

CONSTITUTION STUDY GUIDE

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CONDENSED FROM
Declaration of Independence
Constitution of the United States
Flag Code
Constitution of Illinois

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SECTION I – UNITED STATES CONSTITUTION

INTRODUCTION TO THE CONSTITUTION

THE AMERICAN REVOLUTION

The early colonists who came to America to find freedom had to face many dangers. They became very independent and self-sufficient. At first, England paid little attention to the colonists in America and they were not strictly controlled by English law and government. However, after the colonies grew and became centers of trade, the British imposed restrictions and trade regulations on the colonies. Some of these restrictions were made to put England in a favorable position concerning trade with the colonies. The colonies objected vigorously to this.

FIRST CONTINENTAL CONGRESS

Colonial leaders decided to call a meeting to discuss how to win their rights. The First Continental Congress met in Philadelphia in 1774, with delegates from all the colonies except one.

DECLARATION OF INDEPENDENCE

Over a year after the American Revolution began, the Declaration of Independence was signed in Philadelphia. It is a most famous document and it states that the government gets its power from the people. The Declaration gave various reasons why the colonists wanted to separate from England and announced the existence of a new nation. The Declaration of Independence is not a constitution or a form of government, but it did set up the principles for future government. Such principles were used in writing the United States Constitution. Thomas Jefferson was the person most responsible for writing the Declaration of Independence.

ARTICLES OF CONFEDERATION

The Articles of Confederation were really the first Constitution for the United States. The Articles were drawn up by the Second Continental Congress shortly after the Declaration of Independence was adopted. They were in use until the Constitution was signed in 1787. The Articles were weak because the colonists were unwilling to give many powers to a central government. This was because they feared that a new central government might be no better than the English government had been. The members had a difficult time deciding what method should be used in electing the President of the United States. Each state had its own government at this time, and most had state constitutions. It became clear that worse things would happen without a strong central government. The Constitution provided for a strong central government.

UNITED STATES CONSTITUTION

The Constitution has a preamble, seven original articles, and twenty-seven amendments. The first three articles provide the principle known as the separation of powers. Article I grants delegated powers.

Preamble

The Preamble is the beginning of the Constitution. The six goals of the Constitution are found there. It states that the power of government comes from the people.

Article I – The Legislative Branch

Section 1– Legislative Power Vested

Section 2– House of Representatives

Section 3 – Senate

Section 4 – Elections of Senators and Representatives

Section 5 – Rules of House and Senate

Section 6 – Compensation and Privilege of Members

Section 7 – Passage of Bills

Section 8 – Scope of Legislative Powers

Section 9 – Limits on Legislative Power

Section 10 – Limits on States

Article II – The Executive Branch

Section 1 – Election, Installation, Removal

Section 2 – Presidential Power

Section 3 – State of the Union, Receive Ambassadors, Laws Faithfully Executed, Commission Officers

Section 4 – Impeachment

Article III – The Judicial Branch

Section 1 – Judicial Power Vested

Section 2 – Scope of Judicial Power

Section 3 – Treason

Article IV – The States

Section 1 – Full Faith and Credit

Section 2 – Privileges and Immunities, Extradition, Fugitive Slaves

Section 3 – Admission of States

Section 4 – Guarantees to States

Article V – The Amendment Process

Article VI – Legal Status of the Constitution

Article VII – Ratification Signers

Amendments

Congress may propose amendments to the U. S. Constitution. One means of ratifying these amendments is to send them to the state legislatures. The Illinois General Assembly must have an affirmative vote of three-fifths of the members from each house.

