Lesson Goals

SECTION 1
Students will . . .
- learn the Framers’ intentions for the national judiciary by analyzing an excerpt from *The Federalist* No. 78.
- comprehend the structure and role of the federal courts by completing a jurisdiction T-chart and filing in a Venn diagram with examples of exclusive and concurrent cases.
- identify the skills, term, pay, and selection of federal judges by creating a classified advertisement for a judge.

SECTION 2
Students will . . .
- identify the structure of the inferior constitutional courts by completing a chart highlighting the various courts and their jurisdictions.
- understand how inferior constitutional courts function by constructing paths of appeals for various case scenarios.

SECTION 3
Students will . . .
- learn about the scope of the Supreme Court’s jurisdiction by analyzing a political cartoon showing the power of judicial review, and by identifying the Court’s original and appellate jurisdiction.
- identify how the Supreme Court operates by sequencing the appeals process, by reading a transcript of a real case, and by formulating opinions on controversial cases.

SECTION 4
Students will . . .
- identify the special courts by completing a chart highlighting the various courts’ jurisdictions.
- understand how special courts function by constructing paths of appeals for case scenarios.
- analyze the constitutionality of military commissions by studying opinions for and against them.

Pressed for Time

Display Transparency 18E to give students an overview of the federal courts and their appellate path. Have students briefly study it, especially the “Key to Courts.” Then organize the students into four groups, with each group assigned to a section of the chapter. Groups must change each heading or subheading in their section into a question, and then answer the question. They should use these questions/answers to teach an overview of their section to the other groups. Fill in vital information that students overlook, or distribute copies of the Facts and Enduring Understandings. Finally, have each student re-create the transparency diagram, adding specific information to each level and type of courts.

DIFFERENTIATED INSTRUCTION KEY

Look for these symbols to help you adjust steps in each lesson to meet your students’ needs.

- Special Needs
- Basic
- English Language Learners
- Less Proficient Readers
- All Students
- Advanced Students
GUIDING QUESTION

What are the structure and function of the national judiciary?

The National Judiciary

<table>
<thead>
<tr>
<th>Structure</th>
<th>Types of Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dual court system</td>
<td>Exclusive jurisdiction</td>
</tr>
<tr>
<td>Supreme Court</td>
<td>Concurrent jurisdiction</td>
</tr>
<tr>
<td>Constitutional courts</td>
<td>Original jurisdiction</td>
</tr>
<tr>
<td>Special courts</td>
<td>Appellate jurisdiction</td>
</tr>
</tbody>
</table>

Get Started

LESSON GOALS

Students will . . .

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• comprehend the structure and role of the federal courts by completing a jurisdiction T-chart and filling in a Venn diagram with examples of exclusive and concurrent cases.
• identify the skills, term, pay, and selection of federal judges by creating a classified advertisement for a judge.

BEFORE CLASS

Assign the section, the graphic organizer in the text, and Reading Comprehension Worksheet (Unit 5 All-in-One, p. 13) before class.

DIFFERENTIATE Reading Comprehension Worksheet (Unit 5 All-in-One, p. 15)

SKILLS DEVELOPMENT

ANALYZE GRAPHIC DATA

Before students examine the “Types of Federal Courts” diagram in this section, you may want to review tips on analyzing graphic data in the Skills Handbook, p. 526.

Focus on the Basics

FACTS: • The national judiciary consists of a Supreme Court and inferior courts. • Congress created two kinds of inferior courts. • Federal courts have exclusive jurisdiction over some cases and concurrent jurisdiction in others. • The President appoints federal judges, who are subject to confirmation by the Senate. • Judges’ philosophies influence their decisions.

CONCEPTS: checks and balances, federalism, role of government in public policy

ENDURING UNDERSTANDINGS: • The Constitution created the Supreme Court, its jurisdiction, and the manner and terms of federal judicial appointments. • The U.S. has dual national and State court systems. • Federal judges often shape public policy.

Creation of a National Judiciary

During the years the Articles of Confederation were in force (1781–1789), there were no national courts and no national judiciary. The laws of the United States were interpreted and applied as each State saw fit, and sometimes not at all. Disputes between States and between persons who lived in different States were decided, if at all, by the courts in one State were ignored by courts in the other States.

Alexander Hamilton spoke to the point in The Federalist No. 22. He described “the want of a judiciary power” as a “circumstance which crowns the defects of the Confederation.” Arguing the need for a national court system, he added, “Laws are a dead letter without courts to expound and define their true meaning and operation.” The Framers created a national judiciary for the United States in a single sentence in the Constitution:

**FROM THE CONSTITUTION**

_The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish._

—Article III, Section 1

Congress also is given the expressed power “to constitute Tribunals inferior to the supreme Court” in Article I, Section 8, Clause 9.

1 The Articles of Confederation did provide (in Article IX) a very complicated procedure for the settlement of such disputes, but it was rarely used.
A Dual Court System  

Keep in mind this important point: There are two separate court systems in the United States. On one hand, the national judiciary spans the country with its more than 100 courts. On the other hand, each of the 50 States has its own system of courts. Their numbers run well into the thousands, and most of the cases that are heard in court today are heard in those State, not the federal courts.

Two Kinds of Federal Courts  

The Constitution establishes the Supreme Court and leaves to Congress the creation of the inferior courts—the lower federal courts beneath the Supreme Court. Over the years, Congress has created two distinct types of federal courts: (1) the constitutional courts, and (2) the special courts. See the diagram “Types of Federal Courts” below.

The constitutional courts are those federal courts that Congress has formed under Article III to exercise the judicial Power of the United States. Together with the Supreme Court, they now include the courts of appeals, the district courts, and the U.S. Court of International Trade. The constitutional courts are called the regular courts and, sometimes, Article III courts.

The special courts do not exercise the broad “judicial Power of the United States.” Rather, they have been created by Congress to hear cases arising out of some of the expressed powers given to Congress in Article I. The special courts hear a much narrower range of cases than those that may come before the constitutional courts.

These special courts are also called the legislative courts and, sometimes, Article I courts. Today, they include the U.S. Court of Appeals for the Armed Forces, the U.S. Court of Appeals for Veterans Claims, the U.S. Court of Federal Claims, the U.S. Tax Court, the U.S. Court of International Trade, the U.S. Court of Appeals for the Federal Circuit, the U.S. Tax Court, the U.S. Court of Federal Claims, and the U.S. Court of International Trade.

2 Federalism does not require two court systems. Article III provides that Congress “may” establish lower federal courts. At its first session in 1789, Congress decided to construct a complete set of federal courts parallel to those of the States. In most of the world’s other federal systems, the principal courts are those of the states or provinces; typically, the only significant federal court is a national court of last resort, often called the supreme court.

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Differentiated Resources

The following resources are located in the All-in-One, Unit 5, Chapter 18, Section 1:

- Prereading and Vocabulary Worksheet (p. 9)
- Reading Comprehension Worksheet (p. 13)
- Reading Comprehension Worksheet (pp. 17, 18)
- Core Worksheets (p. 22)
- Extend Activity Worksheet (p. 20)
- Quiz A (p. 23)
- Quiz B (p. 24)

Answers

Interpreting Diagrams  Constitutional courts were created to exercise broad judicial powers; special courts were created to exercise narrowly defined powers.
ANALYZE THE FRAMERS’ INTENTIONS
Display Transparency 1B-A, which includes another excerpt from The Federalist No. 78. After a volunteer reads the excerpt aloud, ask: What does Hamilton say is the exclusive province of the judiciary? (the power to interpret laws) Does this function make the judicial branch more powerful than the legislative branch? (no) What protects the people from unconstitutional statutes of the legislature? (Judges must interpret the legislature’s laws through the fundamental laws of the Constitution.)

ELL Differentiate Point out that the word province in this context means “function” or “scope.” In addition, the phrase power of the people can be interpreted as “rights of the people.”

Differentiate Have students paraphrase the excerpt from The Federalist No. 78.

DIFFERENTIATE TYPES OF FEDERAL COURTS
Display Transparency 1B-B and have students study the How Government Works diagram “Types of Federal Courts.” Ask: Which is the only court mentioned in the Constitution? (the Supreme Court) What are the two levels of federal courts? (the Supreme Court and inferior courts) How are the inferior courts further delineated? (as constitutional courts and special courts) Which type of inferior courts were created by Congress? (both the constitutional courts and the special courts)

LPR Differentiate Have students re-create the “Types of Federal Courts” diagram in their notebooks, labeling the two levels of federal courts, the two general types of inferior courts, the specific courts in each type, and the other names of the inferior courts (constitutional courts: regular or Article III; special courts: legislative or Article I).

Answers
Checkpoint the United States or one of its officers or agencies; an ambassador, consul, or other foreign official; a State if it is suing another State, a citizen of another State, or a foreign government or subject; a citizen of one State suing a citizen of another State; a U.S. citizen suing a foreign government or subject; citizens of the same State if both claim land under grants from different States.

