Congressional Research Service
Informing the legislative debate since 1914

The Blue Slip Process for U.S. Circuit and District Court Nominations (1917-Present)

Updated November 20, 2025

Congressional Research Service
https://crsreports.congress.gov
R44975

CRS REPORT
Prepared for Members and
Committees of Congress

Congressional Research Service
Informing the legislative debate since 1914

SUMMARY

R44975

November 20, 2025

Barry J. McMillion
Analyst in American National Government

The Blue Slip Process for U.S. Circuit and District Court Nominations (1917-Present)

The blue slip process used by the Senate Judiciary Committee for U.S. circuit and district court nominations is of ongoing interest to Congress. Since at least 1917, the committee's use of the blue slip has been a feature of its consideration of such nominations. After a President selects a nominee for a U.S. circuit or district court judgeship, the chairman sends a blue-colored form to the two Senators representing the home state of the nominee. The form seeks the home state Senators' assessment of the nominee. If a home state Senator has no objection to a nominee, the blue slip is returned to the chairman with a positive response. If, however, a home state Senator objects to a nominee, the blue slip is either withheld or returned with a negative response. For the purposes of this report, any instance of a blue slip being withheld is treated the same as if a blue slip were returned with a negative response—that is, both instances indicate a nominee lacked the support of at least one home state Senator.

Since the use of blue slips is not codified or included in the committee's rules, the chairman of the committee has the discretion to determine the extent to which a home state Senator's negative or withheld blue slip stops a President's judicial nomination from receiving consideration by the committee and, consequently, whether it reaches the Senate floor.

During some years, a chairman has required a nominee to receive positive blue slips from both of his or her home state Senators in order for the committee to consider the nomination. This particular blue slip policy, for example, was in place during the entirety of the Obama presidency and much of the George W. Bush presidency.

During other years, a chairman's blue slip policy has allowed for a nomination to proceed in committee—and, at times, to the Senate floor—even if a nominee did not have the support of one or both home state Senators.

Regardless of the blue slip policy used by a chairman, it was nonetheless relatively rare, at least from 1956 to 2016, for the Senate to confirm a nominee who did not have the support of both home state Senators. For example, during this 61-year period, CRS has identified four nominees who were confirmed without such support.

Historically, the committee's blue slip policy applied in the same way to both U.S. circuit and district court nominations. Senators, however, have historically exerted less influence over a President's selection of circuit court nominees than over district court nominees. Despite having less influence over the selection of such nominees, home state Senators often retained certain prerogatives under the committee's blue slip policy once a circuit court nominee was selected by a President. For example, from 2005 through 2016, a circuit court nomination did not proceed in committee unless it received two positive blue slips from a nominee's home state Senators.

The blue slip policy for U.S. circuit court nominees that had been in place during the Obama presidency and much of the George W. Bush presidency was changed in 2017 during the 115th Congress. That policy, which has remained in effect to the present, no longer requires a circuit court nominee to receive two positive blue slips from his or her home state Senators in order to be considered by the Senate Judiciary Committee.

The blue slip policy for district court nominees was not changed in 2017 and has not, as of this writing, been changed from the past practice of requiring such nominees to have the support of both home state Senators.

Contents

Tables

Contacts

Introduction

The blue-slip process for U.S. circuit and district court nominations refers to a practice by the Senate Judiciary Committee for use in the confirmation of federal judges and other positions.[1] Specifically, when a President nominates an individual to a U.S. circuit or district court judgeship, the chairman of the committee sends a blue-colored form to the Senators representing the home state of the nominee.[2] If a home state Senator has no objection to a nominee, he or she returns the blue slip with a positive response. If, however, a Senator has some objection to the nominee and wants to prevent confirmation, he or she might decide not to return the blue slip or to return it with a negative response.[3]

There have been relatively recent years when a negative (or unreturned) blue slip precluded Judiciary Committee action on a nomination and, consequently, the nomination was not considered by the full Senate. This policy, for example, characterizes how blue slips were used during the entirety of the Obama presidency (2009-2016) and much of the George W. Bush presidency (2001-2002 and 2005-2008).[4] These years during the Obama and Bush presidencies included both unified and divided party control.[5] The policy also characterizes how blue slips were used for judicial nominations during the chairmanship of Senator James O. Eastland for the 22-year period from 1956 through 1978.

Prior to 2017, however, there were other years during which the committee's blue slip policy did not preclude committee action on a judicial nomination that did not have the support of both home state Senators (e.g., 2003-2004 during the Bush presidency).

Regardless of the committee's blue slip policy during a particular Congress, it was nonetheless relatively rare, at least from 1956 through 2016, for the Senate to confirm a judicial nominee who did not have the support of both home state Senators. For example, during this 61-year period, CRS has identified four nominees who were confirmed without such support.

The blue slip policy for U.S. circuit court nominees that had been in place during the Obama presidency and much of the George W. Bush presidency was changed in 2017 during the 115th Congress. The revised policy, which has remained in effect to the present, no longer requires a circuit court nominee to receive two positive blue slips from his or her home state Senators in order to be considered by the Senate Judiciary Committee.

[1] These other positions are U.S. attorney and U.S. marshal positions, which are not addressed by this report.

[2] Throughout this report, these Senators are referred to as a nominee's "home state Senators."

[3] Occasionally, a Senator might indicate on the blue slip that he or she has "reserved judgment" on a nomination. The blue slip policy set by the chairman of the Judiciary Committee determines whether the committee will act on such a nomination.

[4] For the purposes of this report and unless otherwise noted, the date range from a presidency is shown as the period of time that begins in the calendar year when a President takes the oath of office and concludes during his last full calendar year in office (to more closely reflect the last year in which a President's judicial nominees are typically approved). So, for example and unless otherwise noted, the Obama presidency refers to the period from 2009 to 2016 (rather than the more exact period from January 20, 2009, to January 19, 2017).

[5] As discussed in this report, unified party control occurs when the party of the President is the same as the majority party in the Senate (regardless of the majority party in the House). Divided party control occurs when the party of the President is different than the majority party in the Senate.

