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Our State Constitution - *A Student's Guide to the California Constitution*

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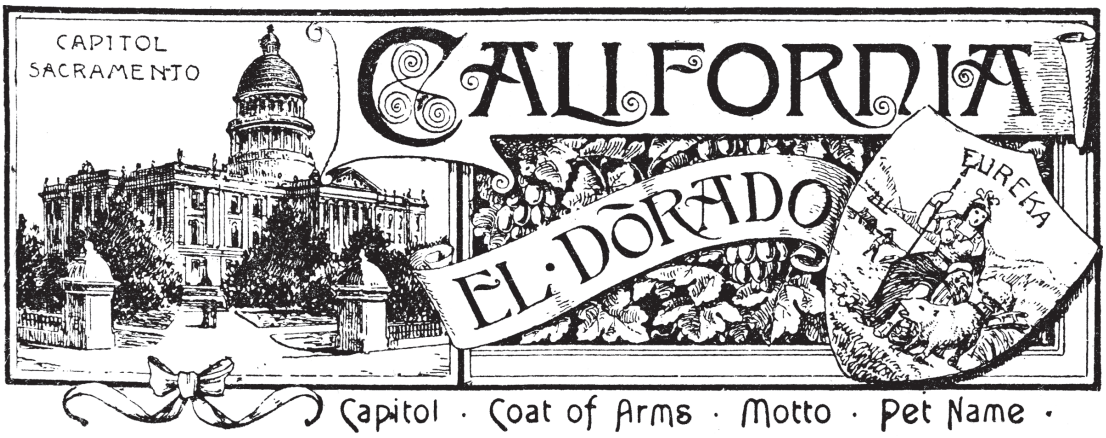

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produced airplanes, ships, and weapons. San Francisco served as a major port for ships carrying troops to the Pacific. Many people came to California during the war, and the populations of the Los Angeles, San Diego, and San Francisco areas grew considerably.

During the war, Japanese-Americans were moved from California to relocation camps. This was a terrible injustice to a group of innocent Americans.

Throughout the 1950s, California continued to grow at a rapid rate. California became the number one state in population when it passed New York in 1963. During the 1960s, California's population grew to over 1,600 people a day. California has become our nation's center for research and design.

Contributing to the vitality of the state have been the men and women of diverse ethnic backgrounds. The talents and energies of our Chinese-Americans, Japanese-Americans, Native Americans, Blacks, Hispanics and Latinos (California's largest minority), and many other national ethnic groups have blessed California with an interesting, talented, and resourceful population.

California Constitutions & Capitals

The *Constitution of 1849* is a compilation of parts of other states' constitutions. The convention members creating the state constitution included 38 delegates who had been citizens of 21 different states and 14 lawyers of 11 states. Twenty of the state constitutions and the federal constitution were mentioned in the debates, some of them several times. Much of the first California Constitution was based heavily on the constitutions of Iowa and New York.

The territorial government adopted California's first constitution in 1849 and adopted it on September 9, 1850, during statehood. This constitution served the state both before and after its admission into the Union. The present constitution was adopted in 1879. It has been amended (changed) over 500 times.

Since 1849, California has had its capital in five different cities: San Jose, Vallejo, Benicia, San Francisco, and Sacramento, the capital for over 39 million California residents. California has the largest state population.

Organization of State Government

From studying the U.S. Constitution, you know certain responsibilities are left to the states. To carry out these responsibilities, states have established their own constitutions. The state government, for example, is responsible for highway construction, local laws, intrastate commerce, traffic laws, education, marriage and divorce laws, voting regulations, etc.

The organization of a state government is very similar to that of the federal government. Both have three branches, which have about the same type of duties and the same type of checks-and-balances system. Article 3 of the California Constitution reads:

"The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution."

Both the U.S. Constitution and the California Constitution also have a Bill (or Declaration) of Rights. There are other similarities and differences you will notice as you read about the California Constitution. Read Article 4 and the 10th Amendment of the U.S. Constitution if you wish to know exactly what the federal Constitution says about the role of the states.

QUESTIONS

TRUE OR FALSE? Write a ***T*** or ***F*** in the space provided.

___ 1. California has the largest state population.
___ 2. The concepts from many state constitutions helped created the California Constitution.
___ 3. The recorded history of California goes back to the 1500s.
___ 4. The current capital of California is Sacramento.
___ 5. California's present constitution was adopted in 1849.
___ 6. California has a bond with the Iowa Constitution.
___ 7. The California Constitution has more authority than the United States Constitution.
___ 8. Foreign affairs is the duty of state government.

