

# THE BLUE SLIP TRADITION

## WHAT IS A BLUE SLIP?

According to the Constitution, the President “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint” judges. The Senate plays a vital role in the selection of judges because Senators represent the states and their residents where judges would serve in lifetime positions if confirmed. Because each state is unique in many ways, the interests of the Senators and their understanding of what is important for the courts in their state should be part of the process.

To reinforce the constitutional requirement that the President seek the advice of the Senate, the blue slip was created more than 100 years ago. It is a physical blue piece of paper that Senators receive from and return to the Senate Judiciary Committee Chair to indicate if they support or oppose nominees to the federal courts in their state.

## What is the Longstanding Blue Slip Tradition?

In recent history, the Senate Judiciary Committee has had a tradition of proceeding with a confirmation hearing only for those nominees who receive both of their home-state Senators’ support. This is a tradition that the Chair of the Judiciary Committee, Senator Chuck Grassley (R-Iowa), has long supported, having defended it recently in a 2015 Des Moines Register op-ed, saying blue slips are “designed to encourage outstanding nominees and consensus between the White House and home-state senators.”

According to the Congressional Research Service, between 1979 and 2016, only three nominees are known to have been confirmed without support of both of their home-state Senators.

## Why are Blue Slips Important?

For more than 100 years, blue slips have been a crucial part of the advice and consent process. Majority and minority party Senators alike benefit from consulting with the White House on judicial nominees to provide input on the needs of their state, and this is also an important check on the Administration. Ignoring home-state Senators’ constitutional advice and consent responsibility diminishes the role of Senators and compromises the system of checks and balances.

## What is Happening to Blue Slips?

In December 2017 and January 2018, Senator Grassley scheduled hearings over objections of home-state Senators. Having changed the practice, Senator Grassley is now the final arbiter of how and when the blue slip is respected.

Multiple nominees named by President Trump are lacking home-state Senator blue slips due to his refusal to consult with them. For example, President Trump nominated [Ryan Bounds](#) to the U.S. Court of Appeals for the Ninth Circuit, located in Oregon, without prior consultation with Senators Merkley and Wyden (D-Or.), and the Senators have said they will not return their blue slips. He also nominated [Michael Brennan](#) to the U.S. Court of Appeals for the Seventh Circuit, located in Wisconsin, over objection by Senator Baldwin (D-Wis.) whose process was ignored. In another instance of ignoring a home-state Senator, the President nominated [David Porter](#) to the U.S. Court of Appeals for the Third Circuit, located in Pennsylvania, despite longstanding opposition from Senator Casey (D-Pa.), who will not be returning a blue slip. It is yet to be determined if Senator Grassley will respect these Senators’ blue slips.

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Throughout President Obama's tenure, the White House consulted with Republican Senators and still many Republican Senators withheld their blue slips. For the entire Obama Administration, regardless of which party held the Senate majority, Judiciary Committee Chairs never held hearings for nominees without the support of both home-state Senators.

The following 18 nominations ended because they did not have support from their home-state Senators:

**Mary Barzee Flores (S.D. Fla.)** was nominated on 2/16/2015, but never received a blue slip from Sen. Rubio.

**Dax Eric Lopez (N.D. Ga.)** was nominated on 7/30/2015, but never received blue slips from Sens. Chambliss or Perdue. Michael Brown was subsequently nominated by President Trump and was confirmed on 1/11/2018.

**Myra Selby (7th Cir., Ind.)** was nominated on 1/12/2016, but never received a blue slip from Sen. Coats. Amy Coney Barrett was subsequently nominated by President Trump and was confirmed on 10/31/2017.

**Abdul Kallon (11th Cir., Ala.)** was nominated on 2/11/2016, but never received blue slips from Sens. Sessions and Shelby. Kevin Newsom was subsequently nominated by President Trump and was confirmed on 8/1/2017.

**Donald Beatty (D.S.C.)** was nominated on 2/25/2016, but never received blue slip from Sens. Graham and Scott. A. Marvin Quattlebaum was subsequently nominated on 8/3/2017 by President Trump and was confirmed on 3/1/2018.

**Rebecca Haywood (3d Cir., Pa.)** was nominated on 3/15/2016, but never received a blue slip from Sen. Toomey. Stephanos Bibas was subsequently nominated on 6/19/2017 by President Trump and was confirmed 11/2/2017.

**Lisabeth Hughes (6th Cir., Ky.)** was nominated on 3/17/2016, but never received blue slips from Sens. McConnell and Paul. John Bush was subsequently nominated by President Trump and was confirmed on 7/20/2017.

**Anne Traum (D. Nev.)** was nominated on 4/28/2016, but never received a blue slip from Sen. Heller.

**Patricia Timmons Goodson (E.D.N.C.)** was nominated on 4/28/2016, but never received blue slips from Sens. Tillis and Burr. Thomas Farr was subsequently nominated on 7/13/2017 by President Trump.

**Steve Six (10th Cir., Kan.)** was nominated on 3/9/2011, and had a confirmation hearing but following the hearing, Senators withdrew their support.

**Victoria Nourse (7th Cir., Wis.)** was nominated on 7/14/2010, but never received a blue slip from Sen. Johnson. Don Schott was subsequently nominated but never confirmed. Michael Brennan was subsequently nominated on 8/3/2017 by President Trump.

**Alison Lee (D.S.C.)** was nominated on 6/26/2013, but never received blue slips from Sens. Graham and Scott. A. Marvin Quattlebaum was subsequently nominated on 8/3/2017 by President Trump and was confirmed on 3/1/2018.

**Jennifer May Parker (E.D.N.C.)** was nominated on 6/20/2013, but never received a blue slip from Sen. Burr. Thomas Farr was subsequently nominated on 7/13/2017 by President Trump.

**William Thomas (S.D. Fla.)** was nominated on 11/14/2012 and re-nominated on 1/3/2013, but never received a blue slip from Sen. Rubio.

**Elissa Cadish (D. Nev.)** was nominated on 2/16/2012, but never received a blue slip from Sen. Heller.

**Arvo Mikkanen (N.D. Okla.)** was nominated on 2/2/2011, but never received blue slips from Sens. Inhofe and Coburn.

**Natasha Silas (N.D. Ga.)** was nominated on 1/26/2011, but never received blue slips from Sens. Chambliss or Isakson.

**Louis Butler (W.D. Wis.)** was nominated on 9/30/2009 and re-nominated on 12/20/2010, but never received a blue slip from Sen. Johnson.

To learn more, visit [judicialnominations.org](http://judicialnominations.org).