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Union Calendar No. 541

112TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
112–739

SUMMARY OF ACTIVITIES
ONE HUNDRED TWELFTH CONGRESS

A REPORT

OF THE

COMMITTEE ON ETHICS
HOUSE OF REPRESENTATIVES

DECEMBER 31, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF SUBMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ETHICS,
Washington, DC, December 31, 2012.

Hon. KAREN L. HAAS,
Clerk, House of Representatives,
Washington, DC.

DEAR MS. HAAS: Pursuant to clause 1(d) of Rule XI of the Rules of the House of Representatives, we hereby submit to the House a report on the Activities of the Committee on Ethics for the 112th Congress.

Sincerely,

JO BONNER,
Chairman.
LINDA T. SÁNCHEZ,
Ranking Member.

Union Calendar No. 541

112TH CONGRESS, 2d Session } HOUSE OF REPRESENTATIVES { REPORT 112–739

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Mr. BONNER and Ms. SÁNCHEZ, from the Committee on Ethics, submitted the following

R E P O R T

The Committee on Ethics is tasked with interpreting and enforcing the House's ethics rules. The Committee has sole jurisdiction over the interpretation of the Code of Official Conduct, which governs the acts of House Members, officers, and employees. The Committee is the only standing House committee with equal numbers of Democratic and Republican members. The operative staff of the Committee is required by rule to be professional and nonpartisan.

In the 112th Congress the Committee was led by Chairman Jo Bonner and Ranking Member Linda T. Sánchez. The Members appointed at the beginning of the Congress were Michael T. McCaul, John A. Yarmuth, K. Michael Conaway, Donna F. Edwards, Charles W. Dent, Mazie Hirono, Gregg Harper and Pedro R. Pierluisi. In July 2011, Representative Joe Courtney replaced Representative Hirono.

The Committee's core responsibilities include providing training, advice, and education to House Members, officers, and employees; reviewing and approving requests to accept privately-sponsored travel related to official duties; reviewing and certifying all financial disclosure reports Members, candidates and senior staff are required to file; and investigating and adjudicating allegations of misconduct and violations of rules, laws, or other standards of conduct.

The Committee met 51 times in the 112th Congress, including 16 times in 2011, and 35 times in 2012. Every Committee vote in the 112th Congress was unanimous.

Within the scope of its training, advice and education, travel, and financial disclosure responsibilities, the Committee:

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- Issued more than 900 formal advisory opinions regarding ethics rules;
- Fielded more than 40,000 informal telephone calls, emails, and in-person requests for guidance on ethics issues;
- Released 23 advisory memoranda on various ethics topics to the House;
- Provided training to approximately 10,000 House Members, officers, and employees each year, and reviewed their certifications for satisfying the House's mandatory training requirements; and
- Received more than 6,000 Financial Disclosure Statements and amendments filed by House Members, officers, senior staff, and House candidates.
- Received approximately 500 Periodic Transaction Reports filed by House Members, officers, and senior staff, containing thousands of transactions.

In addition, the Committee actively investigates allegations against House Members, officers, and employees, using a mix of informal and formal investigative techniques to determine the validity of factual allegations, explore potential rules violations, and recommend appropriate sanctions and corrective actions. The Committee's options for investigating a matter include fact-gathering under Committee Rule 18(a), which may or may not be publicly disclosed, the empanelment of investigative subcommittees, and the review of transmittals from the Office of Congressional Ethics (OCE). The fact that the Committee is investigating a particular matter or that a House Member, officer, or employee is referenced in an investigative matter should not be construed as a finding or suggestion that the Member, officer, or employee has committed any violation of the rules, law, or standards of conduct.

During the 112th Congress, within the scope of its investigative responsibilities, the Committee:

- Commenced or continued investigative fact-gathering regarding 96 separate investigative matters;
- Empanelled 2 new investigative subcommittees, in the matters of Representative Laura Richardson and Representative Shelley Berkley;
- Re-empanelled the investigative subcommittee in matters related to allegations against Former Representative Eric Massa;
- Held 32 investigative subcommittee meetings; Filed 14 reports with the House totaling nearly 1,700 pages regarding various investigative matters;
- Publicly addressed 27 matters, described in Section V of this report;
- Resolved 42 additional matters;
- Conducted 102 voluntary witness interviews;
- Deposed 4 witnesses pursuant to subpoena;
- Authorized the issuance of 9 subpoenas; and
- Reviewed nearly 500,000 pages of documents.

All votes taken in the investigative subcommittees were unanimous. In addition to the publicly-disclosed matters discussed in this report, there were a total of 34 investigative matters pending before the Committee as of December 31, 2012.

I. INTRODUCTION

House Rule XI, clause 1(d), requires each committee to submit to the House, not later than July 1 and December 31 of each year, a report on the activities of that committee under that rule and House Rule X during the Congress ending on January 3 of that year. This report summarizes the activities of the Committee on Ethics for the semiannual period ending December 31, 2012, as well as for the entirety of the 112th Congress.

The jurisdiction of the Committee on Ethics ("Committee") is defined in clauses 1(g) and 11(g)(4) of House Rule X, clause 3 of House Rule XI, and clause 5(h) of House Rule XXV. The text of those provisions is as follows:

Rule X, clause 1(g)

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4.

* * *

(g) Committee on Ethics.

THE CODE OF OFFICIAL CONDUCT

Rule X, clause 11(g)(4)

(4) The Committee on Ethics shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, Delegate, Resident Commissioner, officer, or employee of the House in violation of subparagraph (3) and report to the House concerning any allegation that it finds to be substantiated.

Rule XI, clause 3

Committee on Ethics

3. (a) The Committee on Ethics has the following functions:

(1) The committee may recommend to the House from time to time such administrative actions as it may consider appropriate to establish or enforce standards of official conduct for Members, Delegates, the Resident Commissioner, officers, and employees of the House. A letter of reproval or other administrative action of the committee pursuant to an investigation under subparagraph (2) shall only be issued or implemented as a part of a report required by such subparagraph.

(2) The committee may investigate, subject to paragraph (b), an alleged violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House of the Code of Official Conduct or of a law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, Delegate, Resident Commissioner, officer, or employee in the performance of the duties or the discharge of the responsibilities of such individual. After notice and hearing (unless the right to a hearing is waived by the Member, Delegate, Resident Commissioner, officer, or employee), the committee shall report to the House its findings of fact and recommendations, if any, for the final disposition of any such investigation and such action as the committee may consider appropriate in the circumstances.

(3) The committee may report to the appropriate Federal or State authorities, either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee, any substantial evidence of a violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House, of a law applicable to the performance of his duties or the discharge of the responsibilities of such individual that may have been disclosed in a committee investigation.

(4) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, Delegate, Resident Commissioner, officer, or employee. With appropriate deletions to ensure the privacy of the person concerned, the committee may publish such opinion for the guidance of other Members, Delegates, the Resident Commissioner, officers, and employees of the House.

(5) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XXIII.

(6)(A) The committee shall offer annual ethics training to each Member, Delegate, Resident Commissioner, officer, and employee of the House. Such training shall—

(i) involve the classes of employees for whom the committee determines such training to be appropriate; and

(ii) include such knowledge of the Code of Official Conduct and related House rules as may be determined appropriate by the committee.

(B)(i) A new officer or employee of the House shall receive training under this paragraph not later than 60 days after beginning service to the House.

(ii) Not later than January 31 of each year, each officer and employee of the House shall file a certification with the committee that the officer or employee attended ethics training in the last year as established by this subparagraph.

(b)(1)(A) Unless approved by an affirmative vote of a majority of its members, the Committee on Ethics may not report a resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House, or, except as provided in subparagraph (2), undertake an investigation of such conduct.

(B)(i) Upon the receipt of information offered as a complaint that is in compliance with this rule and the rules of the committee, the chair and ranking minority member jointly may appoint members to serve as an investigative subcommittee.

(ii) The chair and ranking minority member of the committee jointly may gather additional information concerning alleged conduct that is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or either of them has placed on the agenda of the committee the issue of whether to establish an investigative subcommittee.

(2) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member,

Delegate, Resident Commissioner, officer, or employee of the House only—

(A) upon receipt of information offered as a complaint, in writing and under oath, from a Member, Delegate, or Resident Commissioner and transmitted to the committee by such Member, Delegate, or Resident Commissioner;

(B) upon receipt of information offered as a complaint, in writing and under oath, from a person not a Member, Delegate, or Resident Commissioner provided that a Member, Delegate, or Resident Commissioner certifies in writing to the committee that such Member, Delegate, or Resident Commissioner believes the information is submitted in good faith and warrants the review and consideration of the committee; or

(C) upon receipt of a report regarding a referral from the Office of Congressional Ethics.

If a complaint is not disposed of within the applicable periods set forth in the rules of the Committee on Ethics, the chair and ranking minority member shall establish jointly an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if at any time during those periods either the chair or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

(3) The committee may not undertake an investigation of an alleged violation of a law, rule, regulation, or standard of conduct that was not in effect at the time of the alleged violation. The committee may not undertake an investigation of such an alleged violation that occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.

(4) A member of the committee shall be ineligible to participate as a member of the committee in a committee proceeding relating to the member's official conduct. Whenever a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker shall designate a Member, Delegate, or Resident Commissioner from the same political party as the ineligible member to act in any proceeding of the committee relating to that conduct.

(5) A member of the committee may seek disqualification from participating in an investigation of the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision in the case in which the member seeks to be disqualified. If the committee approves and accepts such affidavit of disqualification, the chair shall so notify the Speaker and request the Speaker to designate a Member, Delegate, or Resident Commissioner from the same political party as the disqualifying member to act in any proceeding of the committee relating to that case.

(6) Information or testimony received, or the contents of a complaint or the fact of its filing, may not be publicly disclosed by any

committee or staff member unless specifically authorized in each instance by a vote of the full committee.

(7) The committee shall have the functions designated in titles I and V of the Ethics in Government Act of 1978 [on financial disclosure and the limitations on outside earned income and outside employment], in sections 7342 [the Foreign Gifts and Decorations Act], 7351 [on gifts to superiors], and 7353 [on gifts] of title 5, United States Code, and in clause 11(g)(4) of rule X.

(c)(1) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Ethics or a subcommittee thereof shall occur in executive session unless the committee or subcommittee, by an affirmative vote of a majority of its members, opens the meeting to the public.

(2) Notwithstanding clause 2(g)(2) of rule XI, each hearing of an adjudicatory subcommittee or sanction hearing of the Committee on Ethics shall be held in open session unless the committee or subcommittee, in open session by an affirmative vote of a majority of its members, closes all or part of the remainder of the hearing on that day to the public.

(d) Before a member, officer, or employee of the Committee on Ethics, including members of a subcommittee of the committee selected under clause 5(a)(4) of rule X and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed:

"I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Ethics, any information received in the course of my service with the committee, except as authorized by the committee or in accordance with its rules."

Copies of the executed oath shall be retained by the Clerk as part of the records of the House. This paragraph establishes a standard of conduct within the meaning of paragraph (a)(2). Breaches of confidentiality shall be investigated by the Committee on Ethics and appropriate action shall be taken.

(e)(1) If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee on Ethics, the committee may take such action as it, by an affirmative vote of a majority of its members, considers appropriate in the circumstances.

(2) Complaints filed before the One Hundred Fifth Congress may not be deemed frivolous by the Committee on Ethics.

Committee agendas

(f) The committee shall adopt rules providing that the chair shall establish the agenda for meetings of the committee, but shall not preclude the ranking minority member from placing any item on the agenda.

Committee staff

(g)(1) The committee shall adopt rules providing that—

(A) the staff be assembled and retained as a professional, nonpartisan staff;

(B) each member of the staff shall be professional and demonstrably qualified for the position for which he is hired;

(C) the staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner;

(D) no member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election;

(E) no member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to the employment or duties with the committee of such individual without specific prior approval from the chair and ranking minority member; and

(F) no member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the committee.

(2) Only subdivisions (C), (E), and (F) of subparagraph (1) shall apply to shared staff.

(3)(A) All staff members shall be appointed by an affirmative vote of a majority of the members of the committee. Such vote shall occur at the first meeting of the membership of the committee during each Congress and as necessary during the Congress.

(B) Subject to the approval of the Committee on House Administration, the committee may retain counsel not employed by the House of Representatives whenever the committee determines, by an affirmative vote of a majority of the members of the committee, that the retention of outside counsel is necessary and appropriate.

(C) If the committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(D) Outside counsel may be dismissed before the end of a contract between the committee and such counsel only by an affirmative vote of a majority of the members of the committee.

(4) In addition to any other staff provided for by law, rule, or other authority, with respect to the committee, the chair and ranking minority member each may appoint one individual as a shared staff member from the respective personal staff of the chair or ranking minority member to perform service for the committee. Such shared staff may assist the chair or ranking minority member on any subcommittee on which the chair or ranking minority member serves.

Meetings and hearings

(h)(1) The committee shall adopt rules providing that—

(A) all meetings or hearings of the committee or any subcommittee thereof, other than any hearing held by an adjudicatory subcommittee or any sanction hearing held by the committee, shall occur in executive session unless the committee or subcommittee by an affirmative vote of a majority of its members opens the meeting or hearing to the public; and

(B) any hearing held by an adjudicatory subcommittee or any sanction hearing held by the committee shall be open to the public unless the committee or subcommittee by an affirmative vote of a majority of its members closes the hearing to the public.

Public disclosure

(i) The committee shall adopt rules providing that, unless otherwise determined by a vote of the committee, only the chair or ranking minority member, after consultation with each other, may make public statements regarding matters before the committee or any subcommittee thereof.

Requirements to constitute a complaint

(j) The committee shall adopt rules regarding complaints to provide that whenever information offered as a complaint is submitted to the committee, the chair and ranking minority member shall have 14 calendar days or five legislative days, whichever is sooner, to determine whether the information meets the requirements of the rules of the committee for what constitutes a complaint.

Duties of chair and ranking minority member regarding properly filed complaints

(k)(1) The committee shall adopt rules providing that whenever the chair and ranking minority member jointly determine that information submitted to the committee meets the requirements of the rules of the committee for what constitutes a complaint, they shall have 45 calendar days or five legislative days, whichever is later, after that determination (unless the committee by an affirmative vote of a majority of its members votes otherwise) to—

(A) recommend to the committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(B) establish an investigative subcommittee; or

(C) request that the committee extend the applicable 45-calendar day or five-legislative day period by one additional 45-calendar day period when they determine more time is necessary in order to make a recommendation under subdivision (A).

(2) The committee shall adopt rules providing that if the chair and ranking minority member jointly determine that information submitted to the committee meets the requirements of the rules of the committee for what constitutes a complaint, and the complaint is not disposed of within the applicable time periods under subparagraph (1), then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chair or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

Duties of chair and ranking minority member regarding information not constituting a complaint

(*l*) The committee shall adopt rules providing that whenever the chair and ranking minority member jointly determine that information submitted to the committee does not meet the requirements of the rules of the committee for what constitutes a complaint, they may—

(1) return the information to the complainant with a statement that it fails to meet the requirements of the rules of the committee for what constitutes a complaint; or

(2) recommend to the committee that it authorize the establishment of an investigative subcommittee.

Investigative and adjudicatory subcommittees

(m) The committee shall adopt rules providing that—

(1)(A) an investigative subcommittee shall be composed of four Members (with equal representation from the majority and minority parties) whenever such a subcommittee is established pursuant to the rules of the committee;

(B) an adjudicatory subcommittee shall be composed of the members of the committee who did not serve on the pertinent investigative subcommittee (with equal representation from the majority and minority parties) whenever such a subcommittee is established pursuant to the rules of the committee; and

(C) notwithstanding any other provision of this clause, the chair and ranking minority member of the committee may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to information before a subcommittee with which they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee;

(2) at the time of appointment, the chair shall designate one member of a subcommittee to serve as chair and the ranking minority member shall designate one member of the subcommittee to serve as the ranking minority member; and

(3) the chair and ranking minority member of the committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex officio members.

Standard of proof for adoption of statement of alleged violation

(n) The committee shall adopt rules to provide that an investigative subcommittee may adopt a statement of alleged violation only if it determines by an affirmative vote of a majority of the members of the subcommittee that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives, has occurred.

Subcommittee powers

(o)(1) The committee shall adopt rules providing that an investigative subcommittee or an adjudicatory subcommittee may authorize and issue subpoenas only when authorized by an affirmative vote of a majority of the members of the subcommittee.

(2) The committee shall adopt rules providing that an investigative subcommittee may, upon an affirmative vote of a majority of its members, expand the scope of its investigation approved by an affirmative vote of a majority of the members of the committee.

(3) The committee shall adopt rules to provide that—

(A) an investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its statement of alleged viola-

tion anytime before the statement of alleged violation is transmitted to the committee; and

(B) if an investigative subcommittee amends its statement of alleged violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended statement of alleged violation.

Due process rights of respondents

(p) The committee shall adopt rules to provide that—

(1) not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a statement of alleged violation, the subcommittee shall provide the respondent with a copy of the statement of alleged violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness; but if such evidence is withheld, the subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates;

(2) neither the respondent nor the counsel of the respondent shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (1) except for the sole purpose of settlement discussions where counsel for the respondent and the subcommittee are present;

(3) if, at any time after the issuance of a statement of alleged violation, the committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (1) to prove the charges contained in the statement of alleged violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the rules of the committee;

(4) evidence provided pursuant to paragraph (1) or (3) shall be made available to the respondent and the counsel of the respondent only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until—

(A) such time as a statement of alleged violation is made public by the committee if the respondent has waived the adjudicatory hearing; or

(B) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing;

but the failure of respondent and the counsel of the respondent to so agree in writing, and their consequent failure to receive the evidence, shall not preclude the issuance of a statement of alleged violation at the end of the period referred to in paragraph (1);

(5) a respondent shall receive written notice whenever—

(A) the chair and ranking minority member determine that information the committee has received constitutes a complaint;

(B) a complaint or allegation is transmitted to an investigative subcommittee;

(C) an investigative subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; or

(D) an investigative subcommittee votes to expand the scope of its investigation;

(6) whenever an investigative subcommittee adopts a statement of alleged violation and a respondent enters into an agreement with that subcommittee to settle a complaint on which that statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and respondent's counsel, the chair and ranking minority member of the subcommittee, and the outside counsel, if any;

(7) statements or information derived solely from a respondent or the counsel of a respondent during any settlement discussions between the committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the committee or otherwise publicly disclosed without the consent of the respondent; and

(8) whenever a motion to establish an investigative subcommittee does not prevail, the committee shall promptly send a letter to the respondent informing the respondent of such vote.

Committee reporting requirements

(q) The committee shall adopt rules to provide that—

(1) whenever an investigative subcommittee does not adopt a statement of alleged violation and transmits a report to that effect to the committee, the committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives;

(2) whenever an investigative subcommittee adopts a statement of alleged violation, the respondent admits to the violations set forth in such statement, the respondent waives the right to an adjudicatory hearing, and the respondent's waiver is approved by the committee—

(A) the subcommittee shall prepare a report for transmittal to the committee, a final draft of which shall be provided to the respondent not less than 15 calendar days before the subcommittee votes on whether to adopt the report;

(B) the respondent may submit views in writing regarding the final draft to the subcommittee within seven calendar days of receipt of that draft;

(C) the subcommittee shall transmit a report to the committee regarding the statement of alleged violation together with any views submitted by the respondent pursuant to subdivision (B), and the committee shall make the report together with the respondent's views available to the public before the commencement of any sanction hearing; and

(D) the committee shall by an affirmative vote of a majority of its members issue a report and transmit such report to the House of Representatives, together with the respondent's views previously submitted pursuant to subdivision (B) and any additional views respondent may submit for attachment to the final report; and

(3) members of the committee shall have not less than 72 hours to review any report transmitted to the committee by an investigative subcommittee before both the commencement of a sanction hearing and the committee vote on whether to adopt the report.

House Rule XXV, clause 5(h)

(h) All the provisions of this clause [the gift rule] shall be interpreted and enforced solely by the Committee on Ethics. The Committee on Ethics is authorized to issue guidance on any matter contained in this clause.

In addition, a number of provisions of statutory law confer authority on the Committee. Specifically, for purposes of the statutes on gifts to federal employees (5 U.S.C. § 7353) and gifts to superiors (5 U.S.C. § 7351), both the Committee and the House of Representatives are the "supervising ethics office" of House Members, officers, and employees. In addition, as discussed further in Part III below, for House Members, officers, and employees, the Committee is both the "supervising ethics office" with regard to financial disclosure under the Ethics in Government Act (5 U.S.C. app. 4 § 101 *et seq*.) and the "employing agency" for certain purposes under the Foreign Gifts and Decorations Act (5 U.S.C. § 7342). Finally, the outside employment and earned income limitations are administered by the Committee with respect to House Members, officers, and employees (5 U.S.C. app. 4 § 503(1)(A)).

II. Advice and Education

Pursuant to a provision of the Ethics Reform Act of 1989 (2 U.S.C. § 29d(i)), the Committee maintains an Office of Advice and Education, which is staffed as directed by the Committee's Chairman and Ranking Member. Under the statute, the primary responsibilities of the Office include the following:

- Providing information and guidance to House Members, officers, and employees on the laws, rules, and other standards of conduct applicable to them in their official capacities;
- Drafting responses to specific advisory opinion requests received from House Members, officers, and employees, and submitting them to the Chairman and Ranking Member for review and approval;
- Drafting advisory memoranda on the ethics rules for general distribution to House Members, officers, and employees, and submitting them to the Chairman and Ranking Member, or the full Committee, for review and approval; and
- Developing and conducting educational briefings for House Members, officers, and employees.

The duties of the Office of Advice and Education are also addressed in Committee Rule 3, which sets out additional requirements and procedures for the issuance of Committee advisory opinions.

Under Committee Rule 3(j), the Committee will keep confidential any request for advice from a Member, officer, or employee, as well as any response to such a request. As a further inducement to House Members, officers, and employees to seek Committee advice whenever they have any uncertainty on the applicable laws, rules, or standards, statutory law (2 U.S.C. § 29d(i)(4)) provides that no information provided to the Committee by a Member or staff person when seeking advice on prospective conduct may be used as a basis for initiating a Committee investigation if the individual acts in accordance with the Committee's written advice. In the same vein, Committee Rule 3(k) provides that the Committee may take

no adverse action in regard to any conduct that has been undertaken in reliance on a written opinion of the Committee if the conduct conforms to the specific facts addressed in the opinion. In addition, the Committee understands that federal courts may consider the good faith reliance of a House Member, officer, or employee on written Committee advice as a defense to Justice Department prosecution regarding certain statutory violations.

The Committee believes that a broad, active program for advice and education is an extremely important means for attaining understanding of, and compliance with, the ethics rules. The specifics of the Committee's efforts in the areas of publications, briefings, and advisory opinion letters during the 112th Congress are set forth below. In addition, on a daily basis Committee staff attorneys provided informal advice in response to inquiries received from Members, staff persons, and third parties in telephone calls and e-mails directed to the Committee office, as well as in person. During the 112th Congress, Committee attorneys responded to more than 40,000 phone calls and e-mail messages seeking advice, and participated in many informal meetings with Members, House staff, or outside individuals or groups regarding specific ethics matters.

PUBLICATIONS

The Committee's major publication is the *House Ethics Manual,* an updated version of which was issued in March 2008. The Manual provides detailed explanations of all aspects of the ethics rules and statutes applicable to House Members, officers, and employees. Topics covered by the Manual include the acceptance of gifts or travel, campaign activity, casework, outside employment, and involvement with official and outside organizations. The *House Ethics Manual* is posted in a searchable format on the Committee's Web site, http://ethics.house.gov.

The Committee updates and expands upon the materials in the Manual, as well as highlights matters of particular concern, through the issuance of general advisory memoranda to all House Members, officers, and employees. The memoranda issued during the 112th Congress (other than ones announcing training dates) were as follows:

- New Employee Mandatory Ethics Training within 60 days (January 25, 2011);
- The 2011 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees (February 5, 2011);
- Calendar Year 2010 Financial Disclosure Statements (April 6, 2011);
- Committee on Ethics and Committee on House Administration Joint Guidance Regarding Redistricting (September 16, 2011);
- Rules Regarding Personal Financial Transactions (November 29, 2011);
- Holiday Guidance on the Gift Rule (December 9, 2011);
- Revised Legal Expense Fund Regulations (December 20, 2011);
- Member Participation in Certain Events Taking Place During a National Political Convention (January 24, 2012);

- The 2012 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees (January 30, 2012);
- Change in Rules Regarding Providing a Hyperlink from Campaign Internet Sites to Official Internet Sites (March 9, 2012);
- New Ethics Requirements Resulting from the STOCK Act (April 4, 2012);
- Gift Rules Applicable to National Political Conventions (June 1, 2012);
- Periodic Reporting of Personal Financial Transactions Pursuant to the STOCK Act (June 7, 2012) superseded by revised memorandum following amendment of the STOCK Act (August 17, 2012);
- Purchase of Tablet Computers with Principal Campaign Committee Funds (September 18, 2012);
- REMINDER: Spouse PTR Transaction Reporting Begins September 30, 2012 (September 28, 2012);
- Reminder About the 2012 Annual Ethics Training Requirement (November 21, 2012);
- Negotiations for Future Employment and Restrictions on Post-Employment for House Members and Officers (November 26, 2012);
- Negotiations for Future Employment and Restrictions on Post-Employment for House Staff (November 26, 2012);
- Holiday Guidance on the Gift Rule (November 27, 2012);
- Member Swearing-in and Inauguration Day Receptions, and Attendance at Inaugural-Related Events (December 4, 2012);
- Rules Prohibiting Use of One's Official Position for Personal Gain (December 27, 2012); and
- Revised Travel Regulations (December 27, 2012)

A copy of each of these advisory memoranda is included as Appendix I to this Report.

In addition to the advisory memoranda listed above, the Committee issued an updated version of its summary memorandum, Highlights of the House Ethics Rules, in March 2011 and January 2012. The Committee released 46 public statements regarding various matters.

In order to make access to all Committee materials easier and more transparent, the Committee launched a new Web site in the fall of 2011, featuring easily accessible guidance, forms, and historical documents. Significantly, the Committee has now, for the first time, made all conduct reports dating back to the Committee's founding in 1967 available to the public in electronic form. All of these reports are now available in searchable format on the Committee's Web site. In addition, the Committee is currently working to update the summary of all reported matters of conduct in the entire history of the House of Representatives. Currently that chart ends with 2004. With the launch of the new Web site, the Committee has listened to transparency suggestions and concerns from numerous House and outside sources and continues to make improvements to the usefulness of its Web site.

Copies of all current Committee publications are available from the Committee's office, and their text is posted on the Committee's Web site. Finally, with this report and the annual report published by the Committee in early 2012, the Committee has sought to provide as much transparency as is appropriate. In addition to the many numbers referred to throughout this report, the Committee annually publishes the following summary chart in the interest of transparency.

Committee Report (numbers are approximate)	2011	2012	TOTAL
Formal Advice and Approval			
Advisory Opinion Requests Received	597	409	1,006
Advisory Opinions Mailed	535	379	914
Percentage of Opinions Mailed within 2 weeks	64.11%	60.15%	62.13%
Percentage of Opinions Mailed within 4 weeks	80.93%	78.10%	79.52%
Travel Requests Received	2,001	1,563	3,564
Travel Opinions Mailed	1,768	1,379	3,147
Percentage of Travel Opinions Mailed within 2 weeks	63.52%	49.53%	56.53%
Percentage of Travel Opinions Mailed within 4 weeks	91.91%	86.36%	89.14%
Informal Advice (including Financial Disclosure)			
Phone Calls	18,054	18,000	36,054
Emails	3,574	3,000	6,574
Training			
Total # of House Employees	10,000	10,000	10,000
Employees having completed training	9,610	8,500	18,110
Training briefings (scheduled training sessions)	51	42	93
Personal Advisory Meetings with Members, officers, and employees	386	400	786
Investigations			
Investigative Matters carried over from the 111th Congress	23	----	23
Investigative Matters commenced	29	44	73
Investigative Subcommittees carried over from the 111th Congress	1	----	1
Investigative Subcommittees commenced	1	1	2
Publicly Disclosed Resolutions	8	12	20
Confidential Resolutions	4	38	42
Referrals received from the Office of Congressional Ethics	9	13	22
Financial Disclosures			
FD Reports filed by Members, officers, and employees	2,701	2,194	4,895
FD Reports filed by Candidates	434	841	1,275
PTRs filed by Members, officers, and employees	----	500	500
FD Reports and amendments reviewed by Committee staff	3,110	3,635	6,745
Committee Publications			
Pink Sheets/General Advisories	11	17	28
Public Statements	18	28	46
Investigative Reports	7	7	14
Miscellaneous Oversight			
Recusals (Members, officers, and employees)	62	51	113
Negotiations (Only MEMBERS had to disclose publicly, and only if a recusal was necessary)	83	135	218
Qualified Blind Trusts	3	3	3
Legal Expense Funds	7	7	8
Foreign Gifts and Travel Reports	6	0	6
Meetings			
Full Committee Meetings	16	35	51
Subcommittee Meetings	5	27	32
Working Group Meetings	8	9	17
Personnel			
Lowest Total Staff Level	17	23	17
Highest Total Staff Level	24	24	24

ETHICS TRAINING

Clause 3(a)(6) of House Rule XI, which originated in the 110th Congress, requires each House employee to complete ethics training each calendar year, pursuant to guidelines to be issued by the Committee. The House rules and Committee's guidelines require each House employee to complete one hour of ethics training each calendar year. The guidelines also require all House employees who file an annual Financial Disclosure Statement to complete an additional hour of training once each Congress on issues primarily of interest to senior staff. Rule XI requires staff newly hired by the House to complete their training within 60 days of the commencement of their employment with the House.

Pursuant to its obligations under Rule XI, the Committee held 51 ethics training sessions during 2011 and 42 during 2012. During the 112th Congress, all employees other than new employees were permitted to fulfill their training requirement either through attending a training session in person or by viewing an on-line presentation. The training sessions for new employees provided a general summary of the House ethics rules in all areas, such as gifts, travel, campaign activity, casework, involvement with outside entities, and outside employment. The live and on-line sessions for existing House employees covered specific topics, such as gifts and travel or campaign work, on a more in-depth basis. The Committee also had several different options that staff could use to fulfill their requirement of one additional hour of training. The on-line training provided a general overview of ethics rules of particular interest to senior staff. The live training sessions focused in depth on a single topic, of import for senior staff, such as the rules on completing a Financial Disclosure Statement, the post-employment restrictions, or STOCK Act filings.

In 2011, the Committee trained more than 2,400 employees in person at live ethics briefings, and more than 7,500 used one of the on-line training options. During 2012, the Committee trained more than 1,600 employees in person at live ethics briefings, and more than 6,500 through one of the on-line training options. The total number of employees who completed ethics training for 2012 will be determined after January 31, 2013, the date that House Rule XI established as the deadline for employees to certify completion of the ethics training requirement for 2012.

In addition to the training required under House Rule XI, the Committee also provided training in several other contexts. The Committee made three presentations to the Members-elect of the 113th Congress during New Member Orientation for the members-elect of the 113th Congress. The Committee also led a briefing for the spouses of the Members-elect of the 113th Congress on the ethics rules applicable to them as congressional spouses. In addition, the Committee met with numerous departing Members and staff to counsel them on the ethics rules related to their transition to private life and the post-employment restrictions. The Committee also provided training open to all House Members, officers, and employees on the financial disclosure rules, which is discussed further in Section III. Finally, together with the Committee on House Administration, the Committee participated in two general briefings, one

in 2011 and one in 2012, on the rules related to Member participation in the Congressional Art Competition.

Committee staff also participated in approximately 10 briefings sponsored by or held for the members of outside organizations. The Committee also had an information booth at the 2011 House Services Fair held by the Chief Administrative Officer. In addition, Committee staff led approximately twelve briefings for visiting international dignitaries from a variety of countries, including Indonesia, China, Moldova, and Romania.

The Committee will continue this outreach activity in the 113th Congress.

ADVISORY OPINION LETTERS

The Committee's Office of Advice and Education, under the direction and supervision of the Committee's Chairman and Ranking Member, prepared and issued more than 900 private advisory opinions during the 112th Congress, 535 in 2011 and more than 375 in 2012. Opinions issued by the Committee in the 112th Congress addressed a wide range of subjects, including various provisions of the gift rule, Member or staff participation in fund-raising activities of charities and for other purposes, the outside earned income and employment limitations, campaign activity by staff, and the post-employment restrictions.

TRAVEL APPROVAL LETTERS

As discussed above, House Rule XXV, clause 5(d)(2), which was enacted at the start of the 110th Congress, charged each House Member or employee with obtaining approval of the Committee prior to undertaking any travel paid for by a private source on matters connected to the individual's House duties. Under the travel approval process established by the Committee to implement this rule, the Committee reviewed more than 2,000 requests, and issued letters approving more than 1,760 requests for travel in 2011. In 2012, the Committee reviewed more than 1,500 requests and issued letters approving more than 1,300 requests for travel. The Committee also reviewed the post-travel disclosure forms filed by the traveler on each approved trip pursuant to House Rule XXV, clause 5(b)(1)(A)(ii), requesting amendments or other remedial action by the traveler when deemed necessary.

House Rule XXV, clause 5(i), charges the Committee with undertaking an annual review of its guidelines and regulations regarding privately-funded, officially-connected travel by House Members, officers, and employees. In 2011, the Committee carried over a bipartisan travel working group to assess and make recommendations regarding its process for the review and approval of such travel. Committee members Representatives Charles Dent and Donna F. Edwards comprised the working group. As a result of the efforts of the working group, the Committee adopted comprehensive revised travel regulations for privately-sponsored, officially-connected travel which were released as a general advisory on December 27, 2012. The regulations are included in this report in Appendix I.

III. Financial Disclosure, Foreign Gifts and Decorations, and Travel Disclosure

Title I of the Ethics in Government Act of 1978 (EIGA), as amended (5 U.S.C. app. 4 §§ 101–111), requires certain officials in all branches of the federal government, as well as candidates for federal office, to file publicly-available statements that set out financial information regarding themselves and their families. By May 15 of each year, these "covered individuals" are required to file a statement that provides information for the preceding calendar year. On April 4, 2012, the Stop Trading on Congressional Knowledge Act (STOCK Act) was enacted. Among other provisions, the STOCK Act amended the EIGA to add a requirement that financial disclosure filers must report certain securities transactions over $1,000 within 45 days of the transaction. The Committee has termed these interim reports "Periodic Transaction Reports" or "PTRs."

The EIGA designates the Committee as the "supervising ethics office" of House Members, officers, and employees for purposes of financial disclosure and provides that the Committee is to administer the Act with regard to those individuals. In this role, the Committee interprets the EIGA, establishes policy, issues instructions, and designs the Financial Disclosure Statements (FD Statements or Statements) and PTRs to be filed by Members, officers, legislative branch employees, and candidates for the House. After Statements and PTRs are filed with the Clerk of the House, they are forwarded to the Committee to be reviewed for compliance with the law. For several months each year, accountants from the General Accounting Office assist the Committee in its review efforts. As noted above, in the 112th Congress the Committee received nearly 500 PTRs filed by House Members, officers, and senior staff containing thousands of transactions. The Committee anticipates this figure will increase substantially in the future because the requirement for filing PTRs was only in effect for the second half of 2012, and the inclusion of spouses' and independent children's transactions was only required for approximately the last quarter of 2012.

Each year the Committee publishes two detailed financial disclosure instruction booklets, one for current Members and employees, and one for candidates and new employees. The Committee also published a detailed advisory memorandum providing instructions for completion of a PTR, which was updated following amendment of the Act in August 2012. The appropriate FD instruction booklet and the PTR advisory memorandum are sent to each person who is required to file an FD Statement and PTRs with the Clerk of the House pursuant to House payroll data. Candidates who are required to file FD statements, as determined by records from the Federal Election Commission, are also sent the appropriate FD instructions and forms.

The Committee also engaged in substantial training efforts regarding completing FD Statements and PTRs. Prior to the May 15 filing date, the Committee held six briefings in 2011, three for Members and three for officers and employees, and five briefings in 2012, one for Members, one for Members' spouses, and three for officers and employees, on the financial disclosure requirements. In

2012, the Committee held six briefings on the new PTR requirement, two for Members and four for officers and employees. The Committee issued three advisory memoranda providing guidance to the House community on these new requirements, all of which are available on the Committee's Web site and in Appendix I to this Report. The Committee staff also met on an individual basis with any Member who had questions regarding the preparation of the Member's Statement or PTR and who requested additional guidance. In addition, Committee staff responded, by telephone, e-mail, or in person, to numerous questions from filers on the financial disclosure filing requirements. Upon request, Committee staff reviewed Statements and PTRs in draft form, prior to being formally filed with the Clerk, for compliance with the disclosure requirements in order to reduce errors and the need for amendments. The Committee encourages all financial disclosure filers to avail themselves of this service for their future filings.

For calendar years 2011 and 2012 (as of December 20, 2012), the Legislative Resource Center of the Clerk's office referred a total of 6,170 Financial Disclosure Statements to the Committee for review under the statute. Of those, 4,183 were Statements filed by current or new House Members or employees, 712 were filed by departing House Members or employees, and 1,275 were Statements filed by candidates for the House. Where the Committee's review indicated that a filed Statement had a deficiency, such as a failure to include required information, the Committee requested an amendment from the filer. Such amendments are routine and, without evidence of a knowing or willful violation, the Committee will usually take no further action.

The Committee also followed up with filers whose Statements indicated non-compliance with applicable law, such as the outside employment and outside earned income limitations. Where the Committee found that a Member or staff person had received income in violation of any of these limitations, the Committee determined the appropriate remedy for the violation, which in some circumstances was a requirement that the individual repay the amount that was improperly received.

For calendar year 2012 (as of December 20, 2012), the Legislative Resource Center of the Clerk's office referred a total of 477 PTRs to the Committee for review under the statute beginning on the effective date of the PTR requirement, July 3, 2012. Of those, 141 were PTRs filed by Members and 336 were PTRs filed by House employees. The Committee has continued to receive a large number of year-end PTRs since the numbers above were compiled.

Like FD Statements, where the Committee's review indicated that a filed PTR had a deficiency, such as a failure to include required information, the Committee requested an amendment from the filer. The Committee also followed up with filers whose PTRs indicated non-compliance with applicable law, such as impermissible participation in an Initial Public Offering or late filing of the PTR. Where the Committee found that a Member or staff person had violated a provision of the STOCK Act, the Committee determined the appropriate remedy for the violation.

IV. Committee Rules

On February 15, 2011, the Committee met and adopted the initial set of Committee rules for the 112th Congress. The substance of the initial set of Committee rules was largely identical to those adopted for the 111th Congress, except they were changed to reflect the Committee's new name, in conformance with changes that had been made to the House rules for the 112th Congress. Subsequently, on May 18, 2012, the Committee met and adopted a revised set of Committee rules. The May 2012 revisions amended Committee Rule 4 to authorize the Committee to review periodic transaction reports as required by the Stop Trading On Congressional Knowledge (STOCK) Act, and amended Committee Rule 9 to change the quorum requirements of the Committee for the purpose of taking testimony or receiving evidence, from six to two Members. Copies of the February 2011 and amended May 2012 Committee rules are included as Appendices II and III, respectively, to this Report.

On July 7, 2011, the Committee formed a working group to assess the Committee's rules and procedures. The rules working group issued a report to the Committee on November 15, 2012. The rules working group's report suggested various changes to the Committee rules, primarily focused on the Committee's investigative and adjudicative procedures. As a result of the efforts of the working group, the Committee met and adopted new Committee rules on December 19, 2012. Numerous changes were made to the Committee's investigative rules at that time, including changes to Committee rules 17A, 18, 19 and 23. These changes were made either to bring the Committee rules in greater conformity with the House Rules, or to make the Committee's adjudicatory process more fair and efficient. A copy of the amended December 2012 Committee Rules are included as Appendix IV to this Report.

V. Investigations

Article 1, Section 5 of the Constitution grants each chamber of Congress the power to "punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member." The Committee is designated by House Rule as the body which conducts the investigative and adjudicatory functions which usually precede a vote by the full House regarding such punishment or expulsion. House Rule XI, Clause 3, as well as Committee Rules 13 through 28, describe specific guidelines and procedures for the exercise of that authority.

Beginning prior to the current Congress, allegations had been raised that the public caseload of the Committee represented a racial disparity that was not in line with the general population of the House of Representatives. In the 112th Congress, under the leadership of the Chairman and Ranking Member, the Committee sought to take those allegations seriously, through study and discussion. The Committee began with the understanding that the public caseload, most of which had begun in prior congresses, consisted almost entirely of matters required to be made public as they were referred by the Office of Congressional Ethics. However, the Committee did not rest on that fact alone. In fact, many investigative matters pending before the Committee may not be publicly dis-

closed. The Committee, therefore, considered the broader but necessarily confidential caseload, which did not reflect the same alleged disparity. The Committee as a whole had several collegial discussions and the staff took steps to ensure they are aware of the potential for bias, and that they remain vigilant to ensure that every case is handled only on the merits and is consistent, in relevant ways, with House and Committee precedent. No matter these numbers, however, the Chairman, Ranking Member, and the entire Committee remained absolutely committed to insuring integrity in the Committee's operations and fairness to the entire House community.

The Committee publicly addressed 27 investigative matters during the 112th Congress.

On September 1, 2010, and November 3, 2010, the Committee received referrals in three matters from the Office of Congressional Ethics (OCE) related to alleged improper fundraising activities and the House vote on H.R. 4173, by Representatives John Campbell, Tom Price, and Joseph Crowley, which was resolved by the Chairman and Ranking Member in the 112th Congress by releasing a staff report on January 26, 2011.

On May 18, 2011, the Committee received a referral from the OCE related to the alleged receipt of an impermissible gift by Representative Jean Schmidt.

On May 18, 2011, the Committee received a referral from the OCE related to the alleged receipt of an improper loan by Representative Gregory Meeks.

On May 18, 2011, the Committee received a referral from the OCE related to the alleged receipt of excess outside earned income by Michael Collins.

On May 18, 2011, the Committee received a referral from the OCE related to the alleged receipt of excess outside earned income by Gregory Hill.

On July 14, 2011, the Committee voted to reauthorize the Investigative Subcommittee for the 112th Congress that had been authorized during the 111th Congress in matters related to allegations against former Representative Eric Massa.

On July 20, 2011, the Committee voted to hire outside counsel to review, advise, and assist the Committee in the matter of Representative Maxine Waters.

On August 1, 2011, the Committee voted not to establish an Investigative Subcommittee with regard to the arrest of Representative Luis V. Gutierrez for failing to obey a lawful order of a police officer during a protest outside the White House.

On September 8, 2011, the Committee voted not to establish an Investigative Subcommittee with regard to the arrest of Todd Poole, an employee of the House, for driving while impaired and resisting an officer.

On October 13, 2011, after the withdrawal of a request for deferral from the Department of Justice, the Committee voted to end the deferral period in the matter of Representative Jesse Jackson, Jr., related to allegations that Representative Jackson, or an agent of Representative Jackson, may have offered to raise funds for then-Illinois Governor Rod Blagojevich in return for the appointment of Representative Jackson to the Illinois Senate seat vacated by President Barack Obama.

On October 13, 2011, the Committee received a referral from the OCE related to allegations of improper contributions to Representative Don Young's Legal Expense Fund.

On October 13, 2011, the Committee received a referral from the OCE related to alleged employment discrimination, unwelcome sexual advances, and unwelcome sexual conduct by Representative Alcee L. Hastings.

On November 3, 2011, the Committee voted to establish an Investigative Subcommittee to investigate the alleged improper use of official House resources and personnel for work related to campaign activities and other non-official purposes by Representative Laura Richardson and two members of her staff.

On November 8, 2011, the Committee received a referral from the OCE related to the alleged failure to report certain positions and unearned income on Financial Disclosure Statements by Representative Vern Buchanan.

On February 9, 2012, the Committee received a referral from the OCE related to allegations that Representative Vern Buchanan attempted to influence the testimony of a witness in a proceeding before the Federal Election Commission.

On February 9, 2012, the Committee received a referral from the OCE regarding Representative Shelley Berkley.

On March 20, 2012, the Committee voted not to establish an Investigative Subcommittee with regard to the arrests of four Members—Al Green, James P. McGovern, James P. Moran, and John W. Olver—for crossing a police line during a protest outside of the Embassy of Sudan.

On April 2, 2012, the Committee received a referral from the OCE related to the alleged use of campaign or leadership PAC funds for personal use by Representative Robert Andrews.

On June 28, 2012, the Committee received a referral from the OCE related to allegations that Representative Michael G. Grimm improperly solicited or received prohibited campaign funds, used his official position to obtain campaign contributions, and filed false campaign finance reports.

On August 30, 2012, the Committee received a referral from the OCE related to allegations regarding Representative William Owens.

On August 30, 2012, the Committee received a referral from the OCE related to allegations regarding Representative Aaron Schock.

On August 30, 2012, the Committee received a referral from the OCE related to the alleged use of campaign funds for personal use by Representative Silvestre Reyes.

On November 15, 2012, the Committee voted not to establish an Investigative Subcommittee with regard to the arrest of Joy Henrichs, an employee of the House, for driving under the influence.

On December 19, 2012, the Committee voted not to establish an Investigative Subcommittee with regard a charge filed against Representative Tim Ryan, for public intoxication.

On December 19, 2012, the Committee completed its review of allegations related to the "V.I.P." program of the Countrywide Financial Corporation (Countrywide).

These investigative matters are described in more detail below. Copies of all of the Committee's public statements related to these matters are included as Appendix V to this Report.

Representatives John Campbell, Tom Price, and Joseph Crowley (In the Matter of Allegations Relating to Fundraising Activities and the House Vote on H.R. 4173)

On September 1, 2010, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations of campaign fundraising by Representatives John Campbell and Tom Price that was connected to a mark-up and vote on financial regulation legislation. As part of the same investigation, the OCE referred the matter of Representative Joseph Crowley. However, in accordance with H. Res. 895, and Committee Rule 17A(i), the OCE waited to make its referral of findings until November 3, 2010, after the primary and general elections.

In all three matters, the OCE alleged that the Members' fundraising activities near the time that the House voted on H.R. 4173 (Wall Street Reform and Consumer Protection Act of 2009) on December 11, 2009, gave the appearance that special treatment or access was provided to campaign donors, or gave the appearance that campaign contributions were linked to an official act.[1]

On December 15, 2010, pursuant to Committee Rules 17A(b)(1)(A) and 17A(j), the then-Chair and then-Ranking Republican Member jointly decided to extend the matter of Representatives Campbell, Price, and Crowley.

On January 26, 2011, the Chairman and Ranking Member of the Committee for the 112th Congress issued a public statement and released the Report of the Committee's nonpartisan, professional staff. The Report concluded there was no violation of any House rule, or any law, rule, regulation or other standard of conduct by any of the three Members in relation to their fundraising and vote on the financial regulation legislation nor was there any appearance of impropriety.

The staff Report based its conclusions on the fact that each Member had employed a strict separation between all fundraising and legislative activities by hiring professional fundraising consultants to manage all aspects of fundraising events. These fundraising consultants had no interaction with the three Members or their legislative staff on legislative activities. The fundraising events were planned several months in advance, long before votes on the legislation at issue, and invitations to the fundraising events were not restricted to individuals associated with a particular industry. Each Member held consistent and well-established legislative positions regarding H.R. 4173 long before and after any of the fundraising events cited in the OCE's Reports and Findings. Each Member's official acts relating to H.R. 4173 were based on significant legislative concerns, which did not stem from requests from campaign donors. The record showed that the timing for floor action on H.R. 4173 was in constant flux, and was not known with certainty until days before the vote occurred on December 11, 2009.

[1]As part of the same investigation, the OCE also recommended for dismissal the matters of Representatives Jeb Hensarling, Christopher Lee, Frank Lucas and Melvin L. Watt. The Committee took no further action in those matters.

Accordingly, the Committee's staff concluded that the general characteristics of each Member's fundraising events exhibited no appearances of special access for attendees to the Members in their official capacity and the Members did not violate any House rule, or any law, rule, regulation or other standard of conduct. In their January 26 statement, the Chairman and Ranking Member jointly announced that no further actions would be taken.

Representative Jean Schmidt[2]

On May 18, 2011, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Jean Schmidt violated House Rules by accepting legal services from an outside entity without establishing a Legal Expense Fund and failing to report the legal services on her Financial Disclosure Statements for calendar years 2008 and 2009. The Committee conducted an investigation into the matter pursuant to Committee Rule 18(a).

On July 1, 2011, the Chairman and Ranking Member of the Committee jointly decided to extend the Committee's review of the OCE referral pursuant to House Rule XI, clause 3(a)(8)(A), and Committee Rules 17A(b)(1)(A) and 17A(c)(1). On August 1, 2011, following the conclusion of the Committee's review, the Committee unanimously voted to release a public Report finding that Representative Schmidt did not knowingly violate any provision of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct with respect to the receipt of gifts. The Committee released its Report and the OCE's Report and Findings on August 5, 2011.

The Committee's Report found that, beginning in spring of 2009, Representative Schmidt was involved in litigation regarding statements made about her by an opponent in her 2008 re-election campaign. That dispute involved proceedings before an Ohio state agency, in Ohio state court, and in federal court. According to the OCE referral, Representative Schmidt received an impermissible gift from the Turkish Coalition of America (TCA) when lawyers provided legal services to Representative Schmidt in connection with the three matters and then sent bills for their fees to the TCA, which paid those bills on an ongoing basis. According to the OCE's referral, between 2008 and 2010, TCA paid Representative Schmidt's lawyers, who claimed to be acting as the Turkish American Legal Defense Fund (TALDF), a project of TCA, approximately $500,000 for legal services provided to Representative Schmidt.

The Committee's review of the matter indicated that Representative Schmidt did, in fact, receive an impermissible gift from TCA as the OCE alleged, and therefore the Committee did not dismiss the OCE matter. However, the Committee found that Representative Schmidt's lawyers failed to inform her of their payment arrangement with TCA, and made false and misleading statements to her about their relationship with TCA and TALDF. Because Representative Schmidt did not know she was receiving a gift from TCA, the Committee determined that no sanction was appropriate in the case. However, the Committee concluded that the gift was

[2] Committee on Ethics, *In the Matter of Allegations Relating to Representative Jean Schmidt*, H. Rept. 112–195, 112th Cong. 1st Sess. (2011).

impermissible, and thus required Representative Schmidt to disclose and repay the gift.

Through a letter to Representative Schmidt issued contemporaneously with the Committee's Report, the Committee directed Representative Schmidt to: (1) ensure that TCA did not pay for any further legal services on her behalf; (2) pay from a permissible source the lawyers associated with TALDF for all legal services they performed to date; (3) amend her 2009 and 2010 Financial Disclosure Statements to disclose the gifts from TCA; and (4) disclose any unpaid legal fees from TCA as liabilities on her future Financial Disclosure Statements, until the lawyers associated with TALDF have been repaid in full.

On August 16, 2011, after the Committee approved a request first submitted in 2009, Representative Schmidt established a Legal Expense Fund. On January 3, 2012, Representative Schmidt amended her 2009 and 2010 Financial Disclosure Statements. In August 2012, Representative Schmidt informed the Committee that she "had raised or personally paid approximately $50,000" to divest herself of the improper gift. Representative Schmidt lost her primary election and the Committee will not have jurisdiction over her after January 3, 2013.

Representative Gregory W. Meeks[3]

On May 18, 2011, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Gregory W. Meeks failed to disclose a $40,000 loan he received from Edul Ahmad (Ahmad loan) and that the Ahmad loan was and should have been disclosed as a gift on Representative Meeks' Financial Disclosure Statements for 2007, 2008, and 2009.[4] On July 1, 2011, the Chairman and Ranking Member announced that they had jointly decided to extend the Committee's review of the matter for a 45-day period pursuant to Committee Rules 17A(b)(1)(A) and 17A(c).

On August 1, 2011, the Committee released the OCE's Report and Findings and indicated that it would continue to review allegations related to the Ahmad loan pursuant to Committee Rule 18(a).

Based on its investigation, the Committee adopted a Report on December 18, 2012, which resolves the allegation regarding the Ahmad loan. The Committee unanimously determined, based on the Committee's review of this allegation, that Representative Meeks failed to disclose the Ahmad loan as a liability on his 2007, 2008, and 2009 Financial Disclosure Statements. The Committee found no credible evidence that the errors were knowing or willful.

Although it was not the basis of the OCE referral, the Committee also investigated the allegation that the Ahmad loan was not accompanied by a written document and stated loan terms, and constituted an impermissible gift. The Committee determined that the

[3] Committee on Ethics, *In the Matter of Allegations Relating to Representative Gregory Meeks,* H. Rept. 112–709, 112th Cong. 2d Sess. (2012).

[4] In the same Report and Findings, the OCE referred for dismissal allegations that Representative Meeks accepted an improper loan from a private investment firm (investment firm loan). The OCE based its dismissal recommendation on its conclusion that the investment firm loan had all the "normal indicia of a legitimate loan," and was thus not an improper gift that would violate the House gift rule. On August 1, 2011, the Committee voted unanimously to dismiss the allegation regarding the investment firm loan based on the evidence that the loan was commercially reasonable.

evidence did not establish that the Ahmad loan was an impermissible gift.

Accordingly, on December 18, 2012 the Committee unanimously voted to adopt a Report concluding this matter. On December 20, 2012, the Committee transmitted its Report to the House of Representatives.

Michael Collins [5]

On May 18, 2011, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that, in 2009, Michael Collins, an employee of the House, may have received outside income in excess of the outside earned income limit applicable to senior staff, and that Mr. Collins failed to report outside income on his annual Financial Disclosure Statements and federal income tax returns. On July 1, 2011, the Chairman and Ranking Member of the Committee jointly decided to extend the Committee's review of the OCE referral pursuant to House Rule XI, clause 3(a)(8)(A), and Committee Rules 17A(b)(1)(A) and 17A(c)(1).

The Committee conducted an investigation into the matter pursuant to Committee Rule 18(a). At the conclusion of its investigation, the Committee unanimously determined that Mr. Collins failed to report outside income he had earned from 2005 through 2010 on both his annual Financial Disclosure Statements and his federal income taxes for each year. The Committee also found that, in 2009, Mr. Collins received an excess of $450 of outside earned income that he repaid in 2011 in order to disgorge himself of the excess outside earned income. Mr. Collins agreed to waive all further procedural steps and rights he may have been entitled to under House and Committee Rules and to accept certain sanctions and remedies. Mr. Collins agreed to accept the findings of the Committee, accept a Letter of Reproval from the Committee for his actions, pay a $1,000 fine, amend his Financial Disclosure Statements and federal income tax returns for 2005 through 2010, and pay any taxes or penalties owed. Accordingly, on August 1, 2011, the Committee unanimously voted to adopt a Report concluding this matter. On August 5, 2011, the Committee transmitted its Report to the House of Representatives.

Gregory Hill [6]

On May 18, 2011, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that, in 2009, Gregory Hill, an employee of the House, may have received outside income in excess of the outside earned income limit applicable to senior staff, and that Mr. Hill failed to properly report the actual amount of such income on his 2009 Financial Disclosure Statement. On July 1, 2011, the Chairman and Ranking Member of the Committee jointly decided to extend the Committee's review of the OCE referral pursuant to House Rule XI, clause 3(a)(8)(A), and Committee Rules 17A(b)(1)(A) and 17A(c)(1).

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[5] Committee on Ethics, *In the Matter of Allegations Relating to Michael Collins,* H. Rept. 112–193, 112th Cong. 1st Sess. (2011).

[6] Committee on Ethics, *In the Matter of Allegations Relating to Gregory Hill,* H. Rept. 112–194, 112th Cong. 1st Sess. (2011).

The Committee conducted an investigation into the matter pursuant to Committee Rule 18(a). At the conclusion of its investigation, the Committee unanimously determined that, in 2009, Mr. Hill did in fact receive outside income that exceeded the outside earned income limit for senior staff. However, the Committee determined that Mr. Hill had taken several steps to ensure that his outside income remained within the authorized amount for senior staff. In addition, the Committee found that Mr. Hill's outside employer was responsible for the clerical error which led to Mr. Hill's receipt of outside income that exceeded the limit for senior staff. Further, the Committee determined that when Mr. Hill learned of the error, he took corrective action and repaid the excess amount. Finally, while Mr. Hill did not report the amount actually received in 2009 on his 2009 Financial Disclosure Statement, the Committee found that he relied upon information provided by the outside employer, including official wage and earnings statements to complete his Financial Disclosure Statement and that the information supplied to him was incorrect without his knowledge. The Committee found that because Mr. Hill had repaid the excess amount, making the total received for 2009 below the limit, no further action was necessary. Accordingly, on August 1, 2011, the Committee unanimously voted to adopt a Report concluding this matter. On August 5, 2011, the Committee transmitted its Report to the House of Representatives.

Matters related to allegations against former Representative Eric Massa

On July 14, 2011, the Committee voted to re-authorize an Investigative Subcommittee for the 112th Congress that had been previously authorized during the 111th Congress for the matter involving former Representative Eric Massa. The Investigative Subcommittee was again charged with conducting a full and complete inquiry into whether any Member, officer, or employee, in the performance of the duties or the discharge of the responsibilities of such individual: (1) had personal knowledge of actual or alleged conduct by Representative Massa that violated a law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties; (2) failed properly to report or fully disclose any such actual or alleged conduct on the part of Representative Massa; (3) had a duty to pursue or call attention to such allegations of misconduct; or (4) misappropriated, or otherwise fraudulently or improperly distributed or received, monies or other payments, all of the foregoing in violation of any law, rule, regulation or other standard of conduct.

Each of the Members who had initially served on the Investigative Subcommittee in the 111th Congress was reappointed in the 112th Congress. Representative Jo Bonner, the Chairman of the Committee on Ethics, served as Chairman of the Investigative Subcommittee. Representative Zoe Lofgren served as the Ranking Member. The other two members of the subcommittee were Representative Michael Conaway and Representative Ben Chandler.

As of the conclusion of the 112th Congress, the Investigative Subcommittee had not completed its investigation into the matter under its jurisdiction.

Representative Maxine Waters [7]

On July 24, 2009, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Maxine Waters violated House Rule XXIII, clause 3 and House precedent regarding conflicts of interest when she called the then-Treasury Secretary and requested that Treasury Department officials meet with representatives from the National Bankers Association. The OCE alleged that this meeting focused on a single bank—OneUnited Bank (OneUnited)—in which Representative Waters' husband held stock and for which he had previously served on the Board of Directors.

On October 29, 2009, following an investigation by Committee staff pursuant to authority granted by the Chairman and Ranking Member under Committee Rule 18(a), the Committee established an Investigative Subcommittee (ISC). During the course of the investigation, the ISC (in the 111th Congress) issued 11 subpoenas, interviewed 13 witnesses, and reviewed more than 1,300 pages of documents.

In the spring of 2010, the ISC came to an agreement to release a Report critical of some conduct in the matter, but recommending no further action or sanction. However, the former Chief Counsel and Staff Director advised the Committee that the rules did not permit an ISC to issue a Report that was critical of a Member without adopting a Statement of Alleged Violation (SAV) and providing the Respondent with the opportunity for an adjudicatory hearing under the rules for an Adjudicatory Subcommittee.

Subsequently, on June 15, 2010, the ISC adopted an SAV alleging three counts of misconduct: violations of clauses 1 and 3 of the House Code of Official Conduct (House Rule XXIII), and paragraph 5 of the Code of Ethics for Government Service. The ISC transmitted the SAV to the full Committee on July 28, 2010. Shortly thereafter, the Committee established an Adjudicatory Subcommittee (ASC) to conduct a hearing on the SAV.

On October 7, 2010, the Chair of the ASC scheduled a hearing in Representative Waters' matter for November 21, 2010. On or about October 12, 2010, the Committee postponed the date of the hearing by one week, until November 29, 2010.

On November 15, 2010, two weeks before the hearing was to occur, staff submitted a formal motion to the ASC to recommit the matter to the ISC, on the grounds that staff had obtained new evidence in the matter. On November 18, 2010, the ASC voted to recommit the matter to the ISC.

By the end of the 111th Congress, the Committee recognized the need to hire Outside Counsel to complete this matter. However, the need to reconstitute the Committee's staff in the 112th Congress delayed the resolution of Representative Waters' matter by, among other things, delaying the retention of Outside Counsel. The Committee ultimately retained attorney Billy Martin to serve as Outside Counsel on July 20, 2011.

The Committee's first charge to Outside Counsel was a thorough review of serious allegations regarding the Committee's own conduct in this matter. Those allegations included charges that the

[7] Committee on Ethics, *In the Matter of Representative Maxine Waters,* H. Rept. 112–690, 112th Cong. 2d Sess. (2012).

Committee and its staff had violated Representative Waters' due process rights in several respects during the course of the Committee's investigation. Mr. Martin thus conducted an extensive review of allegations raised by both Representative Waters and the Committee itself, which included a document review comprising more than 100,000 pages, interviews of 26 witnesses, including all Members of the Committee from the 111th Congress as well as all current and former staff with knowledge of the relevant issues, and a significant and thorough analysis of the relevant legal issues. The vast majority of this review took place between July 2011 and the end of 2011. However, one significant witness, refused to testify without the issuance of a subpoena, and then indicated an intention to assert the Fifth Amendment privilege when the subpoena was issued. The witness did ultimately provide testimony, but the witness's recalcitrance delayed the completion of the first phase of Outside Counsel's review by at least four months.

On February 17, 2012, based on the advice received from Outside Counsel, six Members of the Committee for the 112th Congress—the Chairman, the Ranking Member, and all current Committee Members who also served on the Committee during the 111th Congress—voluntarily requested recusal from this matter. Further, all current Committee staff who were involved in Representative Waters' matter in the 111th Congress were recused from the matter.

Outside Counsel did not find any evidence of wrongdoing by any Member of the Committee, and no Member requested recusal because of any such wrongdoing. Instead, the Members requested recusal because:

(1) They believed that, out of an abundance of caution and to avoid even an appearance of unfairness, their voluntary recusal would eliminate the possibility of questions being raised as to the partiality or bias of Committee Members considering this matter;

(2) They wanted to assure the public, the House, and Representative Waters that this investigation was continuing in a fair and unbiased manner; and

(3) They wanted to move this matter forward in a manner that supported the greatest public confidence in the ultimate conclusions of this Committee.

On February 17, 2012, the Speaker of the House of Representatives, with input from the Minority Leader, appointed six substitute Committee members who were charged solely with resolving Representative Waters' matter. The six new Committee members, Representatives Bob Goodlatte, Mike Simpson, Steve LaTourette, Shelley Moore Capito, Tim Griffin, and John Sarbanes, joined the four members of the standing Committee who had no role in the investigation of Representative Waters' matter in the 111th Congress. These 10 Members were referred to as the "Waters Committee." Representative Goodlatte served as the acting Chairman and Representative John Yarmuth, of the standing Committee, served as the acting Ranking Member.

Upon completion of Outside Counsel's due process review, Outside Counsel submitted his conclusions from that review to the Waters Committee in May 2012. On June 6, 2012, the Acting Chairman and Acting Ranking Member of the Waters Committee

wrote to Representative Waters, notifying her that upon the advice of Outside Counsel, the Waters Committee had unanimously found that none of the individual allegations raised regarding the conduct of Committee Members or staff, nor the totality of the circumstances of those claims, amounted to a deprivation of her due process rights.

Only upon conclusion of the first phase of the review was Outside Counsel authorized to conduct a *de novo* review of the actual substance of the allegations against Representative Waters. This review was similarly thorough; Outside Counsel reviewed all prior ISC and staff interview transcripts and all documents produced to the Committee, and also re-interviewed several key witnesses. Members of the Waters Committee also reviewed many of these ISC and staff interview transcripts and key documents. Finally, after providing Representative Waters and her chief of staff the opportunity to appear before the Committee, the Waters Committee held a public hearing on September 21, 2012. The Committee heard Representative Waters' chief of staff's testimony and fully considered it.

Based on the work of Outside Counsel, the Waters Committee's own evaluation of that work, and Representative Waters' chief of staff's testimony at the public hearing, the Waters Committee made their own determinations with respect to Representative Waters and her chief of staff.

With respect to Representative Waters' actions to set up a meeting between the then-Treasury Secretary and representatives from the National Bankers Association—who were also associated with OneUnited—Outside Counsel concluded that Representative Waters reasonably believed, at the time she requested the meeting, that the attendees would be speaking on behalf of minority banks generally. While it appears that all of the minority bankers who attended the meeting were associated with OneUnited, and that OneUnited was alone in requesting substantial financial assistance from the Treasury Department at the meeting, the record indicates that Representative Waters did not have reason to know of either of these facts when she arranged the meeting. Accordingly, Outside Counsel recommended that the Waters Committee find that Representative Waters reasonably believed she was arranging the Treasury meeting on behalf of a broad class of minority banks, and that in doing so she did not violate any House rule, law, regulation, or other applicable standard of conduct. The Waters Committee unanimously agreed with Outside Counsel's recommendation.

Outside Counsel also reviewed allegations that Representative Waters' chief of staff took steps to assist OneUnited after Representative Waters realized that the bank made a request for federal financial assistance from the Treasury Department and that, due to her significant financial interest in OneUnited, she had a conflict of interest regarding any efforts to provide specific financial assistance to OneUnited. Outside Counsel concurred in Representative Waters' determination that she had a conflict of interest with respect to OneUnited's request for specific financial assistance. Outside Counsel also recognized that the House Rules prohibit Members from doing anything through staff that the Rules prohibit them from doing directly. Further, longstanding Committee precedent holds Members responsible for the actions of their staff, when

those actions are within the scope of the staff's official duties. Thus, Outside Counsel believed that if Representative Waters' chief of staff knowingly ignored Representative Waters' conflict of interest—after the conflict became clear—and facilitated OneUnited's request for federal financial assistance, Representative Waters could be responsible for violating House rules.

However, Outside Counsel recommended that the Committee find that the evidence did not establish that Representative Waters violated House Rules. As Outside Counsel's Report detailed, Representative Waters appeared to have recognized and made efforts to avoid a conflict of interest with respect to OneUnited. Accordingly, Outside Counsel recommended that the Waters Committee find that Representative Waters did not violate House Rules by failing to exercise adequate oversight of her chief of staff with respect to his work on behalf of OneUnited. The Waters Committee unanimously concurred with this conclusion.

Outside Counsel also analyzed the conduct of Representative Waters' chief of staff, who is also her grandson. Outside Counsel considered evidence that Representative Waters told her chief of staff of her conflict of interest with respect to OneUnited prior to September 19, 2008, the date on which the chief of staff sent the first of two emails that were unambiguously intended to assist OneUnited specifically. Although Outside Counsel concluded that the evidence did not establish, to a clear and convincing level, that Representative Waters' chief of staff was directed not to work on OneUnited matters before September 19, 2008, Outside Counsel believed that there was evidence to support that finding, and informed the Waters Committee that, based on its own weighing of the evidence, the Waters Committee could reasonably make that determination.

Outside Counsel also considered evidence, including Representative Waters' own testimony, that suggested that Representative Waters' chief of staff knew or should have known—regardless of how and when Representative Waters instructed her chief of staff not to work on OneUnited matters—that Representative Waters had a significant financial interest in, and thus a potential conflict of interest with respect to, OneUnited. Outside Counsel recognized this evidence, but recommended that the record, standing alone, did not establish the conclusion to a clear and convincing standard. Outside Counsel thus deferred to the Waters Committee to weigh the credibility of the chief of staff's claimed ignorance of Representative Waters' financial interest in OneUnited, in light of the evidence to the contrary. The Waters Committee ultimately found that the totality of the evidence supported the conclusion that the chief of staff knew or should have known of Representative Waters' financial interest in OneUnited. Thus, the Waters Committee found that the chief of staff knew or should have known that Representative Waters had a conflict of interest with respect to specific actions to assist OneUnited, regardless of how and when Representative Waters informed him that she believed such a conflict existed.

Based on the foregoing findings, the Waters Committee voted unanimously to close its investigation regarding Representative Waters. However, the Waters Committee found that Representative Waters' chief of staff knew or should have known of Representative Waters' financial interest in OneUnited and her conflict of interest

in taking official action on the bank's behalf alone, and that the chief of staff thus violated House rules by taking specific actions that would accrue to the distinct benefit of OneUnited. Accordingly, the Committee unanimously voted to issue a Letter of Reproval to Representative Waters' chief of staff for his conduct. On September 25, 2012, the Waters Committee issued its Report in the matter of Representative Waters, which included the final Report of Outside Counsel.

Representative Luis V. Gutierrez[8]

In accordance with the requirements of H. Res. 451, H. Res. 5, Section 4(d) and Committee Rule 18(e)(2), the Committee convened on August 1, 2011, to consider the arrest of Representative Luis V. Gutierrez for failure to obey a lawful order from a police officer during a protest outside the White House on July 26, 2011. Representative Gutierrez paid a $100 fine and was released following his arrest. Payment of the fine ended legal proceedings in the District of Columbia with regard to the arrest.

After reviewing and considering this matter, the Committee voted against empanelling an Investigative Subcommittee related to the conduct of Representative Gutierrez. In reaching this decision, the Committee considered the scope and nature of the violation, and determined it to be one for which review by an Investigative Subcommittee was not required. On August 5, 2011, the Committee submitted a Report to the House of Representatives describing the facts and its findings regarding this matter.

Representative Jesse Jackson, Jr.

On August 6, 2009, the OCE referred to the Committee allegations regarding Representative Jesse Jackson, Jr. Pursuant to a request by the Department of Justice, the Committee voted on September 15, 2009, to defer investigation of the matter. On October 13, 2011, the Department informed the Committee that it would not request any further deferral of the Committee's investigation regarding Representative Jackson. The Committee then voted to end the deferral period on October 13, 2011. On October 18, 2011, the Chairman and Ranking Member jointly decided to extend the matter of Representative Jackson for a 45–day period pursuant to Committee Rules 17A(b)(1)(A) and l7A(c)(1). On December 2, 2011, the Chairman and Ranking Member released a public statement that, pursuant to Committee Rule 18(a), the Committee would continue to review the matter. On that same date, pursuant to Committee Rule 17A(c)(2), the Committee published OCE's Report and Findings relating to allegations against Representative Jackson.

Representative Jackson resigned from the House on November 21, 2012, and the Committee no longer has jurisdiction over him. As of that date the Committee had not completed its investigation into this matter.

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[8] Committee on Ethics, *In the Matter of Allegations Relating to Representative Luis V. Gutierrez,* H. Rept. 112–192, 112th Cong. 1st Sess. (2011).

Todd Poole [9]

In accordance with the requirements of Committee Rule 18(e)(2), the Committee convened on September 8, 2011, to consider the arrest of Todd Poole, an employee of the House, on August 11, 2011, in North Carolina for driving while impaired and resisting an officer. After reviewing and considering this matter, the Committee voted against empanelling an Investigative Subcommittee. In reaching this decision, the Committee considered the scope and nature of the violation, and determined it to be one for which review by an Investigative Subcommittee was not required. On September 9, 2011, the Committee submitted a Report to the House of Representatives describing the facts and its findings regarding this matter.

Representative Don Young [10]

On June 23, 2011, the OCE commenced a preliminary review of allegations that Representative Don Young had accepted contributions to his Legal Expense Fund (LEF) in excess of the limits established by applicable rules. Pursuant to its organizing resolution, the OCE was required to notify both Representative Young and the Committee that it had begun a preliminary review. In a letter dated July 6, 2011, Representative Young sought guidance from the Committee related to twelve $5,000 contributions—the maximum contribution permitted—made to his LEF by twelve limited liability corporations (LLCs) located in Louisiana. Representative Young indicated that, prior to accepting the contributions, his office sought guidance from the LEF's trustee, Gail R. Schubert, regarding whether contributions from companies that are separate legal entities and "operate under separate financial records" were subject to the same contribution limit. The trustee's opinion was that such contributions were permissible and not subject to the same contribution limit if the companies were separate legal entities and operated under separate financial records.

On October 13, 2011, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Young may have accepted contributions to his LEF in excess of the $5,000 per calendar year limit from any individual or organization.

On November 17, 2011, the Chairman and Ranking Member authorized an investigation pursuant to Committee Rule 18(a) to gather additional information related to the allegations in the OCE's Report and Findings. The Committee also conducted a review of the advice generally given to individuals with LEFs in interpreting the Legal Expense Fund Regulations issued by the Committee on June 10, 1996 (1996 LEF Regulations). Based on the information gathered during the 18(a) investigation, as well as the Committee's review of the advice generally given, on December 14, 2011, the Committee voted unanimously to resolve the issues surrounding Representative Young's outstanding request for guidance from the Committee and the allegations referred by the OCE, by issuing a letter to Representative Young and releasing a Report.

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[9] Committee on Ethics, *In the Matter of Todd Poole,* H. Rept. 112–203, 112th Cong. 1st Sess. (2011).

[10] Committee on Ethics, *In the Matter of Allegations Relating to Representative Don Young,* H. Rept. 112–336, 112th Cong. 1st Sess. (2011).

With respect to Representative Young's request for guidance from the Committee, the Committee, in guidance issued contemporaneously with the Report on December 20, 2011, determined that the $5,000 contributions by the twelve Louisiana LLCs to Representative Young were permissible under the 1996 LEF Regulations issued by the Committee, and that the LEF's acceptance of those contributions did not violate House rules. The Committee also adopted revised LEF Regulations, issued contemporaneously with the Report, that provide clarity on several matters related to LEFs, including restrictions on contributions from multiple entities owned by the same individual or individuals. Those regulations are included in this Report in Appendix I.

The Committee also dismissed the allegations in the OCE referral. With respect to the referral from OCE, the Committee determined that, based on the 1996 LEF Regulations and long-standing Committee advice, multiple entities owned by the same individual or individuals were permitted to make contributions up to $5,000 per entity if they were separate legal entities. The twelve Louisiana LLCs were separate legal entities and were separately registered with the Louisiana Secretary of State. Further, the entities provide separate and distinct products or services and were formed at different times. Based on those reasons, the Committee voted to dismiss OCE's referral.

Representative Alcee L. Hastings

On November 8, 2011, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Alcee L. Hastings may have violated House Rule XXIII, clause 1, and the Congressional Accountability Act, 2 U.S.C. §§ 1311(a), 1317(a), where he allegedly engaged in employment discrimination, unwelcome sexual advances, and unwelcome sexual conduct towards a staffer of the United States Commission on Security and Cooperation in Europe. The Committee released OCE's Report and Findings on January 11, 2012, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 112th Congress the Committee had not completed its investigation into this matter.

Representative Laura Richardson [11]

In October 2010, the Committee received complaints from several members of Representative Laura Richardson's staff in both her Washington, D.C., and Long Beach, California, offices, indicating that Representative Richardson required her staff to perform campaign work. Based on these complaints, the then-Chair and then-Ranking Republican Member of the Committee for the 111th Congress authorized Committee staff to conduct an inquiry into these allegations pursuant to Committee Rule 18(a). On October 15, 2010, Committee counsel notified Representative Richardson in writing of the inquiry and requested she make her staff and documents and records available to the Committee. During the 18(a)

[11] Committee on Ethics, *In the Matter of Allegations Relating to Representative Laura Richardson,* H. Rept. 112–642, 112th Cong. 2d Sess. (2012).

phase of the inquiry, Committee staff obtained documents from Representative Richardson and her staff and interviewed 17 witnesses, including members of Representative Richardson's staff.

