Country snapshot

Key considerations

**Which issues would you most highlight to someone new to your country?**

**USA**

Ogletree Deakins

The United States has legislated to protect a wide variety of different groups against employment discrimination.

**What do you consider unique to those doing business in your country?**

**USA**

Ogletree Deakins

With certain limited exceptions, most employment in the United States is on an at-will basis, meaning that the employer or the employee can terminate the working relationship at any time, as long as the reasons are lawful.

**Is there any general advice you would give in the employment area?**

**USA**

Ogletree Deakins

US jurisdictions have statutes allowing an employer to have a policy of employment at will. The employer's documentation of its at-will policy, if confirmed in signed offer letters and employee handbooks, is a defence against a breach of contract claim. However, many other types of claim – such as discrimination, personal injury, wage and hour and violation of public policy – can be made by terminated US employees, and the termination of employees is a complicated matter which varies by jurisdiction. While the use of release agreements is recommended to enable early and amicable termination arrangements to be reached with employees, when terminating an employee employers doing business in the United States should consult counsel about the documentation of termination and the terms of any release agreement.

Emerging issues/hot topics/proposals for reform

**Are there any noteworthy proposals for reform in your jurisdiction?**

**USA**

Ogletree Deakins

The US Department of Labour issued a proposed rule to change the federal regulations of the Fair Labour Standards Act overtime provisions. The proposed updates to the regulations focus primarily on the thresholds currently in place for white collar workers to be considered exempt from federal overtime laws.

**What are the emerging trends in employment law in your jurisdiction?**

**USA**

Ogletree Deakins

The Equal Employment Opportunity Commission (EEOC) enforces federal discrimination laws. In 2012 the EEOC adopted a strategic enforcement plan for 2013 to 2016 which makes the protection of lesbian, gay, bisexual and transgender individuals a national priority. Other federal priorities for 2015 and 2016 include requiring employers to:

- revise recruitment and hiring practices that discriminate against racial, ethnic and religious groups, older workers, women and people with disabilities; and
- administer compensation systems and practices to avoid discriminating against women.

Employers commonly ask terminated employees to sign release agreements agreeing not to sue the employer in return...
The employment relationship

Country specific laws

What laws and regulations govern the employment relationship?

USA

Ogletree Deakins

A number of federal, state, and local laws and doctrines govern the employment relationship in the United States, such as:

- the National Labour Relations Act;
- the employment at-will doctrine;
- Title VII of the Civil Rights Act of 1964;
- the Age Discrimination in Employment Act;
- the Americans with Disabilities Act;
- the Family and Medical Leave Act;
- the Fair Labour Standards Act;
- the Equal Pay Act; and
- the Immigration Reform and Control Act.

Who do these cover, including categories of worker?

USA

Ogletree Deakins

- National Labour Relations Act – this covers union and non-union employees engaged in lawful protected and concerted activity.
- Employment at-will doctrine – absent a collective bargaining agreement or an individual employment contract, the employer is free to discharge an employee at any time with or without cause. Several state courts have carved out exceptions to this rule.
- Title VII of the Civil Rights Act of 1964 – employers with 15 or more employees are prohibited from refusing to hire, discharging or otherwise discriminating against any individual in terms and conditions of employment because of race, colour, religion, sex (including pregnancy) or national origin. Many state and local governments have mandated additional protected classifications, such as marital status, AIDS and sexual orientation.
- Age Discrimination in Employment Act – this prohibits private employers with 20 or more employees from discharging or otherwise discriminating on the basis of age against employees who are age 40 or older.
- Americans with Disabilities Act – this prohibits private employers with 15 or more employees from discriminating against employees or applicants with disabilities.
- Family and Medical Leave Act – this prohibits employers with 50 or more workers from discriminating against or interfering with employees for exercising their rights to leave under the act.
- Fair Labour Standards Act – this generally requires the payment of a statutorily prescribed minimum wage to all covered employees except certain younger workers, who may be paid a sub-minimum training wage for up to 180 days. It also requires employers to pay overtime to all non-exempt employees at a rate of one and one-half times the employee’s regular rate for all hours worked in excess of 40 per week. Other federal and state laws may require a higher overtime rate. The Fair Labour Standards Act payment provision contains numerous exemptions from the minimum wage and overtime requirements.
- Equal Pay Act – this requires that male and female workers receive equal pay for work performed under similar working conditions and requiring equal skill, effort and responsibility.
- Immigration Reform and Control Act – this makes it unlawful for an employer to hire anyone who is not legally authorised to work in the United States. All employers, regardless of size, must verify the identity and eligibility of employment of every new employee hired.

