

- Lesson:** A Constitutional Treasure Hunt
- Objective:** Students know how the U.S. Constitution and the Colorado Constitution limit the power of government and distribute it among the legislative, executive and judicial branches. *Colorado Model Content Standards: Civics, Standard 2.2, grades 5-8)*
- Activities:** Teacher lecture (background material and lecture outline provided); class participation activity
- Outcomes:** Students develop an understanding of what a constitution is and how the U.S. and Colorado constitutions distribute power among the three branches of government.
- Grade Level:** 5-8
- Anticipated classroom time:** 45-60 minutes
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Message from former Colorado Chief Justice Mary Mullarkey to Students

Congratulations! You are about to learn about two important documents containing rules providing the foundation of our system of government.

You probably have rules for your classroom and your school. Those rules are important in order to keep your classroom and your school safe, to keep things fair for everyone and to help the school day run smoothly so that you and all the other students can learn.

The sets of rules for our government are called *constitutions*. We have one set of rules for our whole country, called the United States Constitution, and one set of rules just for our state, called the Colorado Constitution. Many things about them are alike.

Constitutions tell citizens how things are supposed to get done in order to be fair, and what things aren't allowed because they wouldn't be fair. One of the special rules in both the United States Constitution and the Colorado Constitution helps to make sure government is fair so no one has too much power. That is the rule called *distribution of powers*.

Our constitutions say that some people decide what our rules, called laws, will be. They are the people in the Legislative Branch of the government. In Colorado, these people are called *state legislators*.

Other people in our government are the ones who make sure those rules are followed. They are the people in the Executive Branch of the government. In Colorado, the *governor* is the head of the Executive Branch of our government.

A third group of people in our government decides who is right when people get into disagreements about what the rules mean. They are the people in the Judicial Branch of the government, and they are called *judges* or *justices*. I was Colorado's chief justice for 12 years, and I worked in the Judicial Branch of our government for 23 years.

Have you ever known people who wanted to have everything their way and didn't want to let other people decide anything? You probably don't think those people are fair to everyone else.

The rules in our constitutions say that nobody in the government can have everything their way all the time. In our government, people from the Legislative, Executive and Judicial branches have to listen to each other and be fair to each other and treat each other with respect - they have to work together. No branch of our government does everything by itself.

The constitutions for our country and our state are so important that we have a special day, September 17, every year, to celebrate how glad we are to have them. September 17, 1787, was the day our United States Constitution was signed by the people who wrote it.

Those are great things to celebrate, don't you think?

Teacher background information:

Three Branches of Government

Polls indicate that much of the population does not even realize that our Constitutional government is based upon three independent, equal branches of government.

The Declaration of Independence contains many complaints about the British king, and shows that the American colonists in 1776 were very concerned about the king's unfettered power. That concern was a major reason that the Articles of Confederation created a weak national government for the newly independent United States.

The Articles of Confederation also gave state legislatures greater power in response to those same fears of a too-powerful centralized government. The actions of state legislatures as a result increased fears that the legislative branch of government also could be too strong.

As James Madison wrote in one of the Federalist Papers, written to argue in newspapers for the adoption of the new constitution, "(T)he legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex."

Madison wrote that the new nation's leaders "seem never for a moment to have turned their eyes from the danger to liberty from the overgrown and all-grasping prerogative of an hereditary magistrate" – meaning the British king, or the executive branch of government – and had failed to provide against "the danger from legislative usurpations, which, by assembling all power in the same hands, must lead to the same tyranny as is threatened by executive usurpations."

Recognizing that any branch of government is capable of abusing power, the framers of the U.S. Constitution made sure that each branch has enough power to act as a check on the power of the others. They signed the United States Constitution by which our nation is governed today on September 17, 1787. Today, we celebrate September 17 as Constitution Day.

State constitutions, including Colorado's, have followed the example set by the U.S. Constitution in dividing power among three branches of government.

Colorado's Constitution was adopted by voters on July 1, 1876, one century after the American colonists declared their independence from Great Britain. One month after Coloradoans adopted their new constitution, Colorado became the nation's 38th state, on August 1, 1876.

The U.S. Constitution structures a national government with legislative, executive and judicial branches, but does not specifically state that it is dividing power among three separate, independent branches. Colorado's Constitution does, however:

The Colorado Constitution

Article III

Distribution of Powers

The powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial; and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

Important terms in the U.S. and Colorado Constitutions:

Distribution of powers: legislative, executive, judicial

Both the United States Constitution and the Colorado Constitution divide the powers of government among three branches instead of letting them all belong to one person, such as a king, or putting one group of people in charge of everything.

