

**THE EXECUTIVE BRANCH**

**SS.912.CG.3.4** Analyze the structures, functions and processes of the executive branch as described in Article II of the U.S. Constitution.

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2023 BENCHMARK UPDATES
<ul style="list-style-type: none"> <li>● Updated from SS.912.C.3.4                             <ul style="list-style-type: none"> <li>○ Changed from “Analyze the structures, functions, and processes of the executive branch as described in Article II of the Constitution.” to “Analyze the structures, functions and processes of the executive branch as described in Article II of the <u>U.S.</u> Constitution.”</li> </ul> </li> <li>● Depth of Knowledge Changes within Benchmark                             <ul style="list-style-type: none"> <li>○ No changes</li> </ul> </li> <li>● Addition of Benchmark Clarifications                             <ul style="list-style-type: none"> <li>○ Benchmark clarifications are an addition to the 2023-2024 high school civics and government benchmarks. Benchmark clarifications are listed in the lesson summary below.</li> </ul> </li> </ul>

## Essential Teacher Content Background Information

*[Teacher Content Notes Not Appropriate For Student Use]*

### **This section addresses the following topics:**

1. Seeking the Office of President
2. The Structure, Functions, and Responsibilities of the Executive Branch
3. Enforcing the Laws: The Chief Executive
4. The President's Cabinet
5. Checks and Balances: Relationships With Other Branches
6. Amendments That Have Impacted the Executive Branch Directly

### **1. Seeking the Office of President**

To seek the office of president of the United States, the U.S. Constitution states that an individual must be a natural born citizen, at least 35 years of age, and a resident of the United States for at least 14 years. The Constitution does not outline the qualifications for vice-president although the vice-president must possess the same qualifications as the president since the vice-president takes office upon the president's death, resignation or removal, or becomes acting president upon the president's incapacitation.

The Electoral College is intended to ensure a balance in our constitutional republic. The Framers established the Electoral College in the Constitution as a compromise between having the people vote for the President directly (popular vote) and Congress selecting the president for the country. The Founders were of two minds. On the one hand, letting Congress pick the president could be a sure path towards corruption between branches, and potentially make the president beholden to members of Congress that elected them. On the other hand, direct election of the president by popular vote could give too much power to what the Founders viewed as a potentially uninformed mob manipulated by someone who wanted power. So the Electoral College is a rough compromise between the two extremes. Keep in mind, however, that the term "Electoral College" does not appear in Article II of the Constitution or the 12th Amendment. Instead, they refer to "electors" but not to the "Electoral College."

The Electoral College process consists of selecting the electors at the state level, a meeting of those electors, voting of those electors for president and vice president, and the counting of the electoral votes by Congress.

There are 538 electors in the Electoral College. To be elected President, the candidate needs the "magic" 270 electoral votes. Based on the 2020 census, Florida now has 30 electors for the 2024 presidential election. In 2020, the state had 29; the change reflects the addition of another congressional seat for Florida due to reapportionment. Each state has the same number of electors as it does members in Congress: two for Senators and one for each member in the House of Representatives.

The process of finding electors in Florida begins with the joint candidates for president and vice president from their respective political parties. Each party submits their slate of presidential electors. On the general election ballot are the candidate's names for president and vice president, not the names of presidential electors. However, when the voters cast votes for the president and vice president of their choice, they are actually voting to select the electors representing that party. Each state's winning electors meet, after the general election, to certify the vote. Florida's Electoral College will be held in December 2024 on a date set by Congress.

Whichever presidential ticket gets the most popular votes in Florida, gets all of the state's Electoral College votes (30 in 2024). Even if they win by a small margin, they still get all of the Electoral College votes. It should be noted, though, that not all states function the same way. For example, Nebraska and Maine split their electoral votes proportionally. At the same time, the national popular vote may not always reflect the final electoral vote tally; a collection of smaller population states may offset winning the votes in larger population states.

On January 6th of the year following a presidential election, a state's electoral votes are publicly certified and counted in a joint session of Congress. This date reflects a change caused by the 20th Amendment, as a president's term now ends on January 20th instead of March 4th as originally conceived. The vice president presides over the count as President of the Senate and announces the results of the vote. If the required 270 electoral votes are met, then the vice president declares the new or re-elected president and vice president of the United States, and they are sworn in on January 20th.

If no candidate receives a majority of electoral votes, the presidential election moves to Congress. The House of Representatives elects the president, with each state receiving one vote. A candidate must receive at least 26 votes (a majority of the states) to be elected.