List of Amendments

Amendment I – Religion, Speech, Press, Assembly, Petition (1791)

Amendment II – Right to Bear Arms (1791)

Amendment III – Quartering of Troops (1791)

Amendment IV – Search and Seizure (1791)

Amendment V – Grand Jury, Double Jeopardy, Self-Incrimination, Due Process
(1791)

Amendment VI – Criminal Prosecutions – Jury Trial, Right to Confront and to
Counsel (1791)

Amendment VII – Common Law Suits – Jury Trial (1791)

Amendment VIII – Excess Bail or Fines, Cruel and Unusual Punishment (1791)

Amendment IX – Non-Enumerated Rights (1791)

Amendment X – Rights Reserved to States (1791)

Amendment XI – Suits Against a State (1795)

Amendment XII – Election of a President and Vice-President (1804)

Amendment XIII – Abolition of Slavery (1865)

Amendment XIV – Privileges and Immunities, U. S. Citizenship, Due Process, Equal Protection, Apportionment of Representatives, Civil War Disqualification and Debt (1868)

Amendment XV – Rights Not to Be Denied on Account of Race (1870)

Amendment XVI – Income Tax (1913)

Amendment XVII – Election of Senators (1913)

Amendment XVIII – Prohibition (1919)

Amendment XIX – Women’s Right to Vote (1920)

Amendment XX – Presidential Term and Succession (1933)

Amendment XXI – Repeal of Prohibition (1933)

Amendment XXII – Two-Term Limit on President (1951)

Amendment XXIII – Presidential Vote in D. C. (1961)

Amendment XXIV – Poll Tax (1964)

Amendment XXV – Presidential Succession (1967)

Amendment XXVI – Right to Vote at Age 18 (1971)

Amendment XXVII – Compensation of Members of Congress (1992)

LEGISLATIVE BRANCH

The Legislative Branch of government is described in Article I. It is the first branch of government mentioned in the Constitution. Its major duty is to make our laws.

The Congress

Congress is the main body of the Legislative Branch of our federal government. It consists of a Senate and a House of Representatives. The life of Congress begins on the third day of January every odd-numbered year, and it is limited to two years. During these two years it holds two sessions, each starting in January and lasting until August or September. Special sessions may be called by the President of the United States.

The Senate

The Senate has one hundred members, two from each of the fifty states. If you remember the dispute between the small states and the large states at the Constitutional Convention, you will understand how the Senate was designed to favor the small states. Every state, regardless of its size, gets two members.

Qualification of Senate - A Senator must be thirty years old, a United States citizen for nine years, and must live in the state he represents in the Senate.

The House of Representatives

The House has 435 members from the various states. This number is fixed by law. Each state is given its share of the 435 members according to population. Going back to the Constitutional Convention, we can see that this house of Congress favors the largely populated states over the small states, since the large states get more members.

Qualification for House - A Representative must be twenty-five years old, a United States citizen for seven years, and must live in the state he represents. A vacancy in the office of Representative is filled by a special election called by the Governor of the state affected.

House Duties

The House passes bills it hopes will become laws after the approval of the Senate and the President. All bills for revenue must start in the House. The House has sole power of impeachment against any federal officer. After the House brings up charges of impeachment, the Senate decides the case. The House has the important duty of selecting a President if no candidate has a majority in the Electoral College.

LEGISLATIVE BRANCH FACT SHEET

Main body	Congress, consisting of a Senate and a House of Representatives
Membership	Senate – 100 House – 435
Terms	Senate – 6 years House – 2 years
Requirements	Senate – 30 years old, a citizen for 9 years, live in state represented House – 25 years old, a citizen for 7 years, live in state represented
Officers	Senate – President of the Senate (Vice-President of the U.S.), President Pro Tempore, Majority Leader, Minority Leader House – Speaker of the House, Majority Leader, Minority Leader
Meeting Place	Capitol Building in Washington, D. C.
Duties	Senate – Pass bills, decide guilt of impeached federal officers, approve presidential appointments, approve treaties House – Pass bills, charge federal officers in impeachment cases, select President if no candidate has a majority in the Electoral College, start all revenue bills Joint Duties – raise, borrow, and coin money; control defense powers; control immigration, copyrights, and patents; control commerce; govern Washington, D. C.; investigate Executive Branch Forbidden Powers – no ex post facto laws, cannot suspend Habeas Corpus, no tax on exports, no title of nobility, and no bill of attainder

