

Learning about Legislation #6 - the “Blue Slip” process

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Around the time of the Neil Gorsuch Supreme Court nomination there was a lot of the talk of the judicial nomination process in general. Some of the reporting at that time revolved around the Republican vote to end the filibuster for judicial appointments, a vote which not only paved the way for Gorsuch himself, but also will widen the spectrum of all future judicial appointments, since a judge no longer has to receive bipartisan approval to be seated in the federal judiciary. But the filibuster is not the only way the minority party in the Senate can have a say in judicial nominations.

When the president selects a nominee for a judicial seat, notice is sent to both of the Senators from the home state of the judge. Those Senators get a “blue slip” in which they will note whether their opinion of the judicial nominee is favorable or unfavorable. While the Senate Judiciary committee may *technically* move ahead with a nominee without receiving the approval of both home state Senators (there have been six rule changes relating to this in the past 100 years), they usually do not bring a nominee to the floor without two approving blue slips. And a Senator does not need to object to stall a nomination - some Senators have simply not returned a blue slip at all to delay the process.

This “blue slip” process is always complained about by the party in the majority, and leaned upon by the party in the minority. Right now there are any number of articles like a [July piece](#) in the Washington Times titled “Senate Democrats hold blue slips, delay Trump’s federal judicial nominees.” But if you go back a few years, you can find just as many pieces touting the Republican efforts to hold up President Obama’s nominations, like this 2013 Talking Points Memo [article](#) titled “How Republicans Can Still Block Obama’s Judges: Blue Slips.”

If this topic interests you and you would like to read a scholarly treatment of the history of the Blue Slip process, William and Mary Law school has a fascinating article [here](#) titled ‘The “Blue Slip”: Enforcing the Norms of the Judicial Confirmation Process’ by Professor Brannon P. Denning.