



# THE JUDICIAL CONFIRMATION PROCESS: A STEP-BY-STEP GUIDE

## WHAT THE CONSTITUTION HAS TO SAY:

Article II of the U.S Constitution gives the President and the U.S. Senate concurrent authority over nominations of executive officers and members of the Federal Judiciary. Specifically, the President “shall nominate, by and with the advice and consent of the Senate, shall appoint ...judges of the Supreme Court, and all other Officers of the United States[.]” Since the beginning of the Republic, the Senate has independent role in the nominations process, confirming or rejecting the choices made by the President. As conceived by the founders, this check on presidential power serves to ensure an independent federal judiciary.

### Step 1: The Nomination

The nomination process begins with the President; he must send a nomination to the Senate. However, there is a long tradition of bipartisan consultation, before a nomination is made, between the President and the Senators who represent the state in which the judge will serve. Or, in the case of a Supreme Court nomination, with the Chair and ranking member of the Senate Judiciary Committee.



### Step 2: Referral to the Judiciary Committee

Once received the Senate refers the nomination to the Senate Committee on the Judiciary. The Judiciary Committee will hold a hearing on the nominee. The hearing is an important part of the vetting process. It is the primary opportunity for members of the Committee to explore the nominee’s qualifications, judgment, temperament, and philosophy.



### Step 3: Committee Meeting

The final stage of committee consideration is the business meeting where the Committee decides if and how to report a nomination to the full Senate. The committee can report a nomination with a favorable recommendation, with an unfavorable recommendation, or even no recommendation at all. The Committee also may decline to send a nomination to the Senate.



### Step 4: Senate Debate

Senators generally have the right to debate any question that comes before the Senate, including nominations. This right to debate and even to filibuster a nomination has, since the very beginning of the Senate, been an important check on the executive branch. Ending a filibuster (known as invoking cloture) requires 60 votes.



### Step 5: Senate Confirmation or Rejection

If the Senate agrees to end debate with a 60 vote margin, it will proceed to a vote on the nomination. Once debate has ended, nomination of a judicial nominee requires only a majority vote (51) to be confirmed. If there is a 50-50 vote, the Vice President casts the deciding vote.