Misclassification

Are there specific rules regarding employee/contractor classification?

USA

Ogletree Deakins

For severance pay. The EEOC has been challenging employer severance agreements in court, claiming that certain provisions violate employee rights. The EEOC has thus far met with limited success in court. However, to assure the enforceability of their severance agreements and avoid any later legal challenge, employers should review their release agreements in the context of the EEOC’s position.
There is no bright-line test to determine employee/independent contractor classification. The US Internal Revenue Service uses a 20-factor test, the US Tax Court uses a seven-factor test and other state tests vary.

Must an employment contract be in writing?

No – an employment contract generally can be oral, implied and/or expressed.

Are any terms implied into employment contracts?

Legally enforceable employment promises may be implied in employment handbooks or policy statements.

Are mandatory arbitration/dispute resolution agreements enforceable?

Although agreements to arbitrate employment disputes are enforceable under federal law, the issue of whether there is an enforceable agreement is a matter of the applicable state law governing the formation of contracts or the enforceability of employer policies. A basic tenet of contract law of most, if not all states is that an employee’s promise to arbitrate is enforceable only if the employer gave some consideration for the promise.

How can employers make changes to existing employment agreements?

The two basic approaches to modifying existing employment contracts are the pre-existing duty rule and the Restatement of Contracts approach. The pre-existing duty rule says that doing what you are already obliged to do is not consideration. Consideration is required on both sides. Thus, changes on both sides are required for there to be consideration from both sides.

The Restatement of Contracts approach is more tolerant of one-sided changes. Section 89 of the Restatement (Second) of Contracts provides: “A promise modifying a duty under a contract not fully performed on either side is binding if the modification is fair and equitable…; or to the extent provided by statute; or to the extent that justice requires enforcement.”

Is a distinction drawn between local and foreign workers?

The Immigration Reform and Control Act of 1986 requires employers to verify the identity and entitlement to employment of every new employee hired by completing a Form I-9. All employers, regardless of size, are subject to its provisions. Employers must document all verifications and may face significant monetary penalties if proper documentation is not maintained. Employers may not knowingly hire unauthorised aliens. Penalties for hiring unauthorised aliens include heavy fines and imprisonment. The Immigration Reform and Control Act also penalises employers for discriminating against employees or applicants because of national origin or citizenship status.
What are the requirements relating to advertising positions?

Ogletree Deakins

Generally, there is no standard procedure relating to advertising for jobs (although discrimination laws apply to job advertising). Some employers may have an affirmative action plan in place that requires them to follow self-imposed rules in order to comply with the plan. Employers with collective bargaining agreements may have bargained job posting procedures in place that they must follow to comply with the agreement. Other employers may have their own internal and external recruiting policies and procedures in place which should be followed consistently.

Federal contractors obligated under the Vietnam Era Veterans’ Readjustment Assistance Act, as amended by the Jobs for Veterans Act, are required by regulation to post open positions with an appropriate employment service delivery system.

Background checks

What can employers do with regard to background checks and inquiries in relation to the following:

(a) Criminal records?

