

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor at McGeorge School of Law. Thanks for joining today's podcast on comparing state and federal judiciaries.

As you know there are both federal and state judicial branches of government and separate court systems at both of these levels of government. The federal courts are established in Article III of the United States Constitution, while the state courts are established in Article VI of the California Constitution. Article III of the federal Constitution contains three sections. Section 1 vests the judicial power of the country in the Supreme Court and also mentions the inferior courts, or the lower courts, that Congress may establish. Section 1 also specifies that there are no term limits for federal judges.

Note that Section 1 establishes the Chief Justice, but neither the size of the Supreme Court nor other specific positions on the Court. Congress has used its power as set forth in Article III of the US Constitution to establish 13 US Courts of Appeals, 94 US District Courts, the US Court of Claims and the US Court of International Trade. There are also US bankruptcy courts that obviously handle bankruptcy cases, as well as magistrate judges who handle some of the district court matters.

Section 2 of Article III of the Federal Constitution sets forth the powers of the federal courts. First, the judiciary must consider only actual cases or controversies, which is why the federal courts use doctrines such as issues of standing, mootness, ripeness that limit their jurisdictions. Essentially, federal court jurisdiction is limited to cases that arise from the federal Constitution or the laws and treaties of the federal government, those involving multiple states or foreign governments, and some other specified areas such as bankruptcy.

The Supreme Court has original jurisdiction with ambassadors, with states that are a party to a case, and juries must be used for federal criminal prosecutions. That's all set forth in Section 2. Finally, Section 3 of Article III defines treason and it specifies that Congress may punish it. There are also specified requirements for treason cases and how treason as a crime can be punished.

Now, all state constitutions create their respective state court systems. They all have a high court, generally referred to as the Supreme Court. Many states have an intermediate appellate court. All of them, of course, have trial courts, some of which are called circuit or district courts. Most states provide for the courts to handle specific legal matters including things like probate and family law matters.

Here in California, Article VI of the California Constitution contains 23 different sections, although they are numbered 1 through 22. Now, just to highlight a few of those. Section 1 vests the judicial power of the state in the Supreme Court, the Courts of Appeal and the superior courts. Section 2 specifies that there are seven Supreme Court Justices. Section 3 requires the Legislature to divide the state of California into districts with each having a court of appeal. Section 4 of Article VI requires every county of the state to have a superior court and the Legislature prescribes the number of judges and provides for the other officers and employees of each Superior Court.

Section 6 - note that there isn't a Section - Section 6 creates the Judicial Council which appoints an Administrative Director of the courts. There's Section 7 that creates the Commission on Judicial Appointments and Section 8 that creates the Commission on Judicial Performance. Then Section 9 creates the State Bar of California, which enumerates that it is a public corporation and that every person admitted and licensed to practice law here in the State of California is a member of the bar.

Section 10 specifies that the Supreme Court, the Courts of Appeal, the superior courts and their judges have a regional jurisdiction in certain specified proceedings. Section 11 provides that the Supreme Court has appellate jurisdiction when the judgment of death has been pronounced. Section 12 deals with appellate court jurisdiction. Section 15 provides the requirements for being a judge. Someone is eligible who has at least 10 years immediately preceding their selection of the practice of law and has been a member of the State Bar or has served as a judge of record.

Section 16 specifies that judges of the Supreme Court are to be elected at large statewide and the judges of the Courts of Appeal must be elected in their districts at general elections which are held every 12 years at the same time as the Governor. Section 16 of Article VI limits the terms to 12 years for our justices. Section 17 generally prohibits a judge from practicing law. However, they can be a teacher. They are also ineligible for public employment or to hold public office.

Section 18 requires disqualification of a judge when certain types of proceedings are pending. Section 18.1 requires the Commission on Judicial Performance to exercise discretionary jurisdiction. Section 19 requires the Legislature to prescribe compensation for judges. Section 20 specifies that the Legislature must provide for the retirement of judges. Section 22 allows the Legislature to provide for the appointment by trial courts for officers to perform subordinate duties.

Note that when it comes to the selection of judges, there are some differences. The US Constitution states that federal judges are to be nominated by the President and confirmed by the United States Senate and they hold office typically for life. Through congressional impeachment proceedings federal judges may be removed from office for misbehavior. On the other hand, state court judges are selected in several different ways including election, appointment by the Governor. Generally, they either have specified terms or life terms.

Here in California, the trial court judges are elected generally, but the Governor may appoint judges to fill vacancies. For the appellate court justices, the Governor appoints them and they are confirmed by the Commission on Judicial Nominations often referred to as the JNE Commission. Now finally on court jurisdiction, the federal courts are assigned cases that deal with the constitutionality of laws, cases involving the laws and treaties of the United States, cases involving ambassadors and public ministers, disputes between two or more states, and generally cases involving specialized areas such as admiralty law and bankruptcy law.

State courts, on the other hand, handle most of the criminal cases, probate, contracts, tort, family law matters, and of course, they decide cases involving their respective constitutions, state statutes and regulations. Hope you appreciate this

brief comparison of state and federal judiciaries, particularly for California. Thanks for joining me.