## **2. The Structure, Functions, and Responsibilities of the Executive Branch**

The executive branch is outlined in Article II of the U.S. Constitution. Similar to Article I, Article II begins with identifying the holders of executive power (the president and vice-president), followed by the method of selection.

Article II, Section 2 follows with the powers of the president. The president has five constitutional powers including serving as Commander-in-Chief of the armed forces and chief executive. The president also has the power to nominate persons for high office such as Cabinet secretaries, ambassadors, and U.S. Supreme Court justices, as well as negotiate treaties. Finally, the president has the power to pardon. Section 3 notes that the president must deliver an address to Congress on the State of the Union "from time to time". While the Constitution does not require that the State of the Union be an annual event, presidents have established that tradition. The State of the Union is usually presented to Congress in January or February. Finally, in Section 4, the Constitution defines the circumstances under which the president can be removed from office. The Constitution gives Congress the power to impeach the president. That process begins when the House of Representatives brings articles (charges) of impeachment against the president. If the House adopts the articles with a majority vote, the president has been impeached. The Senate then acts like a courtroom and holds the impeachment trial. In the case of the president, the Chief Justice of the U.S. Supreme Court presides. It takes a two-thirds vote by the Senate to convict and remove the president from office.

## **3. Enforcing the Laws: The Chief Executive**

The Founders' fear that public officials, especially executives acting alone, would abuse their power is reflected in the checks and balances linked to the presidency. There is only one unchecked power given to the president. Many argue that this unchecked power is actually a check on the legislative and judicial branches.

The president's one unchecked power is the power to pardon. A presidential pardon cannot be vetoed or overturned, and may be viewed as a check on the courts or the legislature in that the president is pardoning someone who has already been convicted by the courts or who might later be impeached by the legislature. Perhaps the most well known example is Gerald Ford's pardon of former President Richard Nixon once he resigned the presidency on August 8, 1974, after the House Judiciary Committee voted to recommend Articles

of Impeachment against Nixon on July 27, 1974. The presidential pardoning power does not extend to someone who has been impeached.

#### 4. The President's Cabinet

The president's Cabinet was established in Article II, Section 2 of the U.S. Constitution, which states that: "The President of the United States ... may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Office" (Capitalization in the original). The Constitution does not provide for a specific number of, or duties for, Cabinet departments.

Each executive department head is titled "Secretary" with the exception of the Department of Justice, which is headed by the Attorney General. Department Secretaries must be confirmed by a majority vote in the Senate. Cabinet secretaries have no set terms of office although they normally resign should the president who nominated them leave office.

Below is a list of all current Cabinet departments in the order that they were created.

Department Name	Year Created	Notes
State	1789	Originally named Department of Foreign Affairs in July 1789, and renamed Department of State in September 1789.
Treasury	1789	A statue of Alexander Hamilton is placed outside the U.S. Treasury Department building to honor Mr. Hamilton as the first Secretary of the Treasury.
War	1791	Named the Department of the Army 1947 Named the Department of Defense 1949
Office of Attorney General	1789	Named the Department of Justice in 1870;
Interior	1849	Created in 1849 to deal with the internal development of the Nation and the the welfare of its people
Agriculture	1862	Provides leadership on food, agriculture, natural resources, rural development, nutrition, and issues bases on public policy, the best available science, and effective management
Labor and Commerce	1903	Renamed the Department of Commerce when the Department of Labor was created in 1913
Labor	1913	Handles unemployment benefits, workplace safety, and wage standards. The Labor Department helps administer and enforce federal regulations to help keep employees safe, as well as ensure their rights.
Health, Education and Welfare	1953	In 1979, the Department of Education was created, at which point the Department of Health and Human Services was created in 1980 as a department separate from Education.
Housing and Urban Development	1965	Created in 1965 to administer federal housing and urban development laws.
Transportation	1966	Created in 1966 to ensure a fast, safe, efficient, accessible, and convenient transportation system to benefit the quality of life for the American people
Energy	1977	Established under the Carter administration to respond to the energy crisis

Education	1979	See Department of Health, Education and Welfare above; the U.S. Department of Education has the smallest budget of all Cabinet-level departments.
Veterans Affairs	1988	The Department of Veterans Affairs was first formed as the Veterans Administration in 1930 and elevated to Cabinet-level status in 1988.
Homeland Security	2003	The Department of Homeland Security was created in response to the September 11, 2001 terrorist attacks on the United States.