The policy adopted in 2017 by Senator Chuck Grassley has remained in effect to the present, under the chairmanships of Senator Lindsey Graham (2019-2021), Senator Dick Durbin (2021-2025), and again under Senator Grassley's current chairmanship (2025-present).[6]

The blue slip policy for district court nominees was not changed in 2017 and has not, as of this writing, been changed from the past practice of requiring district court nominees to have the support of their home state Senators. During the 119th Congress, Senator Grassley reiterated his support for requiring blue slips for district court nominations, stating "Without the blue slip, home-state senators would have no input on who the president appoints to ... sit for lifetime appointments on the federal district court that oversees cases, conducts trials and applies the law in their states."[7]

The blue slip process is not codified in the Judiciary Committee's rules, and is instead a policy set by the chairman of the committee. At times, a chair's blue slip policy "may be different in practice than what is stated [by the chair]. Thus, determining a particular policy at any given time can be complicated because of the way blue slips are implemented."[8] Along these lines, this report relies on Senators' statements and public news accounts as to the blue slip policy that was in place during a particular year or presidency.

Additionally, because historical data regarding whether home state Senators returned negative or positive blue slips (or withheld a blue slip) are not often made public, the information and analysis provided in this report is limited to the information that is publicly available regarding blue slips returned or withheld by Senators.[9]

For the purposes of this report, any instance of a blue slip being withheld is treated the same as if a blue slip were returned with a negative response—that is, both instances indicate a nominee lacked the support of at least one home state Senator.

Origin of the Blue Slip for Judicial Nominations

Prior CRS research conducted at the National Archives identified the first known use of the blue slip as having occurred during the 65th Congress (1917-1918).[10] At the time, Senator Charles Culberson of Texas was chairman of the Judiciary Committee, a role he served in from the 63rd through the 66th Congress. Historical records from this time period suggest that Senator Culberson himself may have first implemented the blue slip for judicial nominees—from the 65th

[6] Sen. Graham's chairmanship corresponds to the 116th Congress (January 3, 2019, to January 3, 2021), Sen. Durbin's chairmanship corresponds to the 117th Congress (January 3, 2021, to January 3, 2023) and the 118th Congress (January 3, 2023, to January 3, 2025), and Sen. Grassley's current chairmanship corresponds to the 119th Congress (January 3, 2025, to January 3, 2027).

[7] Sen. Chuck Grassley, "Q&A: Blue Slips," press release, August 29, 2025, https://www.grassley.senate.gov/news/news-releases/qanda-blue-slips.

[8] Mitchel A. Sollenberger, "The Blue Slip: A Theory of Unified and Divided Government, 1979-2009," *Congress and the Presidency*, vol. 37, 2010, p. 130 (hereinafter cited as Sollenberger, "The Blue Slip").

[9] A recent exception to this generalization occurred during select years of the G.W. Bush presidency. Specifically, from 2001 to 2004, the status of a nominee's blue slips was posted online by the Department of Justice's Office of Legal Policy.

[10] See CRS Report RL32013, *The History of the Blue Slip in the Senate Committee on the Judiciary, 1917-Present*, by Mitchel A. Sollenberger. This report was last updated in 2003 and is available from the author to congressional clients upon request.

Congress onward nearly every judicial nominee's file includes a blue slip, whereas prior to this period, the files of judicial nominees reveal no evidence of blue slips.[11]

Materials at the National Archives do not provide a specific explanation for the creation of the blue slip. However, the historical and political context in which the blue slip was first used might help illuminate the rationale for its early use. For instance, in 1917, although the White House and Senate were both controlled by the Democratic Party, there was periodic tension between the two branches. Consequently, interbranch relations may have been a factor in the blue slip's creation.[12]

The first known example of a Senator using a blue slip to oppose a judicial nomination also occurred in 1917. Specifically, President Woodrow Wilson had nominated U.V. Whipple to a judgeship for the Southern District of Georgia. Senator Thomas W. Hardwick returned a negative blue slip, stating "I object to this appointment—the same is personally offensive and objectionable to me, and I cannot consent to the confirmation of the nominee."[13] At that time, a negative blue slip did not necessarily prevent committee action on a nomination. As such, Whipple's nomination was reported, albeit adversely, to the full Senate. The nomination was rejected by the Senate without a recorded vote on April 23, 1917.[14]

Presidential Consultation with Home State Senators

While the specific blue slip policy used by the Judiciary Committee has varied, a consistent principle throughout has been the importance of consultation between a President and the Senate in the judicial selection process. During this process, one of the key considerations of many Senators, including committee chairmen and Senators in the minority party, is that they have the opportunity to consult with a President regarding potential nominees for U.S. circuit and district court vacancies associated with their states. The lack of consultation between a President and home state Senators has, at times, resulted in nominations not being considered by the Judiciary Committee.[15]

Senator Durbin, the chairman of the Judiciary Committee during the 117th and 118th Congresses, emphasized the importance of a President consulting with home state Senators in the blue slip process, stating that "many of us ... believe in what's known as the blue slip process, which basically says that senators will have some say in terms of the judges that are chosen in their states."[16]

Past committee chairmen, regardless of political party, have also emphasized the need for consultation and interbranch cooperation between a President and home state Senators in the consideration of potential U.S. circuit and district court nominees. In 1989, for example, Senator

[11] Ibid.

[12] Ibid.

[13] National Archives and Records Administration, 1917-1958, Record Group 46, Records of the U.S. Senate. Records of Executive Proceedings, Nomination Files, Judiciary Committee.

[14] CRS Report RL32013, *The History of the Blue Slip in the Senate Committee on the Judiciary, 1917-Present*, by Mitchel A. Sollenberger.

[15] For example, during several years of the Clinton presidency a number of nominations reportedly did not move forward because of a lack of support from home state Senators. Specifically, 17 nominations reportedly lacked the support of home state Senators, in part, because the White House did not consult with Senators regarding the nominations. Sollenberger, "The Blue Slip," p. 138.

[16] Madison Alder, "Durbin Renews Blue Slip Embrace Amid Pressure to Scrap," *Bloomberg Law*, May 17, 2023, https://news.bloomberglaw.com/us-law-week/durbin-backs-judicial-blue-slip-custom-progressives-want-dropped.

