

Civics 101 – How Government Works Part II: The Executive Branch

The Executive Branch of the U.S. government is responsible for enforcing the laws of the land. The President leads the Executive Branch and also acts as head of state and Commander-in-Chief of the Armed Forces. The Executive Branch includes the President, Vice President, the Cabinet and various federal agencies and departments.

Key Components of the Executive Branch

- **The President**

The President of the U.S. is head of the Executive Branch and the nation. The President enforces laws, acts as Commander-in-Chief and represents the U.S. in foreign affairs.

- **The Vice President**

The Vice President's primary role is to succeed the President in case of death, resignation or removal. The Vice President presides over the U.S. Senate and casts tie-breaking votes as needed.

- **The Cabinet**

The Cabinet is composed of the heads of the 15 major executive departments. These department heads are called Secretaries (except for the Attorney General), are appointed by the President and confirmed by the U.S. Senate. The Cabinet plays a vital role, assisting the President in policy-making and carrying out the day-to-day administration of the U.S. Government. The Cabinet includes:

Agriculture	Interior
Commerce	Justice
Defense	Labor
Education	State
Energy	Transportation
Health and Human Services	Treasury
Homeland Security	Veterans Affairs
Housing and Urban Development	

- **Executive Office of the President (EOP)**

The EOP is overseen by the White House Chief of Staff and has traditionally been home to many of the President's closest advisers. While Senate confirmation is required for some advisers, such as the Director of the Office of Management and Budget, most are appointed with full Presidential discretion.

The most visible parts of the EOP are the White House Communications Office and Press Secretary's Office. The Press Secretary provides briefings for the media on the President's activities and agenda. Less visible to most Americans is the National Security Council, which advises the President on foreign policy, intelligence and national security.

There are also several offices responsible for the practicalities of maintaining the White House and providing logistical support for the President. These include the White House Military Office, which is responsible for services ranging from Air Force One to the dining facilities, and the Office of Presidential Advance, which prepares sites remote from the White House for the President's arrival.

Many senior advisors in the EOP work near the President in the West Wing of the White House. However, the majority of the staff is housed in the Eisenhower Executive Office Building, just a few steps away and part of the White House compound.

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- **Cabinet-Level Positions**

While not part of the original 15, other key officials like the White House Chief of Staff and the heads of agencies like the Environmental Protection Agency and the Office of Management and Budget also attend Cabinet meetings and are considered to have cabinet-level rank.

Powers of the President

Under Article II of the United States Constitution, the President:

- Has the power to approve or veto bills and resolutions passed by Congress.
- Through the Treasury Department, has the power to write checks pursuant to appropriation laws.
- Pursuant to the Oath of Office, will preserve, protect, and defend the Constitution of the United States.
- Serves as Commander-in-Chief of the United States military, and militia when called to service.
- Is authorized to require principle officers of executive departments to provide written opinions upon the duties of their offices
- Has the power to grant reprieves and pardons for offenses against the United States, except in the cases of impeachment.
- Has the power to make treaties, with the advice and consent of Congress.
- Has the power to nominate ambassadors and other officials with the advice and consent of Congress.
- Has the power to fill vacancies that happen when the Senate is in recess that will expire at the end of the Senate's next session.
- Shall periodically advise Congress on the state of the union and give Congress recommendations that are thought necessary and expedient.
- Has the power to convene one or both houses of Congress during extraordinary occasions, and when Congress cannot agree to adjourn has the power to adjourn them when he thinks the time is proper.
- Has the duty to receive ambassadors and other public ministers.
- Has the duty to see that the laws are faithfully executed.
- Has the power to commission the officers of the United States.

Responsibilities of the Executive Branch

- **Enforcing Laws** – The Executive Branch ensures that laws passed by Congress are implemented and followed.
- **Diplomacy and Foreign Policy** – The President negotiates treaties, appoints ambassadors and represents the U.S. in international relations.
- **National Security** – The President is the Commander-in-Chief of the Armed Forces and is responsible for the nation's defense.
- **Appointment Powers** – The President appoints many high-level officials, including federal judges and agency heads.
- **Issuing Executive Orders** – The President can issue Executive Orders, which are directives that have the force of law.

Checks and Balances

The U.S. Constitution includes a system of checks and balances to prevent any one branch of government from becoming too powerful. For example, the President can veto legislation passed by Congress, but Congress can override the veto with a two-thirds vote. The Judicial Branch can also review laws passed by Congress or actions taken by the Executive Branch to ensure they are constitutional.

