

Institutions of National Government

Institutions of National Government:
What is equity law?

Equity law is a system of rules by which disputes are resolved on the grounds of fairness. In equity cases, a plaintiff may ask the court to issue an injunction, a writ of mandamus, or some other action requiring a party to act fairly in a given situation.

Institutions of National Government:
Are term limits for members of Congress legal?

Not at the national level—it would take a constitutional amendment. However, some state legislatures have term limits.

Institutions of National Government:
How is Congress apportioned?

Every ten years, the census bureau conducts the national census of each state's population. The House of Representative's 435 seats are re-divided according to changes in populations of the states. Each state is guaranteed at least one representative in the House of Representatives by the Constitution.

Institutions of National Government:
What is the difference between a marginal district and a safe district?

A marginal district is one in which a close election takes place, where the winner gets less than 55 percent of the vote. A safe district is one where the margin is at least 60 percent of the vote. The percentage of House districts that are considered safe is almost 90%. About 50% of Senate districts are considered safe.

Institutions of National Government:

What is the nature of the Supreme Court's jurisdiction?

The Supreme Court has original jurisdiction in cases involving ambassadors, ministers and consuls, and in cases in which the state is a party. Appellate jurisdiction is granted in all other cases.

Institutions of National Government:

Who are the only presidents ever to be impeached?

In 1868, after violating the Tenure in Office Act, the House of Representatives impeached Andrew Johnson. The Senate failed to convict him in the impeachment trial by a one-vote margin. In 2000, the House impeached Bill Clinton on counts of perjury and obstructing justice. He was also acquitted by the Senate.

Institutions of National Government:

Can the president alter the size and shape of Congress or the Supreme Court?

No. Only the representatives can increase the size of Congress. To do so in the Senate would require the addition of a new state to the union, and to do so in the House would require changing the law passed in 1929 fixing the size of the House at 435. The size of the Court is also fixed by law.

Institutions of National Government:

What is the composition of the Executive Office of the President and what is its role?

The Executive Office of the President (EOP) is an umbrella for ten organizations that report directly to the president. Top positions are filled by presidential nomination with Senate confirmation. The three most important bodies are the Office of Management and Budget, the Council of Economic Advisors and the National Security Council.

Institutions of National Government:

What is the difference between authorization legislation and an appropriations bill?

An authorization bill sets up a program and specifies how much money may be appropriated for that program. It is the first step in appropriating money. The second step in the appropriations procedure comes when the agency actually asks Congress to provide the money it authorized. This is the appropriations bill.

Institutions of National Government:

What is the origin of the claim of presidential executive privilege?

Executive privilege allows the president to withhold information from the courts or Congress. In 1973, the Supreme Court ruled that such a claim was valid when sensitive military or diplomatic matters were involved, but it refused to recognize an "absolute unqualified" presidential privilege of immunity. The Constitution makes no mention of executive privilege.

Institutions of National Government:

What are the most fundamental differences between members of Congress and members of European parliaments?

In the European parliaments, members are put on the ballot by the party. Once in parliament, members have only one important decision, which is whether or not to support the program of government. In Congress, members run in primary elections wherein voters choose among candidates of the same party. Once in Congress, members can vote however they please.

Institutions of National Government:

How has the executive branch consolidated power in the area of intelligence and foreign policy?

A new cabinet-level agency, the Department of Homeland Security, was created in 2002 to consolidate immigration policy, border control and airport security. In 2004, Congress passed a law creating a new cabinet level position, the Director of Intelligence, to coordinate the 15 intelligence agencies in the government.

Institutions of National Government:

What delayed the ratification of Articles of Confederation?

The Revolutionary War and disagreements between the 13 states were the main causes of the delay. The disagreements between the states were over small issues, like boundary lines, but would also foreshadow the larger debates that the representatives at the constitutional conventions would argue, such as representation of small states and large states.

Institutions of National Government:

What are the non-legislative powers of Congress?

The non-legislative powers of Congress include electoral powers, in the case of the failure of the electoral college; impeachment powers, which allow formal charges to be brought in the House; executive powers, which allow the Senate to approve appointments and confirm treaties; and investigative and oversight powers, which allow Congress to oversee the executive branch.

Institutions of National Government:
How is the power of a bureaucratic agency determined?

