



QUALITY JUDGES
INITIATIVE

FAQS

JUDGES
in the
UNITED STATES



EMPOWERING IMPROVEMENT.
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INSTITUTE
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AMERICAN LEGAL SYSTEM



UNIVERSITY of
DENVER

FAQS: JUDGES IN THE UNITED STATES

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1. WHY DO WE HAVE BOTH STATE AND FEDERAL COURTS? HOW ARE THEY DIFFERENT?

According to the U.S. Constitution, Congress establishes federal courts to hear cases involving the Constitution and federal laws. (The U.S. Supreme Court is the only court created by the Constitution.) State courts are established in each state by constitution and statute to hear cases that raise issues of state law.

Some cases may be heard in either federal or state court, and the parties get to decide where to file such cases.

There is one federal court system that covers the whole United States. Each state has its own system. Within both the state and federal court systems, there are two types of courts—trial courts and appellate courts—with jurisdiction, or power, to hear specific types of cases. There are also municipal or local courts that hear matters under local ordinances.

2. ARE MORE CASES FILED IN STATE OR FEDERAL COURTS? ARE THERE MORE STATE OR FEDERAL JUDGES?

More than 100 million cases are filed each year in state trial courts, while roughly 400,000 cases are filed in federal trial courts.

There are approximately 30,000 state judges, compared to only 1,700 federal judges.

3. WHAT TYPES OF STATE COURTS ARE THERE?

State court systems have both trial and appellate courts. Trial courts are the courts where a case is first filed and an initial decision is made. Appellate courts review the decisions of those trial courts.

Appellate courts include courts of last resort and intermediate appellate courts. Every state has a court of last resort, usually called a supreme court. Many states also have an intermediate appellate court. Oklahoma and Texas each have two courts of last resort—one for criminal cases and one for civil cases. All but 10 states have an intermediate appellate court, often called the court of appeals. States like Alabama and Tennessee each have two intermediate appellate courts—one for criminal cases and one for civil cases.

General jurisdiction trial courts hear a wide range of civil and criminal cases. They are often called circuit, district, or superior courts. Many states have limited jurisdiction trial courts as well, to hear cases involving a specific area of law—e.g., probate, family, or juvenile law. States may also have municipal courts, county courts, or justices of the peace that hear civil cases involving a small amount of money and less serious criminal cases.

For information about the structure of the court system in your state—including the types of courts, the types of cases each court hears, and the number of judges that serve on each court—view the [State Court Structure Charts](#) provided by the National Center for State Courts.

4. HOW DOES A STATE JUDGE REACH THE BENCH?

States use one of five methods to choose their judges—commission-based appointment by the governor (or merit selection), appointment by the governor, partisan election, nonpartisan election, and legislative election.

In several states, there are different methods for selecting judges for different levels of courts. Often, trial court judges are elected, while appellate court judges are appointed in some way.

In a few states, the method for selecting trial court judges varies from county to county. Trial court judges in some counties may be chosen through commission-based appointment by the governor, while trial court judges in other counties are elected.

A. GOVERNOR AS APPOINTING AUTHORITY

In many states, the governor appoints judges. In most of these states, the governor makes the appointment from a list of candidates submitted by a judicial nominating commission. In some states, confirmation of the governor's appointee is required.

i. Governor appoints with nominating commission

In a commission-based appointment (or merit selection) process, a judicial nominating commission screens judicial applicants and recommends a shortlist of the best-qualified candidates to the governor for appointment.

Judges of the court of last resort are always chosen through a commission-based appointment process in 22 states and the District of Columbia. In 16 of the 40 states that have intermediate appellate courts, judges are always selected via this process, and judges of at least some major trial courts are always chosen this way in 17 states and D.C.

1. Who are the nominating commissioners?

Judges, attorneys, and laypersons serve on judicial nominating commissions. In many states, judges and attorneys comprise a majority of the commission's members, but in some states, the commission has a majority of lay members.

2. How are nominating commissioners chosen?

A handful of individuals and entities are involved in appointing judicial nominating commission members. In some states, the governor appoints all commission members. Some of these gubernatorial appointees to the commission come from nominees submitted by the state bar association or the legislature. In other states, the state bar may elect or appoint some nominating commission members. Legislative leaders have a role in selecting commissioners in a handful of states. In a few states, legislative confirmation is required for appointees to the commission.