Joe Biden stated that "I have long emphasized the need for consultation, which, in my view, is part of the 'advice' component of the Senate's advice and consent responsibility under the Constitution. I believe that the nomination process will function more effectively if consultation is taken seriously."[17] In 2001, Senator Orrin Hatch stated that "the Senate expects genuine good faith consultation by the administration with home state senators before a judicial nomination is made, and the administration's failure to consult in genuine good faith with both home state senators is grounds for a senator's return of a negative blue slip."[18] Additionally, in 2009, Senator Leahy noted that requiring "the support of home State Senators is a traditional mechanism to encourage the White House to engage in meaningful consultation with the Senate."[19]

The importance of consultation has also been emphasized, more generally, by other Senators. For example, in 2009, 41 Republican Senators submitted a letter to President Obama, stating that,

> Regretfully, if we are not consulted on, and approve of, a nominee from our states, the Republican Conference will be unable to support moving forward on that nominee.[20]

Additionally, during the George W. Bush presidency, the nine Democratic Senators on the Judiciary Committee submitted a letter to the Administration emphasizing the need for consultation between the White House and Senators belonging to the minority. The letter stated that,

> As you know, there has been a long history of consultation between the White House and the Senate on potential nominations. The Senate's recent practice fully recognized that the interests of Senators in judicial nominations are not limited to those in the same political party as the President. With an evenly divided Senate, we think it is of utmost importance that the Administration coordinate closely with Democrats in the Senate, especially those from the home state of potential nominees and those on the Judiciary Committee.[21]

How Consultation, or the Lack of Consultation, Has Been Defined in the Past

During the Clinton presidency, and a period of divided government, Senator Hatch identified five circumstances that would "demonstrate an absence of good faith consultation" by the White House in communicating with home state Senators.[22] These circumstances were identified in a letter to Charles Ruff, counsel to the President, and included the following:

> (1) failure to give serious consideration to individuals proposed by home state Senators as possible nominees;
>
> (2) failure to identify to home state Senators and the Judiciary Committee an individual the President is considering nominating with enough time to allow the Senator to provide

[17] Mitchel A. Sollenberger, *Judicial Appointments and Democratic Controls* (Carolina Academic Press, 2011), p. 102 (hereinafter cited as Sollenberger, *Judicial Appointments*).

[18] Sollenberger, *Judicial Appointments*, p. 103. Note that Sen. Hatch also emphasized that "if any of our colleagues here want to veto the President's constitutional prerogative to make his appointments with the advice and consent of the Senate, that is a different matter, and one which I think diverges from the policy of this Committee from as far back as I can remember, ..." Sen. Hatch's assessment, one scholar notes, was challenged by Democratic Senators at the committee hearing at which it was made. Sollenberger, "The Blue Slip," p. 140.

[19] Sollenberger, *Judicial Appointments*, p. 104.

[20] See Manu Raju, "Republicans warn Obama on judges," *Politico*, March 2, 2009, https://www.politico.com/story/2009/03/republicans-warn-obama-on-judges-019526.

[21] Letter to the Honorable Alberto R. Gonzales, Counsel to the President, April 27, 2001, author's files.

[22] Letter to the Honorable Charles C.F. Ruff, Counsel to the President, April 16, 1997, author's files.

> meaningful feedback before any formal clearance (i.e., by the [American Bar Association] or [Federal Bureau of Investigation]) on the prospective nominee is initiated;
>
> (3) after having identified the name of an individual the President is considering nominating, failure to (a) seek a home state Senator's feedback, including any objections the Senator may have to the prospective nominee, at least two weeks before any formal clearances are initiated, and (b) give that feedback serious consideration;
>
> (4) failure to notify a home state Senator, and the Judiciary Committee, that formal clearance on a prospective nominee is being initiated despite the Senator's objections; and
>
> (5) failure to notify home state Senators, and the Judiciary Committee, before a nomination is actually made, that the President will nominate an individual.[23]

The letter released by Senator Hatch also included his rationale for identifying the five circumstances that demonstrated an absence of good faith consultation by the White House. He stated that "over the past several months, I have received complaints from a number of my colleagues that they have not had the benefit of any sort of good faith consultation that is expected with respect to judicial nominees, and I am concerned that this may lead to difficulties in the confirmation process that could be avoided."[24]

At the beginning of the George W. Bush presidency, Senator Leahy, then ranking minority member of the Judiciary Committee, sent a letter to Alberto Gonzales, counsel to the President, recommending that "the Administration undertake to incorporate the following consultative procedures into its selection, vetting and nomination processes."[25] These procedures included the following:

> 1. The Administration shall give serious consideration to individuals proposed by home state Senators as possible nominees;
>
> 2. The Administration shall consult with home state Senators and the Judiciary Committee (both majority and minority) regarding individuals the President is considering nominating with enough time to allow Senators to consider the potential nominee and provide a meaningful response to the Administration before any formal clearance (i.e., by the [Federal Bureau of Investigation]) on the prospective nominee is initiated;
>
> 3. Should the Administration choose to begin a formal clearance process of a nominee despite a home state Senator's objection, the Administration shall notify the home state Senators and the Judiciary Committee that this is the case before the clearance process starts;
>
> 4. When the President has made the final decision to nominate an individual, home state Senators and the Judiciary Committee shall be given at least one week's notice before the formal nomination is made;
>
> 5. When a nominee is sent to the Senate, supporting documentation for the nomination shall be simultaneously sent to the Senate in order to expedite the Senate's evaluation of the nominee;
>
> 6. The nominee shall be directed by the Administration to cooperate fully with Senators who seek information regarding that nomination.[26]

[23] Ibid.

[24] Ibid.

[25] Letter to the Honorable Alberto R. Gonzales, Counsel to the President, April 27, 2001, author's files.

[26] Ibid.

When Senator Leahy later became chairman of the Judiciary Committee in 2001, he had "the opportunity to" require "these consultative procedures through a strengthened blue slip policy."[27] As discussed below, this policy—which required both home state Senators to return positive blue slips on a nomination in order for it to be considered by the committee—was also utilized during his time as committee chair during the Obama presidency.

During the 117th Congress, in response to opposition by home state Senators to one of President Biden's circuit court nominees (a nomination over which the Senators said they were not consulted), Chairman Durbin has suggested that a rule for consultation might be appropriate following the next presidential election. Senator Durbin stated "perhaps we can agree that prospectively after the 2024 presidential election, there will be a rule. We don't know who's going to win at this point, and we might have a standard moving forward from there."[28] A rule or standard for consultation with home state Senators was not adopted prior to the 2024 presidential election and, as of this writing, has not been adopted following the election.

