

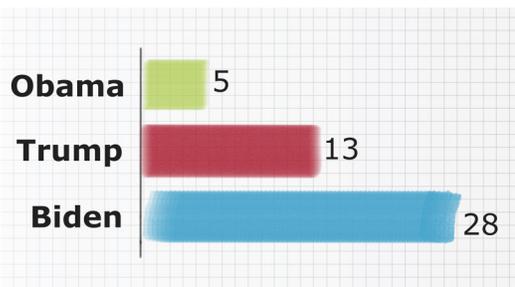
Overview

Every day our federal courts decide cases critical to our rights— from voting rights to environmental justice to immigrants’ rights. Under the previous administration, judicial vacancies were filled at a rapid pace with conservative judges who were largely young, white men and oftentimes underqualified.

The Biden-Harris administration and the Senate now have an opportunity to diversify the courts by nominating and confirming qualified diverse, progressive judges. With the new administration well into its first year in office and the Senate finished with the first half of its term, this report assesses the progress or lack thereof that has been made in these critical areas.



1. Pace of Nominations



Judicial confirmations by presidential administration as of November 8, 2021.

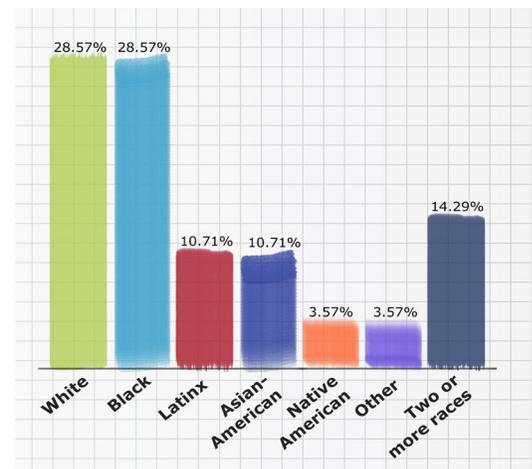
The pace of the judicial nominations process is incredibly important in maximizing the president’s ability to shape the federal bench. In this area, the Biden-Harris administration earns high marks for the record-breaking pace they have set for confirmed judges. The administration nominated, and the Senate has confirmed, more judges in its first six months than any other administration in the past 50 years.

The administration’s historic pace needs to be maintained and even hastened given the uncertain window this administration has to fill vacancies in a minimally obstructive Senate.

2. Personal Diversity

It is critical that the judiciary reflect the diversity of the American people in order to give all Americans confidence in our judicial system. President Biden’s initial slates of judicial nominees so far are a strong step forward in repairing the damage done by the previous administration, which prioritized right-wing ideologues and nominated predominantly white, male candidates for the bench.

After the Trump administration, the active judges on the Article III courts were nearly 74% white and 67% men.¹ This is wildly out of step with the American public.

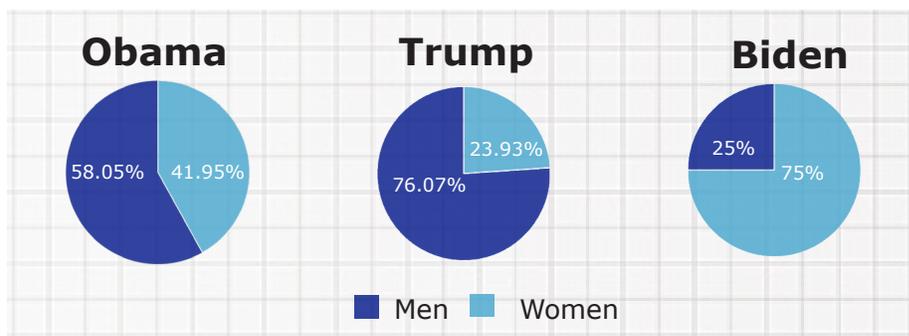


Diversity of judicial confirmations under the Biden-Harris administration

¹ ACS compiled these statistics from data made publicly available by the Federal Judicial Center. For more, see <https://www.fjc.gov/history/judges/search/advanced-search>

After the administration’s first wave of confirmations, these numbers are starting to shift. According to ACS’s Diversity on the Federal Bench tracker a substantial majority of the already confirmed judges have been women, and a majority have been people of color, resulting in a federal judiciary that is 72% white and 65% men.

The historic nature of these confirmations stands out, especially when compared to past administrations. Even the judges confirmed during the Obama administration were majority white and majority male.



Despite the progress on diversity, there is still work to be done. Ideally, we would like to see more judicial nominees from a broad range of racial identities and more LGBTQ+ individuals.

3. Professional Diversity

Demographic is just one aspect of diversity, however. Prior administrations have typically nominated individuals with similar backgrounds, often individuals with corporate and/or prosecutorial experience. Our courts need to reflect the public they serve. This means having judges that not only look like the American public, but also having judges with diverse backgrounds and experiences.

Of this administration’s 60 nominees to Article III vacancies, 19 have spent time as public defenders. This means nearly one-third of all the Biden-Harris administration’s nominees have spent time as a public defender, a drastic change from previous administrations.



One third of Biden nominees have experience as public defenders

The administration is also focused on nominating more attorneys with civil rights experience. Eighteen of the nominees have spent time doing plaintiffs’ side, civil rights, and/or legal aid work. Ten of the nominees have spent time as law professors or legal scholars.

While the administration’s work nominating attorneys with professionally diverse backgrounds is certainly laudable, the administration can do more to also nominate attorneys with experience representing labor given the prominence of judges with corporate backgrounds.

All in all, this administration has made historic progress on diversity, and they are doing so with urgency. It is critically important that the courts remain a priority.