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 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.

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.

L1 Special Needs
L2 Basic
ELL English Language Learners
LPR Less Proficient Readers
L3 All Students
L4 Advanced Students
Get Started

LESSON GOALS

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 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.

Joe steals a sports car in Chicago. Two days later, he is stopped for speeding in Atlanta. Where, now, will he be tried for car theft? In Illinois, where he stole the car? In Georgia, where he was caught? Joe may be on the verge of learning something about the federal court system—and about the Dyer Act of 1925, which makes it a federal crime to transport a stolen vehicle across a State line.

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 X) 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 different 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 also 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 Appeals for the Federal Circuit, and the U.S. Court of Appeals for the Federal District.

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**BELLRINGER**

Write the following quote and questions on the board:

“The judiciary . . . has no influence over either the sword or the purse; . . . It may truly be said to have neither FORCE nor WILL, but merely judgment.”

—Alexander Hamilton, *The Federalist No. 78*

What is Hamilton saying about the function of the judicial branch? What does he imply are NOT functions of the judicial branch?

Have students write answers to the questions in their notebooks.

**ELL Differentiate** Have students look up definitions of the terms *sword* and *purse*. Discuss how Hamilton is using non-literal meanings of these words.

**Teach**

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

**REVIEW BELLRINGER ANSWERS**

Have volunteers share their answers to the Bellringer questions. Hamilton states that the function of the judicial branch is to judge. The judiciary has no power to make (the "will") or to enforce (the "force") laws.

**ELL Differentiate** Ask students how Hamilton refers to the executive and legislative branches. Why does he refer to them this way? (He refers to the executive branch as the "sword" and the "force" because it has the power to implement laws. The legislative branch is the "purse" and the "will" because it makes the laws, and the President and the judicial branch must receive authorization from Congress before either can spend money.)

**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 (p. 15)
- Core Worksheets (pp. 17, 18)
- Extend Activity (p. 22)
- Extend 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 18A, 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.”

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

DIFFERENTIATE TYPES OF FEDERAL COURTS
Display Transparency 18B 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)**

ELL 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).

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.

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

**tribunal**
n. a judicial body; a court

**infringement**
n. violation

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**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.
Tell students to go to the Interactivity for scenarios about types of jurisdiction.

**DEFINE JURISDICTION**

Have a student find the meaning of *jurisdiction* in the textbook (the authority of a court to hear a case; literally, the power to "say the law"). Ask another student to look up the word in the dictionary for additional meanings. (the authority of a sovereign power to govern or legislate; the power or right to exercise authority or control; the limits or territory within which authority may be exercised)

**Differentiate** Ask students to provide samples of various jurisdictions outside the realm of the courts. For example, what are the jurisdictions of the principal and assistant principal? (One may handle issues of truancy and failing grades; the other may handle issues of discipline.) How far does the jurisdiction of coastal countries extend into the ocean or sea? (Many countries claim the waters 200 nautical miles from their coasts as exclusive economic zones.)

**CHART FEDERAL COURT JURISDICTION**

On the board, draw a T-chart like the one below. Have students copy the T-chart in their notebooks and work in pairs to fill in the information on both sides of the T.

<table>
<thead>
<tr>
<th>Federal Court Jurisdiction</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Exclusive jurisdiction</strong></td>
<td>Subject Matter</td>
</tr>
<tr>
<td><strong>(definition)</strong></td>
<td>Parties Involved</td>
</tr>
<tr>
<td><strong>Concurrent jurisdiction</strong></td>
<td>Types of cases</td>
</tr>
<tr>
<td><strong>(definition)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Original jurisdiction</strong></td>
<td>Which federal courts have?</td>
</tr>
<tr>
<td><strong>(definition)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Appellate jurisdiction</strong></td>
<td>Which federal courts have?</td>
</tr>
<tr>
<td><strong>(definition)</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Differentiate** Model note-taking skills by asking volunteers to write the information on the board.

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**Constitutional Principles**

**SEPARATION OF POWERS** In *The Federalist* No. 78, Alexander Hamilton discussed the importance of offering life tenure for judges. Besides enabling justices to remain independent of legislative and executive intrigue, life tenure was needed to attract qualified attorneys: "... [t] is readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of... precedents [and rules] must unavoidably swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them. Hence it is, that there can be but few men in the society who will have sufficient skill in the laws to qualify them for the stations of judges... [A] temporary duration in office... would naturally discourage such characters from quitting a lucrative line of practice to accept a seat on the bench... ."