Past Blue Slip Policies (1917-2016)

Years When a Negative Blue Slip on a Nomination Did Not Stop Consideration by the Senate Judiciary Committee

From 1917 through 2016, there were years when the policy of the Judiciary Committee was to allow, in some instances, committee consideration of a judicial nomination that had received a negative blue slip from one or both of the nominee's home state Senators (or had a positive one withheld).

Consequently, when such a policy was in effect, a Senator's negative blue slip, or failure to return a positive slip, did not always foreclose the possibility of the committee reporting the nomination to the Senate—as, for example, occurred on five occasions during the 108th Congress (2003-2004).[29] It likely did, however, at least draw the committee's attention to the concerns of the home state Senator and to the question of what degree of courtesy the members of the committee owed that Senator's concerns.[30]

1917-1955 (65th Congress-84th Congress)

According to prior CRS research, the blue slip was used from 1917 to 1955 "to merely request the opinion of senators, regardless of political party, about judicial nominations in their home-states.... [and] no chair of the Judiciary Committee allowed even one negative blue slip to automatically veto a nomination."[31]

[27] Sollenberger, "The Blue Slip," p. 142.

[28] Madison Alder, "Circuit Pick Prompts GOP Complaint Over White House Consult," *Bloomberg Law*, January 12, 2022, https://news.bloomberglaw.com/us-law-week/sixth-circuit-pick-prompts-spat-over-white-house-consultation.

[29] The nominations reported by the Judiciary Committee were each for circuit court judgeships, and include the nominations of Richard A. Griffin (to the Sixth Circuit), Carolyn B. Kuhl (Ninth Circuit), David McKeague (Sixth Circuit), Susan B. Neilson (Sixth Circuit), and Henry W. Saad (Sixth Circuit).

[30] Additionally, this type of blue slip policy, while occasionally allowing a nomination to advance without the support of both home state Senators, did not lead to a relatively large number of nominations advancing in the Senate without the support of both home state Senators.

[31] Sollenberger, "The Blue Slip," p. 127.

Despite this characterization of the committee's blue slip policy during this period, CRS has not identified a nomination, other than U.V. Whipple's in 1917 (as discussed above), that was acted upon by the committee if it was opposed by at least one of the nominee's home state Senators.

1979-1980 (96th Congress)

The blue slip policy used during the last two years of the Carter presidency, under the chairmanship of Senator Edward Kennedy,[32] no longer prevented committee action on a nomination that was not supported by a home state Senator. Senator Kennedy altered the blue slip policy that was used during his predecessor's tenure (a policy that required a nominee to receive two positive blue slips) in order to increase the gender and racial diversity among judicial nominees.[33]

During the two-year period he served as chairman of the committee, Senator Kennedy moved forward on one known nomination that had received a negative blue slip.[34] The nominee received a hearing but the committee took no additional action on his nomination. The hearing itself was the first reported instance, since the early 1950s, where the Judiciary Committee moved forward on a nomination that had received a negative blue slip from a home state Senator.[35]

1981-1986 (97th Congress-99th Congress)

During the first six years of the Reagan presidency, under the chairmanship of Senator Strom Thurmond,[36] judicial nominations that received negative blue slips or had blue slips withheld by home state Senators were sometimes considered by the Judiciary Committee and, in a few cases, by the full Senate. As is the case with the George H. W. Bush presidency (discussed below), the total number of nominees during the Reagan presidency with negative or withheld blue slips is unknown.

During this period, Senator Thurmond moved forward on three known nominations that had received one negative blue slip and on one known nomination for which a home state Senator had not returned a blue slip. Of the four, two were confirmed by the Senate.[37]

---

[32] Specifically, from January 3, 1979, to January 3, 1981.

[33] Sen. Kennedy stated that he had a "particular concern ... to guarantee that the Federal courts are more representative of all the people of this Nation." Sollenberger, "The Blue Slip," p. 131. Prior to the blue slip policy change in 1979, there had been 12 women and 34 racial minorities ever appointed to U.S. circuit and district court judgeships. During Sen. Kennedy's chairmanship, 23 women and 39 racial minorities were appointed to such judgeships.

[34] Sen. Harry Byrd Jr., of Virginia, had returned a negative blue slip on the district court nomination of James E. Sheffield. In another instance, and "the only known example of a nomination dispute between Kennedy and a Republican Senator," a positive blue slip on the nomination was eventually returned. Sollenberger, "The Blue Slip," pp. 132-133.

[35] Sollenberger, "The Blue Slip," p. 132.

[36] Specifically, from January 3, 1981, to January 3, 1987.

[37] In 1981, Sen. Proxmire of Wisconsin returned a negative blue slip for the district court nomination of John Shabaz to the Western District of Wisconsin. "Despite the negative blue slip, [Senator] Thurmond moved Shabaz's nomination through committee. This action marked the first known instance in more than thirty years in which a blue-slipped nomination made it to the Senate floor. Once through committee, the Senate confirmed Shabaz." Sollenberger, "The Blue Slip," p. 134. In 1982, Sen. Proxmire also returned a negative blue slip for the nomination of John L. Coffey to the Seventh Circuit. The negative assessment by Proxmire "was ignored when a hearing and committee vote were held less than a month after Reagan made the nomination." Ibid., p. 134. Coffey was subsequently confirmed by the Senate. Also in 1982, Sen. Thurmond held a hearing for Sam Bell, a district court nominee for the Northern District of Ohio, even though Sen. Metzenbaum had not yet returned a blue slip on the nomination (he eventually did and Bell was confirmed by the Senate). Ibid. Finally, in 1985, Democratic Sens. Daniel Inouye and Spark Matsunaga of Hawaii opposed the (continued...)