3. When a nominating commission selects nominees, what happens next?

a. Governor appoints from nominees

Before making the appointment, and with assistance from staff, governors often conduct their own examination of each nominee's professional and personal background and interview each nominee. Most states place a time limit on the governor's appointment decision, ranging from 15 to 60 days. If the governor fails to make the appointment in the time allowed, the chief justice usually makes the appointment.

In some states, the governor may not be required to make the appointment from the nominating commission's initial list. In Delaware, New Hampshire, New Mexico, and Tennessee, the governor may request that the commission provide a supplemental list of nominees, and Maryland's governor may make the appointment from a list submitted for a previous judicial vacancy.

b. Governor appoints from nominees with legislative approval

In eight states and D.C., one or both houses of the legislature must confirm the governor's appointments from a nominating commission's shortlist.

c. Governor appoints from nominees with other approval

In Massachusetts and New Hampshire, the governor's council (or executive council) must confirm judicial appointees. (The governor's council is a constitutionally authorized body that advises the governor in state affairs and is elected by the voters.)

ii. Governor appoints without nominating commission

In these states, state court judges are appointed by the governor at his or her own discretion, without input from a judicial nominating commission. Judges of the court of last resort are always chosen this way in four states. The governor always appoints Intermediate appellate court judges in two of the 40 states that have such courts, and major trial court judges in two states.

1. Selection and appointment by governor

With input from staff, an advisory committee, or perhaps a state bar association committee, the governor may unilaterally appoint state judges in some instances. This method is most often used in elective states to fill vacancies that occur between elections, and many judges in those states first come to the bench by this process.

2. Selection and appointment by governor with legislative approval

The senate must confirm the governor's appointees to all courts in Maine, to the trial and supreme courts in New Jersey, and to the intermediate appellate court in Kansas.

3. Selection and appointment by governor with other approval

In California, the commission on judicial appointments—which includes the chief justice, the attorney general, and a senior presiding justice of the intermediate appellate court—must confirm the governor's appointees to the state's appellate courts.

In Massachusetts, where the governor appoints judges of the court of last resort, the governor's council must confirm the appointments.

B. ELECTION

i. Partisan election

Partisan elections of judges work in the same way as partisan elections for other offices. Candidates compete first in a primary election to win their party's nomination and then in the general election against the other party's candidate.

Judges of the court of last resort are chosen in partisan elections in nine states, and intermediate appellate court judges are selected this way in seven states. Judges of major trial courts may be chosen in partisan elections in 14 states.

ii. Nonpartisan election

In states with nonpartisan judicial elections, candidates compete in a nonpartisan primary. In most states, if one candidate does not get at least 50% of the vote, the top two candidates compete in the general election. Candidates are not identified on the ballot as a member of a political party.

Judges of the court of last resort are chosen in nonpartisan elections in 13 states, and intermediate appellate court judges are selected this way in 11 states. Judges of major trial courts may be chosen in nonpartisan elections in 20 states.

Arizona and Ohio have partisan primary elections and nonpartisan general elections for judges who run in contested elections. In Michigan, supreme court justices are nominated at party conventions and then run in a nonpartisan general election.

iii. Legislative election

Members of the legislature choose judges in two states—South Carolina and Virginia.

iv. Midterm, or interim, vacancies

In states where judges are elected, whether by voters or the legislature, judicial vacancies may arise between elections or when the legislature is not in session that need to be filled. Midterm, or interim, vacancies in these states may be filled via commission-based appointment by the governor (with or without confirmation), appointment by the governor (with or without confirmation), special election, or supreme court appointment.

For information about how judges in your state are selected, visit the American Judicature Society's [Judicial Selection in the States](#) website.

5. WHAT ARE THE QUALIFICATIONS FOR BEING A STATE JUDGE?

Each state determines the qualifications its judges must have, and qualifications may vary for different levels of courts.

In every state, judges of the court of last resort, intermediate appellate court, and major trial court are required to have a law degree, either explicitly or implicitly. States may also require that judges be a minimum age, have a certain number of years of legal experience, reside within the jurisdiction of the court on which they serve, and/or be a U.S. citizen.

Judges of minor trial courts are often not required to have a law degree.