On November 3, 2011, based on the results of the 18(a) investigation and the recommendation of Committee staff, the Committee empanelled an Investigative Subcommittee (ISC) to investigate allegations that Representative Richardson, as well as two members of her official staff, had (1) engaged in improper use of House resources for campaign, personal, and nonofficial purposes; and (2) improperly required or compelled official staff to perform campaign work.

At the completion of its investigation, the ISC unanimously concluded that there was substantial reason to believe that Representative Richardson had violated 31 U.S.C. § 1301; House Rule XXIII clauses 1, 2, and 8; clause 2 of the Code of Ethics for Government Service; and other standards of conduct, by improperly using House resources for campaign, personal, and nonofficial purposes; by requiring or compelling her official staff to perform campaign work; and by obstructing the investigation of the Committee and the ISC through the alteration or destruction of evidence, the deliberate failure to produce documents responsive to requests for information and a subpoena, and/or attempting to influence the testimony of witnesses.

On July 18, 2012, pursuant to a negotiated settlement with Representative Richardson, the ISC unanimously voted to adopt a Statement of Alleged Violation (SAV) against Representative Richardson. On July 26, 2012, the ISC submitted a Report to the full Committee unanimously recommending that the full Committee submit a public report to the House. The ISC further recommended that the adoption of that Report by the House would serve as a reprimand of Representative Richardson for her misconduct. Additionally, the ISC recommended that the Committee recommend that the House impose a fine on Representative Richardson in the amount of $10,000, to be paid no later than December 1, 2012. The ISC strongly discouraged Representative Richardson from permitting any of her official staff to perform work on her campaign (either on a paid or volunteer basis), but recommended to the Committee that, to the extent any of her official staff did perform work on her campaign in the future, that said staff be required to sign a waiver asserting that such work would be performed voluntarily and was not compelled by Representative Richardson. As part of the negotiated resolution, Representative Richardson agreed to waive all further procedural rights in the matter provided to her by House or Committee rules, and agreed to admit to all seven counts in the SAV, pay a $10,000 fine by December 1, 2012, and accept all other terms of the ISC's recommendation.

As part of its investigation, the ISC also inquired as to the role of Representative Richardson's Chief of Staff, Shirley Cooks, and Deputy District Director, Daysha Austin, in this matter. Following its investigation, the ISC concluded that Ms. Cooks and Ms. Austin had required other members of Representative Richardson's staff to perform campaign work and had used House resources for campaign purposes. Pursuant to separate negotiated settlements, Ms. Cooks and Ms. Austin each agreed to waive all further procedural rights in the matter provided to them by House or Committee

rules. The ISC then recommended that the Committee issue public letters of reproval to Ms. Cooks and Ms. Austin for their conduct. The Committee accepted this recommendation and issued public Letters of Reproval to Ms. Cooks and Ms. Austin on August 1, 2012.

On August 1, 2012, the Committee submitted to the House its Report regarding this matter, in which the Committee adopted the ISC's Report and all of its recommendations. Following debate before the full House, the House of Representatives adopted the Committee's Report regarding Representative Richardson by unanimous consent on August 2, 2012, and thus reprimanded her for her use of official resources for campaign and personal purposes, and for obstruction of the Committee's investigation. By adopting the Committee's Report, the House of Representatives also imposed a $10,000 fine on Representative Richardson, as recommended by the ISC and full Committee.

Representative Vern Buchanan (Financial Disclosure Statements) [12]

On November 8, 2011, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Vern Buchanan may have violated House Rule XXVI, clause 2, and the Ethics in Government Act, 5 U.S.C. app. 4 § 101 et seq., by failing to properly list on his Financial Disclosure Statements for 2007 through 2010 certain positions with a number of entities, as well as certain income from those positions. Representative Buchanan amended his 2007 through 2010 Financial Disclosure Statements while the OCE conducted its investigation. On February 6, 2012, pursuant to Committee Rule 17A(c)(2), the Committee published the OCE's Report and Findings relating to allegations against Representative Buchanan.

After conducting an investigation of this matter pursuant to Committee Rule 18(a), the Committee issued a Report on July 10, 2012, in which it unanimously concluded that Representative Buchanan did not report on his Financial Disclosure Statements for 2007, 2008, 2009, and 2010, in complete and accurate detail, all of the positions or ownership interests he held with several entities and that he did not accurately report certain income received from those same entities in the same years. However, the Committee also unanimously determined that these errors and omissions were not substantively different from the hundreds or thousands of errors and omissions corrected by amendment at the requirement of the Committee every year. Because Representative Buchanan had remedied the errors and omissions by his subsequent amendments, the Committee determined that no further action was warranted in this matter.

Representative Vern Buchanan (Campaign Finance/Witness Tampering)

On February 9, 2012, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Vern Buchanan may have violated 18 U.S.C. §§ 201, 1505, and 1512, as well as House Rule XXIII, clause

[12] Committee on Ethics, *In the Matter of Allegations Relating to Representative Vernon G. Buchanan,* H. Rept. 112–588, 112th Cong. 2d Sess. (2012).

1, by making the settlement of a lawsuit against a former business partner contingent on the business partner signing a false affidavit to be filed with the Federal Election Commission. The Committee released the OCE's Report and Findings on May 9, 2012, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 112th Congress the Committee had not completed its investigation into this matter.

Representative Shelley Berkley [13]

On February 9, 2012, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Shelley Berkley used her official position for personal gain and violated conflict of interest precedent by taking official action on behalf of the University Medical Center of Southern Nevada (UMC) Kidney Transplant Program in order to prevent the Centers for Medicare and Medicaid Services (CMS) from terminating the program's Medicare approval. On March 23, 2012, the Chairman and Ranking Member issued a public statement and jointly extended the matter referred by the OCE for an additional 45 days. Prior to the end of the second 45-day period, on June 29, 2012, the full Committee voted unanimously to empanel an Investigative Subcommittee to investigate allegations that Representative Shelley Berkley improperly used her official position for her financial interest, dispensed special favors or privileges to her husband, and allowed her husband to contact her or members of her staff on behalf of a third party.

The ISC unanimously concluded that the information it obtained indicated that Representative Berkley violated House Rules, regulations, laws or other standards of conduct when she permitted her office to take official action specifically on behalf of her husband's practice. However, the ISC did not find that Representative Berkley violated any such rules or laws when she intervened on behalf of UMC in an effort to prevent CMS from terminating Medicare approval of UMC's kidney transplant program, or when she permitted her husband to contact her office on behalf of other business entities, fellow members of a professional association, or other third parties seeking official action. The ISC adopted its Report on December 13, 2012, and transmitted it to the full Committee on the same day. In its Report, the ISC noted that Representative Berkley was entirely cooperative with the investigation, and credited her testimony both in terms of candor, and in terms of her objective lack of malicious intent in violating the rules.

On December 20, 2012, after providing Representative Berkley with a copy of the ISC's Report and inviting her to a hearing before the full Committee, the Committee unanimously adopted its own Report. In its Report, the Committee adopted the ISC's Report and accepted the ISC's recommendations. On December 20, 2012, the Committee submitted its Report to the House and closed this matter.

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[13] Committee on Ethics, *In the Matter of Allegations Relating to Representative Shelley Berkley,* H. Rept. 112–716, 112th Cong. 2d Sess. (2012).

In the Matter of the Sudanese Embassy Protest Arrests[14]

In accordance with the requirements of H. Res. 451, H. Res. 5, Section 4(d) and Committee Rule 18(e)(2), the Committee convened on March 20, 2012, to consider the arrests of four Members—Representatives Al Green, James P. McGovern, James P. Moran, and John W. Olver—for crossing a police line during a protest outside the Embassy of Sudan on March 16, 2012. Each of the four Members paid a $100 fine on the date of their arrest. Payment of the fine ended legal proceedings in the District of Columbia with regard to each arrest.

After reviewing and considering this matter, the Committee voted against empanelling an Investigative Subcommittee. In reaching this decision, the Committee considered the scope and nature of the violation, and determined it to be one for which review by an Investigative Subcommittee was not required. On March 22, 2012, the Committee submitted a Report to the House of Representatives describing the facts and its findings regarding this matter.

Representative Robert E. Andrews

On April 2, 2012, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Robert Andrews converted funds from his principal campaign committee and leadership political action committee (PAC) to personal use by paying for trips to Scotland and to California with family members from campaign and leadership PAC funds. Committee Rule 17A(j) provides that the Committee may postpone any reporting requirement related to an OCE referral that falls within that 60-day period until after the date of the election in which the subject of the referral is a candidate. Representative Andrews was on the primary ballot in June 2012. Therefore, the announcement that the Chairman and Ranking Member jointly decided to extend the matter of Representative Andrews for a 45-day period pursuant to Committee Rules 17A(b)(1)(A) and 17A(j) was postponed until July 17, 2012. On August 31, 2012, the Chairman and Ranking Member released a public statement that, pursuant to Committee Rule 18(a), the Committee would continue to review the matter. On that same date, pursuant to Committee Rule 17A(c)(2), the Committee published OCE's Report and Findings relating to allegations against Representative Andrews.

As of the conclusion of the 112th Congress, the Committee had not completed its investigation into this matter.

Representative Michael G. Grimm

On June 29, 2012, the OCE forwarded to the Committee a Report in which it recommended dismissal of allegations that Representative Michael G. Grimm violated federal campaign finance laws, where he allegedly solicited and accepted prohibited campaign contributions, including contributions in excess of contribution limits, excessive cash contributions, contributions from foreign nationals,

[14] Committee on Ethics, *In the Matter of Regarding Arrests of Members of the House During a Protest Outside the Embassy of Sudan in Washington, DC, on March 16, 2012,* H. Rept. 112–419, 112th Cong. 2d Sess. (2012).

and contributions made in the name of another. The OCE's Report contained additional allegations that Representative Grimm had filed false information in his campaign finance reports to the Federal Election Commission, and that he may have improperly sought assistance from a foreign national in soliciting campaign contributions in exchange for offering to use his official position to assist that individual in obtaining a green card. The OCE recommended dismissal because it "could not establish with sufficient certainty that a violation occurred after Representative Grimm became a Member of Congress."

On November 15, 2012, the Committee unanimously voted to continue to affirm jurisdiction over matters relating to a successful campaign for election to the House of Representatives. The Committee had previously taken this position with respect to its jurisdiction in other matters similar to these allegations, where Members had allegedly violated laws, rules, or standards of conduct when conducting their initial campaign for the House.[15] Because the Committee disagreed with the OCE's conclusion regarding its jurisdiction, the Committee decided to investigate the matter pursuant to Committee Rule 18(a). However, just before the Committee would have been required to issue the report of the OCE, the Department of Justice requested that the Committee defer its consideration of this matter. The Committee agreed to do so and, consistent with House and Committee Rules, publicly announced the deferral on November 26, 2012.

As of the conclusion of the 112th Congress the Committee had not completed its investigation into this matter.

Representative William L. Owens

On August 30, 2012, the OCE referred to the Committee allegations regarding Representative William L. Owens. On December 14, 2012, the Chairman and Ranking Member jointly decided to extend the matter of Representative William Owens for a 45-day period pursuant to Committee Rules 17A(b)(1)(A) and 17A(j).

Representative Aaron Schock

On August 30, 2012, the OCE referred to the Committee allegations regarding Representative Aaron Schock. On December 14, 2012, the Chairman and Ranking Member jointly decided to extend the matter of Representative Aaron Schock for a 45-day period pursuant to Committee Rules 17A(b)(1)(A) and 17A(j).

Representative Silvestre Reyes

On August 30, 2012, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Silvestre Reyes violated 31 U.S.C. § 1301, 18 U.S.C. § 607, 2 U.S.C. § 439a(b)(1), 11 C.F.R. § 113.1(g)(1)(i)(E), and House Rule XXIII, clause 6(b), where public records indicated that Representative Reyes may have held campaign meetings on House property, and that he may have improperly used campaign funds to pay for certain expenses related to his

[15] *See, e.g.,* House Committee on Standards of Official Conduct, *In the Matter of Representative Earl F. Hilliard,* H. Rept. 107–130, 107th Cong. 1st Sess. (2001); House Committee on Standards of Official Conduct, *In the Matter of Representative Jay Kim,* H. Rept. 105–797, 105th Cong. 2d Sess. at 6, 677 (1998).

daughter's residence. The Committee released OCE's Report and Findings on November 28, 2012.

As of the conclusion of the 112th Congress, the Committee had not completed its investigation in this matter. Representative Reyes lost his primary election and the Committee will not have jurisdiction over him after January 3, 2013.

Joy Henrichs [16]

In accordance with the requirements of Committee Rule 18(e)(2), the Committee convened on November 15, 2012, to consider the arrest of Joy Henrichs, an employee of the House, on August 16, 2012, in Virginia for driving under the influence. After reviewing and considering this matter, the Committee voted against empanelling an Investigative Subcommittee. In reaching this decision, the Committee considered the scope and nature of the violation, and determined it to be one for which review by an Investigative Subcommittee was not required. On November 16, 2012, the Committee submitted a Report to the House of Representatives describing the facts and its findings regarding this matter.

Representative Tim Ryan [17]

In accordance with the requirements of H. Res. 451, H. Res. 5, Section 4(d) and Committee Rule 18(e)(2), the Committee convened on December 19, 2012, to consider the charge filed against Representative Tim Ryan on August 25, 2012, in Virginia for public intoxication. On December 4, 2012, Representative Ryan was found not guilty of the charge. After reviewing and considering this matter, the Committee voted against empanelling an investigative subcommittee. In reaching this decision, the Committee considered the scope and nature of the violation, and determined it to be one for which review by an investigative subcommittee was not required. On December 20, 2012, the Committee submitted a report to the House of Representatives describing the facts and its findings regarding this matter.

Countrywide Financial Corporation

On December 19, 2012, the Committee completed its review of allegations related to the "V.I.P." program of the Countrywide Financial Corporation (Countrywide). On December 27, 2012, the Chairman and Ranking Member issued a public statement regarding the resolution of this matter as well as a general advisory to Members and employees regarding the use of one's position in the House of Representatives for personal gain or benefit.

Numerous allegations were made that certain Members and employees of the House of Representatives acted improperly when they received "discounts" on personal residential or vacation property loans, or when their loan applications were handled by an office within Countrywide called the "V.I.P Loan Unit," or handled as "Friends of Angelo," referring to Angelo Mozilo, the former CEO of Countrywide. In addition, the evidence suggested that certain House employees made explicit requests to Countrywide lobbyists

[16] Committee on Ethics, *In the Matter of Joy Henrichs,* H. Rept. 112–696, 112th Cong. 2d Sess. (2012).

[17] Committee on Ethics, *In the Matter of Representative Tim Ryan,* H. Rept. 112–710, 112th Cong. 2d Sess. (2012).

or spoke to a Countrywide lobbyist about their personal loan needs, and that the lobbyists then facilitated those loans.

While these allegations concern serious matters, almost all of the allegations concerned actions taken outside, or well outside, the jurisdiction of this Committee, as designated in House Rule XI, clause 3(b)(3), because they occurred before the third Congress prior to the current Congress. In addition, several of the Members and employees mentioned in the allegations are no longer serving in or employed by the House, and therefore are outside the Committee's jurisdiction pursuant to House Rule XI, clause 3(a)(2).

After a lengthy and deliberate review, including more than 2,000 pages of documentation provided by Countrywide or its successor, Bank of America, as well as giving careful and serious consideration to the submission and reports of the Chairman of the Committee on Oversight and Government Reform, the Committee unanimously agreed to end its review with the publication of a statement and the issuance of a general advisory. That general advisory is reprinted in Appendix I and is available on the Committee's web site.

Other Committee investigative actions

In addition to the publicly disclosed matters discussed in this Report, the Committee either commenced review of, or continued to review from the 111th Congress, 69 investigative matters. Of these 69 matters which remain confidential, 42 were resolved in the 112th Congress.

APPENDIX I

U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

January 25, 2011

MEMORANDUM FOR ALL MEMBERS, COMMITTEES, AND EMPLOYEES

FROM: Committee on Ethics
Jo Bonner, Chairman
Zoe Lofgren, Ranking Member

SUBJECT: New Employee Mandatory Ethics Training within 60 Days

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The Committee on Ethics (formerly the Committee on Standards of Official Conduct) is required to provide annual ethics training to each officer and employee of the House. All new employees must complete an initial training session *within 60 days of commencing House employment*. The Committee encourages all new employees who have not yet completed their new employee ethics training requirement to complete the required training soon.

Who is a "new" employee?

Any former House employee who returns to House employment after a gap of more than 90 consecutive calendar days is considered to be a "new" employee. Interns paid by the House for more than 60 days also must comply with this requirement (unpaid interns are not required to take the training).

New employees who *work in the Capitol Hill offices* must attend a *live* ethics training briefing. New employees who are *district staff* may watch the *online* training for new district staff. New employees will *not* receive credit for attending or watching any training sessions other than training sessions specifically designated for "New Employees" or "New District Staff."

When can I attend a live training session?

The next New Employee Training sessions are scheduled for *January 26 and February 1, 2011, at 10:00 a.m.* in the CVC Auditorium. Dates and times for additional sessions will be posted and updated on the Committee's Web site, http://ethics.house.gov.

You must preregister online

Online preregistration is required for all ethics training. All employees must preregister online by entering their active directory (AD) username and password into the appropriate system for either the *live* or *online* ethics training. The AD username and password are the same username and password that employees use to access their desktop computers. The online registration process will allow employees to receive an electronic confirmation that they have completed their annual ethics training requirement, for their own records.

For live ethics training: Employees must preregister at http://registerme.house.gov/ and they must sign-in on the attendance form prior to the start of the training. Even if employees preregister, they must sign-in and attend the full hour to fulfill their ethics training requirement. Any late arrivals who miss the sign-in period will not receive credit. After their attendance, employees will receive email confirmation that they have completed their required annual ethics training.

The calendar of upcoming live training sessions for 2011 is available on the Ethics Committee's Web site, http://ethics.house.gov.

For online ethics training: Employees must preregister at HouseConnect: http://houseconnect.house.gov. Employees must complete the entire online training program to receive credit. After completing an online training program, the system will automatically log the employee as "complete." This information is automatically transmitted to the Committee. Thus, once the system labels an employee as "complete" the employee has satisfied the annual training requirement. Employees will be able to check HouseConnect at any time to verify completion of their annual ethics training requirement.

Where can I go with questions?

If you have any questions regarding training requirements, please call the Committee at 5-7103 or stop by the Committee office in 1015 Longworth.

U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

February 5, 2011

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **House Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: The 2011 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees

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A House employee's salary level may trigger certain public disclosure requirements and employment restrictions, including the:

1. Requirement to file financial disclosure (FD) statements;
2. Restrictions on outside employment; and
3. Post-employment restrictions.

This memorandum provides the triggering salary figures for calendar year (CY) 2011 for each of the categories noted above.

FINANCIAL DISCLOSURE

House officers and employees whose "rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule" for at least 60 days at any time during a calendar year are required to file FD statements, provided that the officer or employee "performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year."[1] The GS-15, step 1, basic pay rate for CY 2011 is $99,628. The applicable 120% calculation for that rate for CY 2011 is **$119,553.60**.[2]

As a result, House officers and employees whose basic rate of pay is equal to or greater than the senior staff rate ($119,553.60 for CY 2011) for at least **60 days**[3] during **2011** must file

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[1] Ethics in Government Act (EIGA) §§ 109(13) and 101(d), 5 U.S.C. app. 4 §§ 109(13) and 101(d) (hereinafter all citations to the EIGA will be to the appropriate federal code citation). In addition, all House Members are required to file FD statements. 5 U.S.C. app. 4 §§ 101(e) and (f). Congressional candidates are required to file FD statements in most circumstances. 5 U.S.C. app. 4 § 101(c). This memorandum addresses requirements and restrictions applicable to House officers and employees.

[2] This amount is referred to as the "senior staff rate."

[3] The House payroll department operates on a 30-day payroll cycle, meaning that each monthly pay period, regardless of its actual length, is counted as 30 days. Thus, a change to an employee's base rate of pay in any two months during the calendar year (even non-consecutive months) may trigger the requirement to file a Financial Disclosure Statement.

an FD statement on or before May 15, 2012.[4] In addition, any new employee paid at the senior staff rate must file a "new employee" FD statement within 30 days of assuming employment with the House.[5]

Please note that the requirement to file an FD statement covering calendar year 2010 applies to officers and employees whose basic rate of pay for at least 60 days in **2010** was also **$119,553.60** or more. Annual FD statements for CY 2010 are due on Monday, May 16, 2011, for those individuals who continue to be officers or employees of the House on that date.[6]

In addition, House officers and employees paid at or above the senior staff rate for 60 days or more in a calendar year who terminate their House employment during that calendar year are required to file an FD statement within 30 days of their termination.[7]

THE OUTSIDE EARNED INCOME LIMIT AND OUTSIDE EMPLOYMENT RESTRICTIONS

House officers and employees whose rate of basic pay is equal to or greater than the senior staff rate for **more than 90 days** are subject to limits on the amount of outside earned income[8] attributable to each calendar year.[9] As noted above, the senior staff rate for CY 2011 is **$119,553.60**.

The limit on outside earned income attributable to a calendar year is 15% of the rate of basic pay for Executive Schedule Level II in effect on January 1 of the year. The rate of basic pay for Executive Level II on that date was $179,700. Accordingly, the outside earned income limit for House officers and employees paid at or above the senior staff rate for CY 2011 is **$26,955**.[10]

House officers and employees[11] paid at or above the senior staff rate for more than 90 days are also subject to a number of specific limitations on the types of outside employment.[12]

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[4] 5 U.S.C. app. 4 §§ 101(c) and 109(f).

[5] *See* 5 U.S.C. app. 4 § 101(a). The only exception to this filing requirement is for new employees who assume employment with the House within 30 days of leaving a position with the federal government in which they filed a publicly-available financial disclosure statement. Individuals who are exempt from filing under these circumstances must notify the Clerk of the House in writing of that fact.

[6] Because May 15 falls on a Sunday in 2011, the due date for FD statements is the next business day, May 16, 2011.

[7] *See* 5 U.S.C. app. 4 § 101(e). The only exception is for filers who, within 30 days of their termination from the House, accept a position with the federal government that requires the filing of a publicly-available financial disclosure statement. Departing employees who are exempt from filing under these circumstances must notify the Clerk of the House in writing of that fact.

[8] The term "outside earned income" means any "wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered" by a House Member, officer, or employee. House Rule 25, cl. 4(d)(1). It does not include the individual's salary from the House, nor does it include income for services rendered before the individual was employed by the House. *Id.* at cls. 4(d)(1)(A), (B).

[9] 5 U.S.C. app. 4 § 501(a)(1); House Rule 25, cls. 1(a)(1) and 4(a)(1).

[10] The outside earned income limit amount applies to Members as well. This amount is proportionally reduced when an individual becomes a Member, officer, or senior employee during the calendar year. For example, an individual who is hired into a senior staff position on July 1 has an outside earned income limit for that calendar year that is one-half of the full amount, or $13,478. *See* 5 U.S.C. app. 4 § 501(a)(2); House Rule 25, cl. 1(b).

[11] Members are also subject to these restrictions.

Detailed information regarding these limitations may be found on pages 213 to 238 of the *2008 House Ethics Manual*, which is available on the Committee's Web site (ethics.house.gov). The Committee's Office of Advice and Education (extension 5-7103) is available to explain these limitations further.

POST-EMPLOYMENT RESTRICTIONS

House Members and officers, as well as certain other House employees, are subject to post-employment restrictions on lobbying.[13] A former employee of a Member, committee, or leadership office is subject to the restrictions if, for at least **60 days** during the one-year period preceding termination of House employment, the employee was paid at a rate equal to or greater than 75% of the basic rate of pay for Members at the time of termination.[14] The basic rate of pay for Members in 2011 is $174,000. Therefore, the post-employment threshold for employees who depart from a job in a Member, committee, or leadership office during 2011 is **$130,500**. The triggering salary for employees of other House or legislative branch offices (such as the CBO, GAO, GPO, Capitol Police, Library of Congress, Clerk, Parliamentarian, Office of Legal Counsel, and Chief Administrative Officer) is Executive Schedule Level IV, which for 2011 is $155,500.

Information on the post-employment restrictions applicable to Members, officers, and very senior staff is available in two Committee advisory memoranda, one for Members and one for officers and staff. Copies of both memoranda are available on the Committee's Web site (ethics.house.gov).

* * * * *

CALENDAR YEAR 2011

OUTSIDE EARNED INCOME AND
OUTSIDE EMPLOYMENT THRESHOLD
(for more than 90 days).....**$119,553.60**

OUTSIDE EARNED INCOME LIMIT.....**$26,955.00**

FINANCIAL DISCLOSURE THRESHOLD
(for 60 days or more) **$119,553.60**

POST-EMPLOYMENT THRESHOLD
For employees of Member, committee, or leadership offices **$130,500.00**
For employees of "other legislative offices" **$155,500.00**

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[12] *See* 5 U.S.C. app. 4 § 502(a); House Rule 25, cls. 1-4.

[13] 18 U.S.C. § 207.

[14] This amount is referred to as the "very senior staff rate."

JO BONNER, ALABAMA
CHAIRMAN

MICHAEL T. McCAUL, TEXAS
K. MICHAEL CONAWAY, TEXAS
CHARLES W. DENT, PENNSYLVANIA
GREGG HARPER, MISSISSIPPI

KELLE A. STRICKLAND,
COUNSEL TO THE CHAIRMAN

ONE HUNDRED TWELFTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515–6328

LINDA T. SÁNCHEZ, CALIFORNIA
RANKING MEMBER

MAZIE K. HIRONO, HAWAII
JOHN A. YARMUTH, KENTUCKY
DONNA F. EDWARDS, MARYLAND
PEDRO R. PIERLUISI, PUERTO RICO

DANIEL J. TAYLOR,
COUNSEL TO THE RANKING MEMBER

1015 LONGWORTH HOUSE OFFICE BUILDING
(202) 225-7103

TO: **Members, Officers, and Employees of the U.S. House of Representatives and Related Offices**

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Calendar Year 2010 Financial Disclosure Statements

DATE: April 6, 2011

Who Must File

The Ethics in Government Act requires Members, officers, and certain employees of the U.S. House of Representatives and related offices to file annual Financial Disclosure Statements (FD) with the Clerk of the House. House officers and employees whose "rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule" for at least 60 days at any time during a calendar year are required to file FD statements, provided that the officer or employee "performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year."[1] The GS-15, step 1, basic pay rate for CY 2010 was $99,628. The applicable 120% calculation for that rate for CY 2010 is **$119,553.60**.[2]

As a result, House officers and employees whose basic rate of pay was equal to or greater than the senior staff rate ($119,553.60 for CY 2010) for at least **60 days**[3] during **2010** must file an annual Financial Disclosure statement. If you are required to file this form, you will receive a packet of filing materials from the Clerk. If you believe you were sent a packet in error, please contact the Committee at (202) 225-7103.

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[1] Ethics in Government Act (EIGA) §§ 109(13) and 101(d), 5 U.S.C. app. 4 §§ 109(13) and 101(d) (hereinafter all citations to the EIGA will be to the appropriate federal code citation). In addition, all House Members are required to file FD statements. 5 U.S.C. app. 4 §§ 101(e) and (f). Congressional candidates are required to file FD statements in most circumstances. 5 U.S.C. app. 4 § 101(c). This memorandum addresses requirements and restrictions applicable to House officers and employees.

[2] This amount is referred to as the "senior staff rate."

[3] The House payroll department operates on a 30-day payroll cycle, meaning that each monthly pay period, regardless of its actual length, is counted as 30 days. Thus, a change to an employee's base rate of pay in any two months during the calendar year (even non-consecutive months) may trigger the requirement to file a Financial Disclosure Statement.

Filing Deadline

The filing deadline for annual Financial Disclosure statements is **Monday, May 16, 2011.** [4] The Committee may grant extensions of the filing deadline not to exceed 90 days for filing a FD statement. Extension requests must be made using the form available on the Committee's Web site at **http://ethics.house.gov**. You may fax your request to (202) 225-3713. Members do not need to pre-register.

Training

Committee staff will be conducting live training sessions regarding completion of the annual Financial Disclosure Statement in April for Members and staff. This training fulfills the additional one-hour training requirement for senior staff. The training dates are:

Who	Date	Time	Location
Senior Staff	Friday, April 8	10:00 a.m.	CVC Auditorium
Democratic Members	Wednesday, April 13	2:00 p.m.	1015 Longworth
Republican Members	Wednesday, April 13	4:00 p.m.	202A Cannon
Democratic Members	Thursday, April 14	1:00 p.m.	1015 Longworth
Republican Members	Thursday, April 14	3:00 p.m.	202A Cannon
Senior Staff	Wednesday, April 20	10:00 a.m.	CVC Auditorium
Senior Staff	Friday, April 29	10:00 a.m.	CVC Auditorium

Staff must pre-register to attend one of these training sessions (walk-ins will be admitted only as limited space permits). Staff can pre-register at registerme.house.gov, under "Senior Staff Training," or by following a link on the Committee's Web site at **http://ethics.house.gov.**

Questions and Prescreening

House Members and staff having any questions concerning the reporting requirements should contact the Committee staff at (202) 225-7103. The Committee's legal staff is available to review forms in advance of filing for House Members, officers, and employees. **Employees, however, must submit their forms to the Committee for prescreening no later than Monday, May 2, 2011, to ensure that the prescreening is completed by the filing deadline.** You may fax your request to (202) 225-3713.

[4] 5 U.S.C. app. 4 §§ 101(c) and 109(f).

Congress of the United States
Washington, DC 20515

Committee on Ethics and Committee on House Administration

JOINT GUIDANCE REGARDING REDISTRICTING

September 16, 2011

Dear Colleague:

While congressional redistricting is constitutionally mandated, the redistricting process is a state function with little direct effect on our official duties as Members of the 112th Congress. Nonetheless, our Committees recognize that redistricting can affect Members' official work in various ways, and we write to offer guidance on what Members may and may not do with official resources where redistricting is concerned.

Use of Official House Resources related to Redistricting

As with the use of official resources in general, Members may not use the Members' Representational Allowance (MRA) for political purposes in connection with congressional redistricting. Like other citizens, Members may engage in political activities designed to influence the outcome of redistricting, but they may not do so at public expense.

The Committee on House Administration recognizes, however, that constituents and others may contact Members with questions about redistricting and how it might affect them now or in the future. Members may use the MRA to keep current on the status of redistricting. Members may reply to current constituent inquiries on the subject in the same manner and using official resources to reply as they would reply on any matter. Members should use caution and common sense to limit use of federal funds to discussion of only the redistricting process. Similarly, Members may be reimbursed for expenses of attending public meetings of a state legislative committee or redistricting commission to testify, for example, about how dividing cohesive communities among multiple districts might complicate constituent casework. But a Member may not seek reimbursement for expenses of attending delegation meetings to discuss how certain redistricting plans might affect future elections.

The *Members' Congressional Handbook* restricts in various ways the use of official resources for activities outside Members' current districts. Members may not use official funds, including the use of staff resources, to conduct "town hall" meetings or other official gatherings outside their districts. The rules also prevent use of official resources for travel other than "in support of the official and representational duties of [the] Member to the district from which elected." Under the franking statute, a Member "may not send any mass mailing outside the congressional district from which the Member was elected."[1]

In addition, Members may not devote official resources to performing casework for individuals who live outside the district. When contacted by persons living in other districts, Members may, however, use official funds to refer them to their own Representative or Senators.

Some issues arise concerning areas to be added to a Member's district by redistricting ("new areas"). To summarize the principles relating to new areas:

- Use of Member office funds and resources for a primary purpose relating exclusively to the new areas is impermissible, and mass mailings may not be sent to any new area.

- A Member and staff may not travel to new areas using House funds or resources except in support of duties to the existing district.

[1] 39 U.S.C. § 3210(a)(7).

- As a general matter, a Member's office may not handle casework requests from residents of new areas.
- A Member is free to respond to letters and other communications on legislative issues received from residents of new areas.

Use of Campaign Resources related to Redistricting

In circumstances where a Member cannot use official resources to host or participate in events in the area to be added to their district by redistricting, they may sponsor events in those areas using campaign staff and resources to the extent such sponsorship is permissible under federal election laws and regulations. Any questions regarding the appropriate use of campaign funds should be directed to the Federal Election Commission.

Participation in Legal Challenges to Redistricting

Members may wish to participate in fundraising for groups raising legal challenges to a state's redistricting process. In order to solicit on behalf of these groups, Members must seek written permission from the Committee on Ethics. If approved, any such solicitations would be subject to the same restrictions applicable to all solicitations made by Members (*e.g.*, use of official resources for such solicitations would be prohibited).[2]

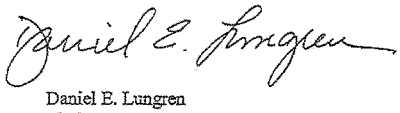
A Member may also want to personally challenge the redistricting process in the Member's state. In order to fund these challenges, Members may seek written permission from the Ethics Committee to establish a Legal Expense Fund for that purpose. Written permission must be received before a Member may solicit or receive any donations, including in-kind contributions. If a Legal Expense Fund is approved, it will be subject to a number of restrictions and reporting requirements.[3]

Solicitations by Members relating to redistricting may be subject to limitations on sources and amounts imposed by the Federal Election Campaign Act (as amended). Members should consult with the Federal Election Commission regarding these matters.

We trust you find this guidance helpful. Kindly address any questions you may have to either the Committee on Ethics at x5-7103 or the Committee on House Administration at x5-8281 (majority) or x5-2061 (minority).

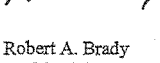
Sincerely,

Jo Bonner
Chairman
Committee on Ethics



Daniel E. Lungren
Chairman
Committee on House Administration

Linda T. Sánchez
Ranking Member
Committee on Ethics



Robert A. Brady
Ranking Member
Committee on House Administration

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[2] *See 2008 House Ethics Manual* at 347-49.

[3] *See 2008 House Ethics Manual* at 63-65, 394-96.

Jo Bonner, Alabama
Chairman
Linda T. Sánchez, California
Ranking Member

Michael T. McCaul, Texas
K. Michael Conaway, Texas
Charles W. Dent, Pennsylvania
Gregg Harper, Mississippi

John A. Yarmuth, Kentucky
Donna F. Edwards, Maryland
Pedro R. Pierluisi, Puerto Rico
Joe Courtney, Connecticut

ONE HUNDRED TWELFTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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November 29, 2011

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: **Rules Regarding Personal Financial Transactions**

The purpose of this memorandum is to summarize various rules and standards of conduct that may apply to personal financial transactions of Members, officers, and House employees.[1] The matters discussed here include the use of nonpublic information when engaging in a personal financial transaction, conflicts of interest, gifts, and financial disclosure.

The Use of Nonpublic Information

Information Obtained Outside Official Duties

Members and employees may obtain material nonpublic information about a public company outside of their official duties from family, friends, acquaintances, or from their own involvement with a company. If the Member or employee chooses to trade on this information, they may have engaged in insider trading. Members and employees could also incur liability through a practice known as tipping.[2] Tipping is passing along inside information in violation of a duty of confidentiality; the recipient of a tip (the "tippee," in this case the Member or employee) becomes subject to a duty not to trade while in possession of that information. A tip occurs when an insider (the "tipper") discloses inside information to another person, who knows or should know that the tipper was breaching a duty by disclosing the information and that the tipper was providing the information for an improper purpose. Both tippees and tippers may be subject to liability for insider trading.

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[1] The terms "staff" and "employee" are used interchangeably throughout this memorandum to refer to persons who are employed by a Member, committee, leadership office, or other legislative branch office.

[2] *See* 15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5.

Material nonpublic information is any information concerning a company, security, industry or economic sector, or real or personal property that is not available to the general public **and** which an investor would likely consider important in making an investment decision. A good rule of thumb to determine whether information may be material nonpublic information is whether or not the release of that information to the public would have an effect on the price of the security or property.

For example, a House employee has a friend who works for the Food and Drug Administration (FDA). During a personal conversation, the friend, in violation of FDA rules on confidentiality, informs the House employee that a new miracle weight loss drug is going to be approved by the FDA. That information is not public. The House employee buys shares in the company that manufactures the drug. Once the news of the drug approval is made public, the company share price increases and the employee sells at a profit. The employee may be subject to liability for violation of federal civil and criminal insider trading statutes. However, if the House employee waits to purchase the shares until the information regarding the FDA decision becomes public, the employee would not be subject to liability.

Information Obtained in the Course of Official Duties

The House Code of Official Conduct prohibits House Members, officers, and employees from receiving compensation "by virtue of influence improperly exerted" from a congressional position.[3] The Code of Ethics for Government Service, which was adopted by the 85th Congress in 1958, states that no one in government service shall use "information coming to him confidentially in the performance of governmental duties as a means for making private profit."[4] The Code of Ethics for Government Service was adopted by the House as a concurrent resolution and this Committee concluded that the ethical standards set forth in the code "represent continuing traditional standards of ethical conduct to be observed by Members of the House at all times."[5] Therefore, the Committee's guidance has been that House Rules prohibit Members and employees from entering into personal financial transactions to take advantage of any confidential information obtained through performing their official governmental duties.

Moreover, clause 1 of the Code of Official Conduct requires Members and staff to "behave at all times in a manner that shall reflect creditably on the House."[6] Whether or not the traditional statutes and regulations governing insider trading apply,[7] Members

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[3] House Rule 23, cl. 3.

[4] Code of Ethics for Government Service ¶ 8, reprinted in *2008 House Ethics Manual* at 355.

[5] House Comm. on Standards of Official Conduct, *In the Matter of a Complaint Against Representative Robert L.F. Sikes*, H. Rep. 94-1364, 94th Cong., 2d Sess. 8, at 3 (1976) (hereinafter *Sikes Report*).

[6] House Rule 23, cl. 1.

[7] For instance, in addition to violating House Rules and guidance as indicated above, the misappropriation (such as, use of information covered by some policy or agreement of confidentiality) of material nonpublic information for the purpose of trading in public securities may subject any person to

and employees who engage in trading with the benefit of material nonpublic information gained in congressional service may be investigated for, and may be found in violation of, clause 1.

Much information about the work of Congress, such as information obtained during public briefings or hearings, is considered public information. Examples of material nonpublic information gained during the course of government service may include, but are not limited to, legislation and amendments prior to their public introduction, information from conference or caucus meetings regarding votes or other issues, and information learned in private briefings from either the public or private sector.

For example, a House employee learns during a closed hearing that a bomber contract is going to be awarded to a particular aircraft company. Following the hearing, the House employee buys shares in the company that manufactures the plane. Once the news of the contract award is made public, the company share price increases and the employee sells at a profit. The employee may be subject to liability for violating Code of Ethics for Government Service and clauses 1 and 3 of the Code of Conduct. However, if the House employee, in this example waits to purchase the shares until the information regarding the contract award becomes public, the employee would not be subject to liability.

Conflicts of Interest[8]

Voting on matters before the House is among the most fundamental of a Member's representational duties, and historical precedent has taken the position that there is no authority to deprive a Member of the right to vote on the House floor.[9] Thus, as a general matter, the decision on whether to refrain from voting on a particular matter on the floor rests with individual Members, rather than the Speaker or the Committee. However, general ethical principles and historical practice provide specific guidance as to the limited circumstances when it is advisable that a Member abstain from voting on a particular matter. Among these principles is that Members may not use their congressional position for personal financial benefit.

Certain matters go to the very heart of a Member's official responsibilities. Chief among them is voting on legislation. Clause 1 of House Rule 3 provides: "Every

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liability under the federal civil and criminal insider trading statutes. For further discussion on this topic, *see* Congressional Research Service memorandum, "Insider Trading and Members of Congress" (November 18, 2011).

[8] For a fuller discussion of the conflicts of interest issue, please see the *2008 House Ethics Manual* at pages 233 to 238.

[9] John V. Sullivan, Parliamentarian, *Constitution, Jefferson's Manual and Rules of the House of Representatives*, 112th Cong., 2d Sess. (2010), § 672, at 375; 5 *Hinds' Precedents of the House of Representatives* § 5952, at 506 (1907).

Member . . . shall vote on each question put, unless having a direct personal or pecuniary interest in the event of such question."

No statute or rule requires the divestiture of private assets or holdings by Members, officers, or employees of the House upon entering their official position. Since legislation considered by Congress affects a broad spectrum of business and economic endeavors, a Member of the House may be confronted with the possibility of voting on legislation that would have an impact upon a personal economic interest. This situation may arise, for example, where a bill authorizes appropriations for a project for which the contractor is a corporation in which the Member is a shareholder, or where a Member holds a municipal security for which a bill would provide federal guarantees.

Longstanding House precedents have not found such interests to warrant abstention, under the above-quoted House Rule that instructs Members to vote on each question presented, unless they have a direct personal or pecuniary interest in the event of such question. Rather, it has generally been found that where legislation affects a class of people or entities, as distinct from individuals, a Member may vote.[10] Thus, in the past, Members who were bar owners were permitted to vote on Prohibition and Members who were veterans were permitted to vote on government benefits for former military personnel.[11] However, some precedents in the House have indicated that the rule might apply if legislation affects only one specific business or property, rather than a class or group of businesses or properties.[12]

However, while the Committee has endorsed the principle that "each individual Member has the responsibility of deciding for himself whether his personal interest in pending legislation requires that he abstain from voting," it has, in the past, investigated allegations that a Member had violated the rule by not refraining from voting in a particular instance.[13] It has also occasionally provided confidential advice to Members that it would be inappropriate for them to vote or to introduce legislation that directly affected significant and uniquely held financial interests. This analysis must necessarily depend on the facts of a particular situation.

The provisions of House Rule 3, clause 1, discussed in this section, apply only to Members voting on the House floor. They do not apply to other actions that Members may normally take on particular matters in connection with their official duties, such as sponsoring legislation, advocating or participating in an action by a House committee, or contacting an executive branch agency. Such actions entail a degree of advocacy above and beyond that involved in voting, and thus a Member's decision on whether to take any such action on a matter that may affect the Member's personal financial interests requires added circumspection. Moreover, such actions may implicate the rules and standards discussed above that prohibit the use of one's official position for personal gain.

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[10] *See 5 Hinds' Precedents of the House of Representatives* § 5952, at 504 (1907).

[11] *See 2008 House Ethics Manual* at 235.

[12] *See, e.g., Sikes Report, supra* note 6, at 4-5, 15-16.

[13] *Sikes Report, supra* note 6, at 15-16; *see also* 121 Cong. Rec. 38135 (Dec. 2, 1975).

Whenever a Member is considering taking any such action on a matter that may affect the Member's personal financial interests, it is advisable for the Member to first contact the Committee for guidance. A Member should also exercise caution before accepting a position on the board of an organization that is subject to the oversight of a committee on which the Member sits.

Gifts

House rules define the term "gift" to mean:

> a gratuity, favor, discount, entertainment, hospitality, loan forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.[14]

Members, officers, and employees may not accept any gift, except as specifically permitted by House rules.[15]

House rules permit a Member or employee to accept anything for which they pay the "market value."[16] If a Member or employee is provided with the opportunity to make an investment at below fair market value, taking advantage of that opportunity may constitute the Member or employee accepting an impermissible gift. If the Member or employee is receiving an opportunity at a discount or receiving a special price, they must be aware that the discount or special price might be an impermissible gift and should exercise caution prior to accepting it.

Members and employees may accept opportunities, like discounted investments, that are "available to the public or to a class consisting of all Federal employees."[17] For example, a developer is selling houses next to a golf course. The public may purchase a house prior to July 1 at a discounted price. If an employee purchases a house on June 15, the discounted price is a permissible gift because the offer was available to the public.

Members and employees may also accept opportunities that are "[o]ffered to members of a group or class in which membership is unrelated to congressional employment."[18] For example, assume that the developer in the prior example is a country club in which the employee became a member prior to House employment. All members of the club are permitted to purchase a house on a new golf course at a discounted price. If the employee purchases a house, the discounted price is a permissible gift because the

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[14] House Rule 25, cl. 5(a)(2)(A).

[15] House Rule 25, cl. 5(a)(1)(A)(i); *see also* House Rule 23, cl. 4.

[16] House Rule 25, cl. 5(a)(3)(A).

[17] House Rule 25, cl. 5(a)(3)(R).

[18] *Id.*

offer was available to a group of people in which the employee was a member unrelated to congressional employment.

If, however, the Member or employee took advantage of an investment opportunity received solely because of their congressional status and the opportunity was offered and accepted at less than fair market value, then the Member or employee received an impermissible gift.[19] In the example above, if the developer offered the employee the discounted price after the generally-available July 1 cutoff date solely because the person works for the House, it would constitute an impermissible gift.

Financial Disclosure Requirements

As discussed above, the private financial interests and investments of Members and employees may present potential conflicts of interest with official duties. In addition, all Members and employees are prohibited from improperly using their official positions for personal gain. As a general matter, however, Members and employees need not divest themselves of assets upon assuming their positions, nor must Members disqualify themselves from voting on issues that generally affect their personal financial interests. Instead, public financial disclosure provides a means of monitoring and deterring conflicts of interest.

Under Title I of the Ethics in Government Act of 1978, Members, senior staff, and principal assistants are required to file annual Financial Disclosure Statements that report all transactions or groups of transactions in real property or securities which exceed $1,000. For each transaction, the filer must report a description of the asset, the date, type of transaction, and the category reflecting the amount of the transaction.[20] Based on the information provided in the Statements, which are publicly available, the public can make a determination regarding whether a Member or employee may have a conflict with any public matter before the House.

* * *

This memorandum summarizes some of the key rules and standards that apply to personal financial transactions of Members, officers, and employees. It is not an exhaustive compilation of all rules or standards that could conceivably apply. In addition, analysis of proposed conduct under these standards must be done on a case by case basis. The Committee is available to provide confidential advice to Members, officers, and employees on these and other issues. Any questions on these matters should be directed to the Committee's Office of Advice and Education at (202) 225-7103.

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[19] *See 2008 House Ethics Manual* at 27, 32.

[20] *See* 5 U.S.C. app. 4 § 104(a)(5).

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December 9, 2011

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Holiday Guidance on the Gift Rule

The House gift rule, codified at House Rule 25, clause 5, applies to all Members, officers, and employees (Members and staff) at all times, even during the holiday season. This memorandum is a reminder of some of the restrictions of the gift rule and some of the more common questions that arise during the holiday season. This guidance does not cover every situation. As a result, if you are unsure about a particular situation, please contact the Committee at (202) 225-7103.

Overview of the Gift Rule and other Gift Statutes

Members and staff may not knowingly accept any gift, except as provided in the gift rule.[1] The rule defines the term "gift" broadly to mean "a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value."[2] The gift rule contains numerous exceptions permitting Members and staff to accept gifts. There are certain gifts that staff may accept without worry. For example, there are no restrictions on accepting gifts, including cash or cash equivalents, of any dollar value, from relatives.[3] There are also no restrictions on accepting gifts from co-workers and supervisors.[4]

Generally, Members and supervisors may not accept gifts from their subordinates.[5] However, the Committee has provided for a common-sense exception for voluntary gifts extended on special occasions such as holidays.[6] Accordingly, Members and supervisors may accept gifts from their subordinates that are customarily extended during the holiday season.

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[1] House Rule 23, clause 4 and House Rule 25, clause 5(a)(1)(A)(i).

[2] House Rule 25, clause 5(a)(2)(A).

[3] House Rule 25, cl. 5(a)(3)(C). The term "relative" is broadly defined, and it includes fiancés/fiancées and in-laws. *See 2008 House Ethics Manual* at 69 and 5 U.S.C. app. 4 § 109(16).

[4] House Rule 25, cl. 5(a)(3)(F).

[5] 5 U.S.C. § 7351.

[6] *See 2008 House Ethics Manual* at 70.

In certain circumstances, Members and staff must seek written permission before accepting a gift. Members and senior staff [7] must also disclose the receipt and value of gifts on their annual Financial Disclosure Statements in certain circumstances, as explained more fully in the final section of this memorandum.

While the gift rule defines what Members and staff may accept, it does not authorize them to ask for any gift. There is also a statutory gift provision, which prohibits Members and staff from asking for or accepting anything of value from anyone who seeks official action from the House, does business with the House, or has interests that may be substantially affected by the performance of official duties.[8] The statutory provision also prohibits Members and staff from soliciting on behalf of other individuals or entities, other than political solicitations or solicitations for charity.

A brief description of some of the common gift rule exceptions applicable to the holiday season are listed below.

Parties and Receptions

During the holiday season, Members and staff may be invited as guests to parties or related events that are sponsored by individuals or organizations that have, or plan to have, business dealings before Congress. Provided the guidance below is followed, Members and staff may accept an invitation to the following:

- An event where the per person cost or ticket price (if sold) is less than $50, provided:

  1) The invitation is not from a federal lobbyist, foreign agent, or private entity that retains or employs such individuals; and

  2) The total value of gifts or other invitations you accept from the host under this exception is less than $100 for the calendar year.[9]

  Example 1: If a non-lobbyist invites you to a holiday dinner party and your meal is less than $50, you may accept the meal under the "less than $50 exception," provided the aggregate value of all gifts and similar invitations you accept from the host does not exceed $100 for the year.

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[7] House employees paid at or above $119,553.60 for 60 days or more during calendar year 2011 are considered senior staff and must file an annual Financial Disclosure Statement.

[8] 5 U.S.C. § 7353.

[9] House Rule 25, clause 5(a)(1)(B)(i). Any gift worth less than $10 does not count towards the annual limitation. However, accepting gifts less than $10 from one source on a repetitive basis is contrary to the spirit of the gift rule. *See also 2008 House Ethics Manual* at 37.

Example 2: If an organization that does not employ a federal lobbyist sends perishable food, such as a fruit basket, to a House office for all the staff, the gift is considered a gift to the individual recipients and not to the employing Member. Therefore, each staff member may accept items from the fruit basket having a value of less than $50, provided that no recipient accepts more than $100 of gifts in the aggregate from the organization during the year.

- A non-business event, such as a holiday party, hosted by an individual, at the personal residence of that individual or the individual's family, unless offered by a registered lobbyist or foreign agent.

  Example: A non-lobbyist invites you to a holiday party at his personal residence to celebrate the holiday season. You may accept food and refreshments offered within the home under the personal hospitality exception.

- A **reception**, provided that only food and refreshments of nominal value are offered other than as a part of a meal (*i.e.*, appetizers and beverages, including alcoholic beverages). This exception **does not** include full meals or luxury food items, such as caviar.

  Example: A lobbying firm invites you to attend a holiday reception in its office, at which it will serve moderate appetizers and drinks. Provided that the food and refreshments are of "nominal value" and offered "other than as part of a meal," you may attend and accept these items.

- An event where invitations are offered to a group or class in which membership is **unrelated to House employment.**

  Example: Your college alumni association is having a holiday party for its members. You may attend as an alumnus of the college.

- An event that is **open to the public or to all federal employees.**

  Example: Your local park is having a free holiday concert that is open to the public. You may attend as a member of the public.

- An event where invitations are offered because of the **outside business or activity of the invitees or their spouses**, provided the invitation:

  1) was not offered or enhanced because of the individual's House status; and

2) is customarily provided to others in similar circumstances.[10]

Example: Your spouse's company is having a holiday party and all employees may bring their spouses as guests. You may attend as your spouse's guest and receive the same food, refreshments, and entertainment that are provided to all attendees, including a full meal or luxury food items.

- A **"widely attended event,"** provided:

  1) The invitation comes from the event sponsor;

  2) The sponsor has a reasonable expectation that at least 25 non-congressional invitees will be in attendance;

  3) The event is open to the public, or will be attended by a diverse group of individuals interested in a given topic; and

  4) The event relates to the Members' or employees' official duties.[11]

  Please note: The **widely attended event** exception **does not** apply to holiday parties that are purely social in nature and not related to one's official duties.

- An event paid for by a foreign government that is **less than $350** per person, per occasion. Under the Foreign Gifts and Decorations Act (FGDA), Members and staff may receive a gift item received as a souvenir or mark of courtesy.[12] The Committee has interpreted this provision to allow Members and staff to accept meals and entertainment in the United States related to their official duties.

  Example: A foreign embassy in Washington, D.C., is having a holiday luncheon at a local D.C. restaurant. The cost of your meal will be $100. You may accept the lunch under the FGDA.

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[10] House Rule 25, clause 5(a)(3)(G)(i).

[11] House Rule 25, clause 5(a)(4)(A).

[12] 5 U.S.C. § 7342.

Other Holiday Gifts

In addition to the provisions discussed above, other gift rule exceptions may permit acceptance of holiday gifts. Provided the guidance below is followed, Members and staff may accept the following:

- Gifts (other than cash or cash equivalent)[13] valued at **less than $50**, provided:

  1) The gift is not from a federal lobbyist, foreign agent, or private entity that retains or employs such individuals; and

  2) The total amount of gifts you accept from the donor is less than $100 for the year.[14]

  Example: If a non-lobbyist gives you a $40 pen set during the holiday season, you may accept the gift under the "less than $50 exception," provided the aggregate value of all gifts you accept from the donor under this exception does not exceed $100 for the year.

- A **baseball hat, T-shirt**, or any **item valued at less than $10**, even if from a lobbyist. This exception does **not** include food items.[15]

  Example: A company sends the office 10 T-shirts along with a letter stating that one is to be given to the Member and any staff member that would like to receive one. The Member and staff may each accept one of the T-shirts under this exception.

- Gifts based on **personal friendship.**[16] Members and staff may, without seeking Committee approval, accept a gift based on personal friendship if the gift's value is less than $250.[17] The following factors must be considered before accepting a gift under this exception:

  1) The history of the recipient's relationship with the donor, including any previous exchange of gifts;

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[13] Gift cards and gift certificates are considered "cash equivalent" and may **not** be accepted under this exception.

[14] House Rule 25, clause 5(a)(1)(B)(i).

[15] House Rule 25, clause 5(a)(3)(W).

[16] House Rule 25, clause 5(a)(3)(D).

[17] You must seek Committee written approval before accepting a gift over $250 under the personal friendship exception. Please see the section below regarding seeking written Committee approval for details on how to submit a request.

2) Whether the donor personally paid for the gift, or whether the donor sought a tax deduction or business reimbursement for it; and

3) Whether the donor gives the same or similar gifts to other Members or staff at the same time.

Example: Your former roommate, who is a real estate agent, offers you a $100 ticket to a holiday play. The roommate personally paid for the ticket. You and the roommate have exchanged gifts throughout the years. The roommate does not contact you or your office on official matters. To the best of your knowledge, the roommate has not made a similar offer to other Members or staff. You may accept the ticket without seeking Committee approval.

- **Gifts from a foreign government** under the FGDA. As noted above, gifts valued at less than $350 per person, per occasion, that are offered as a souvenir or mark of courtesy.[18]

  Example: A French government official sends you a $300 bottle of French champagne, on behalf of the foreign government. You may accept the champagne under the FGDA.

Handling Unacceptable Gifts

If Members or staff receive invitations to events or gifts that they may not accept under the gift rule, they may:

- Pay the donor the "market value"[19] and keep the gift;
- Return the gift to the donor; or
- For perishable items (*i.e.*, flowers or food), donate the items to charity or destroy them.[20]

Please note: For tickets to events that do not have a printed cost on the ticket, the value of the ticket is the highest cost of a ticket with a face value for that particular event.[21]

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[18] 5 U.S.C. § 7342.

[19] Items are valued at their retail, rather than wholesale, prices. For tickets, the fair market value is the cost printed on the ticket, regardless of whether the donor paid more or less. *See* House Rule 25, clause 5(a)(3)(A); *2008 House Ethics Manual* at 73.

[20] House Rule 25, clause 5(a)(6).

[21] House Rule 25, clause 5(a)(1)(B)(ii).

Example: You are invited to sit in the premium box for the Nutcracker Ballet. The offer does not meet one of the gift exceptions, but you would still like to attend. Your ticket does not have a price on it, but the highest ticket price for that particular ballet performance is $285. You must pay the donor $285 in order to accept the ticket.

Prior Written Committee Approval Required

Members and staff must seek written Committee approval before accepting the following:

- A gift based on personal friendship with a value over $250.[22] The Committee will only grant written approval for a personal friendship gift exceeding $250 in value in response to a written request. The request should include: (1) the donor's identity and employment; (2) any interests the donor may have before Congress; (3) the history of the recipient's relationship with the donor; (4) the nature of the gift; and (5) whether the donor will be paying for the gift personally.

- A gift that is not otherwise acceptable, but that the Member or staffer believes the Committee should permit them to accept. The Committee has "flexibility to allow the acceptance of gifts . . . in cases where there is no potential conflict of interest or appearance of impropriety."[23] Thus, House Rule 25, clause 5(a)(3)(T), authorizes the Committee to grant a waiver to permit acceptance of a gift "in an unusual case." Members and staff must submit a written request for a gift waiver from the Committee prior to accepting such a gift. Any request should include, at a minimum, a description of the gift, including its market value, the identity of the donor, and a statement of the reasons believed to justify acceptance of the gift.

Financial Disclosure Requirements

Members and senior staff must disclose certain gifts valued over $350 from a single source in a calendar year on Schedule VI on their annual Financial Disclosure Statements.[24] This disclosure must include the source of such gifts and a brief description of the gifts. Any gift with a market value of less than $140 need not be counted towards the $350 disclosure threshold.

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[22] House Rule 25, clause 5(a)(5).

[23] *See* House Bipartisan Task Force on Ethics, *Report on H.R. 3660*, 101st Cong., 1st Sess. (Comm. Print, Comm. on Rules 1989), *reprinted in* 135 Cong. Rec. H9255 (daily ed. Nov. 21, 1989).

[24] 5 U.S.C. app. 4 § 102(a)(2).

Please note: Gifts from relatives and gifts of personal hospitality do not have to be disclosed.[25] In addition, gifts that are received by your spouse or children, independent of your House status, do not have to be disclosed. However, all other gifts that are over $350 in value must be disclosed.

> Example: Your spouse's college roommate gives your spouse a $400 coat as a holiday present. You would not have to report this gift on your Financial Disclosure Statement if you believe that the gift was given regardless of your House status.

Members and staff seeking a waiver of the reporting requirement must send a written request to the Committee. The written request and the Committee's response will be made publicly available.

If you have any questions, please contact the Committee's Advice and Education staff at (202) 225-7103.

[25] *See* 5 U.S.C. app. 4 § 102(a)(2)(A).

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December 20, 2011

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Revised Legal Expense Fund Regulations

The House gift rule permits the acceptance of "a contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Ethics," as long as the contribution is not from a registered lobbyist or an agent of a foreign principal.[1] On June 10, 1996, the Committee first issued Legal Expense Fund Regulations (1996 LEF Regulations) governing the restrictions and disclosure requirements pursuant to that provision.[2]

The regulations attached hereto supersede the 1996 LEF Regulations and take effect as of January 1, 2012. The prior regulations remain in effect until that date. Once they take effect, the revised regulations will apply to all existing LEFs and all LEFs approved by the Committee in the future.

Based on the Committee's experience interpreting and applying the 1996 LEF Regulations, the Committee hereby issues revised LEF regulations. There are a number of changes to the regulations, but the Committee would like to highlight the following substantive changes:

- Clarification of the permissible bases for establishing an LEF Trust (Regulation 1.2);
- Definition of the requirement that trustees have no "family, business, or employment relationship" with the beneficiary (Regulation 2.2);
- Discussion of the duties of the trustee (Chapter 2);
- Attribution of a contribution of a partnership, limited liability company or S corporation to individual owners of the business (Regulation 3.3);

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[1] House Rule 25, clause 5(a)(3)(E).

[2] *See* Comm. on Standards of Official Conduct, Legal Expense Fund Regulations (June 1996), *reprinted in* Appendix to the *2008 House Ethics Manual* at 394.

- Rules for departing Members and employees who have an LEF trust (Regulation 4.8);
- Use of official resources related to a trust (Chapter 5);
- Provisions related to the termination of a trust (Chapter 6); and
- Enforcement provisions (Chapter 7).

Any Member or employee with an existing LEF should be aware of several requirements that apply to existing trusts. First, under Regulation 8.1, any Member who established a trust prior to January 1, 2012, must make any necessary modifications to the trust document to bring it into compliance with the revised regulations and file a copy of the amended trust document with the quarterly report of activity due by January 30, 2012. Proposed amendments are not effective until they receive written approval from the Committee. In addition, pursuant to Regulation 8.2, by January 30, 2012, each trustee for an LEF must provide an affidavit to the Committee, with a copy to the Clerk at the Legislative Resource Center, stating the trustee has read and understands the revised regulations, and consents to administer the trust in conformity with these regulations.

The Committee reviews the regulations on an ongoing basis and welcomes feedback from the House community. If you have any questions or comments about the revised regulations, please contact the Committee's Advice and Education staff at (202) 225-7103.

LEGAL EXPENSE FUND REGULATIONS

Effective January 1, 2012

CHAPTER 1: ESTABLISHMENT OF LEGAL EXPENSE FUND TRUSTS

Regulation 1.1 – A Member, officer, or employee who wishes to solicit and/or receive donations for a Legal Expense Fund, in cash or in kind, to pay legal expenses shall obtain the prior written permission of the Committee on Ethics (Committee).[1]

Regulation 1.2 – The Committee shall grant permission to establish a Legal Expense Fund only where the legal expenses arise in connection with:

A. the individual's candidacy for, or election to, federal office;

B. the individual's official duties or position in Congress (including legal expenses incurred in connection with (i) an amicus brief filed in a Member's official capacity or (ii) matters before the Office of Congressional Ethics or Committee on Ethics);

C. a civil action filed in a Member's official capacity challenging the validity of a federal law or regulation;

D. a criminal prosecution of the Member, officer, or employee; or

E. a civil matter bearing on the individual's reputation or fitness for office.

Regulation 1.3 – The Committee shall not grant permission to establish a Legal Expense Fund where the legal expenses arise in connection with a matter that is primarily personal in nature (*e.g.*, a matrimonial action, personal injury claim, or personal contract dispute).

Regulation 1.4 – A Member, officer, or employee seeking to establish a trust (Trustor) must make a written request to the Committee that provides the name and contact information for the proposed Trustee, attaches a proposed trust document, and states the following:

A. the nature of the legal proceeding (or proceedings) which necessitate the establishment of such a trust fund;

B. that he or she will be bound by these Regulations; and

C. that although a Trustee will oversee the trust, that he or she bears ultimate responsibility for the proper administration of the trust.

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[1] Permission is not required to solicit and/or receive a donation in any amount from a relative or a donation of up to $250 from a personal friend, as defined by House Rule 25, cls. 5(a)(3)(C) and (D) and 5(a)(5).

Regulation 1.5 – No contribution shall be solicited for, or accepted by, a Legal Expense Fund prior to the Committee's written approval of the completed trust document (including the name of the Trustee) and its filing with the Legislative Resource Center of the Clerk of the House (B-106 Cannon House Office Building).

Regulation 1.6 – No amendment of the trust document is effective, and no successor or substitute Trustee may be appointed, without the Committee's written approval and the filing of the amended trust document with the Legislative Resource Center.

Regulation 1.7 – No Member, officer, or employee may establish and/or maintain more than one Legal Expense Fund at any one time.

CHAPTER 2: SELECTION AND DUTIES OF TRUSTEES

Regulation 2.1 – A Legal Expense Fund shall be set up as a trust, administered by an independent Trustee, who shall oversee fundraising for the trust.

Regulation 2.2 – The Trustee shall not have any family, business, or employment relationship with the Trustor within two years prior to the establishment of the trust or at any time while serving as Trustee. For example, any individual or institution serving as an employee of, or a consultant, attorney, or advisor to, a requesting Member's congressional or campaign offices, or private business may not serve as the Trustee. The Trustee shall not delegate any responsibilities of administering the trust to any person with any family, business, or employment relationship with the Trustor.

Regulation 2.3 – The Trustee shall provide an affidavit to the Committee, with a copy to the Clerk at the Legislative Resource Center, stating that the Trustee has read and understands the provisions of these Regulations governing the establishment, administration, and termination of a Legal Expense Fund, and that the Trustee consents to administer the trust in conformity with these Regulations and House Rules.

Regulation 2.4 – In addition to the duties imposed by any applicable state laws, the Trustee shall be responsible for the receipt of contributions to the trust; authorization of expenditures and disbursements from the trust; providing information to the Trustor so that the Trustor can file the reports required by Chapter 4 of these Regulations; and the performance of other tasks incident to the administration of the trust.

Regulation 2.5 – The Trustee must inform the Committee as soon as practicable of any change in his or her contact information.

CHAPTER 3: CONTRIBUTIONS AND USE OF FUNDS

Regulation 3.1 – Official resources may not be used to assist with fundraising for a Legal Expense Fund. As with any organization that is not a 501(c)(3) nonprofit, any Member, officer, or employee who wants to solicit funds in their personal capacity for the Legal Expense Fund

of another Member, officer, or employee must first seek written permission from the Committee.

Regulation 3.2 – Other than as specifically barred by law or regulation, a Legal Expense Fund may accept contributions from any individual or organization, including a corporation, labor union, or political action committee (PAC).

Regulation 3.3 – If the organization making the contribution is a partnership, limited liability company (LLC) that is not taxed as a corporation, or S corporation the contribution of the partnership, LLC, or S corporation will be attributed to the partnership, LLC, or S Corporation and to each partner, member, or shareholder in direct proportion to the partner, member, or shareholder's share of the organization's profits.

Regulation 3.4 – A Legal Expense Fund shall not accept any contribution from a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute, including the Lobbying Disclosure Act of 1995 (2 U.S.C. § 1601 *et seq.*) or an agent of a foreign principal registered under the Foreign Agents Registration Act (22 U.S.C. § 611 *et seq.)*.

Regulation 3.5 – A Legal Expense Fund shall not accept more than $5,000 in a calendar year from any individual or organization.

Regulations 3.6 – The limitations and prohibitions on contributions in this Chapter apply to both contributions of funds and in-kind donations of goods or services. Any in-kind donation will be valued at its fair market value.

Regulation 3.7 – A Member, officer, or employee may accept *pro bono* legal assistance without limit only for the following purposes:

A. to file an amicus brief in his or her capacity as a Member of Congress;

B. to bring a civil action challenging the validity of any federal law or regulation; or

C. to bring a civil action challenging the lawfulness of an action of a federal agency, or an action of a federal official taken in an official capacity, provided that the action concerns a matter of public interest, rather than a matter that is personal in nature.

Regulation 3.8 – *Pro bono* legal assistance for other purposes shall be deemed a contribution, valued at fair market value, subject to the restrictions of these Regulations. For purposes of the annual contribution limit, a law firm and its partners and employees are considered one donor. If a law firm reaches the contribution limit, no partner or employee of the law firm may provide *pro bono* legal assistance individually.

Regulation 3.9 – Trust funds shall be used only for legal expenses (including reimbursement for previously paid legal expenses) related to those legal proceedings for which the Committee has given written permission for payment from the Legal Expense Fund (and expenses

incurred in soliciting for and administering the trust, and for the discharge of federal, state, and local tax liabilities, should any be deemed to exist, which are incurred as a result of the creation, operation, or administration of the trust), except that any excess funds shall be returned to contributors at the time of the trust's termination. Under no circumstances may the beneficiary of a Legal Expense Fund convert the funds to any other purpose.

A. Examples of common legal expenses include attorney and expert witness fees, copying costs, electronic discovery costs, court costs, costs related to depositions and interviews, and travel costs associated directly with the case.

B. Examples of common expenses relating to solicitation for the trust include costs for mailings, a Web site, or fundraisers.

C. Any costs associated with completing the quarterly report required under Chapter 4 of these Regulations are costs payable from the trust.

D. If the beneficiary is seeking to have an uncommon cost paid, either the beneficiary or the Trustee should seek the guidance of the Committee before payment.

Regulation 3.10 – The Trustor may choose to include present and former House staff as beneficiaries of the trust. The Trustor must seek written Committee permission to add any individual other than the Trustor as a beneficiary. The Trustor must receive written permission before any bill for House staff is paid. If the Committee grants permission, the Trustor must comply with the following guidelines:

A. Any staff person added as a beneficiary should avoid being represented by any counsel who simultaneously represents the Trustor, or counsel who is employed by the same law firm as any counsel who has been engaged to represent the Trustor. Should any staff member choose to be represented by the same counsel and/or law firm which represents the Trustor, the Committee requires that both parties execute a written agreement consenting to dual representation consistent with the ABA Model Rules.

B. While the Trustor, or the Trustor's attorney, may recommend a particular counsel to staff, trust funds may <u>only</u> be used to pay staff legal expenses if each staff member is free to engage counsel of the staff's own choosing, regardless of any such recommendation.

C. While the Trustor is not required to use trust funds to pay the legal expenses of every staff person requesting such reimbursement, to avoid any appearance of impropriety the Trustor should exercise caution and apply uniform standards in determining whose legal expenses to reimburse.

D. Any staff for whom the trust intends to pay legal expenses should be furnished with a copy of these Regulations by the Trustor and encouraged to contact the Committee with any questions or concerns regarding these Regulations.

Regulation 3.11 – The Committee may grant permission to establish a trust to pay for legal expenses incurred prior to the Member, officer, or employee seeking approval to establish a trust. The Member, officer, or employee should submit a written request to the Committee that details the amount, time period, and matters for which legal expenses are being sought, and an explanation for the delay in seeking permission to establish a trust to pay such expenses. The Committee will review the request and determine whether the use of a Legal Expense Fund to pay the expenses is appropriate.

Regulation 3.12 – All contributions to a Legal Expense Fund must be kept in a separate bank account established for that purpose. The funds must be segregated from, and may not be commingled with, the personal, political, or official funds of the Trustor, or the funds of any other individual or legal entity.

Regulation 3.13 – Contributions to a Legal Expense Fund are gifts under House Rule 25, clause 5. As such, any contribution (or group of contributions) in a calendar year totaling more than the minimal value as established by Foreign Gifts and Decorations Act, 5 U.S.C. § 7342(a)(5), must be disclosed in the Trustor's annual Financial Disclosure Statement. The dollar amount of the minimum value is provided on the Committee Web Site, in the Financial Disclosure Instruction Manual, and on the annual Financial Disclosure form, or may be obtained by contacting the Committee.

CHAPTER 4: DISCLOSURE AND REPORTING REQUIREMENTS

Regulation 4.1 – Within one week of the Committee's approval of the trust document, the Trustor shall file a copy of the trust document with the Legislative Resource Center, B-106 CHOB, for public disclosure.

Regulation 4.2 – The Trustor of a Legal Expense Fund shall also report the following information to the Committee on a quarterly basis:

A. any contribution from a corporation, partnership, LLC, or labor union;

B. any contribution (or group of contributions) exceeding $250 in a calendar year from any other single source;

C. any expenditure (or group of expenditures) from the Legal Expense Fund exceeding $250 in a calendar year to any single payee, directly or indirectly; and

D. The names of any staff members whose legal expenses are paid by the Legal Expense Fund.

Regulation 4.3 – Any Member, officer, or employee accepting *pro bono* legal services pursuant to Regulation 3.6 must report the fair market value of the services provided on the quarterly report.

Regulation 4.4 – The quarterly reports shall state the full name and street address of each donor, contributor, or recipient required to be disclosed. For donations from partnerships, LLCs, and S corporations, the report shall state the full name and address of the partnership, LLC, or S corporation and the full names and addresses of the partners, members, or shareholders of the partnership, LLC, or S corporation and the amount of the contribution attributed to each partner, member, or shareholder. For pro bono services, the report must identify both the names of the individual attorneys who provide the services and the name of the law firm. For recipients, the report shall also state the purpose of the payment.

Regulation 4.5 – The original signed copy of each quarterly report must be filed with the Committee and a copy shall be filed for public disclosure at the Legislative Resource Center.

Regulation 4.6 – The quarterly reports shall be due as follows:

Reporting Period	Due Date
January 1 to March 31	April 30
April 1 to June 30	July 30
July 1 to September 30	October 30
October 1 to December 31	January 30

Should the filing date fall on a Saturday, Sunday, or holiday, the next succeeding business day shall be deemed the due date.

Regulation 4.7 – The Trustor must file quarterly reports until the trust has been terminated, as described in Chapter 5, or the Trustor files a final departing Trustor report under these Regulations, whichever occurs first.

Regulation 4.8 – If the Trustor is departing office or leaving House employment, the Trustor must file a final departing Trustor report no later than the first due date following the end of the Trustor's congressional service which contains the following:

A. a report of contributions received and expenditures made pursuant to these Regulations covering the period between the last-filed quarterly report and the date the Trustor departed office or left House employment; and

B. a statement as to whether the trust will be terminated or remain in force upon the Trustor departing office or left House employment.

Regulation 4.9 – All documents filed pursuant to these Regulations shall be available at the Legislative Resource Center for public inspection and copying. Any person requesting such documents shall be required to pay a reasonable fee to cover the cost of reproduction.

CHAPTER 5: USE OF OFFICIAL RESOURCES

Regulation 5.1 – Members and employees may not use official resources for any work related to a Legal Expense Fund if the Legal Expense Fund was created for the purpose stated in Regulation 1.2 (A) (an individual's candidacy or election to office, including redistricting) or (E) (a civil matter bearing on the individual's reputation and fitness for office).

Regulation 5.2 – Members should consult with the Committee before using any official resources for work related to the Member's Legal Expense Fund if the Legal Expense Fund was created for purpose stated in Regulation 1.2 (D) (a criminal prosecution of the Trustor).

Regulation 5.3 – Members may use official resources for any work related to a Legal Expense Fund if the Legal Expense Fund was created for the purpose stated in Regulation 1.2 (B) (the Trustor's official position in office) or (C) (a civil matter filed in the Member's official capacity challenging a federal law or regulation).

CHAPTER 6: TERMINATION OF TRUSTS

Regulation 6.1 – A trust may only be terminated by the Trustee according to the terms of the trust at the earlier of: (A) the end of the time period for which the trust was established; (B) the purpose of the trust is fulfilled or no longer exists; (C) at the direction of the Trustor; or (D) at the direction the Committee for noncompliance with these Regulations.

Regulation 6.2 – Within 90 days of the termination of the trust, the Trustee must distribute any remaining funds or assets to contributors of the trust on a *pro rata* basis as determined by the Trustee or donated to one or more organizations described in § 501(c)(3) of the Internal Revenue Code of 1954 and exempt from taxation under § 501(a) thereof. The Trustor must receive written approval from the Committee of the 501(c)(3) organization(s) to which the Trustor wishes to donate the excess funds prior to making any such donations. Funds from a Legal Expense Fund may not be donated to an organization that was established or is controlled by the Trustor.

Regulation 6.3 – After a trust has been terminated, the Trustor must file a final quarterly report of contributions received and expenditures made pursuant to these Regulations covering the period between the last filed quarterly report and the date the trust was terminated. In addition, the final report must contain a statement certifying that any remaining funds were distributed to contributors pursuant to these Regulations.

