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THE POLICY CIRCLE

EXECUTIVE BRANCH





WHAT IS THE EXECUTIVE BRANCH?



THE EXECUTIVE BRANCH CARRIES OUT THE DAY-TO-DAY ENFORCEMENT AND ADMINISTRATION OF FEDERAL LAWS PASSED BY CONGRESS. IT INCLUDES THE PRESIDENT, VICE PRESIDENT, THE CABINET, EXECUTIVE DEPARTMENTS, AND INDEPENDENT AGENCIES.

UNDER THE CONSTITUTION, CONGRESS WAS MUCH MORE POWERFUL THAN THE PRESIDENCY IN MANY WAYS, BUT THE POWER IN THE FEDERAL GOVERNMENT TENDED TO FLOW TOWARD THE EXECUTIVE BRANCH. THIS HAD LED TO A GROWING NUMBER OF ADVISORS, CABINET SECRETARIES, AND INDEPENDENT AGENCIES WHO CARRY OUT EXECUTIVE AUTHORITY IN DIFFERENT POLICY AREAS AND RUN THE VARIOUS PROGRAMS THAT CONGRESS HAS CREATED.

➤ FACTS TO KNOW ◀

THE EXECUTIVE OFFICE OF THE PRESIDENT, CREATED IN 1939, INCLUDES THE PRESIDENT'S IMMEDIATE STAFF, LIKE THE WHITE HOUSE PRESS SECRETARY, AS WELL AS BODIES OF SENIOR ADVISORS, LIKE THE NATIONAL SECURITY COUNCIL AND THE COUNCIL OF ECONOMIC ADVISORS.

THE EXECUTIVE BRANCH HOUSES TWO DIFFERENT TYPES OF AGENCIES. EXECUTIVE AGENCIES, LIKE THE FOOD AND DRUG ADMINISTRATION (FDA), ARE DIRECTLY UNDER THE CONTROL OF THE PRESIDENT OR ONE OF THE CABINET SECRETARIES. INDEPENDENT AGENCIES, LIKE NASA, OPERATE WITH MORE AUTONOMY AND DO NOT FALL UNDER THE DIRECT CONTROL OF ONE OF THE CABINET DEPARTMENTS.

DURING GEORGE WASHINGTON'S PRESIDENCY, THE PRESIDENTIAL CABINET INCLUDED THE PRESIDENT, VICE PRESIDENT, AND ONLY 4 CABINET SECRETARIES: THE SECRETARY OF STATE, THE SECRETARY OF WAR, THE SECRETARY OF THE TREASURY, AND THE ATTORNEY GENERAL. TODAY, THERE ARE 16 CABINET SECRETARIES, SUCH AS THE SECRETARY OF EDUCATION AND THE SECRETARY OF HOMELAND SECURITY, THE NEWEST CABINET POSITION.

THE VICE PRESIDENT'S MOST WIDELY KNOWN RESPONSIBILITY IS TO TAKE OVER AS PRESIDENT IN SITUATIONS WHERE THE PRESIDENT IS INCAPACITATED OR NO LONGER ABLE TO SERVE. THE VICE PRESIDENT ALSO PRESIDES OVER THE SENATE, AND SERVES AS THE TIE-BREAKING VOTE IN SITUATIONS WHERE THE 100-MEMBER SENATE IS EVENLY SPLIT.



EXECUTIVE POWERS



EXECUTIVE ORDERS

PRESIDENTS CANNOT MAKE LAWS ON THEIR OWN, BUT THEY CAN ISSUE EXECUTIVE ORDERS THAT ARE ENFORCED AS THOUGH THEY ARE LAWS UNLESS A COURT FINDS THE ORDER UNCONSTITUTIONAL OR CONGRESS PASSES A LAW COUNTERACTING THE ORDER. MAJOR POLICY CHANGES, LIKE THE CREATION OF THE DEPARTMENT OF HOMELAND SECURITY, STARTED AS EXECUTIVE ORDERS THAT WERE THEN MADE INTO LAW BY CONGRESS.

WAR POWERS

AS COMMANDER IN CHIEF OF THE ARMED FORCES, THE PRESIDENT HAS CONTROL OVER THE MILITARY, ALTHOUGH ONLY CONGRESS CAN DECLARE WAR. OVER THE PAST CENTURY, PRESIDENTS HAVE SENT TROOPS INTO BATTLE EVEN WITHOUT CONGRESSIONAL APPROVAL.

CONGRESS TRIED TO REIN IN THE PRESIDENT IN 1973, WITH THE WAR POWERS RESOLUTION, BUT THE WAR ON TERROR FACILITATED A MASSIVE INCREASE IN EXECUTIVE WAR POWERS, WHICH HAS BEEN USED TO JUSTIFY INTERVENTIONS IN MANY OTHER COUNTRIES FROM LIBYA, TO SYRIA OVER THE PAST TWENTY YEARS.

