

# Resources for Public Speaking: Judicial Administration

## Topic at a Glance

**Introduction.** The administration of the work of the courts has been subject to significant change throughout the judiciary’s history. Perhaps the most important shift was a gradual evolution away from the use of various executive agencies to perform administrative roles. During the twentieth century, these duties were gradually assumed by bodies within the judicial branch, such as the Judicial Conference of the United States (founded in 1922 as the Conference of Senior Circuit Judges) and the Administrative Office of the U.S. Courts (founded in 1939). This summary introduces the important inflection points in this evolution as well as the establishment of regularized rulemaking and disciplinary processes during the twentieth century.

**Judicial Administration in the Early Republic.** The 1787 Constitution was essentially silent on the issue of judicial administration. Several early federal statutes contemplated a system of judicial administration that divided power between multiple bodies. The Judiciary Act of 1789 gave federal courts the power to “make and establish all necessary rules for the orderly conducting [of] business.” The first Congress gave the Department of the Treasury power to administer all public accounts, which included those of the clerks, marshals, and district attorneys of the federal courts. It also empowered the Department of State to issue commissions—documents signed by the president to formalize an appointment—to federal judges.

**Congressional Judiciary Committees.** In 1813, the U.S. House of Representatives established a standing committee on the judiciary, which reported to Congress on most legislation involving the federal judiciary and was charged with investigating allegations of misconduct to determine whether to recommend judicial impeachment to the full House. In 1816, the U.S. Senate established its own judiciary committee. In addition to reporting on judicial legislation, this committee has also long overseen much of the judicial nominations process, including holding hearings and making recommendations to the full Senate for or against confirmation.

**Interior and Justice Departments.** In 1849, Congress created the Department of the Interior, which assumed financial oversight over the federal courts from the Department of the Treasury. With the creation of the Department of Justice in 1870, that department in turn assumed responsibility for the administration of the courts’ finances. In 1888, the Justice Department also relieved the State Department of its role in issuing commissions to federal judges.

**Conference of Senior Circuit Judges (1922).** The Conference was the first national organization of federal judges as well as the first formal mechanism by which the judiciary could communicate its administrative needs to Congress. The Conference was later expanded to include district judges and the chief judge of the U.S. Court of International Trade. The Conference evolved to become the national policymaking body for the federal courts. It was renamed the Judicial Conference of the United States in 1948.

**Modern Rulemaking.** In 1934, Congress passed the Rules Enabling Act, which authorized the Supreme Court to promulgate rules of civil procedure for federal trial courts. The process employed for drafting these rules has informed all subsequent judicial rulemaking processes. Under the process established by the Act, the Court appointed a committee of experts on judicial procedure to draft rules, which were then subject to approval by the justices. The court then transmitted the rules to Congress, which could either allow the rules to go into effect or take legislative action to block or rewrite the rules. In 1938, the Court promulgated the Federal Rules of Civil Procedure, which went into effect on September 16 of that year. Rules governing several other forms of litigation followed in subsequent decades.

**Administrative Office of the U.S. Courts (1939).** The statutory creation of the Administrative Office reflected two related trends: an emphasis on rational government administration and increased independence from the other branches for the judiciary. The new agency was to collect information on caseloads, prepare the judiciary's annual budget request, disburse appropriated funds, and provide other administrative assistance to the courts.

**Federal Judicial Center (1967).** Congress created the Federal Judicial Center (FJC) to carry out research related to the administration and operation of the federal courts and to conduct education programs for judges and court staff. In 1988, the FJC's mandate expanded to include an office dedicated to conducting programs on the history of the federal judiciary, and in 1992 Congress tasked the Center with contributing to "improvement in the administration of justice in the courts of foreign countries."

**Judicial Panel on Multidistrict Litigation (1968).** Congress created the Panel on Multidistrict Litigation to consolidate and transfer to a single U.S. district court the pretrial proceedings for multiple civil cases involving common factual questions. The panel is composed of seven judges from the U.S. district courts and U.S. courts of appeals. All seven must be from different circuits.

**Judicial Conduct and Disability Act (1980).** Under the Judicial Conduct and Disability Act, a complaint of judicial misconduct can be subject to several levels of review—including review by the chief judge of the circuit, the circuit judicial council, and the Judicial Conference of the United States—before it can be referred to the U.S. House of Representatives for a possible impeachment proceeding. The Act also provides several nonimpeachment remedies for judicial misconduct.