

Key Terms for the Federal Judiciary Study

Term/Principle	Definition, as relevant to this Study
Federal Judiciary	Article III, Section 1 of the Constitution authorizes the creation of the US federal court system to include “one Supreme Court” and such “inferior courts” that Congress chooses to “establish.” The scope of federal judicial power is limited by the Constitution and Congress, extending only to cases or controversies arising under the Constitution and the laws of the United States.
Federal Judiciary Study, Scope	At the LWVUS 2024 Convention, delegates voted to proceed with a study on the federal judiciary. The study is now underway to develop a LWV position on the Federal Judiciary as an essential component of US democracy. The study's purpose includes, but is not limited to, addressing concerns and clarifying judicial accountability, transparency, independence, and ethics in Article III courts."
Accessibility (financial)	Financial barriers to accessing the courts are kept to a minimum or excused when prospective litigants are unable to pay.
Accountability	A federal court system that can hold its judges and justices responsible for their actions and decisions according to ethical and legal standards. Currently, the <i>Judicial Conduct and Disability Act of 1980</i> affords “any person” the right to file a complaint against a federal judge alleging misconduct or mental or physical disability. 28 U.S.C. §351(1). The Act does not apply to the justices of the US Supreme Court.
Deference to Other Branches	The judicial branch is one of three branches of the federal government, along with the legislative and executive branches, established by the US Constitution. As such, federal courts should respect and operate within the constitutional framework balancing authority with executive and legislative branches. Judges and justices should respect the different roles of the judicial, executive, and legislative branches in gathering facts and scientific information to create, enforce, and review laws.

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Effectiveness (judicial)	Ability to handle complex, expanding, diverse, and increasingly technical and scientifically challenging caseloads.
Ethics (judicial)	Judicial integrity is exemplified by following enforceable codes of conduct with effective enforcement mechanisms. Integrity includes avoidance of conflicts of interest or the appearance of conflicts; use of position for personal gain, corruption, or favoritism; proper use of recusal; and transparent financial disclosure.
Impartiality/ Fairness	Objective decision-making free from bias or prejudice; precedence is followed; and everyone has equal access to the justice system.
Independence (judicial)	Free from the influence of the other branches of government, and free from shifting popular and political opinion.
Judges vs. Justices	Individuals who preside over the lower federal courts are called “judges,” whereas members of the highest court, the US Supreme Court, are called “justices.”
Judicial Activism	A philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, to guide their decisions, usually with the suggestion that adherents of this philosophy tend to find constitutional violations and are willing to ignore precedent.
Judicial Restraint	In contrast to judicial activism, judicial restraint is a philosophy that follows a more strict and literal approach to constitutional interpretation. Judicial restraint is characterized by a focus on stare decisis and a reluctance to reinterpret the law. Also, the principle that when a court can resolve a case based on a particular issue, it should do so without reaching unnecessary issues.
Judicial Review	The idea, established by <i>Marbury v. Madison</i> (1803) and fundamental to the US system of government, that the actions of the executive and legislative branches are subject to review and possible invalidation by the judiciary . Judicial review allows the Supreme Court to take an active role in ensuring that the other branches of government abide by the Constitution . Where the Constitution expressly grants Congress the power to enforce constitutional rights by appropriate legislation, courts need to limit judicial review appropriately. Also, the court’s review of a lower courts or administrative body’s factual or legal findings
Legitimacy (judicial)	Judicial power relies on trust, so acceptance of the legitimacy of the judiciary is essential for acceptance of judicial decisions. Acceptance of court authority sustains general obedience to laws.

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Living Constitutionalism	A theory of constitutional interpretation that holds that the U.S. Constitution's meaning is dynamic and evolves over time, even without formal amendment. Also known as judicial pragmatism.
Nonpartisanship	Free from the influence of politics or ideology of any party.
Openness/ Transparency	Court proceedings and rulings open and available, to the extent possible, to preserve judicial legitimacy and to provide litigants with up-to-date guidance on what the law is.
Originalism	An approach to judicial constitutional interpretation, especially for the U.S. Constitution, that the law should be interpreted as it was written or understood at the time of its adoption.
Procedural Fairness	This includes the traditional elements of "due process," including such things as litigants having the opportunity to present their case, to confront and cross-examine opposing witnesses, and to trial by jury in most cases litigants have the right to notice and an opportunity to be heard as well as the right to present a case, a jury trial, etc.
Representativeness	A court system, including judges, justices, and court staff who possess diverse professional experience/outlook and demographics which reflect the population of the United States.
Stability of law	Stability of the law comes from adherence to precedent— -- <i>stare decisis</i> ("to stand by things decided" in similar cases)— -- which promotes evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to actual and perceived integrity of the judicial process.
Textualism	An approach to legal interpretation that a statute should be interpreted according to the plain meaning of its text and not according to the intent of the legislature, the statutory purpose, or the legislative history.