Ogletree Deakins

Federal law does not prohibit employers from asking about applicants’ criminal history. However, state and local laws may prohibit or regulate such checks. Also, federal equal employment opportunity laws prohibit employers from discriminating when they use criminal history information. Using criminal history information to make employment decisions may violate Title VII of the Civil Rights Act of 1964.

(b) Medical history?

Ogletree Deakins

The Genetic Information Non-discrimination Act of 2008 prohibits employers and health insurers from discriminating on the basis of genetic information, including family medical history. Medical history inquiries are also regulated by the Family and Medical Leave Act and the Americans with Disabilities Act.

(c) Drug screening?

Ogletree Deakins

Private employers generally may test job applicants and employees for drugs, alcohol and other controlled substances. Several states have enacted statutes or regulations that restrict these tests.

Before testing anyone, an employer should establish and follow reasonable testing procedures and policies. Employers in specific industries (e.g., transportation) and employers that do business with certain government agencies may be required by federal law to establish a drug-free policy and, in some cases, to test applicants and employees for the presence of certain drugs. Unionised employers must bargain for the right to test before testing employees who are represented by the union.

(d) Credit checks?

Ogletree Deakins

An employer may incur liability under the Fair Credit Reporting Act by procuring or causing to be prepared consumer reports or investigative consumer reports on present or prospective employees if the individuals are not advised in writing and do not give their written consent that information about their character, general reputation and personal characteristics may be disclosed in the report. If an employer rejects an applicant either wholly or in part because of the information contained in a consumer report or investigative consumer report, the employer must advise the applicant of this fact prior to making the decision and his or her rights under the act, and supply the name, address and toll-free phone number of the consumer reporting agency that made the report. A wilful violation can result in actual damages, punitive damages and attorneys’ fees. An employer that negligently fails to comply with the act will be liable for actual
damages and attorneys’ fees.

Several states have enacted similar legislation that may impose additional requirements.

(e) Immigration status?

Ogletree Deakins

The Immigration Reform and Control Act of 1986 penalises employers for discriminating against employees or applicants because of national origin or citizenship status.

(f) Social media?

Ogletree Deakins

The National Labour Relations Board (NLRB) protects the right of non-management employees to engage in protected and concerted activity involving wages, hours and working conditions. The NLRB is known for enforcing the rights of union-represented employees, which it had done throughout the past century. However, the NLRB also has jurisdiction over non-union employees and has recently been challenging common employer confidentiality, social media and non-disparagement policies and practices, claiming violation of the National Labour Relations Act. A policy which prohibits all employees from discussing the terms and conditions of their employment is unlawful.

(g) Other?

Ogletree Deakins

N/A.

Wages and working time

Pay

Is there a national minimum wage and, if so, what is it?

USA

Ogletree Deakins

The Fair Labour Standards Act of 1938 generally requires the payment of a statutorily prescribed minimum wage to all covered employees except certain younger workers, who may be paid a sub-minimum training wage for up to 180 days. The current federal minimum wage is $7.25 per hour.

Some states have enacted legislation requiring the payment of wages in excess of the federal minimum wage.

Are there restrictions on working hours?

USA

Ogletree Deakins

There are no federal restrictions in the United States on employee working hours.

Some states have enacted legislation requiring mandatory meal and rest breaks.

Hours and overtime

What are the requirements for meal and rest breaks?

USA

Ogletree Deakins

There are no federal requirements in the United States on employee working hours, except that non-exempt employees must be paid overtime for hours over 40 in a working week.
Some states have enacted legislation requiring mandatory meal and rest breaks.

**How should overtime be calculated?**

Ogletree Deakins

The Fair Labour Standards Act requires employers to pay overtime to all non-exempt employees at a rate of one and one-half times the employee’s regular rate for all hours worked in excess of 40 per week.

Other federal and state laws may require a higher overtime rate.

**What exemptions are there from overtime?**

Ogletree Deakins

The payment provisions of the Fair Labour Standards Act contain numerous exemptions from the minimum wage and overtime requirements, including exemptions for certain white collar employees (eg, executive, administrative or professional employees, computer professionals and outside salespeople).

