The Rules Rule!
Understanding & Researching Congressional Procedure
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Overview

- Why congressional procedure matters
- Introduction to the rules
- Sources of rules
- Five important facts about congressional procedure
Why Congressional Procedure Matters
"Congress shall have Power...to make all Laws which shall be necessary and proper."  
U.S. Constitution Article I Section 8

Image Source: Mike Wirth Art
“I’ll let you write the substance . . . and you let me write the procedure, and I’ll screw you every time.”

~John Dingell, former U.S. Representative and longest serving member of Congress

“There are significant dangers to roaming around legislative history with no appreciation for congressional procedure.”

~Victoria Nourse, Professor, Georgetown University Law Center
Introduction to the Rules
Authority to Create Rules

- U.S. Constitution

- Article I, Section 5, Clause 2

- “Each House may determine the rules of its proceedings...”
Adoption of Standing Rules in House

- New rules for each Congress, expire at end of Congress
- Drafted by majority party in advance
- Adopted as a House resolution at beginning of new Congress
- Amended by House resolution (usually)
Adoption of Standing Rules in Senate

- Not re-adopted each Senate
- Continue in effect until amended
- Amended by Senate resolution (usually)
  - Supermajority (2/3) required to end debate
  - Simple majority
House v. Senate Rules

- Each chamber has their own rules, very different
- House (435 members)
  - More rules, changed more frequently
  - Structured, strict adherence to rules
  - Majority rules
- Senate (100 members)
  - Fewer rules, not changed often
  - Less strict adherence to rules
  - Respect for minority
What do the rules cover?

- Debate
- Voting
- Amendments
- Committees
- Financial issues (e.g., disclosure, gifts)
- Decorum (no smoking)
- Documents and records
Senate Rule on Debate (R. XIX)

- "When a Senator desires to speak, he shall rise and address the Presiding Officer, and shall not proceed until he is recognized, and the Presiding Officer shall recognize the Senator who shall first address him."

- "No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator."

- "No Senator in debate shall refer offensively to any State of the Union."
House Rule on Debate (R. XVII)

- “A Member... who desires to speak or deliver a matter to the House shall rise and respectfully address the Speaker and, on being recognized, may address the House from any place on the floor.”

- “When a Member... is speaking, a Member... may not pass between the person speaking and the Chair.”

- “Remarks in debate (which may include references to the Senate or its Members) shall be confined to the question under debate, avoiding personality.”
Key Players

- **Chairs**
  - Presiding Officer in Senate (Senate President Pro Tempore / designee)
  - Speaker of the House

- **Committees**
  - Senate Committee on Rules and Administration
  - House Committee on Rules

- **House and Senate Parliamentarians**
Sources of Rules
Main Sources of Rules and Procedure

- U.S. Constitution
- Standing rules
- Standing orders (Senate)
- Jefferson’s Manual (House)
- Precedents
- Statutes and resolutions
Other Sources of Rules and Procedure

- Committee rules
- Internal party rules
  - Republican Conference
  - Democratic Caucus
- Informal practice and custom
  - E.g., “holds” in the Senate
Standing Rules +

- Senate Manual Containing the Standing Rules, Orders, Laws, and Resolutions Affecting the Business of the United States Senate ("Senate Manual")

Precedents

- Senate
  - Riddick’s Senate Procedure: Precedents and Practice

- House
  - Hinds’ Precedents of the House of Representatives (1789-1907)
  - Cannon’s Precedents of the House of Representatives (1908-1936)
  - Deschler’s Precedents of the House of Representatives (1936 - )
Riddick’s Example – Expunging Matters from the Congressional Record

“Matters placed in the Record by unanimous consent under the precedents may be stricken out by a majority vote on motion as well as a unanimous consent”

- List of matters expunged with cites to Cong. Rec.
- Many concern remarks and documents referring to other Senators
- One incident – accidental reference to confidential FBI report
Additional Resources
Researching Congressional Rules & Procedure

This is a select list of resources for researching and understanding rules and procedures in the United States Congress. For finding other congressional documents related to rules and procedures (e.g., resolutions adopting or amending rules, Rules Committee reports, points of order documented in Congressional Record), the best online resources are ProQuest Congressional, Congress.gov, FDsys, and HeinOnline.

Background and Explanation


The best and most well-known book on congressional procedure.


While a bit older, this book is still well-regarded and a great in-depth examination of procedure.


Examines how procedure “really” works in Congress (compared to standard textbook descriptions) and how it has changed in recent years. It is also well-known and heavily cited. The fifth edition will be published in July 2016.


This new book also examines how procedure has changed in recent years and how those changes have impacted lawmaking in Congress.

CQ Guide to Congress (7th ed. 2013)

A good, basic guide to Congress that includes several chapters on congressional procedure.
Congressional Research Resources

- NCLA’s Help! I’m an Accidental Government Information Librarian Webinars
- Research guides (e.g., LLSDC’s Legislative Sourcebook)
- Online tutorials (e.g., Georgetown Law Library’s Legislative History Research video)
- Key Online Sources: ProQuest Congressional, Congress.gov, FDsys, HeinOnline
Five Facts About Congressional Procedure You Can’t Live Without…
1. Schoolhouse Rock lied to us

“That Schoolhouse Rock ‘I’m Just a Bill’ video is one of [the] cultural political touchstones that has ruined people's ability to understand politics.” ~ Paul Blumenthal, Sunlight Foundation

Image Source: Sunlight Foundation
2. The rules are not self-enforcing

The code is more what you’d call guidelines, than actual rules.
3. You don’t need a conference committee to resolve differences
4. The House rules committee is very powerful

Image Source: Tumblr
5. The “Nuclear option” is just another means to amend Senate rules
Questions?

Pay attention to the fine print. It’s far more important than the selling price.

- Frank Underwood

Image Source: Tumblr