**Answers**

**Which Court?** In some areas, federal and State jurisdiction are distinct, whereas in other areas they overlap.
The Constitution declares that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court . . ." -Article II, Section II, Clause 2

First, in the Judiciary Act of 1789, and ever since, Congress has provided the same procedure for the selection of all federal judges.

Selection of Judges

The Senate has a major part in the selection of every federal judge. In effect, the Constitution says that the President can name to the federal bench anyone whom the Senate will confirm. Recall the practice of senatorial courtesy: It gives great weight to the wishes of the senators from a State in which a federal judge is to serve. In short, that unwritten rule means that the President almost always selects someone the senators from that State recommend.

As you know, the Constitution sets out formal qualifications for office for the President and for senators and representatives. It sets no age, residency, or citizenship requirements for federal judges, however. Nor does the Constitution require that a judge have legal training. Tradition alone dictates that federal judges have an educational or professional background that qualifies them for the job.

The President’s closest legal and political aides, especially the Attorney General, take the lead in selecting federal judges. Influential senators—especially those from the nominee’s home State and members of the Judiciary Committee, the President’s allies and supporters in the legal profession, and various other important personalities in the President’s political party also play a major role in selecting judges. Over recent years, a number of interest groups have become quite active in the process.

Today, an increasing number of those persons who are appointed to the federal bench have had prior judicial experience. Most federal judges are drawn from the ranks of leading attorneys, legal scholars and law school professors, former members of Congress, and State court judges. Elective office (in particular, a seat in the U.S. Senate) was once a well-traveled path to the Supreme Court; now, most justices reach the High Court from the courts of appeals.

In 1967, Thurgood Marshall became the first African American to be named to the High Court, followed by Clarence Thomas in 1991. Similarly, only two women have been appointed: Sandra Day O’Connor in 1981, and Ruth Bader Ginsburg in 1993.

From George Washington’s day, Presidents have looked to their own political party to fill judgeships. Republican Presidents consistently choose Republicans; Democrats usually pick Democrats. Every President knows that judges may serve for decades. So chief executives regularly look for jurists who tend to agree with their own views.

The Impact of Judicial Philosophy

Another major impact on the judicial selection process is judicial philosophy—in particular, the concepts of judicial restraint and judicial activism. All federal judges make decisions in which they must interpret and apply provisions of the Constitution and acts of Congress. That is, they often decide questions of public policy—and, in doing so, they inevitably shape public policy.

The proponents of judicial restraint believe that judges should decide cases on the basis of (1) the original intent of the Framers or those who enacted the statute(s) involved in a case, and (2) precedent—a judicial decision that serves as a guide for settling later cases of a similar nature. They say that the courts should defer to policy judgments made in the legislative and executive branches of the government and, in so doing, honor the basic premise of self-government: the right of the majority to determine public policy. In short, they argue that elected legislators, not appointed judges, should make law.

Those who support judicial activism take a much broader view of judicial power. They argue that provisions in the Constitution and in statute law should be interpreted and applied in the light of contemporary conditions and values—especially in cases involving civil rights and social welfare issues. They,
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 purposefully, 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

**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**

**L9 L2 Differentiate** Have students read the article “Chief Justice Urges Pay Raise for Judges” on the Chapter 18 Section 1 Extend Worksheet (Unit 5 All-in-One, p. 20). After answering the questions, have students debate a pay raise for federal judges, with half the class supporting and half the class opposing an increase.

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**Political Cartoon Mini-Lesson**

Transparency 18C features a political cartoon about filling a vacancy on the Supreme Court. Display the transparency as you discuss the selection of judges with the class.

Ask: **What is the subject of this cartoon?** (filling a vacancy on the Supreme Court)

Whom does the person speaking represent? How do you know? (the President; because the President has the power to appoint someone to fill a vacancy on the Court)

What is the cartoonist saying will happen? (The President will appoint a conservative judge from the “right” to fill the vacancy)

What is the impact of the President’s power to appoint judges? (The power to appoint judges enables the President to influence the philosophical direction of the Court, and thereby steer public policy toward the President’s views.)
Assess and RemEDIATE

Have students draw a graphic organizer or other visual that shows the checks and balances the judicial branch has 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.

REMEDIATION

If Your Students Have Trouble With

Strategies For Remediation

The structure and function of the federal judiciary (Questions 1, 6)

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.

The jurisdiction of the federal courts (Questions 2, 4)

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.

Judicial philosophy (Questions 3, 5)

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.

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.