Several positions hold Cabinet rank even though they are not secretaries of Cabinet level departments. These include the Vice-President of the United States, White House Chief of Staff, the Office of Management and Budget and the U.S. Ambassador to the United Nations.

## 5. Checks and Balances: Relationships With Other Branches

The Founders were deeply concerned about government abusing its power. It was reasoned that when a government abused its power, it deprived the citizens of their liberty. As liberty was a fundamental God-given right, assurances had to be put in place to protect the people from government abusing its power.

The U.S. Constitution is organized around a separation of powers system that utilizes checks and balances. The power to legislate, enforce, and adjudicate is separated into three different branches of government. These branches may not function with complete independence. The Founders feared that branches functioning independently might still abuse their power. Thus, while there are separate branches of government, each vested with specific powers, this does not mean that each branch operates without some level of oversight from one or both other branches.

Here are some examples of the relationships between the branches:

- A. The legislative branch makes laws, but the president in the executive branch can veto those laws. Congress can override the veto.
- B. The legislative branch makes laws, but the judicial branch can declare those laws unconstitutional.
- C. The executive branch, through administrative agencies, has responsibility for day-to-day enforcement and administration of national laws.
- D. The legislative branch has the power to approve presidential nominations, control the budget, and impeach the president and remove them from office.
- E. The executive branch can issue executive orders, which are like proclamations that carry the force of law, but the judicial branch can declare those acts unconstitutional.
- F. The judicial branch interprets laws, but the president nominates Supreme Court justices, court of appeals judges, and district court judges who make the evaluations.
- G. The judicial branch interprets laws, but the Senate in the legislative branch confirms the president's nominations for judicial positions, and Congress can impeach any of those judges and remove them from office.

## 6. Amendments That Have Impacted the Executive Branch Directly

Although the Framers were very deliberate in their efforts to define the structures, functions, and processes of the executive branch, over time, the role of the executive has changed through various constitutional amendments. Some, like the 12th amendment, helped solve an issue with the selection of the executive branch. Prior to this amendment the person who came in second place in the Electoral College became the vice president. This led to political rivals serving in the executive together. So the 12th amendment specified that separate votes would be cast in the Electoral College for president and vice-president. The 20th

and 22nd amendments both dealt with time in office for the executive branch. Cutting down the “lame duck” period between election and inauguration, as well as limiting a president to two terms, continued to ensure the executive branch was both useful but limited. Lastly, the 25th amendment was able to fill a gap in the Constitution regarding filling an executive vacancy should the president be unable to serve the entire term.

## Lesson Summary

BENCHMARK		
<b>SS.912.CG.3.4</b> Analyze the structures, functions and processes of the executive branch as described in Article II of the U.S. Constitution.		
BENCHMARK CLARIFICATIONS		
<ul style="list-style-type: none"><li>Students will explain the qualifications one must have to seek the office of president and the process of presidential elections.</li><li>Students will explain different presidential responsibilities outlined in Article II (e.g., receiving foreign heads of state, delivering the State of the Union address, carrying out faithful execution of the law).</li><li>Students will examine the role of the executive branch in terms of its relationship with the judicial and legislative branches of the government.</li><li>Students will describe constitutional amendments (i.e., 12th, 20th, 22nd and 25th) that have changed the role of the executive branch from its original description in Article II.</li><li>Students will describe the impeachment process.</li></ul>		
FLORIDA CIVIC LITERACY EXAM COMPETENCY CONNECTION		
<b>Competency 2:</b> Understanding of the United States Constitution and its application		
OVERVIEW		
In this lesson, students will analyze the structures, functions, and processes of the executive branch.		
ESSENTIAL QUESTION		
What role does the executive branch play in the U.S. government?		
GOVERNMENT CONTENT VOCABULARY		
<ul style="list-style-type: none"><li>12th Amendment, 20th Amendment, 22nd Amendment, 25th Amendment, ambassador, Article II, cabinet, checks and balances, commander-in-chief, Electoral College, electoral vote, electors, executive agencies, executive order, head of state, impeach, lame duck, natural born citizen, pardon, popular vote, president, presidential appointment, presidential oath, separation of powers, State of the Union, succeed, term, veto, vice president, White House</li></ul>		
INSTRUCTIONAL STRATEGIES		
Primary source analysis	Video as text	Gallery walk
MATERIALS		
<ul style="list-style-type: none"><li>The Office of President slides</li><li>Understanding the Executive Branch reading activity sheet</li><li>Highlighters (optional)</li></ul>		