Some states proscribe certain deductions from wages by an employer.

**Is there a minimum paid holiday entitlement?**

Ogletree Deakins

There are no federal requirements in the United States on holiday pay.

Some states have enacted legislation requiring paid holiday entitlement.

**What are the rules applicable to final pay and deductions from wages?**

Ogletree Deakins

The Fair Labour Standards Act precludes deductions from salary for exempt employees. Wages are generally due upon completion of work and must be paid within a reasonable time thereafter, although many states provide for a specific time period. Payment must be made by cash, cheque or, in some states, direct deposit to an employee’s bank account or pay cards, and must be accompanied by a statement showing gross wages, deductions and net wages.

Some states also impose time requirements on final pay and preclude deductions from wages except for certain specific reasons.

**Record keeping**

What payroll and payment records must be maintained?

Ogletree Deakins

Most federal and state statutes governing wages and hours require employers to maintain records that accurately reflect hours worked.

**Discrimination, harassment & family leave**

**Family and medical leave**

What is the position in relation to family and medical leave?

Ogletree Deakins
The Family and Medical Leave Act requires that employers with 50 or more workers provide eligible employees with up to 12 weeks of unpaid, job-protected leave during any 12-month period:

- to care for a newborn child or newly placed adopted or foster child;
- to care for an employee’s seriously ill family member (spouse, parent or child);
- because of a serious health condition that makes the employee unable to perform his or her job functions; or
- because of a qualifying exigency arising out of an immediate family member’s active duty in the armed forces.

Several states have adopted family and medical leave protection that are more stringent than the Family and Medical Leave Act.

**Harassment**

**What is the position in relation to harassment?**

**USA**

**Ogletree Deakins**

Harassment based on a protected status – including sex, age, race, disability, religion, colour or national origin – is prohibited as a type of discrimination. In general, an employee who makes a claim of illegal harassment must show that the harassment was based on a protected category and was so severe or pervasive as to alter the conditions of the work environment and create a hostile or abusive situation.

**Whistleblowing**

**What is the position in relation to whistleblowing?**

**USA**

**Ogletree Deakins**

Legal protections for employees who report illegal misconduct by their employers have increased dramatically since the late 1970s, when such protections were first adopted for federal employees in the Civil Service Reform Act of 1978. Since then, with the enactment of the Whistleblower Protection Act of 1989, Congress has expanded such protections for federal employees.

Congress has also established whistleblower protections for individuals in certain private sector employment through the adoption of whistleblower provisions in at least 18 federal statutes. These include the Sarbanes-Oxley Act, the Food and Drug Administration Food Safety Modernisation Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Several states have also adopted whistleblowing protections.

**Protected categories**

**(a) Age?**

**USA**

**Ogletree Deakins**

The federal Age Discrimination in Employment Act prohibits employers with more than 20 employees from discharging or otherwise discriminating on the basis of age against employees who are age 40 or older. Involuntary retirement of employees with satisfactory performance violates the act, although certain highly compensated executives may be required to retire at 65. An employer may discriminate on the basis of age only when age is a genuine occupational qualification necessary for the safe and efficient operation of the business.

Several states have age discrimination statutes. Some state statutes have no minimum age for coverage and may apply to employers with fewer than 20 employees.

**(b) Race**

**USA**

**Ogletree Deakins**
Under Title VII of the Civil Rights Act of 1964, employers with 15 or more employees are prohibited from refusing to hire, discharging or otherwise discriminating against any individual in the terms and conditions of employment because of race, colour or national origin. Unlawful discrimination exists either when an employer intentionally discriminates against a member of a protected group or when a neutral policy or practice that cannot be justified by business necessity has an unintentional adverse impact on a protected class of employees.

States also prohibit race discrimination.

(c) Disability?

