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Senate Rules Affecting Committees

Updated November 15, 2018

Congressional Research Service

<https://crsreports.congress.gov>

98-311

Summary

The Senate imposes some general procedural requirements and prohibitions on its committees, but, in general, the Senate's rules allow each of its standing committees to decide how to conduct business. Most of the chamber's requirements for committees are found in Senate Rule XXVI. Because the committees are agents of the Senate, they are obligated to comply with all Senate directives that apply to them.

This report identifies and summarizes the provisions of the Senate's standing rules, standing orders, precedents, and other directives that relate to legislative activity in the Senate's standing committees. The report covers four main issues: committee organization, committee meetings, hearings, and reporting. The coverage of this report is limited to requirements and prohibitions that are of direct and general applicability to most or all Senate committees as they consider most legislative matters.

The report does not cover any special provisions contained in Senate resolutions concerning the Select Committee on Ethics, the Select Committee on Intelligence, or the Special Committee on Aging. Similarly, it does not encompass other provisions of law or the Senate's rules or standing orders that apply to (1) only one committee, such as the provisions of Rule XVI governing appropriations measures and the provisions of the Congressional Budget and Impoundment Control Act governing budget resolutions and reconciliation and rescission measures; or (2) only certain limited classes of measures, such as provisions of the Congressional Accountability Act and the Federal Advisory Committee Act.

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Introduction

The Senate imposes some general procedural requirements and prohibitions on its committees, but, in general, the Senate's rules allow each of its standing committees to decide how to conduct business. Most of the chamber's requirements for committees are found in Senate Rule XXVI. Because the committees are agents of the Senate, they are obligated to comply with all Senate directives that apply to them.

This report identifies and summarizes the provisions of the Senate's standing rules, standing orders, precedents, and other directives that relate to legislative activity in the Senate's standing committees. The report covers four main issues: committee organization, committee meetings, hearings, and reporting. The coverage of this report is limited to requirements and prohibitions that are of direct and general applicability to most or all Senate committees, as they consider most legislative matters.¹

This report may not capture every nuance and detail of the rules themselves. For that purpose, the text of the appropriate rule or other document should be consulted.

Organization

Adoption of committee rules;² Rule XXVI, paragraph 2

Each committee is required to adopt written rules to govern its proceedings. Committee rules must not be inconsistent with the rules of the Senate, but the Standing Rules do not elaborate on what this means in practice.

Publication of committee rules; Rule XXVI, paragraph 2

The rules adopted by each committee are to be published in the *Congressional Record* by March 1 of the first session of each two-year Congress. If the Senate should create a committee on or after February 1, the committee must adopt its rules and publish them in the *Record* within 60 days.

If a committee later adopts an amendment to its rules, that amendment becomes effective only after it is published in the *Record*.

Committee records; Rule XXVI, paragraph 7(b)

Each committee, except for the Appropriations Committee, is to keep a record of its actions, including rollcall votes taken.

¹ The report does not cover any special provisions contained in Senate resolutions concerning the Select Committees on Ethics, the Select Committee on Intelligence, or the Special Committee on Aging. Similarly, it does not encompass other provisions of law or the Senate's rules or standing orders that apply to (1) only one committee, such as the provisions of Rule XVI governing appropriations measures and the provisions of the Congressional Budget and Impoundment Control Act governing budget resolutions and reconciliation and rescission measures; or (2) only certain limited classes of measures, such as provisions of the Congressional Accountability Act and the Federal Advisory Committee Act.

² The rules adopted by each Senate committee for the 115th Congress are available in U.S. Congress, Senate Committee on Rules and Administration, *Authority and Rules of Senate Committees*, 2017-2018, 115th Cong., 1st sess., S. Doc. 115-4 (Washington: GPO, 2017), <https://www.gpo.gov/fdsys/pkg/CDOC-115sdoc4/pdf/CDOC-115sdoc4.pdf>. See also CRS Report R44901, *Senate Committee Rules in the 115th Congress: Key Provisions*, by Valerie Heitshusen, for analysis of selected provisions of Senate committee rules.

Meetings³

Authority to meet; Rule XXVI, paragraph 1

A standing committee and its subcommittees are authorized to meet and to hold hearings when the Senate is in session as well as during its recesses or adjournments. Committees do not have unlimited authority to meet when the Senate is also meeting.

