

S. XXX - The Supreme Court Ethics Act

Why the *Supreme Court Ethics Act* is Needed

Recent news reports detailing potentially unethical behavior by members of the nation's highest court cast a light on a glaring structural deficiency in the federal judicial system: Supreme Court Justices are not bound by a code of ethics. The Code of Conduct for United States Judges, drafted by the Judicial Conference, applies to all other Article III judges, along with most other federal judges. However, the nine Supreme Court Justices are not bound by the same ethical code and are left to self-enforce their own voluntary standards with no transparency.

While a few high-profile incidents have garnered national media attention, they are not the only examples of the court's failure to enforce standards for ethics and transparency. Justices have also filed inaccurate financial disclosures, attended partisan events, and accepted travel and lodging paid for by political advocacy organizations with business before the court. It is no surprise that public trust in our nation's highest court continues to plummet. According to a recent survey, just 47% of Americans trust the judicial branch—an all-time low. At 40%, approval of the Supreme Court is even lower.

Calls for reform are not new – Senator Murphy has been introducing legislation to apply a code of conduct to the Supreme Court since 2011 – but the need for its implementation is more apparent than ever. As Chairman Durbin noted after the most recent allegations of unethical conduct by a Justice were made public in 2022, “It is unacceptable that members of the highest court in the land are exempted from the judicial code of ethics when wealthy special interests are spending millions of dollars in dark money to influence the Court's decisions.”

From revelations about Ginni Thomas's role in the January 6th insurrection, to the leaked Dobbs opinion, to concerning credible reports that Justice Alito was involved in leaking sensitive Supreme Court information, one thing has become clear: it is long past time to close this loophole and restore confidence in the judiciary.

Representative Hank Johnson will introduce companion legislation in the House.

The *Supreme Court Ethics Act* would address these issues by:

- Creating a statutory requirement for the Judicial Conference of the United States to issue a code of conduct that applies to the Supreme Court;
- Directing the Supreme Court to appoint an Ethics Investigations Counsel who will establish a process for the public to report information about potentially unethical conduct by the Justices and to issue a public annual report on the disposition of allegations and investigations;
- Empowering the Ethics Investigations Counsel to conduct their own investigations into potential violations of the code of conduct;
- Requiring Justices who recuse themselves from a case to publicly disclose the reason; and
- Requiring Justices who deny a proper motion to recuse to publicly disclose the reason.