

## Learning about Legislation #59 - “Privileged” Legislation, part two

In 2019, MoCTrack featured a segment on [privileged legislation](#), an action that can be forced onto the congressional legislative schedule before regular business, because the Senate was dealing with Trump’s fake national emergency. This week House Minority Leader Kevin McCarthy used privilege to force a vote to [censure representative Maxine Waters](#) in a manner that was different from what we had outlined in our last explainer on this topic.

The authority on this topic is the *Congressional Research Service* white paper titled “[Privileged Business on the House Floor](#).” In that paper, author James V. Saturno explains what ‘privileged’ means in the context of legislation and why it matters:

Privileged business relates to the order or priority of business before the House and is defined in House rules and precedents as business that has precedence over the regular order of business. As a consequence, it may supersede or interrupt other matters that might be called up or pending before the House. Members have a right to call up privileged business for consideration on the floor when the House is not engaged in considering some other matter. Privileged business consists of various kinds of bills, resolutions, and other matters.

Clause 1 of House Rule XIV defines the daily order of business on the House floor. However, other House rules and precedents allow certain kinds of matters to interrupt this daily order of business. A matter that can interrupt the daily order of business is said to be privileged.

Not every issue that a Minority Leader brings up is afforded privilege, otherwise the Minority Leader would have basically the same powers as the Speaker of the House. In the *Congressional Research Service* white paper, “[The Role of the House Minority Leader: An Overview](#)” the author explains the type of topics that the Minority Leader might bring up that can be granted privileged status:

Under Rule IX, clause 2, a resolution “offered as a question of privilege by the Majority Leader or the Minority Leader ... shall have precedence of all other questions except motions to adjourn.” This rule further references the minority leader with respect to the division of time for debate of these resolutions. If offered by the majority or minority leader, a valid question of privilege—one that involves “the rights of the House collectively, its safety, dignity and the integrity of its proceedings”—receives immediate consideration by the House.

By that rationale, a censure resolution made related to the conduct of a House member is afforded privilege because it involves the “dignity” of the House. Mr. Saturno, author of the [first white paper cited](#), agrees with this interpretation and notes that “privileged business includes... resolutions concerning the official conduct of Members and staff.”