



How Is the Judicial Branch Different?



What is the judicial branch of government?

You may know that the government is made up of three, equal branches: the legislative, the executive and the judicial branch.

The legislative branch – or the legislature – makes laws.

The executive branch enforces laws.

The judicial branch – or the judiciary – interprets laws.

The judicial branch is made up of our courts and judges and they exist at every level of government – federal, state and local.



How are judges chosen?

At the federal level, judges are appointed. That means they are nominated for a position at a certain court by the President of the United States and then confirmed by the U.S. Senate. They serve a life term, or until they retire.

In Ohio, judges are elected by the people. They campaign for a seat on the court where they would like to serve, just like other office holders. They serve six-year terms.

Before they are allowed to run for a seat on a court, candidates for judge in Ohio must:

- Have six years of experience as a licensed attorney.
- Be a resident and a registered voter in the territory or district of the court for which they are running.
- Be younger than the age of 70 prior to the beginning of the term to which they seek to be elected.



What do judges do?

In simple terms: Judges resolve disputes about the law.

When two sides disagree, a judge hears each side's argument, considers evidence if it is available and looks at what the law says about the situation in order to decide what's fair.

The judge then applies the law as it is written to the specific facts of that case. And each case is unique – the facts, evidence and law may not add up to the same result every time.



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Judges also play an important role in their communities. They can perform marriage ceremonies, handle adoptions and child custody matters and many courts have special programs aimed at helping the homeless, victims of human trafficking, veterans and those affected by substance abuse to get back on track when they are accused of a crime.



Why is the judicial branch referred to as “the least understood branch of government?”

The judicial branch is different from the other branches of government. Unlike other office holders, judges and candidates for judge can't tell us their personal opinions on certain subjects, how they would rule if a case came before them or make certain campaign promises while running for office.

At first, that may seem strange. But these rules are there to protect one of the most important tenets of our government: **judicial independence**.

Judicial independence is important so that judges can make decisions based on the law and the constitution, without outside influence.

This helps to ensure that our courts are **fair and impartial** and that citizens can have **trust and confidence** in the outcome.

In other words, while people elected to other offices represent the viewpoints of the people, judges must uphold the law even if the people who elected them disagree with it. In fact, they must uphold laws even if they personally disagree with them.

Judges can be thought of as the umpires of our legal system. They *cannot* express favoritism for any one side and must make their calls based only on the rules of the game – our laws – even if their decision is unpopular.



So ... How do we choose judges if they can't tell us their personal opinions?

Candidates for judge may not be able to tell you about their personal opinions or how they would rule in a case, but if you are a voter, there are lots of other factors you can consider when deciding who to vote for. Like:

- **Experience.** What kind of law has the candidate practiced? Is it relevant to the office they are seeking?
- **Judicial philosophy.** What is the candidate's approach to reading the law? Do they follow a strict definition of a law's text or do they believe the meaning can change with the times?

- **Character.** Does the candidate have the temperament to be fair and impartial and to treat everyone in their court with respect?
- **Community involvement.** Is the candidate involved in your community and with organizations you respect?



Political Party Affiliation

In some cases, you can also consider the candidate's party, if that is important to you.

In Ohio, some races for court seats will show a candidate's party affiliation on the ballot, while others do not. Since 2022, Ohio law requires that a judge's party affiliation be listed on the general election ballot for the Supreme Court of Ohio and Ohio courts of appeals. Courts of common pleas or municipal and county court races do not show a party next to a candidate, though they may still be a member of, or endorsed by, a certain party.

But remember: No matter what level of court they serve, judges are *all* called upon to consider the law, the specific facts of the cases before them and to rule without regard for party affiliation or their own personal views.



You Be the Judge

You can also see judges and our courts in action for yourself! Courts are open to the public so you can visit your local court today to learn more about how the judicial branch works.



Learn more about Ohio courts and judges:
OhioBar.org/AboutJudges

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