1989-1992 (101st Congress-102nd Congress)

In 1989, at the beginning of the George H. W. Bush presidency—and during a period of divided party control—Senator Joe Biden issued the first policy letter by a Judiciary Committee chairman regarding the use of blue slips to process U.S. circuit and district court nominations. He stated that "The return of a negative blue slip will be a significant factor to be weighed by the committee in its evaluation of a judicial nominee, but it will not preclude consideration of that nominee unless the Administration has not consulted with both home state Senators prior to submitting the nomination to the Senate."[38]

While it is not known how many nominees during the George H. W. Bush presidency had blue slip issues, there are two known examples of Senator Biden moving forward on a judicial nomination that received a negative blue slip from a nominee's home state Senator (in both cases from Senator Alan Cranston). For one circuit court nomination, the committee held hearings and a vote. The committee rejected the nomination, thereby not reporting it to the full Senate.[39] And for one district court nomination, the committee held hearings and a vote—approving the nomination and sending it to the full Senate for consideration. The nomination was approved by voice vote.[40]

2003-2004 (108th Congress)

During the 2003-2004 period, the blue slip policy of Senator Hatch was to "give great weight to negative blue slips"[41] but, in some instances, to allow a nomination opposed by home state Senators to receive a committee hearing and committee vote (which could result in the nomination being reported to the full Senate without the support of one or both home state Senators). During this two-year period of the George W. Bush presidency, there were 13 nominees with blue slip issues, 5 of whom received a committee hearing and committee vote.[42] This particular period reflected unified party control, during which there was a Republican President and a Republican majority in the Senate.

Years When a Negative Blue Slip on a Nomination Stopped Consideration by the Senate Judiciary Committee

From 1956 through 2016, there were a number of years when a home state Senator's opposition to a judicial nomination through use of a negative or withheld blue slip prevented it from being reported out of committee (in effect, preventing the nomination from being approved by the full Senate), unless the Senator could be persuaded to drop his or her opposition to the nomination.

---

district court nomination of Albert Moon. "Even though both Hawaiian senators opposed Moon, Thurmond held a hearing which marked the first reported instance since the 1950s that the committee acted on a nomination with two negative blue slips. After the hearing, Thurmond took no further action and Moon's nomination was returned at the end of the Congress." Ibid.

[38] Sollenberger, "The Blue Slip," p. 135.

[39] Sollenberger, "The Blue Slip," p. 135. The nomination was that of Bernard Siegan, of California, to the Ninth Circuit. The Judiciary Committee rejected the Siegan nomination by an 8-to-6 vote.

[40] The nomination was that of Vaughn R. Walker, of California, to the Northern District of California. The Judiciary Committee approved the Walker nomination by an 11-to-2 vote, sending the nomination to the full Senate (which confirmed the nomination by voice vote). For more details, see Sollenberger, "The Blue Slip," p. 136.

[41] Sollenberger, "The Blue Slip," p. 144.

[42] Of the five nominees, three were later confirmed during the 109th Congress after home state Senators withdrew their opposition to the nominations. The nominations of the two other nominees were returned to President Bush (and not resubmitted for Senate consideration).

Most recently, this was the case during the entirety of the Obama presidency (2009-2016) and for much of the G.W. Bush presidency (2001-2002 and 2005-2008).

1956-1978 (84th Congress-95th Congress)

From 1956 through 1978, under the chairmanship of Senator James O. Eastland of Mississippi, a nominee was required to receive two positive blue slips from his home state Senators before the committee would consider the nomination. These years correspond to the second session of the 84th Congress through the 95th Congress and included all or part of the Eisenhower, Kennedy, Johnson, Nixon, Ford, and Carter presidencies.

During this period, which encompassed both unified and divided party control of the presidency and the Senate, if a home state Senator had some objection to the nominee and wanted to stop committee action, he or she could decide not to return the blue slip or return it with a negative response. Under such circumstances the withholding of a blue slip or a single negative response would halt all further action on a nomination.

1995-2000 (104th Congress-106th Congress)

The blue slip policy of Senator Hatch, who served as chairman of the Judiciary Committee during the final six years of the Clinton presidency (1995-2000), enabled a home state Senator to block committee action on a nomination by returning a negative blue slip.[43] This period corresponded to the 104th, 105th, and 106th Congresses.

During this period, 17 of President Clinton's judicial nominations lacked the support of one or both home state Senators.[44] Consequently, the committee did not act on the nominations, with Senator Hatch stating that the lack of support was often the result of the White House failing to consult with home state Senators about the nominations.[45]

2001-2002, 2005-2006, and 2007-2008 (107th Congress; 109th Congress-110th Congress)

During the George W. Bush presidency, Senator Patrick Leahy, who served as chairman of the Judiciary Committee during 2001-2002 and 2007-2008,[46] did not permit, during those two periods, a U.S. circuit or district court nomination to advance in committee without receipt of two positive blue slips from a nominee's home state Senators. These years correspond to part of the 107th Congress and the entirety of the 110th Congress.

During the period from 2001 through 2002, there are 7 known nominees for whom a home state Senator either returned a negative blue slip or withheld a blue slip (thereby stopping committee action on the nomination).[47] Additionally, from 2007 through 2008, there are 16 known nominees for whom a home state Senator either returned a negative blue slip or withheld a blue slip.[48]

[43] Sollenberger, "The Blue Slip," p. 126.

[44] Sollenberger, "The Blue Slip," p. 138.

[45] Sollenberger, "The Blue Slip," p. 138.

[46] Specifically, from June 6, 2001, to January 15, 2003, and from January 3, 2007, to January 3, 2009.

[47] This includes 5 U.S. circuit court nominees and 2 U.S. district court nominees. Sollenberger, "The Blue Slip," p. 142.

[48] This includes 6 U.S. circuit court nominees and 10 U.S. district court nominees. Sollenberger, "The Blue Slip," p. 150.

Additionally, from 2005-2006, when Senator Arlen Specter was chairman of the Judiciary Committee,[49] the committee did not move forward with any nomination that did not receive two positive blue slips from a nominee's home state Senators.[50] These years correspond to the 109th Congress.

During the 2005-2006 period, there are 12 known nominees[51] for whom a home state Senator either returned a negative blue slip or withheld a blue slip (thereby stopping committee action on the nomination).

Of the total 37 known nominees[52] during the Bush presidency who experienced blue slip issues (including Senator Hatch's tenure as committee chair for several months in 2001 and from 2003-2004),[53] 15 were ultimately confirmed after home state Senators withdrew their opposition to the nominations. The remaining 22 nominees with negative or withheld blue slips, representing approximately 6% of all individuals nominated by President Bush for either a U.S. circuit or district court judgeship from 2001 through 2008, were subsequently returned to the President (i.e., not confirmed).

As the chairmanships of Senators Leahy and Specter showed, the committee's blue slip policy was not always determined by whether the party that controlled the presidency was also the majority party in the Senate.