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Legislative Branch Cedes Constitutional Responsibilities to the Executive Branch¹

Over the decades, Congress has been slowly giving up its leadership responsibilities, which have been enabled by leadership in the Democratic and Republican parties. Presidents of both parties – including George W. Bush, Barack Obama and Joe Biden – have increasingly filled the vacuum with more assertive executive actions.

Although the U.S. Constitution vests Congress with the power to create or abolish federal agencies, the Trump administration has already begun dismantling the U.S. Agency for International Development (USAID) and the Department of Education. These moves are facing several challenges in federal courts. Many other personnel and budget cuts implemented by the Trump administration are also being challenged in courts based on the 1974 Budget Control and Impoundment Act, which states that presidents cannot refuse to spend money appropriated by Congress. As of March 15, at least 46 court rulings had paused executive actions, many on the grounds that the White House is claiming power that belongs to Congress.

This shift in power has led to concerns about the balance of power between the Legislative and Executive Branches. Here's a breakdown of how this happens:

- **Executive Orders**

While presidents have always used Executive Orders, there is concern that their use has become more frequent and broad, potentially bypassing Congress.

It's become common practice for incoming presidents to review Executive Orders issued by their predecessors. With the stroke of a pen, a President can overturn a predecessor's Executive Order that specifically rescinds, amends or replaces the previous one, in an effort to reshape policy and implement their own priorities.

While presidents can act relatively quickly through Executive Orders, their actions are not absolute. Congress can pass legislation to counteract an Executive Order, and the courts can also strike down orders that are deemed unconstitutional or exceed presidential authority.

In turn, Congress has the ability to craft, and pass, legislation that makes an Executive Order permanent.

- **National Security**

- Authorization for the Use of Military Force (AUMF) – The 2001 AUMF, passed after the September 11 attacks, granted the President broad authority to use military force against those involved. Subsequent administrations have used this as a justification for military actions far beyond the initial intent, leading to criticisms that Congress has abdicated its constitutional power to declare war.
- Surveillance Powers – Congress has also deferred to the Executive Branch on surveillance matters, largely accepting the government's assessments of national security needs.

- **Trade**

- Tariff Authority- While Congress has the power to levy tariffs, laws like the Trade Expansion Act of 1962 and the International Emergency Economic Powers Act (IEEPA) have granted the President significant authority to impose tariffs in the name of national security. This has led to concerns that the President can circumvent Congress' trade powers.
- National Emergencies – The President's ability to declare national emergencies under IEEPA can also impact trade policy, potentially allowing for the imposition of tariffs without the usual checks and balances.

¹ With Its Tail Between Its Legs, Congress Cedes Its Constitutional Responsibilities to President Trump, <https://www.forbes.com/sites/andrewtisch/2025/04/09/>

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- **Emergency Powers**

- National Emergencies Act – While intended to create oversight of emergency powers, the law has not been effective in preventing the President from acting unilaterally during emergencies.
- Overuse of Emergency Powers – Some argue that the President's broad emergency powers, particularly in areas like trade and national security, have allowed them to circumvent Congressional oversight and act without sufficient checks.

- **Spending Authority**

- While Congress controls the purse strings, the President can influence spending priorities through the budget process and by vetoing legislation. However, the use of Continuing Resolutions (short-term spending bills) allows the President to exert more control over spending priorities than Congress may have intended.

Can Congress take back responsibilities it has delegated to the President?

Yes, but it requires legislative action and, in the current political climate, that may be challenging.

Congress can reclaim its powers through various means, including passing new legislation, amending existing laws or exercising its oversight functions more robustly. Here are a few examples of what could be done:

- Congress could modify or revoke the National Emergencies Act to limit presidential authority in declaring and managing emergencies.
- Congress could pass new laws that explicitly define the limits of presidential power in specific areas, such as trade or war powers, effectively reasserting its authority.
- By withholding or conditioning funding, Congress can pressure the Executive Branch to comply with its directives or address concerns about the use of delegated powers.
- Oversight hearings could be held to investigate how the Executive Branch is using its delegated powers and hold officials accountable for their actions.
- Congress can more actively exercise its constitutional power to limit presidential authority to initiate military action.
- To ensure that the Executive Branch does not exceed its authority in foreign policy, Congress can assert its role in treaty ratification.

In 1788, James Madison argued in Federalist Paper 51 that dividing political power among the three branches of government – Legislative, Executive and Judicial – was essential to prevent any single branch from becoming too powerful and abusing its authority.

While Congress has the power to reclaim responsibilities delegated to the President, it requires a concerted, bipartisan effort and a willingness to challenge the Executive Branch. By leveraging its legislative, oversight, and constitutional powers, Congress can reassert its role as a co-equal branch of government.