Law Making Process

The bills that come from committees are put on a calendar and voted on according to a schedule. Changes may be made and then the final vote is taken. The bill is sent to the next house of Congress if the vote is favorable. In the second house of Congress the same type of procedure is followed. If the second house passes the bill (but in a somewhat different form), a joint committee from both houses is set up to work out differences. After the bill has passed the second house, it is sent to the President. He may sign or veto the bill. If the President does not act at all, the bill becomes a law automatically in ten days, provided Congress is still in session. If Congress should adjourn before the ten-day period is up and the President does not act on the bill, it is automatically vetoed. This is called a pocket veto. After Congress (Legislative) has passed the bill and the President (Executive) has signed it into law, it becomes the duty of the President to enforce it. The courts (Judicial) then interpret it and administer justice under it, and the Supreme Court may rule whether it is constitutional. If a state law conflicts with a federal law, the federal law will take precedent. Concurrent powers are powers that are exercised by both state and national governments.

Electoral College

The Electoral College is a group chosen by the voters of each state to elect the President of the United States. They are chosen in a manner that is decided by each state legislature. The college is equal in numbers to the senators and representatives in the Congress. If no candidate receives a majority vote, the House of Representatives will choose the President. When the Electoral College meets, all the votes from one state go to the person who had the most votes in the general election in that state.

Rights of a Citizen

All American citizens must obey the laws of the United States. If they disobey these laws by betraying their country and aiding the enemy, they may be convicted of treason. To convict a person of treason, the government must present testimony of at least two witnesses, or the person must confess in open court.

A citizen is protected by law from being imprisoned unlawfully. This is known as habeus corpus.

EXECUTIVE BRANCH

The main duty of the Executive Branch is to enforce or administer laws. The most important official in this branch is the President. The President and the Vice-President are the only national officers of the government elected by voters of the entire country. The President is thought of as being the representative of all the people. Unlike Senators and Representatives, his electorate is all the people. A President or Vice-President must be a natural born citizen, thirty-five years old, and a resident of the United States for at least fourteen years. If the office of the President becomes vacant, the Vice-President becomes President. Next in order of succession would be the Speaker of the House, followed by the President Pro Tempore of the Senate, members of the Cabinet beginning with the Secretary of State.

Foreign Affairs

The President makes treaties with Senate approval, nominates ambassadors and other foreign service officials, and receives foreign representatives. He is in charge of all our foreign affairs. Much of his work in this area is done thorough one of his Cabinet officials, the Secretary of State. The President and Vice-President are elected by the Electoral College. The President delivers the State of the Union Address to Congress informing them of the progress of the nation and its needs.

The Cabinet

“...he (the President) may require the opinion, in writing, of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices...” from the Constitution. This short quote above from Article II, Section 2 is the closest mention the Constitution makes concerning the Cabinet. Men who were appointed by the President to these “executive departments” became known as members of the President’s Cabinet. Washington’s first cabinet had only three important members; however, the number of Cabinet positions varies according to the changing needs of the country. The Cabinet meets only at the request of the President.

EXECUTIVE BRANCH FACT SHEET

Main Officers	The President and the Vice-President of the United States
Qualifications	President – 35 years old, a natural born citizen, live in the U. S. 14 years Vice-President – same as the President
Terms of Office	4 years, may be re-elected only once (8 years maximum)
Duties	Control foreign affairs and domestic power, appoints many officials, grants and pardons and reprieves, acts as Commander-in-Chief of Armed Forces, prepares budget of the nation, and leads the legislature of the party in power. Vice-President – Presides over the Senate of the U. S., takes any other duties assigned by the President, succeeds to the office of President
Advisors	The Cabinet – Officials appointed by the President to aid him in running the country

JUDICIAL BRANCH

The main purpose of the Judicial Branch is to interpret the laws and administer justice. It consists of a system of federal courts. Each federal judge is appointed, not elected, by the President with the approval of the Senate. The Justices hold office for life and may be removed only by impeachment. There are no express qualifications for the federal judges in the Constitution. There are three major types of federal courts. They are the Supreme Court, Court of Appeals, and District Courts.