2009-2016 (111th Congress-114th Congress)

During the eight years of the Obama presidency, the policy of both Senator Leahy (chairman of the Judiciary Committee from 2009 to 2014)[54] and Senator Chuck Grassley (chairman from 2015 to 2016)[55] was to preclude consideration of a U.S. circuit or district court nomination by the committee if the nomination did not receive two positive blue slips from the nominee's home state Senators.

This eight-year period encompassed both unified party control (i.e., when Democrats controlled the presidency and held the majority in the Senate from 2009 through 2014) and divided party control (i.e., when Republicans held the majority in the Senate, from 2015 through 2016, during the final two years of the Obama presidency).

---

[49] From January 3, 2005, to January 3, 2007.

[50] One senior Republican committee staffer has explained that Sen. Specter, wanting to bypass any nomination that would experience confirmation problems, "started with the nominees who were easy to move and then just ran out of time with the others." The staffer also remarked that Sen. Specter sought to avoid battles over nominees opposed by their home state Senators because "he was very concerned about moving through some of his legislative priorities," and that Sen. Specter "very much sees the Congress, and the Senate in particular, as an equal branch and a check on the executive." Additionally, Sen. Specter's blue slip policy was probably influenced by the compromise agreement drafted by the bipartisan "Gang of 14" regarding the use of filibusters on lower federal court nominations, as well as the need of the Judiciary Committee to manage three Supreme Court nominations (thereby diverting resources that would typically have been used on lower court nominations). Sollenberger, "The Blue Slip," p. 148.

[51] This includes 4 U.S. circuit court nominees and 8 U.S. district court nominees. Sollenberger, "The Blue Slip," p. 147.

[52] Sollenberger, "The Blue Slip," pp. 142, 144, 147, 150.

[53] Sen. Hatch was chairman of the Judiciary Committee from January 20, 2001, to June 5, 2001, and from January 15, 2003, to January 6, 2005. As discussed in the report, Sen. Hatch's blue slip policy during these years did not necessarily stop committee consideration of a nominee who failed to receive two positive blue slips. His chairmanship is included in this part of the analysis in order to provide a summary of the G.W. Bush presidency, and also because there were multiple nominees during the Bush presidency who were considered by the Judiciary Committee under different chairmanships (i.e., under the chairmanships of Sens. Leahy, Hatch, and/or Specter).

[54] Specifically, from January 3, 2009, to January 3, 2015.

[55] Specifically, from January 3, 2015, to January 3, 2017.

From 2009 through 2014, the period of unified party control, there are 11 known nominees for whom a home state Senator either returned a negative blue slip or withheld a blue slip (thereby stopping committee consideration of the nomination).[56] Additionally, from 2015 through 2016, the period of divided party control, there are 9 known nominees for whom a home state Senator either returned a negative blue slip or withheld a blue slip (similarly stopping committee consideration of the nomination).[57]

Of the 20 known nominees during the Obama presidency who experienced blue slip issues,[58] 2 were ultimately confirmed after home state Senators withdrew their opposition to the nominations. The remaining 18 nominees with blue slip issues, representing approximately 5% of all individuals nominated by President Obama for either a U.S. circuit or district court judgeship from 2009 through 2016, were subsequently returned to the President (i.e., not confirmed).

As the discussion about the George W. Bush and Obama presidencies illustrates, recent blue slip policies that required positive blue slips from a nominee's home state Senators in order for the nomination to advance in committee did not always mean that a nominee, who initially lacked the support of one or both home state Senators, was not ultimately confirmed by the Senate.[59] In total, of the 57 known nominees with blue slip issues during the Obama and George W. Bush presidencies, 17 (or 30%) were ultimately confirmed after opposition by one or both home state Senators was withdrawn.

The nominees who initially experienced blue slip issues during these two presidencies but who were nonetheless later confirmed by the Senate were sometimes included as part of an agreement or compromise between the White House and Senators to advance judicial nominations to the full Senate for consideration.[60]

[56] This includes 3 U.S. circuit court nominees and 8 U.S. district court nominees.

[57] This includes 4 U.S. circuit court nominees and 5 U.S. district court nominees.

[58] The 20 nominees were identified by CRS through Senators' statements and public news accounts. See, for example, Craig Gilbert, "Wisconsin seat on U.S. appeals court remains a symbol of partisan judicial wars," *Milwaukee Journal Sentinel*, August 14, 2017, http://www.jsonline.com/story/news/politics/2017/08/14/now-they-power-repblican/560803001; Staff and Wire Reports, "At Kansas senators request, committee will not consider Steve Six's nomination to the U.S. Court of Appeals," *Lawrence Journal-World*, July 28, 2011, http://www2.ljworld.com/news/2011/jul/28/kansas-senators-request-committee-will-not-conside; and Karoun Demirjian, "Cadish pulls out of contention to become a federal judge," *Las Vegas Sun*, March 8, 2013, https://lasvegassun.com/news/2013/mar/08/cadish-abandons-bid-become-federal-judge.

[59] Under a blue slip policy that requires both home state Senators to return positive blue slips, a President also has the option of withdrawing an objectionable nomination and resubmitting a new nomination that is acceptable to the White House and both home state Senators. For example, in 2008, the last year of the G.W. Bush presidency, President Bush in three instances—each time facing opposition from home state Senators to specific circuit court nominations—withdrew the nominations and selected new nominees recommended by the Senators. See CRS Report RL34405, *Role of Home State Senators in the Selection of Lower Federal Court Judges*, by Barry J. McMillion and Denis Steven Rutkus, footnote 84, p. 24.

[60] See, for example, Statement of Chairman Patrick Leahy, Senate Judiciary Committee, Hearing on Judicial Nominations, May 7, 2008, available https://www.judiciary.senate.gov/imo/media/doc/Leahy%20Member%20Statement%20050708a.pdf. See also, Daniel Malloy, "End in sight for Georgia's federal judicial vacancy logjam," *The Atlanta Journal-Constitution*, July 25, 2013, online.

Years When It Is Uncertain Whether a Negative Blue Slip on a Nomination Stopped Consideration by the Senate Judiciary Committee

1987-1988 (100th Congress)

For the 1987-1988 period (the final two years of the Reagan presidency when Senator Joe Biden was chairman of the Judiciary Committee), CRS has not identified a formal blue slip policy that was announced by Senator Biden during these particular years. CRS has also not identified any instances of the committee considering a nomination that was opposed by one or both home state Senators.