Checkpoint What parties must bring their cases to a federal court?

tribunal
n. a judicial body, a court

Federal Court Jurisdiction
The constitutional courts hear most of the cases tried in the federal courts. That is to say, those courts have jurisdiction over most federal cases. Jurisdiction is defined as the authority of a court to hear (to try and to decide) a case. The term means, literally, the power “to say the law.”

The Constitution gives federal courts jurisdiction over only certain cases. Recall, most cases heard in court in the United States are heard in State, not federal, courts. Article III, Section 2 provides that federal courts may hear cases because of either the subject matter or the parties involved in those cases.

Subject Matter In terms of subject matter, the federal courts may hear a case if it involves a “federal question”—that is, the interpretation and application of a provision in the Constitution or in any federal statute or treaty—or a question of admiralty or maritime law. Admiralty law relates to matters that arise on the high seas or the navigable waters of the United States, such as a collision at sea or a crime committed aboard a ship. Maritime law relates to matters that arise on land but are directly related to the water, such as a contract to deliver ship supplies at dockside.

The Framers purposefully gave the federal courts exclusive jurisdiction in all admiralty and maritime cases in order to ensure national supremacy in the regulation of all waterborne commerce.

Parties A case falls within the jurisdiction of the federal courts if one of the parties involved in the case is (1) the United States or one of its officers or agencies; (2) an ambassador, consul, or other official representative of a foreign government; (3) one of the 50 States suing another State, a resident of another State, or a foreign government or one of its subjects; (4) a citizen of one State suing a citizen of another State; (5) an American citizen suing a foreign government or one of its subjects; or (6) a citizen of a State suing another citizen of that same State where both claim title to land under grants from different States.

These criteria for determining which cases can be heard in the federal courts may seem quite complicated, and they are. But the matter is also a reflection of federalism and, so, of the dual system of courts in this country. To put the whole point of the jurisdiction of the federal courts the other way around: Those cases that are not heard by the federal courts fall within the jurisdiction of the State courts.

Types of Jurisdiction
Still more must be said on this quite complex matter of federal court jurisdiction. The federal courts exercise both exclusive and concurrent jurisdiction and, also, original and appellate jurisdiction.

Exclusive and Concurrent Jurisdiction Most of the cases that can be heard in the federal courts fall within their exclusive jurisdiction. That is, they can be tried only in the federal courts. Thus, a case involving an ambassador or some other official of a foreign government cannot be heard in a State court; it must be tried in a federal court. The trial of a person charged with a federal crime, or a suit involving the infringement of a patent or a copyright, or one involving any other matter arising out of an act of Congress is also within the exclusive (sole) jurisdiction of the federal courts.

Some cases may be tried in either a federal or a State court. Then, the federal and State courts have concurrent jurisdiction, meaning they share the power to hear these cases. Disputes involving citizens of different States are fairly common examples of this type of case. Such cases are known in the law as cases in diverse citizenship.

Congress has provided that a federal district court may hear a case of diverse citizenship only when the amount of money

Background

FEDERAL CRIMES The federal courts hear cases concerning federal crimes. The Constitution gives the National Government the authority to punish certain crimes, such as counterfeiting, crimes committed on the high seas, and treason. “The Congress shall have Power . . . To provide for the Punishment of counterfeiting; . . . To define and punish Piracies and Felonies committed on the high Seas. . . .” (Article I, Section 8).

“The Congress shall have Power to declare the Punishment of Treason. . . .” (Article III, Section 3). The authority of the National Government to punish other crimes is implied from enumerated powers. For example, the Constitution grants Congress the power to establish post offices (Article I, Section 8). Implied in this power is the authority to prosecute mail fraud.

3 Congress first gave the federal courts concurrent jurisdiction in 1789, out of a perceived need for a neutral forum to settle disputes between residents of different States. Early on, it was feared that State courts (and their juries) might be prejudiced against “foreigners,” “people from other States.” There seems little likelihood of such bias today.
involved in that case is at least $75,000. In such a case, the plaintiff—the person who files the suit—may bring the case in the proper State or federal court, as he or she chooses. If the plaintiff brings the case in a State court, the defendant—the person against whom the complaint is made—can have the trial moved, under certain circumstances, to the federal district court.

Original and Appellate Jurisdiction A court in which a case is first heard is said to have original jurisdiction over that case. That court, the trial court, is often described as “the court of first instance.” A court that hears a case on appeal from a lower court exercises appellate jurisdiction over the case.

Appellate courts do not retry cases. Rather, they determine whether a trial court has acted in accord with applicable law. The higher court—the appellate court—may uphold, overrule, or in some way modify the decision appealed from the lower court. 4

In the federal judiciary, the district courts have only original jurisdiction, and the courts of appeals have only appellate jurisdiction. The Supreme Court exercises both original and (most often) appellate jurisdiction.

Federal Judges
The manner in which federal judges are chosen, the terms for which they serve, and even the salaries they are paid are vital parts of the Constitution’s design of an independent federal court.

4 Appellate comes from the Latin word appellare, meaning “to speak to, to call upon, to appeal to.”
Distribute Core Worksheet

Distribute the Chapter 18 Section 1 Core Worksheet (Unit 5 All-in-One, p. 17). Have students work in pairs to complete the Venn diagram by identifying federal, state, and concurrent jurisdiction, and then to answer the Reflection Questions. After the worksheets are finished, discuss why each dispute or case had its particular jurisdiction.

ELL Distinguish For these students, distribute the adapted Core Worksheet (Unit 5 All-in-One, p. 18).

ELL Differentiate Ask students to research current cases in the news and determine which court(s) would hear the cases, and why.

WRITE A CLASSIFIED AD FOR A JUSTICE

Have students study samples of newspaper job ads, especially the wording of the skills required from applicants. Then ask students to write their own ads for the position of Supreme Court justice. Although the Constitution lists no formal requirements, students should list the skills and experience they believe justices should have. The ads should also list pay and other benefits. Students should provide “applicants” with information on the judicial selection process and why the presidential nomination-Senate approval process is a form of checks and balances.

Answers

Checkpoint the Senate, especially influential senators from the nominee’s home state and members of the Senate Judiciary Committee; the President’s closest legal and political aides, especially the Attorney General; interest groups

Background

SWING VOTE When Ronald Reagan, a conservative President, appointed Sandra Day O’Connor to the Supreme Court in 1981, most observers expected her to act according to judicial restraint, the more conservative philosophy. Instead, she emerged as a moderate voice on a sharply divided Court. Often during her 24-year tenure, she served as the “swing vote”—casting the deciding vote in 5–4 decisions on many controversial issues. She used her strategic role as swing vote to moderate the extreme positions of other justices. For example, she helped to limit the right to abortion, yet she also blocked attempts by more conservative justices to overturn it. When Justice O’Connor announced her retirement in 2005, President George W. Bush nominated Samuel Alito, a conservative, to replace her.
too, insist on the fundamental importance of majority rule and the value of precedents, but they believe that the courts should not be overly deferential to existing legal principles or to the judgments of elected officials.

**Terms and Pay of Judges** Article III, Section 1 of the Constitution reads, in part: “The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour. . . .” This means that the judges of the constitutional courts are appointed for life; they serve until they resign, retire, or die in office. The framers provided for what amounts to life tenure for these judges quite purposely, to ensure the independence of the federal judiciary.

The very next words of the Constitution are directed to that same purpose. Article III, Section 1 continues: “and [they] shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.” Federal judges may be removed from office only through the impeachment process. In 180 years, only 13 have ever been impeached. Of that number, seven were convicted and removed by the Senate, including three in the recent past. Those judges who sit in the special courts are not appointed for life. They are named, instead, to terms of 8 to 15 years—and may be, but seldom are, reappointed. In the District of Columbia, Superior Court judges are chosen for four-year terms; those who sit on the district’s Court of Appeals are chosen for a period of eight years.

Congress sets the salaries of federal judges and has provided a generous retirement for judges removed from office.

**CHECKPOINT** How do the terms of office differ for judges of the constitutional courts and the special courts?

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**EXTEND THE LESSON**

**L4 L2** **Differentiate** Pair students who have written expression difficulties with study partners to complete the Chapter 18 Section 1 Extend Activity, “Your Role in the Legal System” (Unit 5 All-in-One, p. 22).

**L4 Differentiate** Have students reread this section’s Guiding Question and then the chapter’s Essential Question. Point out that the structure of the national judiciary could not function effectively without the thousands of court officers who perform administrative duties, which allows federal judges to preside over cases. Have students select one of the court officers discussed later in this section, or distribute slips of paper with each identifying one officer. Tell students to research their chosen or assigned officer, including required education, the duties and terms of the job, which federal court they work for (if specific), and the pay. Then have students state their findings and have the rest of the class guess which court officer is being described.

**Answers**

**Checkpoint** Judges of the constitutional courts are appointed for life terms, serving until they resign, retire, or die in office. Judges of the special courts are appointed for 15-year terms.