Supreme Court

A major duty of the nine justices (judges) of the Supreme Court is to decide whether state and federal laws are constitutional and whether actions by lower courts or other governmental agencies are legal. This power is not given to the Supreme Court directly by the Constitution, but precedent and tradition have given the Court this power. It also hears cases of appeal from lower courts providing a federal matter is involved. In some special cases it hears the matter directly. There are nine Supreme Court Justices, and one of them serves as Chief Justice. Six justices make a quorum, and a majority is necessary for a decision. The Court meets in its own building in Washington, D. C.

The doctrine of judicial review was the first case for the Supreme Court. Madison was president at the time and denied Marbury an appointment as justice of the peace. There appeared to be a conflict between a law passed by Congress and the Constitution. Chief Justice Marshall declared in such cases the Constitution must take precedence.

The Supreme Court has had to resolve many issues regarding the constitutionality of laws. One such case, Brown vs. Education, was addressed in May, 1954. This stated that racial segregation in the public schools violates the Fourteenth Amendment to the Constitution.

Court of Appeals

The United States has 11 Courts of Appeals, each with three to nine judges. Mainly, they hear cases of appeal from lower courts.

District Courts

There are ninety District Courts in the United States. Each court has from one to twenty-four judges. The District Courts are the ordinary trial courts in the federal system. Almost all cases to be heard in the federal system begin here. Most people would come into contact with this court if they were involved in a federal matter. There are also a number of other courts for special cases.

JUDICIAL BRANCH FACT SHEET

Main Courts	The Supreme Court, Courts of Appeal, District Courts
Number of Judges	The Supreme Court – 9 judges Courts of Appeal – 3 – 9 judges District Courts – 1 – 24 judges
Number of Courts	The Supreme Court – 1 Courts of Appeal – 11 District Courts – 90
Terms	All for life – may only be removed by impeachment
Duties	Main duty of the Judicial Branch is to interpret laws and administer justice. The Supreme Court – Decide if laws are constitutional Courts of Appeal – Hear appeals from lower courts District Courts – Ordinary trial courts
Meeting place	The Supreme Court – Washington, D. C. Courts of Appeal – the various districts District Courts – the various districts

CHECKS AND BALANCES

These are the most important checks and balances:

1. The Executive Branch can check the Legislative Branch by vetoing laws.
2. The Legislative Branch can check the Executive Branch by passing laws over the two-thirds vote in each house.
3. The Judicial Branch can check both the Legislative and Executive by declaring laws unconstitutional.

This is not the whole system, but it is the main idea. Other checks and balances include these:

Executive over the Judicial Branch – The President appoints all federal judges.

Legislative over the Executive Branch – The Legislative Branch must approve appointments that the President makes. The Senate must approve treaties that the President makes, and the Legislative can investigate the Executive.

Legislative over the Judicial Branch – The Legislative Branch must approve the President's choice of judges in the Judicial Branch.

Legislative over the Executive and Judicial Branch – The Legislative Branch has impeachment powers over all federal officers.

Other checks and balances in the American government are:

Senate – House of Representatives – The Senate and House can check each other by rejecting bills by the other. The House has the added check of the sole power to start revenue bills.

Checks on the people – A President is not elected directly by the people. Only one-third of the Senate is elected at any one time. Judges are not elected by the people, but are appointed.

SECTION II – ILLINOIS CONSTITUTION INTRODUCTION TO THE ILLINOIS CONSTITUTION

In November 1969, Illinois voters elected delegates to a new Constitutional Convention. The Constitution of 1870 had proven to be outdated, and it had become almost impossible to govern Illinois under such a document. The new convention met for the first time in 1970 and began work on a new state constitution. Samuel Witwer, largely because of his 23-year fight for a new constitution, was elected President of the Convention. A new Constitution was written, adopted in convention on September 3, 1970, and approved by the voters on December 15, 1970. The new Constitution is designed to give greater protection to individual rights, modernize government at all levels, and improve the revenue (tax) system of the state. The Illinois Constitution contains a Bill of Rights. One of these states that the government may purchase private property for public use, but it must pay a fair price. This is called the “Right of Eminent Domain”.

