The President

I. The President's Job Description

A. The President's Roles

1. Chief of state - Ceremonial head of the United States government

2. Chief executive - Vested with the executive power of the United States

3. Chief administrator - Administers the vast federal bureaucracy

4. Chief diplomat - The main architect of American foreign policy

5. Commander in Chief - Commands the nation's armed forces

6. Chief legislator - Sets the shape of public policy, both domestic and foreign

7. Chief of party - The automatic head of the political party that controls the executive branch

8. Chief citizen - The only elected official who represents all the people, not just the constituents of a State or congressional district, or those that voted for him/her

9. Each role is played simultaneously and is inseparable from the others.

B. Formal Qualifications for the Presidency

1. **** The Constitution expressly required that the President must be a natural born citizen of the United States, 35 years of age, who has lived in the country at least 14 years. Not just a citizen for at least 14 years or lived in country for 14 years prior to election. Eisenhower spent time in Europe during war.

C. The President's Term

1. The President is elected to a four-year term.

2. The 22nd Amendment limits Presidents to two full terms in office. However, **** a President who has succeeded to the office beyond the
midpoint in a term to which another person was originally elected could serve more than eight years, i.e., a maximum of 10 years.

D. Pay and Benefits

1. The President's salary —— $400,000 per year plus expenses —— is fixed by Congress and cannot be increased or decreased during that President's term.

2. President receives many fringe benefits, including use of the White House and Camp David, cars and Air Force One.

II. Presidential Succession and the Vice Presidency

A. The Constitution and Succession

1. Presidential succession is the plan by which a vacancy in the presidency would be filled. If a President dies, resigns, or is removed from office, the Vice President succeeds to the office and becomes President.

2. After the Vice President, the order of succession is the Speaker of the House, President pro tem of the Senate, Secretary of State (first cabinet officer), and the other 13 cabinet members in order of precedence. [Treasury, Defense, Attorney General, Interior, Agriculture, Commerce, Labor...]

3. The 25th Amendment provides for the succession of the President by the Vice President. **** The Presidential Succession Act (1947) established the line of succession following the Vice President.

B. Presidential Disability

1. If the President is disabled, the Vice President may temporarily assume the duties of the office. The Vice President and a majority of the members of the cabinet must inform Congress, in writing, that the President is incapacitated.

2. The President may resume his duties by informing the Congress that any previous incapacitation due to disability no inability exists.

3. The cabinet and the Vice President may challenge the President's resumption of power. If there is a challenge, Congress has 21 days in which to decide the matter.

C. The Vice Presidency
1. The constitutional duties of the Vice President are twofold:
   a. to preside over the Senate, and
   b. help decide the question of presidential disability.

2. The office of Vice President is often treated as an unimportant one.

3. The Vice President must be ready to assume the presidency at a moment's notice.

4. If the office of Vice President is vacated, the President must nominate a new Vice President. The nomination must be confirmed by a majority vote of both houses of Congress. Vice President Gerald Ford was nominated by President Nixon upon the resignation of Vice President Spiro Agnew.

5. The two major political parties try to choose vice-presidential candidates who will help "balance the ticket."

6. Regardless of the circumstances, the Vice President cannot be removed from office by the President.

III. Presidential Selection: The Framer's Plan

   A. Original Constitutional Provisions

   1. The Framers created the electoral college as an alternative to either popular election or congressional election of the President.

   2. The electoral vote was State by State, with each elector casting votes for two candidates.

   3. Originally, the candidate with the most votes became President; the runner-up became Vice President.

   4. In case of a tie, the House of Representatives was charged with electing a President.

   B. The Impact of the Rise of Parties

   1. The Election of 1800

      a. Parties arose during the administrations of Washington and Adams, and each put up its own candidates and electors in the election of 1800.
b. This development led to a tie between Jefferson and Burr in the election of 1800, and, with Hamilton's support, the House finally chose Jefferson.

2. The 12th Amendment

a. The 12th Amendment required electors to specify which person they wanted for President and which for Vice President, so that the tie of 1800 would never be repeated.