**How a Judge Decides** A judge who changes his or her philosophy may change or reshape the public policy of the current administration.
Assess and Remediate

- Have students draw a graphic organizer or other visual that shows the checks and balances of the judicial branch over the executive and legislative branches, and vice versa. Assess students’ participation using the Rubric for Assessing a Graph, Chart, or Table (Unit 5 All-in-One, p. 240).
- Assign the Section 1 Assessment questions.
- Section Quiz A (Unit 5 All-in-One, p. 23)
- Section Quiz B (Unit 5 All-in-One, p. 24)

Have students complete the review activities in the digital lesson presentation and continue their work in the Essential Questions Journal.

REMEDICATION

<table>
<thead>
<tr>
<th>If Your Students Have Trouble With</th>
<th>Strategies For Remediation</th>
</tr>
</thead>
<tbody>
<tr>
<td>The structure and function of the federal judiciary (Questions 1, 6)</td>
<td>Have students make a tree diagram showing the structure of the federal court system. Within their diagrams, students should include the specific wording of the Constitution that grants each type their powers.</td>
</tr>
<tr>
<td>The jurisdiction of the federal courts (Questions 2, 4)</td>
<td>Have each student create a quiz describing ten scenarios in which someone breaks a federal or State law. Have students complete each other’s quizzes by naming each case’s jurisdiction.</td>
</tr>
<tr>
<td>Judicial philosophy (Questions 3, 5)</td>
<td>Organize students into groups and have them make a list of qualifications the President might consider in selecting a justice for the Supreme Court. Have the groups rank their list of items in order from most to least important, and then defend their rankings to the class.</td>
</tr>
</tbody>
</table>

Answers

Checkpoint U.S. Attorneys are the government’s prosecutors, bringing to trial persons charged with federal crimes. They also represent the United States in all civil actions brought by or against the Federal Government in their districts.

Assessment Answers

1. Structure: more than 100 courts nationwide; Supreme Court at top; inferior courts include constitutional courts and special courts. Function: Supreme Court and other constitutional courts exercise broad “judicial Power of the United States”; special courts hear cases arising out of expressed powers given to Congress in Article I.

2. (a) original jurisdiction: held by court in which a case is first heard; appellate jurisdiction: held by the court that hears a case on appeal from lower court (b) both

3. (a) judicial decision that serves as a guide for justices to follow in similar cases (b) Judges look at precedents to see how courts have ruled in the past.

4. if the case involves an interpretation of the Constitution or federal statute or treaty, or relates to admiralty or maritime law; if one of the parties is: the United States or one of its officers or agencies; a foreign government or official; a State if it is suing another State, a citizen of another State, or a foreign government or subject; a citizen of one State suing a citizen of another State; a U.S. citizen suing a foreign government or subject; citizens of the same State if both claim land under grants from different States

5. Judicial activists can adjust rulings to match the President’s values. Judicial restraint enforces separation of powers, however.

6. ensures judiciary independence and allows judges to make decisions without fear of political reprisals

QUICK WRITE A strong assignment will show evidence of research and answers to the questions of who, what, when, where, and why.
ISSUES OF OUR TIME

Judicial Restraint vs. Activism

Track the Issue

The Court’s power of judicial review has long been an important part of the governing process in this country. But from Marbury v. Madison, this question has been the subject of intense debate: What is the appropriate role for the Supreme Court? Throughout its history, it has exercised both judicial restraint and judicial activism.

Perspectives

There are two camps in the debate over judicial decision making. One side supports judicial restraint; its proponents believe that judges should consistently follow the letter of the law and apply precedent. The other supports judicial activism; its proponents think that judges should indeed consider precedent, but that they should also be willing to go further and play an active, creative role in the shaping of public policies.

“In our democratic system, responsibility for policy making properly rests with those branches that are responsible . . . to the people. It was . . . because the Framers intended the judiciary to be insulated from popular political pressures that the Constitution accords judges tenure during good behavior. . . . To the extent the term “judicial activism” is used to describe unjustified intrusions by the judiciary into the realm of policy making, the criticism is well-founded . . . . It is not part of the judicial function to make the law . . . or to execute the law.”

—John Roberts at his Senate confirmation hearing

“We are under a Constitution, but the Constitution is what the judges say it is, and the judiciary is the safeguard of our liberty and of our property under the Constitution.”

—Charles Evans Hughes, Chief Justice of the United States 1930–1941

Connect to Your World

1. Understand (a) What reasons does Justice Roberts cite for supporting judicial restraint? (b) How does Justice Hughes support his argument for judicial activism?
2. Synthesize Information To which of these competing positions—judicial restraint or judicial activism—do you think a judge should subscribe?

GOVERNMENT ONLINE

To find out more about judicial decision making, visit PearsonSuccessNet.com

Background

LUTHER v. BORDEN In 1841, Rhode Island was still ruled by a charter government with limited suffrage. Opposing groups held a convention, which drafted a new constitution and elected a governor. The existing charter government opposed the new government, however, and declared martial law. One of the dissidents brought suit, claiming the old government was not “a republican form of government” and was therefore invalid. In Luther v. Borden, 1849, the Supreme Court held that federal courts had no jurisdiction over the establishment of state governments: “The Constitution of the United States has . . . placed the power of recognizing a State government in the hands of Congress. . . .”

LESSON GOAL

• Students will contrast the “restraint” and “activism” roles of the Supreme Court.

Teach

DEFINE TERMS

Refrain from providing synonyms for restraint (limit, restrict, curb, self-control) and activism (to change, innovate, create, revise).

DISTINGUISH ACTIVISM AND RESTRAINT

Ask: What types of Supreme Court decisions would show judicial restraint? (upholding a State law or a lower court’s decision; following precedent; refusal to rule on a case, claiming it is the jurisdiction of the State or another branch of government) What decisions of the Court would show judicial activism? (changing a previous Supreme Court ruling; overturning a lower court’s decision; halting or requiring legislative, executive, and/or State action)

CLASSIFY COURT CASES

Have students classify the following cases as judicial restraint or judicial activism.

• The Court upholds laws requiring racially segregated facilities, Plessy v. Ferguson, 1896. [restraint]

• The Court declares that freedom of speech and press cannot be denied by either the National Government or State governments, Gitlow v. New York, 1925. [activism]

Assess and Remediate

Have students answer the Connect to Your World questions. For further clarification, discuss why the McCulloch and Brown cases are considered activism, and the Luther case (see background note) is considered restraint.

Answers

CONNECT TO YOUR WORLD

1. (a) Policy making rests with branches that are responsible to the people (legislative and executive). It is not part of the judicial function to make or execute the law. (b) Hughes states that judges say what the Constitution is.

2. A strong answer will provide supportive statements of an opinion either for or against restraint or activism.
**GUIDING QUESTION**
What are the structure and jurisdiction of the inferior courts?

<table>
<thead>
<tr>
<th>The Inferior Courts</th>
<th>Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structure</td>
<td></td>
</tr>
<tr>
<td>District courts</td>
<td>Original jurisdiction</td>
</tr>
<tr>
<td>Courts of appeals</td>
<td>Appellate jurisdiction within circuit</td>
</tr>
<tr>
<td>Court of International Trade</td>
<td>Original jurisdiction on trade issues</td>
</tr>
</tbody>
</table>

**Get Started**

**LESSON GOALS**
Students will . . .
- identify the structure of the inferior constitutional courts by completing a chart highlighting the various courts and their jurisdictions.
- understand how inferior constitutional courts function by constructing paths of appeals for various case scenarios.

**BEFORE CLASS**
Assign the section, the graphic organizer in the text, and Reading Comprehension Worksheet (Unit 5 All-in-One, p. 25) before class.

**Differentiate** Reading Comprehension Worksheet (Unit 5 All-in-One, p. 26)

**BELLRINGER**
Write the following on the board, and have students answer the questions in their notebooks: The DA obtained an indictment from the grand jury today in Joe Smith v. United States. What type of court is hearing this case? How do you know? Is this a criminal case or a civil case?

**SKILLS DEVELOPMENT**

**GIVE A MULTIMEDIA PRESENTATION**
Before students turn their Core Worksheet cases into classroom skits, you may want to review tips on giving a multimedia presentation in the Skills Handbook, p. S21.

**Focus on the Basics**

**FACTS:** • The 94 U.S. district courts have original jurisdiction over most federal criminal and civil cases. • The 12 federal courts of appeals hear cases on appeal within their circuit. • The Court of Appeals for the Federal Circuit has nationwide appellate jurisdiction. • The Court of International Trade hears tariff and trade cases.

**CONCEPTS:** federalism, role of the judiciary

**ENDURING UNDERSTANDINGS:** • Civil and criminal laws are put in place to provide order, protect society, and settle conflicts. • Law officers have the duty to enforce the laws, and courts have the duty to interpret the law and decide punishment for those found guilty of breaking the laws. • The inferior constitutional courts form the core of the federal judicial system, hearing nearly all of the cases tried in federal courts.
meets in secret, has the power to issue secret search warrants—court orders that allow the FBI, the National Security Agency, and other federal law enforcement agencies to conduct covert surveillance of persons suspected of being spies or members of terrorist organizations.