MATCH THE PERSON. Write the letter from ***Section B*** in the space that matches the person in ***Section A***.

A		***B***
1. James Marshall	_____	a. Established first mission
2. Peter Burnett	_____	b. President during statehood
3. Millard Fillmore	_____	c. Led American Explorers
4. Father Serra	_____	d. Discovered gold
5. John Bidwell	_____	e. First governor of California

CALIFORNIA BY THE NUMBERS. Choose the correct number from the bank that matches the statement.

Number Bank: 2, 3, 4, 8, 10, 31, 52, 54

_____ Number of California electoral votes
_____ Number of state constitutions
_____ This number state to join the Union
_____ Number of branches in California government
_____ Number of representatives in the U.S. House from California

EVENTS IN ORDER. Write the numbers **1-4**, indicating which historical event happened *first (1), second (2), third (3),* and *fourth (4).*

_____ United States and Mexico go to war
_____ California becomes a state
_____ United States Constitution signed
_____ California's present constitution adopted

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Article XIX - Motor Vehicle Revenues

Article XIX explains that fuel taxes shall be used to construct and maintain roads and highways along with public mass transit systems.

Article XX - Miscellaneous Subjects

Article XX covers various subjects ranging from provisions specific to the County of Sacramento to the regulations surrounding alcoholic beverages.

Article XXI - Redistricting

Because of shifting populations, the boundaries of the Senate, Assembly, Congressional, and Board of Equalization districts must be periodically adjusted to ensure voter equality in representation. The adjustment of these districts, known as *redistricting*, is mandatory per Article XXI.

Article XXII - Architectural & Eng. Services

Article XXII was added to the California Constitution in November 2000, when *Proposition 35* was approved by the state's voters. This allowed the governmental entities of California to contract with qualified private companies for architectural and engineering services for all public works projects.

There are no Articles XXIII through XXXIII of the California Constitution.

Article XXXIV - Public Housing Project Law

Article XXXIV requires local voter approval of housing projects intended for low-income people that receive funding or assistance from the federal and/or state government. Throughout its 70 years of enactment, this article has been constitutionally challenged at the state level and limited in scope by judicial decisions.

Article XXXV - Medical Research

Article XXXV was added to the state constitution in 2004 when Proposition 71, the Stem Cell Research Initiative, was approved. This gave the state the right to conduct stem cell research, creating and funding the California Institute for Regenerative Medicine (CIRM).

State Constitution vs. U.S. Constitution

Initially, state constitutions were short and brief. Today the 50 state constitutions average about 30,000 words. In comparison, the United States Constitution has 7,591 words (including the 27 amendments). State constitutions are longer because they have many details. It is easy for these to become outdated. Remember that the U.S. Constitution leaves the details to the lawmakers in Congress and the courts. This makes the U.S. Constitution very flexible, and state constitutions often inflexible.

QUESTIONS

WHICH ARTICLE? In which article of the state constitution would you find information on the following? (Give section number when possible.)

1. Rights of Individuals _____
2. The Governor _____
3. Jury Trial _____
4. Religious Freedom _____
5. The Judicial System _____
6. Revising the Constitution _____
7. Voting Qualifications _____
8. Local Government Rules _____
9. Minimum Wage and Labor Compensation _____
10. Property Taxes _____
11. Rights of Crime Victims _____
12. Stem Cell Research _____
13. Adjusting Legislative Districts _____
14. Water Conservation _____
15. Recall Elections _____

TRUE OR FALSE? Write a ***T*** or ***F*** in the space provided.

____ 1. Voters must approve changes in the state constitution.

____ 2. The governor may change the state constitution without voter or Legislature approval.

____ 3. An amendment to the state constitution may be proposed in either house of the Legislature.

____ 4. The California Constitution helps establish federal laws and treaties.

____ 5. State constitutions are always shorter in length and contain fewer details than the U.S. Constitution.

____ 6. Freedom of speech is not listed in the California Constitution, only in the U.S. Constitution.

____ 7. The California Bill (or Delaration) of RIghts contains 10 sections or amendments.

____ 8. The wording in the California Constitution preamble is the same as the United States Constitution preamble.

____ 9. Initiative, referendum, and recall are considered the three forms of direct democracy.

____ 10. There are more amendments to the United States Constitution than in the California Constitution.

____ 11. Providing an educational system is the duty of state government.

____ 12. The U.S. Constitution is considered the supreme law of the land.

____ 13. All taxing authority is the responsibility of the federal government.

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The California Constitution

Present one was adopted in 1879

California voters choose our elected officials.