Section 503 of the Rehabilitation Act requires federal government contractors to take affirmative action to employ and advance in employment qualified individuals with disabilities. Section 504 of the Rehabilitation Act prohibits disability discrimination by recipients of federal funds. The Americans with Disabilities Act prohibits private employers with 15 or more employees from discriminating against employees or applicants with disabilities. The Rehabilitation Act and the Americans with Disabilities Act seek to ensure access to equal employment opportunities based on merit. These laws prohibit an employer from discriminating against an individual with a disability if the individual is able to perform the essential functions of the specific job held or sought.

Both the Rehabilitation Act and the Americans with Disabilities Act prohibit discrimination in employment against an individual:

- with a physical or mental impairment that substantially limits one or more of his or her major life activities;
- with a record of such an impairment; and
- who is regarded as having such an impairment.

The Americans with Disabilities Act also prohibits discrimination against a qualified individual because that person is known to have a relationship or association with another individual who has a known disability.

A number of states have also adopted disability discrimination laws.

(d) Gender?

Under Title VII of the Civil Rights Act of 1964, employers with 15 or more employees are prohibited from refusing to hire, discharging or otherwise discriminating against any individual in the terms and conditions of employment because of sex (including pregnancy). Unlawful discrimination exists either when an employer intentionally discriminates against a member of a protected group or when a neutral policy or practice that cannot be justified by business necessity has an unintentional adverse impact on a protected class of employees.

States also prohibit gender discrimination.

(e) Sexual orientation?

Many state and local governments have mandated additional protected classifications, such as marital status, AIDS or AIDS-related conditions and sexual orientation.

(f) Religion?

Under Title VII of the Civil Rights Act of 1964, employers with 15 or more employees are prohibited from refusing to hire, discharging or otherwise discriminating against any individual in the terms and conditions of employment because of religion. Unlawful discrimination exists either when an employer intentionally discriminates against a member of a protected group or when a neutral policy or practice that cannot be justified by business necessity has an unintentional adverse impact on a protected class of employees.

States also prohibit religious discrimination.

(g) Medical?
The Americans with Disabilities Act prohibits private employers with 15 or more employees from discriminating against employees or applicants with disabilities.

The Family and Medical Leave Act prohibits employers with 50 or more workers from discriminating against employees for exercising their rights to leave under the act.

The Genetic Information Non-discrimination Act of 2008 prohibits employers and health insurers from discriminating on the basis of genetic information. The employment provisions regulate the acquisition and use of genetic information in the employment context and apply to employers with 15 or more employees.

Employers are prohibited from discriminating against employees or applicants who volunteer for or are called up for military service. Military service includes both active and reserve duty. The basic rule is that employers must return the veteran to the job that he or she would have had but for military service, with accrued seniority-based benefits. Employers must also grant employees leave time for reserve or training duty and cannot require that employees use vacation time for these activities. The leave may be unpaid.

The Equal Pay Act amended the Fair Labour Standards Act in 1963. The Equal Pay Act provides that if workers perform equal work in jobs requiring "equal skill, effort, and responsibility… performed under similar working conditions", the workers must receive equal pay. The Fair Labour Standards Act applies to employees engaged in some aspect of interstate commerce or all of an employer's workers if the enterprise engages as a whole in a significant amount of interstate commerce.

Privacy and monitoring

**What are employees' rights with regard to privacy and monitoring?**

Various federal and state laws govern employees' rights regarding privacy and monitoring in the workplace. Generally, if a private employer has given notice and obtained prior consent from the employee, employee monitoring is allowed under the law. Employees' activities while using an employer's computer system are largely unprotected by personal privacy laws. Typically, if an employer has a valid business purpose for monitoring an employee's email and internet usage, the employer is allowed to do so. Emails are considered company property if sent using the company computer system.

Under the Electronic Communications Privacy Act, there are some legal limitations to an employer's right to monitor employees' telephone and voicemail usage. Personal calls should not be monitored beyond the time necessary to determine that the calls are personal in nature.