The other is the Alien Terrorist Removal Court, created by Congress in 1996. It is made up of five district court judges, appointed by the Chief Justice to five-year terms. This court has the power to decide whether those persons identified as “alien terrorists” by the Attorney General of the United States should be expelled from this country.

District Court Jurisdiction The district courts have original jurisdiction over more than 80 percent of the cases that are heard in the federal court system. The only federal cases that do not begin in the district courts are those few that fall within the original jurisdiction of the Supreme Court and those cases heard by the Court of International Trade or by one of the special courts. Thus, the district courts are the main trial courts, the “courts of first instance,” in the federal judiciary.

District court judges hear a wide range of both criminal cases and civil cases. In the federal courts, a criminal case is one in which a defendant is tried for committing some action that Congress has declared by law to be a federal crime. A federal civil case involves some noncriminal matter—say, a dispute over the terms of a contract or a suit in which the plaintiff seeks damages (money) for some harm done by the defendant.

The United States is always a party to a federal criminal case as the prosecutor. Most civil cases are disputes between private parties, but here, too, the United States may be a litigant, as either the plaintiff or the defendant.

Litigant
n. party to a case, either plaintiff or defendant.

CheckPoint
What is the principal role of the federal district courts?

Teach
To present this topic using online resources, use the lesson presentations at PearsonSuccessNet.com.

Review BellRinger Answers
Discuss students’ answers to the Bellringer: What type of court is hearing this case? (a U.S. district court) Is this a criminal case or a civil case? (It is probably a criminal case, because the U.S. is always a party in federal criminal cases. However, the U.S. also may be a litigant in a civil case, so the case could be either.)

Chart Inferior Constitutional Courts
Refer students back to the Section 1 diagram “Types of Federal Courts” or display Transparency 18B. Ask a volunteer to identify the inferior constitutional courts shown in the diagram. (district courts, courts of appeals, Court of Appeals for the Federal Circuit, U.S. Court of International Trade) Draw a chart on the board like the one below. Have students work in pairs to complete the columns. Then discuss the chart.

<table>
<thead>
<tr>
<th>Name of Court (and Number)</th>
<th>No. of Judges on Each</th>
<th>Type of Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>District courts (94)</td>
<td>2-28</td>
<td>Federal trial courts; original jurisdiction over more than 80 percent of federal criminal and civil cases</td>
</tr>
<tr>
<td>Courts of Appeals (12)</td>
<td>6-28 (plus a Supreme Court justice assigned to each circuit)</td>
<td>Appellate jurisdiction over the district courts within their circuit; also hear appeals from U.S. Tax Court, territorial courts, and federal regulatory agencies</td>
</tr>
<tr>
<td>Court of Appeals for the Federal Circuit</td>
<td>12</td>
<td>Nationwide appellate jurisdiction over Court of International Trade, Court of Federal Claims, Court of Appeals for Veterans Claims, and patent or copyright appeals from 94 district courts</td>
</tr>
<tr>
<td>U.S. Court of International Trade</td>
<td>9</td>
<td>Trial court; original jurisdiction of civil cases concerning customs and trade-related laws</td>
</tr>
</tbody>
</table>

Analyze Circuits and Districts Map
Have students look at the map “Federal Court Circuits and Districts” in their text or on Transparency 18D. Ask them to use the Chapter 18 Section 2 Extend Activity “The Federal District Courts in Your State’ (Unit 5 All-in-One, p. 28) to identify their circuit and district.

Differentiate Ask students to research the names of their circuit and district judges, and to describe the cases they have ruled on recently. Tell students to go to the Audio Tour for a guided audio tour of the Federal Court Circuits and Districts map.

Answers
CheckPoint as federal trial courts
Interpreting Maps Texas, Louisiana, and Mississippi
Tell students to go to the Audio Tour for a guided audio tour of the appellate path.

**TRACE THE APPELLATE PATH**
Guide students through the appellate path. Display Transparency 18E, The Appellate Path in Federal Courts. Explain that students should focus only on the constitutional courts. Then present the cases below. Students should answer the questions and show where on the transparency each case would move in the appellate path.

**CASE A:** A citizen is accused of counterfeiting. Where does the case begin? *(district court)* What type of case is this? *(criminal case)* What is the first step in the case? *(indictment by a grand jury)* What is the next step? *(verdict by a petit jury)* Assuming the case is appealed, where would the case go next? *(court of appeals)*

**CASE B:** An American importer of fish claims that the U.S. Department of Commerce placed an unusually high tariff on fillets from Vietnam. Where does this case begin? *(U.S. Court of International Trade)* What type of case is this? *(civil case)* The case is lost by the American importer and then appealed. Where does the case go next? *(U.S. Court of Appeals for the Federal Circuit)*

**CASE C:** An Ohio company claims that a Florida company produced an identical product, and files for copyright infringement. Where does the case begin? *(district court)* What type of case is this? *(civil case)* The Ohio company loses the case and appeals. Where does the case go next? *(U.S. Court of Appeals for the Federal Circuit)*

**DISTRIBUTE CORE WORKSHEET**
Distribute the Chapter 18 Section 2 Core Worksheet (Unit 5 All-in-One, p. 27). Students should work in groups to create a fictional federal case and its path of appeal to the Supreme Court. Then ask students to read the description of their cases aloud. Have the class identify the types of courts that should hear the case in its original and appellate forms.

**EXTEND THE LESSON**

**13. Differentiate** Have students turn their fictional Core Worksheet cases into two courtroom skits. In the trial portion of the case, students should create roles for the plaintiffs, defendants, witnesses, attorneys, and judges. In the appeals portion of the case, speaking roles should be created only for attorneys and judges.

**14. Differentiate** For these students, distribute the Extend Activity entitled “The Federal District Courts in Your State” (Unit 5 All-in-One, p. 28).

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**Answers**

**Interpreting Diagrams** possible answer: district courts and courts of appeals

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**Teacher-to-Teacher Network**

**ALTERNATE LESSON PLAN** Hollywood has long been fascinated with courtroom drama. Have students watch a film you have pre-screened, such as *To Kill a Mockingbird, Runaway Jury,* or *Twelve Angry Men.* Lead a discussion about whether students think the courtroom scenes they viewed appeared realistic. Did the movie seem true to what students have learned about the court system?

To see this lesson plan, go to **[Teacher Center](at PearsonSuccessNet.com)***
Appellate Court Judges Each of these courts is composed of from 6 to 28 judges (179 in all). In addition, a justice of the Supreme Court is assigned to each. For example, the United States Court of Appeals for the Eleventh Circuit covers Alabama, Florida, and Georgia. The court is composed of 12 circuit judges and Associate Justice Clarence Thomas of the Supreme Court. The judges hold their sessions in a number of major cities within the circuit.

Each court of appeals usually sits in three-judge panels. Occasionally, however, and especially for an important case, a court will sit en banc—that is, with all of the judges in that circuit participating.

Appellate Court Jurisdiction The 13 courts of appeals have only appellate jurisdiction. For the 12 circuit-based courts, most cases come to them from the district courts within their circuit, but some are appealed from the Tax Court and some from the territorial courts. Recall, they are also empowered to hear appeals from the decisions of several federal regulatory agencies—for example, the Federal Trade Commission and the National Labor Relations Board.

Unlike the 12 circuit-based courts, the jurisdiction of the thirteenth, the Court of Appeals for the Federal Circuit, is nationwide in scope. Congress created it in 1982, with the special purpose of centralizing and speeding up the handling of appeals in certain types of federal civil cases.

The Court of Appeals for the Federal Circuit hears appeals from the decisions rendered in several different courts. Many of its cases come from the other constitutional court, the Court of International Trade, and still others come from two of the special courts: the Court of Federal Claims and the Court of Appeals for Veterans Claims. It also hears the appeals taken in any patent, copyright, or trademark case decided in any of the 94 federal district courts.

Again, these 13 tribunals are appellate courts. They do not conduct trials or accept new evidence in the cases they hear. Instead, they review the record, the transcript of proceedings made in the trial court, and the pleadings and written arguments (the briefs) submitted by attorneys representing parties to a case. The fact that less than one percent of their decisions are appealed to the Supreme Court underscores the importance of the place these tribunals occupy.

Court of International Trade Congress has established one other Article III court, the Court of International Trade. Often called the Trade Court, this body was originally created in 1890, and was restructured as a constitutional court in 1980.

The Trade Court now has nine judges, including its chief judge, appointed by the President and the Senate. Like the 94 district courts, it is a federal trial court, a court of first instance. It tries all civil (but not criminal) cases that arise out of the nation’s customs and other trade-related laws. Its judges sit in panels of three and often hold jury trials in such major ports as New Orleans, San Francisco, Boston, and New York.