- Electoral College explained video (external link)
- Executive Branch Amendments Placards
- Executive Branch Amendments Graphic Organizer
- Three Branches: Checks & Balances Webquest (optional; external link)

### **B.E.S.T. STANDARDS**

The grade in which this lesson is taught will determine the specific B.E.S.T. standards correlation.  
Thematically, this lesson aligns to:

- ELA.R.2.1 Structure
- ELA.R.3.2 Paraphrase and Summarize
- ELA.V.1.3 Context and Connection
- 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"> <li>1. Begin the lesson by projecting “The Office of President” slides.</li> <li>2. Have the students analyze the quote by former President Lyndon Johnson and summarize through writing what they think he means on their own paper. Encourage students to think about other commonalities between all of the individuals who have served as U.S. president and record those as well.</li> <li>3. Solicit student responses. If desired, share some of the interesting presidential fun facts on slide 2.</li> <li>4. Lead students to the understanding that there are a few commonalities no matter who holds the office, including: qualifications to seek the office, how that person is elected, and the nature of their powers, functions, and responsibilities. Explain to students that in today’s lesson, those topics will be the focus.</li> <li>5. Place students in pairs.</li> <li>6. Distribute the “Understanding the Executive Branch” reading activity sheet to each student.</li> <li>7. As a whole class, preview the document. Ask students: After previewing the document, in what sections (articles) of the U.S. Constitution are we going to find information about the executive branch? (Articles I, II, and III)</li> <li>8. Explain to students that most of the information pertaining to structure, function, and processes of the executive branch are contained in Article II. However, we know that the three branches of government overlap in a checks and balances relationship. So to truly analyze all components of the executive branch, we must examine Article I (legislative) and Article III (judicial) as well.</li> <li>9. Read the text and work through the corresponding questions for the first three rows as a whole class. Model text-marking strategies and the use of text evidence to support answers.</li> <li>10. After recording the qualifications necessary to see the office and the process of electing the president, show students the “<a href="#">Electoral College explained</a>” video to reinforce the content.  <b>Teacher Note:</b> The Electoral College is also covered in SS.912.CG.2.9 so this may serve as a review or a preview. As information related to the Electoral College does change, some information in this video may become slightly outdated (i.e. Florida will have 30 electoral votes in 2024, not 29)</li> <li>11. After the video, release students to continue working through the text excerpts from Articles I-III of the U.S. Constitution and answering the questions on the sheet.</li> <li>12. As students work, monitor the room for engagement, checking in with each pair to ensure understanding.</li> <li>13. Towards the end of class, bring the class back together and review some of the questions on the activity sheet.  <b>Teacher Note:</b> Use the answer key provided to help guide discussion. Depending on class ability, the reading activity may take more than one day to complete.</li> </ol>
DAY 2	<p><b>Planning Note:</b> Prior to today’s lesson, hang the “Executive Branch Amendments Placards” around the room. As there are only 4 total placards, it is recommended you print and hang two or three of each to ensure smaller groups of students at each placard.</p>

1. Begin class by calling on a selection of students to share one thing they learned yesterday about the executive branch in each of the following categories: qualifications for office, election to office, function, role/responsibilities, connection to other branches, impeachment process.
2. Explain to students that while the U.S. Constitution laid out all of those components related to the executive branch, there have been four amendments added to the Constitution that have clarified and/or changed some things.
3. Distribute an “Executive Branch Amendments Graphic Organizer” to each student.
4. Explain to students that their task today is to visit the four amendment placards throughout the room, read the information, and work to complete the information on their graphic organizer.  
**Teacher Note:** Be sure to point out to students if there are more than one of each placard and their locations. This activity can be completely unstructured with students moving to placards freely, or you may choose to assign students to groups and move the groups through the placards at a structured and timed pace.
5. Provide time for students to visit each placard, read the information, and record answers in their graphic organizers.
6. While students work, walk around the room to monitor for engagement, on-task behavior, and assist when necessary with comprehension.
7. End the lesson by having students return to their individual seat and answer the reflection question at the bottom of the graphic organizer.

