

The Supreme Court and the 2022 Election: A Nonpartisan Guide

Because the U.S. Senate confirms all Supreme Court justices and other Federal judges, it can have an immense impact on the composition of those courts. For example, after the February 2016 death of Supreme Court Justice Anthony Scalia, the [Senate prevented President Obama from filling the vacancy](#). The seat stayed empty for 14 months until President Trump appointed a successor, Justice Neil Gorsuch. [The Senate then approved Gorsuch](#) in a relatively close 54 to 45 vote. The Senate confirmation vote on Biden nominee Ketanji Brown Jackson was even closer (53-47), as were the votes on Trump justices Brett Kavanaugh (50-48-1) and Amy Comey Barrett (52-48).

Because of the ages of some of the justices and arguments floated to potentially expand the number of justices, senators elected in 2022 may play a major role in determining the composition of the Court for years to come.

Supreme Court rulings can profoundly affect our laws, constitutional rights, and everyday lives. Here are some of the most salient closely-divided rulings from the past 15 years, ones that could be extended or overturned depending on the composition of the Court, and that reflect the range of issues influenced by the Court. *Although the justices do not represent political parties, they are listed as R if appointed by a Republican president, and D if appointed by a Democratic president, to help provide context on how the political process intersects with the composition of the Court.*

Abortion [Dobbs v. Jackson Women's Health Organization \(2022\)](#)

Majority: 5 R; Minority: 3 D.

1 R supported a 15-week restriction but not overturning Roe v. Wade

Overtured [Roe v. Wade](#) (1973) by ruling that the right to an abortion is not constitutionally protected and that privacy arguments do not apply.

Campaign Finance [Citizens United v. FEC \(2010\)](#)

Majority: 5 R; Minority: 4 D

Ruled that limits on independent political spending by unions and corporations are unconstitutional. This led to the creation of "superPACs," which can accept unlimited money from donors to support a candidate.

Climate Change [West Virginia v. Environmental Protection Agency \(2022\)](#)

Majority: 6 R; Minority: 3 D

Overtured a 2007 decision and prohibited the government from regulating greenhouse gas emissions from power plants under the 1970 Clean Air Act.

Gun Regulation [New York State Rifle and Pistol Association v. Bruen \(2022\)](#)

Majority: 6 R; Minority: 3 D

Struck down a long-standing New York law that required people to show a specific need to carry a firearm in public.

Healthcare [*National Federation of Independent Businesses v. Sebelius \(2012\)*](#)**Majority: 4 D, 1 R; Minority: 4 R**

Ruled Affordable Care Act—also known as Obamacare—could tax individuals who didn't buy health insurance. But overturned a requirement that states expand federally covered Medicaid to more low-income citizens, allowing states to opt out, as many did, without losing government funding.

Immigration [*Dept. of Homeland Security v. Regents of Univ. of California \(2019\)*](#)**Majority: 4 D, 1 R; Minority: 4 R**

Blocked attempt to strike down the Deferred Action on Childhood Arrivals (“DACA”) program. The program gives temporary legal status to “Dreamers” whose parents immigrated illegally and brought them to the US as children, if the recipients graduated from high school or had honorable military discharges. The court didn't guarantee the program forever but said the attempt to eliminate DACA didn't follow the proper steps.

Labor, Health, COVID-19 [*National Federation of Independent Businesses v. OSHA \(2022\)*](#)**Majority: 6 R; Minority: 3 D**

Blocked a rule requiring all large employers to require vaccination for workers or provide weekly testing for unvaccinated workers, saying it was outside of the authority of the Occupational Safety and Health Administration.

LGBTQ Rights [*Obergefell v. Hodges \(2012\)*](#)**Majority: 4 D, 1 R; Minority: 4 R**

Ruled that marriage is a fundamental right, so states can't stop same-sex couples from marrying.

Redistricting [*Rucho v. Common Cause \(2019\)*](#)**Majority: 5 R; Minority: 4 D**

Upheld “gerrymandered” legislative and congressional district boundaries in North Carolina and Maryland. The Court ruled that they could not overrule state decisions on this issue and that legislators and governors may draw legislative and congressional district lines as they see fit, even if it benefits their parties.

Union and Workplace Issues [*Janus v. AFSCME \(2018\)*](#)**Majority: 5 R; Minority: 4 D**

Ruled mandatory public-sector union fees unconstitutional, overturning various state laws and a 1977 Supreme Court ruling. Now a public employee's decision to pay union dues in a unionized workplace is entirely voluntary. Unions must represent all members, however, including those who choose not to pay dues.

Voting Rules [*Husted v. A Philip Randolph Institute \(2017\)*](#)**Majority: 5 R; Minority: 4 D**

Held that Ohio didn't violate the Voting Rights Act by striking voters from the registration rolls if they didn't vote for four years and failed to return a mailed address confirmation form, a policy that disproportionately affects voters who move more often. The Court said that this was legal because Ohio gave voters the chance to mail back the form, but that it would be illegal to strike voters from the rolls solely for not voting.

Voting Rules [*Shelby County v. Holder \(2013\)*](#)**Majority: 5 R; Minority: 4 D**

The 1965 Voting Rights Act was enacted to address entrenched racial discrimination in voting, and renewed in 1982 and 2006. Section 4(b) required states or counties with histories of discrimination to get federal approval before changing voting rules. The Court ruled this unconstitutional, saying the formula for deciding which states it applied to was no longer relevant to current conditions.
