# Who Checks Congress?

Federal courts, judicial review, and the protection of rights

**USG.C.4.4** "Describe the scope and powers of the federal judiciary as delineated in Article III of the Constitution. Explain the length of terms, selection and confirmation process, jurisdiction, and process for the removal of Supreme Court justices..."

NAME _____ DATE _____

## 1 READ AND MARK

Read it twice

**YOUR JOB** Underline two kinds of cases federal courts may hear, circle each federal court named, and number the steps a case could take through those courts. These marks will help you trace how judges review a law.

### A Search Law Goes to Court

1. Imagine Congress passes a law allowing federal agents to search any home without a warrant. A homeowner challenges it under the Fourth Amendment. Article III places the nation's judicial power in the Supreme Court and in lower federal courts that Congress may create. Federal judicial power reaches cases arising under the Constitution, federal laws, and treaties, along with certain disputes involving states, ambassadors, or citizens of different states. The Supreme Court hears a narrow set of cases first, including disputes between states. Most cases reach it on appeal, subject to limits Congress may set. These rules define jurisdiction, the kinds of disputes federal courts may decide.

2. The homeowner files a federal constitutional claim in a U.S. district court, where a judge hears evidence and rules on the law. If a party appeals, a U.S. court of appeals reviews the ruling for legal error. The Supreme Court may choose to review the case; it does not hear every appeal. At each level, judges can consider whether the law conflicts with the Constitution. In Federalist No. 78, Hamilton argued that judges should treat the Constitution as higher law and refuse to enforce a conflicting statute. Article III does not expressly mention judicial review; the Supreme Court established that power over acts of Congress in Marbury v. Madison (1803).

3. Suppose a president dislikes the judge who rules against the search law. The president cannot fire that judge. Article III says federal judges serve during "good Behaviour," which gives them no fixed term, and Congress cannot lower their pay while they remain in office. Supreme Court justices are nominated by the president and appointed after the Senate votes to confirm them. To remove a justice, the House must impeach and the Senate must convict by a two-thirds vote of senators present. These protections help judges decide cases without fearing retaliation, so they can defend people's rights even when officials object.

## 2 ANSWER WITH EVIDENCE

Use the passage

1. Why could a federal court hear the homeowner's challenge, and what kind of case can the Supreme Court hear first?

2. Trace the possible path of the homeowner's case through three levels of federal courts. What does each court do?

3. How does Hamilton's argument in Federalist No. 78 connect to the power established in Marbury v. Madison?

4. How are Supreme Court justices appointed and removed, and how does their term of service support independent decisions?

## 3 YOUR TURN

Your own words

Invent a different federal law that someone claims violates a constitutional right. In 4 to 6 sentences, explain a possible path through the federal courts, how judicial review could matter, and why judges' independence matters.

ANSWER KEY

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HIGH SCHOOL · USG.C.4.4

## PART 1 · READ AND MARK

Underline two kinds of cases federal courts may hear, circle each federal court named, and number the steps a case could take through those courts. These marks will help you trace how judges review a law. Accept any marking that follows this job and points at the right text.

## PART 2 · ANSWERS

| # | QUESTION | ANSWER |
|---|---|---|
| 1 | Why could a federal court hear the homeowner's challenge, and what kind of case can the Supreme Court hear first? | **The challenge arises under the Constitution. The Supreme Court can hear certain cases first, including disputes between states.** |
| 2 | Trace the possible path of the homeowner's case through three levels of federal courts. What does each court do? | **A district court hears evidence and rules on the law. A court of appeals can review the ruling for legal error. The Supreme Court may choose to review the case.** |
| 3 | How does Hamilton's argument in Federalist No. 78 connect to the power established in Marbury v. Madison? | **Hamilton argued that judges should follow the Constitution rather than enforce a conflicting statute. Marbury established judicial review of acts of Congress.** |
| 4 | How are Supreme Court justices appointed and removed, and how does their term of service support independent decisions? | **The president nominates justices, and the Senate votes to confirm them. Removal requires House impeachment and Senate conviction by a two-thirds vote of senators present. With no fixed term and no power for the president to fire them, justices can rule without fearing that retaliation.** |

## PART 3 · YOUR TURN (SAMPLE ANSWER)

Congress passes a law banning all newspaper criticism of federal officials. A newspaper challenges the law under the First Amendment in a federal district court. The district judge could rule that the law violates free speech and refuse to enforce it. If the government appeals, a court of appeals reviews the legal ruling, and the Supreme Court may choose to hear the case. Because judges do not face fixed terms or dismissal by the president for an unpopular ruling, they can protect the newspaper's rights despite political pressure.

Accept other plausible federal constitutional claims and accurate descriptions of the courts' roles. Students need not predict whether the Supreme Court would choose to hear their invented case.