CHAPTER 7: COMMITTEE ENFORCEMENT

Regulation 7.1 – The Committee shall monitor the activities of any Legal Expense Fund established pursuant to these Regulations, and may direct specific remedial actions, or that an audit be made of such trust when, in the judgment of the Committee or Chairman and Ranking Member there is reason to believe that the trust is being improperly administered, or for other good cause.

Regulation 7.2 – Upon a determination by the Committee or Chairman and Ranking Member that an audit of a trust should be made, the Committee shall select a qualified auditor to examine the records of such a trust. The expense of an audit performed at the direction of the Committee shall be borne by the Committee.

Regulation 7.3 – Upon a finding by the Committee or Chairman and Ranking Member that the trust is being improperly administered, if the Trustor and/or the Trustee fail to comply with these Regulations or the trust agreement, or for other good cause, the Committee or Chairman and Ranking Member may direct that the trust be terminated and that the funds be distributed in accordance with the provisions in Chapter 5. The Committee shall notify the Trustor in writing and a copy shall be provided to the Legislative Resource Center for public disclosure.

Regulation 7.4 – Upon a finding by the Committee that a trust has been improperly administered, or that these Regulations have been otherwise violated, the Committee may recommend disciplinary action to be taken in accordance with House Rules and the Rules of the Committee.

CHAPTER 8: CONFORMING EXISTING TRUSTS

Regulation 8.1 – Any Member, officer, or employee who established a Legal Expense Fund prior to January 1, 2012, shall make any necessary modifications to the trust document to bring it in compliance with these Regulations and shall disclose the amended trust document with his or her quarterly report due on January 30, 2012.

Regulation 8.2 – No later than January 30, 2012, the Trustee for an existing trust shall provide an affidavit to the Committee, with a copy to the Clerk at the Legislative Resource Center, stating that the Trustee has read and understands the provisions of these Regulations governing the establishment, administration, and termination of a Legal Expense Fund, and that the Trustee consents to administer the trust in conformity with these Regulations and House Rules by January 30, 2012.

Jo Bonner, Alabama
Chairman
Linda T. Sánchez, California
Ranking Member

Michael T. McCaul, Texas
K. Michael Conaway, Texas
Charles W. Dent, Pennsylvania
Gregg Harper, Mississippi

John A. Yarmuth, Kentucky
Donna F. Edwards, Maryland
Pedro R. Pierluisi, Puerto Rico
Joe Courtney, Connecticut

ONE HUNDRED TWELFTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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Staff Director and Chief Counsel

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January 24, 2012

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Member Participation in Certain Events Taking Place During a National Political Convention

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The purpose of this advisory memorandum is to remind Members about the provision of the House Rules (House Rule 25, clause 8) that prohibits Member participation at certain events held during a national political convention.[1] The provision provides as follows:

> During the dates on which the national political party to which a Member (including a Delegate or Resident Commissioner) belongs holds its convention to nominate a candidate for the office of President or Vice President, the Member may not participate in an event honoring that Member, other than in the capacity as a candidate for such office, if such event is directly paid for by a registered lobbyist under the Lobbying Disclosure Act of 1995 or a private entity that retains or employs such a registered lobbyist.

Under this provision, a Member may not "participate[2] in an event honoring that Member" if the event takes place during a national political convention, other than to participate in the Member's capacity as a candidate for President or Vice President, and when certain other criteria are met. Member participation prohibited under the provision is for an event where the Member is named, including through the use of any personal

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[1] *See* The Honest Leadership and Open Government Act of 2007, Pub. L. No. 110-81, § 305, 121 Stat. 735, 753 (Sept. 14, 2007).

[2] The term "participate" is not defined in the underlying Act or the House rule. In the Committee's view, the prohibition on participation in the events that are the subject of the provision concerns Member attendance at the event. Members should contact the Committee with any questions regarding whether activities other than attendance may constitute participation in such events.

title,[3] as an honoree (including as a "special guest") in any invitations, promotional materials, or publicity for the event. Member participation also would be prohibited if the Member were to receive, through the Member's participation in the event, some special benefit or opportunity that would not be available to some or all of the other participants, such as if the sponsor were to offer the Member an exclusive speaking role or a very prominent ceremonial role.

According to the legislative history of this provision, the restriction set forth above is intended to have the "effect of preventing lobbyists or an entity employing such lobbyists from directly paying for a party to honor a *specific* Member."[4] Thus, an event that is organized to honor a convention delegation, House committee, or caucus, without naming any specific Member of the delegation, committee, or caucus, or providing any special benefit or opportunity to a particular Member, would be an event that Members may participate in under the rule – provided that, as discussed below, attendance at the event otherwise would be in compliance with the House gift rule (House Rule 25, clause 5). There is no numerical minimum, or maximum, on the size of the delegation or caucus invited to or participating in such an event. Furthermore, a Member would not be prohibited from participating in an event taking place during a national convention if the Member's name appears, for example, in a listing of the names of the honorary host committee members for the event if that listing includes the names of non-congressional host committee members.

The provision is very specific in prohibiting Member participation in an event that is "directly paid for" by a lobbyist or private entity that retains or employs lobbyists. The fact that a private organization received some of its funding for an event taking place during a national convention from a lobbyist or private entity that retains or employs lobbyists, by itself, would not disqualify a Member from participating in the organization's event.

The provision also states that Member participation is prohibited only at certain events taking place "[d]uring the dates" on which a national convention is held. Accordingly, the rule does not prohibit Member participation in an event that takes place on a date other than the dates on which the national convention is held.[5]

It is important to note that the provision does not establish a new type of event for which free attendance may be accepted under the gift rule. In other words, a Member may accept an offer of free attendance at an event taking place during a national political convention only in accordance with the gift rule – that is, the event is a reception or it satisfies all of the criteria of a widely attended event, a charity event, or a fundraising or campaign event sponsored by a political organization. As it has in previous Presidential

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[3] A Member's personal titles include Congressman/Congresswoman, Representative, and Member of Congress, as well as any role in House leadership, or service as chair or ranking member of a full committee.

[4] 153 Cong. Rec. E1759 (daily ed. Aug. 4, 2007) (statement of Rep. John Conyers, Jr.) (emphasis added).

[5] For 2012, the restricted dates are August 27 to 30, 2012, for the Republican convention, and September 4 to 6, 2012, for the Democratic convention.

election years, the Committee will be reissuing guidance that addresses the rules and standards relating to gifts received in connection with the national political conventions.

Any questions on these matters should be directed to the Committee's Office of Advice and Education at extension 5-7103.

Jo Bonner, Alabama
Chairman
Linda T. Sánchez, California
Ranking Member

Michael T. McCaul, Texas
K. Michael Conaway, Texas
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January 30, 2012

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: The 2012 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees

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A House employee's salary level may trigger certain public disclosure requirements and employment restrictions, including the:

1. Requirement to file financial disclosure (FD) statements;
2. Restrictions on outside employment; and
3. Post-employment restrictions.

Due to the federal pay freeze,[1] the triggering salaries and limits have not changed from those in effect during calendar year (CY) 2011. This memorandum provides the triggering salary figures for CY 2012 for each of the categories noted above.

FINANCIAL DISCLOSURE

House officers and employees whose "rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule" for at least 60 days at any time during a calendar year are required to file FD statements, provided that the officer or employee "performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year."[2] The GS-15, step 1, basic pay rate for CY 2012 is $99,628. The applicable 120% calculation for that rate for CY 2012 is **$119,553.60**,[3] or a monthly salary at or above $9,962.80.

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[1] *See* Continuing Appropriations Act, 2011, Pub. L. 111-242, § 147, as amended by Continuing Appropriations and Surface Transportation Extensions Act, 2011, Pub. L. 111-322, § 1(b)(1).

[2] Ethics in Government Act (EIGA) §§ 109(13) and 101(d), 5 U.S.C. app. 4 §§ 109(13) and 101(d) (hereinafter all citations to the EIGA will be to the appropriate federal code citation). In addition, all House Members are required to file FD statements. 5 U.S.C. app. 4 §§ 101(e) and (f).

[3] This amount is referred to as the "senior staff rate."

As a result, House officers and employees whose basic rate of pay is equal to or greater than the senior staff rate ($119,553.60 for CY 2012) for at least **60 days**[4] during **2012** must file an FD statement on or before May 15, 2013.[5] In addition, any new employee paid at the senior staff rate must file a "new employee" FD statement within 30 days of assuming employment with the House.[6]

Please note that the requirement to file an FD statement covering calendar year 2011 applies to officers and employees whose basic rate of pay for at least 60 days in **2011** was also **$119,553.60** or more. Annual FD statements for CY 2011 are due on Tuesday, May 15, 2012, for those individuals who continue to be Members, officers, or employees of the House on that date.

In addition, House Members, officers, and employees paid at or above the senior staff rate for 60 days or more in a calendar year who terminate their House employment during that calendar year are required to file an FD statement within 30 days of their termination.[7]

THE OUTSIDE EARNED INCOME LIMIT AND OUTSIDE EMPLOYMENT RESTRICTIONS

House officers and employees whose rate of basic pay is equal to or greater than the senior staff rate for **more than 90 days** are subject to limits on the amount of outside earned income[8] attributable to each calendar year.[9] As noted above, the senior staff rate for CY 2012 is **$119,553.60**, or a monthly salary of $9,962.80 or more.

The limit on outside earned income attributable to a calendar year is 15% of the rate of basic pay for Executive Schedule Level II in effect on January 1 of the year. The rate of basic pay for Executive Level II on that date was $179,700. Accordingly, the outside earned income

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[4] The House payroll department operates on a 30-day payroll cycle, meaning that each monthly pay period, regardless of its actual length, is counted as 30 days. Thus, a change to an employee's base rate of pay in any two months during the calendar year (even non-consecutive months) may trigger the requirement to file a Financial Disclosure Statement. This is true even if the pay change affects only part of a month.

[5] 5 U.S.C. app. 4 §§ 101(c) and 109(f).

[6] *See* 5 U.S.C. app. 4 § 101(a). The only exception to this filing requirement is for new employees who assume employment with the House within 30 days of leaving a position with the federal government in which they filed a publicly-available financial disclosure statement. Individuals who are exempt from filing under these circumstances must notify the Clerk of the House in writing of that fact.

[7] *See* 5 U.S.C. app. 4 § 101(e). The only exception is for filers who, within 30 days of their termination from the House, accept a position with the federal government that requires the filing of a publicly-available financial disclosure statement. Departing employees who are exempt from filing under these circumstances must notify the Clerk of the House in writing of that fact.

[8] The term "outside earned income" means any "wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered" by a House Member, officer, or employee. House Rule 25, cl. 4(d)(1). It does not include the individual's salary from the House, nor does it include income for services rendered before the individual was employed by the House. *Id.* at cls. 4(d)(1)(A), (B).

[9] 5 U.S.C. app. 4 § 501(a)(1); House Rule 25, cls. 1(a)(1) and 4(a)(1).

limit for House Members, officers, and employees paid at or above the senior staff rate for CY 2012 remains **$26,955**.[10]

Members, officers, and House employees paid at or above the senior staff rate for more than 90 days are also subject to a number of specific limitations on the types of outside employment.[11] Detailed information regarding these limitations may be found on pages 213 to 238 of the *2008 House Ethics Manual*, which is available on the Committee's Web site (ethics.house.gov). The Committee's Office of Advice and Education (extension 5-7103) is available to explain these limitations further.

POST-EMPLOYMENT RESTRICTIONS

House Members and officers, as well as certain other House employees, are subject to post-employment restrictions on lobbying.[12] A former employee of a Member, committee, or leadership office is subject to the restrictions if, for at least **60 days** during the one-year period preceding termination of House employment, the employee was paid at a rate equal to or greater than 75% of the basic rate of pay for Members at the time of termination.[13] The basic rate of pay for Members in 2012 remains $174,000. Therefore, the post-employment threshold for employees who depart from a job in a Member, committee, or leadership office during 2012 is **$130,500**, or a monthly salary of $10,875 or more. The triggering salary for employees of other House or legislative branch offices (such as the CBO, GAO, GPO, Capitol Police, Library of Congress, Clerk, Parliamentarian, Office of Legal Counsel, and Chief Administrative Officer) is Executive Schedule Level IV, which for 2012 is $155,500, or a monthly salary of $12,958.33 or more.

Information on the post-employment restrictions applicable to Members, officers, and very senior staff is available in two Committee advisory memoranda, one for Members and one for officers and staff. Copies of both memoranda are available on the Committee's Web site (ethics.house.gov).

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[10] This amount is proportionally reduced when an individual becomes a Member, officer, or senior employee during the calendar year. For example, an individual who is hired into a senior staff position on July 1 has an outside earned limit that is one-half of the full amount, or $13,478. *See* 5 U.S.C. app. 4 § 501(a)(2); House Rule 25, cl. 1(b).

[11] *See* 5 U.S.C. app. 4 § 502(a); House Rule 25, cls. 1-4.

[12] 18 U.S.C. § 207.

[13] This amount is referred to as the "very senior staff rate."

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CALENDAR YEAR 2012

OUTSIDE EARNED INCOME AND
OUTSIDE EMPLOYMENT THRESHOLD
(for more than 90 days).....$119,553.60

OUTSIDE EARNED INCOME LIMIT.....$ 26,955.00

FINANCIAL DISCLOSURE THRESHOLD
(for 60 days or more) $119,553.60

POST-EMPLOYMENT THRESHOLD
For employees of Member, committee, or leadership offices $130,500.00
For employees of "other legislative offices" $155,500.00

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Chairman
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March 9, 2012

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Change in Rules Regarding Providing a Hyperlink from Campaign Internet Sites to Official Internet Sites

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In order to reduce confusion among constituents and the general public, and to help clarify the difference between campaign media and official media, the Committee is announcing a recent change, made after consideration of a request from the Franking Commission, in the policy regarding whether Members' campaign Web sites and other Internet communications resources, such as Facebook, Twitter, and YouTube (collectively Internet Sites), may contain language notifying constituents of Members' official Internet Sites and provide hyperlinks to those resources. Members' campaign Internet Sites may now provide a hyperlink to Members' official Internet Sites ***if that hyperlink is presented in a brief notification that has been approved by the Committee on Ethics in advance.***

The Committee on Ethics has approved the use of the following notification:

> Thank you for visiting my campaign (Web site/Twitter page/Facebook page). If your intention was to visit my official House of Representatives (Web site/Twitter page/Facebook page), please click here. [The "click here" would be hyperlinked to the appropriate Web site.]

Members must seek written approval of the Committee on Ethics prior to using any other language in their disclaimer. This new policy remains an exception to the general rule that campaign resources may not be used to advertise the contact information, such as the address or telephone number, for the official congressional office. ***Therefore, any Internet Sites that do not use a specifically-approved notification, such as the one above, may not contain a hyperlink or reference to a Member's official Internet Site.***

Note that this exception applies only to a hyperlink to an official Internet Site from a Member's campaign Internet Site. The new policy does not cover the reverse

situation; thus, a Member's official Internet Site still may not contain a reference or link to any campaign Internet Site.

* * *

Any questions on these matters should be directed to the Committee's Office of Advice and Education at extension 5-7103.

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Linda T. Sánchez, California
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COMMITTEE ON ETHICS

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April 4, 2012

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: New Ethics Requirements Resulting from the STOCK Act

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The purpose of this memorandum is to summarize the new rules and clarifications put in place by the enactment of the Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act).[1] Many of the new ethics requirements discussed below took effect on **April 4, 2012**, when the STOCK Act was signed into law. Other provisions take effect at a later date. The effective date of each change is included in the discussion below.

Provisions of the STOCK Act that affect House Members and staff include:

- Financial disclosure filers must periodically report transactions in certain securities
  (Provision applies to transactions executed on or after July 3, 2012);
- Members must disclose personal residence liabilities (*e.g.*, mortgages) *(Provision applies to Members' financial disclosure statements to be filed May 15, 2012)*;
- Extensions in financial disclosure matters will be disclosed on the Clerk of the House's Web site
  (Provision applies to extensions granted for filings made in 2012. They will be made public not later than August 31, 2012);
- Limitations are imposed on participation in Initial Public Offerings *(Provision applies to participation on or after April 4, 2012)*;

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[1] Stop Trading on Congressional Knowledge Act, S 2038, as enrolled, PL 112-___ (Enacted April 4, 2012) (hereinafter STOCK Act).

- All senior staff must submit employment negotiation and recusal notices *(Provision applies to negotiations commenced on or after April 4, 2012)*; and
- Prohibitions on "insider trading" are clarified and re-affirmed.

DEFINITION OF SENIOR STAFF

Among other actions, the STOCK Act amends certain requirements, and adds new requirements, for Financial Disclosure (FD) filings under the Ethics In Government Act (EIGA).[2] Many of the requirements apply to Members and "senior staff," as defined in the EIGA. ***While these provisions have not changed, the Committee takes this opportunity to remind you that it is your responsibility to know if you are senior staff and to comply with the ethics requirements that attach to that designation.***

As a reminder, "senior staff" are those House officers and employees whose "rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule" for at least 60 days at any time during a calendar year, provided that the officer or employee "performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year."[3] For CY 2011 and CY 2012 the annual threshold rate of pay is **$119,553.60**,[4] or a monthly salary at or above $9,962.80. If your gross base salary was raised above the senior staff rate, $9,962.80, for any two months [5] in a calendar year then you are senior staff for that calendar year for FD purposes. This often happens when House employees are awarded year-end bonuses that are paid out over two paychecks.

PERIODIC TRANSACTION REPORTS

In general, FD filers must report on their annual FD filing each purchase, sale, or exchange transaction involving real property, stocks, bonds, commodities futures, or other securities made by the filer, their spouse, or dependent child when the amount of the transaction exceeds $1,000. For sales transactions, the $1,000 threshold is based on the total dollar value of the transaction, not the gain or loss made on the sale.

Section 6 of the STOCK Act now requires Members, officers, and employees who file annual FD Statements pursuant to the EIGA to also file periodic reports of certain

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[2] Ethics In Government Act (EIGA), 5 U.S.C. app. 4 §§ 101 *et seq.* Hereinafter all citations to the EIGA will be to the appropriate federal code citation.

[3] 5 U.S.C. app. 4 §§ 109(13) & 101(d). In addition, all House Members are required to file FD statements. 5 U.S.C. app. 4 §§ 101(e)-(f).

[4] This amount is referred to as the "senior staff rate."

[5] The House payroll department operates on a 30-day payroll cycle, meaning that each monthly pay period, regardless of its actual length, is counted as 30 days. Thus, a change to an employee's base rate of pay in any two months during the calendar year (even non-consecutive months) may trigger the requirement to file a Financial Disclosure Statement. This is true even if the pay change affects only part of a month.

personal financial transactions in stocks, bonds, and other securities. As a result, Members and officers and employees who are senior staff must file Periodic Transactions Reports (PTR) for transactions that are executed on or after **July 3, 2012**.[6] The requirement to file PTRs also applies to House employees who are not paid at the senior staff rate but are required to file an annual FD because they were designated to file as a principal assistant by their employing Member. A PTR must be filed within 30 days of the filer's receiving notice that a reportable transaction has been made, but no later than 45 days after the transaction has occurred.

As a general matter, all securities transactions that are already reportable on an annual FD Statement must now also be reported on a PTR, with certain exceptions, as described below.

Exception: You are not required to file a PTR for transactions in a widely held investment fund (*e.g.*, a mutual fund or exchange traded fund) if:

1. You neither exercise control over nor have the ability to exercise control over the financial interests held by the fund, and
2. The fund is publicly traded or the assets of the fund are widely diversified.

A fund is widely diversified if it both:

1. Holds no more that 5% of the value of its portfolio in the securities of any issuer (other that the U.S. government), and
2. Holds no more than 20% of the value of its portfolio in any particular economic or geographic region.[7]

Note that while transactions in these types of securities do not have to be reported on a PTR, ***they must still be reported on your annual FD Statement.***

Also note that purchase and sales transactions involving assets held within self directed retirement accounts such as 401(k) plans and IRAs must be disclosed on both a PTR and your annual FD Statement if they exceed $1,000 in value or generate more than $200 in income for any one asset. For example, if you have a 401(k) plan and direct the plan administrator to sell your entire $10,000 holding in "Mega Corporation" stock and purchase shares in "Zoro Company" stock you must separately disclose each of these transactions on the transactions report. Likewise, the reallocation of funds among currently-held assets within these accounts are also considered purchase and sales transactions and must be disclosed.

The reporting threshold for disclosure of transactions is reached when the *gross* amount of either a single purchase or sales transaction exceeds $1,000. *This includes transactions that result in a net loss.* Thus, a sales transaction of an asset for $5,000 for

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[6] 5 U.S.C. app. 4 §§ 101(c), 109(f) and 103(l).

[7] *See* 5 C.F.R. § 2634.310(c)(3) (2006).

which you previously paid $7,000 must be disclosed on a PTR even though it resulted in a $2,000 net loss.

The Committee will issue additional guidance regarding PTRs, as well as forms for use in filing a PTR, and provide additional training, closer to the date the first reports will be due.

MEMBER DISCLOSURE OF MORTGAGES ON PERSONAL RESIDENCES ON THE ANNUAL FD STATEMENT

The EIGA requires all FD filers to report any liabilities secured by real property that generates income or is held for investment purposes.[8] To date, this requirement had excepted disclosure of any liability on real property that was used solely as a personal residence (*i.e.*, that did not generate any rental income and was not held for an investment purpose).[9]

Section 13 of the STOCK Act deletes the personal residence exception for Members. Pursuant to the STOCK Act, Members are now required to report all liabilities secured by real property that they own or that they own jointly with another person, regardless of whether or not the property generates any rental income or is held for an investment purpose. (This requirement does not apply to officers or employees.) As a result, Members now must report on Schedule V of their annual FD Statement any mortgage, home equity loan, or home equity line of credit on <u>any</u> property, including a personal residence. In addition to a Member's primary personal residence, this includes, but is not limited to, the mortgage on a vacation or second home or vacant piece of property. Members must report the liability at the highest amount owed during the reporting period. This reporting requirement will apply to annual reports due on or after **May 15, 2012.**

PUBLIC DISCLOSURE OF FD EXTENSIONS

The EIGA permits the Committee to grant an extension of time for the filing of any Statement required under the statute.[10] Section 8(a)(2) of the STOCK Act now requires any grant of an extension to be publicly filed by the Clerk, together with the report for which the extension was granted.

Any filer seeking an extension of time to file an FD Statement should use the appropriate form created by the Committee for that purpose. Extension request forms for annual filers, PTR filers, and candidates are available on the Committee Web site (ethics.house.gov) under Financial Disclosure / Information & Forms. Instructions for completing and submitting an extension request to the Committee appear on the

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[8] 5 U.S.C. app. 4 § 102(a)(4).

[9] 5 U.S.C. app. 4 § 102(a)(4)(A).

[10] 5 U.S.C. app. 4 § 101(g).

extension request forms. The Committee will submit all granted extension requests to the Clerk for public filing. Please remember that an extension will only be granted if the request is received on or before the original due date.

LIMITATION ON PARTICIPATION IN INITIAL PUBLIC OFFERINGS

Section 12 of the STOCK Act bans Member, officers, and employees who file FD statements from participating in Initial Public Offerings (IPO) in a manner "other than is available to members of the public generally." IPO participation, however, is often unavailable to the general public at all. This limitation took effect immediately upon enactment of the STOCK Act on April 4, 2012. If you would like to participate in an IPO, please first contact the Committee in advance to determine whether or not the purchase would be permissible.

DISCLOSURE OF EMPLOYMENT NEGOTIATIONS AND RECUSAL REQUIREMENTS

House Rule 27 requires all Members, officers, and those employees who are deemed "very senior staff" to file a statement of negotiation with the Committee within three days of entering job negotiations with a private employer. "Very senior staff" are employees of a Member, leadership, or committee office who have been paid at an annual rate of $130,500 for at least 60 days in the past 12 months.[11]

Section 17 of the STOCK Act extends this requirement to all employees who file a Financial Disclosure Statement pursuant to EIGA. ***Thus, the requirement to file a written notice of job negotiations now applies to both senior staff and those staff designated as principal assistants, as well as to Members, officers, and very senior staff.*** In addition, Members and these employees must also recuse themselves from matters where there is a conflict of interest or the appearance of a conflict and notify the Ethics Committee in writing of the recusal. This requirement took effect immediately upon enactment of the STOCK Act on April 4, 2012.

The Committee has issued forms, available on the Committee Web site (ethics.house.gov), to be used for these notification requirements. When notifying the Committee of negotiations or agreements for future employment or compensation, Members and employees should complete and sign an employment negotiation form, formally titled the "Notification of Negotiations or Agreement for Future Employment." The original, completed form must be submitted to the Committee, but all filers should keep a copy of their submission for their records. There is a separate form for notifying the Committee of recusal, entitled the "Statement of Recusal." As with the job negotiation form, the original Statement of Recusal must be submitted to the Committee.

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[11] The very senior staff rate for employees of other legislative offices, such as the Architect of the Capitol, Government Accountability Office, Government Printing Office, Library of Congress, Congressional Budget Office, and Capitol Police, is $155,500 for CY 2012.

Note that Rule 27, clause 4, requires that any Member who recuses from any action under the rule must then file the Member's Notice of Negotiations with the Clerk for public disclosure. (Officers and staff are not subject to this public disclosure requirement).

Guidance for determining when either a Notice of Negotiations or Statement of Recusal must be filed is provided in a pair of advisory memoranda (one for Members and one for House staff). The two memoranda, "Negotiations for Future Employment and Restrictions on Post-Employment" for Members or staff, are available on the Committee Web site (ethics.house.gov) under "General Advisories."

PROHIBITION AGAINST INSIDER TRADING

The Committee previously issued guidance regarding several statutes and rules that already prohibit so-called insider trading by Members and staff.[12] The STOCK Act explicitly affirms that Members and **all** employees are subject to the insider trading prohibitions arising under the securities laws, which include Section 10(b) of the Securities Exchange Act of 1934 and 17 C.F.R. § 240.10b-5 (popularly known as Rule 10b-5). The prohibition applies to information learned both in an official capacity and in a personal capacity.

As discussed in the Committee's earlier advisory memorandum, Members and employees may obtain material nonpublic information about a public company or economic sector (*e.g.*, energy, telecommunications, or healthcare) during the course of their official duties or in their personal capacity from family, friends, acquaintances, or from their own involvement with a company. If the Member or employee chooses to trade on this information, they may have engaged in insider trading.

Material nonpublic information is any information concerning a company, security, industry or economic sector, or real or personal property that is <u>not available to the general public</u> **and** which <u>an investor would likely consider important in making an investment decision</u>. A good rule of thumb to determine whether information may be material nonpublic information is whether or not the release of that information to the public would have an effect on the price of the security or property.

For example, a House employee learns in a meeting with Food and Drug Administration (FDA) staff that a new miracle weight loss drug is going to be approved by the FDA. The staffer is informed at the meeting that this information is confidential. The House employee then buys shares in the company that manufactures the drug. Once the news of the drug approval is made public, the company share price increases and the employee sells at a profit. As the STOCK Act explains, the employee would be subject to liability for violation of federal civil and criminal insider trading statutes. However, if

[12] Comm. on Ethics, *Rules Regarding Personal Financial Transactions* (Nov. 29, 2011). While the Committee may issue additional guidance on these restrictions in the future, the guidance cited above is incorporated herein in satisfaction of Section 3 of the STOCK Act.

the House employee waits to purchase the shares until the information regarding the FDA decision becomes public, the employee would not be subject to liability.

Finally, Section 4 of the STOCK Act also makes clear that each member of Congress or employee of Congress owes a duty arising from a relationship of trust and confidence to the Congress, the United States Government, and the citizens of the United States, with respect to material, nonpublic information derived from such person's position as a Member or employee of Congress.

As with any criminal statutes or Executive Branch regulations, the Committee cannot provide binding interpretations of securities law. However, as House Rules and standards have long prohibited related activities, the Committee is available to discuss these matters and assist staff in any appropriate manner.

* * *

As noted above, the Committee will be providing training directed at several of the provisions discussed above, particularly as they relate to financial disclosures. However, any additional questions on any of these matters may be directed to the Committee's Office of Advice and Education at (202) 225-7103.

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June 1, 2012

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Gift Rules Applicable to National Political Conventions

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With the time for the 2012 Presidential nominating conventions approaching, we believe it would be helpful to provide you with a summary of the key provisions of the House gift rule (House Rule 25, clause 5) that apply in the context of the conventions. Any questions on how these provisions apply to a specific proposed event or other gift should be directed to the Committee.

Note that the advice contained in this memorandum should be read in conjunction with the guidance provided in the Committee's general advisory memorandum of January 24, 2012, entitled "Member Participation in Certain Events Taking Place During a National Political Convention," addressing events held in honor of a Member and sponsored by a lobbyist or entity that employs lobbyists. While that memorandum addressed a particular rule applicable only to national political conventions, this memorandum summarizes the general rules that are always applicable, and places them in the context of the national political conventions.

* * *

The gift rule prohibits Members and House staff from accepting any gift – including any meal, entertainment, transportation, services, or anything else having monetary value – except as specifically provided in the rule. Members and staff are also generally prohibited from ***soliciting*** any gift, whether for themselves or for others. Under the gift rule as applied by the Committee, gifts that ***may*** be accepted in connection with the conventions include the following.

1. Any gift paid for by the host ***cities of Tampa or Charlotte***, or any unit of federal, state, or local government, may be accepted. However, this provision does ***not*** apply when a governmental entity is being used merely as a conduit for a gift from another person or entity. Thus, for example, if a city were given event tickets that were designated by the donor, either formally or informally, for distribution to Members or

staff, those tickets would be deemed a gift from the original donor and would be subject to the restrictions of the rule that apply to gifts from that source.

2. The rule allows the acceptance of a range of gifts – including meals, lodging, entertainment, and transportation – from a ***political organization in connection with a campaign or fundraising event*** that the organization is sponsoring. Under this provision, as applied by the Committee, Members and staff may accept such gifts provided in connection with the convention from the Democratic National Committee (DNC) or Republican National Committee (RNC) or the Democratic or Republican Convention Committee, as well as from the convention host committees for Tampa and Charlotte.[1] In addition, travel expenses to the convention may be accepted from a state or local party organization, or a Member may use the Member's campaign funds to pay travel expenses to the convention.[2]

3. At times, state or local party organizations, campaign committees, and other political organizations sponsor their own ***campaign or fundraising events*** at the conventions. Under the same gift rule provision that is referred to in item 2, Members and staff may accept an offer of free attendance, and related benefits, at such events from the sponsoring political organization (but not from anyone other than the sponsoring political organization). However, Members and staff should consult with the FEC regarding their attendance at non-federal political fundraising events.

4. Attendance at ***receptions***, at which the food served is limited to moderate appetizers, beverages, and similar items and does not include a meal, is permissible under the gift rule.

5. Staff and Members who are ***convention delegates*** may accept invitations to events and other gifts that are offered to all of the convention delegates or to, for example, all of the convention delegates from their state.

6. A Member or staff person, as well as one accompanying individual, may accept an offer of free attendance at a ***"widely attended" event***, if all of the following are true: (a) the invitation is extended by the event organizer; (b) the event will have at least 25 non-congressional attendees; (c) the event is open to the general public, or the non-congressional attendees represent a wide range of individuals interested in a given matter; **and** (d) the Member or employee will have some participatory role in the event, or their attendance is connected to the performance of their official duties. This provision

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[1] However, the same caveat noted at item 1 with regard to gifts earmarked for distribution to Members or staff applies as well with regard to any such gifts received from these committees. Any such gifts would be deemed to be from the original donor, and not from the party, convention, or host committee.

[2] The Federal Election Commission (FEC) has issued advisory opinions that address circumstances in which a Member may use campaign funds to pay, in addition, the convention-related travel expenses of the Member's spouse or child, or those of a congressional staff member. Please note, however, that a congressional employee may attend a convention only on the individual's own time, not on official time. FEC staff should be consulted directly with regard to use of campaign funds to pay the convention-related travel expenses of these other individuals.

generally does not allow free attendance at events such as shows or sporting events. In addition, events that are political in nature or are fundraising events for any entity generally are deemed not to be connected to official duties for purposes of the gift rule.

7. A House Member or employee may accept free attendance at a ***charity event*** provided that: (a) the invitation is extended by the event organizer; and (b) the primary purpose of the event is to raise funds for an organization qualified under § 170(c) of the Internal Revenue Code (including § 501(c)(3) charitable organizations). This latter criterion is generally satisfied when more than half of the cost of the admission fee is deductible as a charitable donation.

8. A Member or staff person may also accept any gift (other than cash or cash equivalent) having a value of ***less than $50***, provided the donor is not a federal lobbyist, registered foreign agent, or an entity that employs or retains such individuals. Each Member or staff person has a cap of less than $100 in gifts from any one source during the calendar year under this exception. ***Members and staff must be especially cautious about accepting invitations to sporting events, shows, recreational activities, or small group or one-on-one meals.*** Unless acceptable under one of the gift rule provisions noted above, attendance likely will be permissible only if the market value of the gift is worth less than $50.

9. At times Members wish to hold an event of their own, such as a reception, at the convention. As a general matter, Members may pay for such events with their campaign funds.

* * *

Further explanation of the gift rule and guidance on the application of its provisions is available from the Committee's Office of Advice and Education at extension 5-7103.

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June 7, 2012

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Periodic Reporting of Personal Financial Transactions Pursuant to the STOCK Act

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Among other requirements, the Stop Trading on Congressional Knowledge Act (STOCK Act)[1] requires Members, officers, and employees who file personal Financial Disclosure (FD) Statements pursuant to the Ethics in Government Act of 1978 (EIGA)[2] to file periodic reports of their personal financial transactions valued over $1,000 in stocks, bonds, and other securities executed on or after **July 3, 2012**. This memorandum summarizes the rules regarding the periodic reporting of personal financial transactions made by House Members, officers, and certain senior employees[3] as required by the STOCK Act.

NOTE: Staff may become subject to this filing requirement mid-year due to a pay raise or bonus.

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[1] Stop Trading on Congressional Knowledge Act, Pub. L. No. 112-105 (Apr. 4, 2012) (hereinafter STOCK Act).

[2] 5 U.S.C. app. 4 §§ 101 *et seq.*

[3] The terms "staff" and "employee" are used interchangeably throughout this memorandum to refer to persons who are employed by a House Member, committee, leadership office, or other legislative branch office. *See* note 5 below for more information on other legislative branch offices.

WHO IS REQUIRED TO FILE PERIODIC TRANSACTION REPORTS

The requirement to file Periodic Transaction Reports (PTR) applies to:

- Members,[4]
- Officers, and
- Senior staff, meaning any employee paid at the senior staff rate for any two months during a calendar year, as explained more fully below.[5]

While the definition of "senior staff" has not changed, the Committee takes this opportunity to remind you that *it is your responsibility to know if you are senior staff and to comply with the ethics requirements that attach to that designation.*

Senior Staff

The EIGA defines senior staff as those House officers and employees whose "rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule" for at least 60 days at any time during a calendar year, provided that the officer or employee "performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year."[6] For CY 2012 the triggering rate of annual pay is **$119,553.60**,[7] or a monthly salary at or above $9,962.80.[8] An employee whose base salary is raised above the senior staff rate, $9,962.80, for any two months (which for House purposes means two pay periods)[9] in a calendar year is senior staff for that calendar year for EIGA purposes. The months do not have to be consecutive. This often happens when House employees are awarded

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[4] The requirement to file PTRs does not apply to candidates for the U.S. House of Representatives. *See* 5 U.S.C. app. 4 § 103(*l*).

[5] The obligation to file PTRs also applies to FD Statement filers who are employees of various legislative branch agencies, including, but not necessarily limited to, the Architect of the Capitol, United States Capitol Police, Congressional Budget Office, and Library of Congress. 5 U.S.C. app. 4 § 103(h)(1)(A)(i)(I). Pursuant to its authority under 5 U.S.C. app. 4 § 106(b), the Committee has delegated to the Congressional Budget Office, Library of Congress, Architect of the Capitol, Government Printing Office, and Capitol Police the responsibility of reviewing and certifying FD Statements and PTRs for their own employees. Employees of those agencies should contact their respective general counsel's offices with any questions about their disclosure obligations. Employees of agencies designated under the authority of the U.S. Senate for these purposes should consult with the Senate for rules regarding PTRs.

[6] 5 U.S.C. app. 4 §§ 109(13) & 101(d).

[7] This amount is referred to as the "senior staff rate."

[8] The Committee publishes a memorandum at the beginning of each calendar year that provides the senior staff rate for that year. The memorandum is available on the Committee Web site, www.ethics.house.gov, under "General Advisories."

[9] The House payroll department operates on a 30-day payroll cycle, meaning that each monthly pay period, regardless of its actual length, is counted as 30 days. Thus, a change to an employee's base rate of pay in any two months during the calendar year (even non-consecutive months) may trigger the requirement to file an FD Statement. This is true even if the pay change affects only part of a month.

year-end bonuses that are paid out over two paychecks. As a result, House officers and employees whose basic rate of pay is equal to or greater than the senior staff rate ($119,553.60 for CY 2012) for at least 60 **days** (two pay periods) during **2012** must file PTRs for transactions that are executed on or after July 3, 2012.[10]

NOTE: Paying a bonus through a lump sum payment rather than through raising an employee's base rate of pay does not trigger the EIGA filing requirements and therefore would not trigger the requirement to file PTRs.

FD filings and filing requirements are generally considered on a calendar-year basis. Thus, new employees and employees paid at or above the senior staff rate on January 1, or their first day of employment if after January 1, must file PTRs for that calendar year. Any employee who receives a pay increase (or mid-year bonus) that results in the employee being paid the senior staff rate ($9,962.80 monthly gross in 2012) in two pay periods must begin filing PTRs for all transactions executed following the second pay period. However, the PTR filing requirement would not attach to an employee who does not become "senior staff" until December 31 (for example, by receiving a year-end bonus), unless the employee's pay rate remains above the senior staff rate on January 1. Specific examples demonstrating these rules are provided below.

The PTR filing requirement remains in effect for senior staff who take leave without pay (LWOP) or medical or family leave (including maternity or paternity leave) from their House employment.

Principal Assistants

Pursuant to the EIGA, every Member office must have at least one employee who files an annual FD Statement.[11] Most offices will have at least one employee who is paid at or above the senior staff rate and therefore is required to file both an annual FD Statement and PTRs. If a Member does not have an employee paid at or above the senior staff rate, the Member must designate at least one current employee as a principal assistant to file an annual FD Statement. *However, principal assistants are not required to file PTRs.* Thus, the only employees required to file PTRs are those who qualify as senior staff, as defined above.

Examples of Employees Who Must File PTRs

1. An employee is hired with a starting salary of $130,000 and begins work on October 1, 2012. The employee must file a PTR for any reportable transaction on or after October 1, 2012 (new employee beginning House employment at senior staff rate).

[10] 5 U.S.C. app. 4 §§ 101(c), 101(f)(10), 103(*l*), and 109(13).

[11] 5 U.S.C. app. 4 §§ 101(d), 101(f)(10), and 109(13).

2. An employee's salary for the year, on January 1, 2013, is $135,000. That employee must file a PTR for any reportable transaction on or after January 1, 2013 (senior staff at start of new reporting period).

3. An employee is promoted on June 1, 2012, and her June and July monthly gross pay rate is now $9,963. The employee must file a PTR for every reportable transaction executed on or after August 1, 2012 (staffer becomes a senior staffer after 60 days at senior staff pay rate; PTR filing requirement begins at 60-day mark of being senior staff).

4. An employee receives a bonus in February and August 2012 that increases his gross rate of pay above $9,962.80 for those two months. The employee must file a PTR for every reportable transaction executed on or after September 1, 2012 (staffer becomes a senior staffer after 60 days at senior staff pay rate; PTR filing requirement begins at 60-day mark of being senior staff).

5. An employee whose base salary rate for 2012 is $115,000 receives a bonus in November and December 2012 that increases her gross rate of pay above $9,962.80 for those two months. The employee's salary is $115,000 on January 1, 2013. The employee will not file PTRs in 2013, but will file an annual FD Statement covering all of CY 2012 (not senior staff until end of 2012 pay period, and not senior staff at start of new 2013 reporting period).

6. An employee whose base salary rate for 2012 is $115,000 receives a bonus in November and December 2012 that increases his gross rate of pay above $9,962.80 for those two months. The employee's salary is increased to $125,000 starting on January 1, 2013. The employee must file a PTR for any reportable transaction on or after January 1, 2013, and will also file an annual FD Statement for CY 2012 (not senior staff until end of 2012 pay period, but is senior staff at start of new 2013 reporting period; has PTR filing requirement for all 2013 transactions).

7. An employee whose base salary rate for 2012 is $115,000 receives a bonus in December 2012 and January 2013 that increases his gross rate of pay above $9,962.80 for those two months. The employee's salary is decreased to $115,000 starting on February 1, 2013. The employee must file a PTR for any reportable transaction on or after January 1, 2013, but will not file an annual FD Statement for CY 2012 (bonus made the person senior staff at start of new reporting period).

8. A Member designates an employee as her principal assistant on August 15, 2012. The employee must file an annual FD Statement on May 15, 2013, but is not required to file any PTRs (designated PA filer; no PTR filing requirement).

WHAT TRANSACTIONS MUST BE REPORTED

Among other requirements, filers must report on their annual FD Statement each purchase, sale, or exchange transaction involving stocks, bonds, commodities futures, or other securities owned by the filer (or the filer jointly with any other person) when the amount of the transaction(s) in an asset exceeds $1,000. In addition to this annual disclosure, FD filers are now required to report on a PTR individual transactions executed on or after **July 3, 2012**, for which the gross value of the transaction exceeds $1,000, with some exceptions. The STOCK Act did not eliminate the need to report these transactions on the annual FD Statement, and therefore each transaction reported on a PTR also must be reported on the annual FD Statement. Please see the chart at the end of this document for examples of how some typical assets are treated on PTRs and the annual FD Statement.

Reportable Transactions

A PTR filing is required for any single purchase, sale, or exchange transaction of a stock, bond, commodities future, or other security when the amount of the transaction exceeds $1,000.[12] For sales transactions, the $1,000 threshold is based on the total dollar value of the transaction, not the gain or loss made on the sale.

The term "security" has been broadly defined in the securities statutes[13] to include notes, options, futures, debentures, and "investment contracts," among other things. The Supreme Court laid down a basic test for an investment contract in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946). The test is whether "a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party."[14] Among the types of interests which have been deemed securities under this standard are interests in: oil and gas drilling programs; partnerships; farm animals; commodity options contracts; whiskey warehouse receipts; and multilevel distributorship arrangements and merchandise marketing schemes. While the above definitions and standards may not be binding for purposes of reporting under the EIGA, they do provide helpful guidance to determine what must be reported. If you have a question regarding whether your asset is a security, please contact the Committee.

Purchase transactions which must be disclosed on a PTR include:

- Individual purchases involving an asset listed above in which the transaction amount exceeds $1,000; or

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[12] Voluntary over-disclosure on annual FD Statements and on PTRs is always permitted. However, voluntary disclosure regarding an asset on the annual FD Statement does not necessarily create a PTR obligation regarding that asset. Filers may want to include a comment or footnote regarding the voluntary disclosure so that anyone reviewing the reports understands the characteristics of the asset or transactions that make them exempt from reporting on a PTR.

[13] *See* 15 U.S.C. § 77b(a)(1) and 15 U.S.C. § 78c(a)(10).

[14] *SEC v. W.J. Howey Co.*, 328 U.S. at 299.

- Reinvestment of income (such as dividends or interest) in a reportable asset in which the amount of a single reinvestment transaction exceeds $1,000.

Sales transactions which must be disclosed on a PTR are:

- Individual sales involving an asset listed above in which the transaction amount exceeds $1,000. As stated above, for sales transactions, the $1,000 threshold is based on the total dollar value of the transaction, not the gain or loss made on the sale.

Exchange transactions valued at more than $1,000 must be disclosed on a PTR. Such transactions, however, are somewhat rare and refer only to a single set of circumstances that involves the exchange of stock certificates following the purchase of one company by another or a merger of two companies. For example, if you own stock in Company A and that company is purchased by (or merged with) Company B, your Company A stock may be exchanged for Company B stock. An exchange transaction may be disclosed in a single entry on a PTR. For example, you may state in the "Asset" column "Company A stock exchanged for Company B stock following merger." There are many transactions that filers believe are exchanges, but are really purchases and sales. If you believe you have an exchange and it does not fit the example above, please contact Committee staff for guidance.

NOTE: Purchase and sales transactions involving assets held within self directed retirement accounts such as 401(k) plans and IRAs must be disclosed on a PTR if they exceed $1,000 in value. For example, if you have a 401(k) plan and direct the plan administrator to sell your entire $10,000 holding in "Mega Corporation" stock and purchase shares in "Zoro Company" stock, you must separately disclose both of these transactions on a PTR. Likewise, the reallocation of funds among currently-held assets within these accounts is also considered to be both purchase and sale transactions and must be disclosed if the transaction exceeds $1,000 in any asset. However, purchases or sales of widely held investment funds within retirement accounts do not have to be reported on a PTR, as discussed below under "Excluded Transactions."

The reporting threshold for disclosure of transactions is reached when the *gross* amount of either a single purchase or sales transaction exceeds $1,000. *This includes transactions that result in a net loss.* Thus, a sales transaction of an asset for $5,000 for which you previously paid $7,000 must be disclosed even though it resulted in a $2,000 loss. You do not need to indicate on a PTR whether you had a capital gain or loss resulting from a sale.[15]

[15] If the sale of the asset resulted in a capital gain of over $200 that capital gain must be reported as unearned income on Schedule III of your annual FD Statement.

Excluded Transactions

Transactions in certain types of assets are excluded from the PTR filing requirement, as explained below. *In addition, the PTR filing requirement applies only to assets owned in whole or in part by the filer.* As drafted and incorporated into the EIGA, the STOCK Act does not require the periodic reporting on a PTR of transactions in assets wholly owned by the filer's spouse or dependent children.[16] The requirement to report such transactions, however, still applies to the filer's annual FD Statement. Therefore, spouse and dependent child transactions which are wholly separate and independent of the filer must be reported only on the annual FD Statement.

You are not required to report transactions in a widely held investment fund (*e.g.*, a mutual fund or exchange traded fund (ETF)) on a PTR if:

1. You neither exercise control over nor have the ability to exercise control over the financial interests held by the fund; and

2. (a) The fund is publicly traded; or

   (b) The assets of the fund are widely diversified.[17]

As a result of this exception, every transaction of a publicly traded fund (mutual fund or ETF) is exempted from disclosure on a PTR. Examples of assets for which transaction reports would not be required include, but are not limited to, the Vanguard Energy Fund (sector mutual fund), Fidelity Contrafund (mutual fund), T. Rowe Price High Yield Fund (mutual fund), SPDR S&P 500 (ETF), iShares S&P Target Date 2045 Index Fund (ETF), iShares S&P Europe 350 Index Fund (geographic ETF), and VEST Potomac Portfolio (Virginia 529). However, transactions in these funds must still be disclosed on the filer's annual FD Statement if they meet the $1,000 threshold.

A fund is widely diversified if it:

1. Holds no more that 5% of the value of its portfolio in the securities of any issuer (other that the U.S. government); and

2. Holds no more than 20% of the value of its portfolio in any particular economic sector or geographic region.[18]

Further explanation of certain terms used in the definition of "widely diversified" is as follows:

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[16] *See* 5 U.S.C. app. 4 §§ 101(f)(9) and (10), 102(e), 103(*l*), and 109(13).

[17] STOCK Act at § 14. Transactions in a widely held investment fund should continue to be reported on the annual FD Statement even though they are exempted from PTR disclosure.

[18] *See* 5 C.F.R. § 2634.310(c)(3) (2006).

- **Issuer:** A legal entity that develops, registers, and sells securities for the purpose of financing its operations.

- **Economic Sector:** An area of the economy in which businesses share or offer the same or a related product or service and share common characteristics. Investors use sectors to place stocks and other investments into categories like technology, health care, energy, utilities, and telecommunications.

- **Geographic Region:** A single region of the globe, such as Europe, Asia, or Latin America, or an individual country or small group of countries. This definition only applies to geographic regions outside the United States.

If you have a question regarding whether your non-publicly traded fund (*e.g.*, hedge fund or private equity fund) is widely diversified, you should contact Committee staff for guidance. If you determine that you do not need to file a PTR for transactions in a non-publicly traded fund, in which the particular holdings are confidential, you must obtain a letter from the fund manager, on the fund stationery, in which the fund manager states that the assets held by the fund are confidential and are not disclosed to anyone. In addition, the letter must state that the fund holds no more than 5% of the value of its portfolio in the securities of any issuer (other than the U.S. government) and that it holds no more than 20% of the value of its portfolio in any particular economic sector or geographic region. The letter should be filed as a part of your annual FD Statement filing, and will be publicly disclosed.

The following transactions are <u>not</u> required to be disclosed on a PTR, **but may be required to be disclosed on the annual FD Statement:**

- Any transaction with a gross value equal to or less than $1,000;

- Any transaction in real property;

- The purchase or sale of any widely held investment fund that is either publicly traded or widely diversified and is not controlled by the filer;

- Any transaction in a mutual fund or Exchange Traded Fund (ETF); and

- Any transaction in an asset owned solely by your spouse or dependent child (and not you), or in a trust that benefits your spouse or dependent child (and not you).

The following transactions are <u>not</u> required to be disclosed on either a PTR or the annual FD Statement:

- Any transactions solely by and between you, your spouse, or your dependent child;

- Any transactions in a federal retirement program, including the Thrift Savings Plan (TSP);
- Bequests or inheritances;
- Stock splits and spin-offs;
- The opening or closing of bank or similar accounts (such as money market funds), or deposits or withdrawals from a bank account;
- The purchase or sale of certificates of deposit; and
- The rollover of assets from one retirement account to another.

ATTESTATION REGARDING IPO PARTICIPATION

Section 12 of the STOCK Act amends the Securities Exchange Act of 1934 to ban Members, officers, and employees who file FD statements from participating in an Initial Public Offering (IPO) in a manner "other than is available to members of the public generally." However, opportunities for the general public to participate in an IPO are very limited.[19] As a result of the ban, filers will be required to indicate whether they purchased any shares that were allocated as part of an IPO on the PTR form. If you answer "yes" to the question because you received an IPO allocation, please contact Committee staff to discuss the disclosure format.[20]

WAIVERS AND EXCLUSIONS

Section 6 of the STOCK Act requires the filing of PTRs "subject to any waivers and exclusions." As a result, any House employee who receives a filing waiver under section 101(i) of the EIGA is not required to file PTRs. In addition, PTRs are not required to be filed for transactions in a "Qualified Blind Trust" as defined in section 102(f)(3) of the EIGA or an "excepted trust" as defined in EIGA section 102(f)(2)(B). An excepted trust is a trust (1) which was not created by the filer, or by the filer's spouse or dependent child; and (2) for which neither the filer nor the filer's spouse or dependent child have any knowledge of the contents.

Some filers may have trusts (or other financial arrangements) that do not meet the above criteria because the filer does receive reports on the contents of the trust. However, some trust beneficiaries are entitled, under the terms of the trust or state law, to

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[19] If you would like to participate in an IPO, we recommend contacting the Committee in advance to determine whether or not the purchase would be permissible.

[20] While interpretation of the STOCK Act regarding participation in IPOs will fall to the Securities and Exchange Commission, Department of Justice, or the courts, the opinion of the Committee is that, as drafted, the STOCK Act prohibits only the filer from participating in IPOs, but not the filer's spouse or dependent child, assuming the assets used for the purchase and the securities purchased are wholly owned by the spouse or dependent child, separate and independent of the filer. *See* STOCK Act at § 13.

receive such reports only on a quarterly or annual basis, rather than monthly. In such circumstances, the Committee may also waive the PTR filing requirement for such trusts or other financial arrangements on a *case-by-case basis*. To qualify for such a waiver, you must meet the following criteria:

1. You have a beneficial interest in a trust or some other financial arrangement;

2. If it is a trust, the trust was not established by you (or you jointly with another person), your spouse, or dependent child;

3. You do not have the power to direct the investments of the trust or other financial arrangement; and

4. You are not entitled by law or contract (including trust documents) to receive statements on a monthly (or more frequent) basis.

With regard to item 1, the types of non-trust financial arrangements that will qualify for this waiver are very limited. With regard to item 3, whether you have the authority or discretion to direct, *even if not exercised*, the investment in a trust or other financial arrangement is construed broadly by the Committee when making waiver determinations. The power to direct includes, but is not limited to, the ability to select the investments among a variety of investment options, the ability to allocate the percentage of your contributions among your designated investment options, the ability to move funds among and between your designated investment options (or select new ones), and the ability to place a certain investment option "off limits."

To receive a PTR filing waiver for such a trust, you must seek written approval of the Committee. Any such request must include a letter from the trustor (or representative of the investment company) attesting that (1) you do not have power to direct the investments of the trust or account, and (2) under state law, the trust agreement, or some other legal authority, you are entitled to reports only on a quarterly, annual, or other, less-than-monthly basis. A waiver request must also contain a certification by you, or by the trustee or financial institution, that the trust was not created by you, your spouse, or your dependent child.

The Committee's letter granting your waiver will be placed in the public record by the Clerk of the House. This waiver would apply only to the filing of PTRs; the transaction information will still be required on your annual FD Statement.

WHEN MUST TRANSACTIONS BE REPORTED

Transactions executed on or after July 3, 2012, must be reported to the Office of the Clerk, Legislative Resource Center, B-106 Cannon House Office Building, *within 30 days of you becoming aware of the transaction, but no later than 45 days after the transaction*. Unless it is the 45th day, if the date on which a report is required to be filed falls on a weekend or holiday, the filing deadline is extended to the next business day. If the 45th day falls on a holiday or weekend, the deadline will be the last business day

before the holiday or weekend. Reports are considered timely if they are received or legibly postmarked on or before the due date.

Even if you do not find out about a transaction until after the 45-day deadline, by statute, the PTR is late. Subject to a 30-day grace period, any required late fee must be attached to the late report, but you may simultaneously seek a waiver of that fee, as discussed below under "Late Filing Fee." You do not need to amend a previously filed report that should have included a transaction, rather you should submit a new report that includes the omitted transaction.

No extensions of the 30- or 45-day time limits will be allowed. No such extensions are permitted by the terms of the STOCK Act.

You are responsible for alerting your broker, investment advisor, trustee, or anyone else who makes reportable transactions on your behalf that they must inform you of any reportable transaction in a timely fashion. For example, if you currently receive only quarterly statements from your broker, you may need to change to monthly reports to meet the PTR filing requirement.

If, by law or binding agreement to which you are not a party, you are not entitled to prompt notice of a reportable transaction, please consult the "Waivers and Exclusions" section above and/or contact the Committee for guidance.

Examples of PTR Due Dates

The following examples illustrate when a PTR would be due under various circumstances.

1. You direct the purchase of Mega Corporation stock on July 10. You must report that transaction by August 9 (30 days after awareness of the transaction).

2. Your broker purchases Mega Corporation stock on July 10 and informs you of the transaction on July 16. You must report that transaction by August 15 (30 days after awareness of the transaction, but still within the 45-day limit).

3. Your broker purchases Mega Corporation stock on July 10 and informs you of the transaction on July 31. You must report that transaction by August 24 (30 days after awareness of the transaction, but capped by the 45-day limit).

4. Your broker purchases Mega Corporation stock on July 12 and informs you of the transaction on July 31. August 26, the 45th day after July 12, falls on a weekend. As a result, you must report that transaction by August 24 (30 days after awareness of the transaction, but capped by the 45-day limit, which is rolled back to the 43rd day because of the weekend).

5. Your broker purchases Mega Corporation stock on July 10 and informs you of the transaction on September 3. You must report that transaction immediately, but no late fee is due (report is late, but is filed within the 30-day grace period).

6. Your broker purchases Mega Corporation stock on July 10 and informs you of the transaction on September 30. You must report that transaction immediately and enclose a check for $200 payable to the U.S. Treasury as a late fee. You may also request a waiver of the late filing fee, which will be granted in "extraordinary circumstances" (report is late and is filed outside of the 30-day grace period, meaning a late fee is due).

Again, you are responsible for alerting your broker, investment advisor, trustee, or anyone else who makes reportable transactions on your behalf that they must inform you of any reportable transaction in a timely fashion.

HOW AND WHERE TRANSACTIONS MUST BE REPORTED

The form ("Ethics in Government Act Periodic Transaction Report") for use in making a PTR is available on the Committee Web site, www.ethics.house.gov, under the "Financial Disclosure" tab. Until the electronic filing system is available, Members must file an original (with an original signature) and two copies of the PTR, and staff must file an original and one copy. Due to impending electronic filing requirements, a PTR must be filed on the designated PTR form and no other form of submission can be accepted. Therefore, you may not submit brokerage statements or your own spreadsheet in lieu of completing, or as an attachment to, a PTR form.[21]

The reports may be hand delivered or mailed to the Legislative Resource Center, B-106 Cannon House Office Building, Washington, D.C. 20515. A report is timely if it is postmarked (legibly) by the due date. The Legislative Resource Center does not accept submissions by facsimile or email.

LATE FILING FEE

As stated above, no extensions of the 30- or 45-day filing limits will be granted. An individual who files a PTR or any amendment more than 30 days after the date the PTR or amendment is required to be filed must pay a late filing fee of $200. Filers will owe a late filing fee for each PTR that is late and not filed within the grace period. The late fee shall be paid by check or money order made out to the United States Treasury and submitted to the Clerk at the filing address along with the PTR. Payment of the fee does not preclude the Committee from taking other disciplinary action authorized by law or the rules of the House of Representatives.

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[21] The STOCK Act requires the development and implementation of an electronic filing procedure that will produce searchable, sortable, and downloadable filings. This procedure is expected to be implemented by October of 2013. *See* STOCK Act at § 8.

The Committee has authority to waive the fee, but only in extraordinary circumstances. Waiver requests must be directed in writing to the Chairman and Ranking Member of the Committee and signed by the filer, and must state the circumstances believed to justify the waiver. The request may either be faxed to the Committee at (202) 225-3713 or submitted with the PTR at the time of filing.

Any PTR that is submitted more than 30 days after the due date without the required late filing fee shall be deemed procedurally deficient and not properly filed. Thus, you must submit the late filing fee at the time you file your PTR. The fee will be deposited immediately *unless* a fee waiver is requested at the time of filing, in which case it will not be deposited until the Committee acts on the fee waiver request. If the fee waiver is granted, your check or money order will be returned to you by the Clerk of the House.

PENALTIES FOR FAILURE TO FILE AND FILING FALSE INFORMATION

Each individual is responsible for the completeness and accuracy of the information contained in the individual's PTR, even if someone else prepared, or assisted in preparing, all or part of the report. The EIGA provides that the Attorney General may seek up to one year in prison and a fine of up to $50,000 against an individual who knowingly and willfully falsifies a PTR, and up to a $50,000 fine for anyone who knowingly and willfully fails to file a PTR required by the EIGA.

In addition, 18 U.S.C. § 1001, as amended by the False Statements Accountability Act of 1996, is applicable to PTRs. That criminal statute provides for a fine and/or imprisonment for up to five years for knowingly and willfully making any materially false, fictitious, or fraudulent statement or representation, or falsifying, concealing, or covering up a material fact, in a filing under the EIGA.

House Rule 26 provides that title I of the EIGA shall be deemed to be a rule of the House with regard to House Members, officers, and employees. The House, acting on the recommendation of the Committee, may therefore impose penalties on Members, officers, and employees in addition to those noted above.

GETTING ASSISTANCE

Filers are encouraged to carefully read these instructions and the instructions that accompany the PTR form. Any filer who has questions concerning the reporting requirements or how to fill out the PTR should call the Committee at (202) 225–7103. Committee staff is available to review your PTR before filing (pre-screen). To have your PTR pre-screened, please fax it to (202) 225-3713 or e-mail it to financial.disclosure@mail.house.gov.

Additional copies of the form can be obtained by visiting the Committee Web site at www.ethics.house.gov and clicking on the "Financial Disclosure" tab. If you would like additional information about financial disclosure requirements generally, it can be found in the FORM A Instruction Guide, also available on the Committee Web site.

DISCLOSURE REQUIREMENT FOR SELECTED ASSETS

Asset	Report on PTR[22]	Report on FD Sch. IV[23]	Report on FD Sch. III[24]	Do Not Report
Stocks	X	X	X	
Bonds	X	X	X	
TSP Contributions				X
U.S. Treasury Bonds	X	X	X	
Mutual Funds		X	X	
Exchange Traded Funds (ETFs)		X	X	
Real Estate Investment Trusts (REITs)	Maybe[25]	X	X	
Options	X	X	X	
Futures	X	X	X	
529 Prepaid Plans		X	X	
529 Portfolio/ Mutual Funds		X	X	
529 Stocks/ Bonds	X	X	X	
Hedge/Private Equity Funds	Maybe[26]	X	X	
Bank Accounts/ Money Markets			X	
Life Insurance Policies[27]	Maybe	Maybe	X	

[22] Reportable if the gross value of the transaction in the asset is more than $1,000.

[23] Schedule IV is the transaction schedule on the annual FD Statement. Reportable if the gross value of the transaction or series of transactions in an asset is over $1,000.

[24] Schedule III is the assets and unearned income schedule on the annual FD Statement. Reportable if the asset is worth more than $1,000 or generates unearned income of more than $200.

[25] If the REIT is publicly traded, transactions in the REIT do not have to be reported on PTRs. If the REIT is private, they do need to be reported.

[26] Please consult factors outlined in the "Excluded Transactions" section on page 7.

[27] Transactions in assets within a variable annuity may be reportable if otherwise independently reportable. Transactions in fixed annuities and universal and whole life insurance policies are not reportable transactions.

Jo Bonner, Alabama
Chairman
Linda T. Sánchez, California
Ranking Member

Michael T. McCaul, Texas
K. Michael Conaway, Texas
Charles W. Dent, Pennsylvania
Gregg Harper, Mississippi

John A. Yarmuth, Kentucky
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August 17, 2012

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Periodic Reporting of Personal Financial Transactions Pursuant to the STOCK Act, **as amended**[1]

Among other requirements, the Stop Trading on Congressional Knowledge Act (STOCK Act)[2] requires Members, officers, and employees who file personal Financial Disclosure (FD) Statements pursuant to the Ethics in Government Act of 1978 (EIGA)[3] to file Periodic Transaction Reports (PTRs) with the Clerk of the House. Filers must make periodic reports of financial transactions valued over $1,000 in stocks, bonds, and other securities owned by the filer or by the filer jointly with another person. ***Starting on September 30, 2012, this requirement extends to transactions in assets owned by the filer's spouse and dependent child.*** If the filer, the filer's spouse, or the filer's dependent children do not have any reportable transactions, then no PTR is required (although the transactions may still need to be reported on the filer's annual FD). This memorandum summarizes the rules regarding the periodic reporting of personal financial transactions by House Members, officers, and certain senior employees,[4] as required by the amended STOCK Act.

NOTE: Staff may become subject to this filing requirement mid-year due to a pay raise or bonus.

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[1] **This memo supersedes and replaces the original memorandum issued on this topic on June 7, 2012.** The STOCK Act was amended by the passage of S. 3510 on August 2, 2012, which was enacted as Pub. L. 112-__ following its signature by the President on August 16, 2012. This memorandum reflects guidance on the implementation of the STOCK Act following its amendment.

[2] STOCK Act, Pub. L. No. 112-105, as amended (Apr. 4, 2012) (hereinafter STOCK Act).

[3] 5 U.S.C. app. 4 §§ 101 *et seq.*

[4] The terms "staff" and "employee" are used interchangeably throughout this memorandum to refer to persons who are employed by a House Member, committee, leadership office, or other legislative branch office. *See* note 5 below for more information on other legislative branch offices.

WHO IS REQUIRED TO FILE PERIODIC TRANSACTION REPORTS

The requirement to file PTRs applies to:

- Members,[5]
- Officers, and
- Senior staff, meaning any employee paid at the senior staff rate for any two months during a calendar year, as explained more fully below.[6]

While the definition of "senior staff" has not changed, the Committee takes this opportunity to remind you that ***it is your responsibility to know if you are senior staff and to comply with the ethics requirements that attach to that designation.***

Senior Staff

The EIGA defines senior staff as those House officers and employees whose "rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule" for at least 60 days at any time during a calendar year, provided that the officer or employee "performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year."[7] For CY 2012 the triggering rate of annual pay is **$119,553.60**,[8] or a monthly salary at or above $9,962.80.[9] An employee whose base salary is raised above the senior staff rate, $9,962.80, for any two months (which for House purposes means two pay periods)[10] in a calendar year is senior staff for that calendar year for EIGA purposes. The months do not have to be consecutive. This often happens when House employees are awarded

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[5] The requirement to file PTRs does not apply to candidates for the U.S. House of Representatives. *See* 5 U.S.C. app. 4 § 103(*l*).

[6] The obligation to file PTRs also applies to FD Statement filers who are employees of various legislative branch agencies, including, but not necessarily limited to, the Architect of the Capitol, United States Capitol Police, Congressional Budget Office, and Library of Congress. 5 U.S.C. app. 4 § 103(h)(1)(A)(i)(I). Pursuant to its authority under 5 U.S.C. app. 4 § 106(b), the Committee has delegated to the Congressional Budget Office, Library of Congress, Architect of the Capitol, Government Printing Office, and Capitol Police the responsibility of reviewing and certifying FD Statements and PTRs for their own employees. Employees of those agencies should contact their respective general counsel's offices with any questions about their disclosure obligations. Employees of agencies designated under the authority of the U.S. Senate for these purposes should consult with the Senate for rules regarding PTRs.

[7] 5 U.S.C. app. 4 §§ 109(13) & 101(d).

[8] This amount is referred to as the "senior staff rate."

[9] The Committee publishes a memorandum at the beginning of each calendar year that provides the senior staff rate for that year. The memorandum is available on the Committee Web site, www.ethics.house.gov, under "General Advisories."

[10] The House payroll department operates on a 30-day payroll cycle, meaning that each monthly pay period, regardless of its actual length, is counted as 30 days. Thus, a change to an employee's base rate of pay in any two months during the calendar year (even non-consecutive months) may trigger the requirement to file an FD Statement. This is true even if the pay change affects only part of a month.

year-end bonuses that are paid out over two paychecks. As a result, House officers and employees whose basic rate of pay is equal to or greater than the senior staff rate ($119,553.60 for CY 2012) for at least **60 days** (two pay periods) during **2012** must file PTRs for transactions in their own assets and those they hold jointly with another person.[11] They must also report transactions in assets that are in the name of their spouse or dependent child that are made on or after **September 30, 2012.**[12]

NOTE: Paying a bonus through a lump sum payment rather than through raising an employee's base rate of pay does not trigger the EIGA filing requirements and therefore would not trigger the requirement to file PTRs.

FD filings and filing requirements are generally considered on a calendar-year basis. Thus, new employees and employees paid at or above the senior staff rate on January 1, or their first day of employment if after January 1, must file PTRs for that calendar year. Any employee who receives a pay increase (or mid-year bonus) that results in the employee being paid the senior staff rate ($9,962.80 monthly gross in 2012) in two pay periods must begin filing PTRs for all transactions executed following the second pay period. However, the PTR filing requirement would not attach to an employee who does not become "senior staff" until December 31 (for example, by receiving a year-end bonus), unless the employee's pay rate remains above the senior staff rate on January 1. Specific examples demonstrating these rules are provided below.

The PTR filing requirement remains in effect for senior staff who take leave without pay (LWOP) or medical or family leave (including maternity or paternity leave) from their House employment.

Principal Assistants

Pursuant to the EIGA, every Member office must have at least one employee who files an annual FD Statement.[13] Most offices will have at least one employee who is paid at or above the senior staff rate and therefore is required to file both an annual FD Statement and PTRs. If a Member does not have an employee paid at or above the senior staff rate, the Member must designate at least one current employee as a principal assistant to file an annual FD Statement. ***However, principal assistants are not required to file PTRs.*** Thus, the only employees required to file PTRs are those who qualify as senior staff, as defined above.

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[11] STOCK Act § 6; 5 U.S.C. app. 4 §§ 101(c), 101(f)(10), 103(*l*), and 109(13).

[12] S. 3510 § 2, 112th Cong. 2d. Sess. (Aug. 2. 2012), Pub. L. No. 112-___ § 2 (Aug. 16, 2012).

[13] 5 U.S.C. app. 4 §§ 101(d), 101(f)(10), and 109(13).

Examples of Employees Who Must File PTRs

1. An employee is hired with a starting salary of $130,000 and begins work on October 1, 2012. The employee must file a PTR for any reportable transaction on or after October 1, 2012 (new employee beginning House employment at senior staff rate).

2. An employee's salary for the year, on January 1, 2013, is $135,000. That employee must file a PTR for any reportable transaction on or after January 1, 2013 (senior staff at start of new reporting period).

3. An employee is promoted on August 1, 2012, and her August and September monthly gross pay rate is now $9,963. The employee must file a PTR for every reportable transaction executed on or after October 1, 2012 (staffer becomes a senior staffer after 60 days at senior staff pay rate; PTR filing requirement begins at 60-day mark of being senior staff).

4. An employee receives bonuses in February and October 2012 that increases his gross rate of pay above $9,962.80 for those two months. The employee must file a PTR for every reportable transaction executed on or after November 1, 2012 (staffer becomes a senior staffer after 60 days at senior staff pay rate; PTR filing requirement begins at 60-day mark of being senior staff).

5. An employee whose base salary rate for 2012 is $115,000 receives a bonus in November and December 2012 that increases her gross rate of pay above $9,962.80 for those two months. The employee's salary is $115,000 on January 1, 2013. The employee will not file PTRs in 2013, but will file an annual FD Statement covering all of CY 2012 (not senior staff until end of 2012 pay period, and not senior staff at start of new 2013 reporting period).

6. An employee whose base salary rate for 2012 is $115,000 receives a bonus in November and December 2012 that increases his gross rate of pay above $9,962.80 for those two months. The employee's salary is increased to $125,000 starting on January 1, 2013. The employee must file a PTR for any reportable transaction on or after January 1, 2013, and will also file an annual FD Statement for CY 2012 (not senior staff until end of 2012 pay period, but is senior staff at start of new 2013 reporting period; has PTR filing requirement for all 2013 transactions).

7. An employee whose base salary rate for 2012 is $115,000 receives a bonus in December 2012 and January 2013 that increases his gross rate of pay above $9,962.80 for those two months. The employee's salary is decreased to $115,000 starting on February 1, 2013. The employee must file a PTR for any reportable transaction on or after January 1, 2013, but will not file an annual FD Statement for CY 2012 (bonus made the person senior staff at start of new reporting period).

8. A Member designates an employee as her principal assistant on August 15, 2012. The employee must file an annual FD Statement on May 15, 2013, but is not required to file any PTRs (designated PA filer; no PTR filing requirement).

WHAT TRANSACTIONS MUST BE REPORTED

Among other requirements, filers must report on their annual FD Statement each purchase, sale, or exchange transaction involving stocks, bonds, commodities futures, or other securities owned by the filer, the filer's spouse, and the filer's dependent child, (or owned jointly with any other person) when the amount of the transaction(s) in an asset exceeds $1,000. (The requirement to report transactions in the assets of spouses and dependent children is effective for transactions executed on or after September 30, 2012).

In addition to this annual disclosure, FD filers are now required to report on a PTR individual transactions for which the gross value of the transaction exceeds $1,000, with some exceptions. The STOCK Act did not eliminate the need to report these transactions on the annual FD Statement, and therefore each transaction reported on a PTR also must be reported on the annual FD Statement. Please see the chart at the end of this document for examples of how some typical assets are treated on PTRs and the annual FD Statement.

NOTE: If the filer, the filer's spouse, or the filer's dependent children do not have any reportable transactions, then no periodic report is required (although the transactions may still need to be reported on the filer's annual FD). This differs from the requirement to file annual FDs, which must be filed even where a filer has no transactions, assets, or other reportable items to disclose.

Reportable Transactions

A PTR filing is required for any single purchase, sale, or exchange transaction of a stock, bond, commodities future, or other security when the amount of the transaction exceeds $1,000.[14] For sales transactions, the $1,000 threshold is based on the total dollar value of the transaction, not the gain or loss made on the sale.

The term "security" has been broadly defined in the securities statutes[15] to include notes, options, futures, debentures, and "investment contracts," among other things. The Supreme Court laid down a basic test for an investment contract in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946). The test is whether "a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third

[14] Voluntary over-disclosure on annual FD Statements and on PTRs is always permitted. However, voluntary disclosure regarding an asset on the annual FD Statement does not necessarily create a PTR obligation regarding that asset. Filers may want to include a comment or footnote regarding the voluntary disclosure so that anyone reviewing the reports understands the characteristics of the asset or transactions that make them exempt from reporting on a PTR.

[15] *See* 15 U.S.C. § 77b(a)(1) and 15 U.S.C. § 78c(a)(10).

party."[16] Among the types of interests which have been deemed securities under this standard are interests in: oil and gas drilling programs; partnerships; farm animals; commodity options contracts; whiskey warehouse receipts; and multilevel distributorship arrangements and merchandise marketing schemes. While the above definitions and standards may not be binding for purposes of reporting under the EIGA, they do provide helpful guidance to determine what must be reported. If you have a question regarding whether a particular asset is a security, please contact the Committee.

Purchase transactions which must be disclosed on a PTR include:

- Individual purchases involving an asset listed above in which the transaction amount exceeds $1,000; or

- Reinvestment of income (such as dividends or interest) in a reportable asset in which the amount of a single reinvestment transaction exceeds $1,000.

Sales transactions which must be disclosed on a PTR are:

- Individual sales involving an asset listed above in which the transaction amount exceeds $1,000. As stated above, for sales transactions, the $1,000 threshold is based on the total dollar value of the transaction, not the gain or loss made on the sale.

Exchange transactions valued at more than $1,000 must be disclosed on a PTR. Such transactions, however, are somewhat rare and refer only to a limited set of circumstances that involves the exchange of stock certificates following the purchase of one company by another or a merger of two companies. For example, if you own stock in Company A and that company is purchased by (or merged with) Company B, your Company A stock may be exchanged for Company B stock. An exchange transaction may be disclosed in a single entry on a PTR. For example, you may state in the "Asset" column "Company A stock exchanged for Company B stock following merger." There are many transactions that filers believe are exchanges, but are really purchases and sales. If you believe you have an exchange and it does not fit the example above, please contact Committee staff for guidance.

NOTE: Purchase and sales transactions involving assets held within self directed retirement accounts such as 401(k) plans and IRAs must be disclosed on a PTR if they exceed $1,000 in value. For example, if you have a 401(k) plan and direct the plan administrator to sell your entire $10,000 holding in "Mega Corporation" stock and purchase shares in "Zoro Company" stock, you must separately disclose both of these transactions on a PTR. Likewise, the reallocation of funds among currently-held assets within these accounts is also considered to be both purchase and sale transactions and must be disclosed if the transaction exceeds $1,000 in any asset. However, purchases or sales of widely held investment funds within retirement accounts do not have to be reported on a PTR, as discussed below under "Excluded Transactions."

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[16] *SEC v. W.J. Howey Co.*, 328 U.S. at 299.