Meetings during Senate sessions; Rule XXVI, paragraph 5(a)

A committee may not meet (or continue a meeting in progress) on any day (1) after the Senate has been in session for two hours, or (2) after 2:00 p.m. when the Senate is in session.

This prohibition does not apply to the Appropriations and Budget Committees. The rule allows the majority and minority leaders (or their designees) to jointly waive the requirement for other committees, but in practice the Senate instead waives it by unanimous consent on the floor if no Senator objects.

Regular meeting day; Rule XXVI, paragraph 3

Each committee must designate a regular day on which to meet weekly, biweekly, or monthly. This requirement does not apply to the Appropriations Committee. In practice, committees do not always convene on the specified meeting date. Many committees meet at more frequent intervals than specified in their rules.

Additional committee meetings; Rule XXVI, paragraph 3

The chair of a committee may call additional meetings at his or her discretion.

In addition, three members of a committee can make a written request to the chair to call a special meeting. The chair then has three calendar days within which to schedule the meeting, which is to take place within the next seven calendar days. If the chair fails to do so, a majority of the committee members can file a written motion to hold the meeting at a certain date and hour. This is a rarely used device. However, the expectation that Senators are prepared to invoke it may encourage committee chairs to schedule meetings sought by other committee members.

Scheduling meetings; Standing Orders of the Senate; Section 401 of S.Res. 4, 95th Congress

When a committee or subcommittee schedules or cancels a meeting, it is to provide that information—including the time, place, and purpose of the meeting—for inclusion in the Senate’s computerized schedule information system. (See *Public Announcement*, below.)

Open meetings; Rule XXVI, paragraph 5(b)

In general, committee and subcommittee meetings, including hearings, are open to the public.

For any committee or subcommittee meeting (or a series of meetings on the same subject that may extend up to 14 calendar days), the committee or subcommittee is authorized to vote to close a meeting if it (1) involves national security information, (2) concerns committee personnel or staff management or procedure, (3) could invade personal privacy or damage someone’s reputation or professional standing, (4) could reveal identities or damage operations relating to law enforcement activities, (5) could disclose certain kinds of confidential financial or commercial information, or (6) could divulge information that some law or regulation requires to be kept confidential.

³ For additional discussion of issues relating to committee scheduling, see CRS Report 98-337, *Senate Committee Hearings: Scheduling and Notification*, by Valerie Heitshusen.

By agreeing, in open session, to a motion made (and seconded) to close the meeting to the public, the committee can go into closed session only to determine whether the subject of the meeting or the testimony at the hearing falls into any of the six specified categories. If it determines that this is the case, the committee can then decide by a second rollcall vote *in open session* to close the remainder of the meeting.

Presiding at committee meetings; Rule XXVI, paragraph 3

In the absence of the committee chair at any committee meeting, the next ranking member of the majority party shall preside.

Quorum at meeting; Rule XXVI, paragraph 7(a)(1)

A committee or subcommittee may set its own quorum requirement for transacting business at meetings so long as the quorum is not less than one-third of the membership. A committee can set a lesser quorum requirement for hearings, but a majority must be physically present to order a measure or matter reported; see *Quorum at hearing* and *Quorum for reporting*, below. Also, proxies cannot be used to constitute a quorum; see *Proxy voting*, below.

Maintaining order; Rule XXVI, paragraph 5(d)

The committee chair is responsible for maintaining order at committee meetings and may close a meeting for that purpose until order is restored.

Proxy voting;⁴ Rule XXVI, paragraphs 7(a)(3) and 7(c)(1)

A committee may adopt rules permitting proxy voting (see *Proxy votes on reporting*, below).

However, a committee may not permit a proxy vote to be cast unless the absent Senator has been notified about the question to be decided and has requested that his or her vote be cast by proxy.

Proxies may not be counted for the purpose of constituting a quorum.⁵

Records of committee meetings; Rule XXVI, paragraph 5(e)

Each committee shall maintain a transcript or recording of each committee meeting, whether it is open or closed to the public. This requirement can be waived by majority vote. Unless the meeting is closed, a transcript or a video or audio recording must be posted on the Internet no later than 21 business days after the meeting and remain posted until the end of the Congress after the meeting; this requirement may be waived by the Rules and Administration Committee in cases of technical barriers to compliance.