The power of a bureaucracy lies in its ability to make autonomous decisions. The bureaucracy has discretionary authority in three major areas: paying subsidies to groups and organizations (such as farmers, schools, hospitals or veterans), transferring money from the federal government to state and local government (through grant-in-aid programs), and devising and enforcing regulations (such as FCC licenses or drug approvals)

Institutions of National Government:
What are the criteria a president uses when selecting nominees to the federal courts?

The most important criteria are political ideology, partisan and personal loyalties (over 90% of appointees are from the president's party), acceptability to the Senate, judicial experience, diversity, and the litmus test (the test of ideological purity on certain key issues).

Institutions of National Government:
What are constitutional courts?

Constitutional courts are those courts that specifically exercise judicial power found in Article III of the Constitution. They include 94 district courts and 13 courts of appeals. The judges serve life terms.

Institutions of National Government:
What is the size and scope of the federal bureaucracy?

Several million civil servants work directly for the federal government, but over five times as many work indirectly as employees of business firms or nonprofit organizations that receive federal contracts, or as state and local governments working under federal mandates.

Institutions of National Government:
How is the vice president replaced without a popular election?

The president nominates a new vice president, who assumes the office when both house of Congress approve the nomination. A vice president who assumes the presidency then nominates a new vice president who is also confirmed by Congress.

Institutions of National Government:
What two events changed the nature of public trust in the presidency and Congress?

The first event was the Vietnam War. Press coverage of the Vietnam War, including body counts and war footage shown on TV for the first time, changed the way the public viewed foreign policy and the presidency. The second pivotal event was the press coverage of the Watergate scandal and the revelations of corruption in the White House.

Institutions of National Government:
What are the president's four options when a bill has passed through Congress?

The president can sign it, the president can veto it, the president can do nothing and the bill will become law within 10 days (in the middle of a congressional session), or the president can do nothing and the bill will die if it is ten days from congressional adjournment (a pocket veto).

Institutions of National Government:
Who files amicus curiae briefs in Supreme Court cases?

In most Supreme Court cases, interest groups on the side of the petitioner or respondent will file a written statement, or brief, in support of that view. These "friend of the court" briefs, called amicus curiae briefs, help the justices (and their clerks) look at all sides of the case to flesh out the various legal issues that are raised and how they may affect all interested parties.

Institutions of National Government:
Where are the enumerated powers of Congress delineated?

Those powers are stated in Article I, Section 8 of the Constitution.

Institutions of National Government:
How does the Justice Department influence Supreme Court decisions?

Since the federal government is a party in about half of the cases the Supreme Court hears, the government's top trial lawyer, known as the solicitor general, holds a powerful position; he or she decides which cases the government will appeal from the lower courts.

Institutions of National Government:
What are the constitutional requirements to run for the Senate?

A person must be 30 years old, a citizen of the U.S. for 9 years and a resident of the state in question.

Institutions of National Government:
What are the plans to reform the electoral college?

One plan is to choose electors from congressional districts. Each state would have two electoral votes plus one vote from each congressional district. Another plan is the direct popular vote. The third is a proportional plan, where if a candidate received 60% of a state's popular vote, he or she would receive 60% of the electoral college votes from that state.

Institutions of National Government:
What are government corporations?

Government corporations are a blend of private corporations and government agencies. They have more control over their budgets than do traditional agencies, but are ultimately controlled by the government. Examples include AMTRAK, the TVA, the Corporation for Public Broadcasting, and the U.S. Postal Service.

Institutions of National Government:
How does the Supreme Court decide to hear a case?

Most cases come to the Supreme Court through the writ of certiorari, which is a petition from a lower court. The Court receives over 8,000 petitions each term, and agrees to hear less than one percent, or between 70-100 cases.

Institutions of National Government:
How is the president able to bypass Congress in policy and treaty making?

The president has the power to make executive orders, or rules that have the force of law and that do not require congressional approval. The president also has the ability to make executive agreements with foreign nations to bypass the Senate's role of offering advice and consent to treaties.

Institutions of National Government:
What is the excepted service?

The excepted service makes up almost half of all federal workers. They are not chosen by the Office of Personnel Management, and are largely chosen for non partisan reasons. Some are hired by agencies that have their own selection procedures, and some, about 3 percent, are legal exceptions selected by the president for policymaking and politically sensitive posts.

