



Harvard Model Congress Boston 2024

Supreme Court Ethics Update

By Kaitlyn Vu

As of September 2023, only 41% of U.S. adults approve of the Supreme Court—relatively consistent with the record-low approval rating of 40% from September 2021. Perceptions of the Court continue to diverge sharply along party lines: only 23% of Democrats hold favorable views of the Court, compared to 56% of Republicans. Additionally, in terms of ideology, 73% of Democrats say that the Supreme Court is “too conservative” while 62% of Republicans say that the Court is “about right” (Bernan, 2023).

Recent reports have only increased public mistrust of the Court. In June 2023, ProPublica suggested that Justice Samuel Alito violated federal law by failing to report a 2008 fishing trip – funded and organized by major conservative donor Paul Singer – in his annual financial disclosures. Furthermore, Justice Alito did not recuse himself from high-stakes business disputes that came before the Court involving Singer’s hedge fund (The Associated Press, 2023). Expanding upon their April 2023 exposé, ProPublica also revealed that Justice Clarence Thomas, who reportedly faced financial strain during the first decade of his tenure, had privately pushed for Congress to increase the salaries of Court justices and remove a ban on justices giving paid speeches. The report also raises critical questions about the timing of Justice Thomas’ complaints: shortly thereafter, the justice began to receive “gifts” from elite conservatives that often went undisclosed (Elliot et al., 2023).

Furthermore, Democratic lawmakers in Congress have called on Justice Thomas to recuse himself from hearing any cases related to the federal indictment against former President Donald Trump. More specifically, the lawmakers claim that the refusal of Justice Thomas to recuse would violate an ethics code adopted by the Court in 2023, as numerous reports have linked Ginni Thomas – the justice’s wife – to the January 6th Attack on the U.S. Capitol and other efforts to challenge the 2020 election results. However, since the ethics code does not have an enforcement mechanism, Justice Thomas will not be punished if he does not recuse from the case (Durkee, 2023). As such, the upcoming federal case concerning former President Trump’s indictment will constitute the first true test of the Court’s “Statement on Ethics Principles and Practices.”

Regarding Congressional action, there has been no additional progress on the bipartisan “Supreme Court Code of Conduct Act” since the bill was introduced and referred to the Senate Judiciary Committee in April 2023. However, in July 2023, the Senate Judiciary Committee voted to advance the “Supreme Court Ethics, Recusal, and

Transparency Act” to the full Senate. The bill would require Supreme Court justices to adopt a code of conduct, develop a mechanism to investigate alleged violations of the code, improve disclosure and transparency policies, and explain recusal decisions to the public (Rimmer, 2023). In October 2023, Senate Democrats also introduced the “Supreme Court Biennial Appointments and Term Limits Act” to establish 18-year term limits and regularized appointments for Supreme Court Justices (Robertson, 2023).

Ultimately, increasingly partisan debates over the ethics of the Supreme Court continue to raise pressing concerns about the fundamental integrity of the judicial system—contributing to the widespread deterioration of faith in American governmental institutions.

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