For information about the qualifications of judges in your state, visit the American Judicature Society's [Judicial Selection in the States](#) website.

6. HOW LONG CAN A STATE JUDGE STAY ON THE BENCH?

Term lengths for judges vary from state to state and by level of court. In three states—Massachusetts, New Hampshire, and Rhode Island—judges enjoy life tenure or service to a mandatory retirement age of 70. In New Jersey, judges serve an initial seven-year term, and if they are reappointed, they serve to age 70. In all other states, judges serve set terms and must be reelected to serve additional terms.

A. TERM LENGTHS

i. Initial term

The initial term that a state judge serves may be shorter than a full term. In many commission-based appointment states, judges serve a short initial term—typically at least one to three years—before being reelected for a full term. In states with contested elections, judges may be selected to complete the unexpired term of a judge who has left the bench between elections.

ii. Subsequent terms

In states where judges do not enjoy life tenure, judicial terms range in length from four years to 15 years.

To learn more about the length of judges' terms in your state, visit the American Judicature Society's [Judicial Selection in the States](#) website.

B. TERM LIMITS

Some states place limits on the number of years or terms that governors and legislators may serve, but no state currently imposes term limits on judges.

C. MANDATORY RETIREMENT

32 states and D.C. have a mandatory retirement age for judges, ranging from 65 to 75. Judges may be required to leave the bench at the end of the calendar year in which they reach retirement age, or they may be allowed to complete their current term.

7. HOW DOES A STATE JUDGE STAY ON THE BENCH?

A. REELECTION

i. Partisan election

In almost all instances, judges chosen in partisan elections may be reelected—via partisan election—to subsequent terms. (Illinois, New Mexico, and Pennsylvania are exceptions; see below.)

ii. Nonpartisan election

Judges chosen in nonpartisan elections may be reelected—via nonpartisan election—to subsequent terms.

iii. Legislative election

Judges elected by the legislature may be reelected by the legislature to subsequent terms.

iv. Retention election

In a retention election, judges run unopposed. Voters are asked whether the judge should be retained in office, and in most states, a simple majority vote is required for retention. In New Mexico, the retention threshold is 57 percent, and in Illinois, it is 60 percent.

Retention elections are most often associated with a commission-based appointment (or merit selection) process. In 15 such states, judges stand in retention elections for subsequent terms.

In three states—Illinois, New Mexico, and Pennsylvania—where judges are initially chosen in partisan elections, judges stand in retention elections for subsequent terms.

In California, where the governor appoints all appellate court judges, and in Kansas, where the governor appoints intermediate appellate court judges, judges stand in retention elections for subsequent terms.

B. REAPPOINTMENT

i. By governor

In 3 states where judges are chosen by commission-based gubernatorial appointment, the governor may reappoint judges to subsequent terms. In Delaware and New York, when a judge's term expires, s/he applies to the nominating commission to fill the vacancy and competes with other candidates. In Connecticut, the governor may re-nominate and the legislature may reconfirm judges for subsequent terms.

In all but two states where governors appoint judges with approval of some sort, judges may be reappointed for subsequent terms. (California and Kansas are exceptions; see above.)

The same form of approval required for the initial appointment—e.g., one or both houses of the legislature, the governor's council—is required for reappointment.

ii. By nominating commission

In the District of Columbia and Hawaii, the nominating commission itself determines whether to reappoint justices for additional terms.

iii. By legislature

In Vermont, where judges are chosen via commission-based appointment, judges may be reappointed by a vote of the general assembly.

8. HOW CAN A STATE JUDGE BE DISCIPLINED?

Every state has a judicial discipline commission that is responsible for disciplining judges for misconduct, as defined in the state's code of judicial conduct. Members of these commissions include judges, lawyers, and laypersons. Members of the public may file complaints against judges with these commissions. If a complaint has merit, the commission will undertake a confidential investigation of the allegations, after which the commission may file formal charges against the judge.

The commission then decides what, if any, sanctions should be imposed. Possible sanctions include public or private reprimand, suspension with or without pay, involuntary retirement, or removal from office. In some states, the commission itself may impose the sanction. In other states, the commission makes a recommendation to the state court of last resort, which makes the final determination regarding sanctions.

For more information about discipline of state judges, visit the American Judicature Society's [Center for Judicial Ethics](#).