As discussed above, at the beginning of the George H. W. Bush presidency in 1989, Senator Biden explicitly stated that a negative blue slip would not necessarily stop committee consideration of a judicial nomination.

1993-1994 (103rd Congress)

During the first two years of the Clinton presidency, CRS has not identified a formal statement by Senator Biden about the blue slip policy he used during this period as committee chairman. According to one scholar, "blue slips were not an issue during the first two years of Bill Clinton's presidency ... Biden made no formal announcement changing his blue slip policy [from 1989] and there were no major disputes over nominations."[61] Additionally, CRS has not identified any instances of the committee considering a nomination that was opposed by one or both home state Senators.

The Current Blue Slip Policy (2017-Present)

The blue slip policy for U.S. circuit court nominees that had been in place during the Obama presidency and much of the George W. Bush presidency was changed in 2017 during the 115th Congress. Senator Chuck Grassley announced that he would permit confirmation hearings for circuit court nominees who did not have two positive blue slips from home state Senators, stating that "circuit courts cover multiple states. There's less reason to defer to the views of a single state's senator for such nominees."[62]

The policy adopted in 2017 for circuit court nominations has remained in effect to the present, under the chairmanships of Senator Graham (2019-2021), Senator Durbin (2021-2025), and the second chairmanship of Senator Grassley (2025-present).[63]

[61] Sollenberger, "The Blue Slip," p. 136.

[62] See floor statement by Sen. Chuck Grassley, *Congressional Record*, daily edition, vol. 163 (November 16, 2017), pp. S7285-S7287. See also Jason Zengerle, "How the Trump Administration Is Remaking the Courts," *The New York Times Magazine*, August 22, 2018, https://www.nytimes.com/2018/08/22/magazine/trump-remaking-courts-judiciary.html.

[63] This period follows, by several years, the earlier reinterpretation of Senate Rule XXII during the 113th Congress to allow cloture to be invoked on most nominations by a majority of Senators voting (a quorum being present). See *Congressional Record*, daily edition, vol. 159 (November 21, 2013), pp. S8417-S8418; CRS Report R43331, *Majority Cloture for Nominations: Implications and the "Nuclear" Proceedings of November 21, 2013*, by Valerie Heitshusen.

The policy for district court nominees was not changed in 2017 and has remained the same to the present, with a nominee required to have two positive blue slips from home state Senators in order for the committee to consider his or her nomination.[64]

Publicly available information indicates that the blue slip policy for circuit and district court nominees that has been in place since 2017 is the first policy used by the Senate Judiciary Committee that has explicitly treated circuit and district court nominations differently in terms of whether the committee would consider the nomination in light of opposition by one or both home state Senators.

Known Instances When a Nominee Was Confirmed by the Senate Over the Opposition of At Least One Home State Senator

For the purposes of this section, either the submission of a negative blue slip or the withholding of a blue slip is considered opposition to a circuit or district court nomination by a home state Senator.[65]

1956-2016 (84th Congress-114th Congress)

From 1956 through 2016 there were over 2,500 individuals confirmed by the Senate to U.S. circuit and district court judgeships. Despite the different blue slip policies used by chairmen of the Judiciary Committee during this period, there are four known nominees among this group who were confirmed by the Senate and who were opposed by *one*, but not both, home state Senators. During this period, there was also one known nominee opposed by both home state Senators who was considered by the Senate Judiciary Committee but whose nomination did not advance beyond the committee.[66] These five nominees are listed in **Table 1** in chronological order by date of nomination.

Based on available information, CRS has not identified any instances, from 1956 through 2016, of a U.S. circuit or district court nominee who was confirmed by the Senate and who was also opposed by both home state Senators.[67]

---

[64] See Patrick L. Gregory, "Graham Holds Line on Blue Slips for District Court Nominees," *Bloomberg Law*, January 29, 2019, https://news.bloomberglaw.com/us-law-week/graham-holds-line-on-blue-slips-for-district-court-nominees. See also Madison Alder, "Durbin Renews Blue Slip Embrace Amid Pressure to Scrap It," *Bloomberg Law*, May 17, 2023, https://news.bloomberglaw.com/us-law-week/durbin-backs-judicial-blue-slip-custom-progressives-want-dropped. Additionally, see Nate Raymond, "Republican US Senator Grassley Clashes With Trump Over Nominations," *U.S. News & World Report*, July 30, 2025, https://www.usnews.com/news/politics/articles/2025-07-30/republican-us-senator-grassley-clashes-with-trump-over-nominations.

[65] For example, Senator Bob Casey of Pennsylvania returned a positive blue slip in 2017 for the nomination of Stephanos Bibas to the Third Circuit but later voted against the nomination on the floor. For the purposes of this section, Senator Casey's vote against approving the Bibas nomination is not considered opposition to the nomination in the context of this report, that is, the use of blue slips by Senators to express their opposition to a nomination.

[66] Albert I. Moon Jr. received a committee hearing on November 22, 1985. His nomination was opposed at the time by both of Hawaii's Senators. After the hearing, the committee took no further action on the nomination and it was returned to the President.

[67] This includes only those nominations for which a home state Senator did not later withdraw his or her support or opposition.

Similarly, CRS has not identified any instances from 1956 through 2016 when a nominee was confirmed by the Senate after having received one negative blue slip while another blue slip was withheld (or when both blue slips were withheld).

Table 1. U.S. Circuit and District Court Nominees Considered by the Senate Judiciary Committee and Opposed by At Least One Home State Senator

(01/01/1956 to 12/31/2016)

Nomination Date	Nominee	State	Circuit or District	Final Action	Final Action Date
11/04/1981	John C. Shabaz	WI	W.WI	Confirmed (unanimous consent)	12/09/1981
02/19/1982	John L. Coffey	WI	7th	Confirmed (unanimous consent)	03/18/1982
12/17/1982	John P. Vukasin, Jr.	CA	N.CA	Confirmed (voice vote)	09/20/1983
10/16/1985	Albert I. Moon, Jr.	HI	HI	Returned to President	01/02/1986
12/19/1987	Vaughn R. Walker	CA	N.CA	Confirmed (unanimous consent)	11/22/1989

Source: CRS compilation of information from news items and other publicly available sources.

Note: For the purposes of **Table 1**, either the submission of a negative blue slip or the withholding of a blue slip is considered opposition to a circuit or district court nomination by a home state Senator. If a nominee was nominated more than once prior to final action on the nomination, the date he or she was first nominated is listed in **Table 1**.