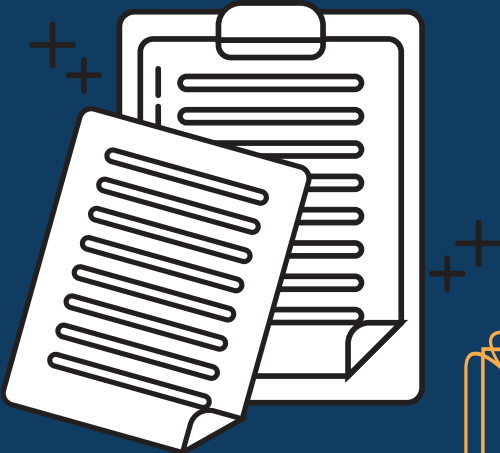
EXECUTIVE POWERS AT THE STATE LEVEL

STATE GOVERNMENTS ARE MODELED AFTER THE FEDERAL GOVERNMENT AND CONSIST OF THREE BRANCHES. GOVERNORS HAVE BROAD POWER TO DECLARE A STATE OF EMERGENCY OR PASS STATE-LEVEL EXECUTIVE ORDERS. SIMILAR TO THE FEDERAL LEVEL, THE LEGISLATIVE BRANCH AT THE STATE LEVEL CAN PUT CHECKS ON EXECUTIVE POWERS.

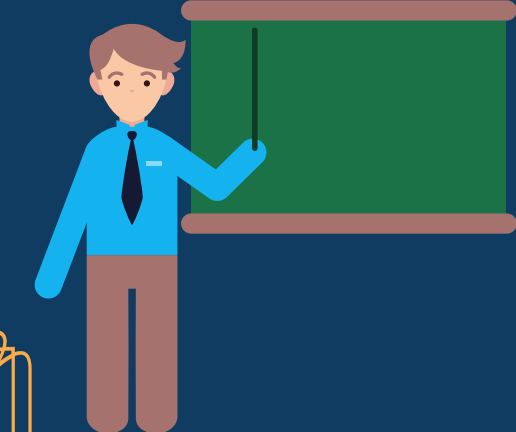
EMPLOYMENT

THE EXECUTIVE BRANCH EMPLOYS AROUND 4 MILLION AMERICANS.

THE VAST MAJORITY OF PEOPLE EMPLOYED BY THE FEDERAL GOVERNMENT WORK FOR THE EXECUTIVE BRANCH. INCLUDING THE MILITARY.



➤ FRAMING THE ISSUE ◀



PARTISAN GRIDLOCK IS A MAJOR CONTRIBUTING FACTOR TO "THE IMPERIAL PRESIDENCY," OR THE GROWING POWER OF THE EXECUTIVE BRANCH RELATIVE TO BOTH THE COURTS AND CONGRESS. WHEN ONE PARTY CONTROLS THE PRESIDENCY AND ANOTHER PARTY CONTROLS CONGRESS, IT IS EASIER FOR THE PRESIDENT TO GOVERN BY EXECUTIVE ORDER THAN HAVE LAWS PASSED IN CONGRESS. EXECUTIVE ORDERS CAN BE REVERSED BY THE NEXT PRESIDENT WHO TAKES OFFICE, LEADING TO RAPID CHANGES IN POLICY AND ENFORCEMENT BASED ON WHO IS IN THE WHITE HOUSE.

THE GROWTH OF EXECUTIVE POWERS

THROUGHOUT AMERICAN HISTORY, THE EXECUTIVE BRANCH'S POWER EXPANDS THE MOST WHEN THE PRESIDENT HAS TO MAKE QUICK DECISIONS DURING CRISES WHEN IT IS IMPRACTICAL FOR CONGRESS TO CONVENE AND DEBATE HOW TO RESPOND.

IN SOME CASES, CONGRESS GAVE POWERS TO THE PRESIDENCY, SUCH AS IN TIMES OF WAR. IN OTHER CASES, PRESIDENTS HAVE ASSERTED POWER BASED ON CONSTITUTIONAL INTERPRETATIONS, WHICH CONGRESS AND THE JUDICIAL BRANCH ALLOWED.

EXECUTIVE POWERS AT THE STATE LEVEL

STATE ASSEMBLIES ACROSS THE COUNTRY ARE REASSERTING LEGISLATIVE POWERS AND RESTRAINING STATE-LEVEL EXECUTIVE OVERREACH. IN 2021, STATE LAWMAKERS IN 47 DIFFERENT STATES PROPOSED MORE THAN 300 DIFFERENT BILLS THAT WOULD LIMIT GOVERNORS' ABILITY TO DECLARE STATES OF EMERGENCY OR GOVERN VIA EXECUTIVE ORDER.