Institutions of National Government:
What are the historic trends of presidential popularity during terms of office?

With the exceptions of Eisenhower, Reagan and Clinton, every president has lost popular support between inauguration and departure from office. A president's popularity tends to be highest immediately following election or reelection. The first hundred days of a presidency tend to be the most productive from a legislative standpoint.

Institutions of National Government:
What is presidential impoundment?

Impoundment is the presidential practice of refusing to spend money appropriated by Congress. The Budget Reform Act of 1974 requires the president to spend all appropriated funds, unless Congress approves all impoundments.

Institutions of National Government:
How are federal programs implemented?

Federal programs are mainly carried out by the states. In most cases, the federal government provides the money and general guidelines, but the administration of the programs is left up to the states.

Institutions of National Government:
What is the imperial presidency?

The historian Arthur Schlesinger coined the term *imperial presidency* in the early 1970s to reflect the fact that the presidency was asserting increasing amounts of dominance over foreign and domestic policymaking. The institution of the presidency was very strong in the years following WWII through Vietnam.

Institutions of National Government:
How were members of the Senate originally chosen?

Members of the Senate were chosen by state legislatures until 1913, when the passage of the 17th Amendment required the direct election of senators.

Institutions of National Government:
What is a litmus test for judges and is it legal?

Presidents appoint judges to federal courts based on whether the judges have a similar ideology to their own. This process is in fact a litmus test to see if these judges live up to this ideology before being nominated for the Supreme Court. The existence of this test is denied, and is technically illegal.

Institutions of National Government:
What is judicial activism and judicial restraint?

Judicial activism is the belief that judicial decisions should influence social policy. This advocates applying the Constitution to social and political questions. Judicial restraint is the belief that the judiciary should not take the initiative on social and political questions and should operate strictly within the limits of the Constitution.

Institutions of National Government:
Who writes the decision in a Supreme Court case?

Once a decision in a case has been reached, the most senior justice in the majority assigns the task of writing the opinion of the court. Those who disagree may write dissenting opinions. Those who agree with the majority opinion for different legal reasons may write concurring opinions.

Institutions of National Government:
How does the president have an advantage over Congress in influencing public opinion?

The bully pulpit is a tool the president uses to influence public opinion that is unavailable to Congress. The president can appeal directly to the people through televised speeches, press conferences and other events—e.g. trips abroad.

Institutions of National Government:
What is gerrymandering?

Gerrymandering is the process of dividing out congressional districts, following the census, to favor one political party or group over another.

Institutions of National Government:
List at least three constitutional differences between the House of Representatives and the Senate.

The House initiates all revenue bills, brings impeachment charges, passes articles of impeachment, serves two-year terms, and is apportioned by population. The Senate confirms presidential appointments, holds impeachment trials, is elected to six-year terms, has equal representation from each state and approves treaties.

Institutions of National Government:
How does the 1996 Welfare Reform Act balance the budgetary restraints of the federal and state governments?

The act is a landmark piece of legislation that devolves welfare payment responsibilities from the federal legislatures, funded by taxes, to the individual state governments, who receive block grants and are required to create individualized programs.

Institutions of National Government:
Name the departments that make up the cabinet.

The cabinet consists of the Departments of State, Defense, Agriculture, Transportation, Interior, Justice, Treasury, Housing and Urban Development, Health and Human Services, Labor, Commerce, Education, Energy, Veterans Affairs and Homeland Security.

Institutions of National Government:
How do the legislative and executive branches check the judiciary?

The president controls the nature of the courts by appointing all federal judges. Congress may alter the structure of the court system, changing jurisdictions and determining the number of courts and justices that serve on them. Congress also has the power to impeach justices. Congress may also amend the Constitution if the judiciary finds a law unconstitutional.

Institutions of National Government:
When was the only time in history that the presidency and the vice presidency were held by appointed, not elected, officials.

In 1973, Vice President Spiro Agnew resigned amidst charges of bribery. President Nixon appointed Gerald Ford in his place. The following year, Nixon resigned as a result of the Watergate scandal. Gerald Ford took the oath of office to become president, having never been elected. Ford then appointed Nelson Rockefeller his new vice president.

Institutions of National Government:
How did the *Marbury v. Madison* decision establish judicial review?