Employers generally have a right to monitor employees via a security camera, as long as cameras are not in bathrooms or dressing rooms.

Under the National Labour Relations Act, employers are prohibited from monitoring or conducting any surveillance of employees' union activities.

**To what extent can employers regulate off-duty conduct?**

A number of federal and state laws prohibit private employers from regulating off-duty conduct. In particular, the National Labour Relations Act prohibits employers from monitoring or conducting surveillance on any union activities, including off-duty meetings or gatherings.

Laws in several states provide legal protection for employees who engage in certain political activities outside the workplace. Some states have enacted broad protections for off-duty conduct, such as prohibiting employers from...
disciplining employees for conduct that occurs outside the workplace if the conduct is not illegal.

Are there rules protecting social media passwords in the employment context and/or on employer monitoring of employee social media accounts?

Ogletree Deakins

No federal law prohibits employers from monitoring employees on social media sites. Some states have laws that prohibit an employer from disciplining an employee for off-duty activity on social networking sites unless the activity can be shown to damage the company in some way. Some states also protect employee social media passwords from access by employers or third parties.

Trade secrets and restrictive covenants

Intellectual Property

Who owns IP rights created by employees during the course of their employment?

Ogletree Deakins

As a general rule, an employer will own the intellectual property created by its employees in the course of their employment. However, intellectual property that is created by an employee other than in the course of employment is owned by the employee, not the employer. Employers often protect their rights through specific agreements with employees.

Restrictive covenants

What types of restrictive covenants are recognised and enforceable?

Ogletree Deakins

A restrictive covenant is bound by traditional contract requirements. Most states deem restrictive covenants to be legally binding as long as the clause contains reasonable limitations as to the geographical area and time period. The extent to which non-compete clauses are legally allowed varies per jurisdiction. Some jurisdictions, such as the state of California, invalidate non-compete clauses for all but equity stakeholders in businesses.

Non-compete

Are there any special rules on non-competes for particular classes of employee?

Ogletree Deakins

Many states limit the enforceability of non-compete agreements in the medical and legal professions.

Discipline and grievance procedures

Procedures

Are there specific laws on the procedures employers must follow with regard to discipline and grievance procedures?

Ogletree Deakins

Except for unionised employees covered by a collective bargaining agreement, no specific laws regulate the procedures that an employer must follow with regard to discipline and grievance procedures.
### Industrial relations

#### Unions and layoffs

**Is your country (or a particular area) known to be heavily unionised?**

**USA**

Ogletree Deakins

No – in the United States, fewer than 7% of private sector employers are unionised.

**What are the rules on trade union recognition?**

**USA**

Ogletree Deakins

The National Labour Relations Act gives private sector workers the right to choose whether they wish to be represented by a union and establishes the National Labour Relations Board to hold elections for that purpose. As originally enacted in 1935, the act makes it illegal for employers to:

- discriminate against workers because of their union membership;
- retaliate against them for engaging in organising campaigns or other concerted activities, or forming company unions; or
- refuse to engage in collective bargaining with the union that represents their employees.

The act does not cover governmental employees, with the exception of employees of the US Postal Service, a quasi-public entity.

More than 20 states have legislation that prevents trade unions from signing collective agreements with employers requiring employees pay fees to the union when they are not members (frequently called ‘right-to-work’ laws by their political proponents).

**What are the rules on collective bargaining?**

**USA**

Ogletree Deakins

In the United States, the parties must bargain in good faith, which is defined as meeting at reasonable places and times with the union and exchanging proposals. There is no requirement that either the union or the company agree to any of the proposals provided by either party. For the most part, the National Labour Relations Act displaces state laws that attempt to regulate the right to organise, to strike and to engage in collective bargaining. The National Labour Relations Board has exclusive jurisdiction to determine whether an employer has engaged in an unfair labour practice and to decide what remedies should be provided.