Assessment Answers

1. 94 district courts with original jurisdiction in criminal and civil cases; 12 judicial circuits have their own courts of appeals with appellate jurisdiction; Court of Appeals for the Federal Circuit has nationwide appellate jurisdiction; Court of International Trade has original jurisdiction on all civil cases arising from the nation’s customs and other trade-related issues

2. criminal case: one in which a person is tried for committing an illegal action; civil case: one that involves a noncriminal matter, such as a dispute between parties

3. to relieve the overloaded Supreme Court docket of appeals from district courts

4. The U.S. judicial process includes many opportunities for decisions to be reviewed

5. New appellate courts will ease the burden on existing appellate courts and speed up the judicial process. They can be specialized to handle specific kinds of cases, such as those involving just technology, immigration, or terrorism.
GUIDING QUESTION
What is the Supreme Court’s jurisdiction, and how does the Court operate?

I. The Supreme Court
   A. Judicial review
      1. Established in Marbury v. Madison, 1803
      2. Supreme Court may declare laws unconstitutional
   B. Jurisdiction
      1. original on cases involving States or public ministers
      2. appellate most common
   C. How cases reach Court
      1. writ of certiorari
      2. certificate
   D. How Court operates
      1. reviews briefs
      2. hears oral arguments
      3. meets in conference
      4. announces decision, with one or more written opinions

Get Started

LESSON GOALS
Students will . . .

- learn about the scope of the Supreme Court’s jurisdiction by analyzing a political cartoon showing the power of judicial review, and by identifying the Court’s original and appellate jurisdiction.
- identify how the Supreme Court operates by sequencing the appeals process, reading a transcript of a real case, and formulating opinions on controversial cases.

SKILLS DEVELOPMENT

DECISION MAKING
To practice decision making in this section, use the Chapter 18 Skills Worksheet (Unit 5 All-in-One, p. 41). You may teach the skills explicitly either before or after students work on Core Worksheet B. For L2 and L1 students, assign the adapted Skill Activity (Unit 5 All-in-One, p. 42).

Focus on the Basics

FACTS: • The Court first asserted its power of judicial review—the power to decide the constitutionality of an act of government—in Marbury v. Madison. • The Supreme Court is the only court created by the Constitution. • The Supreme Court has both original and appellate jurisdiction, but usually hears cases on appeal. • The Supreme Court studies written briefs; hears oral arguments; meets in conference to discuss the cases; and renders majority, concurring, and dissenting opinions.

CONCEPTS: federalism, judicial review, checks and balances

ENDURING UNDERSTANDINGS: • The Supreme Court is the final authority on questions arising under the Constitution, an act of Congress, or a treaty of the U.S. • The power of judicial review established in Marbury v. Madison laid the foundation for the judicial branch’s key role in government.
Marbury v. Madison

The Court first asserted its power of judicial review in Marbury v. Madison in 1803.11 (See the Landmark Decisions of the Supreme Court feature, Chapter 3.) Recall that the case arose in the aftermath of the stormy elections of 1800. Thomas Jefferson had won the presidency and control of both houses of Congress. The outgoing Federalists, stung by their defeat, then tried to pack the judiciary with loyal party members. Congress created several new federal judgeships in the early weeks of 1801, and President John Adams quickly filled those posts with Federalists.

William Marbury had been appointed a justice of the peace for the District of Columbia. The Senate had promptly confirmed his appointment, and late on the night of March 3, 1801, President Adams signed the commissions of office for Marbury and a number of other new judges. The next day, Jefferson became President and discovered that Marbury’s commission and several others had not been delivered.

Angered by the Federalists’ attempted court-packing scheme, President Jefferson instructed James Madison, the new secretary of state, not to deliver those commissions. William Marbury then went to the Supreme Court, seeking a writ of mandamus to force delivery.12 Marbury based his suit on the Judiciary Act of 1789, in which Congress had created the federal court system. That law gave the Supreme Court the right to hear such suits in its original jurisdiction (not on appeal from a lower court).

In a unanimous opinion written by Chief Justice John Marshall, the Court refused Marbury’s request. It did so because it found the section of the Judiciary Act on which Marbury had based his case to be in conflict with Article III in the Constitution and, therefore, void.

The Effects of Marbury

With the Court’s decision, Chief Justice Marshall claimed for the Supreme Court the right to declare acts

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11 It is often mistakenly said that the Court first exercised the power in this case, but in fact the Court did so at least as early as Fletcher v. United States in 1796. In that case it upheld the constitutionality of a tax Congress had laid on carriages. It was the first test of the Constitution in a case decided by a majority of five justices.

12 A writ of mandamus is a court order compelling an officer of government to perform an act that the officer has a clear legal duty to perform.

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Packing the Court

The Judiciary Act of 1789 created a Supreme Court of six justices, including the Chief Justice. The Court’s size has fluctuated over time, reaching its present size of nine in 1869. In 1937, President Franklin D. Roosevelt asked Congress to increase the size of the Court, proposing that one additional justice be added for each sitting justice over age 70, to a maximum of 15 members. FDR claimed that his plan would make the Court a more efficient body. In reality, however, the proposal—which became known as “the Court-packing scheme”—was born out of the fact that the then-current Court had found several key pieces of New Deal legislation to be unconstitutional. Despite FDR’s popularity, his plan was widely opposed, and it was roundly defeated in Congress, thereby protecting the separation of powers. Why must a President be closely interested in setting the composition of the Supreme Court?
Differentiate Have students draw and analyze political cartoons illustrating the power of the Supreme Court to declare acts of Congress or the President unconstitutional through judicial review. Have the class analyze the cartoons.

IDENTIFY SUPREME COURT JURISDICTION
Have students draw a pyramid. In the bottom part, they should list the inferior constitutional courts and write the subject matter and parties involved in cases that fall within the exclusive jurisdiction of these courts. Refer students to Section 1 for this information. (Subject matter: if the case involves an interpretation of the Constitution or federal statute or treaty, or relates to admiralty or maritime law; Parties: the U.S. or one of its officers or agencies; a foreign government or official; a State if it is suing another State, a citizen of another State, or a foreign government or subject; a citizen of one State suing a citizen of another State; a U.S. citizen suing a foreign government or subject; citizens of the same State if both claim land under grants from different States)

In the top part of the pyramid, have students write the two classes of cases heard by the Supreme Court in its original and exclusive jurisdiction. (All controversies involving two or more States, and all cases brought against ambassadors or other public ministers) Ask: What type of jurisdiction does the Supreme Court utilize the most, by far? (appellate) About how many cases does the Court hear each year? (a few hundred)

Differentiate State the Essential Question of this chapter. Ask students to write a paragraph answering this question after viewing the pyramid.

Myths and Misperceptions

JUDICIAL REVIEW Contrary to popular belief, judicial review involves more than simply determining whether a law “matches” the Constitution. Supreme Court justices are often unsure of what is and is not constitutional. According to Justice Charles Evans Hughes, “The history of scholarship is a record of disagreements. And when we deal with questions relating to the principles of law and their applications, we do not suddenly rise into the stratosphere of icy certainty.” Justices must interpret the Constitution as it applies to each case. Sometimes interpretations change, and the Court overrules a ruling of an earlier Court. For example, in Plessy v. Ferguson, 1896, the Court upheld racial segregation. A later Court reversed this decision in Brown v. Board of Education of Topeka, 1954.

Implement v. to carry out, put into effect

Answers

Checkpoint cases in which a State is a party; and those affecting ambassadors, other public ministers, and consuls
**How the Court Operates**

The Supreme Court sits from the first Monday in October to sometime the following June or July. Each term is identified by the year in which it began. Thus, the 2009 term runs from October 5, 2009, into the early summer of 2010.

**Oral Arguments**

Once the Supreme Court accepts a case, it sets a date on which that matter will be heard. As a rule, the justices consider cases in two-week cycles from October to early May. They hear oral arguments in several cases for two weeks, then recess for two weeks to consider those cases and handle other Court business.

On those days on which the Court hears arguments, it convenes at 10:00 a.m. on Mondays, Tuesdays, Wednesdays, and sometimes Thursdays. At those public sessions, the lawyers, representing the parties of those cases the Court has accepted, make their oral arguments. Their presentations are almost always limited to 30 minutes.

The justices usually listen to an attorney's arguments and sometimes interrupt them with pointed questions. After 25 minutes, a white light flashes at the lectern from which an attorney addresses the Court. Five minutes later, a red light signals the end of the presentation and it must stop, even if the lawyer is in mid-sentence.

**Briefs**

Each party files detailed written statements—briefs—with the Court before they present their oral arguments. These detailed statements spell out the party's legal position and are built largely on relevant facts and the citation of precedents. Briefs often run to hundreds of pages.

