

# ADVANCING TRANSPARENCY, ETHICS REFORM, AND COURT MODERNIZATION: A PATH FORWARD FOR AN EQUAL JUSTICE JUDICIARY

## TO PROTECT AND ADVANCE EQUAL JUSTICE, WE NEED FEDERAL COURTS THAT WORK FOR ALL OF US.

But the wealthy and powerful few have stacked the deck in their own favor and against the rights of everyday people. There has been a long-term, well-funded agenda to roll back our hard-fought civil and human rights, which we have seen in recent Supreme Court decisions by far-right justices that have upended our most basic freedoms. Amidst this, reports continue to reveal the deepening judicial ethics crisis at our nation's highest court, including recent reports of Supreme Court Justices [Thomas](#) and [Alito](#)'s failures to disclose the gifts and luxury travel lavished upon them by billionaires. These escalating patterns of misconduct are unethical, unacceptable, and damaging to the rule of law. The Leadership Conference and our coalition have repeatedly raised our deep concerns about these reports of disturbing misconduct,<sup>1</sup> and we have long advocated for changes that improve our judiciary, strengthen our democracy, and bolster our rights. For our democracy to thrive, we need Congress and the White House to take serious and immediate action.

The civil rights community has long recognized that addressing corruption and misconduct in our federal judiciary is an integral part of our ongoing work to build an equal justice judiciary.<sup>2</sup> Fundamentally, the judicial ethics crisis raises serious questions about who our judges and justices serve and whose rights they uphold. [The Leadership Conference advocates](#) for a federal judiciary that delivers on its promise of equal justice for all, and we have urged the administration and Congress to approach this with two guideposts:

- **Engage and center the people historically marginalized by the federal judiciary.** Federal courts have sweeping power, and perhaps none more so than the Supreme Court, which hears only a handful of cases each year but has significant impact over every aspect of our lives. We must ensure that everyone who enters a courtroom or who is affected by a court decision is treated with dignity and fairness. To fulfill the vision of equal justice for all, we must center the communities who were historically excluded from our democracy and who continue to be impacted by our courts' decisions.
- **Build a more thriving democracy by addressing widespread concerns that judges and justices are working for their billionaire benefactors instead of everyday people.** For our democracy to work, judges and justices must have the public's faith that they make decisions without bias and free from undue influence. Our federal courts must earn the public's trust so that we all know that their decisions are informed by facts and law, not wealth and power. The judiciary's credibility with the American public has plummeted in the wake of these crises,<sup>3</sup> and change is necessary to protect our imperiled democracy. We must respond to the judiciary's legitimacy crisis of its own making by ensuring that the jurists who serve for life on our federal courts are trustworthy, independent, and ethical.

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1. See, e.g., December 2022 [letter](#) to the Senate joined by 100 national, state, and local organizations, renewing ethics calls and calling for an investigation into [reports](#) that far-right extremists attempted to influence and embolden particular justices; April 2023 [letter to Congress](#) joined by 54 national organizations reviving these calls in response to Justice Thomas's reported misconduct; May 2023 [statement for the record](#) submitted for the [Senate Judiciary Committee's Supreme Court Ethics Reform hearing](#), reiterating our calls for ethics reform and investigations into reported misconduct.
2. See, e.g., The Leadership Conference's Fair Courts Task Force priorities for the [118th](#), [117th](#), and [116th](#) Congresses, in which we urged Congress to prioritize ethics reform as well as nominating and confirming diverse judges committed to civil rights.
3. See "[Historically Low Faith in U.S. Institutions Continues](#)," *Gallup*. July 6, 2023.

## OUR CONTINUED CALLS FOR CHANGE

The Leadership Conference continues to convene organizations across the civil and human rights movement and work with the White House and Congress to build a federal judiciary that serves all of us and lives up to its promise of equal justice for all. There are many judicial anti-corruption and modernization proposals circulating that are worthy of consideration and contain provisions that would advance transparency and address the escalating ethics crisis. We urge the White House and Congress to advance the following:

- **PASS A BINDING SUPREME COURT CODE OF CONDUCT:** Currently, Supreme Court justices are the only federal judges who are not subject to an enforceable code of conduct. In the absence of a Court-created code of conduct for Supreme Court justices, Congress must act and pass a binding code.
- **STRENGTHEN RECUSAL STANDARDS AND TRANSPARENCY MEASURES:** Supreme Court justices must adhere to stronger recusal guidelines, disclosure requirements, or other transparency measures. And still, while lower court judges are subject to enforceable rules, the existing recusal and disclosure measures must be bolstered to promote further transparency and ensure judges recuse themselves from cases where they may have a financial interest. Congress must pass stronger recusal standards and improved transparency measures for all federal jurists, including Supreme Court justices and lower court judges, to address the appearance of bias — and actual bias — in judicial decisionmaking and build the public’s trust in our judiciary.
- **CONTINUE INVESTIGATIONS INTO REPORTED VIOLATIONS:** The U.S. Department of Justice and Senate Judiciary Committee must continue to investigate the reports of egregious ethics violations by Justices Thomas and Alito, as well as the broader undue and devastating influence of the rich and powerful on the Court and their agenda to undermine our civil and human rights.
- **ADD MORE AUTHORIZED DISTRICT AND CIRCUIT COURT JUDGESHIPS AND CONSIDER OTHER STRUCTURAL CHANGES:** It has been decades since Congress modernized our courts by increasing the number of authorized judgeships to keep up with population growth, handle the increasing caseloads, and provide timely access to justice. Congress must increase the number of authorized judgeships on district and circuit courts. Furthermore, Congress must continue to explore other changes and whether they would strengthen our judiciary and democracy, such as term limits and adding additional seats to the Supreme Court.
- **CONFIRM QUALIFIED AND FAIR JUDICIAL NOMINEES:** The president and senators must continue to select, nominate, and confirm highly qualified, ethical judges who have a demonstrated commitment to civil and human rights, possess diverse professional experiences including public interest work for social and economic justice, are fair-minded, possess a progressive vision of the law and Constitution, and are reflective and representative of the vast and rich diversity of our country. Creating a diverse judiciary that respects and upholds the rights of all people is a vital component to building trust in the courts’ decisions and our democracy.
- **ADDRESS DISCRIMINATION, HARASSMENT, AND RETALIATION:** Federal judiciary employees are especially vulnerable to workplace discrimination, harassment, and retaliation because federal judges cannot be fired like other employees. They serve for life and may only be removed through the impeachment process, and they are investigated by their peers when allegations of misconduct come to light. Congress must pass legislation that addresses the insidious workplace culture of our federal judiciary, protects its employees’ civil rights as Congress does for all other federal workers, and increases transparency into allegations of and investigations into judicial misconduct.

It is vital that the Biden administration and Congress act with urgency to create a judiciary that is fair, independent, and respects the rights of all people. For more information, please contact Samantha Cyrulnik-Dercher at [cyrulnikdercher@civilrights.org](mailto:cyrulnikdercher@civilrights.org).