

## Lesson Overview

**Overview:** This lesson will explore executive orders as used by presidents of the past and present. Students will evaluate the concept of executive orders and establish a position on the constitutionality of executive orders.

**Objectives:** Students will be able to...

- Review the structure, function, and processes of the executive branch.
- Define an executive order
- Relate executive orders to the concepts of checks and balances and separation of powers
- Establish a position on whether or not executive orders should be addressed within the Constitution

**Time Required:**

- Two - 50 minute class periods

**Materials Needed:**

- *That's An Order* PowerPoint
- *Observation Station* Handouts #1-5
- *That's An Order: Observation Stations* Handouts
- *That's An Order: Constitutional Amendment* Handout

# THAT'S AN ORDER



## Procedures

1. Distribute Student Handout 1 as a review for the executive branch. Have students complete in cooperative groups. Provide Constitutions if students need additional assistance. See Handout 1A. Review answers using the PowerPoint.
2. Next, ask students if they know the definition of an executive order. Using the *That's An Order* PowerPoint, discuss the definition of an executive order. An executive order is a directive handed down directly from a president that has the strength of law, but not necessarily the permanence. Continue through the PowerPoint. It will discuss the powers of the executive branch, how Executive Orders are addressed (or not addressed) in the U.S. Constitution, and checks & balances.
3. Next, discuss how executive orders impact the system of checks and balances and separation of powers. If needed, review the roles of the branches with respect to laws: the legislative branch makes laws, the executive branch carries out/enforces laws, and the judicial branch interprets and applies laws. Ask students, "where do executive orders fit in this system?"
4. Discuss the checks on executive orders. Executive orders, like laws, can be challenged for their constitutionality in the courts. Additionally, the legislative branch can create law that would reverse or alter the executive order. The President can [veto](#)\* the legislation but the Congress can override the veto. Discuss with students.
5. The PowerPoint will then provide a contemporary example of an Executive Order through videos addressing the issue of immigration.
6. Tell students that they will now be researching an Executive Order of their choice. They can select a contemporary or historical document based on their preference/interest. The PowerPoint provides links to websites with this information. Distribute Student Handout 2. Students will fill in the Observation Station 1 box on Handout 2 with information about the Executive Order they have researched.

## Next Generation Sunshine State Standards:

- **SS.7.C.3.8** Analyze the structure, functions, and processes of the legislative, executive, and judicial branches.

## Procedures, continued

7. Students will then share their Executive Order and examine executive orders issued in the past in a stations activity. Set up five stations in the classroom, placing one of the handouts from the *Observation Stations #2-5* at each station. Station 1 will be where students share about the Executive Order they researched. Divide the class into five groups. Assign students to a station (1-5). Students will need to read the executive order (on the *Observation Stations* handout) and complete the appropriate section of Student Handout 2. After 5-7 minutes, have students rotate, leaving the *Observation Stations* handout at each respective station for the next group. Continue rotations until students have visited all of the “Observation Stations”.
8. Review and discuss student responses and observations using the *That’s An Order* PowerPoint.
9. Ask students to consider the following questions:
  - a. Is issuing an Executive Order the same as making a law?
  - b. Should the president be able to issue Executive Orders?
    - i. Things to consider: checks and balances, separation of power, abuse of power, meeting the needs of citizens, efficiency in times of emergency or disaster, lack of Congressional action, etc.
  - c. Should Congress be the only branch with law-making authority?
    - i. Things to consider: checks and balances, separation of power, abuse of power, meeting the needs of citizens, efficiency in times of emergency or disaster, etc.
10. Students will now be taking a position on executive orders by considering if Executive Orders should be included specifically in the U.S. Constitution. If they think it should be addressed in the Constitution, students will work in pairs or small groups to develop a proposed 28<sup>th</sup> Amendment to the Constitution either in support of executive orders or in opposition to executive orders. Using the *That’s An Order* Student Handout 3, students will outline and support their position and create the language for their proposed amendment. If they do not feel it should be addressed in the Constitution, students will need to write a concrete, well-supported response as to why they would not like to see Executive Orders addressed in the U.S. Constitution.
11. Once completed, students will present their amendment to the class or will explain why they would not include Executive Orders in the U.S. Constitution. Once all proposed amendments have been presented, have students vote on their favorite. Remind students of the constitutional amendment processes.

