certiorari* from the United States Supreme Court, though the vast majority of such requests are denied. |

**Circuit Courts**

| **Court Description** | **Jurisdiction** |
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| 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.  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. | 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. |

**County Courts**

| **Court Description** | **Jurisdiction** |
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| 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. | 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. |

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