Legislative Branch

makes the laws

California Legislature

Senate *upper house* — **40** State senators

Assembly *lower house* — **80** Assembly Members

Quick Facts

The California Legislature is made up of the state Senate and state Assembly.

California Senate

Districts: 40

Term: 4 years

Term limit: 12 years (3 terms)

Salary: $122,694

Qualifications:

- U.S. citizen
- At least 18 years old
- State resident for at least 3 yrs
- Live in district for at least 1 yr

California Assembly

Members: 80

Term: 2 years

Term limit: 12 years (6 terms)

Salary: $122,694

Qualifications:

- U.S. citizen
- At least 18 years old
- State resident for at least 3 yrs
  Live in district for at least 1 yr

Executive Branch

enforces the laws

Governor

Executive Officers:
Lieutenant Governor
Secretary of State
Attorney General
State Treasurer
State Controller
Supt. of Public Instruction

Quick Facts

The California Constitution provides for 8 executive offices.

Executive Officers

Number: 4
Term: 4 years
Term limit: 2 terms

Qualifications:

- U.S. citizen
- At least 30 years old
- Resident of state for at least 5 years
- qualified voter of California

Salaries:

Governor:	$234,101
Lt. Governor	$175,576
Sec. of State:	$175,576
Atty. General:	$203,343
Treasurer	$187,280
Controller	$187,280

*Other executive offices include the Superintendent of Public Instruction and the Insurance Commissioner.

**With a few exceptions, the Governor appoints the heads of state departments and agencies of the executive branch.

Judicial Branch

administers justice

California Supreme Court

Courts of Appeal

Superior Courts

Quick Facts

California Supreme Court

- *Final court of appeal for state matters*

Number of judges: 7
Term: 12 years
Appointed by: the governor after review by commission, confirmed by voters
Court duties:

- Review constitutionality of laws
- Review all death penalty cases
- Supervises state courts

Court of Appeals

- *6 appellate districts, hearing appeals from superior courts*

Number of judges: 106
Term: 12 years
Appointed by: same process as California Supreme Court

Superior Courts

- *General trial court of the state*
- 58 courts, one in each county
- Judges serve 6-year terms, elected by voters

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"The judicial power of this State is vested in the Supreme Court, courts of appeal, and superior courts, all of which are courts of record." —— California Constitution Article VI

The judicial branch of government in California administers justice and interprets the laws. It encompasses the California court system and serves as a check against legislative and executive powers by making sure that these branches do not create laws that are in conflict with the state constitution. The judicial branch is responsible for seeing that laws are justly and equitably applied in all matters brought before the courts.

The California court system is the largest in the nation, with more than 2,000 judicial officers, 19,000 court employees, with over 9.5 million cases filed annually. The state constitution provides the judicial power of California through the *superior courts*, *courts of appeal*, and *Supreme Court*.

Criminal and Civil Cases

All courts handle both *criminal* and *civil* cases. A criminal case involves a violation of a law for which there is a fine or other penalty like a prison sentence or probation. Criminal cases range from relatively minor offenses such as traffic infractions to serious ones such as robbery or murder. These typical crimes are classified as *felonies*, *misdemeanors*, or *infractions*.

Felonies – Serious crimes that often are punishable by a state prison sentence, or even death in the most extreme cases.

Misdemeanors – A lesser offense than a felony. It is punishable by fine or incarceration for less than a year in a city or county jail rather than in a state penitentiary.

Infractions – These are not punishable by jail or prison time but rather by a fine. The most common infractions are traffic violations.

Civil cases are brought against individuals or organizations by other individuals or organizations. In some civil cases, the plaintiff seeks money damages to be paid by the defendant. In other kinds of civil cases, the parties ask the court to take a certain action, such as to dissolve a marriage, decide the custody of minor children, review property rights, or stop someone from doing something.

Now that you are familiar with the type of court cases, it is time to learn more about the courts themselves. California has two types of state courts, 1) trial courts (or superior courts) and 2) appellate courts, consisting of the Court of Appeals and the Supreme Court.

Superior (or Trial) Courts

California has 58 superior courts, one in each county. In trial courts, a judge and sometimes a jury hear witnesses' testimony and other evidence and decide cases by applying the relevant law to the relevant facts.

Before June 1998, California's trial courts consisted of superior and municipal courts, each with its jurisdiction and number of judges fixed by the Legislature. In June 1998, California voters approved Proposition 220, a constitutional amendment that permitted the judges in each county to merge their superior and municipal courts into a "unified," or single, superior court.