### Termination

#### Notice

**Are employers required to give notice of termination?**

**USA**

Ogletree Deakins

Outside the context of plant closures and mass layoffs, employers in the United States are not required to provide employees with notice of termination.

#### Redundancies

**What are the rules that govern redundancy procedures?**

**USA**

Ogletree Deakins
The Worker Adjustment and Retraining Notification Act requires private sector employers to give 60 days’ notice of mass layoffs and plant closures; it allows a number of exceptions for unforeseen emergencies and other cases.

Several states have adopted more stringent requirements of their own.

Are there particular rules for collective redundancies/mass layoffs?

Ogiltree Deakins

The Worker Adjustment and Retraining Notification Act (WARN) applies to employers of 100 or more employees and provides certain protections to employees involved in plant closings and mass layoffs. WARN requires employers to provide at least 60 days' advance written notice of covered layoffs and plant closures to affected employees, their representatives and appropriate local government officials. If the employer does not give the required notice, it may be held liable to affected employees for back pay and benefits for the 60-day notice period.

Covered employers are required to notify employees when a plant closure will affect 50 or more employees. An employer must notify employees of a mass layoff if the layoff affects at least one-third of the employees and at least 50 employees at a single site (if 500 or more employees are affected by the layoff, the one-third requirement does not apply). There are some exceptions for WARN’s required 60-day notice period, but many of the exemptions have been narrowly construed.

Some states have enacted laws similar to WARN that may apply to smaller employers and layoffs of fewer employees.

What protections do employees have on dismissal?

Ogiltree Deakins

Traditionally – absent a collective bargaining agreement or an individual employment contract, and subject to discrimination protection – an employer is free to discharge an employee at any time with or without cause. However, courts in several states have carved out exceptions to this rule. State courts have held that employees may not be discharged in violation of public policy. Some states have also held that an employee handbook may create an employment contract between the employer and employee. The employer violates this contract if the employee’s discharge is contrary to the terms of the employee handbook. Several states have recognised that an employer may insert language in the handbook conspicuously disclaiming any contractual intent. One state (Montana) has statutorily limited the applicability of the employment-at-will doctrine.

Courts/tribunals

Jurisdiction and procedure

Which tribunals or courts have jurisdiction to hear complaints?

Ogiltree Deakins

The Supreme Court is the highest court in the United States. In the federal court system’s present form, 94 district level trial courts and 13 courts of appeals sit below the Supreme Court.

All power not delegated to the federal government remains with the states. Each of the 50 states has its own state constitution, governmental structure, legal codes and judiciary. The structure of state court systems varies from state to state. Each state court system has unique features; however, some generalisations can be made. Most states have courts of limited jurisdiction presided over by a single judge who hears minor civil and criminal cases. States also have general jurisdiction trial courts that are presided over by a single judge. These trial courts are usually called ‘circuit courts’ or ‘superior courts’ and hear major civil and criminal cases. Some states have specialised courts that hear only certain kinds of cases, such as traffic or family law cases. All states have a highest court, usually called a ‘supreme court’, which serves as an appellate court. Many states also have an intermediate appellate court, called a ‘court of appeals’, which hears appeals from the trial court. A party in a case generally has one right of appeal.
What is the route for appeals?

Thirteen federal appellate courts sit below the US Supreme Court. The 94 federal judicial districts are organised into 12 regional circuits, each of which has a court of appeals. The appellate courts' task is to determine whether the law was applied correctly in the trial court. Appeals courts consist of three judges and do not use a jury. A court of appeals hears challenges to district court decisions from courts located within its circuit, as well as appeals of decisions of federal administrative agencies. In addition, the Court of Appeals for the Federal Circuit has nationwide jurisdiction to hear appeals in specialised cases, such as those involving patent laws, and cases decided by the US Court of International Trade and the US Court of Federal Claims.