## Lesson Extensions and Additional Information

- For additional lessons on the executive branch see Section 9: Political Participation and Media Influence
  - Run Away? Pg. 23: Lesson about qualifications to run for office or to be appointed to a position
  - Evaluating Presidential Candidates; Pg. 51: Lesson where students evaluate criteria and qualities of potential presidential candidates
  - How to Become President of the United States; Pg. 66: Lesson providing an overview of the electoral process
- The [United States Archives](#) has a comprehensive list of all executive orders issues beginning with President Truman.
- \*An outline of presidential vetoes can be found on the [United States Senate website](#)

## Assessment

- **Observation Station** student handout – students will be assessed based on the completion and accuracy of responses on their student handout.
- **That's An Order** student handout – students will be assessed for the completion and thoroughness of responses on their student handout.
- **Observation** - Assess student participation and cooperation during the Observation Stations activity. All students should be proactively contributing to the group effort.

### Suggested Scoring Rubric for

Assignment	Scoring	Total
<b>Observation Station Student Handout</b>	5 points per station correctly answered (6 stations possible)	30 points
<b>That's An Order Student Handout</b>	4 points per section to be answered thoroughly (4 sections)	16 points
<b>Observation Stations Participation and Cooperation</b>	4 points for participation and cooperation during group activity	4 points
Total		50 points

Name: \_\_\_\_\_ Date: \_\_\_\_\_

## Branch Profile: Executive Branch

**Instructions:** In your group, complete the worksheet below with as much information as you can remember.

\*Hint: If you need more information, which document would you use to find more information?

<b>Just the Facts</b>	
<b>Head of the Executive Branch</b> <i>Title and Current position holder</i>	
<b>Elected or Appointed?</b>	
<b>Other Members of the Executive Branch</b>	
<b>Requirements to Serve as President</b> <ul style="list-style-type: none"> <li>• Age</li> <li>• Citizenship Requirements</li> </ul>	
<b>Length of Term</b> <b>Number of Terms</b>	
<b>Role and duties of the Executive Branch</b> <b>/President</b>	

Name: \_\_\_\_\_ Date: \_\_\_\_\_

## Branch Profile: Executive Branch

**Instructions:** In your group, complete the worksheet below with as much information as you can remember.

\*Hint: If you need more information, which document would you use to find more information?

<b>Just the Facts</b>	
<b>Head of the Executive Branch</b> <i>Title and Current position holder</i>	President of the United States President Barack Obama
<b>Elected or Appointed?</b>	Elected through the electoral system
<b>Other Members of the Executive Branch</b>	Vice President Cabinet
<b>Requirements to Serve as President</b> <ul style="list-style-type: none"> <li>• Age</li> <li>• Citizenship Requirements</li> </ul>	35 years of age Natural born citizen 14 years resident within U.S.
<b>Length of Term</b> <b>Number of Terms</b>	4 years 2 terms 10 year maximum
<b>Role and duties of the Executive Branch/President</b>	Head of the executive branch; Commander-in-Chief; appoint ambassadors, officers in the executive branch, and federal judges with Senate approval; make treaties with approval of Senate; grant reprieves and pardons for offenses against the United States; State of the Union; etc. See US Constitution

**Observation Station #2****Executive Order 11118 - Providing Assistance for Removal of Unlawful Obstructions of Justice in the State of Alabama***September 10, 1963*

WHEREAS, on September 10, 1963, I issued a proclamation entitled "Obstructions of Justice in the State of Alabama" pursuant in part to the provisions of Section 334 of Title 10 of the United States Code; and

WHEREAS the commands contained in that proclamation have not been obeyed, and the unlawful obstructions of justice, assemblies, combinations, and conspiracies referred to therein continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code, particularly Sections 382, 383 and 384 thereof, and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is authorized and directed to take all appropriate steps to remove obstructions of justice in the State of Alabama, to enforce the laws of the United States within that State, including any orders of United States Courts relating to the enrollment and attendance of students in public schools in the State of Alabama, and to suppress unlawful assemblies, combinations, conspiracies, and domestic violence which oppose, obstruct, or hinder the execution of the law or impede the course of justice under the law within that State.

SEC. 2. In furtherance of the authorization and direction contained in Section 1 hereof, the Secretary of Defense is authorized to use such of the Armed Forces of the United States as he may deem necessary.

SEC. 3. I hereby authorize and direct the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard of the State of Alabama to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use the units, and members thereof, of the Army National Guard and of the Air National Guard of the State of Alabama called into the active military service of the United States pursuant to this section or otherwise.

SEC. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

JOHN F. KENNEDY  
THE WHITE HOUSE  
September 10, 1963

**Observation Station #3****Executive Order 9066**

The President

Executive Order

**Authorizing the Secretary of War to Prescribe Military Areas**

Whereas the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities;

Now, therefore, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, **to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion.**

Franklin D. Roosevelt

The White House,

February 19, 1942.