The Court may also receive amicus curiae (friend of the court) briefs. These are briefs filed by persons or groups who are not actual parties to a case but who nonetheless have a substantial interest in its outcome. Thus, for

**How Government Works**

**DIAGRAM THE APPEALS PROCESS**

Have students analyze the How Government Works diagram, “How a Case Reaches the Supreme Court,” on this page or on Transparency 18G. Working in groups, have students create a flowchart showing the path taken by a specific case from a federal district court to the Supreme Court. They should include the date and place where the case originated, the decision made by each court, how the case reached the Supreme Court, and the final decision made by the Court in the case. Suggest these cases to diagram (they are discussed in Chapter 19): Engel v. Vitale, Tinker v. Des Moines School District, Gregory v. Chicago, Hazelwood School District v. Kuhlmeier, and Wisconsin v. Yoder.

**Answers**

**Interpreting Diagrams**

Because the Supreme Court has time to hear only a limited number of cases, those cases must be significant. Inferior courts and the Supreme Court discourage frivolous cases from reaching the Court through lengthy and expensive process.

**STUDY THE COURT IN ACTION**

Ask students to read the Chapter 18 Section 3 Core Worksheet A (Unit 5 All-In-One, p. 35). Students will read excerpts of the oral arguments in the case Ward v. Rock Against Racism, 1989. The case deals with the issue of time, place, and manner of protected speech. (Does New York City have the power to control the mix and volume of a rock concert?) Have students read the excerpts aloud, taking turns playing the parts of the justices and attorneys.

Note that there is audio on the Internet of the actual case being argued in the Supreme Court. You may locate the Web site, which has the audible and complete written transcript of the case. Students can hear the attorneys argue their cases and the justices interrupt them with questions and comments. You can also direct students to another Web site for the full text of the opinions of the Court, including concurring and dissenting opinions.

**Differentiate**

If students listen to the audio only, ask them if the Court proceedings surprised them in any way. Which questions by the justices do students think were the most important in defining the heart of the issue? How would students have ruled on the case if they had been on the Court?
**Who Is On the Court Today?**

A President seeks to appoint justices who share his or her political stance, but justices’ views may change over time in unpredictable ways. Today’s Supreme Court has a conservative majority and is often divided in its decisions, likely due to the controversial nature of the cases that it hears. The Court has recently made 5–4 decisions on topics such as protection for wetlands and capital punishment for juvenile offenders. **What might be the impact on society when a justice changes his or her viewpoint?**

<table>
<thead>
<tr>
<th>Justice</th>
<th>Age When Appointed</th>
<th>Appointed by</th>
<th>Previous Years as a Judge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Justice</td>
<td>50</td>
<td>G.W. Bush (2005)</td>
<td>2</td>
</tr>
<tr>
<td>John G. Roberts, Jr.</td>
<td>55</td>
<td>Ford (1975)</td>
<td>5</td>
</tr>
<tr>
<td>John Paul Stevens</td>
<td>51</td>
<td>Reagan (1986)</td>
<td>4</td>
</tr>
<tr>
<td>Antonin Scalia</td>
<td>51</td>
<td>Reagan (1986)</td>
<td>13</td>
</tr>
<tr>
<td>Anthony M. Kennedy</td>
<td>51</td>
<td>Bush (1990)</td>
<td>13</td>
</tr>
<tr>
<td>Clarence Thomas</td>
<td>60</td>
<td>Clinton (1993)</td>
<td>13</td>
</tr>
<tr>
<td>Ruth Bader Ginsburg</td>
<td>55</td>
<td>Clinton (1994)</td>
<td>14</td>
</tr>
<tr>
<td>Stephen G. Breyer</td>
<td>55</td>
<td>Clinton (2009)</td>
<td>16</td>
</tr>
<tr>
<td>Samuel A. Alito, Jr.</td>
<td>55</td>
<td>G.W. Bush (2006)</td>
<td>16</td>
</tr>
</tbody>
</table>


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**RISING TO THE TOP** In the federal inferior courts, a judge rises to the position of chief judge based on seniority. For example, when the chief judge of a federal circuit court steps down, the position goes to the judge who has served on the court for the longest time, is 64 years old or younger, and has not previously served as chief judge. Contrary to popular belief, the top judge on the highest court in the land—the Chief Justice of the U.S. Supreme Court—does not necessarily rise to the position through long years of service. The President may elevate any associate justice to Chief Justice, or appoint someone directly to the position from outside the Court. Chief Justice John Roberts had no experience on the U.S. Supreme Court before President George W. Bush appointed him to the top position.

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**Myths and Misperceptions**

**RISING TO THE TOP**

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**EXTEND THE LESSON**

**L3 Differentiate** Discuss the role of gender in the Supreme Court. Ask students to write an editorial describing how an increase in the appointment of women might or might not change the Court.

**L4 Differentiate** Display and discuss Transparencies 18H and 18I. Ask students to research the justices’ nomination process and write a newspaper article on the confirmation of John Roberts or Samuel Alito.

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**Answers**

**Who Is on the Court Today?** Laws and public policy may need to be changed. State budgets may need to be altered because of changes in law.
it hears pose difficult and complicated questions, and many present questions on which lower courts have disagreed. In short, most of the Court’s cases excite controversy; the easy cases seldom get that far.

The Court’s Opinions Once a case has been considered and decided in conference, the Court announces its decision in the matter and, with it, issues one or more written opinions. The decision indicates which party has won the dispute and by what margin among the justices. Where the decision is unanimous, the Chief Justice most often writes the Court’s opinion. If there has been a split decision, the Chief Justice may write the majority opinion, or he may assign that task to another justice in the majority. When the Chief Justice is in the minority, the senior justice in the majority makes that assignment.

The majority opinion, officially called “the Opinion of the Court,” sets out the facts in a case, identifies the issues it presents, and details the reasons that underpin the majority’s decision.14

The Court’s opinions are exceedingly valuable. Its majority opinions stand as precedents. The lower courts, both federal and State, are expected to follow precedent—that is, decide cases of like nature in a manner consistent with previous rulings.15

One or more of the justices on the majority side may write a concurring opinion, usually to make some point not made or not emphasized in the majority opinion. In effect, a justice who writes a concurring opinion agrees with (concurs in) the majority decision as to the winner of a case but offers different reasons for reaching that conclusion.

One or more dissenting opinions may be written by those justices who do not agree with the Court’s majority decision. Those dissents do not become precedent. They are, instead, expressions of opposition to the majority’s views in a case. Chief Justice Charles Evans Hughes once described dissenting opinions as “an appeal to the broader spirit of the law, to the intelligence of a future day.” On rare occasions, the High Court does reverse itself. The minority opinion of today could become the Court’s majority position on some distant tomorrow.

Assess and Remediate

LI Ask students to sketch the Supreme Court building. On at least eight “pillars” of the building, have them write facts about the Court. For example, students could write out Article III, Section 1 of the Constitution, which created the Court; the Court’s jurisdiction as spelled out in Article III, Section 2; the number of justices and their names; and so on.

L2 Collect Core Worksheet B and assess students’ participation using the Rubric for Assessing Performance of an Entire Group (Unit 5 All-In-One, p. 241).

L3 Assign the Section 3 Assessment questions.

L4 Section Quiz A (Unit 5 All-In-One, p. 43)

L5 Section Quiz B (Unit 5 All-In-One, p. 44)

Have students complete the review activities in the digital lesson presentation and continue their work in the Essential Questions Journal.

REMEDICATION

<table>
<thead>
<tr>
<th>If Your Students Have Trouble With</th>
<th>Strategies For Remediation</th>
</tr>
</thead>
<tbody>
<tr>
<td>The scope of the Supreme Court’s jurisdiction (Questions 1, 5, 6)</td>
<td>Have students turn each heading and subhead in this section into a question, and then answer the questions. For example, the heading “Judicial Review” in this section could be rewritten as the question “What is judicial review?” or “How did the Court obtain the power of judicial review?”</td>
</tr>
<tr>
<td>How the Supreme Court operates (Questions 1, 2, 3, 4)</td>
<td>Have students write and illustrate books for elementary school children that explain how a case works its way to the Supreme Court. The books should include definitions; the purpose of briefs and oral arguments; what justices do in conference; and the purpose of majorities, concurring, and dissenting opinions.</td>
</tr>
</tbody>
</table>

Assessment Answers

1. It has both original and appellate jurisdiction, but most of its cases come on appeal. It has original and exclusive jurisdiction over cases involving two or more States and all cases involving ambassadors or other public ministers. The Court studies briefs and hears oral arguments before meeting in conference to consider decisions.

2. (a) Both are ways for a case from a lower court to reach the Supreme Court. (b) writ of certiorari: requested by either party in the case; certificate: requested by the lower court

3. A majority opinion sets out the facts in a case, identifies the issues, details the reasons that underpin the majority’s decision, and becomes a precedent that lower courts are expected to follow.

4. A case is tried in a district court or highest State court and appealed to a court of appeals. It is then appealed to the Supreme Court. At least four justices must agree before a case is put on the docket. Most cases reach the Court by a writ of certiorari; a few reach the Court by certificate.

5. It established the Court’s right to exercise the power of judicial review and ensured the independence and equal footing of the judicial branch with the legislative and executive branches.

