



April 26, 2022

The Honorable Jerrold Nadler, Chair  
The Honorable Jim Jordan, Ranking Member  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Hank Johnson, Chair  
The Honorable Darrell Issa, Ranking Member  
Subcommittee on Courts, Intellectual Property,  
and the Internet  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Chair Nadler, Ranking Member Jordan, Chair Johnson, and Ranking Member Issa:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 230 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States, we write to the House Committee on the Judiciary's Subcommittee on Courts, Intellectual Property, and the Internet in advance of its April 27, 2022, hearing titled "Building Confidence in the Supreme Court Through Ethics and Recusal Reforms." We appreciate this opportunity to share with the subcommittee our strong support for modernizing our courts, including the need for improved ethics and transparency measures for the Supreme Court.

The Leadership Conference is heartened by the subcommittee's prioritization of the need for judicial ethics reform to ensure that our courts work for all of us, as the civil rights community has a vested interest in this crucial issue. For decades, The Leadership Conference has convened the Fair Courts Task Force, co-chaired by the National Women's Law Center and People For the American Way. The Fair Courts Task Force brings together organizations committed to civil and human rights to work on issues related to federal courts, including judicial nominations and court modernization efforts, in order to build an equal justice judiciary that protects the rights of all people in America. The task force has urged Congress to pass legislation to modernize and reform our federal judiciary by shoring up ethics and transparency reforms, such as extending the code of conduct for federal judges to apply to Supreme Court justices.<sup>1</sup>

Judicial ethics reform has been an enduring priority for our coalition because judges and the decisions they make matter so much to our lives. Federal judges and justices are the final arbiters of our laws and Constitution, and the decisions they make tell us who can vote; receive equal pay; marry the person they love; access affordable health care, education, and housing; obtain an abortion; breathe clean air and drink clean water; hold police officers accountable for using excessive force and other constitutional violations; and so much more. That is why institutions that we entrust to safeguard our democracy, including the federal judiciary, must work for everyone. Unlike any of our elected officials, most federal judges and justices serve on the bench for a lifetime. It is therefore crucial that these jurists are fair-minded, have

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<sup>1</sup> ["The Leadership Conference on Civil and Human Rights Transition Priorities."](#) *The Leadership Conference on Civil and Human Rights*. November 24, 2020.

diverse lived and professional experiences, and are committed to the civil rights of all of us, not just the wealthy and powerful. There are various ways in which elected and other public officials who violate ethical guidelines can be held accountable; it is far more difficult for the public to hold unelected federal judges who violate ethical guidelines accountable. Congress has the sole authority to remove a federal judge or justice from office via the impeachment process, and only eight federal judges in our entire history have been removed in this way.<sup>2</sup> For us to have equal justice, every person must be able to trust that they will be treated fairly and equitably by judges and justices who are not unduly influenced by or beholden to corporate wealth, partisan politics, or any other conflicts of interest. We need ethics changes and more transparency measures to ensure our federal judges, and especially Supreme Court justices, are held to the highest standards.

Our current ethics guidelines for Supreme Court justices need improvement to protect against perceived or actual corruption and self-interest. The lack of adherence to current rules is problematic across the entire federal judiciary.<sup>3</sup> The ethics guidelines that bind lower-court judges are insufficient to prevent serious conflicts of interest, and even those minimal guidelines are not enforceable against Supreme Court justices.<sup>4</sup> While we are glad to see further consideration of bills that would strengthen some ethics rules for judges and justices, we know that more must be done to bolster judicial independence so the public can trust and know that judges and justices issue decisions based on the facts and law, not personal interest.

The Supreme Court's legitimacy is especially reliant on the public's confidence. It is imperative that our justices hold themselves to the highest ethical standards, not only to ensure fair decision-making but also to increase public trust in the institution. Justices are increasingly engaging in activities that undermine the legitimacy of the Court.<sup>5</sup> Indeed, public approval of our nation's highest court is at its lowest point in decades.<sup>6</sup> This is unsurprising, especially in light of the conduct of individual justices and the well-funded and long-term strategy by right-wing corporate interests to roll back and curb future progress on civil and human rights. For decades, conservatives have pursued litigation against civil rights protections and stacked the courts in favor of the wealthy and powerful.<sup>7</sup> Thus, the discussion about the ethics and transparency of the Supreme Court — and all our federal courts — is not an academic or theoretical one. Central to this discussion is the Court's decisions that directly impact the lives of people. The need for

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<sup>2</sup> [“Impeachments of Federal Judges.”](#) *Federal Judicial Center*. Accessed April 2022.

<sup>3</sup> See Grimaldi, James V.; Jones, Coulter; and Palazzolo, Joe. [“131 Federal Judges Broke the Law by Hearing Cases Where They Had a Financial Interest.”](#) *Wall Street Journal*. September 28, 2021.

<sup>4</sup> See [“Judicial Ethics and Transparency: The Limits of Existing Statutes and Rules”](#) at 6:00 (opening statement of Chairman Hank Johnson).

<sup>5</sup> See, e.g., Woodward, Bob and Costa, Robert. [“Virginia Thomas urged White House chief to pursue unrelenting efforts to overturn the 2020 election, texts show.”](#) *Washington Post*. March 24, 2022; Sherman, Mark. [“Media barred from Justice Gorsuch talk to Federalist Society.”](#) *AP News*. February 1, 2022; Gresko, Jessica. [“Chief justice: Judges must better avoid financial conflicts.”](#) *AP News*. December 31, 2021. Liptak, Adam. [“In Unusually Political Speech, Alito Says Liberals Pose Threat to Liberties.”](#) *New York Times*. November 13, 2020.

<sup>6</sup> Jones, Jeffrey M. [“Approval of U.S. Supreme Court Down to 40%, a New Low.”](#) *Gallup*. September 23, 2021.

<sup>7</sup> See Senators Booker, Cory; Stabenow, Debbie; Whitehouse, Sheldon; Blumenthal, Richard; Brown, Sherrod; Cardin, Ben; Van Hollen, Chris. [“What's At Stake - Equal Justice Under Law: How Captured Courts Tilt the Playing Field Against America's Most Vulnerable.”](#) *Democratic Policy & Communications Committee*. October 2020.

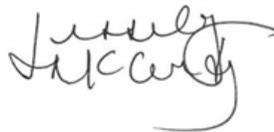
ethics reform is fundamentally about who our courts serve and whose rights they protect. It is imperative that members of this committee approach this issue by considering the very real consequences that court decisions have in people's lives.

We must acknowledge that the Supreme Court has a long way to go to fulfill the promise of equal justice under law. The Court's legitimacy is rooted in public trust, and the Court should adhere to established and transparent ethics rules to build trust and ensure balanced, independent judicial decision making that is free from perceived and actual conflicts of interest. In addition to our work to ensure that justices are fair-minded, committed to the civil and human rights of all people, and possess diverse backgrounds and experiences that will inform their role on the bench, we must establish high standards to which justices are held. Congress and the Court must ensure that justices are bound by ethical standards that help our highest court live up to its promise of equal justice under law.

Sincerely,



Wade Henderson  
Interim President & CEO



Jesselyn McCurdy  
Executive Vice President of Government Affairs