

JUDICIAL APPOINTMENTS MEMO

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#19 - DATA BELOW AS OF SEPTEMBER 8 OF EACH PRESIDENT'S SECOND YEAR



Background: [Article III](#) of the Constitution created the Supreme Court and gave Congress authority to create "inferior" courts¹ with judges who serve "during good Behaviour."² Nominations to Article III courts are referred to the Senate Judiciary Committee and, if approved, listed on the [Executive Calendar](#).

Confirmations Per Congress: The Senate confirmed an average of 7.5% of the judiciary per Congress during the 18th century, 7.6% per Congress during the 20th century, and 8% per Congress so far in the 21st century. The highest was 31.4% during the 24th Congress (1835-36) and the lowest was 2.6% during the 114th Congress (2015-16).

New Judgeships: The Supreme Court has had nine seats since 1869. Congress last created new U.S. Court of Appeals judgeships in 1990 (6.5% increase). Congress last created new U.S. District Court judgeship in 2003 (1.8% increase). Since 1970, the Article III judiciary has grown 74% vs. 68% for the US population.

President	Vacant	Emergencies	Hearing	Confirmed	Cloture Vote	Avg NO	% of Judiciary
Trump 2	3.1%	51.85%	88.3%	81.7%	100%	44.1	5.6
Biden	9.2%	30.4%	67.9%	57.7%	94.9%	38.6	9.2
Trump 1	15.9%	50.4%	78.9%	47.9%	64.7%	16.75	7.9
Obama	12.1%	47.1%	84.3%	50.6%	4.8%	3.5	4.9
Bush 2	9.2%	39.7%	70.6%	62.2%	4.05%	.8	8.7
Clinton	10.4%	49.4%	82.35%	71.4%	1.2%	.5	10.1
Bush 1	6%	N/A	76.8%	82.6%	0%	0	7.6
Reagan	4.05%	N/A	100%	98.75%	0%	0	11.9
Average	8.7%	44.8%	81.1%	69.1%	33.7%	13	8.2

¹ These are the U.S. Ct of Appeals (179 positions), U.S. District Ct (673), and U.S. Ct of Int'l Trade (9). Unless indicated otherwise, data in this *Judicial Appointments Memo* are for Article III courts.

² [Article I](#) gives Congress authority to create "Tribunals inferior to the Supreme Court." which require nomination and confirmation but serve for 15-year terms. These are the U.S. Ct of Federal Claims (16 positions), U.S. Tax Ct (19), U.S. Ct of Appeals for the Armed Forces (5), and U.S. Ct of Appeals for Veterans Claims (7).



U.S. Court of Appeals Vacancies

- The Administrative Office of the U.S. Courts (AO) reports monthly on current and future vacancies on Article III courts. The AO has reported ZERO current vacancies on the U.S. Court of Appeals for TEN consecutive months.
- Previously, the AO had reported zero current appeals court vacancies in only four months (June-Sept. 2020) since 1980.
- President Trump has appointed 10 judges to the U.S. Court of Appeals so far in his second term; seven of them have been to future vacancies.
- A smaller percentage of judges on the U.S. Court of Appeals have taken senior status in 2026 than any year since 1962.

Average Appeals Court Vacancies

