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Electing the Speaker of the House of Representatives: Frequently Asked Questions

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October 23, 2015

Congressional Research Service

7-5700

www.crs.gov

R44243

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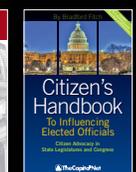


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Summary

On September 25, 2015, the current Speaker of the House of Representatives, John Boehner, announced his intention to resign the post at the end of October. This report briefly poses and answers several “frequently asked questions” in relation to the floor proceedings used to elect a Speaker of the House. Current practice for electing a Speaker, either at the start of a Congress or in the event of a vacancy (e.g., death or resignation), is by roll-call vote, during which Members state aloud the name of their preferred candidate. Members may vote for any individual. If no candidate receives a majority of votes cast, balloting continues; in subsequent ballots, Members may still vote for any individual.

For a more detailed treatment of these election procedures, as well as data on elections of the Speaker in each Congress since 1913, see CRS Report RL30857, *Speakers of the House: Elections, 1913-2015*, by Richard S. Beth and Valerie Heitshusen. For a list of all Speakers of the House and their periods of service, as well as additional discussion of selection procedures, see CRS Report 97-780, *The Speaker of the House: House Officer, Party Leader, and Representative*, by Valerie Heitshusen.

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Introduction

On September 25, 2015, the Speaker of the House of Representatives, John Boehner, announced his intention to resign the post at the end of October.¹ This report briefly poses and answers several frequently asked questions in relation to the floor proceedings used to elect a Speaker of the House. For a more detailed treatment of these election procedures, as well as data on elections of the Speaker in each Congress since 1913, see CRS Report RL30857, *Speakers of the House: Elections, 1913-2015*, by Richard S. Beth and Valerie Heitshusen. For a list of all Speakers of the House and their periods of service, as well as additional discussion of selection procedures, see CRS Report 97-780, *The Speaker of the House: House Officer, Party Leader, and Representative*, by Valerie Heitshusen.

When Does an Election for Speaker Occur?

Upon convening at the start of a new Congress, the House elects a Speaker by roll call vote.² If a Speaker dies, resigns, or is removed during a Congress, the House elects a new Speaker at that time.³ In the most recent cases of an election held during the middle of a Congress, the practice has been to elect a new Speaker using the same process as at the start of a Congress.⁴

Who Presides over the Proceedings to Elect a New Speaker?

When a Speaker is selected at the start of a new Congress, the Clerk of the House presides; the Clerk may also preside over an election to replace a Speaker who had died during a Congress.⁵ A sitting Speaker could preside over the election of his or her successor.⁶ However, under clause 8(b)(3) of House Rule I (adopted in the 108th Congress), the Speaker must provide the Clerk a list of Members designated to act as Speaker pro tempore in the case of a vacancy in the office. It is

¹ Since that time, Boehner has announced his intention to serve in the position until the election of his successor. The House takes no action to accept the resignation of a Speaker; see Wm. Holmes Brown, Charles W. Johnson, and John V. Sullivan, *House Practice: A Guide to the Rules, Precedents and Procedures of the House* (Washington, DC: GPO, 2011), ch. 34, §2.

² This occurs before Members are sworn in. The use of the term *Member* in this report refers, in these cases, to a Member-elect.

³ On two occasions, a Speaker has resigned the position (most recently Jim Wright in 1989). On four occasions (all in the 19th century), the Speaker resigned from the House. Five Speakers died while in office (most recently Sam Rayburn in 1962). No Speaker has been removed from the office; a vote on a resolution in 1910 declaring a vacancy in the Speaker's office failed, and the sitting Speaker, Joseph Cannon, remained in the position until the end of the Congress. It was during these 1910 proceedings that the House established the precedent that resolutions declaring the office of the Speaker vacant "constitute a matter of high constitutional privilege." See U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives, One Hundred Fourteenth Congress* (hereinafter *House Manual*), H.Doc. 113-181, 113th Cong., 2nd sess., [compiled by] Thomas J. Wickham, Parliamentarian (Washington: GPO, 2015), §28; for a more detailed discussion, see William McKay and Charles W. Johnson, *Parliament and Congress: Representation and Scrutiny in the Twenty-First Century* (Oxford University Press, 2010), pp.46-47.