The reporting threshold for disclosure of transactions is reached when the *gross* amount of either a single purchase or sales transaction exceeds $1,000. *This includes transactions that result in a net loss.* Thus, a sales transaction of an asset for $5,000 for which you previously paid $7,000 must be disclosed even though it resulted in a $2,000 loss. You do not need to indicate on a PTR whether you had a capital gain or loss resulting from a sale.[17]

Excluded Transactions

Transactions in certain types of assets are excluded from the PTR filing requirement, as explained below.

You are not required to report transactions in a widely held investment fund (*e.g.*, a mutual fund or exchange traded fund (ETF)) on a PTR if:

1. You neither exercise control over nor have the ability to exercise control over the financial interests held by the fund; **and**

2. (a) The fund is publicly traded; **or**

   (b) The assets of the fund are widely diversified.[18]

As a result of this exception, every transaction of a publicly traded fund (mutual fund or ETF) is exempted from disclosure on a PTR. Examples of assets for which transaction reports would not be required include, but are not limited to, the Vanguard Energy Fund (sector mutual fund), Fidelity Contrafund (mutual fund), T. Rowe Price High Yield Fund (mutual fund), SPDR S&P 500 (ETF), iShares S&P Target Date 2045 Index Fund (ETF), iShares S&P Europe 350 Index Fund (geographic ETF), and VEST Potomac Portfolio (Virginia 529). However, transactions in these funds must still be disclosed on the filer's annual FD Statement if they meet the $1,000 threshold.

A fund is widely diversified if it:

1. Holds no more that 5% of the value of its portfolio in the securities of any issuer (other that the U.S. government); **and**

2. Holds no more than 20% of the value of its portfolio in any particular economic sector or geographic region.[19]

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[17] If the sale of the asset resulted in a capital gain of over $200 that capital gain must be reported as unearned income on Schedule III of your annual FD Statement.

[18] STOCK Act § 14. Transactions in a widely held investment fund must continue to be reported on the annual FD Statement even though they are exempted from PTR disclosure.

[19] *See* 5 C.F.R. § 2634.310(c)(3) (2006).

Further explanation of certain terms used in the definition of "widely diversified" is as follows:

- **Issuer**: A legal entity that develops, registers, and sells securities for the purpose of financing its operations.

- **Economic Sector**: An area of the economy in which businesses share or offer the same or a related product or service and share common characteristics. Investors use sectors to place stocks and other investments into categories like technology, health care, energy, utilities, and telecommunications.

- **Geographic Region**: A single region of the globe, such as Europe, Asia, or Latin America, or an individual country or small group of countries. This definition only applies to geographic regions outside the United States.

If you have a question regarding whether your non-publicly traded fund (*e.g.*, hedge fund or private equity fund) is widely diversified, you should contact Committee staff for guidance. If you determine that you do not need to file a PTR for transactions in a non-publicly traded fund, in which the particular holdings are confidential, you must obtain a letter from the fund manager, on the fund stationery, in which the fund manager states that the assets held by the fund are confidential and are not disclosed to anyone. In addition, the letter must state that the fund holds no more than 5% of the value of its portfolio in the securities of any issuer (other than the U.S. government) and that it holds no more than 20% of the value of its portfolio in any particular economic sector or geographic region.

The following transactions are **not** required to be disclosed on a PTR, **but may be required to be disclosed on the annual FD Statement**:

- Any transaction with a gross value equal to or less than $1,000;

- Any transaction in real property;

- The purchase or sale of any widely held investment fund that is either publicly traded or widely diversified and is not controlled by the filer; and

- Any transaction in a mutual fund or Exchange Traded Fund (ETF).

The following transactions are **not** required to be disclosed on either a PTR or the annual FD Statement:

- Any transactions solely by and between you, your spouse, or your dependent child;

- Any transactions in a federal retirement program, including the Thrift Savings Plan (TSP);

- Bequests or inheritances;

- Stock splits and spin-offs;
- The opening or closing of bank or similar accounts (such as money market funds), or deposits or withdrawals from a bank account;
- The purchase or sale of certificates of deposit; and
- The rollover of assets from one retirement account to another.

ATTESTATION REGARDING IPO PARTICIPATION

Section 12 of the STOCK Act amends the Securities Exchange Act of 1934 to ban Members, officers, and employees who file FD statements from participating in an Initial Public Offering (IPO) in a manner "other than is available to members of the public generally." However, opportunities for the general public to participate in an IPO are very limited.[20] As a result of the ban, filers will be required to indicate whether they purchased any shares that were allocated as part of an IPO on the PTR form. If you answer "yes" to the question because you received an IPO allocation, please contact Committee staff to discuss the disclosure format.[21]

WAIVERS AND EXCLUSIONS

Section 6 of the STOCK Act requires the filing of PTRs "subject to any waivers and exclusions." As a result, any House employee who receives a filing waiver under section 101(i) of the EIGA is not required to file PTRs. In addition, PTRs are not required to be filed for transactions in a "Qualified Blind Trust" as defined in section 102(f)(3) of the EIGA or an "excepted trust" as defined in EIGA section 102(f)(2)(B). An excepted trust is a trust (1) which was not created by the filer, or by the filer's spouse or dependent child; and (2) for which neither the filer nor the filer's spouse or dependent child have any knowledge of the contents.

Some filers, filer's spouses, and dependent children may be the beneficiary of trusts (or other financial arrangements) that do not meet the above criteria because the filer, filer's spouse, or dependent child does receive reports on the contents of the trust. However, some trust beneficiaries are entitled, under the terms of the trust or state law, to receive such reports only on a quarterly or annual basis, rather than monthly. In such circumstances, the Committee may also waive the PTR filing requirement for such trusts or other financial arrangements on a *case-by-case basis*. To qualify for such a waiver, you must meet the following criteria:

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[20] If you would like to participate in an IPO, we recommend contacting the Committee in advance to determine whether or not the purchase would be permissible.

[21] While interpretation of the STOCK Act regarding participation in IPOs will fall to the Securities and Exchange Commission, Department of Justice, or the courts, the opinion of the Committee is that, as drafted, the STOCK Act prohibits only the filer from participating in IPOs, but not the filer's spouse or dependent child, assuming the assets used for the purchase and the securities purchased are wholly owned by the spouse or dependent child, separate and independent of the filer. *See* STOCK Act § 13.

1. You (the filer), your spouse, or dependent child must have a beneficial interest in a trust or some other financial arrangement;

2. If it is a trust, the trust was not established by you, your spouse, or dependent child (or you, your spouse, or dependent child jointly with another person);

3. You, your spouse, and dependent child do not have the power to direct the investments of the trust or other financial arrangement; **and**

4. You, your spouse, and dependent child are not entitled by law or contract (including trust documents) to receive statements on a monthly (or more frequent) basis.

With regard to item 1, the types of non-trust financial arrangements that will qualify for this waiver are very limited. With regard to item 3, whether you, your spouse, or dependent child have the authority or discretion to direct, *even if not exercised*, the investment in a trust or other financial arrangement is construed broadly by the Committee when making waiver determinations. The power to direct includes, but is not limited to, the ability to select the investments among a variety of investment options, the ability to allocate the percentage of your contributions among your designated investment options, the ability to move funds among and between your designated investment options (or select new ones), and the ability to place a certain investment option "off limits."

To receive a PTR filing waiver for such a trust, you must seek written approval of the Committee. Any such request must include a letter from the trustor (or representative of the investment company) attesting that (1) you, your spouse, or dependent child do not have power to direct the investments of the trust or account, and (2) under state law, the trust agreement, or some other legal authority, you, your spouse, or dependent child are entitled to reports only on a quarterly, annual, or other, less-than-monthly basis. A waiver request must also contain a certification by you, or by the trustee or financial institution, that the trust was not created by you, your spouse, or your dependent child.

The Committee's letter granting your waiver will be placed in the public record by the Clerk of the House. This waiver would apply only to the filing of PTRs; the transaction information will still be required on your annual FD Statement.

WHEN MUST TRANSACTIONS BE REPORTED

Transactions must be reported to the Office of the Clerk, Legislative Resource Center, B-106 Cannon House Office Building, ***within 30 days of you becoming aware of the transaction, but no later than 45 days after the transaction.*** Unless it is the 45th day, if the date on which a report is required to be filed falls on a weekend or holiday, the filing deadline is extended to the next business day. If the 45th day falls on a holiday or weekend, the deadline will be the last business day before the holiday or weekend. Reports are considered timely if they are received or legibly postmarked on or before the due date.

Even if you do not find out about a transaction until after the 45-day deadline, by statute, the PTR is late. Subject to a 30-day grace period, any required late fee must be attached to the late report, but you may simultaneously seek a waiver of that fee, as discussed below under "Late Filing Fee." You do not need to amend a previously filed report that should have included a transaction, rather you should submit a new report that includes the omitted transaction. If you had no reportable transactions, no periodic report is due (although some transactions may still need to be reported on the filer's annual FD).

No extensions of the 30- or 45-day time limits will be allowed. No such extensions are permitted by the terms of the STOCK Act.

You are responsible for alerting your broker, investment advisor, trustee, or anyone else who makes reportable transactions on your behalf, or on behalf of your spouse or dependent children, that they must inform you of any reportable transaction in a timely fashion. For example, if you currently receive only quarterly statements from your broker, you may need to change to monthly reports to meet the PTR filing requirement.

If, by law or binding agreement to which you are not a party, you are not entitled to prompt notice of a reportable transaction, please consult the "Waivers and Exclusions" section above and/or contact the Committee for guidance.

Examples of PTR Due Dates

The following examples illustrate when a PTR would be due under various circumstances.

1. You direct the purchase of Mega Corporation stock on July 10. You must report that transaction by August 9 (30 days after awareness of the transaction).

2. Your broker purchases Mega Corporation stock on July 10 and informs you of the transaction on July 16. You must report that transaction by August 15 (30 days after awareness of the transaction, but still within the 45-day limit).

3. Your broker purchases Mega Corporation stock on July 10 and informs you of the transaction on July 31. You must report that transaction by August 24 (30 days after awareness of the transaction, but capped by the 45-day limit).

4. Your broker purchases Mega Corporation stock on July 12 and informs you of the transaction on July 31. August 26, the 45th day after July 12, falls on a weekend. As a result, you must report that transaction by August 24 (30 days after awareness of the transaction, but capped by the 45-day limit, which is rolled back to the 43rd day because of the weekend).

5. Your broker purchases Mega Corporation stock on July 10 and informs you of the transaction on September 3. You must report that transaction immediately, but no late fee is due (report is late, but is filed within the 30-day grace period).

6. Your broker purchases Mega Corporation stock on July 10 and informs you of the transaction on September 30. You must report that transaction immediately and enclose a check for $200 payable to the U.S. Treasury as a late fee. You may also request a waiver of the late filing fee, which will be granted in "extraordinary circumstances" (report is late and is filed outside of the 30-day grace period, meaning a late fee is due).

7. If you, your spouse, or your dependent children have no reportable transactions, then no periodic report is due (although some transactions may still need to be reported on your annual FD).

Again, you are responsible for alerting your broker, investment advisor, trustee, or anyone else who makes reportable transactions on your behalf, or on behalf of your spouse or dependent children, that they must inform you of any reportable transaction in a timely fashion.

HOW AND WHERE TRANSACTIONS MUST BE REPORTED

The form ("Ethics in Government Act Periodic Transaction Report") for use in making a PTR is available on the Committee Web site, www.ethics.house.gov, under the "Financial Disclosure" tab. The Committee is also exploring creating an "Excel" version of the form, and will post that version in the same place as soon as it is available. No changes should be made by a filer to the forms provided.

Until the electronic filing system is available, Members must file an original (with an original signature) and two copies of the PTR, and staff must file an original and one copy. Due to impending electronic filing requirements, a PTR must be filed on the designated PTR form and no other form of submission can be accepted. Therefore, you may not submit brokerage statements or your own spreadsheet in lieu of completing, or as an attachment to, a PTR form.[22]

The reports may be hand delivered or mailed to the Legislative Resource Center, B-106 Cannon House Office Building, Washington, D.C. 20515. A report is timely if it is postmarked (legibly) by the due date. The Legislative Resource Center does not accept submissions by facsimile or email.

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[22] The STOCK Act requires the development and implementation of an electronic filing procedure that will produce searchable, sortable, and downloadable filings. This procedure is expected to be implemented by October of 2013. *See* STOCK Act § 8.

LATE FILING FEE

As stated above, no extensions of the 30- or 45-day filing limits will be granted. An individual who files a PTR or any amendment more than 30 days after the date the PTR or amendment is required to be filed must pay a late filing fee of $200. Filers will owe a late filing fee for each PTR that is late and not filed within the grace period. The late fee shall be paid by check or money order made out to the United States Treasury and submitted to the Clerk at the filing address along with the PTR. Payment of the fee does not preclude the Committee from taking other disciplinary action authorized by law or the rules of the House of Representatives.

The Committee has authority to waive the fee, but only in extraordinary circumstances. Waiver requests must be directed in writing to the Chairman and Ranking Member of the Committee and signed by the filer, and must state the circumstances believed to justify the waiver. The request may either be faxed to the Committee at (202) 225-3713 or submitted with the PTR at the time of filing.

Any PTR that is submitted more than 30 days after the due date without the required late filing fee shall be deemed procedurally deficient and not properly filed. Thus, you must submit the late filing fee at the time you file your PTR. The fee will be deposited immediately *unless* a fee waiver is requested at the time of filing, in which case it will not be deposited until the Committee acts on the fee waiver request. If the fee waiver is granted, your check or money order will be returned to you by the Clerk of the House.

PENALTIES FOR FAILURE TO FILE AND FILING FALSE INFORMATION

Each individual is responsible for the completeness and accuracy of the information contained in the individual's PTR, even if someone else prepared, or assisted in preparing, all or part of the report. The EIGA provides that the Attorney General may seek up to one year in prison and a fine of up to $50,000 against an individual who knowingly and willfully falsifies a PTR, and up to a $50,000 fine for anyone who knowingly and willfully fails to file a PTR required by the EIGA.

In addition, 18 U.S.C. § 1001, as amended by the False Statements Accountability Act of 1996, is applicable to PTRs. That criminal statute provides for a fine and/or imprisonment for up to five years for knowingly and willfully making any materially false, fictitious, or fraudulent statement or representation, or falsifying, concealing, or covering up a material fact, in a filing under the EIGA.

House Rule 26 provides that title I of the EIGA shall be deemed to be a rule of the House with regard to House Members, officers, and employees. The House, acting on the recommendation of the Committee, may therefore impose penalties on Members, officers, and employees in addition to those noted above.

GETTING ASSISTANCE

Filers are encouraged to carefully read these instructions and the instructions that accompany the PTR form. Any filer who has questions concerning the reporting requirements or how to fill out the PTR should call the Committee at (202) 225–7103. Committee staff is available to review your PTR before filing (pre-screen). To have your PTR pre-screened, please fax it to (202) 225-3713 or e-mail it to financial.disclosure@mail.house.gov.

Additional copies of the form can be obtained by visiting the Committee Web site at www.ethics.house.gov and clicking on the "Financial Disclosure" tab. If you would like additional information about financial disclosure requirements generally, it can be found in the FORM A Instruction Guide, also available on the Committee Web site.

DISCLOSURE REQUIREMENT FOR SELECTED ASSETS

Asset	Report on PTR[23]	Report on FD Sch. IV[24]	Report on FD Sch. III[25]	Do Not Report
Stocks	X	X	X	
Bonds	X	X	X	
TSP Contributions				X
U.S. Treasury Bonds	X	X	X	
Mutual Funds		X	X	
Exchange Traded Funds (ETFs)		X	X	
Real Estate Investment Trusts (REITs)	Maybe[26]	X	X	
Options	X	X	X	
Futures	X	X	X	
529 Prepaid Plans		X	X	
529 Portfolio/ Mutual Funds		X	X	
529 Stocks/ Bonds	X	X	X	
Hedge/Private Equity Funds	Maybe[27]	X	X	
Bank Accounts/ Money Markets			X	
Life Insurance Policies[28]	Maybe	Maybe	X	
Income-Producing Real Property		X	X	

[23] Reportable if the gross value of the transaction in the asset is more than $1,000.

[24] Schedule IV is the transaction schedule on the annual FD Statement. Reportable if the gross value of the transaction or series of transactions in an asset is over $1,000.

[25] Schedule III is the assets and unearned income schedule on the annual FD Statement. Reportable if the asset is worth more than $1,000 or generates unearned income of more than $200.

[26] If the REIT is publicly traded, transactions in the REIT do not have to be reported on PTRs. If the REIT is private, transactions must be reported.

[27] Please consult factors outlined in the "Excluded Transactions" section on page 7.

[28] Transactions in assets within a variable annuity may be reportable if they are otherwise independently reportable. Transactions in fixed annuities and universal and whole life insurance policies are not reportable transactions.

Jo Bonner, Alabama
Chairman
Linda T. Sánchez, California
Ranking Member

Michael T. McCaul, Texas
K. Michael Conaway, Texas
Charles W. Dent, Pennsylvania
Gregg Harper, Mississippi

John A. Yarmuth, Kentucky
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September 18, 2012

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Purchase of Tablet Computers with Principal Campaign Committee Funds

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The purpose of this memorandum is to clarify that a Member may use principal campaign committee funds to pay for tablet computers (*e.g.*, the Apple iPad, Samsung Galaxy, and other similar devices) to be used by the Member and employees of the Member's personal office for both official and campaign purposes ("combined use device"). House Rule 24 permits the use of such funds to purchase "handheld communications devices." The Committee has determined that tablet computers are handheld communications devices for purposes of the rule. [1]

All costs for purchase of a combined use device, as well as any associated costs for maintenance, repair, operation, and use, including any network access or connection fees, must be paid using principal campaign committee funds. No appropriated House funds may be used for these purposes either directly or to reimburse the campaign committee for all or part of these costs. Likewise, use of funds from a leadership PAC or a campaign committee other than a Member's principal campaign committee is also prohibited.

The Committee reminds you that various laws and rules still prohibit campaign use of official resources, as well as performing campaign work on House property or during official hours, even when using combined use devices. These important restrictions are detailed on pages 175-176 ("Expenses of a Cell Phone or Blackberry That Is Used for Official House Business") of the *2008 House Ethics Manual* and should be reviewed prior to employing a combined use device.

Finally, Members are reminded that other House committees and offices may restrict usage of handheld communications devices. Members should contact CAO Technical Support at 5-6002 for technical requirements and other information on connecting any handheld communications device to the House infrastructure. Similarly, the Sergeant-at-Arms is charged with the strict enforcement of comportment with decorum rules set by the Speaker for activity in the Hall of the House, which have generally approved the unobtrusive use of tablet devices on the House floor.

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[1] While it appears that the use of campaign funds as described here is permissible under the Federal Election Campaign Act of 1971 ("FECA"), Members should nevertheless consult with the FEC on any questions that arise under FECA, including questions on how payment of any congressional expense is to be disclosed on the reports that a Member's campaign committee files with the Federal Election Commission.

Jo Bonner, Alabama
Chairman
Linda T. Sánchez, California
Ranking Member

Michael T. McCaul, Texas
K. Michael Conaway, Texas
Charles W. Dent, Pennsylvania
Gregg Harper, Mississippi

John A. Yarmuth, Kentucky
Donna F. Edwards, Maryland
Pedro R. Pierluisi, Puerto Rico
Joe Courtney, Connecticut

ONE HUNDRED TWELFTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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September 28, 2012

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: REMINDER: Spouse PTR Transaction Reporting Begins September 30, 2012

Pending legislation, S. 3625, which has been passed by Congress but is awaiting signature by the President, would modify certain provisions of the STOCK Act. However, Members, officers, and employees should be aware that this legislation would not change any substantive filing obligations or filing deadlines that apply to financial disclosure filers in the House of Representatives. In particular, financial disclosure filers should be aware that the legislation does not change the existing requirement that **beginning September 30, 2012, the requirement to make periodic reports of financial transactions valued over $1,000 in stocks, bonds, and other securities applies not only to securities owned by the filer or by the filer jointly with another person, but also to transactions in assets owned by the filer's spouse and dependent children**. The Committee takes this opportunity to remind House filers that such transactions must be reported, beginning on September 30, on the filer's periodic transaction reports ("PTRs") regardless of whether S. 3625 is signed into law.

Instructions for completing the form and blank PTR forms, including a fillable PDF version of the form, are available on the Committee's Web site, http://ethics.house.gov, under Financial Disclosure/Information and Forms. In addition, the Committee notes that a filer may not submit a brokerage statement instead of completing and filing the official PTR form.

More information about financial disclosure reporting is available on the Committee's Web site, including the Committee's August 17, 2012, pink sheet that discusses the PTR requirement. As always, please feel free to call the Committee's financial disclosure office, at (202) 225-7103, with any questions you may have about financial disclosure reports and obligations.

Jo Bonner, Alabama
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November 19, 2012

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Reminder About the 2012 Annual Ethics Training Requirement

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This memorandum is a reminder to all offices to encourage staff to complete their 2012 ethics training requirement. A summary of the requirement is included below.

Each House employee must complete one hour of ethics training each calendar year. New House employees (*i.e.*, those who first began employment with the House during 2012) must complete their ethics training within 60 days of commencing House employment. "Existing" (*i.e.*, not new) House employees must complete their hour of training before the end of the calendar year. In addition, employees who are "senior staff"[1] must complete an additional hour of senior staff training during the 112th Congress (*i.e.*, by December 31, 2012).

Annual ethics training for existing House employees must be completed by ***December 31, 2012***. ***There are no extensions to this deadline, for any reason.*** Each House employee must also certify to the Ethics Committee by January 31, 2013, that they have completed their annual ethics training. However, as explained below, the proper completion of an on-line ethics training course, or attendance at a live presentation, makes that certification automatically, without the employee having to take additional action.

It is a violation of House Rules to fail to complete the annual training requirement. *See* House Rule 11, clause 3(a)(6)(B)(ii). Sanctions for failing to satisfy annual training requirement may include the publication of noncompliant employees' names, along with the identity of their employing House office, additional ethics training, or other sanctions the Committee deems appropriate.

Existing House employees may complete their training on-line through HouseConnect. ***Ethics training is only accessible through computers connected to the***

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[1] "Senior staff" are those employees who are paid at an annual rate of $119,553.60 or more ($9,962.80 per month) for at least 60 days in 2012. These individuals must also file an annual financial disclosure statement.

House network. Employees wishing to complete their training should go to the HouseConnect Web site, https://houseconnect.house.gov, and log on using the House user ID and password used to log on to their House computer. They should complete the training entitled "2012 General Ethics Training." NOTE: the "2012 General Ethics Training" course is the only course that satisfies the annual ethics training requirement for existing employees. Employees must complete the full course. At the end of the course, employees must click forward to view the confirmation screen in order to receive credit for completing the course. Staff who need to complete the senior staff training should take the course entitled "Senior Staff Ethics Training," which is also available through HouseConnect.

Once an employee has completed the training, the column titled "Complete" next to that training will read "True." (If the session has not been completed, the column will read "False".) Anyone needing to verify that they have completed the on-line training can log in to HouseConnect and view their own screen, and print the screen for verification. Their name appears in the upper right corner of the screen.

Any employee who completed their training on-line through HouseConnect (and the completed column reads "True") has already completed their annual ethics training requirement and made their required certification to the Ethics Committee of its completion. Attendees at a live ethics training presentation received an e-mail message from the Committee shortly after the end of the training session certifying to their attendance. Receipt of the e-mail message also indicates that the recipient has made the certification to the Committee required by Rule 11.

Further guidance on ethics training can be found on the Committee's Web site at http://ethics.house.gov/training. If you have any questions about the training requirement, please feel free to contact the Committee at extension 5-7103.

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November 19, 2012

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Negotiations for Future Employment and Restrictions on Post-Employment for House Staff

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The purpose of this memorandum is to notify you regarding key issues of concern to staff members[1] who are negotiating for future employment or departing from employment with the House of Representatives or one of the legislative branch offices.[2] The matters discussed here include negotiations for future employment, post-employment restrictions, financial disclosure requirements (termination reports), and outside employment and earned income restrictions. Although this memorandum will be of particular interest to departing staff, current staff and their employing Members should also familiarize themselves with these restrictions, particularly the criminal restrictions on post-employment communications.[3]

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[1] The terms "staff" and "employee" are used interchangeably throughout this memorandum to refer to persons who are employed by a Member, committee, leadership office, or other legislative office (*see* note 2, below). Relevant distinctions among these categories of employees are noted as necessary.

[2] "[O]ther legislative offices" include employees of the Architect of the Capitol, United States Botanic Garden, Government Accountability Office, Government Printing Office, Library of Congress, Office of Technology Assessment, Congressional Budget Office, and Capitol Police. It also includes any other House legislative branch office not covered by the other provisions, such as the Clerk, Parliamentarian, Office of Legal Counsel, and Chief Administrative Officer. *See* 18 U.S.C. § 207(e)(9)(G).

[3] This guidance, as well as some additional requirements and restrictions, also applies to House Members and officers, and is addressed in a separate memorandum entitled "Negotiations for Future Employment and Restrictions on Post-Employment for House Members and Officers." The staff memorandum will not specifically mention the requirements for Members and officers, or how they differ from those pertaining to House staff. Members and officers seeking guidance should consult the companion memorandum referenced above.

NEGOTIATING FOR FUTURE EMPLOYMENT

In the past, the Committee's general guidance on job negotiations has been that House Members and employees are free to pursue future employment while still employed by the House, subject to certain ethical constraints. This memorandum provides more detailed guidance on the issues presented by such negotiations, as well as mandatory disclosure obligations such negotiations may trigger.

As a general matter, House employees are free to pursue future employment while still employed by the House, subject to certain ethical constraints. The general guidance applicable to any House employee, regardless of salary level, who wishes to engage in negotiations for future employment is as follows. First and foremost, it would be improper for a House employee to permit the prospect of future employment to influence the official actions of the employee, or the employing office of the employee.[4] Some employees may determine to use an agent (*e.g.*, a "headhunter") to solicit job offers on their behalf in order to avoid any appearance of improper activity. Regardless of whether job negotiations are undertaken personally or through an agent, the following generally-applicable principles must be observed.

The term "negotiation" is not defined in the applicable legislation or House rule. In its past guidance, the Committee has given deference to court decisions interpreting a related federal criminal statute that bars Executive Branch employees from participating in matters affecting the financial interests of an entity with which the employee is "negotiating or has any arrangement" concerning future employment.[5] Those decisions found that the term "negotiation" should be construed broadly.[6] However, the Committee makes a distinction between "negotiations," which trigger the rule, and "[p]reliminary or exploratory talks," which do not.[7] The term "negotiations" connotes "a communication between two parties with a view toward reaching an agreement" and in which there is "active interest on both sides."[8] Thus, merely sending a copy of one's résumé to a private entity is not considered "negotiating" for future employment.

Other, more general, ethical rules also bear on the subject of employment negotiations. The House Code of Official Conduct prohibits House Members, officers, and employees from receiving compensation "by virtue of influence improperly exerted" from a congressional position.[9] The Code of Ethics for Government Service forbids anyone in government service from accepting "favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance" of governmental duties.[10] Federal criminal law

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[4] *See* House Rule 23, cl. 3; Code of Ethics for Government Service ¶¶ 5, 6, *reprinted in 2008 House Ethics Manual* at 355.

[5] 18 U.S.C. § 208.

[6] *See, e.g., United States v. Schaltenbrand*, 930 F.2d 1554, 1559 (11th Cir. 1991); *United States v. Conlon*, 628 F.2d 150, 155 (D.C. Cir. 1980).

[7] *See Schaltenbrand*, 930 F.2d at 1558-59.

[8] *United States v. Hedges*, 912 F.2d 1397, 1403 n.2 (11th Cir. 1990) (quoting jury instruction); *see also Schaltenbrand*, 930 F.2d at 1558, 1559 n.2.

[9] House Rule 23, cl. 3.

[10] Code of Ethics for Government Service ¶ 5, *reprinted in 2008 House Ethics Manual* at 355.

prohibits a federal official from soliciting or accepting a "bribe"–*i.e.,* anything of value given in exchange for being influenced in an official act.[11] Although bribery necessarily entails a *quid pro quo* arrangement, the same statute also bans seeking or accepting "illegal gratuities"–*i.e.,* anything given because of, or in reward for, a future or past official act, whether or not the official action would be, or would have been, taken absent the reward.[12]

In light of these restrictions, House employees should be particularly careful in negotiating for future employment, especially when negotiating with anyone who could be substantially affected by the performance of the employee's official duties.[13] It may be prudent for the employee to have an exchange of correspondence with any serious negotiating partner, stipulating that the prospective employer will receive no official favors in connection with the job negotiations. Those employees who will be subject to the post-employment restrictions, which are addressed later in this memorandum, may also wish to establish in correspondence with any prospective employer that the future employer understands that (1) it will receive no official favors as a result of the job negotiations, and (2) the employee is subject to post-employment restrictions, which should be briefly outlined.[14] Former employees who are lawyers should consult their local bar association concerning the application of rules governing their involvement in matters in which they participated personally and substantially during their time with the House.[15] In addition, as addressed in the next section of this memorandum, senior staff must disclose the employment negotiations in writing to the Ethics Committee.

Provided that employees conduct themselves in accordance with the considerations discussed above, they may engage in negotiations for employment in the same manner as any other job applicant. Discussions may specifically address salary, duties, benefits, and other terms.

DISCLOSURE OF EMPLOYMENT NEGOTIATIONS AND RECUSAL REQUIREMENTS

Certain House staff must notify the Committee within three (3) business days after they commence any negotiation or agreement for future employment or compensation with a ***private***

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[11] 18 U.S.C. § 201(b)(2)(A).

[12] *Id.* § 201(c)(1)(B).

[13] *See* Code of Ethics for Government Service ¶ 5, *reprinted in 2008 House Ethics Manual* at 355.

[14] *See* 18 U.S.C. § 207. These restrictions are explained in detail later in this memorandum. Briefly, "very senior" House employees may not contact their former employing Member or Members on official business for one year after leaving office, nor may they assist any foreign government in securing official action from any federal official during that year.

[15] A former employee who joins a law firm should also be aware that a separate statutory provision, 18 U.S.C. § 203, has been interpreted to prohibit a former federal official who joins a firm from sharing in fees attributable to representational services in federally related matters where those services were provided by the firm while the individual was still employed by the government. U.S. Office of Gov't Ethics (OGE) Advisory Opinion 99 x 24 (Dec. 14, 1999) (available on the OGE Web site at www.oge.gov/DisplayTemplates/ModelSub.aspx?id=1466).

entity.[16] Staff subject to this disclosure requirement are those employees of the House who are paid at or above an annual rate of $119,553.60 ($9,962.80 per month) for any two months in a calendar year.[17] Staff paid at this rate are referred to as "senior staff."

The term "negotiation" is not defined in the legislation. Thus, the Committee views negotiations using the standard discussed earlier in this memorandum, namely that there has been "a communication between two parties with a view toward reaching an agreement" and in which there is "active interest on both sides."[18] In addition, senior staff must recuse themselves from "any matter in which there is a conflict of interest or an appearance of a conflict" with the private entity with which they are negotiating or have an agreement for future employment or compensation, and they must notify the Ethics Committee in writing of such recusal.[19]

The terms "conflict" and "appearance of conflict" also are not defined in the rule. The Committee has stated that a "conflict of interest becomes problematic when [an employee] uses his position to enhance his personal financial interests or his personal financial interests impair his judgment in conducting his public duties."[20] Employees also should avoid situations that

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[16] House Rule 27, cl. 2; Stop Trading on Congressional Knowledge Act, Pub. L. No. 112-105 (Apr. 4, 2012) (hereinafter STOCK Act) § 17. House Rule 27, clause 1, which imposes a similar restriction on House Members, limits the disclosure requirement for Members to negotiations with ***private*** employers. While the express language of clause 2, which covers employees, does not limit its terms to negotiations with private employers, the Committee has read the two clauses consistently as excluding from the disclosure requirement any job negotiations with government entities for both Members and employees.

[17] House Rule 27, clause 2, imposes the disclosure requirement on any "employee of the House earning in excess of 75 percent of the salary paid to a Member." That rate was $130,500 per year for most House employees. Section 17 of the STOCK Act extended this requirement to "any individual required to file a financial disclosure report under section 101 of the Ethics in Government Act of 1978," which includes all senior staff. For more information on this change, see pages 5-6 of the April 4, 2012, Committee advisory memorandum entitled "New Ethics Requirements Resulting from the STOCK Act," which is available on the Committee Web site at http://ethics.house.gov/pink-sheets.

[18] *See Hedges*, 921 F.2d at 1403 n.2.

[19] House Rule 27, cl. 4.

[20] House Comm. on Standards of Official Conduct, *In the Matter of Representative Sam Graves*, H.R. Rep. No. 111-320, 111th Cong., 1st Sess. 16 (2009); *see also* House Bipartisan Task Force on Ethics, *Report on H.R. 3660*, 101st Cong., 1st Sess. (Comm. Print, Comm. on Rules 1989), *reprinted in* 135 Cong. Rec. H9253 at H9259 (daily ed. Nov. 21, 1989) ("A conflict of interest is generally defined as a situation in which an official's private financial interests conflict or appear to conflict with the public interest."); House Rule 23, cl. 3 ("A Member . . . may not receive compensation and may not permit compensation to accrue to the beneficial interest of such individual from any source, the receipt of which would occur by virtue of influence improperly exerted from the position of such individual in Congress.").

might be viewed as presenting even a risk that the individual might be improperly influenced by personal financial interests."[21]

The Committee has issued forms, available on the Committee Web site (ethics.house.gov), to be used for these notification requirements. When notifying the Committee of negotiations or agreements for future employment or compensation, senior staff should complete and sign an employment negotiation form, formally titled the "Notification of Negotiations or Agreement for Future Employment."[22] The original, completed form must be submitted to the Committee, but all filers should keep a copy of their submission for their records. There is a separate form for notifying the Committee of recusal, entitled the "Statement of Recusal." Senior staff who recuse themselves from official matters pursuant to Rule 27 and/or the STOCK Act must complete and submit the original recusal form to the Committee.[23]

BENEFITS OFFERED BY PROSPECTIVE EMPLOYERS DURING JOB NEGOTIATIONS

House employees may accept "[f]ood, refreshments, lodging, transportation, and other benefits . . . customarily provided by a prospective employer in connection with bona fide employment discussions."[24] Thus, subject to the limitations set out in the rule, a House employee may accept travel expenses from an entity with which the individual is interviewing for a position and to meet prospective colleagues. Such travel is *not* subject to the requirement for prior, written approval from the Committee that applies to privately-funded travel undertaken as part of one's House duties. However, travel expenses that exceed $350 from any one source must be disclosed on Schedule VII of the termination financial disclosure statement required of departing senior employees.[25] In addition, any agreement for future employment also must be disclosed on Schedule IX of that statement.[26]

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[21] *See Federal Conflict of Interest Legislation*, Staff Report to Subcomm. No. 5 of the Comm. on the Judiciary, 85th Cong., 2d Sess. 1 (Comm. Print 1958) ("Within reasonable limits, also, the importance of public confidence in the integrity of the Federal service justifies the requirement that the Federal employee shall avoid the appearance of evil, as well as evil itself."); Code of Ethics for Government Service ¶ 5, *reprinted in 2008 House Ethics Manual* at 355 ("Any person in government service should . . . never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties."); *see also* House Rule 23, cl. 2 ("[An] . . . employee of the House shall adhere to the spirit and letter of the Rules of the House . . . .").

[22] House Rule 27, cls. 1-3.

[23] *Id.*, cl. 4. Clause 4 does not require staff to file their notice of negotiation with the Clerk, as is required of House Members.

[24] House Rule 25, cl. 5(a)(3)(G)(ii).

[25] 5 U.S.C. app. 4 § 102(a)(2)(B).

[26] *Id.* § 109(a)(7)(A). Such travel must be disclosed on the employee's Financial Disclosure Statement even if the individual ultimately remains employed by the House rather than accepting private employment.

POST-EMPLOYMENT RESTRICTIONS

Since 1989, legislative branch officials, including certain employees, have been subject to restrictions on their post-House employment.[27] These limitations are part of the federal criminal code, and they apply to Members and officers of the House, as well as to employees of House Member, committee, and leadership offices who are paid at least 75% of a Member's salary.[28] The basic rate of pay for Members in calendar year 2012 is $174,000, and thus the post-employment threshold for individuals who terminate their employment with a Member, committee, or leadership office in 2012 is ***$130,500.*** The threshold rate for other years is available from the Ethics Committee. For employees of "other legislative offices,"[29] the basic rate of pay triggering the restrictions is level IV of the Executive Schedule, which for 2012 is ***$155,500.***[30]

An employee is subject to these restrictions if the employee is paid at or above the threshold rate for at least 60 days during the one-year period preceding termination of the employee's House service.[31] Accordingly, it is possible for an employee who is usually paid below the threshold rate to become subject to the post-employment restrictions by the receipt of a "bonus" or merit adjustment that is paid in two or more months. Employees who are subject to the restrictions are referred to as "covered" individuals.

For covered individuals, the law establishes a one-year "cooling-off period" that is measured from the date of the individual's departure from the House payroll.[32] When an office continues an individual on the payroll for the purpose of paying for accrued leave after individual's services to the House have ceased, the one-year cooling-off period will not begin until after the individual's final day on the House payroll. House employees whose pay is **below** the threshold are **not** subject to the post-employment restrictions set out in the statute, and no other provision of federal statutory law or the House rules establishes any comparable restrictions on post-employment activity.

Set out below is a detailed description of prohibited and permitted post-employment activity by covered former employees under the statute. This explanation is followed by a table that briefly summarizes the statutory restrictions. Please note that the statute, as part of the criminal code, is enforced by the Justice Department, rather than by the Ethics Committee, and Committee interpretations of the statute are not binding on the Department.

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[27] *See* 18 U.S.C. § 207(e), (f).

[28] *Id.* § 207(e)(7).

[29] For the definition of "other legislative offices," see note 2, above.

[30] 18 U.S.C. § 207(e)(7)(B).

[31] *Id.* § 207(e)(7). With regard to House employees who are federal civil service or military annuitants, it is the view of the Ethics Committee that the post-employment restrictions apply to those whose combined House salary and annuity were at or above the threshold rate for the specified time period.

[32] *Id.* § 207(e)(3)-(7).

Prohibited Activity

Under the statute, a covered former employee may **not**, for a period of **one year** after leaving office:

- ✕ Knowingly **communicate with or appear before the employee's former employing office or committee** with the intent to influence, on behalf of any other person, the official actions or decisions of a Member, officer, or employee in such office or on such committee.[33] An individual who was employed by more than one House office (*i.e.*, "shared staff") during the individual's last twelve months of employment with the House is subject to the post-employment restrictions with respect to each of the individual's employing offices if the employee's combined House salaries exceeded the triggering threshold.

  The statute excepts certain representations made on behalf of specific types of entities, as described below in the context of "permissible activity." With regard to restricted activity, the statute specifically provides that:

  - Covered former employees on the **personal staff**[34] of a Member may not seek official action, on behalf of other persons, from that Member or from any of the Member's employees.[35]

  - Covered former **committee staff**[36] may not seek official action, on behalf of other persons, from any current Member or employee of the employing committee or from any Member who was on the committee during the last 12 months the former employee worked there.[37] This restriction bars contacts with any of these individuals on any subject relating to official business, regardless of whether it pertains to matters within the committee's jurisdiction.[38]

  - Covered former employees on the **leadership staff**[39] may not seek official action, on behalf of other persons, from current Members of the leadership[40] or any current staff of those Members.[41]

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[33] *Id.*

[34] *Id.* § 207(e)(9)(E).

[35] *Id.* § 207(e)(3). The statute expressly prohibits contacting any employee of a Member whom the departed employee is prohibited from contacting. *Id.* § 207(e)(3)(B)(ii).

[36] *Id.* § 207(e)(9)(A). For the purposes of the statute, a **detailee** is deemed to be an employee of both the entity from which the detailee comes and the House committee to which the individual is detailed. *Id.* § 207(g).

[37] *Id.* § 207(e)(4).

[38] *Id.* (barring communication or appearances on "any matter" on which the former employee seeks action).

[39] *Id.* § 207(e)(9)(H).

- Covered former employees of any **other legislative office**[42] may not seek official action, on behalf of other persons, from current officers and employees of that legislative office.[43]

✕ Knowingly **represent a foreign government or foreign political party** before any federal official (including any Member of Congress) with the intent to influence a decision of such official in official duties.[44]

✕ Knowingly **aid or advise a foreign government or foreign political party** with the intent to influence a decision of any federal official (including any Member of Congress) in carrying out his or her official duties.[45]

✕ **Use confidential information obtained by means of personal and substantial participation in trade or treaty negotiations** within one year preceding the employee's departure from the House payroll, in the course of representing, aiding, or advising anyone other than the United States regarding those negotiations.[46]

As to the prohibition against making any "communication to or appearance before" anyone in the legislative branch, former Members should be aware of the broad manner in which the Department of Justice (DOJ) has defined those terms.[47] A DOJ opinion defines "communication" as "the act of imparting or transmitting information with the intent that the

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[40] The "leadership" of the House of Representatives consists of the Speaker; majority leader; minority leader; majority whip; minority whip; chief deputy majority whip; chief deputy minority whip; chairman of the Democratic Steering Committee; chairman and vice chairman of the Democratic Caucus; chairman, vice chairman, and secretary of the Republican Conference; chairman of the Republican Research Committee; chairman of the Republican Policy Committee; and any similar position created after the statute took effect. 18 U.S.C. § 207(e)(9)(L).

[41] *See id.* §§ 207(e)(5)(B) and (e)(9)(H).

[42] For the definition of "other legislative office," see note 2, above.

[43] 18 U.S.C. §§ 207(e)(6) and (e)(9)(G).

[44] Id. §§ 207(f)(1)(A) and (i)(1)(B). Section § 207 uses the same definitions of the terms "foreign government" and "foreign political party" as the Foreign Agents Registration Act (22 U.S.C. § 611(e), (f)). *See id.* § 207(f)(3). These restrictions also apply with regard to any foreign commercial corporation that "exercises the functions of a sovereign." *See* U.S. OGE, Attachment to DO-04-023: *Summary of Post-Employment Restrictions of 18 U.S.C. § 207,* at 11 (July 29, 2004) (available on the OGE Web site at www.oge.gov/DisplayTemplates/ModelSub.aspx?id=2199). Also pertinent to these provisions of the statute is a U.S. Office of Legal Counsel (OLC) opinion of June 22, 2004, which concludes that 18 U.S.C. § 207(f) covers representational contacts with Members of Congress. *See* U.S. OLC Memorandum Opinion, *Application of 18 U.S.C. § 207(f) to a Former Senior Employee* (available on the OLC Web site at www.justice.gov/olc/oge_op2_22jun04.htm).

45 18 U.S.C. § 207(f)(1)(B).

[46] *Id.* § 207(b).

[47] 18 U.S.C. § 207. The provisions of 18 U.S.C. § 207 should not be confused with those of the Lobbying Disclosure Act (2 U.S.C. §§ 1601 *et seq.*) (LDA). In other words, merely because a particular activity does not constitute "lobbying" for purposes of that Act does **not** mean that the activity is permissible under 18 U.S.C. § 207.

information be attributed to the former official."[48] Such DOJ guidance is binding on the Ethics Committee.

Further, an advisory memorandum issued by the U.S. Office of Government Ethics (OGE) for Executive Branch employees states, "[a]n 'appearance' extends to a former employee's mere physical presence at a proceeding when the circumstances make it clear that his attendance is intended to influence the United States."[49] The provision is broad enough that it precludes a covered former employee even from, for example, requesting or scheduling, for or on behalf of any other person, a meeting with any Member, officer, or employee whom the individual is prohibited from contacting on official business.[50] While OGE guidance is merely persuasive, rather than binding, on Committee interpretations of the statute, this Committee endeavors when possible to interpret the statute in a manner consistent with OGE practice.

In addition to these one-year "cooling-off period" restrictions, departing employees should also be aware of a permanent federal statutory restriction that prohibits any U.S. citizen acting without authority of the United States from:

- ✗ Directly or indirectly **commencing or carrying on any correspondence or intercourse with any foreign government**, or any officer or agent thereof, with the intent to influence the measures or conduct of any foreign government or of any officer or agent thereof in relation to any disputes or controversies with the United States, or to defeat the measures of the United States.[51]

Permissible Activity

Under federal statutory law, covered former employees **may, immediately** upon leaving office:

- ✓ **Contact Members, officers, and employees of the Senate, and – except for those officials specified above in the section on "Prohibited Activity" – Members,**

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[48] U.S. OLC, *"Communications" under 18 U.S.C. § 207* at 3 (Jan. 19, 2001) (available on the OLC Web site at www.justice.gov/olc/207cfinal.htm). In that opinion, the OLC provides the following illustrative examples: "A high-ranking official who aggressively publicizes the fact that he is leaving an agency to start a one-man consulting firm, then submits a report to the agency shortly thereafter under the name of that firm, almost certainly intends that the report will be attributed to him. Similarly, a former official who is not introduced by name, but participates on a conference call with his former agency colleagues, almost certainly intends this his colleagues will recognize his voice." *Id.*

[49] *Summary of Post-Employment Restrictions of 18 U.S.C. § 207*, note 44 above, at 3.

[50] Committee interpretations of the statute contained in this memorandum are based on analysis of the statutory terms and purposes, and opinions and guidance, issued by the Justice Department and OGE. However, as noted above, 18 U.S.C. § 207 is a criminal statute, and Committee interpretations of it are not binding on the Justice Department (*but see* note 75, below).

[51] 18 U.S.C. § 953 (the Logan Act). An eighteenth century law, the Logan Act restricts private correspondence with foreign governments. This statute, which appears to have been a reaction to the attempts of one citizen to engage in private diplomacy, has never been the basis of a prosecution, and this Committee has publicly questioned its constitutionality. House Comm. on Standards of Official Conduct, *Manual of Offenses and Procedures, Korean Influence Investigation*, 95th Cong., 1st Sess. 18-19 (Comm. Print 1977). Members should be aware, however, that the law remains part of the criminal code.

officers, and employees of the House and other Legislative Branch offices, with intent to influence official action so long as not representing a foreign government or political party.

- ✓ **Aid or advise clients** (other than foreign governments or foreign political parties) **concerning how to lobby Congress**, provided the former employee makes no appearance before or communication to those officials specified above in the "Prohibited Activity" section. Such a "background role" would not pose the contemplated risk of improper influence since the current officials would not be aware of the former employee's participation.[52] Any such participation must remain behind-the-scenes; during the one-year "cooling-off" period, former employees must not permit their name to be openly associated with such contact by other persons.[53]

- ✓ **Contact Executive Branch** officials with the intent to influence official action so long as not representing a foreign government or foreign political party.[54]

- ✓ **Contact state government officials** with the intent to influence state government actions or decisions. Former employees should comply with any state laws governing such contacts.

- ✓ **Contact one foreign government on behalf of another** foreign government.[55]

- ✓ **Contact any Members, officers, and employees of the House and other Legislative Branch officials** on official business under any of the following circumstances:

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[52] Former employees who are lawyers may have additional restrictions, as explained in note 15 of this Memorandum.

[53] As noted above, the major restrictions set forth in 18 U.S.C. § 207(e) focus on communications and appearances. By contrast, if a former Member plays a background role, and does not appear in person or convey his or her name on any communications, the law does not appear to prohibit that person from advising those who seek official action from the Congress. This construction is consistent with regulations promulgated by the U.S. OGE, interpreting a comparable prohibition that applies to Executive Branch personnel. *See* 5 C.F.R. § 2637.201(b)(3), (6). This matter is also addressed in the 2001 U.S. OLC opinion that is cited in note 48 above, including with regard to activities that do not constitute permissible "behind-the-scenes" activities.

[54] Covered former employees who are representing a tribal government as an employee of the tribe or as an officer or employee of the United States assigned to a tribe have an additional restriction on contacts with the Executive Branch and certain other entities. Such individuals must first notify the head of the department, agency, court, or commission being contacted of "any personal and substantial involvement" they had in the matter while a federal employee. *See* 25 U.S.C. § 450i(j); 18 U.S.C. § 207(j)(1)(B).

[55] No federal statute expressly permits such contacts, but so far as the Committee is aware, no federal statute prohibits such contacts. Thus, it appears that such contacts are permissible under federal law. Covered former employees who intend to undertake such activity, however, should carefully review the Foreign Agents Registration Act (22 U.S.C. §§ 611 *et seq.*) (FARA) to ensure compliance with its requirements. Briefly stated, FARA provides that anyone who acts within the United States under the direction or control of a foreign principal to influence official decisions, official policies, or public opinion on behalf of a foreign principal must register with the Justice Department. *See generally* 22 U.S.C. §§ 611 *et seq.*; U.S. Dep't of Justice (DOJ), "FARA FAQ" (available on the DOJ Web site, www.fara.gov/fara-faq.html).

- The former employee is carrying out official duties on behalf of the **federal government** or the District of Columbia;[56]
- The former employee is acting as an **elected official of a state or local government**;[57]
- The former employee is an **employee** (not a private consultant or other independent contractor) of a **state or local government**, or an agency or instrumentality thereof, acting on its behalf;[58]
- The former employee is an **employee** of an accredited, degree-granting **institution of higher education** and is acting on behalf of such institution;[59] or
- The former employee is an **employee** of a **charitable hospital or medical research organization** and is acting on behalf of such hospital or organization.[60]

✓ **Represent or give aid or advice to international organizations** of which the United States is a member **if** the Secretary of State certifies in advance that such activities are in the interest of the United States.[61] Otherwise, covered employees must wait one year before engaging in such activities.

✓ Make statements or communications as an **employee of a candidate, authorized campaign committee, national or state party, or political committee**, if acting on behalf of that committee or party.[62] However, if the former employee is employed by a person or entity who represents, aids, or advises <u>only</u> such persons or entities, the communications would be prohibited.[63]

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[56] 18 U.S.C. § 207(j)(1)(A).

[57] *Id.*

[58] *Id.* (j)(2)(A).

[59] *Id.* § 207(j)(2)(B). The statute uses the definition of "institution of higher education" contained in § 101 of the Higher Education Act of 1965 (20 U.S.C. § 1001 *et seq.*). As a general matter, the definition includes only nonprofit, degree-granting educational institutions located in the United States or its territories. *See* 20 U.S.C. § 1001(a)-(b).

[60] 18 U.S.C. § 207(j)(2)(B). For this exception to apply, the hospital or medical research organization must be exempted under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)). *Id.*

[61] *Id.* § 207(j)(3).

[62] *Id.* § 207(j)(7)(A).

[63] *Id.* § 207(j)(7)(B)(ii)(II).

- ✓ **Make statements based upon the "special knowledge"** of the former employee concerning the particular area that is the subject of the statement, if **no compensation** is received in connection therewith.[64]

- ✓ **Give testimony under oath,** or make statements required to be made under penalty of perjury.[65]

- ✓ **Contact staff of the Clerk of the House** regarding the individual's compliance with the disclosure requirements under the Lobbying Disclosure Act.[66]

- ✓ **Make political contributions** to, and **sponsor or attend political fundraisers** for, current Members of Congress, *provided that* no appearances or communications are made with the intent to influence, on behalf of any other person, the official actions or decisions of current Members or staff.[67]

- ✓ **Interact socially with current Members of Congress and staff** *provided that* no appearances or communications are made with the intent to influence, on behalf of any other person, the official actions or decisions of current Members or staff.[68]

Example 1. Staff member *A*, who earns more than 75% of a Member's salary, resigns from her position on Member *B*'s personal staff. She may not lobby *B* or anyone on his staff for one year (except on behalf of an exempt organization), but she may lobby any other Member or staff member on behalf of anyone other than a foreign government or political party as soon as she leaves the House payroll.

Example 2. Staff member *C*, who earns more than 75% of a Member's salary, resigns from his position on the Ways and Means Committee. He may not lobby any current member or employee of Ways and Means, or any Member who was on that committee during *C*'s last year of congressional service, on behalf of any non-exempt person or entity, for one year. He may, however, lobby any other Member or staff member on any issue, except on behalf of a foreign government.

Example 3. Staff member *D*, who earns *less* than 75% of a Member's salary, resigns from her position on Member *E*'s staff to become a lobbyist. *D* may immediately lobby *E* or any other Member for any client.

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[64] *Id.* § 207(j)(4). "Special knowledge" is not defined in the statute. The Federal Register, which provides rules on the application of the statute to employees in the Executive Branch, states that a "former employee has special knowledge concerning a subject area if he is familiar with the subject area as a result of education, interaction with experts, or other unique or particularized experience." 5 C.F.R. § 2641.301(d)(1). In addition, in the proposed rulemaking for this provision, the OGE emphasized that it regarded its interpretation of this exception to be "relatively narrow." *See* 73 Fed. Reg. 36183 (June 25, 2008). While these definitions are not binding on the Ethics Committee, they provide guidance as to how the term should be interpreted.

[65] 18 U.S.C. § 207(j)(6).

[66] *Id.* § 207(e)(8).

[67] *See id.* § 207.

[68] *See id.*

Example 4. Staff member *F*, who earns more than 75% of a Member's salary, resigns from Member *G*'s staff to accept a position in an Executive Branch agency. *F* may lobby *G* immediately on behalf of the agency.

Example 5. Staff member *H*, who earns more than 75% of a Member's salary, resigns from his congressional position to join the staff of the Governor of his state. As a state employee, *H* may lobby anyone in Congress, including his former employing Member, on behalf of the state.

Example 6. Staff member *I*, who earns more than 75% of a Member's salary, resigns her congressional position and moves back to her home state. *I* may lobby state government officials on behalf of any clients.

Example 7. Staff member *J*, who earns more than 75% of a Member's salary, resigns his position with Member *K* and begins work as a lobbyist at a lobbying firm. One of *J*'s clients is a state university. *J* may not lobby *K* on behalf of the university (or any other client) for one year following his departure from the House. However, if *J* were an employee of the university rather than an outside retained lobbyist, contact with *K* on behalf of the university would be permitted.

Example 8. Staff member *L*, who earns more than 75% of a Member's salary, resigns his congressional position to become a lobbyist. For the first year after leaving the Hill, *L* lobbies only Executive Branch personnel, and *L* has no foreign clients. *L* is complying with the law.

Example 9. During his final year of House employment, staff member *M* worked for Member *N* from January to June 30, and for a committee from July 1 through December 30. December 30 was *M*'s final day on the House payroll. *M* was paid more than 75% of a Member's salary. *M* may not lobby *N* or the committee for one year following his termination from each employer. Thus, *M* would be barred from lobbying *N* until July 1, and current and former members of the committee and current committee staff until December 31 of the following year.

Example 10. During his one-year "cooling-off" period, former staff member O wishes to call his former employing Member to request that she meet with representatives of one of his clients to discuss legislation of interest to the client. *O* would not be present at the meeting. *O* would violate the statute by requesting the meeting, in that the request would be a communication intended to influence official action.

Example 11. During his first year after leaving House employment, *P*, who had been a committee staff member paid more than 75% of a Member's salary, wishes to contact a current employee of that committee to urge him to support federal funding for a non-profit organization operated by a friend of *P*. The non-profit organization is not a client of *P*, and *P* would receive no compensation for making the contact. *P* would violate the statute by doing so, in that the statute bars such

contacts regardless of whether the former employee would be compensated for them.

Entity Contacted by Covered Former Employee

Entity Represented by Covered Former Employee	Former Congressional Office/Committee	Executive Branch	Foreign Governments	State Governments
Private Entity	Must wait 1 year before contacting former Congressional office or committee directly. May immediately advise entity behind scenes. May contact other Congressional offices immediately	May contact immediately	May contact immediately	May contact immediately
Federal, State, or Local Government	May contact all Congressional offices immediately as employee or elected official of the federal, state, or local government	May contact immediately	May contact immediately	May contact immediately
Tribal Government	Must wait 1 year before contacting former Congressional office or committee directly. May immediately advise entity behind scenes. May contact other Congressional offices immediately	May contact immediately if employed by tribe or U.S.; must inform head of agency or department of any personal and substantial involvement in matter while a House employee	May contact immediately	May contact immediately
Foreign Government	Must wait 1 year before contacting any Congressional office or committee directly or advising foreign government behind scenes. Must register with Justice Department if acting as a foreign agent in the U.S.	Must wait 1 year before contacting Executive Branch directly or advising foreign government behind scenes. Must register with Justice Department if acting as a foreign agent in the U.S.	May contact immediately	May contact immediately. Must register with Justice Department if acting as a foreign agent in the U.S.
International Org. of which U.S. is a Member	If Secretary of State approves as in national interests may immediately advise international organization and contact Congress directly. Otherwise, must wait 1 year to do either.	If Secretary of State approves as in national interests may immediately advise international organization and contact Executive Branch directly. Otherwise, must wait 1 year to do either.	May contact immediately	May contact immediately
Accredited U.S. College or University	May contact all Congressional offices immediately as employee of college or university	May contact immediately	May contact immediately	May contact immediately
Charitable Hospital or Medical Research Org.	May contact all Congressional offices immediately as employee of hospital or medical research organization	May contact immediately	May contact immediately	May contact immediately
Candidate, Political Campaign, or Party	May make communications immediately as employee of candidate, authorized campaign committee, or federal or state party or committee, unless employed by entity that advises only such entities	May contact immediately	May contact immediately	May contact immediately

Penalties

Each violation of the post-employment restrictions set forth in the statute is a felony punishable by imprisonment up to one year (or up to five years for willful violations) and a fine of up to $50,000 for each violation or the value of the compensation received for the act which violated the restrictions, whichever is greater.[69] The statute further authorizes the Attorney General to seek an injunction prohibiting a person from engaging in conduct that violates the act.[70]

By its terms, 18 U.S.C. § 207 governs the conduct of **former** Members, officers and employees, and does not apply to the conduct of **current** Members, officers and employees. However, the post-employment restrictions have been the subject of recent close attention by the United States Department of Justice, as reflected in the guilty pleas by former House staff and others to criminal violations of the statute.[71] Therefore, current Members and staff who receive or otherwise participate in improper contacts by a covered former employee should be aware that, depending on the circumstances, they may be subject to criminal or House disciplinary action. The recent examples involving § 207 violations indicate that a Member who aids and abets a covered former employee in the violation may be prosecuted for conspiracy to violate the post-employment restrictions.[72]

Furthermore, in an Ethics Committee disciplinary case that was completed in the 106th Congress, a Member admitted to engaging in several forms of conduct that violated House Rules requiring that each Member and staff person "conduct himself at all times in a manner that shall reflect creditably on the House."[73] One of those violations was his engaging in a pattern and practice of knowingly allowing his former chief of staff to appear before and communicate with him in his official capacity during the one-year period following her resignation, "in a manner that created the appearance that his official decisions might have been improperly affected."[74]

An employee (or former employee) who has any concerns about the applicability of the post-employment restrictions to his or her proposed conduct should write to the Ethics Committee to request a written advisory opinion. While, as noted above, Ethics Committee interpretations of 18 U.S.C. § 207 are not binding on the Justice Department, those interpretations are based on the Committee's analysis of the terms and purposes of the statute, as

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[69] 18 U.S.C. § 216.

[70] *Id.* § 216(c).

[71] *See, e.g., United States v. Jack A. Abramoff*, Docket No. 06-CR-001 (D.D.C.) ("*Abramoff* action"). In addition, in September 2006, former Representative Robert W. Ney pleaded guilty to conspiracy to violate, among other statutes, the post-employment restrictions for former covered employees ("*Ney* action").

[72] *See, e.g., Abramoff* and *Ney* actions, note 71 above.

[73] House Rule 23, cl. 1; *see also* House Comm. on Standards of Official Conduct, *In the Matter of Representative E.G. "Bud" Shuster*, H. Rep. 106-979, 106th Cong., 2d Sess. vol. I (July 19, 2002) ("Shuster Report").

[74] House Comm. on Standards of Official Conduct, *Summary of Activities, One Hundred Sixth Congress*, H. Rep. 106-1044, 106th Cong., 2d Sess. at 10, 13, 16 (2000); *see also* Shuster Report, *supra* note 73 above, vol. I.

well as any applicable opinions or guidance of the Justice Department or the U.S. Office of Government Ethics of which the Committee is aware.[75]

FINANCIAL DISCLOSURE REQUIREMENTS FOLLOWING DEPARTURE FROM HOUSE EMPLOYMENT

A departing staff member who was required to file a financial disclosure statement because of the employee's rate of pay must file a final Financial Disclosure Statement, called a Termination Report, within 30 days of leaving the House payroll.[76] However, an employee in a Member's office who has filed only because the employee was designated as a "Principal Assistant" does not have to file a Termination Report unless the individual was designated as principal assistant to a Member leaving the House.[77] Extensions of up to 90 days are available upon written request.[78] Note that the salary threshold for filing disclosure statements is lower than that which triggers the post-employment restrictions discussed above. For 2012, the financial disclosure filing threshold is an annual salary rate of $119,553.60 (or a monthly salary of $9,962.80) for 60 days or more.[79]

The termination report, filed on the same form as the annual report, covers all financial activity through the filer's last day on the House payroll.[80] Schedule IX of the report requires disclosure of any agreement entered into by the filer, oral or written, with respect to future employment.[81] Thus, if a covered employee accepts a future position while still on the House payroll, the employee will have to disclose the agreement on the individual's public termination filing. The date of the agreement, the future employer, the position or title and the starting date must be disclosed, but the amount of the compensation need not be reported.[82] The employee will also have to disclose, on Schedule VII of the report, any travel reimbursements exceeding $350 received from any source in connection with job-search activity.[83]

However, a departing employee who, prior to thirty days after leaving office, has accepted another federal position requiring the filing of a *public* financial disclosure statement

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[75] It should be noted that one court held that it is a complete defense to a prosecution for conduct assertedly in violation of a related federal criminal strict-liability statute (18 U.S.C. § 208) that the conduct was undertaken in good faith reliance upon erroneous legal advice received from the official's supervising ethics office. *Hedges*, 912 F.2d at 1404-06.

[76] 5 U.S.C. app. 4 § 101(e).

[77] *See* Comm. on Ethics, *Instruction Guide for Completing Calendar Year 2011 Financial Disclosure Statement Form A (2011 Form A FD Instructions)* at 2.

[78] 5 U.S.C. app. 4 § 101(g)(1); *see also 2011 Form A FD Instructions* at 3.

[79] *See* 5 U.S.C. app. 4 § 109(13)(B)(i). The 60 days do not have to be consecutive; being paid at the senior staff rate for any two months of the calendar year triggers the requirement to file a termination financial disclosure statement.

[80] *Id.* § 101(e).

[81] *Id.* § 102(a)(7).

[82] *See id.*; *see also 2011 Form A FD Instructions* at 31.

[83] 5 U.S.C. app. 4 § 102(a)(2)(B).

need not file a Termination Report.[84] Any departing employee who is not required to file a termination report for this reason must notify the Clerk *in writing* of that fact.[85]

OUTSIDE EMPLOYMENT AND EARNED INCOME RESTRICTIONS

Departing staff remain subject to all House rules, including the gift rule and the limitations on outside employment and earned income,[86] as long as they remain on the government payroll. These rules are particularly important to bear in mind when an employee's prospective employer suggests that the individual begin work early, including, for example, while still drawing pay for accrued annual leave.[87] In calendar year 2010, a covered employee may not receive outside earned income (including, for example, a signing bonus) in excess of $26,550, and **no** earned income may be received for: (1) providing professional services involving a fiduciary relationship, including the practice of law, or any consulting or advising; (2) being employed by an entity that provides such services; or (3) serving as a board member or officer of any organization.[88] Regardless of whether compensation is received, a covered employee may not allow his or her name to be used by an organization that provides fiduciary services. In addition, a covered employee may not receive any honoraria (*i.e.*, a payment for a speech, article or appearance),[89] although he or she may receive compensation for teaching, if the employee first secures specific prior permission from this Committee.[90]

> ***Example 12.*** Staff member *Q*, who earns more than 75% of a Member's salary, plans to join a law firm when he leaves his official position. Since this is a firm providing professional services of a fiduciary nature, *Q* may not commence his new employment until he is off the congressional payroll.

ACCEPTANCE OF OFFICIALLY CONNECTED TRAVEL FUNDED BY A PRIVATE SOURCE

After the adjournment *sine die* of Congress, it is questionable whether any employee of a departing Member may participate in any privately-funded travel that is factfinding in nature.

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[84] *Id.* § 101(e).

[85] *See 2011 Form A FD Instructions* at 2.

[86] House Rule 25, cls. 1-5. The outside employment and earned income limitations are also codified at 5 U.S.C. app. 4 §§ 501-502.

[87] Staff members contemplating future employment with the U.S. Senate, the Architect of the Capitol or any other department or agency of the U.S. government should bear in mind that federal law prohibits "dual compensation" in excess of an annually-adjusted dollar limit for simultaneous employment by the House and any of those entities. 5 U.S.C. § 5533(c)(1). For 2012, the limit is $33,033. Pursuant to the statute, a departing House employee may not commence employment with any of the above-named governmental entities while receiving from the House payments for accrued annual leave if the employee's aggregated gross annual salaries from the two positions would exceed the statutory limit. *Id.*

[88] House Rule 25, cls. 1-4; *see also* 5 U.S.C. app. 4 §§ 501-502.

[89] House Rule 23, cl. 5; House Rule 25, cl. 1(a)(2).

[90] House Rule 25, cl. 2(e).

The gift rule requires that such travel be related to official duties,[91] but as of that time, the official responsibilities that may justify participation in such a trip will practically have come to an end. However, this consideration does not limit the ability of an employee of a departing Member to accept travel from a private source for the purpose of enabling the individual to participate substantially in an officially related event, such as to give a speech.

* * *

Any questions on these matters should be directed to the Committee's Office of Advice and Education at (202) 225-7103.

[91] *Id.*, cl. 5(b)(1)(A).

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November 27, 2012

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Holiday Guidance on the Gift Rule

The House gift rule, codified at House Rule 25, clause 5, applies to all Members, officers, and employees (Members and staff) at all times, even during the holiday season. This memorandum is a reminder of some of the restrictions of the gift rule and some of the more common questions that arise during the holiday season. This guidance does not cover every situation. As a result, if you are unsure about a particular situation, please contact the Committee at (202) 225-7103.

Overview of the Gift Rule and other Gift Statutes

Members and staff may not knowingly accept any gift, except as provided in the gift rule.[1] The rule defines the term "gift" broadly to mean "a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value."[2] The gift rule contains numerous exceptions permitting Members and staff to accept gifts. There are certain gifts that staff may accept without worry. For example, there are no restrictions on accepting gifts, including cash or cash equivalents, of any dollar value, from relatives.[3] There are also no restrictions on accepting personal holiday gifts from co-workers and supervisors.

Generally, Members and supervisors may not accept gifts from their subordinates.[4] However, the Committee has provided for a common-sense exception for voluntary gifts

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[1] House Rule 23, clause 4 and House Rule 25, clause 5.

[2] House Rule 25, clause 5(a)(2)(A).

[3] The term "relative" is broadly defined, and it includes fiancés/fiancées and in-laws. *See 2008 House Ethics Manual* at 69 and 5 U.S.C. app. 4 § 109(16).

[4] 5 U.S.C. § 7351.

extended on special occasions such as holidays.[5] Accordingly, Members and supervisors may accept gifts from their subordinates that are customarily extended during the holiday season.

In certain circumstances, Members and staff must seek written permission before accepting a gift. Members and senior staff [6] must also disclose the receipt and value of gifts on their annual Financial Disclosure Statements in certain circumstances, as explained more fully in the final section of this memorandum.

While the gift rule defines what Members and staff may accept, it does not authorize them to ask for any gift. There is also a statutory gift provision, which prohibits Members and staff from asking for or accepting anything of value from anyone who seeks official action from the House, does business with the House, or has interests that may be substantially affected by the performance of official duties.[7] The statutory provision also prohibits Members and staff from soliciting on behalf of other individuals or entities, other than political solicitations or solicitations for charity.

A brief description of some of the common gift rule exceptions applicable to the holiday season are listed below.

Parties and Receptions

During the holiday season, Members and staff may be invited as guests to parties or related events that are sponsored by individuals or organizations that have, or plan to have, business dealings before Congress. Provided the guidance below is followed, Members and staff may accept an invitation to the following:

- An event where the per person cost or ticket price (if sold) is **less than $50**, provided:

  1) The invitation is not from a federal lobbyist, foreign agent, or private entity that retains or employs such individuals; and

  2) The total value of gifts or other invitations you accept from the host under this exception is less than $100 for the calendar year. Any gift worth less than $10 does not count towards the annual limitation.

  Example: If a non-lobbyist invites you to a holiday dinner party and your meal is less than $50, you may accept the meal under the "less than $50 exception,"

[5] *See 2008 House Ethics Manual* at 70.

[6] House employees paid at or above $119,553.60 for 60 days or more during calendar year 2012 are considered senior staff and must file an annual Financial Disclosure Statement.

[7] 5 U.S.C. § 7353.

provided the aggregate value of all gifts and similar invitations you accept from the host does not exceed $100 for the year.

- A non-business event, such as a holiday party, hosted by an individual, at the personal residence of that individual or the individual's family, unless offered by a registered lobbyist or foreign agent.

  Example: A non-lobbyist invites you to a holiday party at his personal residence to celebrate the holiday season. You may accept food and refreshments offered within the home under the **personal hospitality** exception.

- A **reception**, provided that only food and refreshments of nominal value are offered other than as a part of a meal (*i.e.*, appetizers and beverages, including alcoholic beverages). This exception **does not** include full meals or luxury food items, such as caviar.

  Example: A lobbying firm invites you to attend a holiday reception in its office, at which it will serve moderate appetizers and drinks. Provided that the food and refreshments are of "nominal value" and offered "other than as part of a meal," you may attend and accept these items.

- An event where invitations are offered to a group or class in which membership is **unrelated to House employment.**

  Example: Your college alumni association is having a holiday party for its members. You may attend as an alumnus of the college.

- An event that is **open to the public or to all federal employees.**

  Example: Your local park is having a free holiday concert that is open to the public. You may attend as a member of the public.

- An event where invitations are offered because of the **outside business or activity of the invitees or their spouses**, provided the invitation:

  1) was not offered or enhanced because of the individual's House status; and

  2) is customarily provided to others in similar circumstances.

  Example: Your spouse's company is having a holiday party and all employees may bring their spouses as guests. You may attend as your spouse's guest and receive the same food, refreshments, and entertainment that are provided to all attendees, including a full meal or luxury food items.

- A **"widely attended event,"** provided:

  1) The invitation comes from the event sponsor;

  2) The sponsor has a reasonable expectation that at least 25 non-congressional invitees will be in attendance;

  3) The event is open to the public, or will be attended by a diverse group of individuals interested in a given topic; and

  4) The event relates to the Members' or employees' official duties.

  Please note: The widely attended event exception **does not** apply to holiday parties that are purely social in nature and not related to one's official duties.

- An event paid for by a **foreign government** that is less than $350 per person, per occasion. Under the Foreign Gifts and Decorations Act (FGDA), Members and staff may receive a gift item received as a souvenir or mark of courtesy.[8] The Committee has interpreted this provision to allow Members and staff to accept meals and entertainment in the United States related to their official duties.

  Example: A foreign embassy in Washington, D.C., is having a holiday luncheon at a local D.C. restaurant to foster inter-country relations. The cost of your meal will be $100. You may accept the lunch under the FGDA.

Other Holiday Gifts

In addition to the provisions discussed above, other gift rule exceptions may permit acceptance of holiday gifts. Provided the guidance below is followed, Members and staff may accept the following:

- Gifts (other than cash or cash equivalent) valued at **less than $50**, provided:

  1) The gift is not from a federal lobbyist, foreign agent, or private entity that retains or employs such individuals; and

  2) The total value of gifts you accept from the donor under this exception is less than $100 for the year.

  Please note: Gift cards and gift certificates are considered "cash equivalent" and **may not** be accepted under this exception.

[8] 5 U.S.C. § 7342.

Example 1: If a non-lobbyist gives you a $40 pen set during the holiday season, you may accept the gift under the "less than $50 exception," provided the aggregate value of all gifts you accept from the donor under this exception does not exceed $100 for the year.

Example 2: If an organization that does not employ a federal lobbyist sends perishable food, such as a fruit basket, to a House office for all the staff, the gift is considered a gift to the individual recipients and not to the employing Member. Therefore, each staff member may accept items from the fruit basket having a value of less than $50, provided that no recipient accepts more than $100 of gifts in the aggregate from the organization during the year.

- A **baseball hat, T-shirt**, or any **item valued at less than $10**, even if from a lobbyist. This exception does **not** include food items.

  Example: A company sends the office 10 T-shirts along with a letter stating that one is to be given to the Member and any staff member that would like to receive one. The Member and staff may each accept one of the T-shirts under this exception.

- Gifts based on **personal friendship.** Members and staff may, without seeking Committee approval, accept a gift based on personal friendship if the gift's value is less than $250.[9] The following factors must be considered before accepting a gift under this exception:

  1) The history of the recipient's relationship with the donor, including any previous exchange of gifts;

  2) Whether the donor personally paid for the gift, or whether the donor sought a tax deduction or business reimbursement for it; and

  3) Whether the donor gives the same or similar gifts to other Members or staff at the same time.

  Example: Your former roommate, who is a real estate agent, offers you a $100 ticket to a holiday play. The roommate personally paid for the ticket. You and the roommate have exchanged gifts throughout the years. The roommate does not contact you or your office on official matters. To the best of your knowledge, the roommate has not made a similar offer to other Members or staff. You may accept the ticket without seeking Committee approval.

[9] You must seek Committee written approval before accepting a gift over $250 under the personal friendship exception. Please see the section below regarding seeking written Committee approval for details on how to submit a request.

- **Gifts from a foreign government** under the FGDA. As noted above, gifts valued at less than $350 per person, per occasion, that are offered as a souvenir or mark of courtesy.

  Example: A French government official sends you a $300 bottle of French champagne, on behalf of the foreign government. You may accept the champagne under the FGDA.

Handling Unacceptable Gifts

If Members or staff receive invitations to events or gifts that they may not accept under the gift rule, they may:

- Pay the donor the "market value"[10] and keep the gift;
- Return the gift to the donor; or
- For perishable items (*i.e.*, flowers or food), donate the items to charity or destroy them.

Please note: For tickets to events that do not have a printed cost on the ticket, the value of the ticket is the highest cost of a ticket with a face value for that particular event.

Example: You are invited to sit in the premium box for the Nutcracker Ballet. The offer does not meet one of the gift exceptions, but you would still like to attend. Your ticket does not have a price on it, but the highest ticket price for that particular ballet performance is $285. You must pay the donor $285 in order to accept the ticket.

Prior Written Committee Approval Required

Members and staff must seek written Committee approval before accepting the following:

- A gift based on personal friendship with a value over $250. The Committee will only grant written approval for a personal friendship gift exceeding $250 in value in response to a written request. The request should include: (1) the donor's identity and employment; (2) any interests the donor may have before Congress;

[10] Items are valued at their retail, rather than wholesale, prices. For tickets, the fair market value is the cost printed on the ticket, regardless of whether the donor paid more or less. *See* House Rule 25, clause 5(a)(3)(A); *2008 House Ethics Manual* at 73.

