

Report of the Senate Parliamentarian June 2016

Background

Following a request from the Senate Parliamentarian, the Executive Committee charged the University Structure and Governance Committee (USGC) as follows:

Charge S-1407: Disparities between Robert's Rules of Order (Parliamentary Procedure) and Senate Practices: Consider the proposal submitted by Senator and Senate Parliamentarian Peter Gillett regarding disparities between Robert's Rules of Order and Senate practices, and whether language should be added to the Senate Handbook to formalize exceptions in cases where Senate practice should take precedence over Robert's Rules. Respond to Senate Executive Committee by February 2015.

In March 2016, USGC reported that it had not made progress on this matter, and asked to be discharged, recommending instead that the Parliamentarian prepare recommendations on behalf of the Executive Committee.

The conclusion of a review by the Parliamentarian is that there is little need to establish special rules of order for the University Senate, and that most of the disparities can best be addressed by providing clear guidance on what correct procedure should be, in the context of providing broader guidance for senators on how senate business is generally conducted.

These guidelines, which are intended to be helpful to all senators, but which may perhaps be most useful to newly elected senators, are set out in a proposed new Appendix to be attached to the Handbook of the Rutgers University Senate, and the resolution below specifies the steps required to implement them.

Be it Resolved,

That Appendix B of the Handbook of the Rutgers University Senate be renamed, including in the Table of Contents, "Appendix C: Senate Membership Entitlements" and

That a new appendix be added immediately after Appendix A, and inserted immediately after Appendix A in the Table of Contents, entitled "Appendix B: Motions, Reports, Resolutions, and Recommendations" as follows:

Appendix B: Motions, Reports, Resolutions, and Recommendations

The current edition of Roberts Rules runs to over 700 pages, and these guidelines cannot purport to be even a summary. They address the working practices of the Senate, and clarify some areas where it has not always been clear how our practices correspond to Robert's Rules.

A. The Agenda and Minutes of Senate Meetings

1. Senate meetings follow a pre-determined General Order of Business laid out in the Handbook (Article III Section B).
2. The specific business to be brought before the Senate is set out in an agenda circulated by the executive secretary following the decisions of the Executive Committee as to matters to be docketed.
3. A simple majority vote is then needed at the beginning of each meeting to adopt the circulated agenda, so the chair calls for a motion to adopt the agenda.
4. Additional items ("New Business") may only be added in exceptional circumstances laid out in the Handbook (Article III Section C.4) and require a two-thirds vote to be added to the agenda.
5. Minutes of the previous meeting are circulated with the agenda for each meeting, and formal reading of them is thus omitted. Although a motion to approve the minutes is not formally required—all that is needed is that they be corrected until no-one objects to them as a record of the previous meeting—such a motion is still in order, and is usually the most expeditious way of determining that there is no need for correction. Hence the chair generally calls for a motion to adopt the previous minutes.

B. Motions and Debate in the Senate

1. Business is brought before the Senate by the *motion* of a senator. A motion is a formal proposal that the Senate take certain action. The basic form of a motion is known as a *main motion*. For the most part, these guidelines address main motions and *amendments* to them. Some motions, however, are short, uncomplicated, and usually handled relatively informally; instances include motions approving the agenda for a Senate meeting, or motions to adjourn.
2. Generally a senator can make a motion only after obtaining the floor—that is, proceeding to one of the microphones provided and being recognized by the chair. Senators should then announce their name and the constituency they represent.
3. In some cases, however, the chair may request that a specific motion be made (e.g., by asking "Is there a motion to adjourn?" and a call of "So moved" from a seated senator is accepted in lieu of a formal motion.
4. Motions made by senators are subject to debate and/or vote only if seconded by another senator. This applies also to motions solicited by the chair; if a second is not immediately offered, the chair may ask: "Is there a second?" However, motions

submitted by senators on behalf of committees at the conclusion of committee reports are presumed already to have the support of at least a majority of the committee's members, and no further second is required.