The three branches of government are:

- The legislative branch, which enacts laws.
- The executive branch, which carries out the laws and takes care of day-to-day government services such as collecting taxes, filling potholes and building schools.
- The judicial branch, which decides what the laws mean when people don't agree about them, decides whether someone has disobeyed a law and what should happen to them if they have, and resolves disagreements of many different types.

Supreme Court

The United States Supreme Court is the highest court in our nation. Its decisions are final for the whole country.

The Colorado Supreme Court is the highest court in our state. Its decisions are final for the whole state.

Judge

A judge is a person who presides over trials and other activities in courts, deciding disagreements between people based on facts and laws.

Justice

Some judges are called justices. Their jobs are mostly the same as the jobs of judges: to decide disagreements between people based on facts and laws.

Good behaviour, willful misconduct

The U.S. Constitution says that our nation's federal judges may keep their jobs as long as they have good behaviour. As long as they have good behavior, they may keep their jobs all their lives.

The Colorado Constitution says that our state judges may lose their jobs if they behave badly, and also for several other reasons. Here is a list of all the reasons:

- They become 72 years old.
- They are convicted of a crime.

- Voters, who decide every few years whether or not each state judge should keep his or her job, decide to fire them.
- The state Judicial Discipline Commission decides that a judge has committed willful misconduct in office, willful or persistent failure to perform duties, intemperance, or violation of the code of judicial conduct, or has a disability that will permanently keep him or her from doing a good job.

Compensation

Both the United States Constitution and the Colorado Constitution say that judges' compensation, or pay for their work as judges, cannot be reduced while they are serving as judges.

This is so that, if people in another branch of government don't like a decision that a judge makes, they can't reduce the judge's pay to punish the judge for not ruling their way.

Jury

A jury is a group of people whose job is to decide facts that are disputed in a trial.

Both the United States Constitution and the Colorado Constitution say that a person who is accused of a crime has the right to have a jury decide whether or not he or she is guilty.

Juries also decide many kinds of disagreements among people in other types of trials that don't involve crimes.

Searches

Both the U.S. Constitution and the Colorado Constitution say that government officers cannot search people's homes or belongings unless they have a really good reason.

Witness against himself, testify against himself

Both the U.S. Constitution and the Colorado Constitution say that a person accused of a crime cannot be compelled to testify against himself and may instead remain silent. Because the U.S. Constitution includes this right in its Fifth Amendment, choosing to remain silent and refuse to answer questions often is called "Taking the Fifth."

Speedy and public trial

Both the U.S. Constitution and the Colorado Constitution guarantee a person who is accused of a crime the right to a speedy and public trial. This means that the trial must be held without undue delay, so that the accused person is not jailed for an unfairly long time before the trial is held, and that the trial must not be held in secret but in public, so that everyone can observe whether or not it is fair.

Assistance of counsel, defend in person and by counsel

Both the U.S. Constitution and the Colorado Constitution guarantee that a person who is accused of a crime has the right to be represented by a lawyer. If an accused person cannot afford to pay a lawyer, the government pays a lawyer to represent him or her.

Cruel and unusual punishments

Both the U.S. Constitution and the Colorado Constitution prohibit cruel and unusual punishments of persons who have been convicted of crimes.

Due process of law

This is another right guaranteed to all parties in court cases in both the U.S. Constitution and the Colorado Constitution. It means that everyone must be treated according to the same rules. In the United States and in Colorado, the government cannot deprive anyone of life, liberty or property without due process of law.

Advice and consent, vacancy in any judicial office

These terms help explain the differences between the way the national government selects judges and the way Colorado judges are selected.

Under the U.S. Constitution, the president nominates a person to be a federal judge, but the president must have the “advice and consent” – that is, the approval – of the U.S. Senate, part of the legislative branch, in order for the person the president has nominated to become a judge.

In Colorado, the governor appoints state judges to fill vacancies in any judicial office, but the governor must choose the new judge from two or three nominees selected by a special committee of citizens who live in the area where the new judge will work. The governor does not need approval from the legislative branch of government of the judge the governor chooses.

After the new judge has served for a few years, the voters in the area then decide in an election whether or not to keep that judge in office. If they decide not to keep the judge, the governor fills the vacancy in that judicial office by appointing a new judge from a new list of nominees selected by the committee of citizens.

Explaining the branches of Colorado’s government:

Colorado’s Legislative Branch

People in each area of Colorado vote to choose people from their part of the state should go to the Colorado General Assembly to help decide what the state’s laws should be.

Colorado’s Executive Branch

Every voter in Colorado helps decide who should be the governor of Colorado, the leader of the executive branch of Colorado. Colorado voters also choose some other executive branch leaders. The leaders hire many workers to help do the work of the state government as part of the executive branch.

Colorado’s Judicial Branch

The people in Colorado’s Judicial Branch decide what the laws mean and decide who is right when people disagree about the laws. Many of the people in the Judicial Branch who make these decisions are called *judges*. Some of them are called *justices*. Their jobs are mostly the same: to decide things when people disagree.