(3) the history of the recipient's relationship with the donor; (4) the nature of the gift; and (5) whether the donor will be paying for the gift personally.

- A gift that is not otherwise acceptable, but that the Member or staffer believes the Committee should permit them to accept. The Committee has "flexibility to allow the acceptance of gifts . . . in cases where there is no potential conflict of interest or appearance of impropriety."[11] Thus, House Rule 25, clause 5(a)(3)(T), authorizes the Committee to grant a waiver to permit acceptance of a gift "in an unusual case." Members and staff must submit a written request for a gift waiver from the Committee prior to accepting such a gift. Any request should include, at a minimum, a description of the gift, including its market value, the identity of the donor, and a statement of the reasons believed to justify acceptance of the gift.

Financial Disclosure Requirements

Members and senior staff must disclose certain gifts valued over $350 from a single source in a calendar year on Schedule VI of their annual Financial Disclosure Statements.[12] This disclosure must include the source of such gifts and a brief description of the gifts. Any gift with a market value of less than $140 need not be counted towards the $350 disclosure threshold.

Please note: Gifts from relatives and gifts of personal hospitality do not have to be disclosed. In addition, gifts that are received by your spouse or children, independent of your House status, do not have to be disclosed. However, all other gifts that are over $350 in value must be disclosed.

> Example: Your spouse's college roommate gives your spouse a $400 coat as a holiday present. You would not have to report this gift on your Financial Disclosure Statement if you believe that the gift was given regardless of your House status.

Members and staff seeking a waiver of the reporting requirement must send a written request to the Committee. The written request and the Committee's response will be made publicly available.

If you have any questions, please contact the Committee's Advice and Education staff at (202) 225-7103.

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[11] *See* House Bipartisan Task Force on Ethics, *Report on H.R. 3660*, 101st Cong., 1st Sess. (Comm. Print, Comm. on Rules 1989), *reprinted in* 135 Cong. Rec. H9255 (daily ed. Nov. 21, 1989).

[12] 5 U.S.C. app. 4 § 102(a)(2).

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December 4, 2012

MEMORANDUM FOR ALL MEMBERS, MEMBERS-ELECT, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Jo Bonner, Chairman JB
Linda T. Sánchez, Ranking Minority Member LTS

SUBJECT: Member Swearing-in and Inauguration Day Receptions, and Attendance at Inaugural-Related Events

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Recently the Committee has received a number of inquiries on the rules relating to two subjects: (1) the receptions that Members wish to hold in connection with their swearing-in and on Inauguration Day, and (2) Member and staff attendance at events held in connection with the Presidential Inauguration. The major rules that apply in these areas are briefly summarized below, and guidance addressed to specific circumstances is available by calling or writing to the Committee.

Member Swearing-in and Inauguration Day Receptions. At times Members – especially newly-elected Members – wish to hold a reception or similar event for their supporters in connection with their swearing-in. The Committee has long advised that Members may use their campaign funds to pay the costs of such a reception, and this is so even if the reception is held in the Member's office or another House room. However, such events should not be campaign or political in nature, such as limiting the invitee list to include only campaign contributors. A Member may also use campaign funds to pay for an Inauguration Day reception for visiting constituents held in the Member's office or elsewhere. Questions about the use of the Members' Representational Allowance to hold an event in connection with either ceremony should be directed to the Committee on House Administration.

The Committee has received several inquiries, the substance of which is whether it is permissible for a lobbying firm or other private entity to pay the costs of a Member's swearing-in or Inauguration Day reception. Such arrangements are *not* permissible, as the payment of the costs of the event would constitute an impermissible gift to the Member under the House gift rule (clause 5 of House Rule 25).

Attendance at Privately-Sponsored Events. Offers of free attendance at swearing-in or Inaugural-related events are fully subject to the House gift rule. Thus, a Member or staff person may accept such an offer only if acceptance is allowed under one of the provisions of the rule. Many of the inquiries that the Committee has received concern attendance at events sponsored by a state society or other private organizations. Free attendance at those events is generally permissible under the "widely attended" event provision of the gift rule, provided that the offer was made by the event organizer (not a person or entity that simply bought tickets or donated to the event), the offer is limited to the Member or staff person and one accompanying individual only, the requirements on event size are satisfied,[1] and attendance is connected to the individual's official duties.

In addition, Members and staff are generally free to attend any reception, *i.e.*, an event at which the food served is limited to moderate hors d'oeuvres, beverages, and similar items and does not constitute a meal. The gift rule also allows a Member, officer, or employee to accept a gift, including free attendance at an event, having a value of less than $50, provided that the source of the gift is not a registered lobbyist, foreign agent, or private entity that retains or employs such individuals. The cumulative value of gifts that may be accepted from any one source in a calendar year under this exception must be less than $100, and no gifts of cash or cash equivalent are permitted.

Detailed information on the provisions of the gift rule regarding attendance at events is available in chapter 2 of the Committee's *2008 House Ethics Manual*, copies of which are available from the Committee's office, and the text of which is on the Committee's Web site, ethics.house.gov.

* * *

Please note that the Committee's guidance is subject to change if the 113th Congress adopts changes to the ethics rules. Members and staff with questions on the matters addressed above should contact the Committee after the 113th Congress has convened to seek further guidance about any such rule changes.

Any questions on these subjects should be directed to the Committee's Office of Advice and Education at (202) 225-7103.

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[1] The Committee on Ethics has determined that an event is "widely attended" if (a) there is a reasonable expectation that at least 25 persons, other than Members, officers, or employees of Congress, will attend the event, and (b) attendance is open to individuals from throughout a given industry or profession, or those in attendance represent a range of persons interested in a given matter. Individuals who are officials of other branches or levels of government count toward the required minimum of 25, but spouses and others who accompany the congressional Members and staff do not count toward the required minimum. *See 2008 House Ethics Manual at 41-42.*

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December 27, 2012

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: **Rules Prohibiting Use of One's Official Position for Personal Gain**

The purpose of this memorandum is to summarize the key rules and standards of conduct that apply to prohibit the use of the official position of a Member, officer, or employee[1] for personal benefit. These rules and standards also apply to staff acting for the personal benefit of their employing member.

In 1989, the House Bipartisan Task Force on Ethics articulated a concern that gifts to Members or House employees might create an appearance of impropriety that might undermine the public's faith in government. The Task Force stated:

> Regardless of any actual corruption or undue influence upon a Member or employee of Congress, the receipt of gifts or favors from private interests may affect public confidence in the integrity of the individual and in the institution of the Congress.[2]

Both House rules and federal statutes enact similar limitations to address this concern.

House Rules on Gifts

House rules define the term "gift" broadly to mean:

> a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and

[1] The terms "employee" and "staff" are used interchangeably throughout this memorandum to refer to persons who are employed by a Member, committee, leadership office, or other legislative office of the House.

[2] House Bipartisan Task Force on Ethics, *Report on H.R. 3660*, 101st Cong., 1st Sess. 6 (Comm. Print, Comm. on Rules 1989), *reprinted in* Cong,. Rec. 30740, 30742.

> meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.[3]

Members, officers, and employees may not accept any gifts, except as specifically permitted by House rules.[4] This limitation applies to any gifts, whether or not the gift is related to the recipient's official position. The House Code of Official Conduct (enacted as House Rule 23) additionally prohibits a House Member, officer, or employee from receiving any benefit "by virtue of influence improperly exerted from" the person's congressional position.[5]

Thus, the House rules limit what gifts may be accepted under any circumstances, and particularly prohibit the acceptance of gifts that may be offered due to the improper use of one's congressional position.

Federal Gift Statute

In addition to the House rules, gifts to Members and employees of Congress are regulated by federal statute. The statutory gift provision, 5. U.S.C. § 7353, restricts Members and staff both in what they may ask for and what gifts they may accept from any source that has interests before the House. The statute provides, in pertinent part:

> (a) Except as permitted by [applicable gift rules or regulations], no Member of Congress or officer or employee of the executive, legislative, or judicial branch ***shall solicit or accept*** anything of value from a person –
>
> (1) seeking official action from [or] doing business with . . the individual's employing agency; or
>
> (2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.[6]

The statute restricts both the requesting of gifts and their acceptance in general. The prohibition on solicitation of gifts is very broad, and applies to the solicitation not only of money, but "anything of value." The prohibition on acceptance of gifts means that Members and staff should never accept any gift that is linked to any official action the individual has taken or is being asked to take. Another section of the federal gift statute states more specifically that "[n]o gift may be accepted . . . in return for being influenced in the performance of any official act."[7] Accepting a gift in these circumstances may be deemed a bribe or improper gratuity and constitute a serious violation of criminal law.[8]

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[3] House Rule 25, cl. 5(a)(2)(A).

[4] House Rule 23, cl. 4; House Rule 25, cl. 5.

[5] House Rule 23, cl. 3.

[6] 5 U.S.C. § 7353 (emphasis added).

[7] *Id.* § 7353(b)(2)(B).

[8] *See* 18 U.S.C. § 201.

Prohibition on Use of One's House Position for Personal Gain

It is fundamental that House Members, officers, and employees may not use their official position for personal gain. This prohibition includes any gain that would accrue to the individual in the form of compensation for outside employment activities. A key provision of the House Code of Official Conduct provides that House Members, officers, and employees may not receive compensation or permit compensation to accrue to their personal benefit from any source if the receipt would occur "by virtue of influence improperly exerted from" their position in Congress.[9]

As noted in the debate preceding adoption of this rule, an individual violates this provision if he uses "his political influence, the influence of his position . . . to make pecuniary gains."[10] When considering the applicability of this provision to any activity they are considering undertaking, Members and staff must also bear in mind that a separate provision of the House Code of Official Conduct requires that they adhere to both the spirit and the letter of the rules of the House.[11] In addition, the Code of Ethics for Government Service, which applies to Members, officers, and employees of the House, provides that a federal official should never accept "for himself or his family, favors or benefits under circumstances that might be construed by reasonable persons as influencing the performance of" the person's official duties.[12] Note that this provision prohibits the receipt of a personal benefit not only by the respective House Members or employees, but also by their families. In accordance with these provisions, the Ethics Committee routinely advises Members and staff to avoid situations in which even an inference might be drawn suggesting improper conduct.

In addition to prohibiting receipt of tangible or financial benefits, these same provisions apply to prohibit the use of one's official position for special access or treatment when seeking assistance with their personal business, bills, customer service, or other unofficial endeavors. For example, staff may not call the lobbyist for their cellular telephone service provider to seek assistance with a billing concern for their personal mobile phone. Nor may a Member call the CEO of a bank, whom they know through that CEO's having sought official action or to influence policy or legislation, to request assistance with a personal loan application. Instead, any such contact must be made through the ordinary customer service channels used by the public generally, without special reference to one's official position. For the same reasons, actions which are perfectly appropriate to take on behalf of an office's constituents become improper acts of influence when they are conducted for the personal benefit of the staffer performing the service or their employing Member.

* * *

This memorandum summarizes some of the key rules and standards that apply to the personal financial transactions of House Members, officers, and employees. It is not an

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[9] House Rule 23, cl. 3.

[10] 114 Cong. Rec. 8807 (Apr. 3, 1968) (statement of Rep. Price).

[11] House Rule 23, cl. 2.

[12] Code of Ethics for Government Service ¶ 5, 72 Stat., Part 2 (1958), *reprinted in 2008 House Ethics Manual* at 355.

exhaustive compilation of all rules and standards that could conceivably apply. In addition, analysis of proposed conduct under these standards must be done on a case-by-case basis. The Committee is available to provide confidential advice to Members, officers, and employees on these and other issues. Any questions on these matters should be directed to the Committee's Office of Advice and Education at (202) 225-7103.

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Travel Guidelines and Regulations

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Jo Bonner, Chairman
Linda T. Sánchez, Ranking Member

Date: December 27, 2012

House Rule 25, clause 5 (the House gift rule) imposes specific limitations, including prior Committee approval, on the acceptance of expenses for travel by House Members and employees from a private source for purposes related to their official duties.[1] House Rule 25 charges the Committee with enacting regulations to implement the rule and establish a process for reviewing and approving requests for travel. Rule 25 also requires the Committee to review and revise such regulations, as necessary, on an annual basis.[2] The Committee issued the initial travel regulations in a pair of memoranda dated February 20 and March 14, 2007. After additional review and consideration by the Committee, the Committee is now issuing the following regulations.

The regulations issued today supersede any prior inconsistent Committee regulations and guidance regarding privately-funded, officially-connected travel, including the *2008 House Ethics Manual.* These regulations **will *be effective for all trips beginning on or after April 1, 2013.*** This means that **new forms for privately sponsored travel will need to be *submitted by March 1, 2013,* for any trips that begin on April 1 or later.** The Committee will conduct training and issue new forms consistent with the revised regulations prior to March 1, 2013. There are a number of changes to the regulations, but the Committee would like to highlight the following substantive changes:

- Pre-travel Sponsor and Traveler forms will need to be submitted ***30 days*** prior to the trip, as opposed to the current 14 day rule (*see* § 501.1)
- ***Sponsors*** will be required to submit a post-travel form to the travelers within ***10 days*** after the trip (*see* § 603.1)
- New categories of permissible sponsoring organizations are delineated, with specific requirements related to the type of sponsors (*see* part 200)

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[1] The term "House Members and employees" in these regulations includes House Members, Delegates, the Resident Commissioner, officers, and employees. *See* § 104(*l*).

[2] *See* House Rule 25, clause 5(i)(1).

U.S. House of Representatives
Committee on Ethics

Travel Regulations

December 2012

Effective for all trips beginning on or after April 1, 2013

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Part 200 – Trip sponsors

Part 300 – Trips

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Regulations

Part 100 – General Provisions and Definitions

§ 101 Purpose. These regulations govern the circumstances under which House Members and employees may accept travel expenses from a private source to participate in a trip connected to the traveler's official House duties.

§ 102 General rule. No House Member or employee may accept the payment of travel expenses, as defined in § 104(bb), from a private source to participate in a trip connected to that traveler's official House duties without prior written authorization from the Committee pursuant to these regulations.

§ 103 Scope. These regulations do not apply to House Member and employee acceptance of travel expenses from any of the following sources:

(a) A federal, state, or local government entity that is paying for travel expenses using government funds or resources pursuant to House Rule 25, clause 5(a)(3)(O);

(b) A foreign government that is paying for travel expenses pursuant to the Mutual Educational and Cultural Exchange Act (MECEA) at 22 U.S.C. § 2458a, or the Foreign Gifts and Decorations Act (FGDA) at 5 U.S.C. § 7342;

(c) An entity qualified under section 170(c) of the Internal Revenue Code that is paying for travel expenses in connection with the traveler's attendance at a fundraising event for that entity pursuant to House Rule 25, clause 5(a)(4)(C);

(d) A political organization, as defined at § 527(e) of the Internal Revenue Code, that is paying for travel expenses in connection with the traveler's attendance at a fundraising or campaign event sponsored by that organization pursuant to House Rule 25, clause 5(a)(3)(G)(iii);

(e) A personal friend of the traveler who is paying for travel expenses pursuant to House Rule 25, clauses 5(a)(3)(D) and (a)(5);

(f) Any entity with which the traveler or the traveler's spouse is affiliated or employed that is paying for travel expenses that are unrelated to the traveler's official duties, pursuant to House Rule 25, clause 5(a)(3)(G)(I); and

(g) A prospective employer of the traveler that is paying for travel expenses in connection with *bona fide* employment negotiations, pursuant to House Rule 25, clause 5(a)(3)(G)(ii).

§ 104 Definitions. For purposes of these travel regulations only, the following definitions apply:

(a) **Agenda.** An hour-by-hour listing of the traveler's individualized schedule, including departure and return times, and all activities, including, but not limited to, meetings, briefings, meals, and receptions, in which the traveler will be participating.

(b) **Class of Travel.** The quality of accommodation of public transport, such as coach or economy, business, and first class.

(c) **Committee.** The House Committee on Ethics.

(d) ***De minimis.*** Negligible or inconsequential.

(e) **Designated Contributions.** Any funds, goods, services, or in-kind contributions to provide financial or other support for a trip, conference, meal, event, or activity with the knowledge, whether express or implied, that one or more House Members or employees will, or may, participate in or attend the trip, conference, meal, event, or activity.

(f) **Destination.** The actual location(s) to be visited during a trip at which officially-connected activity will occur. It is the city and state for a domestic trip, and the city and country for an international trip. Cities in which the traveler will merely have a travel layover and will not engage in any officially-connected activity are not destinations of the trip.

(g) **Federal lobbyist.** An individual registered under the Lobbying Disclosure Act (LDA), 2 U.S.C. §§ 1601 *et seq.*, or any successor statute, to contact Members, officers, employees, committees, caucuses, or working groups of the United States Senate or the United States House of Representatives.

(h) **Foreign agent.** An individual registered with the United States Department of Justice under the Foreign Agents Registration Act (FARA), 22 U.S.C. §§ 611 *et seq.*, to serve as an agent or representative of any government of a foreign country, political party of a foreign country, non-U.S. citizen residing in a foreign country, or business entity organized under the laws of a foreign country.

(i) **Grantmaking Sponsor.** A public charity or private foundation (both as defined under section 501(c)(3) of the Internal Revenue Code) that provides a grant of funds to another entity to underwrite, in whole or in part, a trip or an event, meal, or activity that will occur during a trip, or a necessary expense that will be incurred during a trip, with express or implicit knowledge or understanding that one or more House Members or employees may participate or attend that trip or event, or otherwise may be beneficiaries of the gift or donation. A Grantmaking Sponsor must either (1) have a direct role in the organizing, planning, or conducting of a trip or event that its funds will underwrite; or (2) certify that it conducts an audit or review of its grant, gift, or donation to ensure that the funds are spent in accordance with the terms of its grant or donation. A grant that funds a larger overall education program would qualify the granting entity as a Grantmaking Sponsor if the grant was sought or made with the knowledge or understanding that a specific trip or congressional travel generally might be funded with the grant. See also Non-Grantmaking Sponsor at §104(s) and Primary Trip Sponsor at § 104(u).

(j) **House.** The United States House of Representatives.

(k) **House invitee.** Any Member, Delegate, Resident Commissioner, officer, or employee of the House invited to participate in a trip.

(l) **House Members and employees.** House Members, Delegates, the Resident Commissioner, officers, and employees.

(m) **Lobbying firm.** A business that is registered to lobby under the Lobbying Disclosure Act (LDA), 2 U.S.C. § 1601 *et seq.*, on behalf of entities other than itself.

(n) **Local travel expenses.** Fees and costs incurred for transportation, food, lodging, conference fees, and miscellaneous fees, within 35 miles of the U.S. Capitol or the Member or employee's district office closest to the trip destination.

(o) **Media appearance.** The appearance of a House Member or employee on a television or radio program.

(p) **Miscellaneous expenses.** Expenses that are necessary to accomplish the officially-connected purpose of the trip but that do not fit in to the categories of transportation, lodging, food, or conference materials. Some permissible miscellaneous expenses are enumerated in § 309 of these regulations.

(q) **Mode of travel.** Means of conveyance for the trip, or any part thereof, such as commercial airline, chartered air service, private aircraft, rail, car, bus, boat, or other means.

(r) **Necessary expenses.** Expenses for transportation, food, lodging, and conference fees and materials, incurred due to participation in a trip and necessary to accomplish the official purpose of the trip. Transportation expenses include the

costs of local transportation to and from the airport or other transportation facility, and local transportation while at the trip destination(s). Expenses for recreational activity, such as tickets to a sporting event or artistic performance, generally do not constitute necessary expenses.

(s) **Non-Grantmaking Sponsor.** An individual or entity that provides funds, services, or in-kind donations to another entity to underwrite, in whole or in part, a trip or an event, meal, or activity that will occur during a trip, or a necessary expense that will be incurred during a trip, with express or implicit knowledge or understanding that one or more House Members or employees may participate or attend that trip or event, or otherwise may be beneficiaries of the gift or donation. A Non-Grantmaking Sponsor must either (1) have direct involvement in planning, organizing, conducting, or participating in the trip; or (2) provide contributions in exchange for a tangible benefit, as defined at §104(z) of these regulations.

(t) **Officially-connected purpose.** Travel that relates to the official duties of the Member, Delegate, Resident Commissioner, officer, or employee who will be participating in the trip, such as attending a meeting or conference, delivering a speech, or engaging in fact-finding. For officers or employees, the officially-connected purpose must relate to the specific issues or assignments that normally fall with the officer or employee's area of responsibility.

(u) **Primary trip sponsor.** A trip sponsor that: (1) pays for all trip expenses with its own funds; or (2) uses, in whole or in part, funds from grants, donations, in-kind donations, or other gifts from another entity to underwrite, in whole or in part, a trip or an event, meal, or activity that will occur during a trip, or a necessary expense that will be incurred during a trip, based on a request or award that expressly mentioned the participation or attendance, or possible participation or attendance, of House Members or employees. Donors under section (2) are either "Grantmaking Sponsors" or "Non-Grantmaking Sponsors," as defined at § 104(i) and § 104(s), respectively.

(v) **Private aircraft.** An airplane owned and operated by an individual or private entity other than a commercial airline or air charter service.

(w) **Private foundation.** An entity with § 501(c)(3) nonprofit status under the Internal Revenue Code that is classified by the Internal Revenue Service as a private foundation.

(x) **Relative.** An individual of at least 18 years of age who is related to the traveler as spouse, parent, child or stepchild, grandchild, sibling or half-sibling, father-in-law, or mother-in-law. Fiancés/fiancées and unmarried significant others are not "relatives" for purposes of these regulations.

(y) **Segment of a trip.** During the transportation to or from the city of departure or return and a trip destination. Local transportation to attend events or visit locations at the trip destination itself is not included in this definition.

(z) **Tangible benefit.** A benefit received in exchange for a contribution that is provided, without regard to congressional participation, for an event or trip. Such

benefits may include booth rental space, advertising at an event, or public designation as a sponsor of an event.

(aa) **Travel approval.** A written communication from the Committee to an individual House Member or employee granting permission for the individual to participate in a trip. Each House invitee wishing to travel under these regulations must seek and obtain from the Committee travel approval before embarking on a trip for that individual's travel to be permissible under House rules.

(bb) **Travel expenses.** Fees and costs associated with transportation, lodging, meals, local transportation, and permissible miscellaneous expenses in connection with a trip.

(cc) **Traveler.** A House Member or employee whose travel has been approved by the Committee and who participates in approved travel.

(dd) **Trip.** All aspects of the proposal from the trip sponsor, including the transportation to and from the destination; all activities, conferences, and events at the destination(s); meals; local transportation; and lodging.

(ee) **Trip Sponsor.** A private source, which may be either an individual or private entity, that: (1) pays for, or reimburses a traveler for, all or part of the expenses for a trip with its own funds; or (2) provides funds from grants, monetary donations, in-kind donations, or other gifts to another entity to underwrite, in whole or in part, a trip or an event, meal, or activity that will occur during a trip, or a necessary expense that will be incurred during a trip. Entities that fund an entire trip, or receive (under (2) above) funds from other entities to underwrite, in whole or in part, a trip the first entity is organizing are deemed "Primary Trip Sponsors," as defined at § 104(v). Entities that provide funds or in-kind support under (2) are either "Grantmaking Sponsors," or "Non-Grantmaking Sponsors," as defined at § 104(i) and § 104(s), respectively. Individuals or entities that provide contributions in exchange for a tangible benefit, as defined at §104(z) of these regulations, at an event that would occur without regard to congressional participation are not considered a trip sponsor.

(ff) **U.S. institution of higher education.** An accredited public or non-profit U.S. college, university, or trade school authorized under § 101 of the Higher Education Act of 1965 (20 U.S.C. §§ 1001 *et seq.*).

(gg) **With regard to congressional participation.** A trip, event, conference, tour, or similar activity that would not occur without, or is otherwise dependent upon, the attendance of one or more House Members or employees.

(hh) **Without regard to congressional participation.** A trip, event, conference, tour, or similar activity that would occur even without the attendance of one or more House Members or employees. Such events may include, but are not limited to, an annual meeting of a trade group, a trade show, or a conference that is open to the public.

* * * *

Part 200 – Trip sponsors. This part sets forth the types of private entities that may act as trip sponsors under these regulations, entities that are prohibited from acting as trip sponsors, and the requirements for trip sponsors under these regulations.

§ 200 Definition of trip sponsor. As defined at § 104(ee), a trip sponsor is a private source, which may be either an individual or private entity, that: (1) pays for, or reimburses a traveler for, all or part of the expenses for a trip with its own funds; or (2) provides funds from grants, monetary donations, in-kind donations, or other gifts to another entity to underwrite, in whole or in part, a trip or an event, meal, or activity that will occur during a trip, or a necessary expense that will be incurred during a trip. Each trip will have at least one Primary Trip Sponsor, and may have additional Grantmaking or Non-Grantmaking Sponsors, as defined by these regulations.

§ 200.1 Multiple trip sponsors. A trip may have multiple trip sponsors if more than one private entity or individual meets the requirements of these regulations with regard to the trip. If one or more of the trip sponsors employs a federal lobbyist or foreign agent, then the restrictions and prohibitions in these regulations regarding trips sponsored by such entities will govern the trip, even if the other trip sponsors would not otherwise be subject to those restrictions.

§ 201 Permissible and impermissible sponsors. This section will define who may or may not sponsor travel under these regulations.

§ 201.1 Permissible sponsors or grantors. The following may be trip sponsors under these regulations:

(a) U.S. institutions of higher education, as defined at § 104(ff);

(b) Private entities and individuals that do not employ or retain a federal lobbyist or foreign agent;

(c) Private entities and individuals that employ or retain a federal lobbyist or foreign agent, whether outside or in-house; and

(d) Federal, state, or local government entities that provide financial support to a primary trip sponsor.

§ 201.2 Impermissible sponsors or grantors. Under no circumstances may any of the following entities act as a trip sponsor under these regulations:

(a) An individual who is registered as a federal lobbyist, as defined at § 104(g);

(b) An individual who is registered as a foreign agent, as defined at § 104(h);

(c) A lobbying firm, as defined at § 104(m); or

(d) An entity that employs individuals who are registered as foreign agents to represent entities other than itself.

§ 202 Involvement of trip sponsors. Other than as provided in this subsection, a trip sponsor must have some bona fide role in planning, organizing, conducting, or participating in the trip. Purely monetary sponsors, other than those allowed under§ 202.2 and § 202.4(c), are not permitted.

§ 202.1 Role of Primary Trip Sponsor. A Primary Trip Sponsor, as defined at § 104(u), must–

(a) have direct involvement in planning, organizing, conducting, or participating in the trip;

(b) provide to the traveler or Committee, as required, information about any other individual or entity, whether public or private, that provided to it grants, donations, in-kind support, or other gifts to underwrite, in whole or in part, the costs of a trip or an event, meal, or activity that will occur during a trip, or any other expense that will be incurred by a House Member or employee during or as a result of that individual's participation in a trip. This requirement may be fulfilled by providing to the traveler or Committee one or more of the following, as requested by the Committee or required under these regulations:

(1) Complete answers to a Primary Trip Sponsor Form;

(2) A completed Secondary/Grantmaking or Non-Grantmaking Trip Sponsor Form from any additional Grantmaking or Non-Grantmaking trip sponsors, as defined in these regulations;

(3) Written responses to inquiries from the Committee during its review of a proposed trip or request to travel submitted by a House Member or employee; or

(4) Completing post-travel disclosure forms, or providing information to travelers to complete such forms, as required by these regulations.

§ 202.2 Role of Grantmaking Sponsor. A Grantmaking Sponsor, as defined at § 104(i), that is a private nonprofit entity must certify that it either –

(a) has a bona fide direct role in the organizing, planning, or conducting of a trip or event that its funds will underwrite; or

(b) certify that it conducts an audit or review of its grant, gift, or donation to ensure that the funds are spent in accordance with the terms of its grant or donation.

§ 202.3 Role of government entity. A federal, state, or local government entity that provides financial or in-kind support for a trip need not make any direct certification to the Committee or traveler.

§ 202.4 Role of Non-Grantmaking Sponsor.

(a) A Non-Grantmaking Sponsor must either –

(1) have direct involvement in planning, organizing, conducting, or participating in the trip; or

(2) provide contributions in exchange for a tangible benefit, as defined at § 104(z) of these regulations.

(b) A Non-Grantmaking Sponsor that has direct involvement in planning, organizing, conducting, or participating in the trip must complete a Non-Grantmaking Trip Sponsor Form.

(c) A Non-Grantmaking Sponsor that receives a tangible benefit pursuant to paragraph (a)(2) of this subsection and does not have direct involvement in planning, organizing, conducting, or participating in the trip is not considered a Trip Sponsor under these regulations with regard to that trip, and does not need to make or be mentioned on any submission to the Committee with regard to that trip.

§ 203 Non-profit organizations generally. Entities organized as non-profit organizations under the Internal Revenue Code or similar state laws may act as trip sponsors, but such organizations are subject to the same requirements that apply to for-profit entities under these regulations.

§ 203.1 Private foundations. The following additional rules apply to organizations designated as private foundations under § 501(c)(3) of the Internal Revenue Code:

(a) A private foundation may not be a Primary Trip Sponsor for travel by House Members or employees outside of the fifty United States and the District of Columbia.

(b) A private foundation may act as a Grantmaking Trip Sponsor or Non-Grantmaking Trip Sponsor for a trip outside of the fifty United States or the District of Columbia if –

(1) At least one other permissible trip sponsor is the Primary Trip Sponsor of the trip; and

(2) The private foundation has no role in selecting the trip participants.

(c) The requirements of subsection (b) apply to travel to a territory or possession of the United States.

(d) A House Member or employee who accepts travel expenses in violation of this section may be subject to personal tax penalties under the Internal Revenue Code, in addition to any disciplinary action that may be imposed by the Committee or the House.

§ 204 Prohibition on involvement by federal lobbyists and foreign agents in planning trips sponsored by entities and individuals that do not employ or retain a federal lobbyist or foreign agent. Any private entity or individual that does not employ or retain a federal lobbyist or foreign agent and that is acting as a trip sponsor pursuant to § 201.1(b) is prohibited from having any federal lobbyist or foreign agent involved in the planning, organizing, requesting, or arranging of the trip. The restriction contained in this section does not apply to a board member of the sponsoring organization who is a registered lobbyist or foreign agent for other entities but who does not lobby for the sponsor or any related entity or on issues related to the officially-connected purpose of the trip.

§ 204.1 Restrictions on involvement by federal lobbyists and foreign agents in planning trips sponsored by entities and individuals that employ or retain a federal lobbyist or foreign agent. When a private entity or individual that employs or retains a federal lobbyist or foreign agent is acting as a trip sponsor pursuant to § 201.1(c), the involvement of a federal lobbyist or foreign agent in planning, organizing, requesting, or arranging a trip must be no more than *de minimis*, or negligible.

a) Activities that are considered *de minimis* involvement by a federal lobbyist or foreign agent in planning, organizing, requesting, or arranging a trip include:

(1) Responding to a trip sponsor's request for the names of House Members or employees who are interested in a particular issue;

(2) Sitting on the board of an organization that is a trip sponsor, provided the federal lobbyist or foreign agent does not have any involvement in planning the trip; or

(3) Such other activity as the Committee may deem permissible.

b) Activities that are considered to be more than *de minimis* involvement by a federal lobbyist or foreign agent in planning, organizing, requesting, or arranging a trip include, but are not limited to:

(1) Determining, or suggesting without request, the actual list of House Members or employees to be invited on a trip;

(2) Extending or following up on an invitation to House Members or employees;

(3) Signing the Trip Sponsor Form provided to invitees;

(4) Being mentioned in or on an invitation extended by another entity or individual;

(5) Setting or recommending without request any part of the agenda for the trip; and

(6) Making travel arrangements for House Members or employees.

c) If a federal lobbyist or foreign agent has more than *de minimis* involvement, the trip is not permissible under these regulations.

§ 204.2 Prohibition on federal lobbyist or foreign agent accompaniment. A federal lobbyist or foreign agent is prohibited from accompanying House Members or employees on any segment of a trip as defined in § 104(v).

§ 204.3 Exception for U.S. institutions of higher education. Any U.S. institution of higher education acting as a trip sponsor pursuant to § 201.1(a) is not subject to the prohibitions and restrictions on federal lobbyist and foreign agent participation in this section.

§ 205 Direct payment or reimbursement permitted. A trip sponsor may pay travel expenses directly or may reimburse the traveler for permissible travel expenses that were initially paid by the traveler. All travel expenses and other expenses in connection with the trip that are paid by the trip sponsor, whether paid before or after the trip, and whether paid directly by the trip sponsor or reimbursed to the traveler by the trip sponsor, must be disclosed pursuant to these regulations.

§ 206 Misrepresentations to Committee are subject to criminal penalty. Any individual, acting on behalf of a prospective or past trip sponsor, who makes materially false or misleading statements to the Committee concerning a trip sponsor or any trip that is being, or was, offered pursuant to these regulations may be subject to criminal penalties under the False Statements Act (18 U.S.C. § 1001).

* * * *

Part 300 – Trips. This part sets forth the requirements for acceptable activities, locations, accommodations, expenses, and similar aspects of trips subject to these regulations.

§ 301 Purpose of the trip must be officially-connected. The purpose of the trip must relate to the official duties of the House Member or employee who will be participating in the trip, and participation in the trip should not create the appearance that the traveler would be using public office for private gain.

(a) Examples of permissible officially-connected purposes are:

(1) Attending or participating in a meeting or conference related to the official duties of the traveler;

(2) Delivering a speech or accepting an award in the traveler's official capacity; or

(3) Engaging in fact-finding (such as a facility tour) on a subject on which the traveler works as part of their normal area of responsibility.

(b) Examples of impermissible official purposes are:

(1) Performing a core function of one's official duties, such as photographing one's Member for use in official newsletters;

(2) Staffing a Member for anything other than a speech, when no other officially-related purpose exists for employee's attendance;

(3) Travel to Washington, D.C., during a congressional session or to attend a House function; and

(4) Facilitation of office-run or House-run meetings.

(c) Examples of impermissible purposes that are not officially-connected are:

(1) Activities that are substantially recreational in nature;

(2) Travel for personal or recreational purposes; or

(3) Travel to attend or speak at an event whose purpose is to raise funds to benefit a nonprofit entity or organization or a political entity or organization.

§ 301.1 Determination of officially-connected purpose. The determination of whether a trip is connected to the traveler's individual duties or presents an appearance that the traveler would be using public office for private gain shall be made, subject to the review of the Committee, in a reasonable manner —

(a) For travel by a Member, by that Member;

(b) For travel by an employee of a personal or leadership office, by the employee's supervising Member;

(c) For travel by an employee on the majority staff of a House committee (including a subcommittee), by the Chair of the full committee for which the individual works;

(d) For travel by an employee on the minority staff of a House committee (including a subcommittee), by either the Chair or Ranking Member of the full committee for which the individual works;

(e) For travel by employees of a nonpartisan House committee, by the Chair of the full committee for which the individual works;

(f) For travel by employees of a joint committee, by the highest-ranking House Member on the committee; and

(g) For travel by an employee of an office that is not supervised by a Member of the House (other than a joint committee), by the House officer under whom the employee works, or if the individual is not supervised by a House officer, by the most senior employee in the office.

§ 301.2 Standards for determining officially-connected purpose. A determination made under this section shall not be deemed reasonable when it has not been made in compliance with House rules, these regulations, or any other applicable law, rule, or regulation. Such determination will remain subject to review and approval by the Committee.

§ 302 Destination. Travel governed by these regulations is permitted to more than one destination during the course of a single trip, subject to the following;

(a) For travel in the Washington, D.C. area., the destination for a trip must be more than 35 miles from the U.S. Capitol building;

(b) For travel in a Member's or employee's own district, the destination must be at least 35 miles from the Member's district office nearest to the destination; or

(c) A House Member or employee may accept an invitation to join a trip in the Member's district that is less than 35 miles from the Member's nearest district office if Members or employees from at least two other districts will be participating in the trip.

§ 302.1 Destination for trips organized with regard to congressional participation. For a trip planned with regard to congressional participation, as defined in § 104(gg), there must be a direct connection between the officially-connected purpose of the trip and the destination(s) of the trip.

§ 302.2 Destination for trips organized without regard to congressional participation. For a trip planned without regard to congressional participation, as defined in § 104(hh), the destination may be any location and the sponsor is not required to state a justification for selecting the destination.

§ 303 Duration of trip. Travel expenses will be approved for only the minimum number of hours and/or days that are reasonably necessary to accomplish the officially-connected purpose of the trip. The maximum allowable length of a trip is determined based upon the type of trip sponsor under § 201.1.

§ 303.1 Maximum duration of trip for U.S. institutions of higher education and trip sponsors that do not employ or retain federal lobbyists or foreign agents. When all sponsors are either U.S. institutions of higher education under § 201.1(a) or entities or individuals that do not employ or retain a federal lobbyist or foreign agent under § 201.1(b), the maximum permissible trip length is:

(a) Four (4) days for trips in the continental United States, including travel time to and from the destination; and

(b) Seven (7) days, excluding any day on which the traveler will spend some portion of the day traveling to, or returning from, the destination for trips outside of the continental United States (including to Alaska, Hawaii, and the possessions of the United States).

§ 303.2 Maximum duration of trip for trip sponsors that employ or retain a federal lobbyist or foreign agent. When any trip sponsor employs or retains a lobbyist or foreign agent under § 201.1(c) the following restrictions apply:

(a) The maximum permissible trip length is one (1) day;

(b) All officially-connected activity must occur on a single calendar day (*i.e.*, from 12:01 a.m. until 11:59 p.m.); and

(c) Except as provided in (d) of this section, the traveler may accept from the trip sponsor only one night's lodging. The night of lodging may be either before or after the day of officially-connected activity.

(d) The Committee may approve a second night's lodging from the trip sponsor on a case-by-case basis, if:

(1) The trip sponsor made an unsolicited offer to pay for a second night's lodging;

(2) The trip sponsor provides a written statement to the Committee justifying why the second night's stay is warranted; and

(3) The second night's lodging is practically required to accomplish the officially-connected purpose of the trip, considering the following factors:

(A) The distance to be traveled;

(B) The availability of transportation to or from trip destination;

(C) Whether the traveler will be participating in a full day's worth of activities prior to the second night; and

(D) Any other factors or circumstances the Committee deems relevant.

§ 303.3 Permissible agenda and scheduled activities. A permissible agenda must demonstrate that the officially-connected activity is the primary purpose of each day of the trip. There is no minimum number of hours of officially-connected activity required each day for Committee approval. Instead, the Committee will assess whether the proposed trip length complies with the requirements of this section by examining:

(a) Whether a substantial amount of officially-connected activity is scheduled on each day of the trip;

(b) The amount of officially-connected activity proposed during the entirety of the trip; and

(c) Whether any portion of a day is spent in travel to or from a trip destination.

§ 304 Acceptable expenses in connection with the trip. House Members and employees may accept the trip sponsor's payment of reasonable expenses for transportation, lodging, food, conference fees and expenses, and miscellaneous expenses (as defined at § 104(p)) necessary to accomplish the officially-connected purpose of the trip. Any other expenses or items accepted during a trip must be permitted under a provision of House Rule 25, clause 5.

§ 305 Basic transportation expenses are permissible. House Members and employees may accept expenses for travel by car, bus, or coach class or business class of commercial air carriers or trains.

§ 305.1 Transportation expenses for higher class of travel. Approval for first class or charter air or train travel paid by the trip sponsor must be sought in writing and approved by the

Committee prior to the trip. The Committee will only grant permission for first class or charter expenses if –

(a) The trip sponsor demonstrates that the cost of such travel does not exceed the cost of available business-class transportation. If an air carrier offers only two classes of travel on the route (*e.g.*, if only economy and first class seats are offered), then first class travel is not permitted, except as otherwise provided in this section or § 305.2;

(b) Such travel is necessary to accommodate a disability or other special need. The Committee may require the traveler to provide substantiation in writing by a competent medical authority of any such condition;

(c) Genuine security circumstances require such travel;

(d) The scheduled travel time, including airport layovers and change of planes, is in excess of 14 hours from takeoff to landing at the trip destination;

(e) The flight begins before midnight and lands after 5 a.m. the following day; or

(f) The Committee determines that exceptional circumstances justify such travel. Exceptional circumstances do not include:

(1) The unavailability of seats in a class other than first class; or

(2) The fact that only first class or charter travel can accommodate the traveler's schedule for events other than the trip for which approval is being sought.

§ 305.2 Upgrades to higher class of travel. Travelers may upgrade themselves from coach or business class to first class, provided such upgrade is made –

(a) Using the traveler's personal funds;

(b) Under the rules of a travel promotional awards program sponsored by an airline, train service, credit card issuer, or a similar program available to the public; or

(c) As permitted by the Federal Election Commission (FEC), using funds from a Member's principal campaign committee for travel by that Member. or for an employee on that Member's personal staff or on the staff of a Committee on which the Member serves.

(d) Funds from a leadership PAC may not be used to pay for an upgrade for travel governed by these regulations.

§ 306 Lodging for trips organized with regard to congressional participation. For trips organized with regard to congressional participation (as defined at § 104(gg)), House Members and employees may accept reasonable expenses for lodging as determined by the Committee.

(a) The trip sponsor must provide the following information:

(1) The name and city of each lodging facility in which House Members or employees will be staying;

(2) The cost per night of each lodging facility identified pursuant to this subsection; and

(3) The reason for selecting each lodging facility identified.

(b) Reasonable expenses for each identified lodging facility will be evaluated by the Committee based on factors such as:

(1) The maximum *per diem* rate allowed for lodging expenditures at the destination permitted by the U.S. Department of State for international official travel or by the General Services Administration for domestic official travel;

(2) The proximity of the facility to the site(s) being visited;

(3) The availability of other facilities that could accommodate the number of participants on the trip or provide adequate conference facilities;

(4) Security concerns;

(5) The special needs of or accommodations required by any trip invitees; and

(6) The recommendations of the United States embassy in a foreign country to be visited on the trip.

§ 306.1 Lodging for trips organized without regard to congressional participation. For trips organized without regard to congressional participation (as defined at § 104(hh)), House Members and employees may accept lodging expenses that are commensurate with what is customarily provided or made available to other, non-congressional event attendees.

§ 307 Acceptable food expenses for trips organized with regard to congressional participation. For trips organized with regard to congressional participation (as defined at § 104(gg)), House Members and employees may accept only reasonable expenses for food as determined by the Committee.

(a) The trip sponsor must provide the estimated daily cost of the meals (or actual cost, if known) to be furnished to each traveler.

(b) Reasonable expenses for meals will be evaluated by the Committee based on factors such as the maximum *per diem* rate allowed for food expenditures at the destination permitted by the U.S. Department of State for international official travel or by the General Services Administration for domestic official travel.

§ 307.1 Food expenses for trips organized without regard to congressional participation. For trips organized without regard to congressional participation (as defined at § 104(hh)), House Members and employees may accept meals in connection with the trip that are commensurate with those provided to, or purchased by, other, non-congressional event attendees.

§ 308 Conference fees and materials. When a trip involves attendance at a conference, briefing, or a similar officially-connected event, each participating House Member or employee may accept from the trip sponsor:

(a) The waiver of any admission fee to the event; and

(b) One set of any informational materials that are provided to other attendees at the event, regardless of whether the materials are in printed or electronic form, such as on a flash drive or DVD. (Members and employees are reminded to consult with House security regarding the acceptance of electronic storage devices from foreign governments or entities.)

§ 308.1 Disclosure of conference fees and materials. The actual cost of any expenses or fees paid or waived by a trip sponsor, or materials provided by a trip sponsor under § 308 must be disclosed as "other expenses" on the Trip Sponsor Form and on the Post-Travel Disclosure Form required pursuant to part 600 of these regulations.

§ 309 Miscellaneous expenses. Each House Member or employee participating in a trip may accept reasonable miscellaneous expenses from the trip sponsor that are necessary to accomplish the officially-connected purpose of the trip but that do not fit into the categories of transportation, food, lodging, or conference fees and materials.

(a) Examples of acceptable miscellaneous expenses include, but are not limited to:

(1) Interpreting services;

(2) Security costs; and

(3) Visa fees.

(b) Permissible miscellaneous expenses do not include any expenses for entertainment or recreational undertakings, such as sightseeing tours unrelated to the official purpose of the trip, concerts, and sporting events, or personal telephone calls.

(c) Travelers may be reimbursed only the actual dollar value of miscellaneous expenses, and may not receive a set *per diem* amount intended to cover such fees.

(d) The cost of any miscellaneous expenses provided pursuant to this provision must be itemized in the "other expenses" section of the Trip Sponsor Form and on the Post-Travel Disclosure Form required pursuant to part 600 of these regulations.

(e) Expenses for any item or service that is not a necessary expense for transportation, food, lodging, conference materials and fees, or permissible miscellaneous expenses

under this section may be accepted only if unsolicited and otherwise permitted by House Rule 25, clause 5 (the gift rule).

§ 310 Extending a trip at personal expense. A traveler may add to a trip additional days that are not paid for by the trip sponsor, but instead are paid for at the traveler's personal expense.

(a) The days at personal expense may precede or follow, or both precede and follow, the officially-connected portion of the trip.

(b) The traveler's intention to add days at personal expense, and the dates of such travel, must be indicated on the Traveler Form.

(c) The number of days and nights at personal expense must be fewer than or equal to the number of days and nights at the expense of the sponsor.

(d) The time spent traveling to or from the destination should be excluded in calculating the time at the sponsor's expense.

(e) Travelers who want to add at personal expense more than the permitted number of days must pay their own return transportation expense, rather than accepting such transportation from the sponsor.

(f) Travelers who will be paying their own return transportation should indicate their intention to do so on the Traveler Form.

(g) The traveler must pay any increase in trip costs caused by extending the trip.

§ 311 Mixed purpose trips. For the most part, trips under this section have a single officially-connected purpose. However, it is possible for a trip to have more than one such purpose, including a personal purpose, a political purpose, or an official purpose.

§ 311.1 Primary purpose of the trip. The House Member or employee seeking approval of a trip must determine the primary purpose of the trip, subject to the review of the Committee. The determination of the primary purpose of a trip must be made in a reasonable manner, and one relevant factor in making that determination is the number of days to be devoted to each purpose. In general, the primary purpose of a trip is the one to which the greater or greatest number of days is devoted.

§ 311.2 Payment of travel expenses for mixed purpose trips. A mixed purpose trip may have multiple sources of funding, such as, a trip sponsor for officially-connected activity, a political committee for campaign activity, the federal government for official business, or the traveler's own funds for personal activities.

(a) The source associated with the primary purpose of the trip must pay for the airfare (or other long-distance transportation expense), and all other travel expenses incurred in accomplishing that primary purpose.

(b) Any additional meal, lodging, or other travel expenses that the House Member or employee incurs in serving a secondary or additional purpose must be paid by the source associated with that additional purpose.

§ 311.3 Mixed purpose trips including use of campaign or official funds. Any mixed purpose trip that is paid in part with campaign funds or House funds must also comply with the rules and regulations of, respectively, the FEC, or the Committee on House Administration.

* * * *

Part 400 – Travelers. This part sets forth the rules regarding House Members and employees, and accompanying individuals, who may accept travel expenses from trip sponsors.

§ 400 House Members or employees as travelers. Any House Member or employee may accept travel expenses from a trip sponsor consistent with the requirements contained in these regulations.

§ 401 Connection to official duties is required. The participation of a House Member or employee in a trip must have a direct connection to the official duties of the traveler. Determination of the connection to the traveler's official duties must have been made in accordance with the requirements of § 301.

§ 401.1 Statements regarding connection to official duties. The required form(s) issued by the Committee require that travelers and trip sponsors each state how participation in the trip is related to the traveler's official duties (as opposed to those of another Member or employee). Specifically:

(a) Each completed Traveler Form must state why participation in the trip is connected to the official duties of the particular House Member or employee seeking approval to accept trip expenses; and

(b) Each trip sponsor must state on the Trip Sponsor Form (or attachment thereto) why each House Member or employee was invited on the trip.

§ 402 Employing Member approval is required. The employing Member of any House employee who has been offered travel expenses must sign the "Advance Authorization of Employee Travel" section of the Traveler Form, in order to certify that the purpose of the trip is connected to the employee's official duties and that the employee's participation in the trip will not create the appearance that the employee is using public office for private gain.

§ 402.1 Employing Member for employees of a personal office. For employees of a Member's personal office, the Advance Authorization of Employee Travel must be signed by that Member.

§ 402.2 Employing Member for employees of a committee. When the traveler is employed by a House committee, the Advance Authorization of Employee Travel must be signed by:

(a) For travelers employed by the majority of a House committee (including a subcommittee), the Chair of the full committee for which the individual works;

(b) For travelers employed by the minority of a House committee (including a subcommittee), either the Chair or Ranking Member of the full committee for which the individual works;

(c) For travelers employed by a nonpartisan House committee, the Chair of the full committee for which the individual works; or

(d) For travelers employed by a joint committee, the highest ranking House Member on the committee.

§ 402.3 Employing Member for employees of other House offices. For travelers employed in a House office for which a Member is not the employing authority, the Advance Authorization of Employee Travel must be signed by the House officer under whom the employee works, or if the individual is not supervised by a House officer, by the most senior employee in the office.

§ 403 Accompaniment by a relative is permitted. A traveler may accept a trip sponsor's unsolicited offer to pay travel expenses for one accompanying relative of the traveler as defined in § 104(x). The trip sponsor may pay for all permissible expenses for the accompanying relative pursuant to the same restrictions applicable to the traveler's expenses under part 300.

§ 403.1 Seeking approval to be accompanied by non-relative. A House Member or employee who wishes to accept an unsolicited offer to be accompanied on a trip at the trip sponsor's expense by an individual who is not a relative as defined in § 104(x) must receive express, written permission from the Committee to accept such expenses prior to the individual's participation in the trip.

§ 403.2 Accompaniment by additional individuals at the traveler's personal expense. The traveler may bring more than one relative, or an individual who is not considered to be a relative under section § 104(x), on the trip provided:

(a) The traveler pays all of the expenses related to the additional individual(s)' participation in the trip with personal or, in the case of Members, principal campaign funds as permitted by the FEC. These expenses include, but are not limited to, transportation, food, lodging, local transportation, admission fees to a conference or other event, and entertainment; and

(b) The trip sponsor approves of the attendance of the additional individual(s) in the trip.

§ 404 Responsibilities of traveler. Any traveler seeking Committee approval to accept travel expenses from a trip sponsor must:

(a) Submit complete and correct Traveler Forms, Trip Sponsor Forms, and accompanying attachments, as required by these regulations;

(b) Respond to requests for clarification or additional information from the Committee;

(c) Present amended forms to the Committee when needed based on changes to the information previously submitted by the traveler or trip sponsor;

(d) Retain a copy of all forms and supporting information provided to the Committee for the period of three subsequent Congresses from the date of travel; and

(e) File the appropriate Post-Travel Disclosure Forms with the Clerk of the House pursuant to part 600 of these regulations.

§ 404.1 Misrepresentations to Committee subject to criminal penalty. Any individual, acting on behalf of a prospective or past traveler, who makes materially false or misleading statements to the Committee concerning a trip that is being offered or was taken pursuant to these regulations may be subject to criminal penalties under the False Statements Act (18 U.S.C. § 1001).

§ 404.2 Notification to Committee of material changes to trip as approved. Any traveler whose participation on a trip has been approved by the Committee must notify the Committee as soon as practicable if there appeared to the traveler to be a material change in the actual trip as it occurred compared to the information provided in the forms submitted to the Committee.

§ 404.3 Cancellation of a trip. If the trip is cancelled by either the sponsor or the traveler, the traveler has the responsibility of so informing the Committee as soon as practicable. At Committee request, this must be done in writing and may be made by facsimile or electronic mail message to a member of the Committee staff.

* * * *

Part 500 – Committee Approval Process. This part sets forth the process for obtaining, and limitations upon, Committee approval of privately-funded, officially-connected travel.

§ 501 Submission to Committee. Each traveler may submit the required forms for approval under § 404(a) to the Committee by hand, facsimile, attachment to an electronic mail message, inside mail, U.S. mail, overnight mail service, or such other means as the Committee may designate.

§ 501.1 Submission deadline is 30 days before trip. The documents required under § 404(a) for Committee approval must be submitted to the Committee at least thirty (30) days prior to the date on which the trip starts (*i.e.*, the thirtieth day should be the day before the actual date of departure). Requests for approval that are submitted less than thirty (30) days before the start of a trip will not be granted unless –

(a) The trip sponsor is a media outlet offering travel in order for the traveler to make a media appearance; or

(b) The Committee deems that exceptional circumstances exist such that the travel request should be granted.

(1) Exceptional circumstances may include an invitation for a Member to speak at an event due to the cancellation of the originally-scheduled speaker less than thirty (30) days before the start of the trip.

(2) Exceptional circumstances do not include the fact that the sponsor failed to extend the invitation more than thirty days (30) before the start of the trip, or the fact that the invited Member or employee failed to submit the request to the Committee fewer than thirty (30) days before the start of a trip.

§ 501.2 Weekend/Holiday due date extension. If the 30-day deadline for submission of a travel approval request falls on a Saturday, Sunday, or federal holiday, then the deadline is extended to the next business day.

§ 502 Traveler Form. The individual completing the Traveler Form (who may be someone other than the traveler) must sign the form, indicating that the information contained on the form is true and correct to the preparer's knowledge pursuant to § 404.1.

§ 503 Trip Sponsor Form. A representative of a trip sponsor must complete and sign the Trip Sponsor Form. The trip sponsor is subject to possible criminal penalties for false statements provided on the Trip Sponsor Form.

(a) For corporate or other private entities, the signatory on the Trip Sponsor Form must be an officer of the sponsoring entity.

(b) The signatory on the Trip Sponsor Form may not be a federal lobbyist or foreign agent.

(c) The trip sponsor must answer every question on the Trip Sponsor Form. Leaving questions blank or providing responses of "none" or "not applicable" are not permitted and will delay or prevent Committee approval.

(d) The trip sponsor must provide the complete Trip Sponsor Form to all invited House Members and employees, to be included with the traveler's submission to the Committee.

(e) Trip sponsors may not directly file the Trip Sponsor Form with the Committee for approval.

(f) For trips with more than one trip sponsor, each trip sponsor must have a representative complete a certification as to the accuracy of the information contained in the Trip Sponsor Form.

§ 503.1 Supporting documentation. If not included on the Trip Sponsor Form itself, the trip sponsor must include the following attachments with the completed Trip Sponsor Form provided to all invited House Members and employees:

(a) A list of all House Members and employees the trip sponsor is inviting to participate in the trip. The list must contain:

(1) The name of the traveler seeking approval for the trip; and

(2) The trip sponsor's reason(s) for inviting each individual.

(b) A detailed, individualized agenda of the trip in which the House Member or employee is seeking to participate. The agenda must include:

(1) The actual or estimated departure time of the traveler's outbound and return travel; and

(2) An hour-by-hour list and description of the activities in which the traveler will be participating on the trip. The general schedule of a public conference or other event does not satisfy the requirement for a traveler's individualized agenda unless the traveler indicates on it the specific activities in which the traveler will be participating.

§ 504 Approval by Ethics Committee. Based on the information provided under these regulations, the Committee will evaluate and approve or deny any request to participate in a trip governed by these regulations.

§ 505 Retroactive approval. Absent exceptional circumstances, the Committee will not grant retroactive approval of any trip governed by these regulations for which the traveler failed to seek or receive approval from the Committee prior to the start of the trip.

(a) Any traveler who participates in a trip without receiving pre-approval from the Committee will be required to repay to the sponsor all expenses incurred due to the traveler's participation in the trip, subject to the rules and limitations of this subsection.

(b) Official funds (committee funds or a Member's Representational Allowance) may be used for reimbursement only if the expenditure is approved by the Committee on House Administration.

(c) Members may use their personal funds for a reimbursement required under this regulation.

(d) Pursuant to House Rule 24, House employees may not use their personal funds to reimburse the expenses of an officially-connected trip.

(e) Provided such expenditure complies with regulations of the FEC, Members may use funds from their principal campaign committee for a reimbursement required under this section for travel undertaken by –

(1) the Member;

(2) an employee in the Member's personal office; or

(3) an employee of a committee on which the Member serves.

(f) Members may not use funds from any other campaign account, including a Leadership PAC or non-federal campaign committee, for a reimbursement required under this section.

§ 506 Denial for previous violations. The Committee may refuse travel being offered by sponsors who have previously violated these regulations or, in the opinion of the Committee, made false or misleading representations to the Committee.

§ 507 Limitations on Committee approval. The following limitations apply to any approval granted by the Committee under these regulations.

(a) Travel approvals are issued only to the specific traveler seeking Committee approval. That approval cannot be relied upon by any other individual or entity.

(b) The legal basis for travel approvals is limited to the Committee's application and interpretation of the House rules. No opinion is expressed or implied herein regarding the application of any other federal, state, or local statute, rule, regulation, ordinance, or other law that may be applicable to the proposed travel.

(c) Travel approvals do not bind or obligate any entity other than the Committee.

(d) Travel approvals are limited in scope to the specific proposed trip described in the materials submitted for approval and do not apply to any other conduct, including that which appears similar in nature or scope to that described the materials.

(e) The Committee will take no adverse action against a traveler in regard to any travel undertaken in good faith reliance upon a travel approval, so long as the traveler presented a complete and accurate statement of all material facts relied upon for the travel approval, and the trip in practice conforms with the information provided during the Committee approval process.

(f) A traveler may not rely on a travel approval if the Committee has not been informed of any and all material changes to the trip by the traveler prior to the trip under § 404.2.

(g) Changes or other developments in the law (including, but not limited to, the Code of Official Conduct, House rules, Committee guidance, advisory opinions, statutes, regulations or case law) may affect the validity of a travel approval.

(h) The Committee reserves the right to reconsider the questions and issues raised in a request for Committee approval and to rescind, modify, or terminate a travel approval if not in compliance with applicable law, rule, or regulation.

(i) The Committee will rescind a travel approval only if relevant and material facts were not completely and accurately disclosed to the Committee at the time the approval was issued.

* * * *

Part 600 – Post-Travel Disclosure.

§ 601 General disclosure rule. Within fifteen (15) days of the return from a trip authorized pursuant to these regulations, the traveler must complete and submit the appropriate Post-Travel Disclosure Form to the Clerk of the House at the Legislative Resource Center.

a) Members and officers must submit a Member/Officer Post-travel Disclosure Form.

b) House employees must submit an Employee Post-Travel Disclosure Form.

§ 601.1 Weekend/Holiday due date extension. If the 15-day due date for Post-Travel Disclosure falls on a Saturday, Sunday, or federal holiday, then the due date is extended to the next business day.

§ 602 Supporting documentation. Each Post-Travel Disclosure Form must include copies of the following:

c) The Traveler Form submitted to the Committee prior to the trip;

d) The Trip Sponsor Form and Grantmaking and Non-Grantmaking Sponsor Forms (if applicable) submitted to the Committee prior to the trip;

e) The list of House Members and employees who were invited, or, in the alternative, the list of House Members and employees who actually participated in the trip;

f) The actual agenda and description of activities in which the traveler participated during the trip;

g) A copy of the approval letter or other written communication from the Committee authorizing the traveler's participation in the trip; and

h) A copy of the Sponsor Post-Travel Disclosure Form, certifying the actual costs incurred by the traveler.

§ 603 Certification of expenses. Each Member/Officer- or Employee Post-Travel Disclosure Form must include a Sponsor Post-Travel Disclosure Form that indicates the actual dollar value of all expenses paid or reimbursed by the trip sponsor for the traveler.

(a) If actual dollar amounts are not available within fifteen (15) days of the traveler's return from a trip, the trip sponsor may use good faith estimates of the trip expenses, and should indicate on the form that the provided amounts are estimates rather than actual dollar amounts.

(b) When good faith estimates are used on a Sponsor Post-Travel Disclosure Form, the traveler must file an amended Post-Travel Disclosure Form attaching a Sponsor Post-Travel Disclosure Form that lists the actual dollar value of expenses as soon as practicable once it is received from the trip sponsor.

§ 603.1 Sponsor Post-Travel Disclosure Form. Within ten (10) days of the return of a House Member or employee from a trip, the trip sponsor must provide to that Member or employee a Sponsor Post-Travel Disclosure Form, as appropriate, providing, and certifying as to the accuracy of the information required on that form, including the actual expenses paid on behalf of the traveler.

§ 603.2 Member/Officer Post–Travel Disclosure Form. The Member/Officer Post-Travel Disclosure Form must –

(a) be signed by the Member or officer who participated in the trip, certifying that the purpose of the trip was connected to traveler's official duties and that participation in the trip will not create the appearance that the traveler used public office for private gain; and

(b) attach a completed Sponsor Post-Travel Form that includes the actual costs paid, reimbursed, or otherwise incurred by the trip sponsor in connection with the participation of the traveler, and any accompanying relative of the traveler, in the trip. If the trip sponsor fails to complete a Sponsor Post-Travel Form, or if actual costs are unavailable, prior to the date the form must be filed pursuant to these regulations, the trip sponsor or traveler may use good faith estimates of the costs, provided that, as soon as practicable, the traveler files an amended, completed Post-Travel Disclosure Form, as required by § 603(b).

§ 603.3 House Employee Post-Travel Disclosure Form. The Employee Post-Travel Disclosure Form must –

a) be signed by the employee's employing Member, as defined in § 402, certifying that the travel was authorized in advance, that all the expenses listed are necessary, that the travel was in connection with the employee's official duties and will not create the appearance that the traveler used public office for private gain; and

b) attach a completed Sponsor Post-Travel Form that includes the actual costs paid, reimbursed, or otherwise incurred by the trip sponsor in connection the participation of the traveler, and any accompanying relative of the traveler, in the trip. If the trip sponsor fails to complete a Sponsor Post-Travel Form, or if actual costs are unavailable prior to the date the form must be filed pursuant to these regulations, the trip sponsor or traveler may use good faith estimates of the costs, provided that, as soon as practicable, the traveler files an amended, completed Post-Travel Disclosure Form, as required by § 603(b).

§ 604 Differences from prior submissions. Any differences in fact from the Traveler and Trip Sponsor Forms submitted prior to Committee approval must be explained in detail on the Member/Officer or Employee Post-Travel Disclosure Form submitted in reference to the trip. Such differences may include, but are not limited to, changes in transportation arrangements such as changes in class or mode of transportation, the agenda, or the duration of the trip.

§ 605 Financial Disclosure Statement. All Members and any House employee who is required to file a financial disclosure statement pursuant to the Ethics in Government Act (EIGA)

(5 U.S.C. app. 4 §§ 101 *et seq.*) must disclose on Schedule VII any trip authorized under these regulations for which the Member or employee accepted more than $350 of trip expenses, cumulatively, for travel by themselves or any accompanying individual.

* * * *

The Committee reviews the regulations on an ongoing basis and welcomes feedback from the House community. If you have any questions or comments about the revised regulations, please contact the Committee's Advice and Education staff at (202) 225-7103.

APPENDIX II

RULES

COMMITTEE ON ETHICS

Adopted February 15, 2011
112th Congress

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

COMMITTEE ON ETHICS

UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

JO BONNER, Alabama, *Chairman*
MICHAEL T. MCCAUL, Texas
K. MICHAEL CONAWAY, Texas
CHARLES W. DENT, Pennsylvania
GREGG HARPER, Mississippi

LINDA T. SÁNCHEZ, California, *Ranking Member*
MAZIE K. HIRONO, Hawaii
JOHN A. YARMUTH, Kentucky
DONNA F. EDWARDS, Maryland
PEDRO R. PIERLUISI, Puerto Rico

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FOREWORD

The Committee on Ethics is unique in the House of Representatives. Consistent with the duty to carry out its advisory and enforcement responsibilities in an impartial manner, the Committee is the only standing committee of the House of Representatives the membership of which is divided evenly by party. These rules are intended to provide a fair procedural framework for the conduct of the Committee's activities and to help ensure that the Committee serves well the people of the United States, the House of Representatives, and the Members, officers, and employees of the House of Representatives.

PART I—GENERAL COMMITTEE RULES

Rule 1. General Provisions

(a) So far as applicable, these rules and the Rules of the House of Representatives shall be the rules of the Committee and any subcommittee. The Committee adopts these rules under the authority of clause 2(a)(1) of Rule XI of the Rules of the House of Representatives, 112th Congress.

(b) The rules of the Committee may be modified, amended, or repealed by a vote of a majority of the Committee.

(c) When the interests of justice so require, the Committee, by a majority vote of its members, may adopt any special procedures, not inconsistent with these rules, deemed necessary to resolve a particular matter before it. Copies of such special procedures shall be furnished to all parties in the matter.

(d) The Chair and Ranking Minority Member shall have access to such information that they request as necessary to conduct Committee business.

Rule 2. Definitions

(a) "Committee" means the Committee on Ethics.

(b) "Complaint" means a written allegation of improper conduct against a Member, officer, or employee of the House of Representatives filed with the Committee with the intent to initiate an inquiry.

(c) "Inquiry" means an investigation by an investigative subcommittee into allegations against a Member, officer, or employee of the House of Representatives.

(d) "Investigate," "Investigating," and/or "Investigation" mean review of the conduct of a Member, officer or employee of the House of Representatives that is conducted or authorized by the Committee, an investigative subcommittee, or the Chair and Ranking Minority Member of the Committee.

(e) "Board" means the Board of the Office of Congressional Ethics.

(f) "Referral" means a report sent to the Committee from the Board pursuant to House Rules and all applicable House Resolutions regarding the conduct of a House Member, officer or employee, including any accompanying findings or other supporting documentation.

(g) "Investigative Subcommittee" means a subcommittee designated pursuant to Rule 19(a) to conduct an inquiry to determine if a Statement of Alleged Violation should be issued.

(h) "Statement of Alleged Violation" means a formal charging document filed by an investigative subcommittee with the Committee containing specific allegations against a Member, officer, or employee of the House of Representatives of a violation of the Code of

Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities.

(i) "Adjudicatory Subcommittee" means a subcommittee designated pursuant to Rule 23(a) that holds an adjudicatory hearing and determines whether the counts in a Statement of Alleged Violation are proved by clear and convincing evidence.

(j) "Sanction Hearing" means a Committee hearing to determine what sanction, if any, to adopt or to recommend to the House of Representatives.

(k) "Respondent" means a Member, officer, or employee of the House of Representatives who is the subject of a complaint filed with the Committee or who is the subject of an inquiry or a Statement of Alleged Violation.

(l) "Office of Advice and Education" refers to the Office established by section 803(i) of the Ethics Reform Act of 1989. The Office handles inquiries; prepares written opinions in response to specific requests; develops general guidance; and organizes seminars, workshops, and briefings for the benefit of the House of Representatives.

(m) "Member" means a Representative in, or a Delegate to, or the Resident Commissioner to, the U.S. House of Representatives.

Rule 3. Advisory Opinions and Waivers

(a) The Office of Advice and Education shall handle inquiries; prepare written opinions providing specific advice, including reviews of requests for privately-sponsored travel pursuant to the Committee's travel regulations; develop general guidance; and organize seminars, workshops, and briefings for the benefit of the House of Representatives.

(b) Any Member, officer, or employee of the House of Representatives may request a written opinion with respect to the propriety of any current or proposed conduct of such Member, officer, or employee.

(c) The Office of Advice and Education may provide information and guidance regarding laws, rules, regulations, and other standards of conduct applicable to Members, officers, and employees in the performance of their duties or the discharge of their responsibilities.

(d) In general, the Committee shall provide a written opinion to an individual only in response to a written request, and the written opinion shall address the conduct only of the inquiring individual, or of persons for whom the inquiring individual is responsible as employing authority.

(e) A written request for an opinion shall be addressed to the Chair of the Committee and shall include a complete and accurate statement of the relevant facts. A request shall be signed by the requester or the requester's authorized representative or employing authority. A representative shall disclose to the Committee the identity of the principal on whose behalf advice is being sought.

(f) Requests for privately-sponsored travel shall be treated like any other request for a written opinion for purposes of paragraphs (g) through (l).

(1) The Committee's Travel Guidelines and Regulations shall govern the request submission and Committee approval process for privately-sponsored travel consistent with House Rules.

(2) A request for privately-sponsored travel of a Member, officer, or employee shall include a completed and signed Traveler Form that attaches the Private Sponsor

Certification Form and includes all information required by the Committee's travel regulations. A private sponsor offering officially-connected travel to a Member, officer, or employee must complete and sign a Private Sponsor Certification Form, and provide a copy of that form to the invitee(s).

(3) Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file a Traveler Form or Private Sponsor Certification Form may be subject to civil penalties and criminal sanctions pursuant to 18 U.S.C. § 1001.

(g) The Office of Advice and Education shall prepare for the Committee a response to each written request for an opinion from a Member, officer, or employee. Each response shall discuss all applicable laws, rules, regulations, or other standards.

(h) Where a request is unclear or incomplete, the Office of Advice and Education may seek additional information from the requester.

(i) The Chair and Ranking Minority Member are authorized to take action on behalf of the Committee on any proposed written opinion that they determine does not require consideration by the Committee. If the Chair or Ranking Minority Member requests a written opinion, or seeks a waiver, extension, or approval pursuant to Rules 3(m), 4(c), 4(e), or 4(h), the next ranking member of the requester's party is authorized to act in lieu of the requester.

(j) The Committee shall keep confidential any request for advice from a Member, officer, or employee, as well as any response thereto. Upon request of any Member, officer, or employee who has submitted a written request for an opinion or submitted a request for privately-sponsored travel, the Committee may release to the requesting individual a copy of their own written request for advice or submitted travel forms, any subsequent written

communications between such individual and Committee staff regarding the request, and any Committee advisory opinion or travel letter issued to that individual in response. The Committee shall not release any internal Committee staff work product, communications or notes in response to such a request, except as authorized by the Committee.

(k) The Committee may take no adverse action in regard to any conduct that has been undertaken in reliance on a written opinion if the conduct conforms to the specific facts addressed in the opinion.

(l) Information provided to the Committee by a Member, officer, or employee seeking advice regarding prospective conduct may not be used as the basis for initiating an investigation under clause 3(a)(2) or clause 3(b) of Rule XI of the Rules of the House of Representatives, if such Member, officer, or employee acts in good faith in accordance with the written advice of the Committee.

(m) A written request for a waiver of clause 5 of House Rule XXV (the House gift rule), or for any other waiver or approval, shall be treated in all respects like any other request for a written opinion.

(n) A written request for a waiver of clause 5 of House Rule XXV (the House gift rule) shall specify the nature of the waiver being sought and the specific circumstances justifying the waiver.

(o) An employee seeking a waiver of time limits applicable to travel paid for by a private source shall include with the request evidence that the employing authority is aware of the request. In any other instance where proposed employee conduct may reflect on the performance of official duties, the Committee may require that the requester submit evidence that the employing authority knows of the conduct.

Rule 4. Financial Disclosure

(a) In matters relating to Title I of the Ethics in Government Act of 1978, the Committee shall coordinate with the Clerk of the House of Representatives, Legislative Resource Center, to assure that appropriate individuals are notified of their obligation to file Financial Disclosure Statements and that such individuals are provided in a timely fashion with filing instructions and forms developed by the Committee.

(b) The Committee shall coordinate with the Legislative Resource Center to assure that information that the Ethics in Government Act requires to be placed on the public record is made public.

(c) Any Financial Disclosure Reports filed by Members of the Board of the Office of Congressional Ethics that are forwarded to the Committee by the Clerk shall not be subject to paragraphs (d) through (q) of this Rule regarding Financial Disclosure Statements filed pursuant to Title I of the Ethics in Government Act of 1978. The Office of Congressional Ethics retains jurisdiction over review of the timeliness and completeness of filings by Members of the Board as the Board's supervising ethics office.

(d) The Chair and Ranking Minority Member are authorized to grant on behalf of the Committee requests for reasonable extensions of time for the filing of Financial Disclosure Statements. Any such request must be received by the Committee no later than the date on which the Statement in question is due. A request received after such date may be granted by the Committee only in extraordinary circumstances. Such extensions for one individual in a calendar year shall not exceed a total of 90 days. No extension shall be granted authorizing a nonincumbent candidate to file a statement later than 30 days prior to a primary or general election in which the candidate is participating.

(e) An individual who takes legally sufficient action to withdraw as a candidate before the date on which that individual's Financial Disclosure Statement is due under the Ethics in Government Act shall not be required to file a Statement. An individual shall not be excused from filing a Financial Disclosure Statement when withdrawal as a candidate occurs after the date on which such Statement was due.

(f) Any individual who files a report required to be filed under Title I of the Ethics in Government Act more than 30 days after the later of—

(1) the date such report is required to be filed, or

(2) if a filing extension is granted to such individual, the last day of the filing extension period, is required by such Act to pay a late filing fee of $200. The Chair and Ranking Minority Member are authorized to approve requests that the fee be waived based on extraordinary circumstances.

(g) Any late report that is submitted without a required filing fee shall be deemed procedurally deficient and not properly filed.

(h) The Chair and Ranking Minority Member are authorized to approve requests for waivers of the aggregation and reporting of gifts as provided by section 102(a)(2)(C) of the Ethics in Government Act. If such a request is approved, both the incoming request and the Committee response shall be forwarded to the Legislative Resource Center for placement on the public record.

(i) The Chair and Ranking Minority Member are authorized to approve blind trusts as qualifying under section 102(f)(3) of the Ethics in Government Act. The correspondence relating to formal approval of a blind trust, the trust document, the list of assets transferred to

the trust, and any other documents required by law to be made public, shall be forwarded to the Legislative Resource Center for such purpose.

(j) The Committee shall designate staff counsel who shall review Financial Disclosure Statements and, based upon information contained therein, indicate in a form and manner prescribed by the Committee whether the Statement appears substantially accurate and complete and the filer appears to be in compliance with applicable laws and rules.

(k) Each Financial Disclosure Statement shall be reviewed within 60 days after the date of filing.

(l) If the reviewing counsel believes that additional information is required because (1) the Statement appears not substantially accurate or complete, or (2) the filer may not be in compliance with applicable laws or rules, then the reporting individual shall be notified in writing of the additional information believed to be required, or of the law or rule with which the reporting individual does not appear to be in compliance. Such notice shall also state the time within which a response is to be submitted. Any such notice shall remain confidential.

(m) Within the time specified, including any extension granted in accordance with clause (d), a reporting individual who concurs with the Committee's notification that the Statement is not complete, or that other action is required, shall submit the necessary information or take appropriate action. Any amendment may be in the form of a revised Financial Disclosure Statement or an explanatory letter addressed to the Clerk of the House of Representatives.

(n) Any amendment shall be placed on the public record in the same manner as other Statements. The individual designated by the Committee to review the original Statement shall review any amendment thereto.

(o) Within the time specified, including any extension granted in accordance with clause (d), a reporting individual who does not agree with the Committee that the Statement is deficient or that other action is required, shall be provided an opportunity to respond orally or in writing. If the explanation is accepted, a copy of the response, if written, or a note summarizing an oral response, shall be retained in Committee files with the original report.

(p) The Committee shall be the final arbiter of whether any Statement requires clarification or amendment.

