

Points of Order, Rulings, and Appeals in the Senate

Updated August 29, 2025

Congressional Research Service

<https://crsreports.congress.gov>

98-306

The Senate's presiding officer typically does not have responsibility for proactively ensuring that Senate consideration of matters complies with the rules. Instead, Senators may enforce the Senate's legislative rules and precedents by raising points of order whenever they believe that one of those rules or precedents is, or is about to be, violated. Under some circumstances, a ruling by the presiding officer determines whether or not the point of order is well taken. Under others, the Senate itself decides the point of order, usually by majority vote.¹

Senate Rule XX states in part that “[a] question of order may be raised at any stage of the proceedings, except when the Senate is voting or ascertaining the presence of a quorum, and, unless submitted to the Senate, shall be decided by the Presiding Officer without debate, subject to an appeal to the Senate.”

Points of Order

Under most circumstances, a Senator may make a point of order against a question (whether it be a bill, amendment, motion, or something else) at any time that the question is pending before the Senate.² The primary exception arises when the Senate is debating a question—usually an amendment or motion—under a unanimous consent agreement that limits the time for debating it. Under this circumstance, no point of order can be made until all time for debating the question has expired or has been yielded back.³ Although Senate rules preclude debate on points of order on which the presiding officer rules, pursuant to precedent, the presiding officer retains discretion to entertain discussion.⁴

Rulings

In most situations, the presiding officer rules on points of order.⁵ Under two circumstances, however, the Senate decides the point of order. First, the presiding officer may, in rare instances, decline to rule and, instead, submit the point of order directly for the Senate to decide. The presiding officer is most likely to do so when the procedural question has not arisen before and there is no Senate rule or precedent on which to base a ruling.⁶ Second, only the Senate, not its presiding officer, is empowered to decide certain points of order. Under Rule XVI, for example, the question of whether a legislative amendment to an appropriations bill is germane is usually

¹ In some circumstances, reaching a vote on the point of order or appeal may require a supermajority of the Senate to agree to end debate on the question. The fact that most appeals and submitted points of order are subject to extended debate in the Senate is central to recent discussions about potential changes in Senate rules and practices. For more information, see CRS Report R42929, *Procedures for Considering Changes in Senate Rules*, and CRS Report R43331, *Majority Cloture for Nominations: Implications and the “Nuclear” Proceedings of November 21, 2013*, by Valerie Heitshusen.

² A Senator cannot raise a point of order unless he or she has the floor. See Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure*, 101st Cong., 2nd sess., S. Doc. 101-28 (GPO, 1992) (hereinafter *Riddick's*), p. 993.

³ *Riddick's*, pp. 1356-1359.

⁴ *Riddick's*, p. 989.

⁵ Assuming no action has been taken on the amendment on which a point of order has been raised, the presiding officer may, by precedent, allow modification to the amendment prior to ruling on the point of order. See *Riddick's*, pp. 65, 988.

⁶ Recent examples of submitted points of order include one on December 12, 2018, and two on May 21, 2025. In each case, the point of order was submitted to the Senate for its decision after the presiding officer noted that the Senate had not “previously considered” the question raised by the point of order. See *Congressional Record*, daily edition, vol. 164 (December 12, 2018), p. S7683; and *Congressional Record*, daily edition, vol. 171 (May 21, 2025), pp. S3048 and S3051.

submitted to the Senate to decide (in the form of a “defense of germaneness”).⁷ Also, by precedent, if a Senator makes the point of order that the question pending before the Senate is unconstitutional, then the Senate must decide that question.⁸ When the presiding officer submits a point of order (but not a defense of germaneness) to the whole Senate to decide, it is typically debatable under the regular rules of the Senate.⁹ A submitted point of order is, however, subject to a nondebatable motion to table (or kill) the matter; agreeing to the motion to table disposes of the point of order permanently and adversely.¹⁰ Finally, note that a submitted point of order is not subject to debate when the Senate is operating post-cloture, pursuant to Rule XXII.