9. HOW CAN A STATE JUDGE BE REMOVED FROM OFFICE?

Historically, states have used three methods of removing judges from office—impeachment, bill of address, and recall election.

A. IMPEACHMENT

Nearly every state allows judges to be impeached and removed from office by the legislature for offenses identified by state law, including “malfeasance,” “misfeasance,” “gross misconduct,” “gross immorality,” “high crimes,” “habitual intemperance,” and “maladministration.” The impeachment process is rarely used to remove judges.

B. BILL OF ADDRESS

In 16 states, judges may be removed through a bill of address. This process allows the legislature, often with the governor's consent, to vote for a judge's removal, even if no impeachable offense has been committed.

C. RECALL ELECTION

A few states allow voters to recall judges, just as they may recall other government officials. Voters initiate the process with a recall petition signed by a sufficient number of voters and presented to election officials. Election officials set a date for the recall election, and the judge may be removed by a majority vote.

D. JUDICIAL DISCIPLINE PROCESS

The involvement of judicial discipline commissions in the removal of judges is a relatively recent development. The first such commission was created in California in 1960.

10. HOW IS THE PERFORMANCE OF STATE JUDGES EVALUATED?

In 17 states and D.C., there is an official program—established by constitution, statute, or court rule—in place to evaluate the performance of state judges. Such programs may serve a variety of purposes, including providing relevant information for retaining or reappointing judges, promoting judicial self-improvement, and enhancing public confidence in the courts.

In several other states, bar associations, newspapers, or civic organizations evaluate judicial performance and share evaluation results with the public.

A. JUDICIAL PERFORMANCE EVALUATIONS

i. How are judges evaluated?

The most common evaluation tool is a questionnaire, which may be completed by attorneys, jurors, litigants, and witnesses who have been in the judge's courtroom, as well as court staff and other judges. Other components of the evaluation process may include courtroom observation, interviews, and self-evaluation. In some states, public records (e.g., written opinions, case management information, sentencing practices, reversals on appeal) are taken into account as well.

ii. What information comes out of the evaluation and who gets to see it?

In states where judges stand for retention, a narrative profile of each judge and a summary of the judge's evaluation results are posted online and/or in a voter guide. In six of the seven states (Alaska, Colorado, Missouri, New Mexico, Tennessee, and Utah) where evaluation results provide information to voters in retention elections, the evaluation report includes a recommendation as to whether each judge should be retained. In the seventh state (Arizona), the report indicates whether each judge meets established performance standards. The availability of evaluation results is publicized via newspaper, radio, and/or the internet.

In states where judicial performance evaluation provides information to those who reappoint judges, evaluation results may only be shared with those making the reappointment decision. A summary report for each court, which does not identify individual judges, may be made public.

In states where judicial performance evaluation is intended to promote public confidence in the courts, a summary of evaluation results for each court is made public.

In states where judicial performance evaluation is solely for the purpose of self-improvement, evaluation results are shared only with the evaluated judge and perhaps with a supervisory judge.

iii. Who administers the evaluation process?

In most states with a judicial performance evaluation program, an independent commission composed of judges, attorneys, and laypersons oversees all aspects of the program, including determining what, if any, recommendation should be made regarding whether each judge should be reelected. The administrative office of the courts typically provides staff support to the commission.

iv. Who selects the members of the performance evaluation commission?

Members of the performance evaluation commission may be selected by a variety of government officials and entities, including the supreme court, the governor, legislative leaders, the state judicial council, and the state bar association.

For more information about official performance evaluation programs for state judges, visit IAALS' [Judicial Performance Evaluation in the States](#).

B. STATE BAR ASSOCIATION EVALUATIONS

To provide valuable information to those who reelect, retain, or reappoint judges, state bar associations in some states survey attorneys about judges' performance. Results of these surveys, which may range from simply asking attorneys whether judges should be reselected to asking attorneys to rate judges on particular criteria or specific aspects of their work, are posted on the bar association's website.

C. HOW DOES A NEGATIVE REVIEW AFFECT A JUDGE?

Voting data indicates that voters do take unfavorable evaluation results into account. However, a judge who receives a negative review may still be reselected. The ultimate decision is still left to the governor, the legislature, or the voters.

Judges may not be disciplined for receiving a negative evaluation, but several states use evaluation results to develop self-improvement plans for individual judges or to identify areas to address in continuing judicial education programs.