Changing the Constitution

There are two ways to amend the State of Illinois Constitution. These are listed below:

1. Constitutional Convention – If three-fifths of the members in each house of the General Assembly approve, there can be a call to a constitutional convention. Then the voters can approve or disapprove. If such a call does not occur within twenty years, a call is automatically put before the voters.

2. Amendments by the General Assembly – If three-fifths of each house of the General Assembly approves, amendments can be proposed by them. These must be submitted to the voters at the next general election. Not more than three amendments can be offered to the voters at one time. Changing the state constitution is covered in Article XIV. For an amendment to become effective, it must be approved by three-fifths of persons voting on the amendments in the general election.

Division of Constitution:

A. LEGISLATIVE BRANCH

The Legislative Branch makes the laws. The legislature of the State of Illinois meets each year beginning on the second Wednesday of January and concludes when the legislative work of the state has been completed. Extra sessions, after adjournment, may be called by the Governor.

General Assembly

The main body of the Legislative Branch is the General Assembly. It contains the Senate and the House of Representatives of the state. The Senate and the House of Representatives together are called the General Assembly. It is also common to call these two bodies the Legislature.

All members of the General Assembly are elected by the voters. All members of the General Assembly must be twenty-one years old, residents of the district for at least two years, and must be citizens. A quorum is a majority of the members. Each House determines its own rules or proceedings. No member can be expelled, except by a two-thirds vote. Either House can imprison any person who shows disrespect to the House, but only for twenty-four hours. Both Houses are organized into committees to help conduct business efficiently. A requirement of the General Assembly is that after the ten-year census, it must redistrict the legislative and representative districts. These districts must be equal in area and population. There are fifty-nine legislative districts in the State of Illinois.

State Senate

There are fifty-nine state senators, one from each of the legislative districts. A senator's term is for four years and he or she may be re-elected. Elections are held in even-numbered years, with about half the Senate elected every two years. The presiding officer of the Senate is the President of the Senate, elected by all the state senators.

State House of Representatives

There are 118 state representatives, two from each of the fifty-nine districts. A representative's term is two years. Elections are held in even-numbered years. The presiding officer of the House of Representatives is the Speaker of the House, elected by the representatives themselves.

Law Making Process

A bill becomes a law after passing both houses of the General Assembly and getting the Governor's approval. If the Governor vetoes the bill, a three-fifths vote of both Houses overrides his veto. Then the bill still becomes a law. A bill may start in either House. After a bill has been passed by the General Assembly, it must be sent to the Governor within thirty days. Committees are used in the state law making process much like in the federal government. Bills only need a majority vote for passage. However, if the Governor vetoes a bill that has been sent to him, the General Assembly must then pass the bill by a three-fifths vote in both Houses. If this is done, it will be a law without the Governor's approval. While our legislators are making laws, they are free from arrest, except in special cases, and cannot be prosecuted for their speeches in the General Assembly. They do, however, have some restrictions.

Listed below are some of those restrictions.

1. They cannot receive an appointment by the Governor to another public office.
2. They cannot hold any other public office in the state.
3. They, along with all other state office holders, must file a statement of economic interest.
4. They cannot receive a salary increase during their term of office.
5. Neither house can adjourn without the consent of the other house.

B. EXECUTIVE BRANCH

The Governor

The Executive Branch of Illinois enforces and administers the laws. The Governor is the most important officer in the Executive Branch. He must be at least twenty-five years old, a resident of the state for three years prior to his election, and a U. S. citizen. The Governor's term of office is four years. The order of succession to the Governor's office is the Lieutenant Governor, the Attorney General, and Secretary of State. Besides enforcing and administering the law, the Governor also has the important duty of vetoing or approving bills passed by the General Assembly. The Governor's office is similar to the office of the President of the United States. However, there are differences. Some of the most important differences are the lack of foreign affairs and national defense. The Governor may make nominations, but they must be approved by the State Senate.

C. JUDICIAL BRANCH

The Judicial Branch of government in Illinois administers justice and interprets the laws. It is composed of a system of courts. There are three divisions of courts in Illinois: Circuit Courts, Appellate Courts, and the Supreme Court.