**Summary:** The President authorized the Secretary of War and designated military commanders to create “military areas” under executive order 9066. These zones were created during World War II following the bombing of Pearl Harbor by the Japanese. Those relocated and placed in these “military zones” were persons of Japanese ancestry living in the United States, whom the government feared could have loyalty to Japan, thus leading them to spy on American war efforts or sabotage the United States. These “military zones” would come to be known as Japanese Internment Camps.

**Observation Station #4****Executive Order 9981****Establishing the President's Committee on Equality of Treatment and Opportunity In the Armed Forces.**

WHEREAS it is essential that there be maintained in the armed services of the United States the highest standards of democracy, with equality of treatment and opportunity for all those who serve in our country's defense:

NOW THEREFORE, by virtue of the authority vested in me as President of the United States, by the Constitution and the statutes of the United States, and as Commander in Chief of the armed services, it is hereby ordered as follows:

1. It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin. This policy shall be put into effect as rapidly as possible, having due regard to the time required to effectuate any necessary

Harry Truman

The White House

July 26, 1948

**Summary:** Prior to the implementation of Executive Order 9981 the armed forces were segregated by race and also had visible signs of discrimination present. Executive Order 9981 required equal treatment and opportunity for all in the armed services.

**Observation Station #5****Executive Order 13228 of October 8, 2001****Establishing the Office of Homeland Security and the Homeland Security Council**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Establishment. I hereby establish within the Executive Office of the President an Office of Homeland Security (the “Office”) to be headed by the Assistant to the President for Homeland Security.

Sec. 2.

Mission. The mission of the Office shall be to develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks. The Office shall perform the functions necessary to carry out this mission, including the functions specified in section 3 of this order.

Sec. 3. Functions.

The functions of the Office shall be to coordinate the executive branch’s efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

George W. Bush

**Summary:** Following the terrorist attacks on the United States on September 11, 2001, President George W. Bush created the Department of Homeland Security which would help secure the United States from terrorist threats and/or attacks.

**Student Handout 1A****Article. II. United States Constitution****Section. 1.**

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

**Section. 2.**

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be

**Student Handout 1A**

established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

**Section. 3.**

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

**Section. 4.**

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Name: \_\_\_\_\_ Date: \_\_\_\_\_

## THAT'S AN ORDER OBSERVATION STATIONS

<b>Observation Station #1 – This will be the Executive Order you researched</b>	
Summary of the executive order (in your own words)	
What was the purpose of this executive order from your observations?	
What is your reaction to this executive order?	
Date issued	
Signed by	

<b>Observation Station #2</b>	
Summary of the executive order (in your own words)	
What was the purpose of this executive order from your observations?	
What is your reaction to this executive order?	
Date issued	
Signed by	

<b>Observation Station #3</b>	
Summary of the executive order (in your own words)	
What was the purpose of this executive order from your observations?	
What is your reaction to this executive order?	
Date issued	
Signed by	

<b>Observation Station #4</b>	
Summary of the executive order (in your own words)	
What was the purpose of this executive order from your observations?	
What is your reaction to this executive order?	
Date issued	
Signed by	

Student Handout 2

<b>Observation Station #5</b>	
Summary of the executive order (in your own words)	
What was the purpose of this executive order from your observations?	
What is your reaction to this executive order?	
Date issued	
Signed by	

<b>Notes</b>	

Name: \_\_\_\_\_ Date: \_\_\_\_\_

# THAT'S AN ORDER

## WHAT WOULD YOU DO?

**Instructions:** You will need to decide if there should be a constitutional amendment about Executive Orders.

**If you say yes**, you will be creating a proposal for the 28<sup>th</sup> Amendment to the United States Constitution. You will need to decide if you believe executive orders should be permitted or prohibited as a power of the executive branch in the United States Constitution. You will need to support your opinion using examples of executive orders, the ideas of separation of powers and checks and balances, and any other factors you choose to utilize to support your position.

Executive orders should be **permitted/prohibited (circle one)** in our United States Constitution.

<b>Reasoning</b>
<b>Examples of executive orders that apply</b> (use your Observation Stations handout)
<b>If executive orders should be permitted, would there be limitations placed on when and why they are issued? Explain.</b>
<b>If executive orders should be prohibited, what other means exist to achieve the purposes of executive orders? Explain.</b>

**If you say no**, you will need to provide a concrete, written explanation for why you would not include Executive Orders in the U.S. Constitution on the back of this sheet. This will need to be a minimum of four sentences and evidence will need to be provided that will support your position.