



JUDICIAL APPOINTMENTS MEMO

Thomas Jipping, Senior Legal Fellow

DATA AS OF MAY 6 OF EACH PRESIDENT'S SECOND YEAR

**ADVANCING AMERICAN
FREEDOM FOUNDATION**

Background: [Article III](#) of the Constitution created the Supreme Court and gives Congress authority to create "inferior" courts with judges who serve "during good Behaviour."¹ Nominations to Article III courts are referred to the Senate Judiciary Committee and, if approved, listed on the [Executive Calendar](#). The Majority Leader decides which nominations to bring up for action.

Confirmations per Congress: Because the size of the judiciary increases, the best measure is the % of the judiciary confirmed per Congress. The Senate confirmed an average of 7.5% per Congress during the 18th century, 7.6% per Congress during the 20th century, and 8% per Congress so far in the 21st century.

Average Judicial Appointments: Since 1980, presidents have appointed an average of 48 judges each year to Article III courts.

President	Vacant	Emergencies	Hearing	Confirmed	Cloture Vote	Avg NO
Trump 2	3.9%	38.2%	86.3%	72.5%	100%	44.1
Biden	8.7%	38.7%	60.9%	69%	100%	38.8
Trump 1	16.5%	50.7%	64.1%	32%	97%	21.3
Obama	11.7%	39.6%	88.1%	45.8%	7.4%	4.8
Bush 2	10.4%	31.8%	50.5%	44.55%	0%	.02
Clinton	12.9%	60.2%	57%	69.8%	1.7%	1.1
Bush 1	7.5%	N/A	70.2%	74.5%	0%	0
Reagan	4.5%	N/A	92.1%	79.4%	0%	0
Average	9.5%	43.2%	74.625%	60.9%	38.255%	13.8

¹ [Article I](#) gives Congress authority to create "Tribunals inferior to the Supreme Court" which require presidential nomination and Senate confirmation but serve for 15-year terms. These are the U.S. Court of Federal Claims (16 positions), U.S. Tax Court (19 positions), U.S. Court of Appeals for the Armed Forces (five positions), and U.S. Court of Appeals for Veterans Claims (seven positions). Data in this *Judicial Appointments Memo* are for judges on Article III courts.



U.S. Court of Appeals Composition

Circuit	Coverage	Seats	Current Vacancies²	GOP Appointees	Dem Appointees
First	ME, MA, NH, RI, PR	6	0	1	5
Second	CT, NY, VT	13	0	6	7
Third	DE, NJ, PA, VI	14	0	8	6
Fourth	MD, NC, SC, VA, WV	16	0	9	7
Fifth	LA, MS, TX	17	0	12	5
Sixth	KY, MI, OH, TN	16	0	10	6
Seventh	IL, IN, WI	11	0	6	5
Eighth	AR, IA, MO, MN, NE, ND, SD	11	0	10	1
Ninth	AK, AZ, CA, HI, ID, MT, NV, WA, Guam	29	0	13	16
Tenth	CO, KS, OK, NM, UT, WY	12	0	5	7
Eleventh	AL, FL, GA	12	0	7	5
D.C.	N/A	11	0	4	7
Federal	N/A	12	0	4	8
Totals		180	0	95	85

² For a list of current vacancies on Article III courts, see here: [Current Judicial Vacancies](#).