(q) If the Committee determines, by vote of a majority of its members, that there is reason to believe that an individual has willfully failed to file a Statement or has willfully falsified or willfully failed to file information required to be reported, then the Committee shall refer the name of the individual, together with the evidence supporting its finding, to the Attorney General pursuant to section 104(b) of the Ethics in Government Act. Such referral shall not preclude the Committee from initiating such other action as may be authorized by other provisions of law or the Rules of the House of Representatives.

Rule 5. Meetings

(a) The regular meeting day of the Committee shall be the second Tuesday of each month, except when the House of Representatives is not meeting on that day. When the Committee Chair determines that there is sufficient reason, meetings may be called on additional days. A regularly scheduled meeting need not be held when the Chair determines there is no business to be considered.

(b) The Chair shall establish the agenda for meetings of the Committee and the Ranking Minority Member may place additional items on the agenda.

(c) All meetings of the Committee or any subcommittee shall occur in executive session unless the Committee or subcommittee, by an affirmative vote of a majority of its members, opens the meeting to the public.

(d) Any hearing held by an adjudicatory subcommittee or any sanction hearing held by the Committee shall be open to the public unless the Committee or subcommittee, by an affirmative vote of a majority of its members, closes the hearing to the public.

(e) A subcommittee shall meet at the discretion of its Chair.

(f) Insofar as practicable, notice for any Committee or subcommittee meeting shall be provided at least seven days in advance of the meeting. The Chair of the Committee or subcommittee may waive such time period for good cause.

Rule 6. Committee Staff

(a) The staff is to be assembled and retained as a professional, nonpartisan staff.

(b) Each member of the staff shall be professional and demonstrably qualified for the position for which the individual is hired.

(c) The staff as a whole and each individual member of the staff shall perform all official duties in a nonpartisan manner.

(d) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(e) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to the employment or duties with the Committee of such individual without specific prior approval from the Chair and Ranking Minority Member.

(f) All staff members shall be appointed by an affirmative vote of a majority of the members of the Committee. Such vote shall occur at the first meeting of the membership of the Committee during each Congress and as necessary during the Congress.

(g) Subject to the approval of the Committee on House Administration, the Committee may retain counsel not employed by the House of Representatives whenever the Committee determines, by an affirmative vote of a majority of the members of the Committee, that the retention of outside counsel is necessary and appropriate.

(h) If the Committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(i) Outside counsel may be dismissed prior to the end of a contract between the Committee and such counsel only by a majority vote of the members of the Committee.

(j) In addition to any other staff provided for by law, rule, or other authority, with respect to the Committee, the Chair and Ranking Minority Member each may appoint one individual as a shared staff member from the respective personal staff of the Chair or Ranking Minority Member to perform service for the Committee. Such shared staff may assist the Chair or Ranking Minority Member on any subcommittee on which the Chair or Ranking Minority Member serves. Only paragraphs (c) and (e) of this Rule and Rule 7(b) shall apply to shared staff.

Rule 7. Confidentiality

(a) Before any Member or employee of the Committee, including members of an investigative subcommittee selected under clause 5(a)(4) of Rule X of the House of Representatives and shared staff designated pursuant to Committee Rule 6(j), may have

access to information that is confidential under the rules of the Committee, the following oath (or affirmation) shall be executed in writing:

"I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Ethics, any information received in the course of my service with the Committee, except as authorized by the Committee or in accordance with its rules."

Copies of the executed oath shall be provided to the Clerk of the House as part of the records of the House. Breaches of confidentiality shall be investigated by the Committee and appropriate action shall be taken.

(b) No member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the Committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the Committee.

(c) Committee members and staff shall not disclose any evidence relating to an investigation to any person or organization outside the Committee unless authorized by the Committee.

(d) Members and staff of the Committee shall not disclose to any person or organization outside the Committee, unless authorized by the Committee, any information regarding the Committee's or a subcommittee's investigative, adjudicatory or other proceedings, including but not limited to: (i) the fact or nature of any complaints; (ii) executive session proceedings; (iii) information pertaining to or copies of any Committee or subcommittee report, study or other document which purports to express the views, findings, conclusions or recommendations of the Committee or subcommittee in connection with any of its activities or proceedings; or (iv) any other information or allegation respecting the

conduct of a Member, officer or employee of the House. This rule shall not prohibit the Chair or Ranking Minority Member from disclosing to the Board of the Office of Congressional Ethics the existence of a Committee investigation, the name of the Member, officer or employee of the House who is the subject of that investigation, and a brief statement of the scope of that investigation in a written request for referral pursuant to Rule 17A(k). Such disclosures will only be made subject to written confirmation from the Board that the information provided by Chair or Ranking Minority Member will be kept confidential by the Board.

(e) Except as otherwise specifically authorized by the Committee, no Committee member or staff member shall disclose to any person outside the Committee, the name of any witness subpoenaed to testify or to produce evidence.

(f) Except as provided in Rule 17A, the Committee shall not disclose to any person or organization outside the Committee any information concerning the conduct of a respondent until it has transmitted a Statement of Alleged Violation to such respondent and the respondent has been given full opportunity to respond pursuant to Rule 22. The Statement of Alleged Violation and any written response thereto shall be made public at the first meeting or hearing on the matter that is open to the public after such opportunity has been provided. Any other materials in the possession of the Committee regarding such statement may be made public as authorized by the Committee to the extent consistent with the Rules of the House of Representatives. If no public hearing is held on the matter, the Statement of Alleged Violation and any written response thereto shall be included in the Committee's final report on the matter to the House of Representatives.

(g) Unless otherwise determined by a vote of the Committee, only the Chair or Ranking Minority Member of the Committee, after consultation with each other, may make public statements regarding matters before the Committee or any subcommittee.

(h) The Committee may establish procedures necessary to prevent the unauthorized disclosure of any testimony or other information received by the Committee or its staff.

Rule 8. Subcommittees—General Policy and Structure

(a) Notwithstanding any other provision of these Rules, the Chair and Ranking Minority Member of the Committee may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to evidence and information before a subcommittee with whom they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee. Except for the Chair and Ranking Minority Member of the Committee pursuant to this paragraph, evidence in the possession of an investigative subcommittee shall not be disclosed to other Committee members except by a vote of the subcommittee.

(b) The Committee may establish other noninvestigative and nonadjudicatory subcommittees and may assign to them such functions as it may deem appropriate. The membership of each subcommittee shall provide equal representation for the majority and minority parties.

(c) The Chair may refer any bill, resolution, or other matter before the Committee to an appropriate subcommittee for consideration. Any such bill, resolution, or other matter may be discharged from the subcommittee to which it was referred by a majority vote of the Committee.

(d) Any member of the Committee may sit with any noninvestigative or nonadjudicatory subcommittee, but only regular members of such subcommittee may vote on any matter before that subcommittee.

Rule 9. Quorums and Member Disqualification

(a) The quorum for an investigative subcommittee to take testimony and to receive evidence shall be two members, unless otherwise authorized by the House of Representatives.

(b) The quorum for an adjudicatory subcommittee to take testimony, receive evidence, or conduct business shall consist of a majority plus one of the members of the adjudicatory subcommittee.

(c) Except as stated in clauses (a) and (b) of this rule, a quorum for the purpose of conducting business consists of a majority of the members of the Committee or subcommittee.

(d) A member of the Committee shall be ineligible to participate in any Committee or subcommittee proceeding in which such Member is the respondent.

(e) A member of the Committee may seek disqualification from participating in any investigation of the conduct of a Member, officer, or employee of the House of Representatives upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision. If the Committee approves and accepts such affidavit of disqualification, the Chair shall so notify the Speaker and ask the Speaker to designate a Member of the House of Representatives from the same political party as the disqualified member of the Committee to

act as a member of the Committee in any Committee proceeding relating to such investigation.

Rule 10. Vote Requirements

(a) The following actions shall be taken only upon an affirmative vote of a majority of the members of the Committee or subcommittee, as appropriate:

(1) Issuing a subpoena.

(2) Adopting a full Committee motion to create an investigative subcommittee.

(3) Adopting or amending of a Statement of Alleged Violation.

(4) Finding that a count in a Statement of Alleged Violation has been proved by clear and convincing evidence.

(5) Sending a letter of reproval.

(6) Adopting a recommendation to the House of Representatives that a sanction be imposed.

(7) Adopting a report relating to the conduct of a Member, officer, or employee.

(8) Issuing an advisory opinion of general applicability establishing new policy.

(b) Except as stated in clause (a), action may be taken by the Committee or any subcommittee thereof by a simple majority, a quorum being present.

(c) No motion made to take any of the actions enumerated in clause (a) of this Rule may be entertained by the Chair unless a quorum of the Committee is present when such motion is made.

Rule 11. Committee Records

(a) All communications and all pleadings pursuant to these rules shall be filed with the Committee at the Committee's office or such other place as designated by the Committee.

(b) All records of the Committee which have been delivered to the Archivist of the United States shall be made available to the public in accordance with Rule VII of the Rules of the House of Representatives.

Rule 12. Broadcasts of Committee and Subcommittee Proceedings

(a) Television or radio coverage of a Committee or subcommittee hearing or meeting shall be without commercial sponsorship.

(b) Not more than four television cameras, operating from fixed positions, shall be permitted in a hearing or meeting room. The Committee may allocate the positions of permitted television cameras among the television media in consultation with the Executive Committee of the Radio and Television Correspondents' Galleries.

(c) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the Committee, or the visibility of that witness and that member to each other.

(d) Television cameras shall not be placed in positions that unnecessarily obstruct the coverage of the hearing or meeting by the other media.

PART II—INVESTIGATIVE AUTHORITY

Rule 13. House Resolution

Whenever the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation, the provisions of the resolution, in conjunction with these Rules, shall govern. To the extent the provisions of the resolution differ from these Rules, the resolution shall control.

Rule 14. Committee Authority to Investigate—General Policy

(a) Pursuant to clause 3(b) of Rule XI of the Rules of the House of Representatives, the Committee may exercise its investigative authority when:

(1) information offered as a complaint by a Member of the House of Representatives is transmitted directly to the Committee;

(2) information offered as a complaint by an individual not a Member of the House is transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee;

(3) the Committee, on its own initiative, undertakes an investigation;

(4) a Member, officer, or employee is convicted in a Federal, State, or local court of a felony;

(5) the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation; or

(6) a referral from the Board is transmitted to the Committee.

(b) The Committee also has investigatory authority over:

(1) certain unauthorized disclosures of intelligence-related information, pursuant to House Rule X, clauses 11(g)(4) and (g)(5); or

(2) reports received from the Office of the Inspector General pursuant to House Rule II, clause 6(c)(5).

Rule 15. Complaints

(a) A complaint submitted to the Committee shall be in writing, dated, and properly verified (a document will be considered properly verified where a notary executes it with the

language, "Signed and sworn to (or affirmed) before me on (date) by (the name of the person)" setting forth in simple, concise, and direct statements—

(1) the name and legal address of the party filing the complaint (hereinafter referred to as the "complainant");

(2) the name and position or title of the respondent;

(3) the nature of the alleged violation of the Code of Official Conduct or of other law, rule, regulation, or other standard of conduct applicable to the performance of duties or discharge of responsibilities; and

(4) the facts alleged to give rise to the violation. The complaint shall not contain innuendo, speculative assertions, or conclusory statements.

(b) Any documents in the possession of the complainant that relate to the allegations may be submitted with the complaint.

(c) Information offered as a complaint by a Member of the House of Representatives may be transmitted directly to the Committee.

(d) Information offered as a complaint by an individual not a Member of the House may be transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee.

(e) A complaint must be accompanied by a certification, which may be unsworn, that the complainant has provided an exact copy of the filed complaint and all attachments to the respondent.

(f) The Committee may defer action on a complaint against a Member, officer, or employee of the House of Representatives when the complaint alleges conduct that the

Committee has reason to believe is being reviewed by appropriate law enforcement or regulatory authorities, or when the Committee determines that it is appropriate for the conduct alleged in the complaint to be reviewed initially by law enforcement or regulatory authorities.

(g) A complaint may not be amended without leave of the Committee. Otherwise, any new allegations of improper conduct must be submitted in a new complaint that independently meets the procedural requirements of the Rules of the House of Representatives and the Committee's Rules.

(h) The Committee shall not accept, and shall return to the complainant, any complaint submitted within the 60 days prior to an election in which the subject of the complaint is a candidate.

(i) The Committee shall not consider a complaint, nor shall any investigation be undertaken by the Committee, of any alleged violation which occurred before the third previous Congress unless the Committee determines that the alleged violation is directly related to an alleged violation which occurred in a more recent Congress.

Rule 16. Duties of Committee Chair and Ranking Minority Member

(a) Whenever information offered as a complaint is submitted to the Committee, the Chair and Ranking Minority Member shall have 14 calendar days or 5 legislative days, whichever occurs first, to determine whether the information meets the requirements of the Committee's rules for what constitutes a complaint.

(b) Whenever the Chair and Ranking Minority Member jointly determine that information submitted to the Committee meets the requirements of the Committee's rules for what constitutes a complaint, they shall have 45 calendar days or 5 legislative days,

whichever is later, after the date that the Chair and Ranking Minority Member determine that information filed meets the requirements of the Committee's rules for what constitutes a complaint, unless the Committee by an affirmative vote of a majority of its members votes otherwise, to –

(1) recommend to the Committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(2) establish an investigative subcommittee; or

(3) request that the Committee extend the applicable 45-calendar day period when they determine more time is necessary in order to make a recommendation under paragraph (1) or (2) of Rule 16(b).

(c) The Chair and Ranking Minority Member may jointly gather additional information concerning alleged conduct which is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or the Chair or Ranking Minority Member has placed on the agenda the issue of whether to establish an investigative subcommittee.

(d) If the Chair and Ranking Minority Member jointly determine that information submitted to the Committee meets the requirements of the Committee rules for what constitutes a complaint, and the complaint is not disposed of within 45 calendar days or 5 legislative days, whichever is later, and no additional 45-day extension is made, then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. If at any time during the time period

either the Chair or Ranking Minority Member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the Committee.

(e) Whenever the Chair and Ranking Minority Member jointly determine that information submitted to the Committee does not meet the requirements for what constitutes a complaint set forth in the Committee rules, they may (1) return the information to the complainant with a statement that it fails to meet the requirements for what constitutes a complaint set forth in the Committee's rules; or (2) recommend to the Committee that it authorize the establishment of an investigative subcommittee.

Rule 17. Processing of Complaints

(a) If a complaint is in compliance with House and Committee Rules, a copy of the complaint and the Committee Rules shall be forwarded to the respondent within 5 days with notice that the complaint conforms to the applicable rules.

(b) The respondent may, within 30 days of the Committee's notification, provide to the Committee any information relevant to a complaint filed with the Committee. The respondent may submit a written statement in response to the complaint. Such a statement shall be signed by the respondent. If the statement is prepared by counsel for the respondent, the respondent shall sign a representation that the respondent has reviewed the response and agrees with the factual assertions contained therein.

(c) The Committee staff may request information from the respondent or obtain additional information relevant to the case from other sources prior to the establishment of an investigative subcommittee only when so directed by the Chair and Ranking Minority Member.

(d) The respondent shall be notified in writing regarding the Committee's decision either to dismiss the complaint or to create an investigative subcommittee.

Rule 17A. Referrals from the Board of the Office of Congressional Ethics

(a) The Committee has exclusive jurisdiction over the interpretation, administration, and enforcement of the Code of Official Conduct pursuant to clause 1(g) of House Rule X. Receipt of referrals from the Board under this rule does not limit the Committee's discretion to address referrals in any way through the appropriate procedures authorized by Committee Rules. The Committee shall review the report and findings transmitted by the Board without prejudice or presumptions as to the merit of the allegations.

(b)(1) Whenever the Committee receives either (A) a referral containing a written report and any findings and supporting documentation from the Board; or (B) a referral from the Board pursuant to a request under Rule 17A(k), the Chair shall have 45 calendar days or 5 legislative days after the date the referral is received, whichever is later, to make public the report and findings of the Board unless the Chair and Ranking Minority Member jointly decide, or the Committee votes, to withhold such information for not more than one additional 45-day period.

(2) At least one calendar day before the Committee makes public any report and findings of the Board the Chair shall notify in writing the Board and the Member, officer, or employee who is the subject of the referral of the impending public release of these documents. At the same time, Chair shall transmit a copy of any public statement on the Committee's disposition of the matter and any accompanying Committee report to the individual who is the subject of the referral.

(3) All public statements and reports and findings of the Board that are required to be made public under this Rule shall be posted on the Committee's website.

(c) If the OCE report and findings are withheld for an additional 45-day period pursuant to paragraph (b)(1), Chair shall—

(1) make a public statement that the Committee has decided or voted to extend the matter referred from the Board on the day of such decision or vote; and

(2) make public the written report and findings pursuant to paragraph (b) upon the termination of such additional period.

(d) If the Board transmits a report with a recommendation to dismiss or noting a matter as unresolved due to a tie vote, and the Committee votes to extend the matter for an additional period as provided in paragraph (b), the Committee is not required to make a public statement that the Committee has voted to extend the matter pursuant to paragraph (b)(1).

(e) If the Committee votes to dismiss a matter referred from the Board, the Committee is not required to make public the written report and findings of the Board pursuant to paragraph (c) unless the Committee's vote is inconsistent with the recommendation of the Board. A vote by the Committee to dismiss a matter is not considered inconsistent with a report from the Board that the matter is unresolved by the Board due to a tie vote.

(f) Except as provided by paragraph (g):

(1) If the Committee establishes an investigative subcommittee respecting any matter referred by the Board, then the report and findings of the Board shall not be made public until the conclusion of the investigative subcommittee process pursuant to Rule 19. The

Committee shall issue a public statement noting the establishment of an investigative subcommittee, which shall include the name of the Member, officer, or employee who is the subject of the inquiry, and shall set forth the alleged violation.

(2) If any such investigative subcommittee does not conclude its review within one year after the Board's referral, then the Committee shall make public the report of the Board no later than one year after the referral. If the investigative subcommittee does not conclude its review before the end of the Congress in which the report of the Board is made public, the Committee shall make public any findings of the Board on the last day of that Congress.

(g) If the vote of the Committee is a tie or the Committee fails to act by the close of any applicable period(s) under this rule, the report and the findings of the Board shall be made public by the Committee, along with a public statement by the Chair explaining the status of the matter.

(h)(1) If the Committee agrees to a request from an appropriate law enforcement or regulatory authority to defer taking action on a matter referred by the Board under paragraph (b) –

(A) The Committee is not required to make public the written report and findings of the Board pursuant to paragraph (c), except that if the recommendation of the Board is that the matter requires further review, the Committee shall make public the written report of the Board but not the findings; and

(B) The Committee shall make a public statement that it is deferring taking action on the matter at the request of such law enforcement or regulatory authority within one day (excluding weekends and public holidays) of the day that the Committee agrees to the request.

(2) If the Committee has not acted on the matter within one year of the date the public statement described in paragraph (h)(1)(B) is released, the Committee shall make a public statement that it continues to defer taking action on the matter. The Committee shall make a new statement upon the expiration of each succeeding one-year period during which the Committee has not acted on the matter.

(i) The Committee shall not accept, and shall return to the Board, any referral from the Board within 60 days before a Federal, State, or local election in which the subject of the referral is a candidate.

(j) The Committee may postpone any reporting requirement under this rule that falls within that 60-day period until after the date of the election in which the subject of the referral is a candidate. For purposes of calculating any applicable period under this Rule, any days within the 60-day period before such an election shall not be counted.

(k)(1) At any time after the Committee receives written notification from the Board of the Office of Congressional Ethics that the Board is undertaking a review of alleged conduct of any Member, officer, or employee of the House at a time when the Committee is investigating, or has completed an investigation of the same matter, the Committee may so notify the Board in writing and request that the Board cease its review and refer the matter to the Committee for its consideration immediately. The Committee shall also notify the Board in writing if the Committee has not reached a final resolution of the matter or has not referred the matter to the appropriate Federal or State authorities by the end of any applicable time period specified in Rule 17A (including any permissible extension).

(2) The Committee may not request a second referral of the matter from the Board if the Committee has notified the Board that it is unable to resolve the matter previously

requested pursuant to this section. The Board may subsequently send a referral regarding a matter previously requested and returned by the Committee after the conclusion of the Board's review process.

Rule 18. Committee-Initiated Inquiry or Investigation

(a) Notwithstanding the absence of a filed complaint, the Committee may consider any information in its possession indicating that a Member, officer, or employee may have committed a violation of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of the duties or the discharge of the responsibilities of such individual. The Chair and Ranking Minority Member may jointly gather additional information concerning such an alleged violation by a Member, officer, or employee unless and until an investigative subcommittee has been established. The Chair and Ranking Minority Member may also jointly take appropriate action consistent with Committee Rules to resolve the matter.

(b) If the Committee votes to establish an investigative subcommittee, the Committee shall proceed in accordance with Rule 19.

(c) Any written request by a Member, officer, or employee of the House of Representatives that the Committee conduct an investigation into such person's own conduct shall be considered in accordance with subsection (a) of this Rule.

(d) An inquiry shall not be undertaken regarding any alleged violation that occurred before the third previous Congress unless a majority of the Committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.

(e)(1) An inquiry shall be undertaken by an investigative subcommittee with regard to any felony conviction of a Member, officer, or employee of the House of Representatives in a Federal, State, or local court who has been sentenced. Notwithstanding this provision, the Committee has the discretion to initiate an inquiry upon an affirmative vote of a majority of the members of the Committee at any time prior to conviction or sentencing.

(2) Not later than 30 days after a Member, officer or employee of the House is indicted or otherwise formally charged with criminal conduct in any Federal, State or local court, the Committee shall either initiate an inquiry upon a majority vote of the members of the Committee or submit a report to the House describing its reasons for not initiating an inquiry and describing the actions, if any, that the Committee has taken in response to the allegations.

Rule 19. Investigative Subcommittee

(a)(1) Upon the establishment of an investigative subcommittee, the Chair and Ranking Minority Member of the Committee shall designate four members (with equal representation from the majority and minority parties) to serve as an investigative subcommittee to undertake an inquiry. Members of the Committee and Members of the House selected pursuant to clause 5(a)(4)(A) of Rule X of the House of Representatives are eligible for appointment to an investigative subcommittee, as determined by the Chair and Ranking Minority Member of the Committee. At the time of appointment, the Chair shall designate one member of the subcommittee to serve as the Chair and the Ranking Minority Member shall designate one member of the subcommittee to serve as the ranking minority member of the investigative subcommittee. The Chair and Ranking Minority Member of the

Committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex-officio members.

(2) The respondent shall be notified of the membership of the investigative subcommittee and shall have 10 days after such notice is transmitted to object to the participation of any subcommittee member. Such objection shall be in writing and must be on the grounds that the subcommittee member cannot render an impartial and unbiased decision. The subcommittee member against whom the objection is made shall be the sole judge of any disqualification and may choose to seek disqualification from participating in the inquiry pursuant to Rule 9(e).

(b) In an inquiry undertaken by an investigative subcommittee—

(1) All proceedings, including the taking of testimony, shall be conducted in executive session and all testimony taken by deposition or things produced pursuant to subpoena or otherwise shall be deemed to have been taken or produced in executive session.

(2) The Chair of the investigative subcommittee shall ask the respondent and all witnesses whether they intend to be represented by counsel. If so, the respondent or witnesses or their legal representatives shall provide written designation of counsel. A respondent or witness who is represented by counsel shall not be questioned in the absence of counsel unless an explicit waiver is obtained.

(3) The subcommittee shall provide the respondent an opportunity to present, orally or in writing, a statement, which must be under oath or affirmation, regarding the allegations and any other relevant questions arising out of the inquiry.

(4) The staff may interview witnesses, examine documents and other evidence, and request that submitted statements be under oath or affirmation and that documents be certified as to their authenticity and accuracy.

(5) The subcommittee, by a majority vote of its members, may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary to the conduct of the inquiry. Unless the Committee otherwise provides, the subpoena power shall rest in the Chair and Ranking Minority Member of the Committee and a subpoena shall be issued upon the request of the investigative subcommittee.

(6) The subcommittee shall require that testimony be given under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this subcommittee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered by the Chair or subcommittee member designated by the Chair to administer oaths.

(c) During the inquiry, the procedure respecting the admissibility of evidence and rulings shall be as follows:

(1) Any relevant evidence shall be admissible unless the evidence is privileged under the precedents of the House of Representatives.

(2) The Chair of the subcommittee or other presiding member at any investigative subcommittee proceeding shall rule upon any question of admissibility or relevance of evidence, motion, procedure or any other matter, and may direct any witness to answer any question under penalty of contempt. A witness, witness counsel, or a member of the

subcommittee may appeal any rulings to the members present at that proceeding. A majority vote of the members present at such proceeding on such appeal shall govern the question of admissibility, and no appeal shall lie to the Committee.

(3) Whenever a person is determined by a majority vote to be in contempt of the subcommittee, the matter may be referred to the Committee to determine whether to refer the matter to the House of Representatives for consideration.

(4) Committee counsel may, subject to subcommittee approval, enter into stipulations with the respondent and/or the respondent's counsel as to facts that are not in dispute.

(d) Upon an affirmative vote of a majority of the subcommittee members, and an affirmative vote of a majority of the full Committee, an investigative subcommittee may expand the scope of its inquiry.

(e) Upon completion of the inquiry, the staff shall draft for the investigative subcommittee a report that shall contain a comprehensive summary of the information received regarding the alleged violations.

(f) Upon completion of the inquiry, an investigative subcommittee, by a majority vote of its members, may adopt a Statement of Alleged Violation if it determines that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives has occurred. If more than one violation is alleged, such Statement shall be divided into separate counts. Each count shall relate to a separate violation, shall contain a plain and concise statement of the alleged facts of such violation, and shall include a

reference to the provision of the Code of Official Conduct or law, rule, regulation or other applicable standard of conduct governing the performance of duties or discharge of responsibilities alleged to have been violated. A copy of such Statement shall be transmitted to the respondent and the respondent's counsel.

(g) If the investigative subcommittee does not adopt a Statement of Alleged Violation, it shall transmit to the Committee a report containing a summary of the information received in the inquiry, its conclusions and reasons therefore, and any appropriate recommendation.

Rule 20. Amendments to Statements of Alleged Violation

(a) An investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its Statement of Alleged Violation anytime before the Statement of Alleged Violation is transmitted to the Committee; and

(b) If an investigative subcommittee amends its Statement of Alleged Violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended Statement of Alleged Violation.

Rule 21. Committee Reporting Requirements

(a) Whenever an investigative subcommittee does not adopt a Statement of Alleged Violation and transmits a report to that effect to the Committee, the Committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives;

(b) Whenever an investigative subcommittee adopts a Statement of Alleged Violation but recommends that no further action be taken, it shall transmit a report to the Committee regarding the Statement of Alleged Violation; and

(c) Whenever an investigative subcommittee adopts a Statement of Alleged Violation, the respondent admits to the violations set forth in such Statement, the respondent waives the right to an adjudicatory hearing, and the respondent's waiver is approved by the Committee—

(1) the subcommittee shall prepare a report for transmittal to the Committee, a final draft of which shall be provided to the respondent not less than 15 calendar days before the subcommittee votes on whether to adopt the report;

(2) the respondent may submit views in writing regarding the final draft to the subcommittee within 7 calendar days of receipt of that draft;

(3) the subcommittee shall transmit a report to the Committee regarding the Statement of Alleged Violation together with any views submitted by the respondent pursuant to subparagraph (2), and the Committee shall make the report, together with the respondent's views, available to the public before the commencement of any sanction hearing; and

(4) the Committee shall by an affirmative vote of a majority of its members issue a report and transmit such report to the House of Representatives, together with the respondent's views previously submitted pursuant to subparagraph (2) and any additional views respondent may submit for attachment to the final report; and

(d) Members of the Committee shall have not less than 72 hours to review any report transmitted to the Committee by an investigative subcommittee before both the commencement of a sanction hearing and the Committee vote on whether to adopt the report.

Rule 22. Respondent's Answer

(a)(1) Within 30 days from the date of transmittal of a Statement of Alleged Violation, the respondent shall file with the investigative subcommittee an answer, in writing and under oath, signed by respondent and respondent's counsel. Failure to file an answer within the time prescribed shall be considered by the Committee as a denial of each count.

(2) The answer shall contain an admission to or denial of each count set forth in the Statement of Alleged Violation and may include negative, affirmative, or alternative defenses and any supporting evidence or other relevant information.

(b) The respondent may file a Motion for a Bill of Particulars within 10 days of the date of transmittal of the Statement of Alleged Violation. If a Motion for a Bill of Particulars is filed, the respondent shall not be required to file an answer until 20 days after the subcommittee has replied to such motion.

(c)(1) The respondent may file a Motion to Dismiss within 10 days of the date of transmittal of the Statement of Alleged Violation or, if a Motion for a Bill of Particulars has been filed, within 10 days of the date of the subcommittee's reply to the Motion for a Bill of Particulars. If a Motion to Dismiss is filed, the respondent shall not be required to file an answer until 20 days after the subcommittee has replied to the Motion to Dismiss, unless the respondent previously filed a Motion for a Bill of Particulars, in which case the respondent shall not be required to file an answer until 10 days after the subcommittee has replied to the Motion to Dismiss. The investigative subcommittee shall rule upon any motion to dismiss filed during the period between the establishment of the subcommittee and the subcommittee's transmittal of a report or Statement of Alleged Violation to the Committee or

to the Chair and Ranking Minority Member at the conclusion of an inquiry, and no appeal of the subcommittee's ruling shall lie to the Committee.

(2) A Motion to Dismiss may be made on the grounds that the Statement of Alleged Violation fails to state facts that constitute a violation of the Code of Official Conduct or other applicable law, rule, regulation, or standard of conduct, or on the grounds that the Committee lacks jurisdiction to consider the allegations contained in the Statement.

(d) Any motion filed with the subcommittee pursuant to this rule shall be accompanied by a Memorandum of Points and Authorities.

(e)(1) The Chair of the investigative subcommittee, for good cause shown, may permit the respondent to file an answer or motion after the day prescribed above.

(2) If the ability of the respondent to present an adequate defense is not adversely affected and special circumstances so require, the Chair of the investigative subcommittee may direct the respondent to file an answer or motion prior to the day prescribed above.

(f) If the day on which any answer, motion, reply, or other pleading must be filed falls on a Saturday, Sunday, or holiday, such filing shall be made on the first business day thereafter.

(g) As soon as practicable after an answer has been filed or the time for such filing has expired, the Statement of Alleged Violation and any answer, motion, reply, or other pleading connected therewith shall be transmitted by the Chair of the investigative subcommittee to the Chair and Ranking Minority Member of the Committee.

Rule 23. Adjudicatory Hearings

(a) If a Statement of Alleged Violation is transmitted to the Chair and Ranking Minority Member pursuant to Rule 22, and no waiver pursuant to Rule 26(b) has occurred,

the Chair shall designate the members of the Committee who did not serve on the investigative subcommittee to serve on an adjudicatory subcommittee. The Chair and Ranking Minority Member of the Committee shall be the Chair and Ranking Minority Member of the adjudicatory subcommittee unless they served on the investigative subcommittee. The respondent shall be notified of the designation of the adjudicatory subcommittee and shall have 10 days after such notice is transmitted to object to the participation of any subcommittee member. Such objection shall be in writing and shall be on the grounds that the member cannot render an impartial and unbiased decision. The member against whom the objection is made shall be the sole judge of any disqualification and may choose to seek disqualification from serving on the subcommittee pursuant to Rule 9(e).

(b) A majority of the adjudicatory subcommittee membership plus one must be present at all times for the conduct of any business pursuant to this rule.

(c) The adjudicatory subcommittee shall hold a hearing to determine whether any counts in the Statement of Alleged Violation have been proved by clear and convincing evidence and shall make findings of fact, except where such violations have been admitted by respondent.

(d) At an adjudicatory hearing, the subcommittee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary. Depositions, interrogatories, and sworn statements taken under any investigative subcommittee direction may be accepted into the hearing record.

(e) The procedures set forth in clause 2(g) and (k) of Rule XI of the Rules of the House of Representatives shall apply to adjudicatory hearings. All such hearings shall be open to the public unless the adjudicatory subcommittee, pursuant to such clause, determines that the hearings or any part thereof should be closed.

(f)(1) The adjudicatory subcommittee shall, in writing, notify the respondent that the respondent and respondent's counsel have the right to inspect, review, copy, or photograph books, papers, documents, photographs, or other tangible objects that the adjudicatory subcommittee counsel intends to use as evidence against the respondent in an adjudicatory hearing. The respondent shall be given access to such evidence, and shall be provided the names of witnesses the subcommittee counsel intends to call, and a summary of their expected testimony, no less than 15 calendar days prior to any such hearing. Except in extraordinary circumstances, no evidence may be introduced or witness called in an adjudicatory hearing unless the respondent has been afforded a prior opportunity to review such evidence or has been provided the name of the witness.

(2) After a witness has testified on direct examination at an adjudicatory hearing, the Committee, at the request of the respondent, shall make available to the respondent any statement of the witness in the possession of the Committee which relates to the subject matter as to which the witness has testified.

(3) Any other testimony, statement, or documentary evidence in the possession of the Committee which is material to the respondent's defense shall, upon request, be made available to the respondent.

(g) No less than 5 days prior to the hearing, the respondent or counsel shall provide the adjudicatory subcommittee with the names of witnesses expected to be called, summaries

of their expected testimony, and copies of any documents or other evidence proposed to be introduced.

(h) The respondent or counsel may apply to the subcommittee for the issuance of subpoenas for the appearance of witnesses or the production of evidence. The application shall be granted upon a showing by the respondent that the proposed testimony or evidence is relevant and not otherwise available to respondent. The application may be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(i) During the hearing, the procedures regarding the admissibility of evidence and rulings shall be as follows:

(1) Any relevant evidence shall be admissible unless the evidence is privileged under the precedents of the House of Representatives.

(2) The Chair of the subcommittee or other presiding member at an adjudicatory subcommittee hearing shall rule upon any question of admissibility or relevance of evidence, motion, procedure, or any other matter, and may direct any witness to answer any question under penalty of contempt. A witness, witness counsel, or a member of the subcommittee may appeal any ruling to the members present at that proceeding. A majority vote of the members present at such proceeding on such an appeal shall govern the question of admissibility and no appeal shall lie to the Committee.

(3) Whenever a witness is deemed by a Chair or other presiding member to be in contempt of the subcommittee, the matter may be referred to the Committee to determine whether to refer the matter to the House of Representatives for consideration.

(4) Committee counsel may, subject to subcommittee approval, enter into stipulations with the respondent and/or the respondent's counsel as to facts that are not in dispute.

(j) Unless otherwise provided, the order of an adjudicatory hearing shall be as follows:

(1) The Chair of the subcommittee shall open the hearing by stating the adjudicatory subcommittee's authority to conduct the hearing and the purpose of the hearing.

(2) The Chair shall then recognize Committee counsel and the respondent's counsel, in turn, for the purpose of giving opening statements.

(3) Testimony from witnesses and other relevant evidence shall be received in the following order whenever possible:

(i) witnesses (deposition transcripts and affidavits obtained during the inquiry may be used in lieu of live witnesses if the witness is unavailable) and other evidence offered by the Committee counsel,

(ii) witnesses and other evidence offered by the respondent,

(iii) rebuttal witnesses, as permitted by the Chair.

(4) Witnesses at a hearing shall be examined first by counsel calling such witness. The opposing counsel may then cross-examine the witness. Redirect examination and recross examination by counsel may be permitted at the Chair's discretion. Subcommittee members may then question witnesses. Unless otherwise directed by the Chair, questions by Subcommittee members shall be conducted under the five-minute rule.

(5) The Chair shall then recognize Committee counsel and respondent's counsel, in turn, for the purpose of giving closing arguments. Committee counsel may reserve time for rebuttal argument, as permitted by the Chair.

(k) A subpoena to a witness to appear at a hearing shall be served sufficiently in advance of that witness' scheduled appearance to allow the witness a reasonable period of time, as determined by the Chair of the adjudicatory subcommittee, to prepare for the hearing and to employ counsel.

(l) Each witness appearing before the subcommittee shall be furnished a printed copy of the Committee rules, the relevant provisions of the Rules of the House of Representatives applicable to the rights of witnesses, and a copy of the Statement of Alleged Violation.

(m) Testimony of all witnesses shall be taken under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this subcommittee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered by the Chair or Committee member designated by the Chair to administer oaths.

(n) At an adjudicatory hearing, the burden of proof rests on Committee counsel to establish the facts alleged in the Statement of Alleged Violation by clear and convincing evidence. However, Committee counsel need not present any evidence regarding any count that is admitted by the respondent or any fact stipulated.

(o) As soon as practicable after all testimony and evidence have been presented, the subcommittee shall consider each count contained in the Statement of Alleged Violation and shall determine by a majority vote of its members whether each count has been proved. If a

majority of the subcommittee does not vote that a count has been proved, a motion to reconsider that vote may be made only by a member who voted that the count was not proved. A count that is not proved shall be considered as dismissed by the subcommittee.

(p) The findings of the adjudicatory subcommittee shall be reported to the Committee.

Rule 24. Sanction Hearing and Consideration of Sanctions or Other Recommendations

(a) If no count in a Statement of Alleged Violation is proved, the Committee shall prepare a report to the House of Representatives, based upon the report of the adjudicatory subcommittee.

(b) If an adjudicatory subcommittee completes an adjudicatory hearing pursuant to Rule 23 and reports that any count of the Statement of Alleged Violation has been proved, a hearing before the Committee shall be held to receive oral and/or written submissions by counsel for the Committee and counsel for the respondent as to the sanction the Committee should recommend to the House of Representatives with respect to such violations. Testimony by witnesses shall not be heard except by written request and vote of a majority of the Committee.

(c) Upon completion of any proceeding held pursuant to clause (b), the Committee shall consider and vote on a motion to recommend to the House of Representatives that the House take disciplinary action. If a majority of the Committee does not vote in favor of the recommendation that the House of Representatives take action, a motion to reconsider that vote may be made only by a member who voted against the recommendation. The

Committee may also, by majority vote, adopt a motion to issue a Letter of Reproval or take other appropriate Committee action.

(d) If the Committee determines a Letter of Reproval constitutes sufficient action, the Committee shall include any such letter as a part of its report to the House of Representatives.

(e) With respect to any proved counts against a Member of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

(1) Expulsion from the House of Representatives.

(2) Censure.

(3) Reprimand.

(4) Fine.

(5) Denial or limitation of any right, power, privilege, or immunity of the Member if under the Constitution the House of Representatives may impose such denial or limitation.

(6) Any other sanction determined by the Committee to be appropriate.

(f) With respect to any proved counts against an officer or employee of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

(1) Dismissal from employment.

(2) Reprimand.

(3) Fine.

(4) Any other sanction determined by the Committee to be appropriate.

(g) With respect to the sanctions that the Committee may recommend, reprimand is appropriate for serious violations, censure is appropriate for more serious violations, and expulsion of a Member or dismissal of an officer or employee is appropriate for the most serious violations. A recommendation of a fine is appropriate in a case in which it is likely that the violation was committed to secure a personal financial benefit; and a recommendation of a denial or limitation of a right, power, privilege, or immunity of a Member is appropriate when the violation bears upon the exercise or holding of such right, power, privilege, or immunity. This clause sets forth general guidelines and does not limit the authority of the Committee to recommend other sanctions.

(h) The Committee report shall contain an appropriate statement of the evidence supporting the Committee's findings and a statement of the Committee's reasons for the recommended sanction.

Rule 25. Disclosure of Exculpatory Information to Respondent

If the Committee, or any investigative or adjudicatory subcommittee at any time receives any exculpatory information respecting a Complaint or Statement of Alleged Violation concerning a Member, officer, or employee of the House of Representatives, it shall make such information known and available to the Member, officer, or employee as soon as practicable, but in no event later than the transmittal of evidence supporting a proposed Statement of Alleged Violation pursuant to Rule 26(c). If an investigative subcommittee does not adopt a Statement of Alleged Violation, it shall identify any exculpatory information in its possession at the conclusion of its inquiry and shall include such information, if any, in the subcommittee's final report to the Committee regarding its inquiry. For purposes of this rule, exculpatory evidence shall be any evidence or information

that is substantially favorable to the respondent with respect to the allegations or charges before an investigative or adjudicatory subcommittee.

Rule 26. Rights of Respondents and Witnesses

(a) A respondent shall be informed of the right to be represented by counsel, to be provided at the respondent's own expense.

(b) A respondent may seek to waive any procedural rights or steps in the disciplinary process. A request for waiver must be in writing, signed by the respondent, and must detail what procedural steps the respondent seeks to waive. Any such request shall be subject to the acceptance of the Committee or subcommittee, as appropriate.

(c) Not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a Statement of Alleged Violation, the subcommittee shall provide the respondent with a copy of the Statement of Alleged Violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness, but if such evidence is withheld, the subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates.

(d) Neither the respondent nor respondent's counsel shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (c) except for the sole purpose of settlement discussions where counsels for the respondent and the subcommittee are present.

(e) If, at any time after the issuance of a Statement of Alleged Violation, the Committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (c) to prove the charges contained in the Statement of Alleged Violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the Committee's rules.

(f) Evidence provided pursuant to paragraph (c) or (e) shall be made available to the respondent and respondent's counsel only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until–

(1) such time as a Statement of Alleged Violation is made public by the Committee if the respondent has waived the adjudicatory hearing; or

(2) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing; but the failure of respondent and respondent's counsel to so agree in writing, and therefore not receive the evidence, shall not preclude the issuance of a Statement of Alleged Violation at the end of the period referenced to in (c).

(g) A respondent shall receive written notice whenever-

(1) the Chair and Ranking Minority Member determine that information the Committee has received constitutes a complaint;

(2) a complaint or allegation is transmitted to an investigative subcommittee;

(3) that subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; and

(4) the Committee votes to expand the scope of the inquiry of an investigative subcommittee.

(h) Whenever an investigative subcommittee adopts a Statement of Alleged Violation and a respondent enters into an agreement with that subcommittee to settle a complaint on which the Statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and the respondent's counsel, the Chair and Ranking Minority Member of the subcommittee, and outside counsel, if any.

(i) Statements or information derived solely from a respondent or respondent's counsel during any settlement discussions between the Committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the Committee or otherwise publicly disclosed without the consent of the respondent.

(j) Whenever a motion to establish an investigative subcommittee does not prevail, the Committee shall promptly send a letter to the respondent informing the respondent of such vote.

(k) Witnesses shall be afforded a reasonable period of time, as determined by the Committee or subcommittee, to prepare for an appearance before an investigative subcommittee or for an adjudicatory hearing and to obtain counsel.

(l) Prior to their testimony, witnesses shall be furnished a printed copy of the Committee's Rules of Procedure and the provisions of the Rules of the House of Representatives applicable to the rights of witnesses.

(m) Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights. The Chair may punish breaches of order and decorum, and of professional responsibility on the part of counsel, by censure and exclusion

from the hearings; and the Committee may cite the offender to the House of Representatives for contempt.

(n) Each witness subpoenaed to provide testimony or other evidence shall be provided the same per diem rate as established, authorized, and regulated by the Committee on House Administration for Members, officers and employees of the House, and, as the Chair considers appropriate, actual expenses of travel to or from the place of examination. No compensation shall be authorized for attorney's fees or for a witness' lost earnings. Such per diem may not be paid if a witness had been summoned at the place of examination.

(o) With the approval of the Committee, a witness, upon request, may be provided with a transcript of the witness' own deposition or other testimony taken in executive session, or, with the approval of the Chair and Ranking Minority Member, may be permitted to examine such transcript in the office of the Committee. Any such request shall be in writing and shall include a statement that the witness, and counsel, agree to maintain the confidentiality of all executive session proceedings covered by such transcript.

Rule 27. Frivolous Filings

If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee, the Committee may take such action as it, by an affirmative vote of a majority deems appropriate in the circumstances.

Rule 28. Referrals to Federal or State Authorities

Referrals made under clause 3(a)(3) of Rule XI of the Rules of the House of Representatives may be made by an affirmative vote of two-thirds of the members of the Committee.

APPENDIX III

RULES

COMMITTEE ON ETHICS

Adopted February 15, 2011
Amended May 18, 2012
112th Congress

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

COMMITTEE ON ETHICS

UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

JO BONNER, Alabama, *Chairman*
MICHAEL T. MCCAUL, Texas
K. MICHAEL CONAWAY, Texas
CHARLES W. DENT, Pennsylvania
GREGG HARPER, Mississippi

LINDA T. SÁNCHEZ, California, *Ranking Member*
JOHN A. YARMUTH, Kentucky
DONNA F. EDWARDS, Maryland
PEDRO R. PIERLUISI, Puerto Rico
JOE COURTNEY, Connecticut

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FOREWORD

The Committee on Ethics is unique in the House of Representatives. Consistent with the duty to carry out its advisory and enforcement responsibilities in an impartial manner, the Committee is the only standing committee of the House of Representatives the membership of which is divided evenly by party. These rules are intended to provide a fair procedural framework for the conduct of the Committee's activities and to help ensure that the Committee serves well the people of the United States, the House of Representatives, and the Members, officers, and employees of the House of Representatives.

PART I—GENERAL COMMITTEE RULES

Rule 1. General Provisions

(a) So far as applicable, these rules and the Rules of the House of Representatives shall be the rules of the Committee and any subcommittee. The Committee adopts these rules under the authority of clause 2(a)(1) of Rule XI of the Rules of the House of Representatives, 112th Congress.

(b) The rules of the Committee may be modified, amended, or repealed by a vote of a majority of the Committee.

(c) When the interests of justice so require, the Committee, by a majority vote of its members, may adopt any special procedures, not inconsistent with these rules, deemed necessary to resolve a particular matter before it. Copies of such special procedures shall be furnished to all parties in the matter.

(d) The Chair and Ranking Minority Member shall have access to such information that they request as necessary to conduct Committee business.

Rule 2. Definitions

(a) "Committee" means the Committee on Ethics.

(b) "Complaint" means a written allegation of improper conduct against a Member, officer, or employee of the House of Representatives filed with the Committee with the intent to initiate an inquiry.

(c) "Inquiry" means an investigation by an investigative subcommittee into allegations against a Member, officer, or employee of the House of Representatives.

(d) "Investigate," "Investigating," and/or "Investigation" mean review of the conduct of a Member, officer or employee of the House of Representatives that is conducted or authorized by the Committee, an investigative subcommittee, or the Chair and Ranking Minority Member of the Committee.

(e) "Board" means the Board of the Office of Congressional Ethics.

(f) "Referral" means a report sent to the Committee from the Board pursuant to House Rules and all applicable House Resolutions regarding the conduct of a House Member, officer or employee, including any accompanying findings or other supporting documentation.

(g) "Investigative Subcommittee" means a subcommittee designated pursuant to Rule 19(a) to conduct an inquiry to determine if a Statement of Alleged Violation should be issued.

(h) "Statement of Alleged Violation" means a formal charging document filed by an investigative subcommittee with the Committee containing specific allegations against a Member, officer, or employee of the House of Representatives of a violation of the Code of

Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities.

(i) "Adjudicatory Subcommittee" means a subcommittee designated pursuant to Rule 23(a) that holds an adjudicatory hearing and determines whether the counts in a Statement of Alleged Violation are proved by clear and convincing evidence.

(j) "Sanction Hearing" means a Committee hearing to determine what sanction, if any, to adopt or to recommend to the House of Representatives.

(k) "Respondent" means a Member, officer, or employee of the House of Representatives who is the subject of a complaint filed with the Committee or who is the subject of an inquiry or a Statement of Alleged Violation.

(l) "Office of Advice and Education" refers to the Office established by section 803(i) of the Ethics Reform Act of 1989. The Office handles inquiries; prepares written opinions in response to specific requests; develops general guidance; and organizes seminars, workshops, and briefings for the benefit of the House of Representatives.

(m) "Member" means a Representative in, or a Delegate to, or the Resident Commissioner to, the U.S. House of Representatives.

Rule 3. Advisory Opinions and Waivers

(a) The Office of Advice and Education shall handle inquiries; prepare written opinions providing specific advice, including reviews of requests for privately-sponsored travel pursuant to the Committee's travel regulations; develop general guidance; and organize seminars, workshops, and briefings for the benefit of the House of Representatives.

(b) Any Member, officer, or employee of the House of Representatives may request a written opinion with respect to the propriety of any current or proposed conduct of such Member, officer, or employee.

(c) The Office of Advice and Education may provide information and guidance regarding laws, rules, regulations, and other standards of conduct applicable to Members, officers, and employees in the performance of their duties or the discharge of their responsibilities.

(d) In general, the Committee shall provide a written opinion to an individual only in response to a written request, and the written opinion shall address the conduct only of the inquiring individual, or of persons for whom the inquiring individual is responsible as employing authority.

(e) A written request for an opinion shall be addressed to the Chair of the Committee and shall include a complete and accurate statement of the relevant facts. A request shall be signed by the requester or the requester's authorized representative or employing authority. A representative shall disclose to the Committee the identity of the principal on whose behalf advice is being sought.

(f) Requests for privately-sponsored travel shall be treated like any other request for a written opinion for purposes of paragraphs (g) through (l).

(1) The Committee's Travel Guidelines and Regulations shall govern the request submission and Committee approval process for privately-sponsored travel consistent with House Rules.

(2) A request for privately-sponsored travel of a Member, officer, or employee shall include a completed and signed Traveler Form that attaches the Private Sponsor

Certification Form and includes all information required by the Committee's travel regulations. A private sponsor offering officially-connected travel to a Member, officer, or employee must complete and sign a Private Sponsor Certification Form, and provide a copy of that form to the invitee(s).

(3) Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file a Traveler Form or Private Sponsor Certification Form may be subject to civil penalties and criminal sanctions pursuant to 18 U.S.C. § 1001.

(g) The Office of Advice and Education shall prepare for the Committee a response to each written request for an opinion from a Member, officer, or employee. Each response shall discuss all applicable laws, rules, regulations, or other standards.

(h) Where a request is unclear or incomplete, the Office of Advice and Education may seek additional information from the requester.

(i) The Chair and Ranking Minority Member are authorized to take action on behalf of the Committee on any proposed written opinion that they determine does not require consideration by the Committee. If the Chair or Ranking Minority Member requests a written opinion, or seeks a waiver, extension, or approval pursuant to Rules 3(m), 4(c), 4(e), or 4(h), the next ranking member of the requester's party is authorized to act in lieu of the requester.

(j) The Committee shall keep confidential any request for advice from a Member, officer, or employee, as well as any response thereto. Upon request of any Member, officer, or employee who has submitted a written request for an opinion or submitted a request for privately-sponsored travel, the Committee may release to the requesting individual a copy of their own written request for advice or submitted travel forms, any subsequent written

communications between such individual and Committee staff regarding the request, and any Committee advisory opinion or travel letter issued to that individual in response. The Committee shall not release any internal Committee staff work product, communications or notes in response to such a request, except as authorized by the Committee.

(k) The Committee may take no adverse action in regard to any conduct that has been undertaken in reliance on a written opinion if the conduct conforms to the specific facts addressed in the opinion.

(l) Information provided to the Committee by a Member, officer, or employee seeking advice regarding prospective conduct may not be used as the basis for initiating an investigation under clause 3(a)(2) or clause 3(b) of Rule XI of the Rules of the House of Representatives, if such Member, officer, or employee acts in good faith in accordance with the written advice of the Committee.

(m) A written request for a waiver of clause 5 of House Rule XXV (the House gift rule), or for any other waiver or approval, shall be treated in all respects like any other request for a written opinion.

(n) A written request for a waiver of clause 5 of House Rule XXV (the House gift rule) shall specify the nature of the waiver being sought and the specific circumstances justifying the waiver.

(o) An employee seeking a waiver of time limits applicable to travel paid for by a private source shall include with the request evidence that the employing authority is aware of the request. In any other instance where proposed employee conduct may reflect on the performance of official duties, the Committee may require that the requester submit evidence that the employing authority knows of the conduct.

Rule 4. Financial Disclosure

(a) In matters relating to Title I of the Ethics in Government Act of 1978, the Committee shall coordinate with the Clerk of the House of Representatives, Legislative Resource Center, to assure that appropriate individuals are notified of their obligation to file reports required to be filed under Title I of the Ethics in Government Act and that such individuals are provided in a timely fashion with filing instructions and forms developed by the Committee.

(b) The Committee shall coordinate with the Legislative Resource Center to assure that information that the Ethics in Government Act requires to be placed on the public record is made public.

(c) Any reports required to be filed under Title I of the Ethics in Government Act filed by Members of the Board of the Office of Congressional Ethics that are forwarded to the Committee by the Clerk shall not be subject to paragraphs (d) through (q) of this Rule. The Office of Congressional Ethics retains jurisdiction over review of the timeliness and completeness of filings by Members of the Board as the Board's supervising ethics office.

(d) The Chair and Ranking Minority Member are authorized to grant on behalf of the Committee requests for reasonable extensions of time for the filing of Financial Disclosure Statements. Any such request must be received by the Committee no later than the date on which the Statement in question is due. A request received after such date may be granted by the Committee only in extraordinary circumstances. Such extensions for one individual in a calendar year shall not exceed a total of 90 days. No extension shall be granted authorizing a nonincumbent candidate to file a statement later than 30 days prior to a primary or general election in which the candidate is participating.

(e) An individual who takes legally sufficient action to withdraw as a candidate before the date on which that individual's Financial Disclosure Statement is due under the Ethics in Government Act shall not be required to file a Statement. An individual shall not be excused from filing a Financial Disclosure Statement when withdrawal as a candidate occurs after the date on which such Statement was due.

(f) Any individual who files a report required to be filed under Title I of the Ethics in Government Act more than 30 days after the later of—

(1) the date such report is required to be filed, or

(2) if a filing extension is granted to such individual, the last day of the filing extension period, is required by such Act to pay a late filing fee of $200. The Chair and Ranking Minority Member are authorized to approve requests that the fee be waived based on extraordinary circumstances.

(g) Any late report that is submitted without a required filing fee shall be deemed procedurally deficient and not properly filed.

(h) The Chair and Ranking Minority Member are authorized to approve requests for waivers of the aggregation and reporting of gifts as provided by section 102(a)(2)(C) of the Ethics in Government Act. If such a request is approved, both the incoming request and the Committee response shall be forwarded to the Legislative Resource Center for placement on the public record.

(i) The Chair and Ranking Minority Member are authorized to approve blind trusts as qualifying under section 102(f)(3) of the Ethics in Government Act. The correspondence relating to formal approval of a blind trust, the trust document, the list of assets transferred to

the trust, and any other documents required by law to be made public, shall be forwarded to the Legislative Resource Center for such purpose.

(j) The Committee shall designate staff counsel who shall review reports required to be filed under Title I of the Ethics in Government Act and, based upon information contained therein, indicate in a form and manner prescribed by the Committee whether the Statement appears substantially accurate and complete and the filer appears to be in compliance with applicable laws and rules.

(k) Each report required to be filed under Title I of the Ethics in Government Act shall be reviewed within 60 days after the date of filing.

(l) If the reviewing counsel believes that additional information is required because (1) the report required to be filed under Title I of the Ethics in Government Act appears not substantially accurate or complete, or (2) the filer may not be in compliance with applicable laws or rules, then the reporting individual shall be notified in writing of the additional information believed to be required, or of the law or rule with which the reporting individual does not appear to be in compliance. Such notice shall also state the time within which a response is to be submitted. Any such notice shall remain confidential.

(m) Within the time specified, including any extension granted in accordance with clause (d), a reporting individual who concurs with the Committee's notification that the report required to be filed under Title I of the Ethics in Government Act is not complete, or that other action is required, shall submit the necessary information or take appropriate action. Any amendment may be in the form of a revised report required to be filed under Title I of the Ethics in Government Act or an explanatory letter addressed to the Clerk of the House of Representatives.

(n) Any amendment shall be placed on the public record in the same manner as other reports required to be filed under Title I of the Ethics in Government Act. The individual designated by the Committee to review the original report required to be filed under Title I of the Ethics in Government Act shall review any amendment thereto.

(o) Within the time specified, including any extension granted in accordance with clause (d), a reporting individual who does not agree with the Committee that the report required to be filed under Title I of the Ethics in Government Act is deficient or that other action is required, shall be provided an opportunity to respond orally or in writing. If the explanation is accepted, a copy of the response, if written, or a note summarizing an oral response, shall be retained in Committee files with the original report.

(p) The Committee shall be the final arbiter of whether any report required to be filed under Title I of the Ethics in Government Act requires clarification or amendment.

(q) If the Committee determines, by vote of a majority of its members, that there is reason to believe that an individual has willfully failed to file a report required to be filed under Title I of the Ethics in Government Act or has willfully falsified or willfully failed to file information required to be reported, then the Committee shall refer the name of the individual, together with the evidence supporting its finding, to the Attorney General pursuant to section 104(b) of the Ethics in Government Act. Such referral shall not preclude the Committee from initiating such other action as may be authorized by other provisions of law or the Rules of the House of Representatives.

Rule 5. Meetings

(a) The regular meeting day of the Committee shall be the second Tuesday of each month, except when the House of Representatives is not meeting on that day. When the

Committee Chair determines that there is sufficient reason, meetings may be called on additional days. A regularly scheduled meeting need not be held when the Chair determines there is no business to be considered.

(b) The Chair shall establish the agenda for meetings of the Committee and the Ranking Minority Member may place additional items on the agenda.

(c) All meetings of the Committee or any subcommittee shall occur in executive session unless the Committee or subcommittee, by an affirmative vote of a majority of its members, opens the meeting to the public.

(d) Any hearing held by an adjudicatory subcommittee or any sanction hearing held by the Committee shall be open to the public unless the Committee or subcommittee, by an affirmative vote of a majority of its members, closes the hearing to the public.

(e) A subcommittee shall meet at the discretion of its Chair.

(f) Insofar as practicable, notice for any Committee or subcommittee meeting shall be provided at least seven days in advance of the meeting. The Chair of the Committee or subcommittee may waive such time period for good cause.

Rule 6. Committee Staff

(a) The staff is to be assembled and retained as a professional, nonpartisan staff.

(b) Each member of the staff shall be professional and demonstrably qualified for the position for which the individual is hired.

(c) The staff as a whole and each individual member of the staff shall perform all official duties in a nonpartisan manner.

(d) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(e) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to the employment or duties with the Committee of such individual without specific prior approval from the Chair and Ranking Minority Member.

(f) All staff members shall be appointed by an affirmative vote of a majority of the members of the Committee. Such vote shall occur at the first meeting of the membership of the Committee during each Congress and as necessary during the Congress.

(g) Subject to the approval of the Committee on House Administration, the Committee may retain counsel not employed by the House of Representatives whenever the Committee determines, by an affirmative vote of a majority of the members of the Committee, that the retention of outside counsel is necessary and appropriate.

(h) If the Committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(i) Outside counsel may be dismissed prior to the end of a contract between the Committee and such counsel only by a majority vote of the members of the Committee.

(j) In addition to any other staff provided for by law, rule, or other authority, with respect to the Committee, the Chair and Ranking Minority Member each may appoint one individual as a shared staff member from the respective personal staff of the Chair or Ranking Minority Member to perform service for the Committee. Such shared staff may assist the Chair or Ranking Minority Member on any subcommittee on which the Chair or Ranking Minority Member serves. Only paragraphs (c) and (e) of this Rule and Rule 7(b) shall apply to shared staff.

Rule 7. Confidentiality

(a) Before any Member or employee of the Committee, including members of an investigative subcommittee selected under clause 5(a)(4) of Rule X of the House of Representatives and shared staff designated pursuant to Committee Rule 6(j), may have access to information that is confidential under the rules of the Committee, the following oath (or affirmation) shall be executed in writing:

"I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Ethics, any information received in the course of my service with the Committee, except as authorized by the Committee or in accordance with its rules."

Copies of the executed oath shall be provided to the Clerk of the House as part of the records of the House. Breaches of confidentiality shall be investigated by the Committee and appropriate action shall be taken.

(b) No member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the Committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the Committee.

(c) Committee members and staff shall not disclose any evidence relating to an investigation to any person or organization outside the Committee unless authorized by the Committee.

(d) Members and staff of the Committee shall not disclose to any person or organization outside the Committee, unless authorized by the Committee, any information regarding the Committee's or a subcommittee's investigative, adjudicatory or other proceedings, including but not limited to: (i) the fact or nature of any complaints; (ii)

executive session proceedings; (iii) information pertaining to or copies of any Committee or subcommittee report, study or other document which purports to express the views, findings, conclusions or recommendations of the Committee or subcommittee in connection with any of its activities or proceedings; or (iv) any other information or allegation respecting the conduct of a Member, officer or employee of the House. This rule shall not prohibit the Chair or Ranking Minority Member from disclosing to the Board of the Office of Congressional Ethics the existence of a Committee investigation, the name of the Member, officer or employee of the House who is the subject of that investigation, and a brief statement of the scope of that investigation in a written request for referral pursuant to Rule 17A(k). Such disclosures will only be made subject to written confirmation from the Board that the information provided by Chair or Ranking Minority Member will be kept confidential by the Board.

(e) Except as otherwise specifically authorized by the Committee, no Committee member or staff member shall disclose to any person outside the Committee, the name of any witness subpoenaed to testify or to produce evidence.

(f) Except as provided in Rule 17A, the Committee shall not disclose to any person or organization outside the Committee any information concerning the conduct of a respondent until it has transmitted a Statement of Alleged Violation to such respondent and the respondent has been given full opportunity to respond pursuant to Rule 22. The Statement of Alleged Violation and any written response thereto shall be made public at the first meeting or hearing on the matter that is open to the public after such opportunity has been provided. Any other materials in the possession of the Committee regarding such statement may be made public as authorized by the Committee to the extent consistent with the Rules of the

House of Representatives. If no public hearing is held on the matter, the Statement of Alleged Violation and any written response thereto shall be included in the Committee's final report on the matter to the House of Representatives.

(g) Unless otherwise determined by a vote of the Committee, only the Chair or Ranking Minority Member of the Committee, after consultation with each other, may make public statements regarding matters before the Committee or any subcommittee.

(h) The Committee may establish procedures necessary to prevent the unauthorized disclosure of any testimony or other information received by the Committee or its staff.

Rule 8. Subcommittees—General Policy and Structure

(a) Notwithstanding any other provision of these Rules, the Chair and Ranking Minority Member of the Committee may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to evidence and information before a subcommittee with whom they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee. Except for the Chair and Ranking Minority Member of the Committee pursuant to this paragraph, evidence in the possession of an investigative subcommittee shall not be disclosed to other Committee members except by a vote of the subcommittee.

(b) The Committee may establish other noninvestigative and nonadjudicatory subcommittees and may assign to them such functions as it may deem appropriate. The membership of each subcommittee shall provide equal representation for the majority and minority parties.

(c) The Chair may refer any bill, resolution, or other matter before the Committee to an appropriate subcommittee for consideration. Any such bill, resolution, or other matter

may be discharged from the subcommittee to which it was referred by a majority vote of the Committee.

(d) Any member of the Committee may sit with any noninvestigative or nonadjudicatory subcommittee, but only regular members of such subcommittee may vote on any matter before that subcommittee.

Rule 9. Quorums and Member Disqualification

(a) The quorum for the Committee or an investigative subcommittee to take testimony and to receive evidence shall be two members, unless otherwise authorized by the House of Representatives.

(b) The quorum for an adjudicatory subcommittee to take testimony, receive evidence, or conduct business shall consist of a majority plus one of the members of the adjudicatory subcommittee.

(c) Except as stated in clauses (a) and (b) of this rule, a quorum for the purpose of conducting business consists of a majority of the members of the Committee or subcommittee.

(d) A member of the Committee shall be ineligible to participate in any Committee or subcommittee proceeding in which such Member is the respondent.

(e) A member of the Committee may seek disqualification from participating in any investigation of the conduct of a Member, officer, or employee of the House of Representatives upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision. If the Committee approves and accepts such affidavit of disqualification, the Chair shall so notify the Speaker and ask the Speaker to designate a Member of the House of

Representatives from the same political party as the disqualified member of the Committee to act as a member of the Committee in any Committee proceeding relating to such investigation.

Rule 10. Vote Requirements

(a) The following actions shall be taken only upon an affirmative vote of a majority of the members of the Committee or subcommittee, as appropriate:

(1) Issuing a subpoena.

(2) Adopting a full Committee motion to create an investigative subcommittee.

(3) Adopting or amending of a Statement of Alleged Violation.

(4) Finding that a count in a Statement of Alleged Violation has been proved by clear and convincing evidence.

(5) Sending a letter of reproval.

(6) Adopting a recommendation to the House of Representatives that a sanction be imposed.

(7) Adopting a report relating to the conduct of a Member, officer, or employee.

(8) Issuing an advisory opinion of general applicability establishing new policy.

(b) Except as stated in clause (a), action may be taken by the Committee or any subcommittee thereof by a simple majority, a quorum being present.

(c) No motion made to take any of the actions enumerated in clause (a) of this Rule may be entertained by the Chair unless a quorum of the Committee is present when such motion is made.

Rule 11. Committee Records

(a) All communications and all pleadings pursuant to these rules shall be filed with the Committee at the Committee's office or such other place as designated by the Committee.

(b) All records of the Committee which have been delivered to the Archivist of the United States shall be made available to the public in accordance with Rule VII of the Rules of the House of Representatives.

Rule 12. Broadcasts of Committee and Subcommittee Proceedings

(a) Television or radio coverage of a Committee or subcommittee hearing or meeting shall be without commercial sponsorship.

(b) Not more than four television cameras, operating from fixed positions, shall be permitted in a hearing or meeting room. The Committee may allocate the positions of permitted television cameras among the television media in consultation with the Executive Committee of the Radio and Television Correspondents' Galleries.

(c) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the Committee, or the visibility of that witness and that member to each other.

(d) Television cameras shall not be placed in positions that unnecessarily obstruct the coverage of the hearing or meeting by the other media.

PART II—INVESTIGATIVE AUTHORITY

Rule 13. House Resolution

Whenever the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation, the provisions of the resolution, in

conjunction with these Rules, shall govern. To the extent the provisions of the resolution differ from these Rules, the resolution shall control.

Rule 14. Committee Authority to Investigate—General Policy

(a) Pursuant to clause 3(b) of Rule XI of the Rules of the House of Representatives, the Committee may exercise its investigative authority when:

(1) information offered as a complaint by a Member of the House of Representatives is transmitted directly to the Committee;

(2) information offered as a complaint by an individual not a Member of the House is transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee;

(3) the Committee, on its own initiative, undertakes an investigation;

(4) a Member, officer, or employee is convicted in a Federal, State, or local court of a felony;

(5) the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation; or

(6) a referral from the Board is transmitted to the Committee.

(b) The Committee also has investigatory authority over:

(1) certain unauthorized disclosures of intelligence-related information, pursuant to House Rule X, clauses 11(g)(4) and (g)(5); or

(2) reports received from the Office of the Inspector General pursuant to House Rule II, clause 6(c)(5).

Rule 15. Complaints

(a) A complaint submitted to the Committee shall be in writing, dated, and properly verified (a document will be considered properly verified where a notary executes it with the language, "Signed and sworn to (or affirmed) before me on (date) by (the name of the person)" setting forth in simple, concise, and direct statements—

(1) the name and legal address of the party filing the complaint (hereinafter referred to as the "complainant");

(2) the name and position or title of the respondent;

(3) the nature of the alleged violation of the Code of Official Conduct or of other law, rule, regulation, or other standard of conduct applicable to the performance of duties or discharge of responsibilities; and

(4) the facts alleged to give rise to the violation. The complaint shall not contain innuendo, speculative assertions, or conclusory statements.

(b) Any documents in the possession of the complainant that relate to the allegations may be submitted with the complaint.

(c) Information offered as a complaint by a Member of the House of Representatives may be transmitted directly to the Committee.

(d) Information offered as a complaint by an individual not a Member of the House may be transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee.

(e) A complaint must be accompanied by a certification, which may be unsworn, that the complainant has provided an exact copy of the filed complaint and all attachments to the respondent.

(f) The Committee may defer action on a complaint against a Member, officer, or employee of the House of Representatives when the complaint alleges conduct that the Committee has reason to believe is being reviewed by appropriate law enforcement or regulatory authorities, or when the Committee determines that it is appropriate for the conduct alleged in the complaint to be reviewed initially by law enforcement or regulatory authorities.

(g) A complaint may not be amended without leave of the Committee. Otherwise, any new allegations of improper conduct must be submitted in a new complaint that independently meets the procedural requirements of the Rules of the House of Representatives and the Committee's Rules.

(h) The Committee shall not accept, and shall return to the complainant, any complaint submitted within the 60 days prior to an election in which the subject of the complaint is a candidate.

(i) The Committee shall not consider a complaint, nor shall any investigation be undertaken by the Committee, of any alleged violation which occurred before the third previous Congress unless the Committee determines that the alleged violation is directly related to an alleged violation which occurred in a more recent Congress.

Rule 16. Duties of Committee Chair and Ranking Minority Member

(a) Whenever information offered as a complaint is submitted to the Committee, the Chair and Ranking Minority Member shall have 14 calendar days or 5 legislative days,

whichever occurs first, to determine whether the information meets the requirements of the Committee's rules for what constitutes a complaint.

(b) Whenever the Chair and Ranking Minority Member jointly determine that information submitted to the Committee meets the requirements of the Committee's rules for what constitutes a complaint, they shall have 45 calendar days or 5 legislative days, whichever is later, after the date that the Chair and Ranking Minority Member determine that information filed meets the requirements of the Committee's rules for what constitutes a complaint, unless the Committee by an affirmative vote of a majority of its members votes otherwise, to –

(1) recommend to the Committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(2) establish an investigative subcommittee; or

(3) request that the Committee extend the applicable 45-calendar day period when they determine more time is necessary in order to make a recommendation under paragraph (1) or (2) of Rule 16(b).

(c) The Chair and Ranking Minority Member may jointly gather additional information concerning alleged conduct which is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or the Chair or Ranking Minority Member has placed on the agenda the issue of whether to establish an investigative subcommittee.

(d) If the Chair and Ranking Minority Member jointly determine that information

submitted to the Committee meets the requirements of the Committee rules for what constitutes a complaint, and the complaint is not disposed of within 45 calendar days or 5 legislative days, whichever is later, and no additional 45-day extension is made, then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. If at any time during the time period either the Chair or Ranking Minority Member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the Committee.

(e) Whenever the Chair and Ranking Minority Member jointly determine that information submitted to the Committee does not meet the requirements for what constitutes a complaint set forth in the Committee rules, they may (1) return the information to the complainant with a statement that it fails to meet the requirements for what constitutes a complaint set forth in the Committee's rules; or (2) recommend to the Committee that it authorize the establishment of an investigative subcommittee.

Rule 17. Processing of Complaints

(a) If a complaint is in compliance with House and Committee Rules, a copy of the complaint and the Committee Rules shall be forwarded to the respondent within 5 days with notice that the complaint conforms to the applicable rules.

(b) The respondent may, within 30 days of the Committee's notification, provide to the Committee any information relevant to a complaint filed with the Committee. The respondent may submit a written statement in response to the complaint. Such a statement shall be signed by the respondent. If the statement is prepared by counsel for the respondent,

the respondent shall sign a representation that the respondent has reviewed the response and agrees with the factual assertions contained therein.

(c) The Committee staff may request information from the respondent or obtain additional information relevant to the case from other sources prior to the establishment of an investigative subcommittee only when so directed by the Chair and Ranking Minority Member.

(d) The respondent shall be notified in writing regarding the Committee's decision either to dismiss the complaint or to create an investigative subcommittee.

Rule 17A. Referrals from the Board of the Office of Congressional Ethics

(a) The Committee has exclusive jurisdiction over the interpretation, administration, and enforcement of the Code of Official Conduct pursuant to clause 1(g) of House Rule X. Receipt of referrals from the Board under this rule does not limit the Committee's discretion to address referrals in any way through the appropriate procedures authorized by Committee Rules. The Committee shall review the report and findings transmitted by the Board without prejudice or presumptions as to the merit of the allegations.

(b)(1) Whenever the Committee receives either (A) a referral containing a written report and any findings and supporting documentation from the Board; or (B) a referral from the Board pursuant to a request under Rule 17A(k), the Chair shall have 45 calendar days or 5 legislative days after the date the referral is received, whichever is later, to make public the report and findings of the Board unless the Chair and Ranking Minority Member jointly decide, or the Committee votes, to withhold such information for not more than one additional 45-day period.

(2) At least one calendar day before the Committee makes public any report and findings of the Board the Chair shall notify in writing the Board and the Member, officer, or employee who is the subject of the referral of the impending public release of these documents. At the same time, the Chair shall transmit a copy of any public statement on the Committee's disposition of the matter and any accompanying Committee report to the individual who is the subject of the referral.

(3) All public statements and reports and findings of the Board that are required to be made public under this Rule shall be posted on the Committee's website.

(c) If the OCE report and findings are withheld for an additional 45-day period pursuant to paragraph (b)(1), the Chair shall—

(1) make a public statement that the Committee has decided or voted to extend the matter referred from the Board on the day of such decision or vote; and

(2) make public the written report and findings pursuant to paragraph (b) upon the termination of such additional period.

(d) If the Board transmits a report with a recommendation to dismiss or noting a matter as unresolved due to a tie vote, and the Committee votes to extend the matter for an additional period as provided in paragraph (b), the Committee is not required to make a public statement that the Committee has voted to extend the matter pursuant to paragraph (b)(1).

(e) If the Committee votes to dismiss a matter referred from the Board, the Committee is not required to make public the written report and findings of the Board pursuant to paragraph (c) unless the Committee's vote is inconsistent with the recommendation of the Board. A vote by the Committee to dismiss a matter is not

considered inconsistent with a report from the Board that the matter is unresolved by the Board due to a tie vote.

(f) Except as provided by paragraph (g):

(1) If the Committee establishes an investigative subcommittee respecting any matter referred by the Board, then the report and findings of the Board shall not be made public until the conclusion of the investigative subcommittee process pursuant to Rule 19. The Committee shall issue a public statement noting the establishment of an investigative subcommittee, which shall include the name of the Member, officer, or employee who is the subject of the inquiry, and shall set forth the alleged violation.

(2) If any such investigative subcommittee does not conclude its review within one year after the Board's referral, then the Committee shall make public the report of the Board no later than one year after the referral. If the investigative subcommittee does not conclude its review before the end of the Congress in which the report of the Board is made public, the Committee shall make public any findings of the Board on the last day of that Congress.

(g) If the vote of the Committee is a tie or the Committee fails to act by the close of any applicable period(s) under this rule, the report and the findings of the Board shall be made public by the Committee, along with a public statement by the Chair explaining the status of the matter.

(h)(1) If the Committee agrees to a request from an appropriate law enforcement or regulatory authority to defer taking action on a matter referred by the Board under paragraph (b) –

(A) The Committee is not required to make public the written report and findings of the Board pursuant to paragraph (c), except that if the recommendation of the Board is that

the matter requires further review, the Committee shall make public the written report of the Board but not the findings; and

(B) The Committee shall make a public statement that it is deferring taking action on the matter at the request of such law enforcement or regulatory authority within one day (excluding weekends and public holidays) of the day that the Committee agrees to the request.