Circuit Courts

Circuit courts are the general trial courts. In these courts cases are heard and judgments are made. The Constitution says that this court has jurisdiction "...of all judicial matters..." Most of the work on the state court system takes place in these courts. Circuit court judges are elected by the voters for six-year terms. There is also a category of associate circuit court judges. Their term is for four years. The number of judges is provided by law.

Appellate Court

This court hears appeals from the circuit courts. Its judges serve for ten-year terms. The number of judges is provided by the law.

Other state of Illinois officers are:

Comptroller

Secretary of State

Attorney General (Chief Legal Officer) and

Auditor

Supreme Court

The Supreme Court has original jurisdiction in the following cases: revenue, mandamus, and habeas corpus. Otherwise, it is simply the final court of appeal on all other state matters that have come up from the circuit (or trial) court on appeal. Its judges serve for ten-year terms. There are seven Supreme Court judges. Three judges are from the first judicial district, and one each from the second, third, fourth and fifth districts. The seven justices select one of their own numbers to act as Chief Justice for a three-year term.

Illinois Voting

In Illinois, like any state, a citizen must obey the election laws which have been established by each state. The basic elections laws are as follows:

1. Voters must be at least eighteen years old on Election Day.
2. Voters must have lived in the election district for thirty days and be a citizen of the United States.
3. Voters must register with their local election district at least twenty-eight days prior to election.
4. Under the Illinois Constitution persons with a physical or mental handicap are granted freedom from discrimination.

Home Rule and the 1970 Constitution

Prior to the 1970 Constitution, local governments had only the powers granted specifically by the General Assembly. The 1970 Constitutional Convention felt that the local governments must be given more power to deal with the complex problems of urban life. These new powers were called “Home Rule” and gave the cities and towns the powers to pass ordinances for the protection of the public health, safety, morals and welfare or, with certain limitations, to tax and to incur debt, all without specific legislation from the General Assembly.

SECTION III – THE UNITED STATES FLAG

On June 14, 1777, less than a year after the Declaration of Independence was signed, the Continental Congress adopted the stars and stripes as the flag of the United States. Original plans to provide a new star and a new stripe for each new state proved impractical, and it was decided that only a new star would be added with each new state. Our flag today retains thirteen stripes in honor of the thirteen original colonies, and fifty stars, one for each of our fifty states. We look upon our flag as a symbol of union, freedom, and justice. Historically, the red of the flag stands for courage, the white for liberty, and the blue for loyalty. Since the number of stars shows the growth of our nation, the flag is not only an emblem, but a history of our nation as well.

It should be important to all Americans to fly the flag from their homes on national holidays and other patriotic occasions. When we pledge allegiance to our flag, it is not a pledge to any person or political party, but to the United States Constitution and its ideals. When the flag passes in a parade or during a ceremony of raising or lowering the flag, all persons present should face the flag.

FLAG CODE RULES

1. The flag should be flown only from sunrise to sunset.
2. The flag should be hoisted briskly and lowered ceremoniously.
3. When displayed against the wall, the union should be on top and to the flag's own right, your left.
4. The flag may be used to cover a casket but should not be lowered into the ground.
5. In a procession, the flag should always be in the front.
6. Shown with flags of states or other groups, the U. S. flag should be highest.
7. Shown with flags of other nations, the American flag should not be flown higher than others.
8. The flag should never be used as a cover or carrying device.
9. The flag should be displayed daily and especially on national holidays.
10. The flag should never be used for advertising.
11. Nothing should be attached to the flag.
12. The flag should not be bowed or lowered to any person or thing.
13. The flag should never touch the ground.
14. Worn flags should be burned and not thrown in the trash.
15. On a speaker's platform, the flag should be displayed at his right if it is on a staff or on the wall behind him if it is flat.
16. Flags from fixed staffs are placed at half-staff to indicate mourning. The flag so used should be first raised to the peak before lowering.
17. The flag should always be displayed upright unless someone is in distress.