Recall that bankruptcy is a legal proceeding in which a debtor’s assets are distributed among those to whom the bankruptcy person, business, or other organization owes money. Although some bankruptcy cases are heard in State courts, nearly all of them fall under the jurisdiction of the federal district courts.

SECTION 1 ASSESSMENT

1. Guiding Question Use your completed graphic organizer to answer this question: What are the structure and function of the national judiciary?

Key Terms and Comprehension

2. (a) What is the difference between original jurisdiction and appellate jurisdiction? (b) What kind of jurisdiction does the Supreme Court have?

3. (a) What is a precedent? (b) Write a sentence using the word precedent to explain why it is important in the judicial system.

4. Under what circumstances do federal courts have jurisdiction in a case?

Critical Thinking

5. Demonstrate Reasoned Judgment What role should judicial philosophy play in the selection of judges?

6. Predict Consequences What do you think are the consequences of life tenure for federal judges?
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 on, 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.

1. In McCulloch v. Maryland, the Court exercised judicial activism, expanding constitutional provisions without citing precedent.
2. The Court’s decision in Luther v. Borden is one of the earliest cases of judicial restraint.
3. The decision in Brown v. Board of Education provides a major example of judicial activism.
4. The Burger Court exercised a combination of judicial restraint and activism.

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?

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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. . . .”

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LESSON GOAL
- Students will contrast the “restraint” and “activism” roles of the Supreme Court.

Teach

DEFINE TERMS
Have students provide 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>
</tr>
</thead>
<tbody>
<tr>
<td>Structure</td>
</tr>
<tr>
<td>District courts</td>
</tr>
<tr>
<td>Courts of appeals</td>
</tr>
<tr>
<td>Court of International Trade</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. 521.

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.

The District Courts
The United States district courts are the federal trial courts. Their 667 judges handle more than 300,000 cases per year, about 80 percent of the federal caseload. The district courts were created by Congress in the Judiciary Act of 1789. There are now 94 of them.

Federal Judicial Districts
The 50 States are divided into 89 federal judicial districts, and there are also federal district courts for Washington, D.C., Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. Each State forms at least one judicial district. Some are divided into two or more districts, however—usually because of the larger amount of judicial business there. At least two judges are assigned to each district, but many districts have several. Thus, New York is divided into four judicial districts; one of them, the United States District Judicial District for Southern New York, now has 44 judges.

Cases tried in the district courts are most often heard by a single judge. However, certain cases may be heard by a three-judge panel. Chiefly, these are cases that involve congressional districting or State legislative apportionment questions, those arising under the Civil Rights Act of 1964 or the Voting Rights Acts of 1965, 1970, 1975, and 1982, and certain antitrust actions.

Two little-known multi-judge panels play a key role in ongoing efforts to combat terrorism in this country and abroad. Both are shrouded in secrecy. One is the Foreign Intelligence Surveillance Court, created by Congress in 1978. It is composed of 11 federal district court judges, who are appointed to seven-year terms by the Chief Justice of the United States. The court, which
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.

**Checkpoint** What is the principal role of the federal district courts?

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**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**

**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.

**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](https://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 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 they ponder the oral 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.

Assess and Remediate

L2 Have students re-create from memory the diagram “The Appellate Path in the Federal Courts,” but with just the constitutional courts. Underneath each court, have students list examples of the types of cases heard in that court.

L3 Collect the Core Worksheets and assess the students’ class participation using the Rubric for Assessing Performance of an Entire Group (Unit 5 All-in-One, p. 241).

L4 Assign the Section 2 Assessment questions.

L5 Section Quiz A (Unit 5 All-in-One, p. 29)

L6 Section Quiz B (Unit 5 All-in-One, p. 30)

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

SECTION 2 ASSESSMENT

Critical Thinking
4. Draw Conclusions Why do you think so many of the courts in the federal judiciary are appellate courts?
5. Predict Consequences What do you think might be the consequences of Congress creating entirely new types of appellate courts as needed?

Quick Write
Explanatory Essay: Research the Topic Research to gather more details on the Supreme Court case you chose in Section 1. Focus especially on the path the case took to reach the Supreme Court.

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.

Quick Write A strong assignment will show evidence of additional research and details, including the constitutional grounds on which each side based its arguments, specific arguments each side presented, and the verdict/opinions of the courts.
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 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 Flood v. United States in 1796. In that case it upheld the constitutionality of a tax Congress had laid on carriages. It found that the tax was not a direct tax and so was not one that had to be apportioned among the States in accord with Article I, Section 2, Clause 3 of the Constitution.