IV. Electing the President

A. The Electoral College Today

1. Electors are chosen by popular vote and make up the electoral college. **Electoral college:** Groups of persons (Presidential electors) chosen in each State and the District of Columbia every four years who make a formal selection of the President and Vice President.

2. The number of votes that a state has in the electoral college is equal to its number of members in BOTH houses of Congress, i.e., number of congressmen, PLUS, the two senators.

2. The party that wins the majority of the popular vote in each State gets all of that State's electoral votes. A political concept known as "winner take all."

3. Electors meet at a time set by law to elect the President, and their votes are sent by registered mail to Washington, D.C., where they are counted on January 6th.

4. In case of a tie for either President or Vice President, the decision is made by Congress

B. Flaws in the Electoral College

1. The First Major Defect — Because electoral votes are not distributed in exact proportion to the population, the winner of the popular vote may not win the electoral vote.

2. The Second Major Defect — Electors are not bound by the Constitution or by any federal law to vote for the candidate favored by the people of their State.

3. The Third Major Defect — Elections may be thrown into the House of Representatives, where voting is State by State.
V. The Changing View of Presidential Power

A. Why Presidential Power Has Grown

1. The presidency is in the hands of one person, rather than many, and many Presidents have worked to expand the powers of their office.

2. As the country grew and industrialized, especially in times of emergency, people demanded that the Federal Government play a larger role and looked to the President for leadership.

3. Congress has delegated much authority to the President, although presidential control over foreign affairs is greater than it is over domestic affairs. Congress simply continues to assert itself in the implementation of social programs.

4. Presidents have the attention and general respect of the media, the public, and their own party.

B. How Presidents Have Viewed Their Power

1. Stronger and more effective Presidents have taken a broad view of the powers of the office.

2. Other Presidents have viewed a strong executive as a threat to liberty, and have interpreted the powers of the office narrowly.

VI. The President's Executive Power

A. Executing the Law

1. The President is responsible for carrying out the nation's laws.

2. The President must carry out laws with which he or she disagrees, but nonetheless has discretion in interpreting the laws and deciding how vigorously the laws will be enforced.

3. Most of the powers exercised by the President is derived from past precedents as well as congressional authorizations.

B. Ordinance Power

1. The President has the authority to issue executive orders, which have the force of law.
2. Executive orders are necessary to the functioning of the executive branch.

C. **Appointment Power**

1. The President may appoint a handful of officials on his or her own authority.

2. Most of the important officers appointed by the President, including ambassadors, judges, and cabinet members, must be approved by the Senate. **ONLY the Senate can pass on and approve or disapprove presidential nominees.** *Cabinet:* A presidential advisory body, traditionally composed of the heads of the executive departments and other officers the President may choose.

3. Well over half of the officials in the federal work force are selected through civil service examinations, and thus are not under the direct control of the President.

D. **Removal Power**

1. Historically, there has been disagreement over whether the President has the power to remove, at will, individuals whom he or she has appointed, with the consent of the Senate.

2. The President's power to remove people from office has generally been upheld by Congress.

3. **Exceptions to the removal at will principle are: all federal judges and members of independent regulatory agencies, e.g., Interstate Commerce Commission.** President CAN remove members of his cabinet and of course members of his own White House staff. The White House staff, while considered the President’s personal staff, has tremendously increased in influence, even more than cabinet members.

VII. **Diplomatic and Military Powers**

A. **The Power to conduct foreign affairs**

1. Usually acting through the secretary of state, the President may negotiate treaties, or international agreements. **Treaty:** A formal agreement made between or among sovereign states.
2. The Senate must approve treaties by a two-thirds vote before they become law. **ONLY the Senate may pass on and ratify or disapprove of treaties.**

3. A small minority in the Senate has sometimes been sufficient to block approval of a treaty.

4. **For the most part, Congress as afforded the President much more control over matters involving foreign affairs that it has over matters involving domestic policy. Much of that philosophy stems from the fact that he is recognized as head of state, Commander-in-Chief, as the chief executive of a major nuclear power, and the perception his authority, as view by foreign nations. [Remember, the President CANNOT declare war]**

**B. Executive Agreements**

1. Today, most routine international agreements are made by executive agreement, i.e., pacts between the President and the leaders of foreign countries, or their designees.