11. WHAT TYPES OF FEDERAL COURTS ARE THERE?

As with state court systems, there are both trial courts and appellate courts in the federal court system. Some courts hear a wide range of cases that fall under federal jurisdiction, and some only hear cases involving a specific area of the law. The U.S. Constitution's Article III created the Supreme Court, but Congress creates other courts, some through its authority under Article III and some under Article I.

A. ARTICLE III COURTS

In Article III, Congress vested "the judicial power of the United States" in the Supreme Court and "inferior courts" that Congress might create. Although a somewhat misleading term, "Article III" courts generally refer to courts whose principal judges have Article III's protections of essentially life tenure and non-reducible salaries. These courts include the U.S. Supreme Court (the court of last resort), the U.S. Courts of Appeals (the intermediate appellate courts), and the U.S. District Courts (the major trial courts). These courts hear a wide range of federal cases and are the federal courts we hear about most often.

Most judges of Article III courts are nominated by the President and confirmed by the Senate, and they enjoy life tenure. Also serving within the District Courts are bankruptcy judges and magistrate judges, who serve for set terms.

The U.S. Court of Appeals for the Federal Circuit only hears cases involving patents, trademarks, complaints by federal employees of unfair treatment, and appeals from the U.S. Court of International Trade, which hears cases involving trade agreements the United States has with other countries.

Congress decides how many federal judges there will be by specifying the number of "judgeships" on each court. There were originally only six justices on the U.S. Supreme Court, but since 1869, there have been nine justices on the Court.

Congress has divided the United States into 12 regional federal judicial circuits, and created a U.S. Court of Appeals in each circuit. These circuits are known as the First through the Eleventh Circuits and the D.C. Circuit. Each of the numbered circuits includes at least three states. The largest circuit (the Ninth) consists of nine states. The number of judgeships on each Court of Appeals ranges from six (the First) to 28 (the Ninth),

with a total of 179 Court of Appeals judgeships. The number of judges serving at any one time will depend on how many of the judgeships are temporarily vacant and how many semi-retired judges ("senior status judges") continue to perform some judicial work.

Congress has also created federal judicial districts within the circuits, and each district has a U.S. District Court. Some states comprise a single district; larger states contain as many as four districts. There are 91 districts in all—with as few as five in some circuits (the First and Third), while the Ninth circuit has 13 districts. (Three U.S. territories—Guam, the Northern Mariana Islands, and the Virgin Islands—also have district courts, but their judges do not have life tenure. In two other “non-states,” however—the District of Columbia and Puerto Rico, Congress has created full-fledged District Courts.) There are currently 680 District Court judgeships.

To learn more about the your state’s federal court of appeals and federal district courts, view this [map](#).

B. ARTICLE I COURTS

In addition to Congress’s power in Article III to create “inferior courts,” Article I authorizes Congress to “create tribunals inferior to the Supreme Court” to hear cases involving particular statutes; they are sometimes called “legislative courts” because they do not exercise “the judicial power of the United States” but instead help Congress implement its legislative powers. These courts are located within the agencies of the executive branch. Judges of these courts are usually selected in a way other than that described in Article II of the U.S. Constitution, and they serve limited terms rather than for life.

Examples of Article I courts include the U.S. Court of Appeals for the Armed Forces, which hears cases arising under the Uniform Code of Military Justice; the U.S. Tax Court, which hears cases involving the IRS code; the U.S. Court of Veterans Appeals; and judges within the Social Security administration who hear appeals involving Social Security benefits. Some decisions of these Article I courts may be appealed to U.S. District Courts or Courts of Appeals.

12. HOW DOES A FEDERAL JUDGE REACH THE BENCH?

Article II of the U.S. Constitution authorizes the President to appoint individuals to be federal judges, subject to Senate confirmation by majority vote. This applies to judgeships that have Article III’s protection of good behavior tenure (essentially life tenure): the Supreme Court, Courts of Appeals, District Courts, and the Court of International Trade.

About half the judges in the federal judicial branch do not have these protections. The president appoints judges of the three territorial courts (Guam, Northern Mariana Islands, Virgin Islands) to renewable ten-year terms and to the Court of Federal Claims for renewable 15-year terms; both appointments require Senate confirmation. Bankruptcy judges are appointed to 14-year, renewable terms by the Court of Appeals in the circuit where they serve; magistrate judges, who assist U.S. District Court judges in their duties, are appointed to eight-year renewable terms by the District Court judges.

