

By law, the U.S. Supreme Court's term begins on the first Monday in October and goes through the Sunday before the first Monday in October of the following year. Typically, the Court is in recess from late June/early July until the first Monday in October. In October of 2021, the Supreme Court returned to in-person oral arguments for the first time since the COVID-19 pandemic began. The nine justices went back into the courtroom to kick off a new term with several controversial issues such as abortion, gun rights, religion, and the death penalty.

### Organization of the Supreme Court

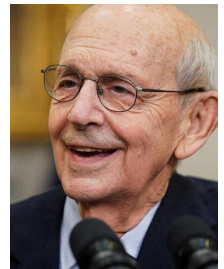
Since the Reconstruction era, the court has had nine justices: one chief justice and eight associate justices. The size... of the court is set by statute, not the Constitution, which means Congress may change the number of justices at any time. While adding justices to tilt the court's partisan makeup was debated during the 2020 election cycle, the last serious attempt to expand the size of the court was from President Franklin D. Roosevelt in 1937. Congress decided against the proposal, and Roosevelt was widely criticized for it. President Joe Biden signed an executive order in April forming a commission to analyze potential structural changes to the high court, including the membership and size of the court.

The current court has a 6-3 advantage for conservatives based on presidential nominations. The justices themselves say that partisanship does not play a role in their work. Six justices, including the chief justice, were nominated by Republican presidents, including three by President Donald Trump. Democratic presidents appointed three justices (including the newest, Justice Ketanji Brown Jackson).

The Constitution dictates that all federal judges, including justices appointed to the Supreme Court, serve for life, but they can retire. Thomas, appointed in 1991, is the longest-serving justice on the court.

### Stephen Breyer Retirement

Justice Stephen Breyer will step down from the Supreme Court at the end of the current term, expected to be late June or early July 2022. At 83, Breyer is the court's oldest member. Liberal activists have urged him for months to retire while Democrats hold both the White House and the Senate — a position that could change after the midterm elections in November 2022.



*Retiring Justice Stephen Breyer*

They contended that Justice Ruth Bader Ginsburg stayed too long despite her history of health problems and should have stepped down during the Obama administration. Then Democrats, who held the Senate majority until 2014, would have had the chance to confirm another liberal justice on the court.

Appointed by President Bill Clinton, Breyer came to the Supreme Court in 1994 and became one of the court's moderate-to-liberal members, though he often said it was misleading to label justices with such terms. Breyer believed that interpreting the Constitution should be based on practical considerations, changing with the times. That put him at odds with conservative justices who said the founders' original intent must guide the court.

### Ketanji Brown Jackson Confirmation

The Senate confirmed Jackson to the Supreme Court on Thursday afternoon, making her the 116<sup>th</sup> justice — and first Black woman — to serve on the nation's highest court. The Senate's historic vote was 53-47 with three Republicans — Sens. Susan Collins of Maine, Lisa Murkowski of Alaska, and Mitt Romney of Utah joining every member of the Democratic caucus in voting for her confirmation. President Joe Biden nominated Jackson in February after Associate Justice Stephen Breyer announced he would retire at the end of the current court term.



**Justice Ketanji Brown Jackson, age 51, appointed by President Joe Biden (2022), will take the bench with the start of the new judicial term in October 2022.**

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## THE SUPREME COURT IN 2022 CONTINUED

Jackson currently serves on the U.S. Court of Appeals for the D.C. Circuit, appointed by Biden. She previously served as a U.S. District Court judge, appointed by President Barack Obama. Before that, the Harvard Law School graduate served as vice-chair of the U.S. Sentencing Commission and as a federal public defender. Jackson, a former clerk for Breyer, was a front-runner for Biden's first Supreme Court nomination. Her confirmation marks the fourth time the Senate has approved her. She was confirmed to her role on the Court of Appeals with bipartisan support last year.

Though Jackson's confirmation will not change the court's ideological makeup – where conservatives hold a 6-3 advantage – she will be the first federal public defender to sit on the high court. Of the 115 justices in the Supreme Court's 233-year history, 108 have been white men. Only five have been women, and three have been people of color.

When Jackson takes her seat, it will be the first time the court's nine-member bench will include two Black justices and four female justices. It could be about three months between Jackson's confirmation and her swearing-in ceremony. Nevertheless, once Breyer officially retires, the gap before she joins the court should be relatively short and average.

"Judge Jackson's confirmation was a historic moment for our nation," Biden tweeted after the vote. "We've taken another step toward making our highest court reflect the diversity of America. She will be an incredible Justice, and I was honored to share this moment with her."

### Appointing New Justices

Per U.S. Constitution (Article II, Section 2, Clause 2) states that the president "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint ... Judges of the Supreme Court."

Each federal judge holds office for life and may be removed only by impeachment. There are no expressed qualifications for federal judges in the Constitution. Some former Justices have had no previous judicial experience, including eight chief justices. However, all have had experience in public service. Among the remaining members of the current Court, all have had previous judicial experience.

If a vacancy exists, the Supreme Court still conducts its usual business of ruling on disputes from the lower courts. Battles over nominated justices or unexpected deaths and the needed Senate confirmation hearings may cause the Supreme Court to operate with eight justices.

### What's Ahead for the Court

The court hears oral arguments in about 80 cases each term, selecting from a pool of 7,000 to 8,000 petitions. For this and the next term, the court will hear cases related to abortion, rights for gun owners, religious liberty, affirmative action, and the death penalty. These have been the country's most heated political debates and could all see dramatic, life-altering policy shifts under a high court with six conservative-leaning justices and three more liberal-sided ones.

After arguments, the court generally takes about four to six months to announce its decision in a case, with factors such as the complexity of the case and the number of justices choosing to write opinions affecting the time frame. The court's most important and most controversial cases are usually handed down during the final days of its term.

### Conclusion

The Supreme Court consists of nine Justices, each with their views and beliefs, which may align with the Democratic (liberal) or Republican (conservative) parties. As we have studied, federal courts are often called the "guardians of the Constitution" because their rulings protect rights and liberties guaranteed by the Constitution. Through fair and impartial judgments, the Supreme Court Justices interpret and apply the law to resolve disputes.

### REVIEW QUESTIONS

**TRUE OR FALSE?** Write a **T** or **F** in the space provided.

- \_\_\_\_ 1. Supreme Court Justices serve a term of 10 years.
- \_\_\_\_ 2. The Supreme Court Justices are considered "guardians of the Constitution."
- \_\_\_\_ 3. The current justices get to vote on who will fill a vacancy.
- \_\_\_\_ 4. Article 2 of the U.S. Constitution describes the president's role in nominating a Supreme Court Justice.
- \_\_\_\_ 5. Supreme Court nominees always have previous judicial experience.
- \_\_\_\_ 6. Justices are obligated to rule according to the ideology of the president who appointed them.
- \_\_\_\_ 7. After the president announces a nominee, it is presented to the voters to confirm.
- \_\_\_\_ 8. Justice Beyer had the most conservative beliefs of any judge on the Supreme Court.
- \_\_\_\_ 9. There is still a judge on the Supreme Court that was nominated by G.H. Bush.
- \_\_\_\_ 10. Kentanji Brown Jackson will become the first Black Woman on the Supreme Court.

**Answers:** 1-F, 2-T, 3-F, 4-T, 5-F, 6-F, 7-F, 8-F, 9-T, 10-T