2. Executive agreements do not require Senate ratification.

**C. The Power of Recognition**

1. Presidents have the power to recognize, or acknowledge the legal existence of a country and establish formal diplomatic relations with foreign states.

2. Diplomatic recognition is a powerful weapon because recognition, or the lack of it, often determines the future of a new foreign government.

**D. The President's Dominance in Military Affairs**

1. The President shares the war powers with Congress but has almost no limits on his or her role as commander in chief.

2. Presidents usually delegate much of their command authority to military subordinates while retaining final authority in military matters.

3. **Only Congress can declare war, but Presidents have often used the military without formal declaration of war.**

4. There have been numerous undeclared wars in the country's history, including the Korean and Vietnam Wars and "Desert Storm."
5. In wartime, the President's powers as commander in chief have often been expanded to include nonmilitary matters.

6. The President may use the armed forces, including State militias, to keep the peace in times of domestic upheaval.

   
a. **The War Powers Resolution Act of 1973 requires the President to inform Congress of any commitment of American troops abroad within 48 hours.**
   
b. It required the President to gain congressional approval if the commitment lasts longer than 60 days.
   
c. The constitutionality of the War Powers Resolution has been and remains in dispute.

**VIII. Legislative and Judicial Powers**

**A. Legislative Powers**

1. The President gives a State of the Union address and suggests annual budgets. **Federal budget:** The detailed estimate of federal income and outgo during the coming fiscal year, and a work plan for the execution of public policy.

2. The President also recommends specific legislation to Congress.

3. The President has the power to veto legislation. Laws must be vetoed in their entirety, i.e., line-item veto authority has been declared unconstitutional.

4. The President may call special sessions of Congress.

5. The President may also adjourn Congress if the two houses cannot agree on a date for adjournment.

**B. Judicial Powers**

1. The President may grant reprieves and pardons in cases involving federal law. **Reprieve:** An official postponement of execution of a sentence. **Pardon:** Release from the punishment or legal consequences of a crime, by the President (in a federal case) or governor (in a State case).
2. The President may **commute**, or reduce, sentences or fines imposed by a federal court.

3. The President may grant **amnesty**, or general pardon, to persons who have violated federal law.

### IX. The Executive Office of the President and the Cabinet

#### A. The Executive Office of the President

1. The Executive Office of the President, also known generally as the "White House staff," is an umbrella agency made up of several separate offices and staffed by the President's closest advisors and assistants.

2. It includes the chief of staff, the counsel to the President, the press secretary, and expert advisers in many areas.

#### B. The National Security Council

1. The NSC advises the President on matters of national security, foreign and domestic.

2. Its members include the Vice President, the secretaries of state and defense, the director of the CIA, and the chairperson of the Joint Chiefs of Staff.

#### C. The Office of Management and Budget (OMB)

1. **The OMB is a powerful agency whose major task is to help the President coordinate legislative and budgetary proposals from the executive branch.**

2. It also monitors the spending of funds appropriated by Congress and oversees the management of the executive branch.

#### D. The Office of National Drug Control Policy

1. The Office of National Drug Control Policy prepares an annual drug control policy.

2. It coordinates the efforts of more than 50 federal agencies involved in the "War on Drugs."

#### E. The Council of Economic Advisors
1. The Council of Economic Advisors consists of three top economists, appointed by the President and approved by the Senate. **** These three advisors CANNOT be removed by the President at will.

2. It is the President's chief source of information and advice on the economy.

F. The Cabinet

1. The President appoints cabinet members, who must be confirmed by the Senate. **** While never challenged, it is believed that cabinet members CAN be removed by the President at will.

2. Many factors, both political and substantive, influence the selection of cabinet officials.
   a. Until recently, most cabinet members have been white males.
   b. Until Bill Clinton and George W. Bush very few women and members of minority groups have been cabinet members.

3. Each cabinet member heads one of the executive departments, and, together, cabinet members serve as advisors to the President.

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