Appeals

In most cases, rulings made by the presiding officer in response to points of order are subject to appeal.¹¹ When the presiding officer rules on a question of order, any Senator who disagrees with the ruling may challenge it. That Senator rises and states, “Mr. President, I appeal from the decision of the Chair.” Such an appeal is typically debatable, though the Senate may end the debate and dispose of the appeal by agreeing to a motion to table (or kill) it, which would uphold the ruling of the chair. Absent a successful motion to table, debate on the appeal is usually subject to extended consideration under the regular rules of the Senate.¹² When the Senate is operating under cloture, however, appeals are to be decided without debate, pursuant to Rule XXII (paragraph 2).¹³ In addition, debate on an appeal may also be limited in certain situations when provisions of a unanimous consent agreement limit consideration of the underlying matter, and debate of appeals made during consideration of certain budgetary measures is limited by caps on consideration of the measure (pursuant to provisions of the Budget Act).¹⁴

If the Senate is operating under procedural circumstances that limit debate on the appeal, or has taken action (e.g., via unanimous consent or a cloture process) that limits such debate, after any debate, the Senate votes on whether “the decision of the Chair will stand as the judgment of the Senate.” Senators who support the ruling vote “aye”; those who oppose it vote “no.” Appeals are

⁷ On such a question of germaneness to an appropriations bill, the presiding officer does not submit the point of order itself to the Senate but rather a “defense of germaneness” response to a point of order, which is not subject to debate. Agreeing to the defense of germaneness requires only a simple majority vote. Only if the defense of germaneness fails (or is tabled) does the presiding officer rule on the point of order (*Riddick’s*, pp. 162-163). Since 1979, the presiding officer typically submits the question to the Senate for decision only if the amendment meets a minimum threshold test. See *Riddick’s*, pp. 167-168, for additional information.

⁸ CRS Report R40948, *Constitutional Points of Order in the Senate*, by Valerie Heitshusen, provides more information on Senate rules and practices relevant to constitutional points of order as well as analysis of Senate disposition in recent cases. For a recent example, see *Congressional Record*, daily edition, vol. 170 (April 17, 2024), p. S2803.

⁹ *Riddick’s*, pp. 716, 736. Only a majority vote is required to sustain a submitted point of order, but in this circumstance, ending debate on the point of order (so that a vote may occur) may require a three-fifths vote to invoke cloture. See CRS Report RL30360, *Filibusters and Cloture in the Senate*, for discussion of the operation of the cloture provisions of Rule XXII.

¹⁰ *Riddick’s*, pp. 52-54, 989.

¹¹ By precedent, decisions of the presiding officer concerning recognition of Senators are not subject to appeal. See *Riddick’s*, p. 147.

¹² *Riddick’s*, p. 725. Under this circumstance, while a majority vote is required to overturn the ruling of the chair, ending debate on the appeal may require a three-fifths vote to invoke cloture, pursuant to Rule XXII.

¹³ The appeal may also be decided without debate in certain circumstances when made in connection with a nondebatable question. See *Riddick’s*, p. 725, 726. Also see CRS Report R43331, *Majority Cloture for Nominations: Implications and the “Nuclear” Proceedings of November 21, 2013*, by Valerie Heitshusen.

¹⁴ *Riddick’s*, pp. 1356-1359, and the Congressional Budget Act of 1974, as amended (Titles I-IX of P.L. 93-344, 2 U.S.C. §§601-661). For recent examples, see *Congressional Record*, daily edition, vol. 171 (June 30, 2025), pp. S4040-S4041.

usually decided by simple majority vote. A three-fifths vote of the entire Senate—60 if no more than one vacancy—is needed to overturn rulings by the presiding officer on most budget process points of order.¹⁵ In addition, certain points of order against the content of a conference report can also be waived by a three-fifths vote of the Senate.¹⁶

Precedents

Rulings by the presiding officer invariably reflect the advice that the Senate Parliamentarian gives based on an examination of how presiding officers decided similar questions in the past.¹⁷ The presiding officer follows these precedents, and in similar fashion, new rulings become precedents on which presiding officers will rely in the future.