Hearings⁶

Authority to hold hearings; see *Authority to meet*, above.

Investigative authority;⁷ Rule XXVI, paragraph 1

⁴ For more information on proxy voting in Senate committees, see CRS Report RS22952, *Proxy Voting and Polling in Senate Committee*, by Christopher M. Davis.

⁵ *Riddick's Senate Procedure*, p. 1192.

⁶ For more information on preparing for Senate committee hearings, see CRS Report 98-489, *Senate Committee Hearings: Preparation*, by Valerie Heitshusen.

⁷ For more information on congressional investigations and related mechanisms of oversight, see CRS Report RL30240, *Congressional Oversight Manual*, by L. Elaine Halchin et al.

Each standing committee, including any of its subcommittees, is empowered to investigate matters within its jurisdiction.

Subpoena power;⁸ Rule XXVI, paragraph 1

Each standing committee, including any of its subcommittees, is empowered to issue subpoenas for persons and documents.

Public announcement; Rule XXVI, paragraph 4(a)

A committee is to announce the date, place, and subject of each hearing at least one week in advance, though any committee may waive this requirement for “good cause.” (See *Scheduling meetings*, above.)

This requirement does not apply to the Appropriations and Budget Committees.

Quorum at a hearing; Rule XXVI, paragraph 7(a)(2)

A committee or subcommittee may set its own quorum requirement of less than one-third of the members “for the purpose of taking sworn testimony.” The Senate standing rules do not set a minimum quorum for this purpose. Several committee rules allow sworn testimony to be taken with just one member in attendance. (See *Quorum at a meeting* and *Quorum for reporting*, below.)

Statements of witnesses;⁹ Rule XXVI, paragraph 4(b)

Each committee is to require each witness to file a written statement at least one day before his or her appearance, though the chair and ranking minority member may waive this requirement.

This provision does not apply to the Appropriations Committee.

Staff summaries of testimony; Rule XXVI, paragraphs 4(b) and 4(c)

The committee may direct its staff to prepare daily digests of the statements that witnesses propose to present and then to prepare daily summaries of the testimony that the committee actually received. With the approval of the chair and ranking minority member, the committee may include the latter summaries in any published hearings.

Witnesses selected by the minority;¹⁰ Rule XXVI, paragraph 4(d)

During hearings on any measure or matter, the minority shall be allowed to select witnesses to testify on at least one day if the chair receives such a request from a majority of the minority party members prior to the end of the hearing.

This provision does not apply to the Appropriations Committee.

Open hearings; see *Open meetings*, above.

Broadcasting hearings; Rule XXVI, paragraph 5(c)

⁸ For more information on congressional subpoenas and their use in congressional oversight, see CRS Report RL34097, *Congress’s Contempt Power and the Enforcement of Congressional Subpoenas: Law, History, Practice, and Procedure*, by Todd Garvey and CRS Report RL30240, *Congressional Oversight Manual*, by L. Elaine Halchin et al.

⁹ For more information on witness testimony, see CRS Report 98-392, *Senate Committee Hearings: Witness Testimony*, by Valerie Heitshusen.

¹⁰ For more information on the rights of the minority to request witnesses, see CRS Report RS22649, *Senate Committee Hearings: The “Minority Witness Rule,”* by Christopher M. Davis.

Any hearing that is open to the public also may be open to radio and television broadcasting. However, committees and subcommittees may adopt rules to govern how the media may broadcast the event.

Printing and/or posting of hearings; Rule XXVI, paragraph 10(a), Rule XXVI, paragraph 5(e)

Each committee is authorized to print its hearing records as well as material submitted at hearings for the record. Records of the committee belong to the Senate and are open for review by any Member of the Senate. Such records should be kept separately from the records of the chair of the committee. Unless the meeting is closed, a transcript or a video or audio recording must be posted on the Internet no later than 21 business days after the meeting and remain posted until the end of the Congress after the meeting; this requirement may be waived by the Rules and Administration Committee in cases of technical barriers to compliance.

Availability of printed hearings; Rule XVII, paragraph 5

If a committee has held hearings on a measure or matter it has reported, the committee is to “make every reasonable effort” to have the printed hearings available to Senators before the Senate begins floor consideration of the measure or matter.

