

The Influence of Federalist Society Affiliation on Senator Voting in Federal Judicial Nominations

Christine C. Bird, Jonathan M. King, and Zachary A. McGee

Abstract

Since its inception, the Federalist Society has been a key player in the conservative legal movement but the scope of the Federalist Society's effect on the legal profession and on political process has not been fully defined. The Federalist Society has clearly permeated the upper echelons of the legal elite, with affiliates including a majority of Supreme Court justices. We argue Federalist Society affiliation provides a low-cost, high-information cue to senators voting on nominees. Specifically, we investigate how Federalist Society affiliation shapes a senator's voting behavior on judicial nominations? Using a novel dataset of 62,549 roll-call votes on U.S. district, circuit, and Supreme Court nominations from 1987-2020, we find that Federalist Society affiliation dramatically impacts the likelihood of receiving a senator's vote. Unsurprisingly, partisan differences persist with Democrats less likely to vote for Federalist Society affiliated nominees than Republicans at all levels of the judicial hierarchy. However, a senator's own affiliation with the Federalist Society does not alter their voting patterns on judicial nominees. These findings provide evidence that Federalist Society affiliations provide a strong cue when voting on nominees to the federal judiciary.