5. For most main motions, the procedure is:
 - a. A senator **makes the motion**.
 - b. Another senator **seconds the motion**.
 - c. The chair **states the question** on the motion (e.g. by stating: "It is moved and seconded to adopt the following resolution . . ."), at which point the motion is *pending*, that is, on the floor.
 - Most of the motions coming before the Senate arise from reports of committees, and are often in the form of complex resolutions or recommendations. In this case, the chair does not usually repeat the wording of the motion, but refers to it indirectly e.g. by stating: "It is moved and seconded to adopt the resolutions set out on page x of the committee's report." Senators who are unclear as to the exact question to be debated or voted upon have the right to ask the chair to state the motion explicitly—which may be helpful if the motion originally circulated has since been amended.
 - Prior to this point, the senator making the motion has the right to modify it or withdraw it entirely; once the chair has stated the question, the motion becomes the property of the Senate, and changes or withdrawal require the Senate's consent.
 - d. The chair recognizes senators at the microphones who wish to speak on the motion, after allowing the maker of the motion the opportunity to speak first. If no-one has approached the microphones, the chair may ask: "Is there any debate?"
 - Each senator has the right to speak twice on the same question, but may not speak a second time while other senators are waiting to speak for the first time, and may not speak more than twice. (*Stricter rules may apply to question and answer sessions following administrative or similar reports.*)
 - The chair may not close debate while there are senators wishing to speak who have not exhausted their right to do so, unless a senator having been recognized at the microphone by the chair makes a motion to *call the question* (which requires a second, and a two-thirds vote to be adopted).
 - e. When the debate appears to have closed (which the chair may verify by asking: "Is there any further debate?"), the chair **puts the question** to a vote, after clarifying again the exact question to be decided.
 - f. Finally, the chair **announces the results** of the vote. Most main motions require a majority vote (i.e. more than half of those voting) in the affirmative in order to be adopted. Certain other motions (e.g., to add an additional item of new business to the agenda) require a two-thirds vote.

6. During the course of debate, senators have the right to propose amendments to the pending motion.
 - a. In order to do so, senators must await their turn to be recognized at the microphone by the chair, and then move their proposed amendment e.g. by stating: "I move to amend the motion/resolution/recommendation as follows . . .
 - b. It is best if any substantial amendments are passed to the executive secretary in writing.
 - c. Such amendments will be debated by the Senate if and only if there is a second, and the mover of such an amendment should not offer no speech in support of it until the chair has ascertained that it is seconded.
 - d. If the amendment is seconded, debate on the main motion is suspended, and debate on the amendment proceeds along the lines outlined above.
 - e. An amendment is a new motion, and senators have the right to speak up to twice on each amendment even if they have already exhausted their right to speak on the main motion.
 - f. After a vote is taken on the amendment, debate on the main motion is simply resumed if the amendment fails. If the amendment passes, the Senate proceeds to debate the main motion in its now amended form.
 - g. Amendments themselves are motions that may be amended. Debate on amendments to amendments is conducted in the normal way, and depending on the outcome of the vote, discussion of the original amendment then proceeds in its amended or original form.
 - h. Amendments to amendments may not be amended. If it becomes apparent that they are deficient in some way, they must be defeated, after which an improved version may be offered in their stead.
 - i. Senators sometimes offer "friendly amendments." Usually this is intended to indicate that the mover is sympathetic with the purposes of the motion and wishes to rectify some minor deficiency expeditiously, presumably to the satisfaction of the maker of the motion. Regardless of such intentions, a committee (if its members present concur) or senator offering a motion is free to amend it only until the point at which the motion is stated by the chair, after which the senate must vote on whether or not to amend the pending motion, as described above.
 - j. Committee reports are often very lengthy, and sometimes contain background information, descriptions of current and past situations, work performed by the committee and others, reasons why recommendations are being made or resolutions offered, and other material. The Senate debates whatever motion the chair has stated, and not any other parts of the report. It is this motion (which may be a single sentence, multiple pages of detailed recommendations and resolutions, or, very infrequently, the whole report) that may be amended by the senate. Other parts of the report may if necessary be corrected informally by the committee before the question is

stated by the chair, or even after the debate is over; they are part of the committee's report to the Senate, but they do not form part of the proposed action the Senate is debating. Observing this distinction should enable the Senate to avoid the mechanisms for formal amendments where they are unnecessary. It is still desirable to correct deficiencies in any parts of a report that will be publicly associated with the Senate.

- k. Amendments are out of order if they:
 - are not germane to the question
 - make adoption of the amended motion equivalent to rejecting the original motion
 - would cause the main motion itself to be out of order
 - propose to amend the form of an amendment under consideration (e.g., from a deletion to an insertion)
 - would change one parliamentary motion into another
 - would strike out enacting words such as "Resolved."
7. Sometimes senators speaking on a motion may seek additional information or clarification that may best be provided by the committee member presenting a report. The chair may allow a senator who has the floor to ask for information, and may allow the presenter of a report—who may well still be conveniently positioned at a microphone, but who no longer has the floor—to reply. This is often a practical way of proceeding. Nevertheless, it is still the responsibility of the chair to preside over the debate and to assign the floor, not the task of the presenter of a report or the maker of a motion. Questions and replies should be addressed to the chair: senators do not address each other directly during the course of debate.