Judges of Article I or legislative courts, who serve in the executive branch, are appointed in a variety of ways.

A. ROLE OF HOME-STATE SENATORS

Almost all judgeships on both the District Courts and Courts of Appeals are associated with particular states. Congress has statutorily designated district courts by state (e.g., the District of Colorado, the Eastern District of California). By tradition, seats on the Courts of Appeals are associated with particular states within the multi-state circuits. Home-state senators of the president’s political party are often active in suggesting judicial nominees, especially for the District Courts. When neither home-state senator is of the president’s party, other local political leaders may be sources of proposed nominees.

Because of a norm in the U.S. Senate known as senatorial courtesy, the Senate Judiciary Committee will not process judicial nominees who do not have the approval of both home-state senators. This tradition, sometimes called the “blue-slip” process because of the form on which senators indicate their approval, gives home-state

senators a virtual veto power over judicial nominees to seats in their states. Thus, it is in the best interests of the White House to get home-state senators' approval before submitting nominees. There is some evidence that home-state senators, especially those not of the president's party, have used this veto power more aggressively in recent years than in earlier years. For judgeships without home-state senators (in the District of Columbia, Puerto Rico, and on the Court of Appeals for the Federal Circuit) somewhat different processes operate.

B. ROLE OF THE PRESIDENT

Unlike nominations to the Supreme Court, presidents are usually not personally involved in nominations to the Courts of Appeals and District Courts. Other executive branch entities are involved in these nominations, however. Members of the White House staff and U.S. Department of Justice identify potential nominees and investigate their backgrounds, professional and otherwise, including reviewing an extensive and detailed questionnaire that each nominee must complete regarding his/her professional background and legal experience, among other things. The FBI investigates the personal backgrounds of potential nominees.

C. ROLE OF THE SENATE JUDICIARY COMMITTEE

The Senate Judiciary Committee undertakes its own investigation of nominees, including of the nominees' questionnaires. It conducts public hearings and makes recommendations regarding confirmation to the full Senate. (Neither of these steps is automatic; not all nominees get hearings or recommendations.)

Nominees usually get a Judiciary Committee hearing, most (but not all) of which are rather pro forma affairs attended by less than the full committee. A single hearing may involve several nominees, who answer fairly routine questions from the committee members in attendance (e.g., "Will you let your personal views affect your interpretation of the law in the cases before you?").

For the occasional controversial nominee, questioning may be more intense, and the committee may hear from interest group members and others about why the Senate should or should not confirm a nominee. The committee sometimes holds a private hearing with a nominee to discuss allegations deemed inappropriate for a public airing. At some point after the hearing, the committee will vote on whether to send the nomination to the full Senate for a confirmation vote.

D. ROLE OF THE SENATE

The final step in the appointment process is for the full Senate to approve the nominee (by majority vote). Court of Appeals and District Court nominees are rarely denied confirmation in floor votes, although they may fail to be confirmed because the Senate leadership decides not to bring the nomination to a vote.

E. FEDERAL JUDICIAL SCREENING COMMISSIONS

Some Senators have created commissions to screen or vet potential judicial nominees and recommend individuals that the Senators might then submit to the White House, principally for District Court judgeships in their states. The President is not bound to nominate a candidate recommended by one of these commissions, but some Presidents have reached agreements with Senators in some states to do just that.

Senators in 21 states currently use such commissions, which vary greatly in size and procedures, and, in any event, are not official government agencies. To learn more about these commissions, visit IAALS' [Options for Federal Judicial Screening Commissions](#).

F. AMERICAN BAR ASSOCIATION ROLE

With the exception of President George W. Bush, Presidents since Dwight Eisenhower have submitted the names of potential federal court nominees to the ABA's Committee on the Federal Judiciary, which evaluates the nominees' professional qualifications and rates them as Well Qualified, Qualified, or Not Qualified.

This rating figures into some Presidents' final decision in making nominations. A representative of the ABA committee sometimes testifies at the nominee's Senate Judiciary Committee hearings, in particular for Supreme Court nominees.