2017-Present

Since the blue slip policy was changed in 2017, and as of November 15, 2025, there have been a total of 28 known instances of a circuit court nominee with at least one negative (or withheld) blue slip whose nomination was considered by the Senate Judiciary Committee.[68] Of the 28 nominees, 27 (96%) were confirmed by the Senate over the opposition of at least one home state Senator.[69]

As of November 15, 2025, these 27 nominees represent approximately 32% of all circuit court nominees confirmed by the Senate since the first instance during the 117th Congress when a nominee was confirmed without having received positive blue slips from both home state Senators.[70]

Of the 27 nominees confirmed during this period without the support of one or both home state Senators, 3 were confirmed during the 115th Congress (2017-2018), 14 during the 116th Congress

[68] This includes only those nominations for which a home state Senator did not later withdraw his or her support or opposition.

[69] The nominee who was not confirmed had his nomination withdrawn by President Trump after cloture was invoked on the nomination but prior to the final Senate vote on whether to approve it. See Burgess Everett, "Trump judicial nominee pulled over racially charged writings," *Politico*, July 19, 2018, https://www.politico.com/story/2018/07/19/bounds-senate-withdrawn-733414.

[70] This calculation excludes 9 nominees confirmed to the U.S. Court of Appeals for the District of Columbia or the U.S. Court of Appeals for the Federal Circuit (blue slips are not used for either court) and excludes 12 nominees confirmed during the 117th Congress prior to the confirmation of David R. Stras on January 3, 2018 (the first circuit court nominee confirmed under the new blue slip policy adopted during the 117th Congress).

(2019-2020), 2 during the 117th Congress (2021-2022), 3 during the 118th Congress (2023-2024), and, as of November 16, 2025, 5 during the 119th Congress.

By presidency, 17 were confirmed during the first Trump presidency, 5 during the Biden presidency, and, as of November 16, 2025, 5 during the second Trump presidency.

Overall, as of this writing, 15 states have had a circuit court judge confirmed without the support of one or both of the state's Senators. States with more than one nominee confirmed over the opposition of at least one home state Senator include California (five nominees), New Jersey (two), New York (three), Ohio (two), Pennsylvania (three), Tennessee (two), and Wisconsin (two).

During this period, all but 3 of the 11 regional circuit courts have had a judge confirmed to the court over the opposition of at least one home state Senator (the three exceptions are the Fourth, Fifth, and Tenth Circuits). The three circuits with the greatest number of circuit court nominees confirmed over the opposition of at least one home state Senator are the Ninth (eight nominees), Third (six), and Sixth (four).

For the period from the beginning of the 117th Congress to November 15, 2025, nominees whose nominations were opposed by at least one home state Senator are listed in **Table 2**. Nominees are listed in chronological order by nomination date.

Table 2. U.S. Circuit Court Nominees Considered by the Senate Judiciary Committee and Opposed by At Least One Home State Senator

(01/03/2017 to 11/15/2025)

Nomination Date	Nominee	State	Circuit	Final Action	Final Action Date
05/18/2017	David R. Stras	MN	8th	Confirmed (56-42)	01/03/2018
08/03/2017	Michael B. Brennan	WI	7th	Confirmed (49-46)	05/10/2018
09/07/2017	Ryan W. Bounds	OR	9th	Withdrawn by President	07/24/2018
04/12/2018	Paul B. Matey	NJ	3rd	Confirmed (54-45)	03/12/2019
04/12/2018	David J. Porter	PA	3rd	Confirmed (50-45)	10/11/2018
06/18/2018	Eric E. Murphy	OH	6th	Confirmed (52-46)	03/17/2019
06/18/2018	Chad A. Readler	OH	6th	Confirmed (52-47)	03/06/2019
07/19/2018	Eric D. Miller	WA	9th	Confirmed (53-46)	02/26/2019
11/13/2018	Joseph F. Bianco	NY	2nd	Confirmed (54-42)	05/08/2019
11/13/2018	Patrick J. Bumatay	CA	9th	Confirmed (53-40)	12/10/2019
11/13/2018	Daniel P. Collins	CA	9th	Confirmed (53-46)	05/21/2019
11/13/2018	Kenneth K. Lee	CA	9th	Confirmed (52-45)	05/15/2019
11/13/2018	Michael H. Park	NY	2nd	Confirmed (52-41)	05/09/2019
02/06/2019	Daniel A. Bress	CA	9th	Confirmed (53-45)	07/09/2019
05/13/2019	Peter J. Phipps	PA	3rd	Confirmed (56-40)	07/16/2019
09/09/2019	Steven J. Menashi	NY	2nd	Confirmed (51-41)	11/14/2019
10/15/2019	Lawrence VanDyke	NV	9th	Confirmed (51-44)	12/11/2019
11/21/2019	Andrew Brasher	AL	11th	Confirmed (52-43)	02/11/2020

11/18/2021	Andre B. Mathis	TN	6th	Confirmed (48-47)	09/08/2022
01/19/2022	Arianna J. Freeman	PA	3rd	Confirmed (50-47)	09/29/2022
09/06/2022	Anthony D. Johnstone	MT	9th	Confirmed (49-45)	05/01/2023
03/21/2024	Kevin G. Ritz	TN	6th	Confirmed (48-46)	09/16/2024
05/14/2024	Embry J. Kidd	FL	11th	Confirmed (49-45)	11/18/2024
06/16/2025	Emil J. Bove III	NJ	3rd	Confirmed (50-49)	07/29/2025
07/15/2025	Joshua D. Dunlap	ME	1st	Confirmed (52-46)	11/04/2025
07/15/2025	Eric C. Tung	CA	9th	Confirmed (52-45)	11/05/2025
09/02/2025	Jennifer L. Mascott	DE	3rd	Confirmed (50-47)	10/09/2025
09/15/2025	Rebecca L. Taibleson	WI	7th	Confirmed (52-46)	10/27/2025

Source: CRS compilation of information from news items and other publicly available sources.

Note: For the purposes of **Table 2**, either the submission of a negative blue slip or the withholding of a blue slip is considered opposition to a circuit court nomination by a home state Senator. If a nominee was nominated more than once prior to final action on the nomination, the date he or she was first nominated is listed in **Table 2**.

Author Information

Barry J. McMillion
Analyst in American National Government

Disclaimer