By the same token, when the presiding officer submits a point of order for the Senate to decide, or when the Senate decides a point of order by overruling the decision of the chair on appeal, that decision of the Senate also becomes a guiding precedent. In both 2013 and 2017, for example, the Senate overturned a ruling of the chair in regard to the required vote threshold for cloture on certain nominations.¹⁸ Twice in 2019, the Senate overturned the ruling of the chair in regard to the post-cloture limitation on consideration for certain nominations.¹⁹ Nevertheless, although it is not unusual for Senators to appeal the rulings of the chair, the Senate infrequently overturns the rulings of its presiding officer.²⁰ To routinely do so would undermine the continuity of Senate rules and the consistency of rule interpretation essential to legislative work.

The most authoritative precedents are those established by vote of the Senate itself. Rulings of the chair on which the Senate does not vote are of somewhat less probative value. Still weaker as precedents are statements and opinions by presiding officers in reply to parliamentary inquiries. A parliamentary inquiry is a question posed by a Senator to the chair about the Senate's procedures or the current procedural situation. The presiding officer's reply is not a ruling, so it is not subject to appeal. In addition, successful motions to *waive* a Budget Act point of order do not establish precedents. A successful motion to table would likewise not establish a precedent, because the Senate would not have voted directly on the question or appeal. It could, however, have precedential value if it allowed a ruling of the chair to stand.

¹⁵ Certain budget process points of order can be waived by a three-fifths vote of the Senate. The three-fifths threshold for overturning rulings of the chair corresponds to the cases for which a three-fifths vote is required for a waiver. For more information on budget points of order and the vote threshold necessary for a waiver, see CRS Report R47413, *Points of Order in the Congressional Budget Process*, by James V. Saturno and Megan S. Lynch.

¹⁶ See Senate Rule XXVIII and Senate Rule XLIV, paragraph 8. See also CRS Report RS22733, *Senate Rules Restricting the Content of Conference Reports*, by Elizabeth Rybicki.

¹⁷ In addition, rulings on certain budget points of order require examination of estimates supplied by the Senate Budget Committee, which monitors the compliance of measures with the Congressional Budget Act of 1974, as amended (Titles I-IX of P.L. 93-344; 2 U.S.C. §§601-688). For an example, see *Congressional Record*, daily edition, vol. 171 (June 30, 2025), pp. S4040-S4041.

¹⁸ See CRS Report R43331, *Majority Cloture for Nominations: Implications and the "Nuclear" Proceedings of November 21, 2013*, and CRS Report R44819, *Senate Proceedings Establishing Majority Cloture for Supreme Court Nominations: In Brief*, both by Valerie Heitshusen.

¹⁹ See CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki, for a brief description of these proceedings. Also see *Congressional Record*, daily edition, vol. 165 (April 3, 2019), pp. S2220, S2225-S2226.

²⁰ See CRS Congressional Distribution Memorandum, *Senate Decisions Reversing a Ruling of the Presiding Officer, 1965-July 11, 2025*, by Elizabeth Rybicki and Valerie Heitshusen (available to congressional clients on request from the authors).

For additional information, see *Riddick's Senate Procedure* (GPO, 1992), especially pages 145-149 ("Appeals") and 987-996 ("Points of Order").²¹ In using *Riddick's*, care should be exercised in distinguishing between references supported by footnotes using the phrase *see* or *see also* and those that do not use such terms. Footnotes with *see* or *see also* refer to statements by the chair in response to parliamentary inquiries. Footnotes without such terms refer to rulings of the chair or decisions of the Senate by vote in response to points of order.

²¹ Senate staff may also consult the *Electronic Senate Precedents*, an unofficial catalog of additional precedents (many established since the publication of *Riddick's*) compiled by the Office of the Parliamentarian.

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Acknowledgments

Paul S. Rundquist, former Specialist in American National Government at CRS, wrote an early version of this report. The listed author updated this report and is available to respond to inquiries from congressional clients on the subject.

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