

# EXECUTIVE BRANCH NOTES

## INTRODUCTION

Article 2 of the Constitution sets out the structure and functions of the Executive Branch. The Executive Branch is composed of the President, Vice-President, and all those officials and offices they command. The basic duty of the Executive Branch is to enforce the laws, treaties, and court decisions of the United States.

The Constitution actually grants the President very few specific powers. According to Richard Neustadt, most of the President's power comes from opportunities the Constitution gives him to convince or influence people to do what he wants. The President's power has gradually grown over time, most of the additional power given to him during periods of military or economic crisis.

## CONSTITUTIONAL QUALIFICATIONS

	<b>NUMBER</b>	<b>TERM</b>	<b>MIN AGE</b>	<b>CITIZENSHIP</b>	<b>RESIDENT</b>
<b>PRESIDENT</b>	1	4 yrs (x2)	35 y.o.	Natural Born	14 yrs

## EXECUTIVE POWERS OF THE PRESIDENT

The President's main duty is to execute (carry-out) the laws, treaties, and court decisions in the United States. In some circumstances, he can also issue Executive Orders, which have the legal force of law. In the event of an officially declared emergency, the President acquires additional emergency powers in order to protect the country and maintain order.

To allow the President to control the 2 million non-military Federal employees in the Executive Branch, the President has the power to hire & fire approximately 2000 top-level Executive Branch administrators called "Political Appointees."

## LEGISLATIVE POWERS

The President cannot vote in Congress, but he does have the power to influence legislation. For instance, he delivers the annual State of the Union Address, which can convince legislators or the public to support his programs. He issues the annual Executive Branch Budget Request to Congress, which is the starting point for appropriations negotiations. He can perform "arm-twisting" on Congressmen, using threats of punishment or reward to influence their votes. And the President can call Congress into Special Session, which puts pressure on them to do something.

The President's main power to influence legislation is his ability to sign or veto bills that come to his desk after being passed by both houses of Congress. If the President signs a bill, it immediately becomes law. If the President does nothing, the bill becomes law anyway after a ten-day waiting period. However, if Congress adjourns within the ten-day waiting period, the bill is killed (known as a "pocket veto"). If the President vetoes the bill, it dies, unless Congress over-rides the veto with a 2/3 vote in both houses. Historically, only about 5% of vetoed bills are successfully over-ridden by Congress.

## DIPLOMATIC POWERS

The President enjoys some diplomatic powers, which means he controls how the United States relates to other countries. The President appoints ambassadors and other diplomats, but they must be confirmed by the Senate (majority vote). Sometimes the President himself represents the nation at international conferences. The President negotiates treaties with foreign

countries, but the treaties must be ratified by the Senate (2/3 vote). The President can also make an Executive Agreement with the leader of a foreign country, which has the legal force of a treaty but does not require ratification by the Senate and only stays in effect as long as the President is in office. Finally, the President grants diplomatic recognition to foreign governments, and grants Most Favored Nation (MFN) status to foreign countries, allowing them free trade with the United States.

### MILITARY POWERS

The Constitution gives Congress the power to officially declare war. However, the President is the Commander-in-Chief of our armed forces, a position that by tradition has allowed him to put U.S. troops into combat situations even without a declaration of war. The War Powers Act (1974) spells out how the President shares war powers with Congress. Basically, the President can put our troops into combat for a total of 90 (60+30) days before Congress can force him to get the troops out. The President can also use the armed forces to maintain domestic order or provide emergency assistance to the public.

### JUDICIAL POWERS

The President appoints members of the Federal Judiciary, including Federal Judges, Supreme Court Justices, the Attorney General, and Federal Prosecutors (they all must be confirmed by the Senate). His power to appoint judges has an important, long-term impact on the country. The President also controls the Justice Department, which lets him decide to some extent what laws to enforce strongly or weakly. Finally, the President has the power to grant clemency, which means he can over-rule the verdict and/or sentences in a court trial. Types of clemency include pardon, reprieve, amnesty, commutation, or remission.

### THE VICE-PRESIDENT

The Constitutional qualifications for being Vice-President are exactly the same as those for President. Historically, the office of the Vice-President has had very weak powers. His main duty is to succeed the President in the case of the President's death or permanent disability. If the President is temporarily disabled, the Vice-President can become Acting President. The Vice-President is also "President of the Senate" which allows him to cast tie-breaking votes in the Senate. Also, under the 25<sup>th</sup> Amendment, the Vice-President and a majority of the Cabinet can declare the President to be unfit for office, and the President is removed from office. However, if the President protests that he is not unfit for office, the matter is settled by Congress (2/3 vote in both Houses to remove the President). Lastly, the Vice-President often acts as the President's "surrogate" (his replacement for some duties, as assigned by the President).

### OTHER EXECUTIVE BRANCH EMPLOYEES

- 1) The Cabinet- these are the Secretaries of the Executive Branch Departments (such as the Secretary of Defense) and other high-ranking people who advise the President on policy issues. Usually the Cabinet contains 15-25 people.
- 2) Political Appointees- approximately 2000 top administrators who are the President's "puppet strings" in controlling the rest of the Federal Executive Branch bureaucracy. They serve "at the pleasure of the President" and can be fired by the President if they do not obey his orders or do a good job.
- 3) Federal Bureaucracy- approximately 2 ½ million career Executive Branch employees known as "bureaucrats." These "civil servants" keep their jobs even if there is a new President elected from a different political party. (NOTE: Not all Federal Executive Branch jobs are boring desk jobs!!! Talk to your government instructor if you are interested in Federal or State government employment.)