6. It gives the judicial branch the authority to declare acts of Congress and executive actions unconstitutional.

QUICK WRITE A strong flowchart should include the trial court of original jurisdiction, the appellate court, and the path of the appeal to the Supreme Court.
GUIDING QUESTION
What are the special courts, and what are the jurisdictions of each?

Get Started

LESSON GOALS
Students will . . .
- identify the special courts by completing a chart highlighting the various courts’ jurisdictions.
- understand how special courts function by constructing paths of appeals for case scenarios.
- analyze the constitutionality of military commissions by studying opinions for and against them.

BEFORE CLASS
Assign the section, the graphic organizer in the text, and Reading Comprehension Worksheet (Unit 5 All-in-One, p. 45) before class.

DIFFERENTIATE
Reading Comprehension Worksheet (Unit 5 All-in-One, p. 46)

BELLRINGER
Display Transparency 18J. Have student write answers to the questions in their notebooks.

SKILLS DEVELOPMENT

ANALYZE POLITICAL CARTOONS
To help students learn to analyze political cartoons, have them turn to the Skills Handbook, p. 522, and use the information there to complete the Bellringer activity.

Focus on the Basics

FACTS: • The Court of Appeals for the Armed Forces is a civilian tribunal that hears appeals of courts-martial. • The Court of Appeals for Veterans Claims hears claims regarding veterans’ benefits. • The Court of Federal Claims hears claims for damages against the Federal Government. • Congress created federal courts for U.S. territories and the District of Columbia. • The Tax Court hears civil cases concerning tax law.

CONCEPTS: federalism, role of the judiciary

ENDURING UNDERSTANDINGS: • Congress has created many special courts to handle specific types of cases. • The National Government can be taken to court only in cases in which Congress declares the U.S. to be open to suit.

Recall, the national court system is made up of two quite distinct types of federal courts. They are (1) the constitutional courts, sometimes called the regular or Article III courts, discussed over the last several pages, and (2) the special courts, also known as the legislative or Article I courts.

Each of the special courts was established by Congress acting under the authority delegated to it in Article I, Section 8 of the Constitution—not under the power given to it in Article III to create courts to exercise the broad “judicial Power of the United States.” That is to say, each of these courts has a very narrow jurisdiction; each hears only those cases that fall into a very limited class. And the special courts differ from the constitutional courts in one other important regard. Although their judges are all appointed by the President and Senate, they serve for a fixed term—not for life “during good Behaviour.”

Military and Veterans Claims Courts
Beginning in 1789, Congress has created a system of military courts for each branch of the nation’s armed forces, as an exercise of its expressed power to “make Rules for the Government and Regulation of the land and naval Forces.”* These military courts—courts-martial—serve the special disciplinary needs of the armed forces and are not a part of the federal court system. Their judges, prosecutors, defense attorneys, court reporters, and other personnel are all members of the military; most of them are officers. They conduct trials of those members of the military who are accused of violating military law. Today, the proceedings in a court-martial are similar to the trials held in civilian courts across the country, although there are differences. For example, in a court-martial, only two thirds of the panel, or jury, has to agree on a verdict versus the unanimous verdict required in a civilian court.

*Article I, Section 8, Clause 14. This provision allows Congress to provide for the regulation of the conduct of members of the armed forces under a separate, non-civil legal code. The present-day system of military justice has developed over more than 230 years. Today, the Uniform Code of Military Justice, enacted by Congress in 1950, and the Military Justice Acts of 1960 and 1963 are the principal statutes that set out the nation’s military law.
Teach

To present this topic using online resources, use the lesson presentations at PearsonSuccessNet.com.

REVIEW BELLRINGER ANSWERS
Discuss the political cartoon that students analyzed for the Bellringer. (Answers: 1. Internal Revenue Service, collect taxes; 2. Students may scan the text to find the answer: United States Tax Court.)

CHART SPECIAL COURTS’ JURISDICTION
Display Transparency 18E, The Appellate Path in Federal Courts. Ask a volunteer to identify the special courts on the transparency. Draw a chart on the board like the one below. Have students work in pairs to complete the information. Then discuss the chart.

<table>
<thead>
<tr>
<th>Name of Court</th>
<th>Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court of Appeals for the Armed Forces</td>
<td>Appellate jurisdiction over court-martial convictions</td>
</tr>
<tr>
<td>Court of Appeals for Veterans Claims</td>
<td>Appellate jurisdiction over denied or mishandled veterans’ claims arising from the Department of Veterans Affairs</td>
</tr>
<tr>
<td>Court of Federal Claims</td>
<td>Hears claims against the Federal Government</td>
</tr>
<tr>
<td>Territorial Courts</td>
<td>Hear cases in the Virgin Islands, Guam, and Northern Mariana Islands</td>
</tr>
<tr>
<td>District of Columbia Courts</td>
<td>Trial and appellate courts for residents of Washington, D.C.</td>
</tr>
<tr>
<td>U.S. Tax Court</td>
<td>Hears civil cases involving disputes of tax laws</td>
</tr>
</tbody>
</table>

TRACE APPEALS THROUGH SPECIAL COURTS
As students answer the questions in the cases below, have them point out where on Transparency 18E each case would move in the appellate path.

CASE A: A citizen in Guam is accused of kidnapping. Where does the case begin? (territorial court) The defendant is found guilty and appeals. Where does the case go? (Court of Appeals for the Ninth Circuit)

CASE B: A citizen claims that the U.S. Forest Service harmed his crops, and sues for redress. Where does this case begin? (Court of Federal Claims) The case is lost by the citizen and then appealed. Where does the case go next? (U.S. Court of Appeals for the Federal Circuit)

DISTRIBUTE CORE WORKSHEET
Have students work in groups to complete the Chapter 18 Section 4 Core Worksheet (Unit 5 All-in-One, p. 47). Students will form opinions on the constitutionality of military tribunals.

Answers

Analyzing Political Cartoons as a “black hole,” or something that swallows up detainees’ rights in a mysterious, comprehensive way.
EXTEND THE LESSON

Ask students to write a radio program discussing the procedures set out in the Military Commissions Act of 2006. They should write a script that might be used to interview a politician or member of the military.

Assess and RemEDIATE

L3 Have students create a pyramid chart (or expand upon the pyramid they created in Section 3) to illustrate the different levels of the federal court system. They should label the top of the pyramid “Supreme Court,” and complete the rest of the chart with the appropriate inferior court titles and jurisdictions at each level.

L3 Assign the Section 4 Assessment questions.

L3 Section Quiz A (Unit 5 All-in-One, p. 51)

L3 Section Quiz B (Unit 5 All-in-One, p. 52)

Have students complete the review activities in the digital lesson presentation and continue their work in the Essential Questions Journal.

REMEDATION

<table>
<thead>
<tr>
<th>If Your Students Have Trouble With</th>
<th>Strategies For Remediation</th>
</tr>
</thead>
<tbody>
<tr>
<td>The jurisdiction of special courts (Questions 1, 3, 4, 6)</td>
<td>Ask students to briefly identify the function of each special court (and the other inferior courts) on a slip of paper. Collect and read aloud the slips for a “Which Court Am I?” quiz.</td>
</tr>
<tr>
<td>The functions of military courts and commissions (Questions 2, 5)</td>
<td>Have students describe characteristics of courts-martial and the Court of Appeals for the Armed Forces. Ask them to write their descriptions as part of a political cartoon or other visual that shows how appeals of courts-martial go to a civilian court.</td>
</tr>
</tbody>
</table>

Answers

Checkpoint claims for damages against the Federal Government

Assessment Answers

1. The special courts (and their jurisdictions): courts-martial (trial courts for the military), Court of Appeals for the Armed Forces (reviews court-martial convictions), Court of Appeals for Veterans Claims (hears appeals regarding VA benefits), military commissions (try “unlawful enemy combatants”), Court of Federal Claims (hears claims against the Federal Government), territorial courts (courts in U.S. territories), District of Columbia courts (trial and appellate courts in Washington, D.C.), U.S. Tax Court (civil cases involving disputes over tax laws).

2. civilian tribunals: appellate courts, separate from the military, which review serious court-martial convictions; courts-martial: courts composed of military personnel that try cases concerning military law

3. satisfaction or payment of a claim

4. Special courts have a narrower jurisdiction, and judges serve a fixed term, not for life.

5. Some students might support military commissions for terrorists; others might say terrorists should be tried in federal district courts.


Quick WRITE Thesis statements may include the general constitutional grounds on which the cases worked their way to the Supreme Court.
Have students download the digital resources available at Government on the Go for review and remediation.

**STUDY TIPS**

**Set Goals for Study Sessions** Setting goals can help students achieve both long- and short-term goals. Setting goals for study sessions makes it more likely that students will stay on task and accomplish the necessary work. Ask students to write down a study goal for each subject for the week. Then ask them to write down a study goal for today’s study session. Goals should keep in mind upcoming tests and assignments that are due. Explain that it is important to prioritize tasks for each study session, in order to meet the goal for that session. It can be helpful to assign a length of time to each task, both to organize study time effectively and to help with concentration. Remind students to make goals realistic. For example, a study goal for one session might be to read the chapter, or to review the class notes for the day. Have students create a “goal chart” that lists today’s study goals and the priority of each, as well as the length of time to complete the task. Suggest that students reward themselves for meeting each day’s goals with something they enjoy doing.