(2) If the Committee has not acted on the matter within one year of the date the public statement described in paragraph (h)(1)(B) is released, the Committee shall make a public statement that it continues to defer taking action on the matter. The Committee shall make a new statement upon the expiration of each succeeding one-year period during which the Committee has not acted on the matter.

(i) The Committee shall not accept, and shall return to the Board, any referral from the Board within 60 days before a Federal, State, or local election in which the subject of the referral is a candidate.

(j) The Committee may postpone any reporting requirement under this rule that falls within that 60-day period until after the date of the election in which the subject of the referral is a candidate. For purposes of calculating any applicable period under this Rule, any days within the 60-day period before such an election shall not be counted.

(k)(1) At any time after the Committee receives written notification from the Board of the Office of Congressional Ethics that the Board is undertaking a review of alleged conduct of any Member, officer, or employee of the House at a time when the Committee is investigating, or has completed an investigation of the same matter, the Committee may so notify the Board in writing and request that the Board cease its review and refer the matter to

the Committee for its consideration immediately. The Committee shall also notify the Board in writing if the Committee has not reached a final resolution of the matter or has not referred the matter to the appropriate Federal or State authorities by the end of any applicable time period specified in Rule 17A (including any permissible extension).

(2) The Committee may not request a second referral of the matter from the Board if the Committee has notified the Board that it is unable to resolve the matter previously requested pursuant to this section. The Board may subsequently send a referral regarding a matter previously requested and returned by the Committee after the conclusion of the Board's review process.

Rule 18. Committee-Initiated Inquiry or Investigation

(a) Notwithstanding the absence of a filed complaint, the Committee may consider any information in its possession indicating that a Member, officer, or employee may have committed a violation of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of the duties or the discharge of the responsibilities of such individual. The Chair and Ranking Minority Member may jointly gather additional information concerning such an alleged violation by a Member, officer, or employee unless and until an investigative subcommittee has been established. The Chair and Ranking Minority Member may also jointly take appropriate action consistent with Committee Rules to resolve the matter.

(b) If the Committee votes to establish an investigative subcommittee, the Committee shall proceed in accordance with Rule 19.

(c) Any written request by a Member, officer, or employee of the House of Representatives that the Committee conduct an investigation into such person's own conduct shall be considered in accordance with subsection (a) of this Rule.

(d) An inquiry shall not be undertaken regarding any alleged violation that occurred before the third previous Congress unless a majority of the Committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.

(e)(1) An inquiry shall be undertaken by an investigative subcommittee with regard to any felony conviction of a Member, officer, or employee of the House of Representatives in a Federal, State, or local court who has been sentenced. Notwithstanding this provision, the Committee has the discretion to initiate an inquiry upon an affirmative vote of a majority of the members of the Committee at any time prior to conviction or sentencing.

(2) Not later than 30 days after a Member, officer or employee of the House is indicted or otherwise formally charged with criminal conduct in any Federal, State or local court, the Committee shall either initiate an inquiry upon a majority vote of the members of the Committee or submit a report to the House describing its reasons for not initiating an inquiry and describing the actions, if any, that the Committee has taken in response to the allegations.

Rule 19. Investigative Subcommittee

(a)(1) Upon the establishment of an investigative subcommittee, the Chair and Ranking Minority Member of the Committee shall designate four members (with equal representation from the majority and minority parties) to serve as an investigative subcommittee to undertake an inquiry. Members of the Committee and Members of the

House selected pursuant to clause 5(a)(4)(A) of Rule X of the House of Representatives are eligible for appointment to an investigative subcommittee, as determined by the Chair and Ranking Minority Member of the Committee. At the time of appointment, the Chair shall designate one member of the subcommittee to serve as the Chair and the Ranking Minority Member shall designate one member of the subcommittee to serve as the ranking minority member of the investigative subcommittee. The Chair and Ranking Minority Member of the Committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex-officio members.

(2) The respondent shall be notified of the membership of the investigative subcommittee and shall have 10 days after such notice is transmitted to object to the participation of any subcommittee member. Such objection shall be in writing and must be on the grounds that the subcommittee member cannot render an impartial and unbiased decision. The subcommittee member against whom the objection is made shall be the sole judge of any disqualification and may choose to seek disqualification from participating in the inquiry pursuant to Rule 9(e).

(b) In an inquiry undertaken by an investigative subcommittee—

(1) All proceedings, including the taking of testimony, shall be conducted in executive session and all testimony taken by deposition or things produced pursuant to subpoena or otherwise shall be deemed to have been taken or produced in executive session.

(2) The Chair of the investigative subcommittee shall ask the respondent and all witnesses whether they intend to be represented by counsel. If so, the respondent or witnesses or their legal representatives shall provide written designation of counsel. A

respondent or witness who is represented by counsel shall not be questioned in the absence of counsel unless an explicit waiver is obtained.

(3) The subcommittee shall provide the respondent an opportunity to present, orally or in writing, a statement, which must be under oath or affirmation, regarding the allegations and any other relevant questions arising out of the inquiry.

(4) The staff may interview witnesses, examine documents and other evidence, and request that submitted statements be under oath or affirmation and that documents be certified as to their authenticity and accuracy.

(5) The subcommittee, by a majority vote of its members, may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary to the conduct of the inquiry. Unless the Committee otherwise provides, the subpoena power shall rest in the Chair and Ranking Minority Member of the Committee and a subpoena shall be issued upon the request of the investigative subcommittee.

(6) The subcommittee shall require that testimony be given under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this subcommittee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered by the Chair or subcommittee member designated by the Chair to administer oaths.

(c) During the inquiry, the procedure respecting the admissibility of evidence and rulings shall be as follows:

(1) Any relevant evidence shall be admissible unless the evidence is privileged under the precedents of the House of Representatives.

(2) The Chair of the subcommittee or other presiding member at any investigative subcommittee proceeding shall rule upon any question of admissibility or relevance of evidence, motion, procedure or any other matter, and may direct any witness to answer any question under penalty of contempt. A witness, witness counsel, or a member of the subcommittee may appeal any rulings to the members present at that proceeding. A majority vote of the members present at such proceeding on such appeal shall govern the question of admissibility, and no appeal shall lie to the Committee.

(3) Whenever a person is determined by a majority vote to be in contempt of the subcommittee, the matter may be referred to the Committee to determine whether to refer the matter to the House of Representatives for consideration.

(4) Committee counsel may, subject to subcommittee approval, enter into stipulations with the respondent and/or the respondent's counsel as to facts that are not in dispute.

(d) Upon an affirmative vote of a majority of the subcommittee members, and an affirmative vote of a majority of the full Committee, an investigative subcommittee may expand the scope of its inquiry.

(e) Upon completion of the inquiry, the staff shall draft for the investigative subcommittee a report that shall contain a comprehensive summary of the information received regarding the alleged violations.

(f) Upon completion of the inquiry, an investigative subcommittee, by a majority vote of its members, may adopt a Statement of Alleged Violation if it determines that there is

substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives has occurred. If more than one violation is alleged, such Statement shall be divided into separate counts. Each count shall relate to a separate violation, shall contain a plain and concise statement of the alleged facts of such violation, and shall include a reference to the provision of the Code of Official Conduct or law, rule, regulation or other applicable standard of conduct governing the performance of duties or discharge of responsibilities alleged to have been violated. A copy of such Statement shall be transmitted to the respondent and the respondent's counsel.

(g) If the investigative subcommittee does not adopt a Statement of Alleged Violation, it shall transmit to the Committee a report containing a summary of the information received in the inquiry, its conclusions and reasons therefore, and any appropriate recommendation.

Rule 20. Amendments to Statements of Alleged Violation

(a) An investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its Statement of Alleged Violation anytime before the Statement of Alleged Violation is transmitted to the Committee; and

(b) If an investigative subcommittee amends its Statement of Alleged Violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended Statement of Alleged Violation.

Rule 21. Committee Reporting Requirements

(a) Whenever an investigative subcommittee does not adopt a Statement of Alleged Violation and transmits a report to that effect to the Committee, the Committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives;

(b) Whenever an investigative subcommittee adopts a Statement of Alleged Violation but recommends that no further action be taken, it shall transmit a report to the Committee regarding the Statement of Alleged Violation; and

(c) Whenever an investigative subcommittee adopts a Statement of Alleged Violation, the respondent admits to the violations set forth in such Statement, the respondent waives the right to an adjudicatory hearing, and the respondent's waiver is approved by the Committee—

(1) the subcommittee shall prepare a report for transmittal to the Committee, a final draft of which shall be provided to the respondent not less than 15 calendar days before the subcommittee votes on whether to adopt the report;

(2) the respondent may submit views in writing regarding the final draft to the subcommittee within 7 calendar days of receipt of that draft;

(3) the subcommittee shall transmit a report to the Committee regarding the Statement of Alleged Violation together with any views submitted by the respondent pursuant to subparagraph (2), and the Committee shall make the report, together with the respondent's views, available to the public before the commencement of any sanction hearing; and

(4) the Committee shall by an affirmative vote of a majority of its members issue a report and transmit such report to the House of Representatives, together with the respondent's views previously submitted pursuant to subparagraph (2) and any additional views respondent may submit for attachment to the final report; and

(d) Members of the Committee shall have not less than 72 hours to review any report transmitted to the Committee by an investigative subcommittee before both the commencement of a sanction hearing and the Committee vote on whether to adopt the report.

Rule 22. Respondent's Answer

(a)(1) Within 30 days from the date of transmittal of a Statement of Alleged Violation, the respondent shall file with the investigative subcommittee an answer, in writing and under oath, signed by respondent and respondent's counsel. Failure to file an answer within the time prescribed shall be considered by the Committee as a denial of each count.

(2) The answer shall contain an admission to or denial of each count set forth in the Statement of Alleged Violation and may include negative, affirmative, or alternative defenses and any supporting evidence or other relevant information.

(b) The respondent may file a Motion for a Bill of Particulars within 10 days of the date of transmittal of the Statement of Alleged Violation. If a Motion for a Bill of Particulars is filed, the respondent shall not be required to file an answer until 20 days after the subcommittee has replied to such motion.

(c)(1) The respondent may file a Motion to Dismiss within 10 days of the date of transmittal of the Statement of Alleged Violation or, if a Motion for a Bill of Particulars has been filed, within 10 days of the date of the subcommittee's reply to the Motion for a Bill of Particulars. If a Motion to Dismiss is filed, the respondent shall not be required to file an

answer until 20 days after the subcommittee has replied to the Motion to Dismiss, unless the respondent previously filed a Motion for a Bill of Particulars, in which case the respondent shall not be required to file an answer until 10 days after the subcommittee has replied to the Motion to Dismiss. The investigative subcommittee shall rule upon any motion to dismiss filed during the period between the establishment of the subcommittee and the subcommittee's transmittal of a report or Statement of Alleged Violation to the Committee or to the Chair and Ranking Minority Member at the conclusion of an inquiry, and no appeal of the subcommittee's ruling shall lie to the Committee.

(2) A Motion to Dismiss may be made on the grounds that the Statement of Alleged Violation fails to state facts that constitute a violation of the Code of Official Conduct or other applicable law, rule, regulation, or standard of conduct, or on the grounds that the Committee lacks jurisdiction to consider the allegations contained in the Statement.

(d) Any motion filed with the subcommittee pursuant to this rule shall be accompanied by a Memorandum of Points and Authorities.

(e)(1) The Chair of the investigative subcommittee, for good cause shown, may permit the respondent to file an answer or motion after the day prescribed above.

(2) If the ability of the respondent to present an adequate defense is not adversely affected and special circumstances so require, the Chair of the investigative subcommittee may direct the respondent to file an answer or motion prior to the day prescribed above.

(f) If the day on which any answer, motion, reply, or other pleading must be filed falls on a Saturday, Sunday, or holiday, such filing shall be made on the first business day thereafter.

(g) As soon as practicable after an answer has been filed or the time for such filing has expired, the Statement of Alleged Violation and any answer, motion, reply, or other pleading connected therewith shall be transmitted by the Chair of the investigative subcommittee to the Chair and Ranking Minority Member of the Committee.

Rule 23. Adjudicatory Hearings

(a) If a Statement of Alleged Violation is transmitted to the Chair and Ranking Minority Member pursuant to Rule 22, and no waiver pursuant to Rule 26(b) has occurred, the Chair shall designate the members of the Committee who did not serve on the investigative subcommittee to serve on an adjudicatory subcommittee. The Chair and Ranking Minority Member of the Committee shall be the Chair and Ranking Minority Member of the adjudicatory subcommittee unless they served on the investigative subcommittee. The respondent shall be notified of the designation of the adjudicatory subcommittee and shall have 10 days after such notice is transmitted to object to the participation of any subcommittee member. Such objection shall be in writing and shall be on the grounds that the member cannot render an impartial and unbiased decision. The member against whom the objection is made shall be the sole judge of any disqualification and may choose to seek disqualification from serving on the subcommittee pursuant to Rule 9(e).

(b) A majority of the adjudicatory subcommittee membership plus one must be present at all times for the conduct of any business pursuant to this rule.

(c) The adjudicatory subcommittee shall hold a hearing to determine whether any counts in the Statement of Alleged Violation have been proved by clear and convincing

evidence and shall make findings of fact, except where such violations have been admitted by respondent.

(d) At an adjudicatory hearing, the subcommittee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary. Depositions, interrogatories, and sworn statements taken under any investigative subcommittee direction may be accepted into the hearing record.

(e) The procedures set forth in clause 2(g) and (k) of Rule XI of the Rules of the House of Representatives shall apply to adjudicatory hearings. All such hearings shall be open to the public unless the adjudicatory subcommittee, pursuant to such clause, determines that the hearings or any part thereof should be closed.

(f)(1) The adjudicatory subcommittee shall, in writing, notify the respondent that the respondent and respondent's counsel have the right to inspect, review, copy, or photograph books, papers, documents, photographs, or other tangible objects that the adjudicatory subcommittee counsel intends to use as evidence against the respondent in an adjudicatory hearing. The respondent shall be given access to such evidence, and shall be provided the names of witnesses the subcommittee counsel intends to call, and a summary of their expected testimony, no less than 15 calendar days prior to any such hearing. Except in extraordinary circumstances, no evidence may be introduced or witness called in an adjudicatory hearing unless the respondent has been afforded a prior opportunity to review such evidence or has been provided the name of the witness.

(2) After a witness has testified on direct examination at an adjudicatory hearing, the Committee, at the request of the respondent, shall make available to the respondent any

statement of the witness in the possession of the Committee which relates to the subject matter as to which the witness has testified.

(3) Any other testimony, statement, or documentary evidence in the possession of the Committee which is material to the respondent's defense shall, upon request, be made available to the respondent.

(g) No less than 5 days prior to the hearing, the respondent or counsel shall provide the adjudicatory subcommittee with the names of witnesses expected to be called, summaries of their expected testimony, and copies of any documents or other evidence proposed to be introduced.

(h) The respondent or counsel may apply to the subcommittee for the issuance of subpoenas for the appearance of witnesses or the production of evidence. The application shall be granted upon a showing by the respondent that the proposed testimony or evidence is relevant and not otherwise available to respondent. The application may be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(i) During the hearing, the procedures regarding the admissibility of evidence and rulings shall be as follows:

(1) Any relevant evidence shall be admissible unless the evidence is privileged under the precedents of the House of Representatives.

(2) The Chair of the subcommittee or other presiding member at an adjudicatory subcommittee hearing shall rule upon any question of admissibility or relevance of evidence, motion, procedure, or any other matter, and may direct any witness to answer any question under penalty of contempt. A witness, witness counsel, or a member of the subcommittee may appeal any ruling to the members present at that proceeding. A majority vote of the

members present at such proceeding on such an appeal shall govern the question of admissibility and no appeal shall lie to the Committee.

(3) Whenever a witness is deemed by a Chair or other presiding member to be in contempt of the subcommittee, the matter may be referred to the Committee to determine whether to refer the matter to the House of Representatives for consideration.

(4) Committee counsel may, subject to subcommittee approval, enter into stipulations with the respondent and/or the respondent's counsel as to facts that are not in dispute.

(j) Unless otherwise provided, the order of an adjudicatory hearing shall be as follows:

(1) The Chair of the subcommittee shall open the hearing by stating the adjudicatory subcommittee's authority to conduct the hearing and the purpose of the hearing.

(2) The Chair shall then recognize Committee counsel and the respondent's counsel, in turn, for the purpose of giving opening statements.

(3) Testimony from witnesses and other relevant evidence shall be received in the following order whenever possible:

(i) witnesses (deposition transcripts and affidavits obtained during the inquiry may be used in lieu of live witnesses if the witness is unavailable) and other evidence offered by the Committee counsel,

(ii) witnesses and other evidence offered by the respondent,

(iii) rebuttal witnesses, as permitted by the Chair.

(4) Witnesses at a hearing shall be examined first by counsel calling such witness. The opposing counsel may then cross-examine the witness. Redirect examination and

recross examination by counsel may be permitted at the Chair's discretion. Subcommittee members may then question witnesses. Unless otherwise directed by the Chair, questions by Subcommittee members shall be conducted under the five-minute rule.

(5) The Chair shall then recognize Committee counsel and respondent's counsel, in turn, for the purpose of giving closing arguments. Committee counsel may reserve time for rebuttal argument, as permitted by the Chair.

(k) A subpoena to a witness to appear at a hearing shall be served sufficiently in advance of that witness' scheduled appearance to allow the witness a reasonable period of time, as determined by the Chair of the adjudicatory subcommittee, to prepare for the hearing and to employ counsel.

(l) Each witness appearing before the subcommittee shall be furnished a printed copy of the Committee rules, the relevant provisions of the Rules of the House of Representatives applicable to the rights of witnesses, and a copy of the Statement of Alleged Violation.

(m) Testimony of all witnesses shall be taken under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this subcommittee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered by the Chair or Committee member designated by the Chair to administer oaths.

(n) At an adjudicatory hearing, the burden of proof rests on Committee counsel to establish the facts alleged in the Statement of Alleged Violation by clear and convincing evidence. However, Committee counsel need not present any evidence regarding any count that is admitted by the respondent or any fact stipulated.

(o) As soon as practicable after all testimony and evidence have been presented, the subcommittee shall consider each count contained in the Statement of Alleged Violation and shall determine by a majority vote of its members whether each count has been proved. If a majority of the subcommittee does not vote that a count has been proved, a motion to reconsider that vote may be made only by a member who voted that the count was not proved. A count that is not proved shall be considered as dismissed by the subcommittee.

(p) The findings of the adjudicatory subcommittee shall be reported to the Committee.

Rule 24. Sanction Hearing and Consideration of Sanctions or Other Recommendations

(a) If no count in a Statement of Alleged Violation is proved, the Committee shall prepare a report to the House of Representatives, based upon the report of the adjudicatory subcommittee.

(b) If an adjudicatory subcommittee completes an adjudicatory hearing pursuant to Rule 23 and reports that any count of the Statement of Alleged Violation has been proved, a hearing before the Committee shall be held to receive oral and/or written submissions by counsel for the Committee and counsel for the respondent as to the sanction the Committee should recommend to the House of Representatives with respect to such violations. Testimony by witnesses shall not be heard except by written request and vote of a majority of the Committee.

(c) Upon completion of any proceeding held pursuant to clause (b), the Committee shall consider and vote on a motion to recommend to the House of Representatives that the House take disciplinary action. If a majority of the Committee does not vote in favor of the

recommendation that the House of Representatives take action, a motion to reconsider that vote may be made only by a member who voted against the recommendation. The Committee may also, by majority vote, adopt a motion to issue a Letter of Reproval or take other appropriate Committee action.

(d) If the Committee determines a Letter of Reproval constitutes sufficient action, the Committee shall include any such letter as a part of its report to the House of Representatives.

(e) With respect to any proved counts against a Member of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

(1) Expulsion from the House of Representatives.

(2) Censure.

(3) Reprimand.

(4) Fine.

(5) Denial or limitation of any right, power, privilege, or immunity of the Member if under the Constitution the House of Representatives may impose such denial or limitation.

(6) Any other sanction determined by the Committee to be appropriate.

(f) With respect to any proved counts against an officer or employee of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

(1) Dismissal from employment.

(2) Reprimand.

(3) Fine.

(4) Any other sanction determined by the Committee to be appropriate.

(g) With respect to the sanctions that the Committee may recommend, reprimand is appropriate for serious violations, censure is appropriate for more serious violations, and expulsion of a Member or dismissal of an officer or employee is appropriate for the most serious violations. A recommendation of a fine is appropriate in a case in which it is likely that the violation was committed to secure a personal financial benefit; and a recommendation of a denial or limitation of a right, power, privilege, or immunity of a Member is appropriate when the violation bears upon the exercise or holding of such right, power, privilege, or immunity. This clause sets forth general guidelines and does not limit the authority of the Committee to recommend other sanctions.

(h) The Committee report shall contain an appropriate statement of the evidence supporting the Committee's findings and a statement of the Committee's reasons for the recommended sanction.

Rule 25. Disclosure of Exculpatory Information to Respondent

If the Committee, or any investigative or adjudicatory subcommittee at any time receives any exculpatory information respecting a Complaint or Statement of Alleged Violation concerning a Member, officer, or employee of the House of Representatives, it shall make such information known and available to the Member, officer, or employee as soon as practicable, but in no event later than the transmittal of evidence supporting a proposed Statement of Alleged Violation pursuant to Rule 26(c). If an investigative subcommittee does not adopt a Statement of Alleged Violation, it shall identify any exculpatory information in its possession at the conclusion of its inquiry and shall include such information, if any, in the subcommittee's final report to the Committee regarding its

inquiry. For purposes of this rule, exculpatory evidence shall be any evidence or information that is substantially favorable to the respondent with respect to the allegations or charges before an investigative or adjudicatory subcommittee.

Rule 26. Rights of Respondents and Witnesses

(a) A respondent shall be informed of the right to be represented by counsel, to be provided at the respondent's own expense.

(b) A respondent may seek to waive any procedural rights or steps in the disciplinary process. A request for waiver must be in writing, signed by the respondent, and must detail what procedural steps the respondent seeks to waive. Any such request shall be subject to the acceptance of the Committee or subcommittee, as appropriate.

(c) Not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a Statement of Alleged Violation, the subcommittee shall provide the respondent with a copy of the Statement of Alleged Violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness, but if such evidence is withheld, the subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates.

(d) Neither the respondent nor respondent's counsel shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (c) except for the sole purpose of settlement discussions where counsels for the respondent and the subcommittee are present.

(e) If, at any time after the issuance of a Statement of Alleged Violation, the Committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (c) to prove the charges contained in the Statement of Alleged Violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the Committee's rules.

(f) Evidence provided pursuant to paragraph (c) or (e) shall be made available to the respondent and respondent's counsel only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until–

(1) such time as a Statement of Alleged Violation is made public by the Committee if the respondent has waived the adjudicatory hearing; or

(2) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing; but the failure of respondent and respondent's counsel to so agree in writing, and therefore not receive the evidence, shall not preclude the issuance of a Statement of Alleged Violation at the end of the period referenced to in (c).

(g) A respondent shall receive written notice whenever-

(1) the Chair and Ranking Minority Member determine that information the Committee has received constitutes a complaint;

(2) a complaint or allegation is transmitted to an investigative subcommittee;

(3) that subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; and

(4) the Committee votes to expand the scope of the inquiry of an investigative subcommittee.

(h) Whenever an investigative subcommittee adopts a Statement of Alleged Violation and a respondent enters into an agreement with that subcommittee to settle a complaint on which the Statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and the respondent's counsel, the Chair and Ranking Minority Member of the subcommittee, and outside counsel, if any.

(i) Statements or information derived solely from a respondent or respondent's counsel during any settlement discussions between the Committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the Committee or otherwise publicly disclosed without the consent of the respondent.

(j) Whenever a motion to establish an investigative subcommittee does not prevail, the Committee shall promptly send a letter to the respondent informing the respondent of such vote.

(k) Witnesses shall be afforded a reasonable period of time, as determined by the Committee or subcommittee, to prepare for an appearance before an investigative subcommittee or for an adjudicatory hearing and to obtain counsel.

(l) Prior to their testimony, witnesses shall be furnished a printed copy of the Committee's Rules of Procedure and the provisions of the Rules of the House of Representatives applicable to the rights of witnesses.

(m) Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights. The Chair may punish breaches of order and decorum, and of professional responsibility on the part of counsel, by censure and exclusion

from the hearings; and the Committee may cite the offender to the House of Representatives for contempt.

(n) Each witness subpoenaed to provide testimony or other evidence shall be provided the same per diem rate as established, authorized, and regulated by the Committee on House Administration for Members, officers and employees of the House, and, as the Chair considers appropriate, actual expenses of travel to or from the place of examination. No compensation shall be authorized for attorney's fees or for a witness' lost earnings. Such per diem may not be paid if a witness had been summoned at the place of examination.

(o) With the approval of the Committee, a witness, upon request, may be provided with a transcript of the witness' own deposition or other testimony taken in executive session, or, with the approval of the Chair and Ranking Minority Member, may be permitted to examine such transcript in the office of the Committee. Any such request shall be in writing and shall include a statement that the witness, and counsel, agree to maintain the confidentiality of all executive session proceedings covered by such transcript.

Rule 27. Frivolous Filings

If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee, the Committee may take such action as it, by an affirmative vote of a majority deems appropriate in the circumstances.

Rule 28. Referrals to Federal or State Authorities

Referrals made under clause 3(a)(3) of Rule XI of the Rules of the House of Representatives may be made by an affirmative vote of two-thirds of the members of the Committee.

APPENDIX IV

RULES

COMMITTEE ON ETHICS

Adopted February 15, 2011
Amended May 18, 2012
Amended December 19, 2012
112th Congress

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

COMMITTEE ON ETHICS

UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

JO BONNER, Alabama, *Chairman*
MICHAEL T. MCCAUL, Texas
K. MICHAEL CONAWAY, Texas
CHARLES W. DENT, Pennsylvania
GREGG HARPER, Mississippi

LINDA T. SÁNCHEZ, California, *Ranking Member*
JOHN A. YARMUTH, Kentucky
DONNA F. EDWARDS, Maryland
PEDRO R. PIERLUISI, Puerto Rico
JOE COURTNEY, Connecticut

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FOREWORD

The Committee on Ethics is unique in the House of Representatives. Consistent with the duty to carry out its advisory and enforcement responsibilities in an impartial manner, the Committee is the only standing committee of the House of Representatives the membership of which is divided evenly by party. These rules are intended to provide a fair procedural framework for the conduct of the Committee's activities and to help ensure that the Committee serves well the people of the United States, the House of Representatives, and the Members, officers, and employees of the House of Representatives.

PART I—GENERAL COMMITTEE RULES

Rule 1. General Provisions

(a) So far as applicable, these rules and the Rules of the House of Representatives shall be the rules of the Committee and any subcommittee. The Committee adopts these rules under the authority of clause 2(a)(1) of Rule XI of the Rules of the House of Representatives, 112th Congress.

(b) The rules of the Committee may be modified, amended, or repealed by a vote of a majority of the Committee.

(c) When the interests of justice so require, the Committee, by a majority vote of its members, may adopt any special procedures, not inconsistent with these rules, deemed necessary to resolve a particular matter before it. Copies of such special procedures shall be furnished to all parties in the matter.

(d) The Chair and Ranking Minority Member shall have access to such information that they request as necessary to conduct Committee business.

Rule 2. Definitions

(a) "Committee" means the Committee on Ethics.

(b) "Complaint" means a written allegation of improper conduct against a Member, officer, or employee of the House of Representatives filed with the Committee with the intent to initiate an inquiry.

(c) "Inquiry" means an investigation by an investigative subcommittee into allegations against a Member, officer, or employee of the House of Representatives.

(d) "Investigate," "Investigating," and/or "Investigation" mean review of the conduct of a Member, officer or employee of the House of Representatives that is conducted or authorized by the Committee, an investigative subcommittee, or the Chair and Ranking Minority Member of the Committee.

(e) "Board" means the Board of the Office of Congressional Ethics.

(f) "Referral" means a report sent to the Committee from the Board pursuant to House Rules and all applicable House Resolutions regarding the conduct of a House Member, officer or employee, including any accompanying findings or other supporting documentation.

(g) "Investigative Subcommittee" means a subcommittee designated pursuant to Rule 19(a) to conduct an inquiry to determine if a Statement of Alleged Violation should be issued.

(h) "Statement of Alleged Violation" means a formal charging document filed by an investigative subcommittee with the Committee containing specific allegations against a Member, officer, or employee of the House of Representatives of a violation of the Code of

Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities.

(i) "Adjudicatory Subcommittee" means a subcommittee designated pursuant to Rule 23(a) that holds an adjudicatory hearing and determines whether the counts in a Statement of Alleged Violation are proved by clear and convincing evidence.

(j) "Sanction Hearing" means a Committee hearing to determine what sanction, if any, to adopt or to recommend to the House of Representatives.

(k) "Respondent" means a Member, officer, or employee of the House of Representatives who is the subject of a complaint filed with the Committee or who is the subject of an inquiry or a Statement of Alleged Violation.

(l) "Office of Advice and Education" refers to the Office established by section 803(i) of the Ethics Reform Act of 1989. The Office handles inquiries; prepares written opinions in response to specific requests; develops general guidance; and organizes seminars, workshops, and briefings for the benefit of the House of Representatives.

(m) "Member" means a Representative in, or a Delegate to, or the Resident Commissioner to, the U.S. House of Representatives.

Rule 3. Advisory Opinions and Waivers

(a) The Office of Advice and Education shall handle inquiries; prepare written opinions providing specific advice, including reviews of requests for privately-sponsored travel pursuant to the Committee's travel regulations; develop general guidance; and organize seminars, workshops, and briefings for the benefit of the House of Representatives.

(b) Any Member, officer, or employee of the House of Representatives may request a written opinion with respect to the propriety of any current or proposed conduct of such Member, officer, or employee.

(c) The Office of Advice and Education may provide information and guidance regarding laws, rules, regulations, and other standards of conduct applicable to Members, officers, and employees in the performance of their duties or the discharge of their responsibilities.

(d) In general, the Committee shall provide a written opinion to an individual only in response to a written request, and the written opinion shall address the conduct only of the inquiring individual, or of persons for whom the inquiring individual is responsible as employing authority.

(e) A written request for an opinion shall be addressed to the Chair of the Committee and shall include a complete and accurate statement of the relevant facts. A request shall be signed by the requester or the requester's authorized representative or employing authority. A representative shall disclose to the Committee the identity of the principal on whose behalf advice is being sought.

(f) Requests for privately-sponsored travel shall be treated like any other request for a written opinion for purposes of paragraphs (g) through (l).

(1) The Committee's Travel Guidelines and Regulations shall govern the request submission and Committee approval process for privately-sponsored travel consistent with House Rules.

(2) A request for privately-sponsored travel of a Member, officer, or employee shall include a completed and signed Traveler Form that attaches the Private Sponsor

Certification Form and includes all information required by the Committee's travel regulations. A private sponsor offering officially-connected travel to a Member, officer, or employee must complete and sign a Private Sponsor Certification Form, and provide a copy of that form to the invitee(s).

(3) Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file a Traveler Form or Private Sponsor Certification Form may be subject to civil penalties and criminal sanctions pursuant to 18 U.S.C. § 1001.

(g) The Office of Advice and Education shall prepare for the Committee a response to each written request for an opinion from a Member, officer, or employee. Each response shall discuss all applicable laws, rules, regulations, or other standards.

(h) Where a request is unclear or incomplete, the Office of Advice and Education may seek additional information from the requester.

(i) The Chair and Ranking Minority Member are authorized to take action on behalf of the Committee on any proposed written opinion that they determine does not require consideration by the Committee. If the Chair or Ranking Minority Member requests a written opinion, or seeks a waiver, extension, or approval pursuant to Rules 3(m), 4(c), 4(e), or 4(h), the next ranking member of the requester's party is authorized to act in lieu of the requester.

(j) The Committee shall keep confidential any request for advice from a Member, officer, or employee, as well as any response thereto. Upon request of any Member, officer, or employee who has submitted a written request for an opinion or submitted a request for privately-sponsored travel, the Committee may release to the requesting individual a copy of their own written request for advice or submitted travel forms, any subsequent written

communications between such individual and Committee staff regarding the request, and any Committee advisory opinion or travel letter issued to that individual in response. The Committee shall not release any internal Committee staff work product, communications or notes in response to such a request, except as authorized by the Committee.

(k) The Committee may take no adverse action in regard to any conduct that has been undertaken in reliance on a written opinion if the conduct conforms to the specific facts addressed in the opinion.

(l) Information provided to the Committee by a Member, officer, or employee seeking advice regarding prospective conduct may not be used as the basis for initiating an investigation under clause 3(a)(2) or clause 3(b) of Rule XI of the Rules of the House of Representatives, if such Member, officer, or employee acts in good faith in accordance with the written advice of the Committee.

(m) A written request for a waiver of clause 5 of House Rule XXV (the House gift rule), or for any other waiver or approval, shall be treated in all respects like any other request for a written opinion.

(n) A written request for a waiver of clause 5 of House Rule XXV (the House gift rule) shall specify the nature of the waiver being sought and the specific circumstances justifying the waiver.

(o) An employee seeking a waiver of time limits applicable to travel paid for by a private source shall include with the request evidence that the employing authority is aware of the request. In any other instance where proposed employee conduct may reflect on the performance of official duties, the Committee may require that the requester submit evidence that the employing authority knows of the conduct.

Rule 4. Financial Disclosure

(a) In matters relating to Title I of the Ethics in Government Act of 1978, the Committee shall coordinate with the Clerk of the House of Representatives, Legislative Resource Center, to assure that appropriate individuals are notified of their obligation to file reports required to be filed under Title I of the Ethics in Government Act and that such individuals are provided in a timely fashion with filing instructions and forms developed by the Committee.

(b) The Committee shall coordinate with the Legislative Resource Center to assure that information that the Ethics in Government Act requires to be placed on the public record is made public.

(c) Any reports required to be filed under Title I of the Ethics in Government Act filed by Members of the Board of the Office of Congressional Ethics that are forwarded to the Committee by the Clerk shall not be subject to paragraphs (d) through (q) of this Rule. The Office of Congressional Ethics retains jurisdiction over review of the timeliness and completeness of filings by Members of the Board as the Board's supervising ethics office.

(d) The Chair and Ranking Minority Member are authorized to grant on behalf of the Committee requests for reasonable extensions of time for the filing of Financial Disclosure Statements. Any such request must be received by the Committee no later than the date on which the Statement in question is due. A request received after such date may be granted by the Committee only in extraordinary circumstances. Such extensions for one individual in a calendar year shall not exceed a total of 90 days. No extension shall be granted authorizing a nonincumbent candidate to file a statement later than 30 days prior to a primary or general election in which the candidate is participating.

(e) An individual who takes legally sufficient action to withdraw as a candidate before the date on which that individual's Financial Disclosure Statement is due under the Ethics in Government Act shall not be required to file a Statement. An individual shall not be excused from filing a Financial Disclosure Statement when withdrawal as a candidate occurs after the date on which such Statement was due.

(f) Any individual who files a report required to be filed under Title I of the Ethics in Government Act more than 30 days after the later of—

(1) the date such report is required to be filed, or

(2) if a filing extension is granted to such individual, the last day of the filing extension period, is required by such Act to pay a late filing fee of $200. The Chair and Ranking Minority Member are authorized to approve requests that the fee be waived based on extraordinary circumstances.

(g) Any late report that is submitted without a required filing fee shall be deemed procedurally deficient and not properly filed.

(h) The Chair and Ranking Minority Member are authorized to approve requests for waivers of the aggregation and reporting of gifts as provided by section 102(a)(2)(C) of the Ethics in Government Act. If such a request is approved, both the incoming request and the Committee response shall be forwarded to the Legislative Resource Center for placement on the public record.

(i) The Chair and Ranking Minority Member are authorized to approve blind trusts as qualifying under section 102(f)(3) of the Ethics in Government Act. The correspondence relating to formal approval of a blind trust, the trust document, the list of assets transferred to

the trust, and any other documents required by law to be made public, shall be forwarded to the Legislative Resource Center for such purpose.

(j) The Committee shall designate staff counsel who shall review reports required to be filed under Title I of the Ethics in Government Act and, based upon information contained therein, indicate in a form and manner prescribed by the Committee whether the Statement appears substantially accurate and complete and the filer appears to be in compliance with applicable laws and rules.

(k) Each report required to be filed under Title I of the Ethics in Government Act shall be reviewed within 60 days after the date of filing.

(l) If the reviewing counsel believes that additional information is required because (1) the report required to be filed under Title I of the Ethics in Government Act appears not substantially accurate or complete, or (2) the filer may not be in compliance with applicable laws or rules, then the reporting individual shall be notified in writing of the additional information believed to be required, or of the law or rule with which the reporting individual does not appear to be in compliance. Such notice shall also state the time within which a response is to be submitted. Any such notice shall remain confidential.

(m) Within the time specified, including any extension granted in accordance with clause (d), a reporting individual who concurs with the Committee's notification that the report required to be filed under Title I of the Ethics in Government Act is not complete, or that other action is required, shall submit the necessary information or take appropriate action. Any amendment may be in the form of a revised report required to be filed under Title I of the Ethics in Government Act or an explanatory letter addressed to the Clerk of the House of Representatives.

(n) Any amendment shall be placed on the public record in the same manner as other reports required to be filed under Title I of the Ethics in Government Act. The individual designated by the Committee to review the original report required to be filed under Title I of the Ethics in Government Act shall review any amendment thereto.

(o) Within the time specified, including any extension granted in accordance with clause (d), a reporting individual who does not agree with the Committee that the report required to be filed under Title I of the Ethics in Government Act is deficient or that other action is required, shall be provided an opportunity to respond orally or in writing. If the explanation is accepted, a copy of the response, if written, or a note summarizing an oral response, shall be retained in Committee files with the original report.

(p) The Committee shall be the final arbiter of whether any report required to be filed under Title I of the Ethics in Government Act requires clarification or amendment.

(q) If the Committee determines, by vote of a majority of its members, that there is reason to believe that an individual has willfully failed to file a report required to be filed under Title I of the Ethics in Government Act or has willfully falsified or willfully failed to file information required to be reported, then the Committee shall refer the name of the individual, together with the evidence supporting its finding, to the Attorney General pursuant to section 104(b) of the Ethics in Government Act. Such referral shall not preclude the Committee from initiating such other action as may be authorized by other provisions of law or the Rules of the House of Representatives.

Rule 5. Meetings

(a) The regular meeting day of the Committee shall be the second Tuesday of each month, except when the House of Representatives is not meeting on that day. When the

Committee Chair determines that there is sufficient reason, meetings may be called on additional days. A regularly scheduled meeting need not be held when the Chair determines there is no business to be considered.

(b) The Chair shall establish the agenda for meetings of the Committee and the Ranking Minority Member may place additional items on the agenda.

(c) All meetings of the Committee or any subcommittee shall occur in executive session unless the Committee or subcommittee, by an affirmative vote of a majority of its members, opens the meeting to the public.

(d) Any hearing held by an adjudicatory subcommittee or any sanction hearing held by the Committee shall be open to the public unless the Committee or subcommittee, by an affirmative vote of a majority of its members, closes the hearing to the public.

(e) A subcommittee shall meet at the discretion of its Chair.

(f) Insofar as practicable, notice for any Committee or subcommittee meeting shall be provided at least seven days in advance of the meeting. The Chair of the Committee or subcommittee may waive such time period for good cause.

Rule 6. Committee Staff

(a) The staff is to be assembled and retained as a professional, nonpartisan staff.

(b) Each member of the staff shall be professional and demonstrably qualified for the position for which the individual is hired.

(c) The staff as a whole and each individual member of the staff shall perform all official duties in a nonpartisan manner.

(d) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(e) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to the employment or duties with the Committee of such individual without specific prior approval from the Chair and Ranking Minority Member.

(f) All staff members shall be appointed by an affirmative vote of a majority of the members of the Committee. Such vote shall occur at the first meeting of the membership of the Committee during each Congress and as necessary during the Congress.

(g) Subject to the approval of the Committee on House Administration, the Committee may retain counsel not employed by the House of Representatives whenever the Committee determines, by an affirmative vote of a majority of the members of the Committee, that the retention of outside counsel is necessary and appropriate.

(h) If the Committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(i) Outside counsel may be dismissed prior to the end of a contract between the Committee and such counsel only by a majority vote of the members of the Committee.

(j) In addition to any other staff provided for by law, rule, or other authority, with respect to the Committee, the Chair and Ranking Minority Member each may appoint one individual as a shared staff member from the respective personal staff of the Chair or Ranking Minority Member to perform service for the Committee. Such shared staff may assist the Chair or Ranking Minority Member on any subcommittee on which the Chair or Ranking Minority Member serves. Only paragraphs (c) and (e) of this Rule and Rule 7(b) shall apply to shared staff.

Rule 7. Confidentiality

(a) Before any Member or employee of the Committee, including members of an investigative subcommittee selected under clause 5(a)(4) of Rule X of the House of Representatives and shared staff designated pursuant to Committee Rule 6(j), may have access to information that is confidential under the rules of the Committee, the following oath (or affirmation) shall be executed in writing:

"I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Ethics, any information received in the course of my service with the Committee, except as authorized by the Committee or in accordance with its rules."

Copies of the executed oath shall be provided to the Clerk of the House as part of the records of the House. Breaches of confidentiality shall be investigated by the Committee and appropriate action shall be taken.

(b) No member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the Committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the Committee.

(c) Committee members and staff shall not disclose any evidence relating to an investigation to any person or organization outside the Committee unless authorized by the Committee.

(d) Members and staff of the Committee shall not disclose to any person or organization outside the Committee, unless authorized by the Committee, any information regarding the Committee's or a subcommittee's investigative, adjudicatory or other proceedings, including but not limited to: (i) the fact or nature of any complaints; (ii)

executive session proceedings; (iii) information pertaining to or copies of any Committee or subcommittee report, study or other document which purports to express the views, findings, conclusions or recommendations of the Committee or subcommittee in connection with any of its activities or proceedings; or (iv) any other information or allegation respecting the conduct of a Member, officer or employee of the House. This rule shall not prohibit the Chair or Ranking Minority Member from disclosing to the Board of the Office of Congressional Ethics the existence of a Committee investigation, the name of the Member, officer or employee of the House who is the subject of that investigation, and a brief statement of the scope of that investigation in a written request for referral pursuant to Rule 17A(k). Such disclosures will only be made subject to written confirmation from the Board that the information provided by Chair or Ranking Minority Member will be kept confidential by the Board.

(e) Except as otherwise specifically authorized by the Committee, no Committee member or staff member shall disclose to any person outside the Committee, the name of any witness subpoenaed to testify or to produce evidence.

(f) Except as provided in Rule 17A, the Committee shall not disclose to any person or organization outside the Committee any information concerning the conduct of a respondent until it has transmitted a Statement of Alleged Violation to such respondent and the respondent has been given full opportunity to respond pursuant to Rule 22. The Statement of Alleged Violation and any written response thereto shall be made public at the first meeting or hearing on the matter that is open to the public after such opportunity has been provided. Any other materials in the possession of the Committee regarding such statement may be made public as authorized by the Committee to the extent consistent with the Rules of the

House of Representatives. If no public hearing is held on the matter, the Statement of Alleged Violation and any written response thereto shall be included in the Committee's final report on the matter to the House of Representatives.

(g) Unless otherwise determined by a vote of the Committee, only the Chair or Ranking Minority Member of the Committee, after consultation with each other, may make public statements regarding matters before the Committee or any subcommittee.

(h) The Committee may establish procedures necessary to prevent the unauthorized disclosure of any testimony or other information received by the Committee or its staff.

Rule 8. Subcommittees—General Policy and Structure

(a) Notwithstanding any other provision of these Rules, the Chair and Ranking Minority Member of the Committee may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to evidence and information before a subcommittee with whom they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee. Except for the Chair and Ranking Minority Member of the Committee pursuant to this paragraph, evidence in the possession of an investigative subcommittee shall not be disclosed to other Committee members except by a vote of the subcommittee.

(b) The Committee may establish other noninvestigative and nonadjudicatory subcommittees and may assign to them such functions as it may deem appropriate. The membership of each subcommittee shall provide equal representation for the majority and minority parties.

(c) The Chair may refer any bill, resolution, or other matter before the Committee to an appropriate subcommittee for consideration. Any such bill, resolution, or other matter

may be discharged from the subcommittee to which it was referred by a majority vote of the Committee.

(d) Any member of the Committee may sit with any noninvestigative or nonadjudicatory subcommittee, but only regular members of such subcommittee may vote on any matter before that subcommittee.

Rule 9. Quorums and Member Disqualification

(a) The quorum for the Committee or an investigative subcommittee to take testimony and to receive evidence shall be two members, unless otherwise authorized by the House of Representatives.

(b) The quorum for an adjudicatory subcommittee to take testimony, receive evidence, or conduct business shall consist of a majority plus one of the members of the adjudicatory subcommittee.

(c) Except as stated in clauses (a) and (b) of this rule, a quorum for the purpose of conducting business consists of a majority of the members of the Committee or subcommittee.

(d) A member of the Committee shall be ineligible to participate in any Committee or subcommittee proceeding in which such Member is the respondent.

(e) A member of the Committee may seek disqualification from participating in any investigation of the conduct of a Member, officer, or employee of the House of Representatives upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision. If the Committee approves and accepts such affidavit of disqualification, the Chair shall so notify the Speaker and ask the Speaker to designate a Member of the House of

Representatives from the same political party as the disqualified member of the Committee to act as a member of the Committee in any Committee proceeding relating to such investigation.

Rule 10. Vote Requirements

(a) The following actions shall be taken only upon an affirmative vote of a majority of the members of the Committee or subcommittee, as appropriate:

(1) Issuing a subpoena.

(2) Adopting a full Committee motion to create an investigative subcommittee.

(3) Adopting or amending of a Statement of Alleged Violation.

(4) Finding that a count in a Statement of Alleged Violation has been proved by clear and convincing evidence.

(5) Sending a letter of reproval.

(6) Adopting a recommendation to the House of Representatives that a sanction be imposed.

(7) Adopting a report relating to the conduct of a Member, officer, or employee.

(8) Issuing an advisory opinion of general applicability establishing new policy.

(b) Except as stated in clause (a), action may be taken by the Committee or any subcommittee thereof by a simple majority, a quorum being present.

(c) No motion made to take any of the actions enumerated in clause (a) of this Rule may be entertained by the Chair unless a quorum of the Committee is present when such motion is made.

Rule 11. Committee Records

(a) All communications and all pleadings pursuant to these rules shall be filed with the Committee at the Committee's office or such other place as designated by the Committee.

(b) All records of the Committee which have been delivered to the Archivist of the United States shall be made available to the public in accordance with Rule VII of the Rules of the House of Representatives.

Rule 12. Broadcasts of Committee and Subcommittee Proceedings

(a) Television or radio coverage of a Committee or subcommittee hearing or meeting shall be without commercial sponsorship.

(b) Not more than four television cameras, operating from fixed positions, shall be permitted in a hearing or meeting room. The Committee may allocate the positions of permitted television cameras among the television media in consultation with the Executive Committee of the Radio and Television Correspondents' Galleries.

(c) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the Committee, or the visibility of that witness and that member to each other.

(d) Television cameras shall not be placed in positions that unnecessarily obstruct the coverage of the hearing or meeting by the other media.

PART II—INVESTIGATIVE AUTHORITY

Rule 13. House Resolution

Whenever the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation, the provisions of the resolution, in

conjunction with these Rules, shall govern. To the extent the provisions of the resolution differ from these Rules, the resolution shall control.

Rule 14. Committee Authority to Investigate—General Policy

(a) Pursuant to clause 3(b) of Rule XI of the Rules of the House of Representatives, the Committee may exercise its investigative authority when:

(1) information offered as a complaint by a Member of the House of Representatives is transmitted directly to the Committee;

(2) information offered as a complaint by an individual not a Member of the House is transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee;

(3) the Committee, on its own initiative, undertakes an investigation;

(4) a Member, officer, or employee is convicted in a Federal, State, or local court of a felony;

(5) the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation; or

(6) a referral from the Board is transmitted to the Committee.

(b) The Committee also has investigatory authority over:

(1) certain unauthorized disclosures of intelligence-related information, pursuant to House Rule X, clauses 11(g)(4) and (g)(5); or

(2) reports received from the Office of the Inspector General pursuant to House Rule II, clause 6(c)(5).

Rule 15. Complaints

(a) A complaint submitted to the Committee shall be in writing, dated, and properly verified (a document will be considered properly verified where a notary executes it with the language, "Signed and sworn to (or affirmed) before me on (date) by (the name of the person)" setting forth in simple, concise, and direct statements—

(1) the name and legal address of the party filing the complaint (hereinafter referred to as the "complainant");

(2) the name and position or title of the respondent;

(3) the nature of the alleged violation of the Code of Official Conduct or of other law, rule, regulation, or other standard of conduct applicable to the performance of duties or discharge of responsibilities; and

(4) the facts alleged to give rise to the violation. The complaint shall not contain innuendo, speculative assertions, or conclusory statements.

(b) Any documents in the possession of the complainant that relate to the allegations may be submitted with the complaint.

(c) Information offered as a complaint by a Member of the House of Representatives may be transmitted directly to the Committee.

(d) Information offered as a complaint by an individual not a Member of the House may be transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee.

(e) A complaint must be accompanied by a certification, which may be unsworn, that the complainant has provided an exact copy of the filed complaint and all attachments to the respondent.

(f) The Committee may defer action on a complaint against a Member, officer, or employee of the House of Representatives when the complaint alleges conduct that the Committee has reason to believe is being reviewed by appropriate law enforcement or regulatory authorities, or when the Committee determines that it is appropriate for the conduct alleged in the complaint to be reviewed initially by law enforcement or regulatory authorities.

(g) A complaint may not be amended without leave of the Committee. Otherwise, any new allegations of improper conduct must be submitted in a new complaint that independently meets the procedural requirements of the Rules of the House of Representatives and the Committee's Rules.

(h) The Committee shall not accept, and shall return to the complainant, any complaint submitted within the 60 days prior to an election in which the subject of the complaint is a candidate.

(i) The Committee shall not consider a complaint, nor shall any investigation be undertaken by the Committee, of any alleged violation which occurred before the third previous Congress unless the Committee determines that the alleged violation is directly related to an alleged violation which occurred in a more recent Congress.

Rule 16. Duties of Committee Chair and Ranking Minority Member

(a) Whenever information offered as a complaint is submitted to the Committee, the Chair and Ranking Minority Member shall have 14 calendar days or 5 legislative days,

whichever occurs first, to determine whether the information meets the requirements of the Committee's rules for what constitutes a complaint.

(b) Whenever the Chair and Ranking Minority Member jointly determine that information submitted to the Committee meets the requirements of the Committee's rules for what constitutes a complaint, they shall have 45 calendar days or 5 legislative days, whichever is later, after the date that the Chair and Ranking Minority Member determine that information filed meets the requirements of the Committee's rules for what constitutes a complaint, unless the Committee by an affirmative vote of a majority of its members votes otherwise, to –

(1) recommend to the Committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(2) establish an investigative subcommittee; or

(3) request that the Committee extend the applicable 45-calendar day period when they determine more time is necessary in order to make a recommendation under paragraph (1) or (2) of Rule 16(b).

(c) The Chair and Ranking Minority Member may jointly gather additional information concerning alleged conduct which is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or the Chair or Ranking Minority Member has placed on the agenda the issue of whether to establish an investigative subcommittee.

(d) If the Chair and Ranking Minority Member jointly determine that information

submitted to the Committee meets the requirements of the Committee rules for what constitutes a complaint, and the complaint is not disposed of within 45 calendar days or 5 legislative days, whichever is later, and no additional 45-day extension is made, then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. If at any time during the time period either the Chair or Ranking Minority Member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the Committee.

(e) Whenever the Chair and Ranking Minority Member jointly determine that information submitted to the Committee does not meet the requirements for what constitutes a complaint set forth in the Committee rules, they may (1) return the information to the complainant with a statement that it fails to meet the requirements for what constitutes a complaint set forth in the Committee's rules; or (2) recommend to the Committee that it authorize the establishment of an investigative subcommittee.

Rule 17. Processing of Complaints

(a) If a complaint is in compliance with House and Committee Rules, a copy of the complaint and the Committee Rules shall be forwarded to the respondent within 5 days with notice that the complaint conforms to the applicable rules.

(b) The respondent may, within 30 days of the Committee's notification, provide to the Committee any information relevant to a complaint filed with the Committee. The respondent may submit a written statement in response to the complaint. Such a statement shall be signed by the respondent. If the statement is prepared by counsel for the respondent,

the respondent shall sign a representation that the respondent has reviewed the response and agrees with the factual assertions contained therein.

(c) The Committee staff may request information from the respondent or obtain additional information relevant to the case from other sources prior to the establishment of an investigative subcommittee only when so directed by the Chair and Ranking Minority Member.

(d) The respondent shall be notified in writing regarding the Committee's decision either to dismiss the complaint or to create an investigative subcommittee.

Rule 17A. Referrals from the Board of the Office of Congressional Ethics

(a) The Committee has exclusive jurisdiction over the interpretation, administration, and enforcement of the Code of Official Conduct pursuant to clause 1(g) of House Rule X. Receipt of referrals from the Board under this rule does not limit the Committee's discretion to address referrals in any way through the appropriate procedures authorized by Committee Rules. The Committee shall review the report and findings transmitted by the Board without prejudice or presumptions as to the merit of the allegations.

(b)(1) Whenever the Committee receives either (A) a referral containing a written report and any findings and supporting documentation from the Board; or (B) a referral from the Board pursuant to a request under Rule 17A(k), the Chair shall have 45 calendar days or 5 legislative days after the date the referral is received, whichever is later, to make public the report and findings of the Board unless the Chair and Ranking Minority Member jointly decide, or the Committee votes, to withhold such information for not more than one additional 45-day period.

(2) At least one calendar day before the Committee makes public any report and findings of the Board the Chair shall notify in writing the Board and the Member, officer, or employee who is the subject of the referral of the impending public release of these documents. At the same time, the Chair shall transmit a copy of any public statement on the Committee's disposition of the matter and any accompanying Committee report to the individual who is the subject of the referral.

(3) All public statements and reports and findings of the Board that are required to be made public under this Rule shall be posted on the Committee's website.

(c) If the OCE report and findings are withheld for an additional 45-day period pursuant to paragraph (b)(1), the Chair shall—

(1) make a public statement that the Committee has decided or voted to extend the matter referred from the Board on the day of such decision or vote; and

(2) make public the written report and findings pursuant to paragraph (b) upon the termination of such additional period.

(d) If the Board transmits a report with a recommendation to dismiss or noting a matter as unresolved due to a tie vote, and the Committee votes to extend the matter for an additional period as provided in paragraph (b), the Committee is not required to make a public statement that the Committee has voted to extend the matter pursuant to paragraph (b)(1).

(e) If the Committee votes to dismiss a matter referred from the Board, the Committee is not required to make public the written report and findings of the Board pursuant to paragraph (c) unless the Committee's vote is inconsistent with the recommendation of the Board. A vote by the Committee to dismiss a matter is not

considered inconsistent with a report from the Board that the matter is unresolved by the Board due to a tie vote.

(f) Except as provided by paragraph (g):

(1) If the Committee establishes an investigative subcommittee respecting any matter referred by the Board, then the report and findings of the Board shall not be made public until the conclusion of the investigative subcommittee process. The Committee shall issue a public statement noting the establishment of an investigative subcommittee, which shall include the name of the Member, officer, or employee who is the subject of the inquiry, and shall set forth the alleged violation.

(2) If any such investigative subcommittee does not conclude its review within one year after the Board's referral, then the Committee shall make public the report of the Board no later than one year after the referral. If the investigative subcommittee does not conclude its review before the end of the Congress in which the report of the Board is made public, the Committee shall make public any findings of the Board on the last day of that Congress.

(g) If the vote of the Committee is a tie or the Committee fails to act by the close of any applicable period(s) under this rule, the report and the findings of the Board shall be made public by the Committee, along with a public statement by the Chair explaining the status of the matter.

(h)(1) If the Committee agrees to a request from an appropriate law enforcement or regulatory authority to defer taking action on a matter referred by the Board under paragraph (b) –

(A) The Committee is not required to make public the written report and findings of the Board pursuant to paragraph (c), except that if the recommendation of the Board is that

the matter requires further review, the Committee shall make public the written report of the Board but not the findings; and

(B) The Committee shall make a public statement that it is deferring taking action on the matter at the request of such law enforcement or regulatory authority within one day (excluding weekends and public holidays) of the day that the Committee agrees to the request.

(2) If the Committee has not acted on the matter within one year of the date the public statement described in paragraph (h)(1)(B) is released, the Committee shall make a public statement that it continues to defer taking action on the matter. The Committee shall make a new statement upon the expiration of each succeeding one-year period during which the Committee has not acted on the matter.

(i) The Committee shall not accept, and shall return to the Board, any referral from the Board within 60 days before a Federal, State, or local election in which the subject of the referral is a candidate.

(j) The Committee may postpone any reporting requirement under this rule that falls within that 60-day period until after the date of the election in which the subject of the referral is a candidate. For purposes of calculating any applicable period under this Rule, any days within the 60-day period before such an election shall not be counted.

(k)(1) At any time after the Committee receives written notification from the Board of the Office of Congressional Ethics that the Board is undertaking a review of alleged conduct of any Member, officer, or employee of the House at a time when the Committee is investigating, or has completed an investigation of the same matter, the Committee may so notify the Board in writing and request that the Board cease its review and refer the matter to

the Committee for its consideration immediately. The Committee shall also notify the Board in writing if the Committee has not reached a final resolution of the matter or has not referred the matter to the appropriate Federal or State authorities by the end of any applicable time period specified in Rule 17A (including any permissible extension).

(2) The Committee may not request a second referral of the matter from the Board if the Committee has notified the Board that it is unable to resolve the matter previously requested pursuant to this section. The Board may subsequently send a referral regarding a matter previously requested and returned by the Committee after the conclusion of the Board's review process.

Rule 18. Committee-Initiated Inquiry or Investigation

(a) Notwithstanding the absence of a filed complaint, the Committee may consider any information in its possession indicating that a Member, officer, or employee may have committed a violation of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of the duties or the discharge of the responsibilities of such individual. The Chair and Ranking Minority Member may jointly gather additional information concerning such an alleged violation by a Member, officer, or employee unless and until an investigative subcommittee has been established. The Chair and Ranking Minority Member may also jointly take appropriate action consistent with Committee Rules to resolve the matter.

(b) If the Committee votes to establish an investigative subcommittee, the Committee shall proceed in accordance with Rule 19.

(c) Any written request by a Member, officer, or employee of the House of Representatives that the Committee conduct an investigation into such person's own conduct shall be considered in accordance with subsection (a) of this Rule.

(d) An inquiry shall not be undertaken regarding any alleged violation that occurred before the third previous Congress unless a majority of the Committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.

(e)(1) An inquiry shall be undertaken by an investigative subcommittee with regard to any felony conviction of a Member, officer, or employee of the House of Representatives in a Federal, State, or local court who has been sentenced. Notwithstanding this provision, the Committee has the discretion to initiate an inquiry upon an affirmative vote of a majority of the members of the Committee at any time prior to conviction or sentencing.

(2) Not later than 30 days after a Member of the House is indicted or otherwise formally charged with criminal conduct in any Federal, State or local court, the Committee shall either initiate an inquiry upon a majority vote of the members of the Committee or submit a report to the House describing its reasons for not initiating an inquiry and describing the actions, if any, that the Committee has taken in response to the allegations.

Rule 19. Investigative Subcommittee

(a)(1) Upon the establishment of an investigative subcommittee, the Chair and Ranking Minority Member of the Committee shall designate four members (with equal representation from the majority and minority parties) to serve as an investigative subcommittee to undertake an inquiry. Members of the Committee and Members of the House selected pursuant to clause 5(a)(4)(A) of Rule X of the House of Representatives are

eligible for appointment to an investigative subcommittee, as determined by the Chair and Ranking Minority Member of the Committee. At the time of appointment, the Chair shall designate one member of the subcommittee to serve as the Chair and the Ranking Minority Member shall designate one member of the subcommittee to serve as the ranking minority member of the investigative subcommittee. The Chair and Ranking Minority Member of the Committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex-officio members.

(2) The respondent shall be notified of the membership of the investigative subcommittee and shall have 10 days after such notice is transmitted to object to the participation of any subcommittee member. Such objection shall be in writing and must be on the grounds that the subcommittee member cannot render an impartial and unbiased decision. The members of the Committee shall engage in a collegial discussion regarding such objection. The subcommittee member against whom the objection is made shall be the sole judge of any disqualification and may choose to seek disqualification from participating in the inquiry pursuant to Rule 9(e).

(b) In an inquiry undertaken by an investigative subcommittee—

(1) All proceedings, including the taking of testimony, shall be conducted in executive session and all testimony taken by deposition or things produced pursuant to subpoena or otherwise shall be deemed to have been taken or produced in executive session.

(2) The Chair of the investigative subcommittee shall ask the respondent and all witnesses whether they intend to be represented by counsel. If so, the respondent or witnesses or their legal representatives shall provide written designation of counsel. A

respondent or witness who is represented by counsel shall not be questioned in the absence of counsel unless an explicit waiver is obtained.

(3) The subcommittee shall provide the respondent an opportunity to present, orally or in writing, a statement, which must be under oath or affirmation, regarding the allegations and any other relevant questions arising out of the inquiry.

(4) The staff may interview witnesses, examine documents and other evidence, and request that submitted statements be under oath or affirmation and that documents be certified as to their authenticity and accuracy.

(5) The subcommittee, by a majority vote of its members, may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary to the conduct of the inquiry. Unless the Committee otherwise provides, the subpoena power shall rest in the Chair and Ranking Minority Member of the Committee and a subpoena shall be issued upon the request of the investigative subcommittee.

(6) The subcommittee shall require that testimony be given under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this subcommittee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered by the Chair or subcommittee member designated by the Chair to administer oaths.

(c) During the inquiry, the procedure respecting the admissibility of evidence and rulings shall be as follows:

(1) Any relevant evidence shall be admissible unless the evidence is privileged under the precedents of the House of Representatives.

(2) The Chair of the subcommittee or other presiding member at any investigative subcommittee proceeding shall rule upon any question of admissibility or relevance of evidence, motion, procedure or any other matter, and may direct any witness to answer any question under penalty of contempt. A witness, witness counsel, or a member of the subcommittee may appeal any rulings to the members present at that proceeding. A majority vote of the members present at such proceeding on such appeal shall govern the question of admissibility, and no appeal shall lie to the Committee.

(3) Whenever a person is determined by a majority vote to be in contempt of the subcommittee, the matter may be referred to the Committee to determine whether to refer the matter to the House of Representatives for consideration.

(4) Committee counsel may, subject to subcommittee approval, enter into stipulations with the respondent and/or the respondent's counsel as to facts that are not in dispute.

(d) Upon an affirmative vote of a majority of the subcommittee members, and an affirmative vote of a majority of the full Committee, an investigative subcommittee may expand the scope of its inquiry.

(e) Upon completion of the inquiry, the staff shall draft for the investigative subcommittee a report that shall contain a comprehensive summary of the information received regarding the alleged violations.

(f) Upon completion of the inquiry, an investigative subcommittee, by a majority vote of its members, may adopt a Statement of Alleged Violation if it determines that there is

substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives has occurred. If more than one violation is alleged, such Statement shall be divided into separate counts. Each count shall relate to a separate violation, shall contain a plain and concise statement of the alleged facts of such violation, and shall include a reference to the provision of the Code of Official Conduct or law, rule, regulation or other applicable standard of conduct governing the performance of duties or discharge of responsibilities alleged to have been violated. A copy of such Statement shall be transmitted to the respondent and the respondent's counsel.

(g) If the investigative subcommittee does not adopt a Statement of Alleged Violation, it shall transmit to the Committee a report containing a summary of the information received in the inquiry, its conclusions and reasons therefore, and any appropriate recommendation.

Rule 20. Amendments to Statements of Alleged Violation

(a) An investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its Statement of Alleged Violation anytime before the Statement of Alleged Violation is transmitted to the Committee; and

(b) If an investigative subcommittee amends its Statement of Alleged Violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended Statement of Alleged Violation.

Rule 21. Committee Reporting Requirements

(a) Whenever an investigative subcommittee does not adopt a Statement of Alleged Violation and transmits a report to that effect to the Committee, the Committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives;

(b) Whenever an investigative subcommittee adopts a Statement of Alleged Violation but recommends that no further action be taken, it shall transmit a report to the Committee regarding the Statement of Alleged Violation; and

(c) Whenever an investigative subcommittee adopts a Statement of Alleged Violation, the respondent admits to the violations set forth in such Statement, the respondent waives the right to an adjudicatory hearing, and the respondent's waiver is approved by the Committee—

(1) the subcommittee shall prepare a report for transmittal to the Committee, a final draft of which shall be provided to the respondent not less than 15 calendar days before the subcommittee votes on whether to adopt the report;

(2) the respondent may submit views in writing regarding the final draft to the subcommittee within 7 calendar days of receipt of that draft;

(3) the subcommittee shall transmit a report to the Committee regarding the Statement of Alleged Violation together with any views submitted by the respondent pursuant to subparagraph (2), and the Committee shall make the report, together with the respondent's views, available to the public before the commencement of any sanction hearing; and

(4) the Committee shall by an affirmative vote of a majority of its members issue a report and transmit such report to the House of Representatives, together with the respondent's views previously submitted pursuant to subparagraph (2) and any additional views respondent may submit for attachment to the final report; and

(d) Members of the Committee shall have not less than 72 hours to review any report transmitted to the Committee by an investigative subcommittee before both the commencement of a sanction hearing and the Committee vote on whether to adopt the report.

Rule 22. Respondent's Answer

(a)(1) Within 30 days from the date of transmittal of a Statement of Alleged Violation, the respondent shall file with the investigative subcommittee an answer, in writing and under oath, signed by respondent and respondent's counsel. Failure to file an answer within the time prescribed shall be considered by the Committee as a denial of each count.

(2) The answer shall contain an admission to or denial of each count set forth in the Statement of Alleged Violation and may include negative, affirmative, or alternative defenses and any supporting evidence or other relevant information.

(b) The respondent may file a Motion for a Bill of Particulars within 10 days of the date of transmittal of the Statement of Alleged Violation. If a Motion for a Bill of Particulars is filed, the respondent shall not be required to file an answer until 20 days after the subcommittee has replied to such motion.

(c)(1) The respondent may file a Motion to Dismiss within 10 days of the date of transmittal of the Statement of Alleged Violation or, if a Motion for a Bill of Particulars has been filed, within 10 days of the date of the subcommittee's reply to the Motion for a Bill of Particulars. If a Motion to Dismiss is filed, the respondent shall not be required to file an

answer until 20 days after the subcommittee has replied to the Motion to Dismiss, unless the respondent previously filed a Motion for a Bill of Particulars, in which case the respondent shall not be required to file an answer until 10 days after the subcommittee has replied to the Motion to Dismiss. The investigative subcommittee shall rule upon any motion to dismiss filed during the period between the establishment of the subcommittee and the subcommittee's transmittal of a report or Statement of Alleged Violation to the Committee or to the Chair and Ranking Minority Member at the conclusion of an inquiry, and no appeal of the subcommittee's ruling shall lie to the Committee.

(2) A Motion to Dismiss may be made on the grounds that the Statement of Alleged Violation fails to state facts that constitute a violation of the Code of Official Conduct or other applicable law, rule, regulation, or standard of conduct, or on the grounds that the Committee lacks jurisdiction to consider the allegations contained in the Statement.

(d) Any motion filed with the subcommittee pursuant to this rule shall be accompanied by a Memorandum of Points and Authorities.

(e)(1) The Chair of the investigative subcommittee, for good cause shown, may permit the respondent to file an answer or motion after the day prescribed above.

(2) If the ability of the respondent to present an adequate defense is not adversely affected and special circumstances so require, the Chair of the investigative subcommittee may direct the respondent to file an answer or motion prior to the day prescribed above.

(f) If the day on which any answer, motion, reply, or other pleading must be filed falls on a Saturday, Sunday, or holiday, such filing shall be made on the first business day thereafter.

(g) As soon as practicable after an answer has been filed or the time for such filing has expired, the Statement of Alleged Violation and any answer, motion, reply, or other pleading connected therewith shall be transmitted by the Chair of the investigative subcommittee to the Chair and Ranking Minority Member of the Committee.

Rule 23. Adjudicatory Hearings

(a) If a Statement of Alleged Violation is transmitted to the Chair and Ranking Minority Member pursuant to Rule 22, and no waiver pursuant to Rule 26(b) has occurred, the Chair shall designate the members of the Committee who did not serve on the investigative subcommittee to serve on an adjudicatory subcommittee. The Chair and Ranking Minority Member of the Committee shall be the Chair and Ranking Minority Member of the adjudicatory subcommittee unless they served on the investigative subcommittee. The respondent shall be notified of the designation of the adjudicatory subcommittee and shall have 10 days after such notice is transmitted to object to the participation of any subcommittee member. Such objection shall be in writing and shall be on the grounds that the member cannot render an impartial and unbiased decision. The members of the Committee shall engage in a collegial discussion regarding such objection. The member against whom the objection is made shall be the sole judge of any disqualification and may choose to seek disqualification from serving on the subcommittee pursuant to Rule 9(e).

(b) A majority of the adjudicatory subcommittee membership plus one must be present at all times for the conduct of any business pursuant to this rule.

(c) The adjudicatory subcommittee shall hold a hearing to determine whether any counts in the Statement of Alleged Violation have been proved by clear and convincing

evidence and shall make findings of fact, except where such violations have been admitted by respondent.

(d) The subcommittee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary. A subpoena for documents may specify terms of return other than at a meeting or hearing of the subcommittee. Depositions, interrogatories, and sworn statements taken under any investigative subcommittee direction may be accepted into the hearing record.

(e) The procedures set forth in clause 2(g)(1)-(4), (6)-(7) and (k) of Rule XI of the Rules of the House of Representatives shall apply to adjudicatory hearings. All such hearings shall be open to the public unless the adjudicatory subcommittee, pursuant to such clause, determines that the hearings or any part thereof should be closed.

(f)(1) The adjudicatory subcommittee shall, in writing, notify the respondent that the respondent and respondent's counsel have the right to inspect, review, copy, or photograph books, papers, documents, photographs, or other tangible objects that committee counsel intends to use as evidence against the respondent in an adjudicatory hearing. The respondent shall be given access to such evidence, and shall be provided the names of witnesses committee counsel intends to call, and a summary of their expected testimony, no less than 15 calendar days prior to any such hearing. Except in extraordinary circumstances, no evidence may be introduced or witness called in an adjudicatory hearing unless the respondent has been afforded a prior opportunity to review such evidence or has been provided the name of the witness.

(2) After a witness has testified on direct examination at an adjudicatory hearing, the Committee, at the request of the respondent, shall make available to the respondent any statement of the witness in the possession of the Committee which relates to the subject matter as to which the witness has testified.

(3) Any other testimony, statement, or documentary evidence in the possession of the Committee which is material to the respondent's defense shall, upon request, be made available to the respondent.

(g) No less than 5 days prior to the hearing, the respondent or counsel shall provide the adjudicatory subcommittee with the names of witnesses expected to be called, summaries of their expected testimony, and copies of any documents or other evidence proposed to be introduced.

(h) The respondent or counsel may apply to the subcommittee for the issuance of subpoenas for the appearance of witnesses or the production of evidence. The application shall be granted upon a showing by the respondent that the proposed testimony or evidence is relevant and not otherwise available to respondent. The application may be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(i) No later than two weeks or 5 legislative days after the Chair of the Committee designates members to serve on an adjudicatory subcommittee, whichever is later, the Chair of the adjudicatory subcommittee shall establish a schedule and procedure for the hearing and for prehearing matters. The procedures may be changed either by the Chair of the adjudicatory subcommittee or a by a majority vote of the members of the subcommittee. If the Chair makes prehearing rulings upon any question of admissibility or relevance of

evidence, motion, procedure, or any other matter, the Chair shall make available those rulings to all subcommittee members at the time of the ruling.

(j) The procedures regarding the admissibility of evidence and rulings shall be as follows:

(1) Any relevant evidence shall be admissible unless the evidence is privileged under the precedents of the House of Representatives.

(2) The Chair of the subcommittee or other presiding member at an adjudicatory subcommittee hearing shall rule upon any question of admissibility or relevance of evidence, motion, procedure, or any other matter, and may direct any witness to answer any question under penalty of contempt. A witness, witness counsel, or a member of the subcommittee may appeal any ruling to the members present at that proceeding. A majority vote of the members present at such proceeding on such an appeal shall govern the question of admissibility and no appeal shall lie to the Committee.

(3) Whenever a witness is deemed by a Chair or other presiding member to be in contempt of the subcommittee, the matter may be referred to the Committee to determine whether to refer the matter to the House of Representatives for consideration.

(4) Committee counsel may, subject to subcommittee approval, enter into stipulations with the respondent and/or the respondent's counsel as to facts that are not in dispute.

(k) Unless otherwise provided, the order of an adjudicatory hearing shall be as follows:

(1) The Chair and Ranking Minority Member of the subcommittee shall open the hearing with equal time and during which time, the Chair shall state the adjudicatory subcommittee's authority to conduct the hearing and the purpose of the hearing.

(2) The Chair shall then recognize Committee counsel and the respondent's counsel, in turn, for the purpose of giving opening statements.

(3) Testimony from witnesses and other relevant evidence shall be received in the following order whenever possible:

(i) witnesses (deposition transcripts and affidavits obtained during the inquiry may be used in lieu of live witnesses) and other evidence offered by the Committee counsel,

(ii) witnesses and other evidence offered by the respondent,

(iii) rebuttal witnesses, as permitted by the Chair.

(4) Witnesses at a hearing shall be examined first by counsel calling such witness. The opposing counsel may then cross-examine the witness. Redirect examination and recross examination by counsel may be permitted at the Chair's discretion. Subcommittee members may then question witnesses. Unless otherwise directed by the Chair, questions by Subcommittee members shall be conducted under the five-minute rule.

(5) The Chair shall then recognize Committee counsel and respondent's counsel, in turn, for the purpose of giving closing arguments. Committee counsel may reserve time for rebuttal argument, as permitted by the Chair.

(l) A subpoena to a witness to appear at a hearing shall be served sufficiently in advance of that witness' scheduled appearance to allow the witness a reasonable period of time, as determined by the Chair of the adjudicatory subcommittee, to prepare for the hearing and to employ counsel.

(m) Each witness appearing before the subcommittee shall be furnished a printed copy of the Committee rules, the relevant provisions of the Rules of the House of Representatives applicable to the rights of witnesses, and a copy of the Statement of Alleged Violation.

(n) Testimony of all witnesses shall be taken under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this subcommittee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered by the Chair or Committee member designated by the Chair to administer oaths.