Reporting¹¹

Authority to originate measures; Rule XXV, paragraph 1

A committee with legislative jurisdiction under Rule XXV has “leave to report by bill or otherwise” on matters within its jurisdiction. In other words, the committee is authorized to originate bills and resolutions in addition to reporting measures previously introduced and referred to it.

Committee amendments; Rule XV, paragraph 5

A Senator may raise a point of order on the floor against consideration of any reported committee amendment that contains “any significant matter” that is not within the committee’s jurisdiction except for a “technical, clerical, or conforming amendment.”

This prohibition does not apply to provisions of an original bill that a committee reports.

Quorum for reporting; Rule XXVI, paragraph 7(a)(1)

A majority of a committee must be physically present when the committee votes to order the reporting of any measure, matter, or recommendation. (See *Quorum at hearing* and *Quorum at meeting*, above.)

Vote required to report; Rule XXVI, paragraph 7(a)(3)

The motion to order the reporting of a measure or matter requires the support of a majority of the members who are present, and in turn, the members who are physically present must constitute a majority of the committee. (See *Quorum for reporting*, above.)

Proxy votes on reporting; Rule XXVI, paragraph 7(a)(3)

A committee may adopt a rule prohibiting the use of proxies on votes to order a measure or matter reported.

¹¹ For more information on committee reporting, see CRS Report 98-246, *Reporting a Measure from a Senate Committee*, by Elizabeth Rybicki.

If a committee permits the use of proxies on such votes, the preceding two requirements (in regard to a proper reporting quorum) continue to apply.¹²

Ratification of prior actions; Rule XXVI, paragraph 7(a)(3)

When a committee orders a measure or matter reported in accordance with the three immediately preceding rule provisions (that is, in regard to a proper reporting quorum and a proper vote to report), that action has the effect of ratifying previous committee actions on the measure or matter. In other words, if a measure or matter has been reported properly, a Senator may not make a point of order on the Senate floor against the measure’s consideration on the basis of a committee action or inaction that occurred prior to the vote on reporting it. (This is sometimes called the “clean-up” provision of Rule XXVI.)

Contents of Committee Reports¹³

The following requirements concern the content of committee reports on legislation. The Senate’s rules do not require a committee to file a written report when it reports a bill or resolution to the Senate.¹⁴ However, if a written report is filed, Senate rules and statutes specify certain items that must be included:

Other views; Rule XXVI, paragraph 10(c)

A committee member is entitled to have his or her supplemental, minority, or additional views included in the committee’s report on a measure or matter if the committee member (1) gives notice, at the time the committee orders the measure or matter reported, of his or her intent to submit such views, and (2) files those views in writing within three calendar days of the committee vote.

This provision does not apply to the Appropriations Committee.

Rollcall votes taken; Rule XXVI, paragraphs 7(b) and (c)

A committee report on a measure shall contain the results of any rollcall votes taken on the measure and amendments to it and on the motion to order it reported, including the names of Senators voting in support or against. This requirement does not apply if the results have been “previously announced by the committee.”

Cost estimate; Section 308(a) of the Congressional Budget Act (P.L. 93-344). (Related requirements are found in Section 402 of the Congressional Budget Act and in Senate Rule XXVI, paragraph 11(a).)

The report on a measure or committee amendment that would provide new budget, direct spending, or credit authority, or change revenues or tax expenditures, is to include (1) comparisons with appropriate committee allocations, (2) a cost estimate by the Congressional Budget Office (CBO) covering the first fiscal year affected and the following four fiscal years, and (3) an estimate, also prepared by CBO, of new budget authority provided for assistance to state and local governments.

¹² Thus, “[t]he Chair has ruled that a report not authorized by the concurrence of more than one-half of a majority of the entire membership of the committee, exclusive of proxies, cannot be received by the Senate upon objection” (*Riddick’s Senate Procedure*, p. 1198).

¹³ For more information on the required contents of Senate committee reports, see CRS Report 98-305, *Senate Committee Reports: Required Contents*, by Elizabeth Rybicki.

¹⁴ *Riddick’s Senate Procedure*, p. 1201.

This requirement does not apply to continuing appropriations, and the second and third items need to be included only if they are “timely submitted” by CBO.