⁴ The House could choose to select a Speaker by another method. For example, William B. Bankhead was selected pursuant to adoption of H.Res. 543 (74th Congress) in 1936 after the death of Joseph W. Byrns; Sam Rayburn was elected pursuant to adoption of H.Res. 602 (76th Congress) in 1940 upon the death of William B. Bankhead. Each resolution was adopted by voice vote.

⁵ For instance, the House Clerk presided over the election to replace Rayburn in 1962.

⁶ Jim Wright had announced his resignation "on the election of my successor;" he presided over the election of his successor, Thomas Foley.

possible that a Member on this list could preside over an election in the case of a vacancy during a Congress.⁷

How Are the Party Nominees Selected?

In current practice, each House party caucus selects, prior to the floor vote, a candidate whose name is placed in nomination immediately before the vote.⁸

Are Nominations Formally Made on the Floor?

Typically, the election commences with a Member from each party caucus placing in nomination the party's candidate for Speaker. Other names may also be placed in nomination on the floor.⁹

In What Form Do Members Vote?

Since 1839, the election has been by roll-call vote, a quorum being present. Votes are cast *viva voce*, meaning that each voting Member states aloud the surname of the candidate whom he or she favors for Speaker.¹⁰ The presiding officer appoints several Members as tellers, who tally the votes.

For Whom May a Member Vote?

Members are not required to vote for one of the candidates nominated by each major party (or even for some other candidate formally nominated on the floor); they may vote for any individual.¹¹ Although the U.S. Constitution does not require the Speaker to be a Member of the House, all Speakers have been Members. However, some individuals not serving in the House have received votes.¹²

How Many Votes Must a Candidate Receive to Be Elected Speaker?

The long-standing practice of the House is that electing a Speaker requires a numerical majority of the votes cast by Members “for a person by name.”¹³ This does not mean that an individual must necessarily receive a majority of the full membership of the House (currently 218), because some Members may not be present to vote (or may instead vote “present”).¹⁴

⁷ See *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. H35, for notification in the 114th Congress by the Speaker that such a list was provided to the Clerk, pursuant to the rule. These lists are not made public.

⁸ Each party has its own internal processes for selecting its nominee. See *Rules of the House Republican Conference for the 114th Congress* (specifically conference Rules 2(f), 3, and 4), available at <http://www.gop.gov/114th-rules/>; and *Rules of the Democratic Caucus* (specifically, caucus Rules 2 and 4), available from the author on request.

⁹ Prior to 1945, when the two-party system was still subject to fluctuation and instability, it was common for other Members' names to be put in nomination. Starting in 1945, however, no floor nominations (other than one from each major party) were made until 2015 (114th Congress), when the names of three other majority House Members were placed in nomination.

¹⁰ Prior to 1839, Speakers were regularly elected by ballot. *House Manual*, §27.

¹¹ Notably, in 2001, one Member voted for the nominee of the other major party rather than for the nominee of his own party. It appears that such a vote had not previously occurred in over half a century.

¹² Individuals not serving in the House received votes in 1997, 2013, and 2015.

¹³ *House Practice*, ch. 34, §3; *House Manual*, §27.

¹⁴ In the period since the House first reached its current size of 435 Members (in 1913), five Speakers have been elected with fewer than 218 votes.

What Happens If No Member Receives Sufficient Votes?

If no candidate receives the requisite majority of votes cast, the roll call is repeated. No restrictions are imposed on who may receive votes in the subsequent ballots. (For instance, no candidate is eliminated based on receiving the fewest votes in the floor election, and a Member's vote is not limited to individuals who received votes in previous ballots.¹⁵)

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Acknowledgments

Richard S. Beth and Christopher M. Davis provided helpful comments.

¹⁵ Because of the predominance of the two established national parties in the modern era, not since 1923 (at the start of the 68th Congress) has the House failed to elect a Speaker on the first roll-call vote. In that case, a Speaker was elected on the ninth ballot.

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