13. WHAT ARE THE QUALIFICATIONS FOR BEING A FEDERAL JUDGE?

There are almost no formal qualifications—such as a minimum age or years of experience—for most federal judges. U.S. Court of Appeals and District Court judges are not even required by law to have legal training, but today having a law degree is recognized as an implicit qualification for Article III judges. (Bankruptcy judges are required by statute to have a law degree, and magistrate judges must have been members of the bar for 5 years.)

14. HOW LONG DOES A FEDERAL JUDGE STAY ON THE BENCH?

According to the U.S. Constitution, most judges of Article III courts enjoy life tenure (the Constitution says they may hold office “during good Behaviour”). As explained below, they may be removed from office by Congress, but that is very rare.

There is no mandatory retirement age for federal judges, although Congress provides that judges who reach a certain age and have been judges for a certain amount of time may retire from full-time service and still earn their salaries. Bankruptcy judges and magistrate judges serve set terms and may be reappointed. Most judges in the executive branch also serve for set terms and may be reappointed, subject to maximum age limits.

15. HOW CAN A FEDERAL JUDGE BE DISCIPLINED?

Congress established in 1980 the process that is currently used to address allegations of impropriety or misconduct by judges of the U.S. District Courts and Courts of Appeals (including bankruptcy and magistrate judges). This process does not apply to U.S. Supreme Court justices.

The bulk of the disciplinary responsibility rests with the chief judges of the Courts of Appeals and circuit judicial councils. (There is a council in each circuit, comprising the chief circuit judge and an equal number of District Court and Court of Appeals judges.) Any person may file a complaint against any judge with the chief judge of the circuit. If the chief judge finds that the complaint is without merit or related to the substance of a judicial decision, s/he may dismiss the complaint. However, a chief judge who finds that the complaint alleges facts that are “reasonably in dispute” must appoint a committee of judges to investigate the complaint and report back to the judicial council. (Chief judges dismiss the great majority of complaints, most of which are filed by disappointed litigants unhappy with the judges' decision in their cases.)

The judicial council then determines what, if any, disciplinary action should be taken. Possibilities include public or private reprimand or censure, a request for the judge's resignation, a temporary suspension of the judge's duties, or even a recommendation that Congress consider removing the judge from office. But unlike state judge disciplinary processes, federal district and circuit judges may not be removed from office as part of the disciplinary process. (The councils can recommend that bankruptcy or magistrate judges be removed from office under specific legal provisions for that purpose.)

For more information about discipline of federal judges, visit the American Judicature Society's [Center for Judicial Ethics](#) and the U.S. Courts site on [Judicial Conduct & Disability](#).

16. HOW CAN A FEDERAL JUDGE BE REMOVED FROM OFFICE?

Federal judges may only be removed from office via the impeachment process. According to the U.S. Constitution, impeachable offenses include treason, bribery, and other “high crimes and misdemeanors.” The U.S. House of Representatives may impeach, or charge, judges by a majority vote. By a two-thirds vote, the U.S. Senate may convict and remove impeached judges from office.

The U.S. House of Representatives may begin impeachment proceedings on its own initiative or based on a recommendation from the U.S. Judicial Conference (generally acting on a recommendation of a judicial council).

Fifteen federal judges have been impeached, and eight have been convicted and removed from office. Three others resigned to avoid Senate conviction. One U.S. Supreme Court justice (Samuel Chase) was impeached in the midst of early battles between President Thomas Jefferson and the federal judiciary. Chase’s actions while serving (as justices did then) as a trial judge were highly partisan, but his acquittal set an important precedent—the process should not be used as a means of punishing federal judges for their decisions in cases.

17. HOW IS THE PERFORMANCE OF FEDERAL JUDGES EVALUATED?

The only programs within the judicial branch for evaluating the performance of federal judges have been implemented voluntarily by individual federal circuits, districts, or judges. The Ninth Circuit’s judicial council established a voluntary self-evaluation program for District Court judges in the early 1980s, but the program was discontinued due to limited participation. A committee of the U.S. Judicial Conference selected the U.S. District Court for the Central District of Illinois to pilot a performance evaluation program for its judges in 1991, but it was considered a mixed success. Since that time, some federal judges have developed their own self-evaluation processes. Performance evaluation programs are more common for U.S. bankruptcy judges, who often seek reappointment to office.