C. Reports of Committees

1. Most of the work preparing for the Senate to exercise its legislative or advisory functions is conducted by committees following charges issued to them by the Executive Committee. Committees submit reports to the Executive Committee in responses to the charges they receive, and the Executive Committee docket them for presentation at subsequent Senate meetings.
2. Sometimes assemblies request that committees investigate issues and submit informative reports to the assembly, following which nothing need be done. For the Senate, this is a rare pattern. Most of our committee reports result in proposed action by the Senate, whether it be to offer advice to the Board of Governors or the President, or to exercise legislative authority in some way.
3. Consequently, most of our committee reports conclude with motions to be adopted by the Senate, usually in the form of resolutions or recommendations.
4. Effective shared governance is not well served by uninformed debate on the floor of the Senate, which can arise when senators lack the opportunity that committee members have to consider matters fully and carefully, and are only able at the last

moment to skim reports potentially representing many months' work by a committee. Best practice therefore requires:

- a. That committee reports be submitted on a timely basis so that senators have the opportunity to study them in detail before debating motions arising from them on the floor of the Senate, and voting on them (See Handbook Article III, Section C.2)
- b. That senators schedule time to study committee reports properly prior to Senate meetings, so as to avoid finding themselves in the course of senate debate responding to important matters without the benefit of mature consideration.

In practice, busy schedules often mean that this is more of a counsel of perfection than a reality. The quality of our shared governance requires that these always be our goals.

5. The Senate may respond to committee reports in a variety of ways
 - a. The Senate never votes to **receive a report**. As Robert's Rules make clear, once a report has already been presented, a "Yes" vote would be redundant and a "No" vote meaningless.
 - b. The Senate may vote to **adopt a report**. Robert's generally advises against this, and the Senate rarely does this. It means that the report of the committee literally becomes the report of the Senate—the Senate is adopting every word, every comma. A motion to adopt a report may be amended so as to adopt the report in a modified form. If this happens, it is essential that the published form of any such report clearly indicates what the committee originally reported, and in what a modified form it is adopted by the Senate. It is never appropriate for the Senate to attempt to vote to modify what a committee reports, or to appear to make a committee report say something other than what it did.
 - c. The Senate may vote to **adopt recommendations** proposed by a committee in a report: this means that the recommendations become those of the Senate as whole, but the Senate expresses no view on the committee's work, reasons, arguments, etc.
 - d. The Senate may vote to **adopt resolutions** proposed by a committee in a report. Again, the Senate expresses no view on the committee's work, reasons, arguments, etc. Section D below expands on the related issues of adopting recommendations or resolutions.
 - e. Another device the Senate has used on many occasions is for a committee report to include recommendations made **by** the committee **to** the Senate, and for the report to conclude with a motion resolving that the Senate **endorses these recommendations**. How does the Senate's endorsing a committee's recommendations differ from the Senate's making the same recommendations itself?

- It is arguably weaker and less direct. The Senate is not itself recommending anything; it is merely supporting recommendations made by the committee.
 - Sometimes, however, this form makes reports easier to draft, because no distinction need be made between what the committee has done, discovered, and concluded for itself, and what it is simply drafting as proposed recommendations for the Senate as a whole to adopt.
 - The main difference is this: when the Senate debates a motion to make certain recommendations, those recommendations themselves are typically part of the motion, and subject to amendment by senators in the course of debate. When the Senate debates a motion simply to endorse recommendations made by a committee, the recommendations themselves are not part of the motion and are not subject to amendment. The motion might be amended—for example, to say that the Senate strongly endorses the recommendations and urges swift implementation—but the Senate cannot change what the committee recommended. For this reason, even if it makes the drafting a little more complex, it is often preferable for a committee report to propose recommendations to be adopted directly by the Senate.
 - However, as a converse to this, it is often desirable for the Senate to endorse recommendations made in reports by outside bodies, such as a Faculty Council, RUSA, etc. The Senate could not in any case change those recommendations (though it might choose itself to recommend something different) but it can be powerful for the Senate to endorse them and to urge their implementation.
- f. The Senate may **take no action**. Some reports are for information purposes only and no action was ever contemplated. Other reports may have examined issues and discussed possible actions, but concluded that no action should be taken. A motion to take no action is never appropriate (remember: a motion is a formal proposal that the Senate take certain action). A motion to take action that the committee report recommended against would comply with the letter of Robert's Rules, but would be tiresome. A vote defeating such a motion would, of course, result in no action. But it is easier by far if the committee report offers no motion, and no vote is taken.
- g. There are times, however, when it is desirable that there be a publicly visible record that the Senate has considered an important issue and concluded that no action ought to be taken. A simple device for achieving this is for the committee to recommend (to the Senate) that no action be taken, and for the report to conclude with a resolution that the Senate endorses the committee's recommendation. The Senate is thus not resolving to do

nothing, it is resolving to agree with the committee's conclusions and recommendations.

6. The purpose of considering a variety of ways in which the Senate may respond to a committee report is not to make the process seem more complicated than it is. The goal is to make senators aware that it is important to draft reports so that the most appropriate response from the Senate can be efficiently achieved.