Superior courts have trial jurisdiction over all criminal and civil cases. Special departments of the courts handle family, probate, mental health, juvenile, small claims, and traffic cases. Many superior courts also have specialty departments for nonviolent drug offenses and domestic violence cases. These courts will hear over 5.9 million cases in a typical year, making a final determination in 4.2 million.

Today, there are approximately 1,754 judges in the trial court system. Trial court judges are chosen by the voters and serve six-year terms. As with the other California judges, they are elected on a non-partisan (no party affiliation) basis at general elections. A superior court judge must have been an attorney admitted to practice law in California or have served as a judge of a court of record in this state for at least 10 years. The state Legislature determines the number of judges in each court, ranging from two in sparsely populated counties to more than 400 in Los Angeles County.

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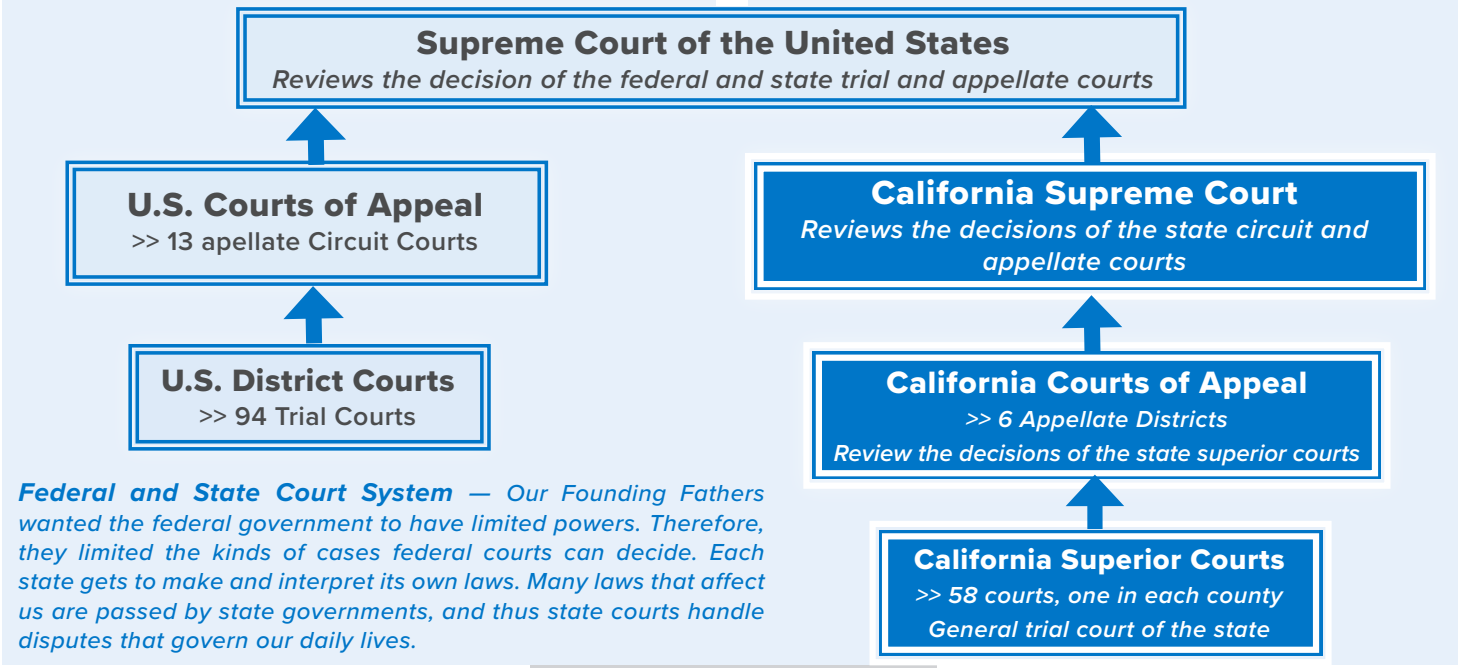

Federal and State Court System — *Our Founding Fathers wanted the federal government to have limited powers. Therefore, they limited the kinds of cases federal courts can decide. Each state gets to make and interpret its own laws. Many laws that affect us are passed by state governments, and thus state courts handle disputes that govern our daily lives.*

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California History

I. California has had five capitals since it was first organized.
- **A.** San Jose
- **B.** Vallejo
- **C.** Benicia
- **D.** San Francisco
- **E.** Sacramento (current capital)

II. There have been two California Constitutions:
- **A.** 1849 - First constitution adopted by the territorial government.
- **B.** 1879 - Currently in effect with numerous amendments.