Many people help decide who Colorado’s judges and justices will be and whether each one is doing a good job and should keep working as a judge, or stop being a judge.

Groups of citizens choose two or three people they think would make good judges and suggest them to the governor. These groups of citizens are called Judicial Nominating Commissions.

The governor decides which one will be the new judge.

A new judge works for about two years, and then voters decide whether that judge is doing good work and should stay on the job. Other groups of citizens take a look at how the judge is doing and give the voters advice on whether the judge should stay on the job. These groups of citizens are called Judicial Performance Commissions.

If a judge is doing a very bad job or maybe even behaving badly, another group of citizens can decide without waiting for the voters that the judge should be fired right away. That hardly ever happens, because people do a good job of choosing Colorado's judges in the first place.

Colorado has more than 300 judges in the state Judicial Branch!

Additional Resources

Ben's Guide to U.S. Government for Kids, a website provided by the Superintendent of Documents, U.S. Government Printing Office. Offers information and activities for students in grades K-2, 3-5, 6-8 and 9-12: <http://bensguide.gpo.gov/>

Social Studies for Kids, a portal website operated by educator David White that leads to many other useful resources: <http://www.socialstudiesforkids.com/subjects/government.htm>

U.S. State Department's Basic Readings in U.S. Democracy, providing full texts of more than 70 documents representing the ideas behind the American democracy:

<http://usinfo.org/enus/government/overview/demo.html>

Learn More About Colorado Government, a website operated by the State of Colorado:

<http://www.colorado.gov/cs/Satellite?c=Page&cid=1165693060247&pagename=CO-Portal%2FPage%2FCXPStandardLayout>

Colorado's Judicial Branch: <http://www.courts.state.co.us/>

Colorado's Legislative Branch: <http://www.leg.state.co.us/>

Colorado's Executive Branch: <http://www.colorado.gov/governor/>

The U.S. Constitution: <http://www.michie.com/colorado>

The Colorado Constitution: <http://www.michie.com/colorado>

Classroom activity (add additional terms to suit students' abilities):

A Constitutional Treasure Hunt

Find these words in the Constitution U.S. Constitution and Colorado Constitution	U.S. Constitution	Colorado
Legislative	Article I	Article V
Executive	Article II	Article IV
Judicial	Article III	Article VI
Judges	Article III	Article VI
Good behaviour	Article III	None
Willful misconduct	None	Article VI

Questions to discuss:

What is good behavior?

Did you notice that the word *behaviour* in the U.S. Constitution is spelled differently than we spell it today in the United States, *behavior*? Why is this?

What is willful misconduct?

What do you think a chief justice does?

In a constitution, what is an Article?

What is an Amendment?

Class outline:

Government Under the Constitution: Three Branches

- I.** The U.S. Constitution and the Colorado Constitution list the main rules for how our national government and our state government work.
- II.** Both the Colorado Constitution and the U.S. Constitution divide the powers of government among three branches.
 - A. The Legislative Branch makes rules, which we call laws.

1. In the national government, the Legislative Branch is called the Congress.
2. In the Colorado government, the Legislative Branch is called the Colorado General Assembly.
3. People who live in each part of the United States, and in each part of Colorado, vote to decide who will be part of the Legislative Branch for them.

B. The Executive Branch carries out the laws.

1. In the national government, the leader of the Executive Branch is the president.
People all over the United States vote to decide who will be the president.
2. In the Colorado government, the leader of the Executive Branch is the governor.
People all over Colorado vote to decide who will be the governor.
3. The Judicial Branch, decides what the laws mean and decides who is right when people have disagreements about the laws. People who decide these things in the Judicial Branch are called judges.
 - a. Many people help decide who will be the judges in the Colorado Judicial Branch.
 - (i) For each area of Colorado, a group of citizens chooses two or three people they think would be good judges for their area. The group of citizens, called a Judicial Nominating Commission, suggests these people to the governor.
 - (ii) The governor decides which one will be the new judge.
 - (iii) After the new judge has been doing the job for a few years, the voters in that area of Colorado decide whether that judge is doing a good job and should go on being a judge, or not. Another group of citizens, called a Judicial Performance Commission, studies how each judge is doing and gives the voters advice on whether or not the judge should continue being a judge.
 - (iv) If a judge is doing a really bad job, or maybe even behaving badly, another group of citizens, called the Judicial Discipline Commission, can study what the judge is doing and decide whether to tell the judge to do a better job, or behave better, and can even fire that judge.

A Constitutional Treasure Hunt

**Find these words in the
Constitution
U.S. Constitution and
Colorado Constitution**

U.S. Constitution

Colorado

Legislative

Executive

Judicial

Judges

Good behaviour

Willful misconduct