D. Recommendations and Resolutions

1. Committee reports should be drafted so that any proposed actions by the Senate are stated at the end as motions to be brought to the floor, usually in the form of recommendations or resolutions.
2. In drafting recommendations and resolutions for possible adoption by the Senate, our goal should always be to say as simply, directly, and clearly as possible exactly what it is we are proposing should be done, and who we intend should do it.
3. A motion is a formal proposal that the Senate take certain action. A *resolution* is just a particular format used for long or complicated motions. Hence it is never appropriate for the Senate to resolve that some other person or body take action. The Senate is only able to resolve that the Senate or its officers or members take action. When the desired action is to be taken by someone else, the most appropriate form of motion is a *recommendation*. It may be appropriate for the Senate to recommend that the President or the Board of Governors take certain action; it will not usually be appropriate to resolve that they will. That is for them to do.
4. The difference between the Senate making recommendations, and the Senate endorsing recommendations made by a committee, was discussed above. When the Senate is to be asked to make recommendations directly, reports sometimes conclude along the lines:

Whereas . . . ; and

Whereas . . . ; and

Whereas . . .

Be it Resolved

That the University Senate recommends:

1. . . .

2. . . .

3. . . .

This achieves the desired result, but is unnecessarily indirect. The resolution, if adopted, leads to a decision to make the three recommendations—which is not quite the same as actually making them. There is no requirement that the motions raised by committee reports be cast in the form of resolutions. A motion in the form of recommendations would be more direct in this case:

The University Senate recommends:

1. . . .
 2. . . .
 3. . . .
5. Note that the example of recommendations given above also omitted any “whereas” clauses. Although it may be desirable and useful to set out in the body of a committee report any reasons leading to the recommendations to be made, it is not necessary—and often undesirable—to include those reasons in the motion to be debated and voted upon. It is sufficient for the Senate to vote on the recommendations it wishes to make; it is not generally necessary to vote on the reasons why the Senate wishes to make them. Leaving them out allows Senators who support the recommendations for reasons different from the committee’s to vote in favor of them with a clear conscience and without difficulty.
 6. The same issue arises in relation to motions cast as resolutions. We have often used multiple “whereas” clauses in the past, and they are not now forbidden, but it should be borne in mind that they are never required either. A resolution may certainly begin: “Be it Resolved . . .” As Robert’s Rules put it: “neither rule nor custom requires a resolution to have a preamble, and one should not be used merely for the sake of form.”
 - a. “Whereas” clauses may be used when it is desired to draw particular attention to difficulties, shortcomings, or other issues that have occasioned the resolution’s being made, or the benefits and remedies it is intended to bring.
 - b. In this case, the preamble should contain no more clauses than are strictly necessary.
 - c. In a few special cases, the main point of a resolution is not the action it proposes be taken, but the attention it draws to the background and reasons. A case in point is a recent resolution to express appreciation and gratitude for the service of the retiring chair of the Senate. Appreciation and gratitude could have been expressed perfectly well without such a complex resolution: the point was to create a public record, via the whereas clauses, of the chair’s many accomplishments and contributions meriting such appreciation.
 7. Many committee reports result in multiple resolutions or recommendations, or in single resolutions or recommendations having multiple parts. Whenever possible, the Senate debates and votes on all such resolutions and

- recommendations together. When certain resolutions or recommendations are meaningful only if earlier ones are adopted, the chair may elect to state the questions on them individually or in logical groups. In this regard, committee chairs should be attentive to the difference in what can be done with multiple motions (which can be grouped as seems best), or a single motion having multiple parts (which it is most convenient to consider as a whole).
- a. If the chair does not initially follow such a course of action and the Senate wishes to do so, separate consideration of a series of motions arising from a committee report may be ordered by adopting a motion to *consider the motions seriatim* (one after another). Such a motion may be made by any Senator having the floor. It requires a second, is not debatable but is amendable, and requires a majority vote in the affirmative in order to be adopted.
 - b. In the case of a complex single motion with multiple parts, the chair has no choice but to state the whole question. However, a motion to *divide the question* may be made by any Senator having the floor. It requires a second, is not debatable but is amendable, and requires a majority vote in the affirmative in order to be adopted. The motion must clearly state how the question is to be divided. A motion cannot be divided unless each part represents a proper question for the assembly to act upon if none of the other parts is adopted, and unless the effect of adopting all of the parts will be exactly the same as adoption of the original motion. A motion cannot be divided if its parts are not easily separated—the division cannot require a rewriting of the resolution beyond an essentially mechanical separation of it into the required parts.
8. It is the long-standing custom of the Senate that recommendations and resolutions proposing changes to the Handbook of the Rutgers University Senate or to the Senate's enabling regulations incorporated into University Policy are presented on the floor of the Senate twice. They are introduced at a Senate meeting where they are explained and discussed but not voted upon. They are then presented a second time in a later Senate meeting at which they are put to a vote.