The Three Branches of California Constitutional Government

I. California Constitution is longer than, but similar to, the federal Constitution; can be changed by amendment.

II. California Constitution provides the basic form and operation of state and local government; must not conflict with the federal Constitution or with authority given to the federal government.

III. There are three branches of California government:

A. ***Legislative Branch***, Article IV
1. Main duty is to make laws
2. Main body is the Legislature
   A. The Legislature consists of two houses:
      1. The Senate
         a. 40 members, one from each of the 40 senatorial districts
         b. *Qualifications:* 18 years old, a U.S. citizen, resident of the district for one year, resident of California for three years preceding election
         c. Your local state senator is _____.
         d. *Term:* four years, half of the members are elected every two years, three-term limit
         e. *Powers:* pass bills and send to Assembly, select impeachment jury, approve governor's appointments
         f. *Officers:* lieutenant governor serves as president of Senate, president pro tempore
      2. The Assembly
         a. 80 members, one from each of the 80 assembly districts
         b. *Qualifications:* 18 years old, a U.S. citizen, resident of the district for one year, resident of California for three years preceding election
         c. Your local assembly member is _____.
         d. *Term:* two years, election in even-numbered years, six-term limit
         e. *Powers:* pass bills and send to Senate, start impeachment
         f. *Officers:* speaker, determined by the majority party, speaker pro tempore
   B. *Salaries:* $122,694 annually for members of the Legislature.
3. *Duties of the Legislature* include making laws for the state of California, conducting investigations, revising the state constitution, and planning redistricting.
4. Sessions begins the first Monday of December of each even-numbered year; extra sessions may be called by the governor.
5. Lawmaking process: similar to that of the United States Congress, bills must pass both houses and be sent to the governor;
   A. If governor signs, the bill is law; if he or she doesn't act in 12 days the bill is law without their signature
   B. If the governor vetoes, the houses can try to pass by two-thirds vote, and if they do, bill is law over veto.

B. ***Executive Branch***, Article V
1. Main duty: enforce and administer state laws
2. Chief executive is the governor of California
   A. *Qualifications:*
      1. Must be at least 18 years old
      2. Resident of the state for five years preceding the election, and a U.S. citizen
   B. Duties of the governor (examples of key responsibilities)*:*
      1. Appoints many state officials
      2. Approves or vetoes bills from the Legislature
      3. Commander-in-chief of state militia
      4. May call special sessions of the General Assembly

continued

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California Constitution Self-Test

The following test will help you prepare for your California Constitution test. It has questions similar to ones you will find on your final. It is suggested you write your answers on a piece of paper so you can take the test a number of times. You will find the correct answers at the bottom of Page 35.

Hard work on this page will assure you of a better grade on your final exam. Be sure to look up any answers you don't understand or see your teacher for an explanation.

STATE BRANCH OF GOVERNMENT MATCHING. Match the person or body in ***Column A*** with the correct branch of state government in ***Column B***. Put the letter of the correct answer in the space provided.

Column A	***Column B***
_____ 1. Governor	a. The Legislative Branch
_____ 2. State Assembly	b. The Judicial Branch
_____ 3. Supreme Court	c. The Executive Branch
_____ 4. Superior Courts	
_____ 5. Lieutenant Governor	
_____ 6. State Senate	
_____ 7. Attorney General	
_____ 8. President pro tempore	

FILL IN THE BLANKS. Write the correct answer in the space provided.

_____ 9. Who can veto a bill passed by the Legislature?

_____ 10. If the governor resigns, who becomes governor?

_____ 11. The highest court in California.

_____ 12. Voters not only vote for state officials, they sometimes vote on public issues or questions. What are those types of elections called?

_____ 13. The governor of California.

_____ 14. The next presidential election will be in what year?

_____ 15. How many days does the governor have to consider a bill?

_____ 16. How many different state constitutions has California had?

_____ 17. Who may call special sessions of the Legislature?

_____ 18. The executive branch officer that maintains the official records of the state.

_____ 19. Who is the chief legal officer of the state of California?

_____ 20. The California Constitution guarantees the right of trial by _____.

_____ 21. Name the election used to select candidates for the general election.

_____ 22. The capital of California.

_____ 23. How many branches of government in California?

_____ 24. If the Legislature wishes to pass a bill over a veto, what fractional vote is necessary?

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