In his opinion of this case, John Marshall wrote that it is "the province and duty of the court to say what the law is." This meant that the Judiciary Act of 1789, passed by Congress, was in violation of the Constitution. By striking down an existing law, the court established judicial review.

Institutions of National Government:
How does Congress act to constrain the bureaucracy?

Mainly through laws. The Administrative Procedure Act of 1946 stipulates that before adopting new rules, hearings must be held. The Freedom of Information Act of 1966 gives citizens the right to inspect all government records. The Privacy Act of 1974 requires all government files about individuals to be kept confidential. The Open Meeting Law of 1976 ensures that all agency meetings are open to the public.

Institutions of National Government:
Which outside groups influence the nominations of federal judges?

Aside from conferring with senators and the attorney general, the president seeks advice from outside the government for judicial nominations. Most importantly, the American Bar Association provides a rating for potential nominees to federal judgeships. A variety of interest groups also attempt to influence the nomination process.

Institutions of National Government:
What salary and benefits do the president and vice president receive?

Effective January 1, 2001, the annual salary of the president was \$400,000 per year, including a \$50,000 expense allowance. The salary of the vice president is currently \$202,900. Former presidents receive an annual pension of \$151,800 plus up to \$150,000 a year to maintain an office and staff.

Institutions of National Government:

What are the benefits of being a member of Congress?

Apart from the base salary, representatives receive an allowance to hire up to 22 staff members, travel allowances, a housing allowance, and the privilege to send free mail, known as the franking privilege.

Institutions of National Government:
How did the decision in *Mapp v. Ohio* illustrate the Supreme Court's attempt to balance the right of the accused with the state's right to protect its citizens?

In the *Mapp* case, the Court established the exclusionary rule, whereby a state cannot use evidence obtained during an illegal search in court against the accused. This has since been modified to allow a good faith exception to the rule, which gives the state the freedom to use evidence obtained without a warrant in some cases.

Institutions of National Government:
What are the most common criticisms of the bureaucracy?

The most common criticisms are that bureaucracy promotes excessive rules, regulations and paperwork; that it fosters interagency conflict; that tasks are duplicated by various agencies; that there is too much waste and unchecked growth; and that there is a lack of accountability.

Institutions of National Government:
What methods do presidents use to organize the White House bureaucracy?

Nixon and Reagan used the pyramid model, in which there is a strict hierarchy. Assistants report through a chief of staff. It is efficient, but the president may become isolated and miss out on a variety of viewpoints. Clinton and Carter utilized a circular model in which the president has more direct contact with a wider variety of aides, assistants, and cabinet members.

Institutions of National Government:
What factors have contributed to the increase in size and power of the bureaucracy?

Part of the cause is the increase in population. More people and more urbanization mean that more services are demanded from the government. The bureaucracy has also expanded in response to economic and political crises, such as the Great Depression and the Cold War. Another factor is the desire of presidents and members of Congress to provide more services to constituents.

Institutions of National Government:
What does it mean to run for Congress
by running against Congress?

Many people believe that Congress is broken
and incapable of effectively solving the
problems of the nation in a timely fashion.
Therefore, when people run for office, they
position themselves as outside the institution,
ready to effect change and fix what is broken
within the institution.

Institutions of National Government:
Some historians believe that
presidents are successful when they
can persuade what five
constituencies?

The most important constituencies are the
public, executive officialdom, Congress, the
partisans and foreign leaders and publics.

Institutions of National Government:
What are the constitutional roles of the
president?

The president is the commander in chief
(military), the economic planner (budgetary),
the chief legislator (sets agenda), the chief
diplomat (treaties), and head of state
(ceremonial).

Institutions of National Government:
How is the federal court system
organized?

The lowest level of federal courts is district
courts. There are 94 distributed across 50
states. Next in the hierarchy are the 12 courts
of appeals, one for the District of Columbia
and 11 regional groupings of states called
circuits. Finally, at the top is the Supreme
Court, with eight associate justices and one
chief justice.

Institutions of National Government:
What are the composition and
functions of the White House office?

The White House office consists of personal
assistants to the president. These aides
oversee the political and policy interests of the
president and do not require Senate
confirmation. There are over 500 employees
in the White House. The chief of staff and the
press secretary are the most visible members
of the White House staff.

Institutions of National Government:
What are the differences between a presidential and a parliamentary form of government?