CONGRESSIONAL STAFFING SHORTAGES

STAFFING SHORTAGES ARE A MAJOR CONTRIBUTOR TO THE IMBALANCES BETWEEN THE MAIN BRANCHES OF THE FEDERAL GOVERNMENT. THE NUMBER OF CONGRESSIONAL STAFFERS HAS BEEN IN DECLINE SINCE THE 1990S, WHILE THE TOTAL NUMBER OF STAFF EMPLOYED BY THE VARIOUS EXECUTIVE AGENCIES HAS CONTINUED TO GROW.



➤ SOLUTIONS ◀

BIPARTISAN DIALOGUE AND POLITICAL COOPERATION

THE FOUNDING FATHERS DID NOT ANTICIPATE THE ROLE OF POLITICAL PARTIES IN CONTEMPORARY POLITICS. THE SEPARATION OF POWERS DEPENDS ON SELF-INTERESTED LEGISLATIVE AND EXECUTIVE BRANCHES PROTECTING THEIR OWN BRANCH OF GOVERNMENTS' POWERS RATHER THAN CEDING POWER TO ANOTHER BRANCH OF GOVERNMENT CONTROLLED BY THE SAME PARTY. THE POWER OF THE EXECUTIVE BRANCH IS AN ISSUE THAT RUNS ALONG PARTY LINES.

GREATER PUBLIC ENGAGEMENT IN STATE-LEVEL POLITICS

WHEN THE COVID-19 PANDEMIC BEGAN, MANY STATE-LEVEL POLICY RESPONSES WERE IN THE FORM OF STATE-LEVEL EXECUTIVE ORDERS AND STATES OF EMERGENCY, RATHER THAN NEW LAWS DRAFTED BY STATE LEGISLATURES. CONTACTING YOUR STATE-LEVEL REPRESENTATIVE AND PROVIDING YOUR OPINION ABOUT STATE-LEVEL POLICIES IN RESPONSE TO ISSUES LIKE INFLATION IS THE FIRST STEP TO PREVENTING STATE-LEVEL EXECUTIVE OVERREACH.

A MORE ASSERTIVE CONGRESS CAN REIN IN EXECUTIVE OVERREACH

MUCH OF THE CONSTITUTIONAL POWER THAT CONGRESS HAS CEDED TO THE EXECUTIVE BRANCH CAN BE REASSERTED BY CONGRESS. FOR INSTANCE, THE BIPARTISAN NATIONAL SECURITY REFORMS AND ACCOUNTABILITY ACT WOULD REASSERT CONGRESS'S CONSTITUTIONAL POWERS, CLOSE LOOPHOLES FROM THE 1973 WAR POWERS RESOLUTION, AND ENABLE GREATER CONGRESSIONAL OVERSIGHT OF HOW THE US WAGES WARS.

➤ WHAT YOU CAN DO ◀

MEASURE -

DO YOU KNOW THE CABINET MEMBERS OF THE CURRENT PRESIDENRIAL ADMINISITRATION? DO YOU KNOW ABOUT EXECUTIVE BRANCH OFFICES AND OFFICE HOLDERS IN YOUR STATE?
WHAT ARE YOUR STATE'S LAWS REGARDING EMERGENCY DECLARATIONS AND STATE-LEVEL EXECUTIVE ORDERS



IDENTIFY -

WHO HOLDS POSITIONS IN YOUR STATE'S EXECUTIVE OFFICES? WHAT STEPS HAVE YOUR STATE'S OR COMMUNITY'S ELECTED OFFICIALS TAKEN?



REACH OUT -

FIND ALLIES IN YOUR COMMUNITY OR IN NEARBY TOWNS AND ELSEWHERE IN THE STATE. FOSTER COLLABORATIVE RELATIONSHIPS WITH LAW ENFORCEMENT, FIRST RESPONDERS, FAITH-BASED ORGANIZATIONS, LOCAL HOSPITALS, COMMUNITY ORGANIZATIONS, SCHOOL BOARDS, LOCAL BUSINESSES, ETC.

PLAN -

SET MILESTONES BASED ON YOUR STATE'S LEGISLATIVE CALENDAR OR LOCAL COMMUNITY CALENDAR.



EXECUTE -

FAMILIARIZE YOURSELF WITH YOUR STATE'S LAWS REGARDING EMERGENCY DECLARATIONS, AND HOW THESE LAWS MAY HAVE CHANGED IN RECENT YEARS. CONSIDER YOUR PAST EXPERIENCES WHEN THE GOVERNOR OF YOUR STATE HAS DECLARED A STATE OF EMERGENCY. CONSIDER YOUR EXPERIENCES WITH EXECUTIVE ORDERS ISSUED IN YOUR STATE DURING THE CORONAVIRUS PANDEMIC, AND DISCUSS THESE EXPERIENCES WITH COMMUNITY MEMBERS. EXPLORE THE FEDERAL REGISTER'S LIST OF EXECUTIVE ORDERS.