Comparative print; (“Cordon Rule,” named after Senator Guy Cordon); Rule XXVI, paragraph 12

The committee report accompanying any measure that would repeal or amend existing law must show what the measure proposes to repeal and, using appropriate typographical devices, how the existing law would be amended by the bill if it were enacted as reported by the committee.

A committee may dispense with this requirement if it states in its report that doing so is necessary “to expedite the business of the Senate.”

Regulatory and paperwork impact statement; Rule XXVI, paragraphs 11(b) and (c)

The report on a public bill or joint resolution must typically include an evaluation of the measure’s anticipated impact in several respects: (1) its regulatory impact on individuals and businesses, (2) the economic effects of its regulatory impact, (3) its impact on personal privacy, and (4) the amount of paperwork and recordkeeping it would require.

This requirement does not apply to the Appropriations Committee, nor does it apply to reports on Senate or concurrent resolutions or on private measures. Furthermore, any committee need not comply if it states in its report why compliance would be “impracticable.”

A Senator may make a point of order on the floor against considering a bill if the report accompanying it does not comply with this requirement.

Applicability to Congress; Section 102(b)(3) of P.L. 104-1

The report accompanying a bill or joint resolution “relating to terms and conditions of employment or access to public services or accommodations” must describe how the provisions of the measure apply to the legislative branch or why they do not.

A point of order can be made on the floor against Senate consideration of a measure if the accompanying report does not comply with this requirement, but the requirement may be waived by majority vote of the Senate.

Preemption information; Section 423 of the Congressional Budget Act (P.L. 93-344), as amended

An authorizing committee’s report accompanying a bill or joint resolution must contain a statement, if relevant, on the extent to which the measure would preempt any state, local, or tribal law and the effect of any such preemption, including identification of direct costs to state, local, and tribal governments and to the private sector; an assessment of anticipated costs and benefits; and a statement on effects on the private and public sectors. If the mandates are intergovernmental, the report is required to include additional detailed statements and explanations in regard to the funding allocations, sources, and costs of the mandates.

Unfunded mandates; Sections 423 and 424 of the Congressional Budget Act (P.L. 93-344), as amended

An authorizing committee’s report accompanying a bill or joint resolution that contains a federal mandate must include a description of that mandate.

Tax law complexity analysis; Sections 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (P.L. 105-206)

For measures reported by the Senate Finance Committee (or a conference committee) that include any provision that “would directly or indirectly amend the Internal Revenue Code of 1986 and which has widespread applicability to individuals or small businesses,” the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) must provide in the committee report a tax complexity analysis (or instead provide such analysis to members of the reporting committee).

Other Provisions Affecting Committee Reports

Report on jointly referred measure; Rule XVII, paragraph 3(b)

There may be only one report on a bill that was referred jointly to two or more committees. The report may be printed in several numbered parts prepared by different committees.

Timely filing of reports; Rule XXVI, paragraph 10(b)

It is the chair’s duty to ensure that a measure his or her committee has ordered reported is reported “promptly” to the Senate. The chair is also “to take or cause to be taken necessary steps to bring the matter to a vote.”

A majority of a committee may require that a measure the committee has approved be reported to the Senate within seven calendar days (excluding days on which the Senate is not in session) of the submission of a written request to do so.

These provisions do not apply to the Appropriations Committee.

Layover requirements; Rule XVII, paragraphs 4(a) and 5

There are two distinct layover requirements in relation to committee-reported measures or matters. First, a measure or matter reported from committee is to lie over for one legislative day before the Senate may consider it. Second, the written report on the measure or matter (if there is a written report) is to be available to Senators for two calendar days (excluding Sundays and legal holidays) before the Senate begins considering the measure or matter.

The two-calendar-day requirement may be waived jointly by the majority and minority leaders and does not apply to congressional declarations of war or national emergency or to joint resolutions of disapproval that are effective only if enacted within statutory deadlines.

Author Information

Valerie Heitshusen
Specialist on Congress and the Legislative Process

Acknowledgments

This report was originally written by Stanley Bach, former senior specialist in the Legislative Process at CRS, and was later updated by Betsy Palmer, former analyst on Congress and the Legislative Process at CRS. The author currently listed has updated this report and is available to answer questions from congressional clients on the subject.

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