In a presidential system, the president and the legislature are independently elected, each with their own constituencies, and are not beholden to one another for their tenure in office. In a parliamentary government, the prime minister is the head of government, chosen by the legislature. There is no separation between the executive and the legislative branches of government.

Institutions of National Government:
What is the difference between original and appellate jurisdiction?

Original jurisdiction refers to the court that first heard the case. In appellate jurisdiction, the case is first heard in a lower court, and one party contests the decision and asks the higher court to review it.

Institutions of National Government:
How is presidential power limited by the War Powers Act of 1973?

The War Powers Act compels the president to notify Congress within 48 hours if troops have been placed in hostile situations and to seek congressional approval after troops have been in combat for 60 days.

Institutions of National Government:
What are some suggestions for reforming bureaucracy?

Some suggestions include limiting appointments to fixed terms, requiring reexaminations and periodic performance reviews, making the firing of a bureaucrat easier, requiring employee initiative, and rotating professionals into the bureaucracy from the private sector.

Institutions of National Government:
What is an agency point of view?

People who work in a bureaucratic organization tend to identify with the goals and culture of their agency. The workers in these agencies tend to see the world through the lens of their agency, and often display fierce loyalty to it.

Institutions of National Government:

What is the practice of senatorial courtesy, and when is it used?

Senatorial courtesy is used when presidents appoint judges. Presidents often defer to senators of their own party to suggest nominees for federal district court vacancies in senators' home states.

Institutions of National Government:

How did the decisions in *Baker v. Carr* and *Reynolds v. Sims* reinforce the concept of equal representation and help to define the relationship between the legislative and judicial branches of government?

In *Baker v. Carr* (1962), the Supreme Court ruled that a voter could challenge the creation of congressional districts on the grounds that it violated the equal protection clause of the 14th Amendment. In response, suits for reapportionment were brought in at least 34 states. In *Reynolds v. Sims* (1964), the Court ruled that population must be the primary consideration.

Institutions of National Government:

What are issue networks?

Issue networks utilize members of many different segments of political society to formulate policy on a certain issue. The participants include Washington-based interest groups, congressional staffers, members of Congress, members of the bureaucracy, university faculty, experts participating in think tanks, representatives of the mass media, political consultants, and lawyers.

Institutions of National Government:

What is the difference between executive agencies and independent or quasi-independent agencies?

Executive agencies include the Commission on Civil Rights, the Environmental Protection Agency, NASA, and all cabinet departments. The president can remove the leader of these agencies at any time. Independent or quasi-independent agency leaders serve for fixed terms and cannot be removed by the president. These agencies include the Federal Reserve Board and the Federal Communications Commission, among others.

Institutions of National Government:

Where does most of the work take place in Congress?

Most legislative work is accomplished in small committees that specialize in policy areas. There are subcommittees that take on even more specialized tasks to hold hearings on pending legislation, debate passage of proposed bills and vote.

Institutions of National Government:
Is the legislative veto a constitutional use of presidential power?

No. The legislative veto was declared unconstitutional in *Immigration and Naturalization Service v. Chadha* (1983), which stated that Congress cannot take any actions having the force of law unless the president agrees.

Institutions of National Government:
How does the president influence the bureaucracy?

Agencies are accountable to the president, and the president can push policy preferences through these agencies by appointing senior bureaucrats, issuing executive orders, proposing additions or cuts to an agency's budget, and reorganizing or combining agencies as a reward or punishment.

Institutions of National Government:
How does the electoral college system choose the president?

The electoral college includes 538 electors. Each state has as many electors as it has senators and representatives in Congress. To be elected president or vice president, a candidate must win at least 270 of the 538 votes. The party whose candidate receives the largest popular vote in a state wins **all** of that state's electoral college votes.

Institutions of National Government:
Is Congress representative of the population of the U.S.?

Not really. The average lawmaker in the U.S. is white, male, middle aged and Protestant, which is hardly representative of the population. In the 109th Congress, there were 68 women, 42 African Americans, and 24 Hispanics in the House of Representatives (out of 435 total members), and only 14 women, one African American and two Hispanics in the Senate (out of one hundred total members).

Institutions of National Government:
What are the constitutional qualifications to run for the House of Representatives?

A person must be 25 years old, a citizen of the U.S. for seven years, and a resident of the state (but not necessarily the district) in question.

