



Federal Judiciary Study

Discussion Prompts for League Federal Judiciary Study Meetings

The following discussion prompts are designed to get your League meeting started. 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 discussion prompts are designed to assist you in “jump starting” a discussion that may be lagging, has veered off topic, or has failed to start. There is no script that must be followed, but these prompts are tools you may choose to use 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.

Ethics

What are the most important ethical considerations for federal judges/justices?

How do federal judges/justices ensure their impartiality in high-profile cases?

What are the consequences if a federal judge/justice violates the Code of Conduct?

How does the Code of Conduct impact a judge's/justice's extrajudicial activities both personally and professionally?

What mechanisms are in place to enforce ethical standards for federal judges/justices?

Should Supreme Court justices be subject to the same ethical code and enforcement as other federal judges?

Are federal judges/justices doing a good job of maintaining ethical standards or is more regulation needed?

Do you believe that questionable ethical conduct by Supreme Court justices has impacted their rulings?

With an enforceable code of ethics for judges/Justices should there be limits on who/what can file a complaint and should the complainants be handled differently?

Is the Supreme Court of the United States (SCOTUS) voluntary Code of Conduct necessary or sufficient?

Structural Reforms for the SCOTUS

Would specific structural reforms for SCOTUS, such as term limits, injure judicial independence? What are the trade-offs?

If a Justice retires because of term-limits, what happens if he/she takes on another job after term limits or is applying for a job while he/she is serving as a Justice how would conflicts be managed?

As a result of term limits or other reforms, would more turnover in justices cause less stability of law?

Does life tenure give Justices with long tenure too much independence or power?

Two branches of the US government — Congress and the Presidency — are regulated more than SCOTUS by the Constitution and federal law. Considering this, is the judicial branch granted too much independence?

Considering the history of SCOTUS, are current controversies, public disapproval, and proposals for reform warranted? Can such reforms be accomplished by statute? If they require an amendment to the Constitution?

What is the likelihood of any reform to SCOTUS being achieved by amending the Constitution?

Despite multiple historical precedents, the idea of altering the number of SCOTUS Justices tends to be regarded negatively by many. Do you agree? Why or why not should such a reform be considered?

Polls show rising public disapproval of SCOTUS. To what extent is this the result of unpopular rulings being conflated with the behavior of the justices?

Would any of the major reform proposals — changing the size of SCOTUS or term limits — mitigate the legitimacy crisis of the Supreme Court?

Is there a crisis of legitimacy for SCOTUS? Does it matter?

Financial Disclosures

Should judges/justices have the same financial disclosure requirements as members of Congress?

Is the recently adopted Code of Conduct for the justices, in which they confirmed that they would comply voluntarily with regulations, sufficient?

Recusal

Recusal by one justice can leave the Supreme Court with an even number of justices to hear and rule on a case. If there are examples of this, can the Supreme Court claim a “duty to sit” as a reasonable argument against recusal?

What would be the implications of full public disclosure of recusal decisions by federal judges/justices?

Judge Shopping

Should a plaintiff have the freedom to choose where they bring their complaint?

Could faster and more informed rulings be achieved if the courts encouraged judges to specialize?

Representation

If a judge/justice does not have the same life experiences as the people who bring cases to their Court, can that judge be fair? When and under what conditions? How would you know if a judge made unfair rulings?

Are sentencing disparities a useful measure of unfairness across our judicial system?

What are some advantages and disadvantages of nominating judges/Justices from a broad array of law schools? Do you think there are trade-offs?

Shadow Docket

Some justices of the Supreme Court are critical of the shadow docket. Should the shadow docket be better controlled? If so, how?

Would it be useful for the existence of the shadow docket to be better understood by voters?

Should there be requirements and standards for written opinions to accompany rulings in orders? Given the number of cases involved, is this practical?

Miscellaneous

How much should public opinion weigh on a court ruling? For example, if the majority of Americans favor background checks before gun purchases, should the court take that into consideration?

What role does partisan politics play in the selection of federal judges? What role should partisan politics play?

To fill the courts, the President nominates judges/Justices who are then confirmed by the Senate. With so much control of the federal courts embodied in these two branches of government, is the focus on judicial reform unfounded?