

# STUDY GUIDE FOR LEAGUES (Local, State, and ILOS) FOR THE LWV FEDERAL JUDICIAL STUDY (FJS)

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## The League Study Process

### Background

League action – our advocacy – is based on League positions. Studies, which are the basis of positions, make our action possible. During a study, members have an opportunity to examine the facts, key opinions, and arguments. Members are encouraged to discuss the political realities and to voice opinions. All this goes into the

formulation of a League position. Studies make League action uniquely credible and respected.

## What is a Position?

A League position is established after members have studied an issue and achieved consensus on policies and practices that would best serve the public interest. League positions serve as the foundation for League action and ensure we are speaking with one voice on issues.

The best League positions are written in general principles — broad concepts — rather than in specific topics. This allows positions to have a long life, allowing the League to act even as the issues change over time. A position should outline the principles to be applied as we make decisions on action in the future.

# What Is Included in This Study, And What Is Not Included – And Why

The goal of this study is:

To develop a LWV position on the Federal Judiciary as an essential component of US democracy. The Study includes but is not limited to addressing concerns and clarifying judicial accountability, transparency, independence, and ethics. The scope addresses the US Supreme Court as well as the other Article III federal courts.

The other Article III federal courts include 94 federal district courts (which include bankruptcy courts), and 13 circuit courts of appeals.

Other parts of the Judicial Branch of the federal government include ancillary agencies such as the Administrative Office of the US Courts, the Federal Judicial Center, and the US Sentencing Commission. There are also specialized courts such as Immigration Courts, the Tax Court, and administrative courts in various Executive Branch agencies. While these are federal courts, they are NOT part of the Article III courts and thus are outside of the scope of this study.

The scope of this study focuses on the US Supreme Court and the other Article III federal courts to allow for a relatively quick but thorough, modernized study and adoption of a LWVUS position that is appropriate for years to come.

# How to Conduct a Study

## What is Consensus?

The American Heritage Dictionary defines consensus as “collective opinion or concord; general agreement or accord.” In the League, consensus is used:

- Interchangeably with “member agreement” to refer to the overall decision-making process (including various methods such as questionnaires, polls, and so forth) by which a League study committee and board determines that there is substantial agreement among members on an issue.
- To refer to a specific technique used traditionally in the League to discuss and arrive at conclusions on issues.

Consensus/group discussion is the technique most often used in the League for reaching member agreement. It is a process whereby members participate in a group discussion of an issue. The consensus reached by members through group discussion is not a simple majority, nor must it be unanimous; rather, it is the overall *sense of the group* as expressed through the exchange of ideas and opinions, whether in a membership meeting or a series of membership or unit meetings. The League definition of consensus allows for dissent – for minority opinion.

The consensus questions will be provided as a separate document. Every League that conducts a consensus meeting will answer the same set of consensus questions. Those answers will be used to write the new LWVUS position on the Federal Judiciary.

## How to Reach Consensus

Consensus is the sense of the room. It is not a vote. Ideally, consensus should be reached through discussion, with a full exploration of all the qualifying factors, to identify broad areas of agreement. That said, at times a show of hands may become necessary. A show of hands can be important in recording substantial minority opinion, or it may show that there is no consensus.

If several local Leagues join together for a meeting, each League should report its consensus results separately. Consensus reports will be an online form that goes directly to the LWVUS. This ensures that the records are clear on the number of local Leagues participating in the study.

# How To Lead a Consensus Discussion

## Setting Up

Establish two or three explicit roles to conduct a League consensus discussion:

1. Leader/facilitator
2. Recorder
3. Timekeeper (optional)

## Role of the Leader/Facilitator

The role of the discussion leader/facilitator is to make sure that:

- Everyone knows what to expect, that the agenda for the discussion is clear;
- meeting format and ground rules are understood and agreed upon up front;
- members understand their roles in the meeting/consensus; and
- Everyone stays on track until the meeting's goal is met.

It can be helpful to post an agenda/schedule for the meeting so that everyone knows in advance when it is time to move from one topic to another. Timekeeper may be added as a third role.

## Role of the Recorder

When consensus questions are being discussed and members are coming to consensus, the recorder has the responsibility to listen carefully, to record accurately, and to read their notes aloud to verify completeness of thought or intended meaning. The recorder should ask for clarification when necessary.

The recorder should read back their notes frequently to the group or record them on a flip chart pad that everyone can see. Keep in mind that consensus means "the sense of the meeting" and does not involve voting to achieve a majority. It also is important to record strong dissent on a particular issue even when the dissent comes from a minority.

## Role of the Timekeeper

A timekeeper makes sure the meeting follows the agenda laid out and the times allotted for each step.

## Help to Keep Discussion on Track

League members are passionate, articulate people. It is not unusual for a focused discussion to wander into related, fascinating areas that are not relevant to a consensus

question under consideration. Many discussion leaders have found that establishing a “parking lot” at the beginning of the meeting can be a highly useful tool for keeping their engaged members focused and on-task.

## Information Resources to Prompt Discussion

The Federal Judiciary Study Committee has conducted extensive research to develop a series of policy papers on specific topics related to the federal judiciary. These are designed to assist you in “jump starting” a discussion that is lagging, has veered off topic, or has failed to start. They are not part of a script that must be followed but are tools to help you cover the material in a limited amount of time. They also provide user-friendly background for members who are not expected to be experts on the federal judiciary.

You can find links to the policy briefs on the [LWVUS League Management Site \(LMS\) webpage](#) for the study. The study committee is also developing some suggested discussion prompts to go along with these policy briefs.

The consensus questions will be provided as a separate document. Every League that conducts a consensus meeting will answer the same set of consensus questions. Those answers will be used to write the new LWVUS position on the Federal Judiciary. That is our goal.

## Meeting Logistics

1. Announce date of the meeting well in advance/send reminders as date approaches
2. Post an agenda for the meeting ahead of time
  - a. This can be helpful so that everyone knows in advance when it is time to move from one topic to another. (This is where the role of timekeeper can be useful.)

At the Meeting:

1. Introduction
  - Take attendance.
  - Remind meeting attendees about the study plan adopted at LWVUS Convention.
  - Review scope of study.
  - Review LWV process, including how position is required for action and study is required to adopt position.
2. Provide attendees with definitions of:
  - What “federal judiciary” includes – and does not include
  - LWV definition of consensus
  - Definition of Common Terms (see glossary of terms on [LWVUS League Management Site \(LMS\) webpage](#))

3. Start with Issue-based discussions

Pick several topics (like ethics enforcement or financial disclosures) from the list of topics/policy papers the study committee has provided. As discussion progresses, ask which principles might apply to how the League might act on the issue. For assistance in this discussion, each policy paper ends with a list of relevant principles identified by the FJS Committee.

4. Move from Issues to Principles

After the issue discussions, move to consensus questions. Remind the group of LWV definition of consensus, and role of the recorder.

5. Reaching Consensus and Sharing Findings with LWVUS

Once your League has gone through and answered each of the consensus questions, you will share those answers with the LWVUS study committee via the online reporting form.

**DEADLINE for sending consensus responses to LWVUS is APRIL 14**