**ASSESSMENT AT A GLANCE**

Tests and Quizzes
- Section Assessments
- Section Quizzes A and B, Unit 5 All-in-One
- Chapter Assessment
- Chapter Tests A and B, Unit 5 All-in-One
- Document-Based Assessment
- Progress Monitoring Online
- ExamView Test Bank

Performance Assessment
- Essential Questions Journal
- Extend the Lesson, p. 530
- Assessment Rubrics, All-in-One

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**For More Information**

To learn more about the federal court system, refer to these sources or assign them to students:


COMPREHENSION AND CRITICAL THINKING

SECTION 1
1. (a) to define and apply laws in a uniform way for all States (b) Possible answer: An independent judiciary keeps the separation and balance of power in government, thus assuring fair trials as well as judicial decisions not dependent on political pressure.
2. (a) subject matter a “federal question” and parties involved (b) Some students may note that the Constitution kept the principles purposefully broad to allow for interpretation. Other students may note that the principles are too broad and should be narrowed to reduce the federal caseload. Still others may find the principles not broad enough, citing cases heard in State courts that would be better tried by a nonelected judge in the federal judiciary.
3. (a) The President nominates, and the Senate confirms. The President usually nominates judges recommended by that State’s senators. (b) Possible answer: If either the executive or legislative branch had the sole power to appoint a judge, the other branch would always suspect a lack of impartiality and would not support the work of the judge.

SECTION 2
4. (a) The room is in disorder, and the justices are flustered and overwhelmed. (b) The court is beset with cases it cannot hear.
5. (a) both civil and criminal cases (b) More than 80 percent of federal cases are tried in district courts.
6. (a) They hear appeals from the decisions of the district courts. (b) They were created to relieve the Supreme Court of its overloaded docket.

SECTION 3
7. (a) the power to decide the constitutionality of an act of government (b) yes, because judicial review serves as a check on actions of all three branches of government
8. (a) both original and appellate jurisdiction (b) “Easy” cases involve simple points of law, or their decisions are not appealed. The Supreme Court hears only those cases that it feels involve significant points of law or that were not decided properly in the lower court.

SECTION 4
9. (a) concurring: written by a judge who agrees with the majority decision but offers different reasons for reaching that conclusion; dissenting: explanation written by a justice who does not agree with the Court’s majority decision (b) Possible answer: Concurring and dissenting opinions enable justices to express different points of view; in future cases, they may form the basis for majority opinions.
10. (a) The special courts (and their jurisdictions) include courts-martial (trial courts for the military); Court of Appeals for the Armed Forces (reviews courts-martial convictions); Court of Appeals for Veterans Claims (hears appeals regarding VA benefits); military commissions (try “unlawful enemy combatants”); Court of Federal Claims (hears claims for damages against the Federal Government); territorial courts (courts in U.S. territories); District of Columbia courts (trial and appellate courts in Washington, D.C.); and U.S. Tax Court (hears civil cases involving disputes over tax laws). (b) Each of these courts hears only those cases that fall into a very limited class.
**Document-Based Assessment**

**Term Limits for Federal Judges**

Over recent years, many have questioned the wisdom of the provision of life tenure for federal judges, as illustrated in Document 1 below. The debate has often focused on the Supreme Court. Article III, Section 1 of the Constitution gives Supreme Court justices lifetime appointments. A Framers’ viewpoint is set out in Document 2. Any change in the tenure of Supreme Court justices would require a constitutional amendment. Although both supporters and opponents of such action agree that such a change is unlikely any time soon, the issue has led to lively debate.

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**Document 1**

[L]ifetime tenure should be abolished. . . . [T]he judiciary has become almost as polarized [divided] along partisan lines as the elective branches. Presidents have been seeking out younger and younger judge-appointment nominees at every level of the judiciary, hoping to influence the courts long after they leave the White House. The insularity produced by lifetime tenure, combined with youthful appointment and long service, often means that senior judges represent the views and outlooks of past generations better than the current day. Therefore, a nonrenewable term of fifteen years is an attractive innovation. . . . This is a long time to serve—nearly four current presidential terms. . . . At the same time, it is short enough to prevent justices from becoming too detached and generically removed from the American mainstream.

—Larry J. Sabato, *A More Perfect Constitution*

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**Document 2**

The standard of good behavior for the continuance in office of the judicial magistracy (judges) is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince; in a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government, to secure a steady, upright, and impartial administration of the laws.

—Alexander Hamilton, *The Federalist No. 78*

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**Use your knowledge of the terms of Supreme Court justices and Documents 1 and 2 to answer Questions 1–3.**

1. What concern does the author of Document 1 have about life tenure for judges?
   - A. Justices who are appointed to the Court at a young age lack the knowledge and experience of older justices.
   - B. Justices should be required to retire from the Court at a specified age.
   - C. Justices who serve long terms on the Court can become out of touch with the challenges of society today.
   - D. Justices who have life tenure do not understand the concerns of young people.

2. What reasons does the author of Document 2 give for his opinion about lifetime tenure for justices?

3. Pull It Together Would you support or oppose term limits for Supreme Court justices? Why or why not?

**Apply What You’ve Learned**

11. (a) to hear appeals of serious courts-martial convictions (b) Possible answer: to introduce impartiality by having nonmilitary personnel review the appeal

12. Have students refine their explanatory essays before submitting them. They should be sure each paragraph has a topic sentence and supporting sentences, and that all related points are grouped together into one paragraph. They should also review sentence patterns, adding variety by inserting a short sentence between two long ones or by combining two short sentences into one longer, compound sentence. Finally, have them look for vague words and replace them with more concise, active (not passive) terms.

13. Students should write a list of open-ended, neutral questions before the interview. Researching the subject’s background will direct students to a thoughtful line of questioning. During the interview, students should listen closely for central ideas and what seems important to the interviewee. Have students clarify any misunderstanding by restating in their own words the subject’s responses.

14. Students’ op-eds should answer the Essential Question using facts and statistics for support. Ask for volunteers to read their pieces to the class, followed by discussion, or to stage a debate using pro and con arguments.
Introduce the Chapter

**Essential Questions:**

**UNIT 5**
What should be the role of the judicial branch?

**CHAPTER 19**
How can the judiciary balance individual rights with the common good?

**ACTIVATE PRIOR KNOWLEDGE**
Have students examine the photo and quotation on these pages. Ask: **What do the photo and quotation suggest about civil liberties?** (that Americans have had to fight for civil liberties) In this chapter, students will learn about First Amendment freedoms. Then tell students to begin to further explore civil liberties by completing the Chapter 19 Essential Question Warmup activity in their Essential Questions Journal. Discuss their responses as a class.

**BEFORE READING**

**ELL Differentiate** Chapter 19 Prereading and Vocabulary Worksheet (Unit 5 All-in-One, p. 68)

**SUCCESSNET STUDENT AND TEACHER CENTER**
Visit PearsonSuccessNet.com for downloadable resources that allow students and teachers to connect with government “on the go.”

**DIGITAL LESSON PRESENTATION**
The digital lesson presentation supports the print lesson with activities and summaries of key concepts. Activities for this chapter include:
- The Lemon Test
- Freedoms of Speech and Press

**SKILLS DEVELOPMENT**

**ANALYZE SOURCES**
You may wish to teach analyzing sources as a distinct skill within Section 1 of this chapter. Use the Chapter 19 Skills Worksheet (Unit 5 All-in-One, p. 77) to help students learn the steps in analyzing sources. The worksheet asks students to read and identify two sources as primary or secondary, to find the main idea, and to evaluate the sources for point of view and bias. For L2 and L1 students, assign the adapted Skill Activity (Unit 5 All-in-One, p. 78).

**The chapter WebQuest challenges students to answer the chapter Essential Question by asking them about civil liberties.**

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**Block Scheduling**

**BLOCK 1:** Teach Section 1 lesson, including Transparency 19A, Core Worksheet 19.1, and the Strategies for Remediation. Begin Section 2 Lesson, including Bellringer and Draw a Wall of Separation. Assign Core Worksheet 19.2; have students discuss it.

**BLOCK 2:** Review Transparency 19C. Begin Section 3; discuss Bellringer and Chart Restrictions on Speech. Assign time for groups to complete Core Worksheet 19.3. Discuss the rulings. Go over Recognize Limits and Protections of the Media; organize groups for dramatizations.

**BLOCK 3:** Have groups dramatize their media cases. Display and discuss Transparency 19F. Introduce Section 4 with Transparency 19G and Identify Time-Place-Manner Rules. Distribute Core Worksheet 19.4; have students prepare their scenarios. Present cases before “judges.” Complete Strategies for Remediation.