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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Differentiated Resources

The following resources are located in the All-in-One, Unit 5, Chapter 18, Section 3:

- L1 Reading Comprehension Worksheet (p. 31)
- L2 Reading Comprehension Worksheet (p. 33)
- L3 Core Worksheet A (p. 35)
- L4 Core Worksheet B (p. 40)
- L5 Skills Worksheet (p. 41)
- L6 Skill Activity (p. 42)
- L7 Quiz A (p. 43)
- L8 Quiz B (p. 44)

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Answers

Checkpoint The Court is thought to have first asserted its power of judicial review.

Packing the Court By appointing more like-minded justices, the President could steer the Court to support the administration’s programs.
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)

Answers

Checkpoint cases in which a State is a party; and those affecting ambassadors, other public ministers, and consuls

Checkpoint In which two types of cases does the Supreme Court have original jurisdiction?

Implement v. to carry out, put into effect

How Cases Reach the Court

More than 8,000 cases are now appealed to the Supreme Court each term. Of these, the Court accepts only a few hundred for decision. In most cases, petitions for review are denied, usually because most of the justices agree with the decision of the lower court or believe that the case involves no significant point of law.

In short, the High Court is in the somewhat enviable position of being able to set its own agenda. It decides what it wants to decide. The Court selects those cases that it does hear according to the "rule of four". At least four of its nine justices must agree that a case should be put on the Court's docket.

More than half the cases decided by the Court are disposed of in brief orders. For example, an order may remand (return) a case to a lower court for reconsideration in light of some other recent and related case decided by the High Court. All told, the Court decides, after hearing arguments and with full opinions, fewer than 100 cases per term.

Most cases reach the Supreme Court by writ of certiorari (from the Latin, meaning "to be made more certain"). This writ is an order by the Court directing a lower court to send up the record in a given case for its review. Either party to a case can petition the Court to issue a writ. But, again, "cert" is granted in only a very limited number of instances—typically, only when a petition raises some important constitutional question or a serious problem in the interpretation of a statute.

When certiorari is denied, the decision of the lower court stands in that particular case. Note, however, that the denial of cert is not a decision on the merits of a case. All a denial means is that, for whatever reason, four or more justices could not agree that the Supreme Court should accept that particular case for review.

A few cases do reach the Court in yet another way: by certificate. This process is used when a lower court is not clear about the procedure or the rule of law that should apply in a case. The lower court asks the Supreme Court to certify the answer to a specific question in the matter.
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 this lengthy and expensive process.
Tell students to go to the Online Update for additional information on the Court.

Distribute Core Worksheet B
Ask students to work in odd-numbered groups to complete the Chapter 18 Section 3 Core Worksheet B (Unit 5 All-in-One, p. 40). They will formulate opinions on controversial issues before the Supreme Court. Each group must come to a majority opinion. Tabulate the statements and opinions.

L1 L2 Differentiate Have students work individually and select one issue on Core Worksheet B that interests them. Students should analyze and make notes about their opinions. Then discuss the issues as a class.

L3 L4 Differentiate Have student pairs take opposing sides on one issue on Core Worksheet B. Students should research the issue, and debate it in class. Then have the class discuss how the evidence influenced their opinion.

L5 Differentiate Have interested students identify the actual case described by each statement.

Extend the Lesson
L6 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.

L7 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.

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.

Myths and Misperceptions
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.

Contract 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.
Assess and Remediate

1. 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.

2. 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).

3. Assign the Section 3 Assessment questions.

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

5. 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 majority, concurring, and dissenting opinions.</td>
</tr>
</tbody>
</table>

Answers

Checkpoint The Court announces its decision and issues one or more written opinions.

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) It is a 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 students write answers to the questions in their notebooks.

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.
The Court of Appeals for the Armed Forces
In 1950, Congress created the Court of Military Appeals, now titled the Court of Appeals for the Armed Forces, to review the more serious court-martial convictions of military personnel. This appellate court is a part of the judicial branch, entirely separate from the military establishment. Appeals from the court's decisions can be taken to the Supreme Court. It is, then, the court of last resort in most cases that involve offenses against military law.

The Court of Appeals for Veterans Claims
Acting under its power (Article I, Section 8, Clause 9) to "constitute tribunals inferior to the supreme Court," Congress created the Court of Appeals for Veterans in 1988 and changed its name in 1999 to the Court of Appeals for Veterans Claims.

