



Fact Sheet: Ending Gridlock in the Senate

Qualified nominees deserve an up-or-down vote, but unprecedented Republican abuse of the filibuster to block nominees for political reasons has stuck the Senate in gridlock. Republicans have used the filibuster as part of the same strategy of obstruction that creates unnecessary crises and led to the government shutdown. Unprecedented Republican use of filibusters to obstruct qualified nominees is designed to undermine the effectiveness of government and the courts, and to stop President Obama from putting a team in place to do the job the American people elected him to do. We need to allow qualified nominees an up-or-down vote so we can break through the gridlock in Congress and take on the important challenges facing the country.

Unprecedented Use of the Filibuster Against Executive Nominees

President Obama's executive nominees have already faced more filibusters than all of President Bush's nominees. According to the independent Congressional Research Service (CRS), from 1949 (when Senate rules were changed to provide for cloture on nominations) through 2008, only 20 cloture votes were forced on executive branch nominations. During the eight years of George W. Bush's presidency, there were only 15 executive nominations on which cloture was filed. Under President Obama, Republican obstruction has already forced cloture votes on 27 executive nominations and cloture petitions on 43 executive branch nominees through November 18th, 2013. [CRS, [6/26/13](#); CRS, [11/18/13](#)]

President Obama's executive nominees have already faced as many cloture votes as President Bush's and President Clinton's combined. President Obama's executive nominees have already faced 29 cloture votes, compared to seven for President Bush. [[LIS](#)]

Republicans blocked the first sitting member of Congress from confirmation to an Administration position since before the Civil War. Republicans filibustered President Obama's nominee to head the Federal Housing Finance Agency, Rep. Mel Watt. His was the first filibuster of a sitting member of Congress since before the Civil war. [Cloture Not Invoked (56 – 42), [11/31/13](#)]

Republicans forced a first-ever cloture vote on a nominee for Secretary of Defense. In February, Republicans filibustered President Obama's nomination of former Senator Chuck Hagel for Secretary of Defense, forcing an unprecedented cloture vote on a nominee for the post. [Cloture Invoked (71 – 27), [2/26/13](#); Confirmed (58 – 41), [2/26/13](#)]

Republicans walked out on the nomination process for the EPA Administrator. In May, all eight Republican members of the EPW committee refused to participate in a scheduled vote on Gina McCarthy, leaving her nomination in limbo and unable to advance to the Senate floor for an up-or-down vote. After Ms. McCarthy ultimately had her hearing, Senate Republicans gave her more than 1,100 questions for the record – more than any nominee received in the Bush Administration. [Reuters, [05/9/13](#); NY Times, [05/11/13](#)]

Republican Filibuster Abuse has Plunged the Senate into Gridlock

Through filibuster and delay Republicans have ground the confirmation process to a halt. During the 111th and 112th Congresses, President Obama's executive branch nominees waited 34% and 21% longer on average, respectively, for confirmation than President George W. Bush's nominees. [\[CRS\]](#)

Duration of Senate Consideration of Nominations to Non-Judicial Positions [CRS]	
	Average Number of Days from Nomination to Confirmation
President Bush's First Term	
107 th Congress	70.3
108 th Congress	130.6
President Obama's First Term	
111 th Congress	94.0
112 th Congress	158.2

Gridlock has contributed to top talent turning down public service. Even after nominees are reported out of committee, many of President Obama's nominees have faced endless delays from Republican holds on the floor. This factor is contributing to top talent turning down government positions. According to CRS data, nearly twice as many of President Obama's first-term executive branch nominees were withdrawn than President George W. Bush's first-term executive branch nominees. [\[CRS\]](#)

Distinct Nominations to Civilian Non-Judicial Positions Withdrawn [CRS]	
	Total Number of Nominations that Were Reported and Later Withdrawn
President Bush's First Term	
107 th Congress	1
108 th Congress	7
President Obama's First Term	
111 th Congress	6
112 th Congress	7

Unprecedented Obstruction of Judicial Nominees

Republicans have gone to unprecedented lengths to block President Obama's judicial nominees. In the face of Republican-created gridlock, fewer of President Obama's judicial nominees have been confirmed than under President Bush, and those that have been confirmed have faced much longer delays.

- Republicans have made unprecedented use of the filibuster to block and delay President Obama's judicial nominees. To date, 13 more of President Obama's judicial nominees have faced cloture than President Bush's did over the course of his full eight years in office. [\[CRS, 6/26/13\]](#); [CRS, 11/18/13\]](#)

- Those nominees that have been confirmed have faced significantly longer delays. During President Bush's first term the median Senate floor wait time was 35 days for circuit court nominees and 18 days for district court nominees. Those numbers have skyrocketed for President Obama's nominees to 138 days for circuit court nominees and 91 days for district nominees. [CRS, [5/2/13](#)]
- Not only are wait times longer, the delays are more common. During their first terms, 78% of President Obama's district court nominees waited more than 60 days on the Senate floor for confirmation, compared to just 15% for President Bush. While 60% of President Bush's circuit court nominees were confirmed within 30 days, 80% of President Obama's nominees have waited more than 90 days. [Information Compiled by CRS for the Senate Judiciary Committee]

Federal judicial vacancies have almost doubled since 2005. The number of judicial vacancies at this point in President Obama's term has nearly doubled from the same point in the Bush Administration, from 50 to 93. Of these vacancies, 38 are considered judicial emergencies. In addition, the number of vacant judgeship months has skyrocketed from 402 in 2008 to almost 720 in 2013. [ACS; Administrative Office of the U.S. Courts, [11/20/13](#); Administrative Office of the U.S. Courts, accessed on [11/20/13](#)]

The Gang of 14 agreed not to support judicial filibusters unless there were "extraordinary circumstances." However, in President Obama's first two and a half years in office, his judicial nominations have been subjected to various delays and obstruction, including a successful filibuster upheld by each of the remaining Republican members of the Gang of 14.

- Then Senator Graham said he believed that "ideological attacks are not an 'extraordinary circumstance.' To me, it would have to be a character problem, an ethics problem, some allegation about the qualifications of a person, not an ideological bent." [Washington Post, [7/04/05](#)]

Americans Recognize that Gridlock has Broken the Senate

Americans' confidence in Congress as an institution is down to 9%. This is the lowest confidence level ever recorded by Gallup in its 39-year history of asking the question. [Gallup, [11/12/13](#)]

Partisanship gridlock and bickering are the top reasons given by those who disapprove of Congress. Disapproval ratings for Congress are sky-high, with 78% of Americans critical of the job Congress is doing. Gridlock is the biggest reason, with nearly half of those polled citing gridlock (28%) or not getting anything done (21%) as the main reason for their disapproval. [Gallup, [6/12/13](#)]

The Framers envisioned the Senate's confirmation power as a relatively minor check on the President's authority. It exists only to prevent the President from selecting a nominee who "does not possess due qualifications for office." Assessing a candidate's "qualifications for office" does not give the Senate grounds for imposing an ideological litmus test on the President's nominees. [UC Davis Law Review, Vol. 36, p. 633, Winter 2003]