**Extension Suggestion:** Benchmarks SS.912.CG.3.3, SS.912.CG.3.4, and SS.912.CG.3.7 cover all three branches of government. Each has a clarification that requires students to examine the relationship between all three branches. While this is worked into all three lessons, if you feel students need an activity to explicitly examine this relationship, you could use the “[Three Branches: Checks & Balances Webquest](#)” from iCivics.

## Government Content Vocabulary

Word/Term	Definition
<b>12th Amendment</b>	(1804) changes the procedure for electing the president and vice president, so that votes are cast separately for the offices in the Electoral College
<b>20th Amendment</b>	(1933) moved the beginning and ending of the terms of the president and vice president from March 4 to January 20
<b>22nd Amendment</b>	(1951) limits the number of times a person can be elected to the office of President of the United States to two terms
<b>25th Amendment</b>	(1967) clarifies that the vice president becomes president if the president dies, resigns, or is removed from office through impeachment, establishes how a vacancy in the office of the vice president can be filled, provides for the temporary transfer of the president's powers and duties to the vice president on the initiative of either the president alone or the vice president with a majority of the cabinet
<b>ambassador</b>	a diplomat sent by a country as its formal representative to a foreign country
<b>Article II</b>	the portion of the U.S. Constitution that outlines the structures, functions, and powers of the executive branch
<b>cabinet</b>	people appointed by the president to head executive departments of government and act as official advisers to the president
<b>checks and balances</b>	a principle of the federal government, according to the U.S. Constitution, that allows each branch of government to limit the power of the other branches
<b>commander-in-chief</b>	leader of the armed forces
<b>Electoral College</b>	the group of presidential electors appointed by each state and the District of Columbia who, under Article II, Section 1, Clause 2 of the Constitution, form every 4 years for the sole purpose of selecting the president and vice president
<b>electoral vote</b>	the choice expressed collectively by the Electoral College, which determines the winner of elections for president and vice president in the U.S.
<b>electors</b>	a person who is certified to represent their state's vote in the Electoral College; cast their votes in the Electoral College
<b>executive agencies</b>	a federal agency that is housed under the Executive Office of the President
<b>executive order</b>	an order that comes from the U.S. president or a government agency and must be obeyed like a law
<b>head of state</b>	the symbol of leadership for a nation and abroad; the U.S. president is both the head of state and head of government

<b>impeach</b>	to bring formal charges of wrongdoing against a public official (such as the U.S. president)
<b>lame duck</b>	an elected official whose power is reduced because the person who will replace them has already been elected
<b>natural born citizen</b>	someone who was born in the U.S. or born to U.S. citizens
<b>pardon</b>	the formal act of forgiving someone or excusing a mistake
<b>popular vote</b>	the tally of each individual's vote within a given geographic area
<b>president</b>	the head of the government for the nation
<b>presidential appointment</b>	the power of the U.S. president to choose members of his or her cabinet, ambassadors to other nations, and other officials in his or her administration
<b>presidential oath</b>	the oath that the president of the United States takes upon assuming office. The wording of the oath is specified in Article II, Section One, Clause 8, of the United States Constitution
<b>separation of powers</b>	the structure of the federal government, according to the U.S. Constitution, that sets up three branches with their own distinct powers and responsibilities
<b>State of the Union</b>	an annual message delivered by the president to a joint session of the United States Congress near the beginning of most calendar years on the current condition of the nation; required under Article II, Section 3, Clause 1 of the U.S. Constitution
<b>succeed</b>	to come next after another in office or position
<b>term</b>	a fixed or limited period for which something lasts or is intended to last
<b>veto</b>	a decision by an executive authority such as a president or governor to reject a proposed law or statute
<b>vice-president</b>	the individual next in rank to the president
<b>White House</b>	the residence and workplace of the U.S. president while in office

### ADDITIONAL RESOURCES

[Florida Department of Education: Florida Civic Literacy Exam Homepage](#)

Florida Department of Education's Civic Literacy Reading List

- *Second Inaugural Address (1865)* by Abraham Lincoln

### ANSWER KEYS

Sample Answers: Understanding the Executive Branch reading activity sheet

Sample Answers: Executive Branch Amendments Graphic Organizer

### SOURCES

The Constitution of the United States: A Transcription:

<https://www.archives.gov/founding-docs/constitution-transcript>

The Electoral College explained from TedEd: <https://www.youtube.com/watch?v=W9H3gynN468>

Three Branches: Checks & Balances Webquest from iCivics: <https://www.icivics.org/node/2438770/resource>

Presidential image and Lyndon Johnson quote sourced in slides