This court has the power to hear appeals from the decisions of an administrative agency, the Board of Veterans' Appeals in the Department of Veterans Affairs (VA). Thus, this court hears cases in which individuals claim that the VA has denied or otherwise mishandled valid claims for veterans' benefits. Appeals from the decisions of the Court of Appeals for Veterans Claims can be taken to the Court of Appeals for the Federal Circuit.

Military Commissions
In 2001, President George W. Bush ordered the creation of a number of military commissions, which are court-like bodies composed of commissioned officers. Those tribunals were not to be a part of the courts-martial system. They were, instead, separate bodies set up to try "unlawful enemy combatants," mostly suspected terrorists captured by American forces in Afghanistan and Iraq. Many of those captives are presently held in a military prison at Guantanamo Bay, Cuba.

The President, acting as commander in chief, created these commissions by executive order. However, in 2006, the Supreme Court held that he had overstepped the bounds of his authority when he did so. Hamdan v. Rumsfeld. It found that the Chief Executive could establish the military commissions and provide for their procedures only if empowered to do so by an act of Congress. In effect, the Court directed the President to work with Congress to develop new procedures for the prosecution of Guantanamo Bay detainees.

The other special courts also have very narrow jurisdictions. They include the Court of Federal Claims, the territorial courts, the District of Columbia courts, and the U.S. Tax Court.

Other Special Courts
The United States government cannot bind anyone, in any court, for any reason, without its consent. The government may be taken to court

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

Differentiated Resources
The following resources are located in the All-in-One, Unit 5, Chapter 18, Section 4:
- Reading Comprehension Worksheet (p. 45)
- Core Worksheet (p. 47)
- Quiz A (p. 51)
- Quiz B (p. 52)
- Chapter Test A (p. 53)
- Chapter Test B (p. 56)
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.

REMEDICATION

<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

SECTION 4 ASSESSMENT

<table>
<thead>
<tr>
<th>Critical Thinking</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Guiding Question Use your completed graphic organizer to answer this question: What are the special courts and what are the jurisdictions of each?</td>
</tr>
<tr>
<td>5. Synthesize Information When, if ever, do you think the establishment of a military commission is justified?</td>
</tr>
<tr>
<td>6. Determine Relevance Why do you think Congress has created the several special courts, rather than simply providing that all federal cases are to be tried in the regular courts?</td>
</tr>
</tbody>
</table>

Quick Write


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) Why did the Framers need a national court system? (b) What did they believe was an independent judiciary so important?
2. (a) What two principles determine whether the federal courts have jurisdiction over a case? (b) Do you think these principles are broad enough? Why or why not?
3. (a) Outline the process by which most federal judges are nominated and approved. (b) Why did the Framers create a system of judicial selection that requires the cooperation of the President and the Senate?

Section 2
4. Analyze Political Cartoons (a) What is happening in this scene? (b) What point is the cartoonist making?

Section 3
5. (a) What kinds of cases do the district courts hear? (b) Why can it be said that the federal district courts are the principal trial courts in the national judiciary?
6. (a) What is the principal role of the courts of appeals? (b) Why were they a necessary creation?

Section 4
7. (a) What is judicial review? (b) Is the power of judicial review consistent with the basic principles of democracy? Why or why not?
8. (a) What is the jurisdiction of the Supreme Court? (b) For what reasons do you think the “easy” cases do not reach the Supreme Court?
9. (a) What is a concurring opinion? What is a dissenting opinion? (b) Why do Supreme Court justices often write concurring and/or dissenting opinions in a case?

Writing About Government
12. Use your Quick Write exercises from this chapter to write an expository essay about the path your chosen case took to reach the Supreme Court. Be sure to write an introduction that has a strong and clear purpose, a body that identifies the steps in the process and shows how each step relates to the overall process, and a conclusion that synthesizes the information. See pp. 53-55 in the Skills Handbook.
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.

**Document 1**
[Life tenure should be abolished. . . .] [All the judiciary has become almost as polarized [divided] along partisan lines as the elective branches, Presidents have been seeking out younger and younger judgeship appointees 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 generationally removed from the American mainstream.]

—Larry J. Sabato, A More Perfect Constitution

**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 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

**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?

**GOVERNMENT ONLINE**
Documents
To find more primary sources on judges’ term limits, visit PearsonSuccessNet.com

**Go Online to PearsonSuccessNet.com for a student rubric and extra documents.**

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

**WRITING ABOUT GOVERNMENT**
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.

**APPLY WHAT YOU’VE LEARNED**
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.

**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. Allow 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.