(o) At an adjudicatory hearing, the burden of proof rests on Committee counsel to establish the facts alleged in the Statement of Alleged Violation by clear and convincing evidence. However, Committee counsel need not present any evidence regarding any count that is admitted by the respondent or any fact stipulated. Committee counsel or respondent's counsel may move the adjudicatory subcommittee to make a finding that there is no material fact at issue. If the adjudicatory subcommittee finds that there is no material fact at issue, the burden of proof will be deemed satisfied.

(p) As soon as practicable after all testimony and evidence have been presented, the subcommittee shall consider each count contained in the Statement of Alleged Violation and shall determine by a majority vote of its members whether each count has been proved. If a majority of the subcommittee does not vote that a count has been proved, a motion to reconsider that vote may be made only by a member who voted that the count was not proved. A count that is not proved shall be considered as dismissed by the subcommittee.

(q) The findings of the adjudicatory subcommittee shall be reported to the Committee.

Rule 24. Sanction Hearing and Consideration of Sanctions or Other Recommendations

(a) If no count in a Statement of Alleged Violation is proved, the Committee shall prepare a report to the House of Representatives, based upon the report of the adjudicatory subcommittee.

(b) If an adjudicatory subcommittee completes an adjudicatory hearing pursuant to Rule 23 and reports that any count of the Statement of Alleged Violation has been proved, a hearing before the Committee shall be held to receive oral and/or written submissions by counsel for the Committee and counsel for the respondent as to the sanction the Committee should recommend to the House of Representatives with respect to such violations. Testimony by witnesses shall not be heard except by written request and vote of a majority of the Committee.

(c) Upon completion of any proceeding held pursuant to clause (b), the Committee shall consider and vote on a motion to recommend to the House of Representatives that the House take disciplinary action. If a majority of the Committee does not vote in favor of the recommendation that the House of Representatives take action, a motion to reconsider that vote may be made only by a member who voted against the recommendation. The Committee may also, by majority vote, adopt a motion to issue a Letter of Reproval or take other appropriate Committee action.

(d) If the Committee determines a Letter of Reproval constitutes sufficient action, the Committee shall include any such letter as a part of its report to the House of Representatives.

(e) With respect to any proved counts against a Member of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

(1) Expulsion from the House of Representatives.

(2) Censure.

(3) Reprimand.

(4) Fine.

(5) Denial or limitation of any right, power, privilege, or immunity of the Member if under the Constitution the House of Representatives may impose such denial or limitation.

(6) Any other sanction determined by the Committee to be appropriate.

(f) With respect to any proved counts against an officer or employee of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

(1) Dismissal from employment.

(2) Reprimand.

(3) Fine.

(4) Any other sanction determined by the Committee to be appropriate.

(g) With respect to the sanctions that the Committee may recommend, reprimand is appropriate for serious violations, censure is appropriate for more serious violations, and expulsion of a Member or dismissal of an officer or employee is appropriate for the most

serious violations. A recommendation of a fine is appropriate in a case in which it is likely that the violation was committed to secure a personal financial benefit; and a recommendation of a denial or limitation of a right, power, privilege, or immunity of a Member is appropriate when the violation bears upon the exercise or holding of such right, power, privilege, or immunity. This clause sets forth general guidelines and does not limit the authority of the Committee to recommend other sanctions.

(h) The Committee report shall contain an appropriate statement of the evidence supporting the Committee's findings and a statement of the Committee's reasons for the recommended sanction.

Rule 25. Disclosure of Exculpatory Information to Respondent

If the Committee, or any investigative or adjudicatory subcommittee at any time receives any exculpatory information respecting a Complaint or Statement of Alleged Violation concerning a Member, officer, or employee of the House of Representatives, it shall make such information known and available to the Member, officer, or employee as soon as practicable, but in no event later than the transmittal of evidence supporting a proposed Statement of Alleged Violation pursuant to Rule 26(c). If an investigative subcommittee does not adopt a Statement of Alleged Violation, it shall identify any exculpatory information in its possession at the conclusion of its inquiry and shall include such information, if any, in the subcommittee's final report to the Committee regarding its inquiry. For purposes of this rule, exculpatory evidence shall be any evidence or information that is substantially favorable to the respondent with respect to the allegations or charges before an investigative or adjudicatory subcommittee.

Rule 26. Rights of Respondents and Witnesses

(a) A respondent shall be informed of the right to be represented by counsel, to be provided at the respondent's own expense.

(b) A respondent may seek to waive any procedural rights or steps in the disciplinary process. A request for waiver must be in writing, signed by the respondent, and must detail what procedural steps the respondent seeks to waive. Any such request shall be subject to the acceptance of the Committee or subcommittee, as appropriate.

(c) Not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a Statement of Alleged Violation, the subcommittee shall provide the respondent with a copy of the Statement of Alleged Violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness, but if such evidence is withheld, the subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates.

(d) Neither the respondent nor respondent's counsel shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (c) except for the sole purpose of settlement discussions where counsels for the respondent and the subcommittee are present.

(e) If, at any time after the issuance of a Statement of Alleged Violation, the Committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (c) to prove the charges contained in the Statement

of Alleged Violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the Committee's rules.

(f) Evidence provided pursuant to paragraph (c) or (e) shall be made available to the respondent and respondent's counsel only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until–

(1) such time as a Statement of Alleged Violation is made public by the Committee if the respondent has waived the adjudicatory hearing; or

(2) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing; but the failure of respondent and respondent's counsel to so agree in writing, and therefore not receive the evidence, shall not preclude the issuance of a Statement of Alleged Violation at the end of the period referenced to in (c).

(g) A respondent shall receive written notice whenever-

(1) the Chair and Ranking Minority Member determine that information the Committee has received constitutes a complaint;

(2) a complaint or allegation is transmitted to an investigative subcommittee;

(3) that subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; and

(4) the Committee votes to expand the scope of the inquiry of an investigative subcommittee.

(h) Whenever an investigative subcommittee adopts a Statement of Alleged Violation and a respondent enters into an agreement with that subcommittee to settle a complaint on

which the Statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and the respondent's counsel, the Chair and Ranking Minority Member of the subcommittee, and outside counsel, if any.

(i) Statements or information derived solely from a respondent or respondent's counsel during any settlement discussions between the Committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the Committee or otherwise publicly disclosed without the consent of the respondent.

(j) Whenever a motion to establish an investigative subcommittee does not prevail, the Committee shall promptly send a letter to the respondent informing the respondent of such vote.

(k) Witnesses shall be afforded a reasonable period of time, as determined by the Committee or subcommittee, to prepare for an appearance before an investigative subcommittee or for an adjudicatory hearing and to obtain counsel.

(l) Prior to their testimony, witnesses shall be furnished a printed copy of the Committee's Rules of Procedure and the provisions of the Rules of the House of Representatives applicable to the rights of witnesses.

(m) Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights. The Chair may punish breaches of order and decorum, and of professional responsibility on the part of counsel, by censure and exclusion from the hearings; and the Committee may cite the offender to the House of Representatives for contempt.

(n) Each witness subpoenaed to provide testimony or other evidence shall be provided the same per diem rate as established, authorized, and regulated by the Committee

on House Administration for Members, officers and employees of the House, and, as the Chair considers appropriate, actual expenses of travel to or from the place of examination. No compensation shall be authorized for attorney's fees or for a witness' lost earnings. Such per diem may not be paid if a witness had been summoned at the place of examination.

(o) With the approval of the Committee, a witness, upon request, may be provided with a transcript of the witness' own deposition or other testimony taken in executive session, or, with the approval of the Chair and Ranking Minority Member, may be permitted to examine such transcript in the office of the Committee. Any such request shall be in writing and shall include a statement that the witness, and counsel, agree to maintain the confidentiality of all executive session proceedings covered by such transcript.

Rule 27. Frivolous Filings

If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee, the Committee may take such action as it, by an affirmative vote of a majority deems appropriate in the circumstances.

Rule 28. Referrals to Federal or State Authorities

Referrals made under clause 3(a)(3) of Rule XI of the Rules of the House of Representatives may be made by an affirmative vote of two-thirds of the members of the Committee.

APPENDIX V

U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVES JOHN CAMPBELL, JOSEPH CROWLEY, JEB HENSARLING, CHRISTOPHER LEE, FRANK LUCAS, TOM PRICE, AND MELVIN WATT

January 26, 2011

FOR IMMEDIATE RELEASE

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics determined on January 26, 2011, to release the following statement:

Pursuant to House Rule 11, clauses 3(b)(8)(A) and 3(b)(8)(E), and Committee Rules 17A(b)(2) and 17A(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the attached report of the Committee's nonpartisan, professional staff. The staff report provides analysis of and recommendations about the matters regarding Representatives John Campbell, Joseph Crowley, Jeb Hensarling, Christopher Lee, Frank Lucas, Tom Price, and Melvin Watt, which were transmitted to the Committee by the Office of Congressional Ethics either on September 1, 2010, or November 3, 2010. In light of the recommendations of the staff, the Committee will take no further action regarding these seven matters.

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JO BONNER, ALABAMA
CHAIRMAN

MICHAEL T. McCAUL, TEXAS
K. MICHAEL CONAWAY, TEXAS
CHARLES W. DENT, PENNSYLVANIA
GREGG HARPER, MISSISSIPPI

KELLE A. STRICKLAND,
COUNSEL TO THE CHAIRMAN

ONE HUNDRED TWELFTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515–6328

LINDA T. SÁNCHEZ, CALIFORNIA
RANKING MEMBER

MAZIE K. HIRONO, HAWAII
JOHN A. YARMUTH, KENTUCKY
DONNA F. EDWARDS, MARYLAND
PEDRO R. PIERLUISI, PUERTO RICO

DANIEL J. TAYLOR,
COUNSEL TO THE RANKING MEMBER

1015 LONGWORTH HOUSE OFFICE BUILDING
(202) 225–7103

FOR RELEASE: Upon Receipt May 2, 2011

STATEMENT ON SELECTION OF ETHICS STAFF DIRECTOR

Chairman Jo Bonner and Ranking Member Linda T. Sánchez are pleased to announce the selection of Daniel A. Schwager to serve as the Committee on Ethics' Staff Director and Chief Counsel. The Committee unanimously agreed to the appointment of Mr. Schwager who begins his service with the Committee today.

"Dan's nonpartisan professional experience and proven leadership will ensure that the Committee provides a fair procedural framework for the conduct of its activities and serves the people of the United States and the Members and staff of the House of Representatives in an impartial manner," Chairman Bonner stated. "After a challenging end to the 111th Congress, the Committee is anxious to move forward with the business of the 112th Congress and is confident that Dan will serve the Committee with integrity and without bias."

"Throughout his impressive legal career, Dan has demonstrated a commitment to ethics and to public service," Ranking Member Sánchez said. "Dan's longstanding dedication to ensuring that our public servants meet the highest ethical standards and his wealth of experience make him the right person to lead the Committee's nonpartisan staff and help it fulfill its vital responsibilities to the House and to the American people."

Mr. Schwager added, "I am truly honored by the Committee's vote of confidence in me and the mission of impartial integrity. I am excited to work with the Members, staff, and the entire House community in the best traditions of supporting and promoting the ethical conduct of the House of Representatives."

The Chairman and Ranking Member noted that the Committee has received more than 400 resumés for vacant counsel positions with the Committee, and chose Mr. Schwager from many candidates. The Committee will continue its efforts to hire several additional attorneys in the coming weeks.

Mr. Schwager most recently served as Counsel to the Senate Select Committee on Ethics. His distinguished public service also includes more than five years with the Department of Justice, Criminal Division, Public Integrity Section where he received the Attorney General's Award for Fraud Prevention and numerous meritorious awards. Mr. Schwager also served for more than five years with the New York County District Attorney's office, both in its Investigation Division, Official Corruption Unit and its Trial Division.

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FOR RELEASE: Upon Receipt June 28, 2011

STATEMENT ON COMMITTEE ON ETHICS STAFFING

Chairman Jo Bonner and Ranking Member Linda T. Sánchez are pleased to announce that the Committee has filled a significant number of remaining staff positions. The Committee has hired six new counsel, including Deborah S. Mayer to be director of investigations, and made four internal appointments, including Carol Dixon to be director of advice and education.

"After months of interviewing, I am excited to finally fill out the Committee team and am confident that our nonpartisan staff will support – with integrity and without bias - the Committee's important service to each Member, officer and staffer of the House," Chairman Bonner stated. "These changes will enable the Committee to move forward with its duties."

"It has been a top priority to fill the many counsel vacancies on the Committee staff as soon as possible. Since we hired an exceptional staff director and chief counsel last month, the Chairman and I have worked extensively with him to identify outstanding candidates to serve on the Committee's nonpartisan staff," Ranking Member Sánchez said. "Each of these talented attorneys is uniquely qualified, and I am confident in their ability to help the Committee proceed with its important work."

Deborah Mayer's distinguished public service includes three years with the Department of Justice, Criminal Division, Public Integrity Section, and five years as a prosecutor with the U.S. Attorney's Office for the Eastern District of New York. She also served as a Navy judge advocate, is currently an officer in the Navy Reserve, and has extensive teaching and training experience. Mayer will oversee the Committee's investigative responsibilities.

Carol Dixon is a nine-year veteran of the Committee and is the Committee's longest serving counsel. Her institutional knowledge is unparalleled and her advice is regularly sought out by Members and staff from all corners of the House community. Dixon will oversee the Committee's responsibilities to provide training and guidance regarding the House Code of Official Conduct and other areas of the Committee's jurisdiction.

To help fill out the investigations and advice and education teams, the Committee also announces the hiring of the following counsel, who will start over the course of the coming weeks:

Miguel Toruño will join the investigations staff as senior counsel. Toruño most recently served as a senior integrity officer for the Inter-American Development Bank, where he conducted investigations of fraud and corruption related to activities financed by the bank. He began his career as a prosecutor in the District Attorney's office for the County of New York under Robert M. Morgenthau.

Robert Eskridge will join the advice and education staff as counsel. Eskridge has served as an assistant attorney general for the state of Ohio for four years.

Patrick McMullen will join the investigations staff as counsel. McMullen has been an associate in the litigation and financial services practice in the Washington, D.C., office of O'Melveny & Myers LLP.

Tamar Nedzar has joined the advice and education staff as counsel. Nedzar has worked for six years for the U.S. Election Assistance Commission, where she was acting deputy general counsel.

Christopher Tate will also join the investigative staff as counsel. Tate has been an associate whose practice focused on white collar criminal defense and environmental litigation in the Washington, D.C., office of K&L Gates LLP.

Finally, the Committee has made the following internal appointments: Heather Jones is now a senior counsel in the Committee's financial disclosure office; Tom Rust is now a senior counsel in advice and education; and Clifford Stoddard is now a senior counsel in investigations.

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GREGG HARPER, MISSISSIPPI

KELLE A. STRICKLAND,
COUNSEL TO THE CHAIRMAN

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U.S. House of Representatives

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Washington, DC 20515–6328

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FOR RELEASE: Upon Receipt **July 1, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING MR. MICHAEL COLLINS, MR. GREG HILL, REPRESENTATIVE GREGORY MEEKS, AND REPRESENTATIVE JEAN SCHMIDT

Pursuant to House Rule XI, Clause 3(a)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matters regarding Mr. Michael Collins, Mr. Greg Hill, Representative Gregory Meeks, and Representative Jean Schmidt, which were transmitted to the Committee by the Office of Congressional Ethics on May 18, 2011.

The Committee notes that the mere fact of a referral or an extension, and the mandatory disclosure of such an extension and the name of the subject of the matter, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

The Committee will announce its course of action in these matters on or before August 16, 2011.

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U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

FOR RELEASE: Upon Receipt **July 15, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING FORMER REPRESENTATIVE ERIC MASSA

On July 14, 2011, the Committee voted to re-authorize an investigative subcommittee for the 112th Congress that had been previously authorized during the 111th Congress for the matter involving former Representative Eric Massa.

Representative Jo Bonner will serve as Chairman of the investigative subcommittee, and Representative Zoe Lofgren will serve as Ranking Member. The other two members of the subcommittee are Representative Michael Conaway and Representative Ben Chandler.

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U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

FOR RELEASE: Upon Receipt **July 20, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING THE MATTER OF REPRESENTATIVE MAXINE WATERS

After a long, careful, and competitive process, Chairman Jo Bonner and Ranking Member Linda Sánchez are pleased to announce that the Committee on Ethics voted unanimously to hire highly respected Washington, D.C., attorney Billy Martin, as an outside counsel to the Committee to review, advise, and assist the Committee in completing the matter of Representative Maxine Waters.

The Committee's decision reflects the high priority of this unique matter and the need to resolve it with the utmost care, diligence, and integrity. The Committee is firmly and unanimously resolved to protect both the rights of Representative Waters and all respondents, as well as the responsibilities of the Committee on Ethics to the House community at large. Representative Waters and her counsel were informed of the committee's decision immediately upon approval of the contract.

Serious allegations have been made about the Committee's own conduct in this matter by Representative Waters and others. The Committee has not taken these allegations lightly. The entire Membership of the Committee on Ethics believes that its work must always comport with the highest standards of integrity. The entire Committee has therefore directed that a thorough review of all of these serious allegations will be the very first task of the outside counsel's engagement, including providing an additional opportunity for Representative Waters to clarify her concerns to the Committee and outside counsel. Outside counsel will then report his findings and conclusions to the full Committee, which will then determine whether the matter should proceed. Should the matter proceed, outside counsel will continue to make appropriate recommendations and provide appropriate assistance to the Committee to complete the matter as quickly as possible.

An adjudicatory hearing on allegations against Representative Waters was postponed on November 18, 2010, when the Committee voted to recommit the matter to an investigative subcommittee for further review. The 111th Congress ended with the matter unresolved. In the 112th Congress, the Committee waited until a new staff director and chief counsel was hired before deciding the proper course of action in this matter. Since that time, the Committee, the staff director and chief counsel, and the Committee staff have worked tirelessly to review and carefully consider the most appropriate options for resolving this matter.

The hiring of an outside counsel will allow for an independent review and a faster resolution than if the Committee staff were to handle it alone. The outside counsel's review will also help assure all respondents and the entire House community of the integrity of the Committee's process for all matters. The Committee's decision will also allow the Committee and its staff to continue to work diligently on its large and growing number of other pending investigative matters, as well as its substantial ongoing work within its advice and education, financial disclosure, travel, and training responsibilities.

Mr. Martin was hired under Committee Rule 6(g), which states the Committee may retain outside counsel when it determines it is "necessary and appropriate," subject to approval by the Committee on House Administration. There is precedent for the Committee to retain the services of outside counsel in resolving a matter, and the Committee has done so a number of times in its history.

The Committee considered numerous excellent candidates for the job. Mr. Martin, a partner in the Washington office of Dorsey & Whitney LLP, brings extensive credentials and experience to this task. In addition to his respected criminal defense practice, which has included representing elected officials on both sides of the aisle, Mr. Martin has also had a wide-ranging and impressive government service career. Starting as a local prosecutor in Cincinnati, Ohio, Mr. Martin became an Assistant United States Attorney, and then, at 29 years old, became the managing attorney in the Dayton branch of the United States Attorney's office for the Southern District of Ohio. In 1981, while serving in San Francisco, California, as a federal prosecutor in the Organized Crime Strike Force, Mr. Martin was appointed by the Department of Justice to serve as a specially assigned prosecutor for a high-profile and sensitive matter in Alaska, when the entire staff of the United States Attorney's office for the District of Alaska was recused. Later, after moving to the United States Attorney's office for the District of Columbia, Mr. Martin rose to the level of Executive Assistant United States Attorney for Operations, overseeing the review of all criminal matters, including complaints in the office against sitting members of Congress, as well as the prosecution of the then-mayor of the District of Columbia, Marion Barry.

Mr. Martin plans to begin work immediately, leading an impressive team of partners and associates, and working closely, where appropriate, with the permanent Committee staff. Mr. Martin will operate under the Committee's rules of confidentiality, which are an essential element of assuring fairness to all respondents and the integrity of all investigations. While the Committee takes its adherence to these rules seriously as a matter of integrity and principle, the Committee does make significant information about its matters publicly available for scrutiny at the appropriate times and in the appropriate circumstances. Until the next such appropriate time, however, neither the Committee nor outside counsel will have further public comment on this matter.

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FOR RELEASE: Upon Receipt **August 5, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE GREGORY W. MEEKS

Pursuant to Committee Rules 7(d) and 7(g), the Committee on Ethics (Committee) determined on August 1, 2011, to release the following statement:

On May 18, 2011, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Gregory W. Meeks. The Committee, pursuant to Committee Rule 18(a), conducted a further review of the matter.

After further review, the Committee has unanimously voted to accept the OCE's recommendation to dismiss an allegation that Representative Gregory W. Meeks received an improper loan in 2010. According to the referral from OCE, although it was not a commercial loan, it was made on commercially reasonable terms. The loan was supported by a recorded written agreement establishing an interest rate, collateral, and repayment terms.

The Committee has also accepted the OCE's recommendation for further review of an allegation that Representative Meeks failed to disclose a payment he received in 2007 in a timely manner. The Committee is continuing to review that allegation pursuant to Committee Rule 18(a). The Committee notes that the mere fact of conducting further review, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee on Ethics Rule 7 regarding confidentiality, which is based on fairness to all respondents and the assurance of the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its review.

Pursuant to Committee Rule 17A(c)(2), the Committee on Ethics hereby publishes OCE's Report and Findings regarding Representative Gregory W. Meeks and Representative Meeks' response.

###

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FOR RELEASE: Upon Receipt **August 5, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING MICHAEL COLLINS

Pursuant to Committee Rule 7(d) and 7(g), the Committee on Ethics (Committee) determined on August 1, 2011, to release the following statement:

On May 18, 2011, the Office of Congressional Ethics (OCE) forwarded to the Committee on Ethics (Committee) a Report and Findings related to the receipt of outside earned income by Michael Collins, which he failed to report on his 2009 federal income tax return and his 2007, 2008, and 2009 Financial Disclosure Statements. OCE further indicated in its referral that Mr. Collins received income in 2009 that exceeded the outside earned income limit for senior staff. OCE recommended that the Committee further review the matter.

The Committee, pursuant to Committee Rule 18(a), conducted further review of the matter, as recommended by OCE. On August 1, 2011, the Committee unanimously determined that Mr. Collins violated House rules, laws, regulations or other standards of conduct and brought discredit upon the House of Representatives. Mr. Collins, as he has acknowledged, failed to report $54,000 in outside earned income he received for work on the John Lewis for Congress campaign from 2005 through 2010 on both his Financial Disclosure Statements and his federal income tax returns.

The Committee has therefore unanimously voted to issue a letter of reproval to Mr. Collins and require that he pay a $1,000 fine. In addition, Mr. Collins must take certain steps to remedy the violations, including amending the relevant Financial Disclosure Statements and income tax returns and paying all unpaid taxes, penalties, and interest. Mr. Collins has agreed to waive all further procedural steps and rights he may be entitled to in this matter under House and Committee rules and to accept these sanctions and remedies. Mr. Collins' conduct, as well as the sanctions and remedies, are described in more detail in the attached Report and letter of reproval.

Pursuant to Committee Rule 17A(c)(2), the Committee on Ethics hereby publishes the attached Report, which includes OCE's Report and Findings regarding Michael Collins and Mr. Collins' response.

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FOR RELEASE: Upon Receipt **August 5, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE LUIS V. GUTIERREZ

Today, the Committee transmitted the attached Report to the House regarding Representative Luis V. Gutierrez, who was arrested on July 26, 2011, in Washington, D.C., during a protest outside of the White House.

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FOR RELEASE: Upon Receipt **August 5, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE JEAN SCHMIDT

Pursuant to Committee Rule 7(d) and 7(g), the Committee on Ethics (Committee) determined on August 1, 2011, to release the following statement:

On May 18, 2011, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Jean Schmidt. The Committee, pursuant to Committee Rule 18(a), conducted a further review of the matter as recommended by OCE. Following the conclusion of the Committee's further review, the Committee unanimously voted on August 1, 2011, to release a public Report finding that Representative Schmidt did not knowingly violate any provision of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct with respect to the receipt of gifts.

Since the spring of 2009, Representative Schmidt has been involved in litigation regarding statements made about her by an opponent in her 2008 re-election campaign. That dispute has involved proceedings before an Ohio state agency, in Ohio state court, and in federal court.

According to the OCE referral, Representative Schmidt received an impermissible gift from the Turkish Coalition of America (TCA) when lawyers provided legal services to Representative Schmidt in at least three related matters and then sent bills for their fees to the TCA, which paid those bills on an ongoing basis. According to OCE's referral, between 2008 and 2010 TCA actually paid her lawyers, who claimed to be acting as the Turkish American Legal Defense Fund (TALDF), a project of TCA, approximately $500,000 for legal services provided to Representative Schmidt. Neither the Committee nor, according to the evidence, Representative Schmidt was aware of these payments when the Committee previously provided advice to Representative Schmidt regarding her options for paying legal fees in the various proceedings.

The Committee's review of the matter indicated that Representative Schmidt did, in fact, receive an impermissible gift from TCA as OCE has alleged, and therefore the Committee did not dismiss the OCE matter. However, the Committee has found that Representative Schmidt's lawyers failed to inform her of their payment arrangement with TCA, and made false and misleading statements to her about their relationship with TCA and TALDF. Because Representative Schmidt did not know she was receiving a gift from TCA, the Committee has

determined that no sanction is appropriate in this case. However, the gift was impermissible, and Representative Schmidt must now disclose and repay the gift. Representative Schmidt has worked in good faith with the Committee since September 2009 to determine the appropriate ways to pay her lawyers.

Through a letter to Representative Schmidt issued contemporaneously with the Committee's Report, the Committee has given her guidance on how to appropriately repay the bills which were paid by TCA. In sum, Representative Schmidt must: 1) ensure that TCA does not pay for any further legal services on her behalf; 2) pay from a permissible source the lawyers associated with TALDF for all legal services they performed to date; 3) amend her 2009 and 2010 Financial Disclosure Statements to disclose the gifts from TCA; and 4) disclose any unpaid legal fees from TCA as liabilities on her future Financial Disclosure Statements, until the lawyers associated with TALDF have been repaid in full. This remedy requires any attorney who was actually paid with TCA funds to first agree that they will repay the fees TCA originally paid to them.

Pursuant to Committee Rule 17A(c)(2), the Committee on Ethics hereby publishes the attached Report, which includes OCE's Report and Findings regarding Representative Schmidt and Representative Schmidt's response.

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FOR RELEASE: Upon Receipt **August 5, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING GREGORY HILL

Pursuant to Committee Rule 7(d) and 7(g), the Committee on Ethics (Committee) determined on August 1, 2011, to release the following statement:

On May 18, 2011, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Gregory Hill. The Committee, pursuant to Committee Rule 18(a), conducted a further review of the matter as recommended by OCE. Following the conclusion of the Committee's further review, the Committee has unanimously voted to release a public Report finding that Mr. Hill did not knowingly violate any provision of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct with respect to the acceptance of excess outside income. Representative Michael T. McCaul, at his request, did not participate in consideration of or voting on this matter, as Gregory Hill is Chief of Staff to Representative McCaul.

According to the referral from OCE, Mr. Hill received $32,000 in compensation for his work on the McCaul for Congress campaign during 2009. In 2009, the outside earned income limit for House senior staff was $26,550. The Committee's review of the matter indicated that Mr. Hill did, in fact, receive income in excess of the limit as OCE has alleged, and therefore the Committee did not dismiss the OCE matter. However, based on the Committee's review of the evidence in this matter, the Committee has found that when Mr. Hill became aware of the violation, he took appropriate and immediate steps to remedy it. Though his initial attempts to remedy the situation were unsuccessful, due to misinformation from the campaign's financial agents, when he was made aware that the remedy had not been successful, he took further steps, and has now satisfactorily disgorged himself of the excess income. For these reasons, the Committee has determined that no sanctions are warranted.

Accordingly, the Committee will take no further action and considers this matter closed.

Pursuant to Committee Rule 17A(c)(2), the Committee on Ethics hereby publishes the attached Report, which includes OCE's Report and Findings regarding Gregory Hill and Mr. Hill's response.

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FOR RELEASE: Upon Receipt **October 18, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE JESSE JACKSON, JR.

Pursuant to House Rule XI, Clause 3(a)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matter regarding Representative Jesse Jackson, Jr., which was transmitted to the Committee by the Office of Congressional Ethics (OCE) on August 6, 2009 and deferred, pursuant to Committee Rule 17A. After the recent withdrawal of the request for deferral, the Committee voted on October 13, 2011 to end the deferral period. Pursuant to Rule 17A, the Committee has refrained from taking action during the deferral period.

The Committee notes that the mere fact of a referral or an extension, and the mandatory disclosure of such an extension and the name of the subject of the matter, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

The Committee will announce its course of action in this matter on or before December 2, 2011.

###

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FOR RELEASE: Upon Receipt **November 4, 2011**

STATEMENT OF THE CHAIRMAN AND ACTING RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE LAURA RICHARDSON

In accordance with Clause 3 of House Rule XI and Committee Rules 14(a)(3) and 18, the Committee on Ethics (the Committee) unanimously voted on November 3, 2011, to establish an investigative subcommittee. Pursuant to the Committee's action, the investigative subcommittee shall have jurisdiction to determine whether Representative Laura Richardson violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of her duties or the discharge of her responsibilities, with respect to alleged use of official House resources and personnel for work related to campaign activities and other non-official purposes.

The Committee-initiated action follows a discretionary review of the allegations, pursuant to Committee Rule 18(a), authorized by the Chair and Ranking Republican Member of the Committee during the 111th Congress. Prior to any decisions made in the 112th Congress, in light of uncertainties related to the redistricting process in California, at her initiative Ranking Member Linda T. Sánchez recused herself from consideration of this matter to avoid even the appearance of a conflict of interest. Representative Sánchez designated Representative John A. Yarmuth to act as Acting Ranking Member for purposes of this matter.

The Committee notes that the mere fact of establishing an investigative subcommittee does not itself indicate that any violation has occurred.

Representative Charles W. Dent will serve as the Chair of the investigative subcommittee, and Representative John A. Yarmuth will serve as the Ranking Member. The other two members of the subcommittee are Representative Rob Bishop and Representative Ben Ray Luján. No other public comment will be made on this matter except in accordance with Committee rules.

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FOR RELEASE: Upon Receipt **November 28, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE ALCEE L. HASTINGS AND REPRESENTATIVE DON YOUNG

Pursuant to House Rule XI, Clause 3(a)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matters regarding Representative Alcee L. Hastings and Representative Don Young, which were transmitted to the Committee by the Office of Congressional Ethics on October 13, 2011.

The Committee notes that the mere fact of a referral or an extension, and the mandatory disclosure of such an extension and the name of the subject of the matter, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

The Committee will announce its course of action in these matters on or before Wednesday, January 11, 2012.

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FOR RELEASE: Upon Receipt **December 2, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE JESSE JACKSON, JR.

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on December 2, 2011, to release the following statement:

On August 6, 2009, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Jesse Jackson, Jr. The Committee's review of the OCE referral was deferred under Committee Rule 17A, pursuant to a request by the Department of Justice, until October 13, 2011. Pursuant to House Rule XI, Clause 3(a)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member of the Committee jointly decided on October 18, 2011 to extend the Committee's review of the matter until December 2, 2011. In order to gather additional information necessary to complete its review, the Committee will continue to review the matter pursuant to Committee Rule 18(a). The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee Rule 7 regarding confidentiality, out of fairness to all respondents, and to assure the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its initial review.

Pursuant to Committee Rule 17A(c)(2), the Committee on Ethics hereby publishes OCE's Report and Findings regarding Representative Jesse Jackson, Jr., and Representative Jackson's response.

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Jo Bonner, Alabama
Chairman
Linda T. Sánchez, California
Ranking Member

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K. Michael Conaway, Texas
Charles W. Dent, Pennsylvania
Gregg Harper, Mississippi

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Donna F. Edwards, Maryland
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Joe Courtney, Connecticut

ONE HUNDRED TWELFTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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FOR RELEASE: Upon Receipt **December 16, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER

OF THE COMMITTEE ON ETHICS

REGARDING THE MATTER OF REPRESENTATIVE MAXINE WATERS

The Committee on Ethics has voted unanimously to extend the contract of William R. Martin to continue his service as outside counsel to the Committee in the matter of Representative Maxine Waters. The Committee's goal has been and remains to resolve this matter as expeditiously as possible, but due to unavoidable delays, additional time is needed for outside counsel to complete his initial review and report his findings and conclusions to the full Committee, which will then determine whether the matter should proceed. The Committee's decision to extend the contract does not indicate that the Committee has made any findings or reached any conclusions, or reflect any judgment on behalf of the Committee.

In July 2011, the Committee announced that it had retained Mr. Martin to review, advise, and assist the Committee in completing this matter. The decision to retain outside counsel reflected the high priority of this unique matter and the need to resolve it with the utmost care, diligence, and integrity. Hiring an outside counsel allowed for an independent review and a faster resolution than if the Committee staff were to handle it alone. In addition, retaining outside counsel in this matter has allowed the Committee and its staff to continue to work diligently on its large number of other pending investigative matters, as well as its substantial ongoing work within its advice and education, financial disclosure, travel, and training responsibilities.

To date, Mr. Martin and his team have performed a substantial amount of work to move this matter forward. Mr. Martin has reviewed tens of thousands of pages of documents, interviewed numerous witnesses, and conducted extensive legal research regarding the nature of due process rights which attach to Members of Congress appearing before this Committee. While significant progress has been made, Mr. Martin's review and recommendations regarding due process allegations will not be complete by the end of the first session of the 112th Congress, which is the termination date of the initial contract. Mr. Martin has suggested to the Committee that he not present his recommendations regarding substantive issues of due process, including

whether any fact witnesses should consider recusal from this matter, until the factual review is complete.

The new contract has an expiration date of July 31, 2012, and authorizes expenditures of between $50,000 and $500,000. The Committee has not concluded either that the entirety of the matter will be completed by that date or that outside counsel will need the full amount of time and/or funding to complete his initial review and any subsequent work, if necessary.

Instead, both the expiration date and amount of funding are intended to provide both outside counsel and the Committee with the flexibility to finish this matter as promptly as a thorough, diligent, and fair review of the allegations and relevant facts will allow. As with the initial contract, pursuant to Committee rules, any cancellation, further extension, or amendment to the contract must be approved by a majority vote of the Members of the Committee, acting consistent with integrity and fairness.

The Committee notes that the initial contract with Mr. Martin also authorized expenditures of between $50,000 and $500,000, but that to date, the cost of services provided under the initial contract is approximately $300,000. The range designated in the new contract was fully contemplated in the Committee's request to the Committee on House Administration for funding in the second session of the 112th Congress. The Committee on House Administration has approved both the funding request and the new contract with Mr. Martin, consistent with its rules. Representative Waters and her counsel were informed of the new contract.

At the end of each stage in the matter, the Committee will consider what, if any, statement is appropriate to keep the House and the public informed of the activities of the Committee. Until the next such appropriate time, however, neither the Committee nor outside counsel will have further public comment on this matter.

###

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FOR RELEASE: Upon Receipt **December 20, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE DON YOUNG

Pursuant to Committee Rule 7(d) and 7(g), the Committee on Ethics (Committee) determined on December 14, 2011, to release the following statement:

On October 13, 2011, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding twelve $5,000 contributions to Representative Don Young's legal expense trust fund (LEF). The Committee, pursuant to Committee Rule 18(a), conducted a further review of the matter as recommended by OCE. Following the conclusion of the Committee's further review, the Committee unanimously voted on December 14, 2011, to release a public Report finding that Representative Young did not violate any provision of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct with respect to the receipt of these contributions.

According to the OCE referral, twelve corporations owned and operated by the same group of individuals each made $5,000 contributions to Representative Young's legal expense trust fund. OCE concluded that if the twelve contributions came from a single source, the contributions may have exceeded the annual $5,000 contribution limit provided for in House Rules and Committee regulations.

The Committee's review of the matter indicated that the twelve companies that contributed to Representative Young's legal expense trust were in fact owned by Gary Chouest, his wife, and his five children, or some combination of those seven individuals. However, each company was a distinct legal entity that was separately registered with the Louisiana Secretary of State a number of years before the contributions in question were made. The companies provide different services or products related to the maritime industry and each company has a unique tax identification number. Therefore, the Committee found that the companies were, in fact, separate legal entities and that the 1996 LEF Regulations clearly permitted contributions from multiple entities owned by the same individual or individuals.

Because the contributions by the twelve LLCs were permissible under the Committee's 1996 LEF Regulations, the Committee dismissed the allegations in the OCE referral. However, the Committee is concerned that the identical ownership of the twelve entities challenges the principles of the contribution limits of the 1996 LEF Regulations. To that end, the Committee

has simultaneously adopted revised LEF Regulations that, among other changes and clarifications, attributes contributions by certain types of entities, such as LLCs, to the owners of those entities. The revised LEF Regulations will take effect on January 1, 2012, and will apply to all existing legal expense funds and all legal expense funds approved by the Committee in the future.

Pursuant to Committee Rule 17A(c)(2), the Committee on Ethics hereby publishes the attached Report, which includes OCE's Report and Findings regarding Representative Young and Representative Young's response.

###

Jo Bonner, Alabama
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FOR RELEASE: Upon Receipt **December 22, 2011**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE VERN BUCHANAN

Pursuant to House Rule XI, Clause 3(a)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matter regarding Representative Vern Buchanan, which was transmitted to the Committee by the Office of Congressional Ethics on November 8, 2011.

The Committee notes that the mere fact of a referral or an extension, and the mandatory disclosure of such an extension and the name of the subject of the matter, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

The Committee will announce its course of action in this matter on or before Monday, February 6, 2012.

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Ranking Member

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FOR RELEASE: Upon Receipt **January 11, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE ALCEE L. HASTINGS

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on January 11, 2012, to release the following statement:

On October 13, 2011, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Alcee L. Hastings. Pursuant to House Rule XI, Clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member jointly decided on November 28, 2011, to extend the Committee's review of the matter until January 11, 2012. In order to gather additional information necessary to complete its review, the Committee will review the matter pursuant to Committee Rule 18(a). The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee on Ethics Rule 7 regarding confidentiality, out of fairness to all respondents, and to assure the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its initial review.

Pursuant to Committee Rule 17A(c)(2), the Committee on Ethics hereby publishes OCE's Report and Findings relating to allegations against Representative Alcee L. Hastings, and Representative Hastings' response.

###

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Ranking Member

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FOR RELEASE: Upon Receipt **February 6, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE VERNON G. BUCHANAN

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on February 6, 2012, to release the following statement:

On November 8, 2011, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Vernon G. Buchanan. Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member jointly decided on December 22, 2011, to extend the Committee's review of the matter until February 6, 2012. In order to gather additional information necessary to complete its review, the Committee will review the matter pursuant to Committee Rule 18(a). The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee on Ethics Rule 7 regarding confidentiality, out of fairness to all respondents, and to assure the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its initial review.

Pursuant to Committee Rule 17A(c)(2), the Committee on Ethics hereby publishes OCE's Report and Findings relating to allegations against Representative Vernon G. Buchanan.

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FOR RELEASE: Upon Receipt **February 17, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS

Pursuant to Committee Rules 7(d) and 7(g), the Chairman and Ranking Member of the Committee on Ethics determined on February 17, 2012, to release the following statement and attached letter:

Today, Speaker Boehner laid before the House the attached letter from the Chairman of the Committee regarding the voluntary recusal of six members of the Committee from the Matter of Representative Maxine Waters.

The Speaker also appointed the following substitute members for this Matter: Representative Bob Goodlatte, Representative Michael K. Simpson, Representative Steven C. LaTourette, Representative Shelley Moore Capito, Representative Tim Griffin, and Representative John P. Sarbanes. Representative Bob Goodlatte will serve as Acting Chairman and Representative John A. Yarmuth will serve as Acting Ranking Member for this Matter.

Until the next such appropriate time, the Committee will have no further public comment on this Matter.

Jo Bonner, Alabama
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Ranking Member

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FOR RELEASE: Upon Receipt **March 22, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING ARRESTS OF MEMBERS OF THE HOUSE DURING A PROTEST OUTSIDE THE EMBASSY OF SUDAN IN WASHINGTON, D.C., ON MARCH 16, 2012

Today, the Committee transmitted the attached Report to the House regarding the arrests of Members of the House during a protest outside the Embassy of Sudan in Washington, D.C., on March 16, 2012.

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FOR RELEASE: Upon Receipt **March 23, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE SHELLEY BERKLEY

Pursuant to House Rule XI, Clause 3(a)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matter regarding Representative Shelley Berkley, which was transmitted to the Committee by the Office of Congressional Ethics (OCE) on February 9, 2012.

The Committee notes that the mere fact of a referral or an extension, and the mandatory disclosure of such an extension and the name of the subject of the matter, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

Pursuant to House Rule XI, clause 3(b)(8)(D) and Committee Rule 17A(j), the Committee will announce its course of action in this matter on or before Monday, July 9, 2012.

Jo Bonner, Alabama
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FOR RELEASE: Upon Receipt **March 23, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE VERN BUCHANAN

Pursuant to House Rule XI, Clause 3(a)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matter regarding Representative Vern Buchanan, which was transmitted to the Committee by the Office of Congressional Ethics on February 9, 2012.

The Committee notes that the mere fact of a referral or an extension, and the mandatory disclosure of such an extension and the name of the subject of the matter, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

The Committee will announce its course of action in this matter on or before Wednesday, May 9, 2012.

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FOR RELEASE: Upon Receipt **May 9, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE VERNON G. BUCHANAN

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on May 9, 2012, to release the following statement:

On February 9, 2012, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Vernon G. Buchanan. Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member jointly decided on March 23, 2012, to extend the Committee's review of the matter until May 9, 2012. In order to gather additional information necessary to complete its review, the Committee will review the matter pursuant to Committee Rule 18(a). The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee on Ethics Rule 7 regarding confidentiality, out of fairness to all respondents, and to assure the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its initial review.

Pursuant to Committee Rule 17A(c)(2), the Committee on Ethics hereby publishes OCE's Report and Findings relating to allegations against Representative Vernon G. Buchanan, and Representative Buchanan's Response.

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U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

FOR RELEASE: Upon Receipt **June 6, 2012**

STATEMENT OF THE ACTING CHAIRMAN AND ACTING RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING THE MATTER OF REPRESENTATIVE MAXINE WATERS

Today, acting Chairman Bob Goodlatte, and acting Ranking Member John Yarmuth, informed Representative Waters of the unanimous findings of the Committee on Ethics that no due process rights of Representative Waters have been violated by the Committee in the previous or current Congress.

The Committee, pursuant to Committee Rule 7(d), has unanimously authorized the public disclosure of the Committee's letter to Representative Waters addressing the concerns raised regarding Representative Waters' due process rights.

U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

June 6, 2012

The Honorable Maxine Waters
U.S. House of Representatives
2344 Rayburn House Office Building
Washington, DC 20515

Re: In the Matter of Representative Maxine Waters

Dear Colleague:

As you are aware, the Committee on Ethics (the "Committee") hired attorney Billy Martin to assist the Committee as outside counsel in your matter, which is currently pending before the Committee. One of the tasks assigned to Mr. Martin was to conduct a thorough review of the allegations you raised through counsel regarding the possible deprivation of your due process rights. Indeed, the Committee invited you to submit all allegations you felt warranted review by the outside counsel. In addition to the due process allegations you raised, the Committee identified additional issues that outside counsel reviewed.

The Committee has now completed the due process review. Throughout the process, outside counsel reviewed over 100,000 pages of documents, conducted legal research, and interviewed 26 individuals with potentially relevant information, including all Members of the Committee from the 111th Congress, all Members of the Investigative Subcommittee ("ISC") in this matter, staff, and former staff. The Committee has concluded that the due process to which Respondents before this Committee are entitled is notice and the opportunity to be heard, as embodied in the House and Committee Rules. During your matter, you were afforded these rights. Outside counsel has concluded, and this Committee has unanimously found, that none of the individual allegations raised, nor the totality of the circumstances of those claims, amount to a deprivation of your due process rights.

In conducting this review, the threshold question to be addressed was whether a Member of the House of Representatives has constitutional due process rights in House disciplinary proceedings. Such a question has no clearly established legal answer; there are arguments on both sides of the issue and the Committee has not attempted to provide a legal answer to this constitutional question. Rather, outside counsel recommended, and the Committee agrees, that there are compelling reasons for this Committee to assume that the Fifth Amendment does apply to congressional disciplinary proceedings, and we followed that assumption during the review of this matter.

Even assuming the Fifth Amendment applies to House disciplinary proceedings, under the Rulemaking Clause of the Constitution, Congress clearly has the right to establish its own rules, provided those rules do not violate the Constitution. Both Congress and this Committee have, in fact, established procedural rules governing disciplinary proceedings and we have concluded that these rules are constitutionally sufficient. Specifically, the House and Committee rules meet the constitutional requirements of notice and an opportunity to be heard. It is, therefore, concluded that the specific due process arguments you raised do not establish any constitutional violation.

As part of the due process review, the Committee considered twelve allegations. The first eight allegations were understood to be contentions that certain of the Committee's procedures were unconstitutional, regardless of whether they were permitted by House or Committee Rules. Specifically, the allegations were that (1) the ISC responded to your motions for a bill of particulars and to dismiss too quickly; (2) the ISC denied your request for oral argument on your motions; (3) the Committee announced the formation of the Adjudicatory Subcommittee ("ASC") without simultaneously announcing an initial hearing date for the ASC; (4) Committee counsel collected evidence after the ISC transmitted the Statement of Alleged Violations ("SAV") to the full Committee; (5) the ASC proposed to conduct a *de novo* review of the facts and law; (6) Committee counsel submitted an unreasonable volume of pre-hearing disclosures; (7) the Committee recommitted the matter to an ISC after the ASC had been formed; and (8) the Committee has not acted on the matter since recommitment to the ISC.

The Committee has found that none of the alleged conduct violated Committee Rules. Moreover, none of these objections concern the essential constitutional requirements of notice and the opportunity to be heard, which we determined you have received. Even at the investigatory stage, the House and Committee Rules provide for written notice of significant Committee actions and the disclosure of relevant evidence. The rules also guarantee a Respondent's right to make a statement to the ISC. In this case, you received notice of the Office of Congressional Ethics' ("OCE") report and were given an opportunity to respond to that report. You were also given notice of the SAV, and provided with an opportunity to make a presentation before the ISC with your counsel present. You also had the opportunity to file, and have the ISC consider, both a motion for bill of particulars and a motion to dismiss.

At the adjudicatory stage, the House and Committee Rules require, among other things, pre-hearing disclosure of all evidence, compulsory process to obtain additional evidence, and the right to cross-examine witnesses, should you choose to do so. As these rules provide for notice and an opportunity to be heard, there is no constitutional entitlement to any procedural protections beyond those afforded by the existing House and Committee Rules.

You also argued that this matter has been unduly delayed, but did not articulate a violation of either the Constitution, or of House or Committee Rules. As this Committee has previously advised you through your counsel, the Sixth Amendment does not apply to Committee proceedings, and you thus do not have the same right to a speedy "trial" that a criminal defendant has. While an unreasonable delay could in theory amount to a due process violation, here the delay has resulted primarily from the legitimate need for further investigation, and in any event the proceedings are within the time limit established by the House itself.

You also raised three allegations which we understood to assert both violations of Committee Rules and your constitutional due process rights. These alleged violations include: (1) confidential documents were leaked to persons outside the Committee; (2) improper *ex parte* communications occurred; and (3) the ASC authorized subpoenas on incomplete representations.

With respect to the first allegation of disclosure of confidential Committee documents in violation of House and Committee Rules, the Committee is aware of three instances in which confidential Committee information was disclosed. One of these was your own August 13, 2010, press conference, in which you disclosed documents containing significant evidentiary information regarding your matter. The review has not uncovered the identity of the person(s) who disclosed confidential Committee documents to the press in the other two instances. However, during the course of witness interviews, one witness, who was a former member of the staff of the Committee, invoked the Fifth Amendment right against self incrimination when responding to questions regarding the leaked documents. Therefore, for purposes of our analysis only, and without drawing any final conclusion, the Committee must assume that a staff member may have violated an agreement to keep Committee information confidential, as well as House and Committee Rules. With that assumption, the Committee has unanimously made the following findings regarding the unauthorized disclosures.

First, the unauthorized disclosures occurred after the issuance of the SAV. Therefore, the Committee finds that the SAV could not have been affected by any alleged rules violation.

Second, even though apparently a violation of Committee Rules, the unauthorized disclosures in this case could only raise constitutional concerns if they led to prejudice or bias among Committee or House Members so as to deprive you of a fundamentally fair hearing. There is no reason to suspect that they did or will do so. Members of Congress can be expected to abide by their duty to base any decision only on appropriate information, just as in bench trials when members of the judiciary are presumed to act appropriately when they make determinations regarding admissibility of evidence and still ultimately decide the case based only on admitted evidence. Moreover, while clearly not mandated by law or factually necessary in this case, Members of the Committee who were on the Committee in the 111th Congress have voluntarily recused themselves from this matter in the 112th Congress. Consequently, any further investigation and possible hearing will be conducted by a new panel of Members.

Finally, it must be noted that the Committee's violation of one of its own rules would not necessarily constitute a deprivation of constitutional due process. Rules of Congress and committees are of course binding, but their violation does not necessarily amount to a violation of the Constitution. Ordinarily, unless the rules in question are themselves constitutionally required or necessary to protect constitutional fairness, their violation does not raise a constitutional issue. While the Committee takes its confidentiality rules very seriously, it does not believe that they are constitutionally mandated.

For all these reasons, even though the Committee assumes that a former staff member may be responsible for some of the unauthorized disclosures, we find that such disclosures do not amount to a violation of your due process rights.

The next allegation involves improper *ex parte* communications, which allegedly occurred between staff and Members of the Committee. You cited no Committee or House rule that prohibits such communications. Indeed, the concept of an *ex parte* communication in the judicial branch evolved in the United States because of the tri-partite system that exists. Here, however, the Committee is not part of the judicial system, so any comparison to judicial *ex parte* communications is not appropriate in this setting.

Your *ex parte* communications argument seems to be based on the assumption that during the ASC phase of an investigation, the staff becomes a party to the adjudication akin to prosecutors, separate and apart from the ASC Members. Such an assumption is not only incorrect, but wholly improper under House Rules. Staff members work for the Committee Members. Staff does not and cannot become independent operators pursuant to House Rules. As such, an *ex parte* rule would be unworkable in this Committee, since the non-partisan staff must serve all Members, as the Members (other than the Chairman and Ranking Member) are not allowed to have assistance from staff in their personal offices on Committee matters. It is, therefore, clear that Members of the Committee must be permitted to speak with Committee staff regarding Committee matters.

Such communications occurred in this matter. Some of those communications were between staff and Members of only one party or the other. While such communications can raise concerns about the appearance of staff partisanship, such concerns do not override the requirement that the Members must be able to communicate with staff. Outside counsel and this Committee have considered these issues and the communications in this matter and have determined that the communications did not impact the ability of the Members to provide you a fair hearing of the allegations against you. The Committee has, therefore, concluded that none of these communications constitute either a violation of House or Committee Rules or of your due process rights.

The Committee also authorized outside counsel to consider whether subpoenas were authorized on incomplete representations. During the course of the review, it was determined that all Members who voted to authorize the subpoenas had adequate information to approve the subpoenas. Consequently, this allegation does not support a finding that either your due process rights or House or Committee Rules were violated.

The final allegation that was reviewed, at the request of the Committee, was whether any inappropriate and/or racially insensitive remarks may have biased the investigation of this matter. The investigation revealed some evidence of insensitive remarks by a former Committee staff member. While the Committee finds such remarks to be inappropriate, the outside counsel concluded, and the Committee unanimously found, that any such insensitivity did not affect any decision-making of the Members of the Committee with respect to your case.

As discussed, the outside counsel has concluded, and the Committee has unanimously found that you have been afforded notice and the opportunity to be heard. As such, there has been no violation of the due process rights to which you are entitled. Even when the allegations are considered in their totality, there is still no violation of the process which you are due, and the Committee is entitled to continue its consideration of your matter.

Sincerely,

Robert Goodlatte
Acting Chairman

John Yarmuth
Acting Ranking Member

cc: Stanley Brand, Esq.

U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

FOR RELEASE: Upon Receipt **June 8, 2012**

STATEMENT OF THE ACTING CHAIRMAN AND ACTING RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING THE MATTER OF REPRESENTATIVE MAXINE WATERS

Today, all 10 members of the Committee on Ethics in the Matter of Representative Maxine Waters sent the attached response to a letter received on June 7, 2012, from colleagues.

###

U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

June 8, 2012

Dear Colleagues:

We have received your letter dated June 7, 2012, related to the Committee on Ethics' (Committee) letter of June 6, 2012 regarding the Matter of Representative Maxine Waters. We appreciate this opportunity to respond to your concerns.

To begin, we remind you that all current members of the Committee and staff who were involved in the investigation of Representative Waters' conduct in the last Congress have recused themselves from any further consideration of this matter. In their place a new Committee, still evenly bipartisan, with no prior connection to this matter, has addressed Representative Waters' arguments and concerns, and has done so with unprecedented thoroughness. In fact, six of the ten Members of this Committee were appointed solely for this case, and do not constitute the Ethics Committee for any other purpose.

Furthermore, we believe that our letter of June 6 addresses all the factual concerns you raise in a far more thorough manner than your letter seems to take into account. While you are not correct that "Committee staff generally did engage in the leaking of confidential information, and *ex parte* communications," we have objectively dealt with and acknowledged all the areas of concern you raise, and even assumed facts to the benefit of Representative Waters' arguments. We carefully considered and explained the proper analysis of such conduct, in the context of principles of constitutional law applicable to this Committee's proceedings. For example, the Committee acknowledged that a former member of the staff made inappropriate remarks related to race. We do not minimize such conduct. However, as a matter of fact and constitutional principle, the Committee's outside counsel, Mr. Martin, concluded, and the Committee unanimously found, that the conduct in question did not affect the investigation, or impact the decision-making process in this case. The Committee has now announced its unanimous findings and conclusions, which were entirely consistent, in all ways, with Mr. Martin's advice and recommendations.

It is also simply incorrect to assume that Mr. Martin "issued" a "report" in this matter. He did not. While his tremendous experience and reputation in the community assure the House and public that the Committee is receiving independent advice, Mr. Martin was retained to advise and assist the Committee, as staff to the Committee. In that role, Mr. Martin provided confidential and thorough advice to the Committee, just as congressional staff advise Members and House committees on a daily basis, so that the Members and committees may make their own informed findings and conclusions.

In addition, Mr. Martin's engagement was not limited to a single task. Rather, Mr. Martin was engaged to advise and assist the Committee in all phases of the investigation of allegations of misconduct against Representative Waters. The first phase of his assignment was an unprecedented, thorough, and fair review of the due process complaints of the Respondent in the matter. However, that was only the first phase. Therefore Mr. Martin's role has not yet concluded and the Committee has not considered any reports in the matter for which he is engaged. Indeed, Mr. Martin and the Committee are trying to provide as prompt a resolution to the entire matter as possible.

By Committee rule, Committee proceedings are confidential. This includes the work of all staff–including outside counsel–in providing advice to the Committee. The confidentiality rules are crucial to the Committee's work and protect all Members and staff of the House of Representatives during ongoing investigations, as well as the integrity of the investigation itself. If the ongoing work of the Committee's professional staff, including outside counsel, were made public prior to completion, it would defeat the purpose of having a nonpartisan, confidential process - keeping matters of House discipline free from political or outside influence.

Instead, when public matters before the Committee conclude, the Committee often releases a carefully detailed final report, with supporting evidence, for the scrutiny of the House community and the public at large. If the Committee does so in this matter, it will be at the conclusion of the matter. However, the Committee has considered the Respondent's concerns and arguments in this matter, and has issued its judgment on those questions. This phase is therefore complete. There is no justification for releasing the confidential details of staff advice to the Committee at this time.

Accordingly, we respectfully decline to provide the internal advice and memoranda of staff in this, or any, open and ongoing matter.

Sincerely,

Robert Goodlatte
Acting Chairman

John Yarmuth
Acting Ranking Member

Michael K. Simpson

Donna F. Edwards

Steven C. La Tourette

Pedro R. Pierluisi

Shelley Moore Capito

Joe Courtney

Tim Griffin

John P. Sarbanes

Enclosure

U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

June 6, 2012

The Honorable Maxine Waters
U.S. House of Representatives
2344 Rayburn House Office Building
Washington, DC 20515

Re: In the Matter of Representative Maxine Waters

Dear Colleague:

As you are aware, the Committee on Ethics (the "Committee") hired attorney Billy Martin to assist the Committee as outside counsel in your matter, which is currently pending before the Committee. One of the tasks assigned to Mr. Martin was to conduct a thorough review of the allegations you raised through counsel regarding the possible deprivation of your due process rights. Indeed, the Committee invited you to submit all allegations you felt warranted review by the outside counsel. In addition to the due process allegations you raised, the Committee identified additional issues that outside counsel reviewed.

The Committee has now completed the due process review. Throughout the process, outside counsel reviewed over 100,000 pages of documents, conducted legal research, and interviewed 26 individuals with potentially relevant information, including all Members of the Committee from the 111th Congress, all Members of the Investigative Subcommittee ("ISC") in this matter, staff, and former staff. The Committee has concluded that the due process to which Respondents before this Committee are entitled is notice and the opportunity to be heard, as embodied in the House and Committee Rules. During your matter, you were afforded these rights. Outside counsel has concluded, and this Committee has unanimously found, that none of the individual allegations raised, nor the totality of the circumstances of those claims, amount to a deprivation of your due process rights.

In conducting this review, the threshold question to be addressed was whether a Member of the House of Representatives has constitutional due process rights in House disciplinary proceedings. Such a question has no clearly established legal answer; there are arguments on both sides of the issue and the Committee has not attempted to provide a legal answer to this constitutional question. Rather, outside counsel recommended, and the Committee agrees, that there are compelling reasons for this Committee to assume that the Fifth Amendment does apply to congressional disciplinary proceedings, and we followed that assumption during the review of this matter.

Even assuming the Fifth Amendment applies to House disciplinary proceedings, under the Rulemaking Clause of the Constitution, Congress clearly has the right to establish its own rules, provided those rules do not violate the Constitution. Both Congress and this Committee have, in fact, established procedural rules governing disciplinary proceedings and we have concluded that these rules are constitutionally sufficient. Specifically, the House and Committee rules meet the constitutional requirements of notice and an opportunity to be heard. It is, therefore, concluded that the specific due process arguments you raised do not establish any constitutional violation.

As part of the due process review, the Committee considered twelve allegations. The first eight allegations were understood to be contentions that certain of the Committee's procedures were unconstitutional, regardless of whether they were permitted by House or Committee Rules. Specifically, the allegations were that (1) the ISC responded to your motions for a bill of particulars and to dismiss too quickly; (2) the ISC denied your request for oral argument on your motions; (3) the Committee announced the formation of the Adjudicatory Subcommittee ("ASC") without simultaneously announcing an initial hearing date for the ASC; (4) Committee counsel collected evidence after the ISC transmitted the Statement of Alleged Violations ("SAV") to the full Committee; (5) the ASC proposed to conduct a *de novo* review of the facts and law; (6) Committee counsel submitted an unreasonable volume of pre-hearing disclosures; (7) the Committee recommitted the matter to an ISC after the ASC had been formed; and (8) the Committee has not acted on the matter since recommitment to the ISC.

The Committee has found that none of the alleged conduct violated Committee Rules. Moreover, none of these objections concern the essential constitutional requirements of notice and the opportunity to be heard, which we determined you have received. Even at the investigatory stage, the House and Committee Rules provide for written notice of significant Committee actions and the disclosure of relevant evidence. The rules also guarantee a Respondent's right to make a statement to the ISC. In this case, you received notice of the Office of Congressional Ethics' ("OCE") report and were given an opportunity to respond to that report. You were also given notice of the SAV, and provided with an opportunity to make a presentation before the ISC with your counsel present. You also had the opportunity to file, and have the ISC consider, both a motion for bill of particulars and a motion to dismiss.

At the adjudicatory stage, the House and Committee Rules require, among other things, pre-hearing disclosure of all evidence, compulsory process to obtain additional evidence, and the right to cross-examine witnesses, should you choose to do so. As these rules provide for notice and an opportunity to be heard, there is no constitutional entitlement to any procedural protections beyond those afforded by the existing House and Committee Rules.

You also argued that this matter has been unduly delayed, but did not articulate a violation of either the Constitution, or of House or Committee Rules. As this Committee has previously advised you through your counsel, the Sixth Amendment does not apply to Committee proceedings, and you thus do not have the same right to a speedy "trial" that a criminal defendant has. While an unreasonable delay could in theory amount to a due process violation, here the delay has resulted primarily from the legitimate need for further investigation, and in any event the proceedings are within the time limit established by the House itself.

You also raised three allegations which we understood to assert both violations of Committee Rules and your constitutional due process rights. These alleged violations include: (1) confidential documents were leaked to persons outside the Committee; (2) improper *ex parte* communications occurred; and (3) the ASC authorized subpoenas on incomplete representations.

With respect to the first allegation of disclosure of confidential Committee documents in violation of House and Committee Rules, the Committee is aware of three instances in which confidential Committee information was disclosed. One of these was your own August 13, 2010, press conference, in which you disclosed documents containing significant evidentiary information regarding your matter. The review has not uncovered the identity of the person(s) who disclosed confidential Committee documents to the press in the other two instances. However, during the course of witness interviews, one witness, who was a former member of the staff of the Committee, invoked the Fifth Amendment right against self incrimination when responding to questions regarding the leaked documents. Therefore, for purposes of our analysis only, and without drawing any final conclusion, the Committee must assume that a staff member may have violated an agreement to keep Committee information confidential, as well as House and Committee Rules. With that assumption, the Committee has unanimously made the following findings regarding the unauthorized disclosures.

First, the unauthorized disclosures occurred after the issuance of the SAV. Therefore, the Committee finds that the SAV could not have been affected by any alleged rules violation.

Second, even though apparently a violation of Committee Rules, the unauthorized disclosures in this case could only raise constitutional concerns if they led to prejudice or bias among Committee or House Members so as to deprive you of a fundamentally fair hearing. There is no reason to suspect that they did or will do so. Members of Congress can be expected to abide by their duty to base any decision only on appropriate information, just as in bench trials when members of the judiciary are presumed to act appropriately when they make determinations regarding admissibility of evidence and still ultimately decide the case based only on admitted evidence. Moreover, while clearly not mandated by law or factually necessary in this case, Members of the Committee who were on the Committee in the 111th Congress have voluntarily recused themselves from this matter in the 112th Congress. Consequently, any further investigation and possible hearing will be conducted by a new panel of Members.

Finally, it must be noted that the Committee's violation of one of its own rules would not necessarily constitute a deprivation of constitutional due process. Rules of Congress and committees are of course binding, but their violation does not necessarily amount to a violation of the Constitution. Ordinarily, unless the rules in question are themselves constitutionally required or necessary to protect constitutional fairness, their violation does not raise a constitutional issue. While the Committee takes its confidentiality rules very seriously, it does not believe that they are constitutionally mandated.

For all these reasons, even though the Committee assumes that a former staff member may be responsible for some of the unauthorized disclosures, we find that such disclosures do not amount to a violation of your due process rights.

The next allegation involves improper *ex parte* communications, which allegedly occurred between staff and Members of the Committee. You cited no Committee or House rule that prohibits such communications. Indeed, the concept of an *ex parte* communication in the judicial branch evolved in the United States because of the tri-partite system that exists. Here, however, the Committee is not part of the judicial system, so any comparison to judicial *ex parte* communications is not appropriate in this setting.

Your *ex parte* communications argument seems to be based on the assumption that during the ASC phase of an investigation, the staff becomes a party to the adjudication akin to prosecutors, separate and apart from the ASC Members. Such an assumption is not only incorrect, but wholly improper under House Rules. Staff members work for the Committee Members. Staff does not and cannot become independent operators pursuant to House Rules. As such, an *ex parte* rule would be unworkable in this Committee, since the non-partisan staff must serve all Members, as the Members (other than the Chairman and Ranking Member) are not allowed to have assistance from staff in their personal offices on Committee matters. It is, therefore, clear that Members of the Committee must be permitted to speak with Committee staff regarding Committee matters.

Such communications occurred in this matter. Some of those communications were between staff and Members of only one party or the other. While such communications can raise concerns about the appearance of staff partisanship, such concerns do not override the requirement that the Members must be able to communicate with staff. Outside counsel and this Committee have considered these issues and the communications in this matter and have determined that the communications did not impact the ability of the Members to provide you a fair hearing of the allegations against you. The Committee has, therefore, concluded that none of these communications constitute either a violation of House or Committee Rules or of your due process rights.

The Committee also authorized outside counsel to consider whether subpoenas were authorized on incomplete representations. During the course of the review, it was determined that all Members who voted to authorize the subpoenas had adequate information to approve the subpoenas. Consequently, this allegation does not support a finding that either your due process rights or House or Committee Rules were violated.

The final allegation that was reviewed, at the request of the Committee, was whether any inappropriate and/or racially insensitive remarks may have biased the investigation of this matter. The investigation revealed some evidence of insensitive remarks by a former Committee staff member. While the Committee finds such remarks to be inappropriate, the outside counsel concluded, and the Committee unanimously found, that any such insensitivity did not affect any decision-making of the Members of the Committee with respect to your case.

As discussed, the outside counsel has concluded, and the Committee has unanimously found that you have been afforded notice and the opportunity to be heard. As such, there has been no violation of the due process rights to which you are entitled. Even when the allegations are considered in their totality, there is still no violation of the process which you are due, and the Committee is entitled to continue its consideration of your matter.

Sincerely,

Robert Goodlatte
Acting Chairman

John Yarmuth
Acting Ranking Member

cc: Stanley Brand, Esq.

Jo Bonner, Alabama
Chairman
Linda T. Sánchez, California
Ranking Member

Michael T. McCaul, Texas
K. Michael Conaway, Texas
Charles W. Dent, Pennsylvania
Gregg Harper, Mississippi

John A. Yarmuth, Kentucky
Donna F. Edwards, Maryland
Pedro R. Pierluisi, Puerto Rico
Joe Courtney, Connecticut

ONE HUNDRED TWELFTH CONGRESS

U.S. House of Representatives

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STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE SHELLEY BERKLEY

July 9, 2012

In accordance with Clause 3 of House Rule XI and Committee Rules 14(a)(3) and 18, the Committee on Ethics (the Committee) unanimously voted on June 29, 2012, to establish an investigative subcommittee. Pursuant to the Committee's action, the investigative subcommittee shall have jurisdiction to determine whether Representative Shelley Berkley violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of her duties or the discharge of her responsibilities, with respect to alleged communications and activities with or on behalf of entities in which Representative Berkley's husband had a financial interest.

The Committee has determined to take this action based upon a discretionary review of the allegations, as well as evidence obtained pursuant to Committee Rule 18(a), authorized by the Chairman and Ranking Member of the Committee for the 112th Congress. During the course of the Committee's independent investigation, the Committee received a referral from the Office of Congressional Ethics regarding this same matter. As provided by House Rule X, clause 1(g) and Committee Rule 17A, the Committee has exclusive jurisdiction over the interpretation, administration, and enforcement of the Code of Official Conduct. Consistent with the Committee's rules, it reviews OCE's report and findings without prejudice or presumptions as to the merit of the allegations.

The Committee notes that the mere fact of establishing an investigative subcommittee does not itself indicate that any violation has occurred.

Representative K. Michael Conaway will serve as the Chair of the investigative subcommittee, and Representative Donna F. Edwards will serve as the Ranking Member. The other two members of the subcommittee are Representative Robert E. Latta and Representative Adam Schiff. No other public comment will be made on this matter except in accordance with Committee rules. Pursuant to House Rule XI, Clause 3(b)(8)(B)(iii), and Committee Rule 17A(f)(1), no documents will be released at this time.

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Jo Bonner, Alabama
Chairman
Linda T. Sánchez, California
Ranking Member

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K. Michael Conaway, Texas
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FOR RELEASE: Upon Receipt **July 10, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE VERNON G. BUCHANAN

Pursuant to Committee Rule 7(g), the Committee on Ethics (Committee) determined on July 10, 2012, to release the following statement:

On November 8, 2011, the Office of Congressional Ethics (OCE) forwarded to the Committee on Ethics (Committee) a Report and Findings related to Representative Vernon G. Buchanan's alleged failure to report certain information regarding positions he held with certain entities, as well as income from those entities on his annual Financial Disclosure Statements for 2007 through 2010. The Committee released OCE's Report and Findings on February 6, 2012, and the Chairman and Ranking Member of the Committee announced the Committee's intention to continue to review the matter pursuant to Committee Rule 18(a).

The Committee adopted a Report on June 29, 2012, based on its independent review, which resolves the allegations addressed by OCE in its November 8 referral. The Committee has determined that Representative Buchanan did not accurately report all of the positions or ownership interests he held with several entities on his Financial Disclosure Statements for 2007, 2008, 2009, and 2010, and that he did not accurately report certain income received from those same entities in the same years. However, the Committee found no evidence that the errors were knowing or willful and unanimously determined that the errors were not substantively different from the hundreds or thousands of errors corrected by amendment at the requirement of the Committee every year.

In fact, between 30% and 50% of all Financial Disclosure Statements reviewed by the Committee each year contain errors or omissions. Such errors and omissions are not uncommon and are typically corrected through amendments to Financial Disclosure Statements, and do not involve any further Committee action.

Representative Buchanan has now corrected the errors and omissions in his Financial Disclosure Statements by his subsequent amendments. Therefore, no further action by the Committee is warranted and the Committee considers the matter closed.

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FOR RELEASE: Upon Receipt **July 17, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE ROBERT ANDREWS

Pursuant to House Rule XI, Clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matter regarding Representative Robert Andrews, which was transmitted to the Committee by the Office of Congressional Ethics on April 2, 2012.

The Committee notes that the mere fact of a referral or an extension, and the mandatory disclosure of such an extension and the name of the subject of the matter, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

The Committee will announce its course of action in this matter on or before Friday, August 31, 2012.

###

Jo Bonner, Alabama
Chairman
Linda T. Sánchez, California
Ranking Member

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FOR RELEASE: Upon Receipt **August 1, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING ALLEGATIONS RELATING TO REPRESENTATIVE LAURA RICHARDSON

Pursuant to House Rule XI Clause 3(q)(2)(D), today the Chairman of the Committee on Ethics, Representative Jo Bonner, and the Ranking Member, Representative Linda T. Sánchez, submitted a report to the House of Representatives in the Matter of Allegations Relating to Representative Laura Richardson. The full Committee report includes the report of the Investigative Subcommittee (ISC) in this matter, along with the responsive views of Representative Richardson. The full Committee report also addresses the concerns and arguments made by Representative Richardson in her views.

At the completion of its investigation, the ISC unanimously concluded that there was substantial reason to believe that Representative Laura Richardson violated the Purpose Law, 31 U.S.C. § 1301; House Rule XXIII clauses 1, 2, and 8; Clause 2 of the Code of Ethics for Government Service; and other standards of conduct, by improperly using House resources for campaign, personal, and nonofficial purposes; by requiring or compelling her official staff to perform campaign work; and by obstructing the investigation of the Committee and the ISC through the alteration or destruction of evidence, the deliberate failure to produce documents responsive to requests for information and a subpoena, and attempting to influence the testimony of witnesses.

As part of a resolution Representative Richardson negotiated with the ISC, Representative Richardson agreed to admit to all seven counts in the Statement of Alleged Violation, accept all other terms of the ISC's recommendations, and waive all further procedural rights in this matter provided to her by House or Committee Rule. On July 31, 2012, the full Committee unanimously accepted the ISC's recommendations that the Committee submit a public report to the House, and that the adoption of that report by the House serve as a reprimand of Representative Richardson for her misconduct and impose a fine in the amount of $10,000 to be paid no later than December 1, 2012. Further, the full Committee unanimously agreed to strongly discourage Representative Richardson from permitting any of her official staff to perform work on her campaign (either on a paid or volunteer basis), but to the extent any of her

official staff do perform work on her campaign, that said staff be required to sign a waiver asserting that such work will be provided voluntarily and is not being compelled by Representative Richardson.

Therefore, the Committee on Ethics has unanimously recommended that the House of Representatives adopt the report, and with it, a reprimand of Representative Richardson for the conduct described therein.

Finally, the report also addresses the two employee respondents in this matter. The Committee issued separate letters of reproval as part of negotiated resolutions with each of the employees. All of the materials discussed above are now available on the Committee's Web site at www.ethics.house.gov.

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U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

FOR RELEASE: Upon Receipt **August 2, 2012**

STATEMENT OF ACTING CHAIRMAN BOB GOODLATTE AND ACTING RANKING MEMBER JOHN YARMUTH

The Committee on Ethics in the Matter of Representative Maxine Waters has voted unanimously to extend the contract of William R. Martin as outside counsel to the Committee in this matter. That contract has been approved by the Committee on House Administration. Pursuant to the contract, Mr. Martin will continue to work closely with the Committee as it attempts to complete this matter. We are fully committed to resolving this matter as early in the remainder of this Congress as is possible to do in a thorough, fair and deliberate manner.

The contract has a termination date at the end of the Congress, and a maximum amount of $500,000. It is the intent of the Committee in this matter that the final resolution and report should thoroughly address the many questions that have been raised.

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ONE HUNDRED TWELFTH CONGRESS

U.S. House of Representatives

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FOR RELEASE: Upon Receipt **August 7, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING S. 3510 AND PERIODIC TRANSACTION REPORTS

Last Thursday, Congress passed S. 3510, which, when signed into law, would make two limited changes to the STOCK Act (S. 2038). Due to misleading press reports about S. 3510, the Committee heard from numerous filers who thought that the implementation of the entire STOCK Act had been delayed, and therefore they mistakenly believed they could postpone compliance with the STOCK Act in general.

This impression is NOT correct. NO current filing obligations have been postponed. Instead, S. 3510 will 1) allow for a one-month delay of online publication of reports by the Clerk of the House (and other designated offices), and 2) increase periodic transaction report (PTR) requirements for House filers beginning September 30, 2012.

Specifically, provided S. 3510 is signed into law before September 30, 2012, beginning September 30, all House filers will be required, for the first time, to include certain transactions in stocks, bonds, and other securities owned by their spouses and dependent children on periodic transaction reports (PTRs). As originally signed into law, the STOCK Act only required Members and senior staff to file periodic reports of those certain transactions in stocks, bonds, and other securities that they themselves owned or shared an interest in. This obligation began with transactions occurring on July 3, 2012. That obligation continues today, and has not been postponed or delayed by S. 3510.

In the meantime, and regardless of when S. 3510 is signed into law, all other provisions of the STOCK Act remain in effect. For example, the STOCK Act limits participation by filers in Initial Public Offerings and clarifies and reaffirms the pre-existing prohibitions on "insider trading."

If any House filers remain confused about the effect of last week's legislative action, the Committee is always available to assist. Upon the signing of S. 3510, the Committee will issue revised instructions for completing PTRs.

###

Jo Bonner, Alabama
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FOR RELASE: Upon Receipt **August 31, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE ROBERT ANDREWS

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on August 31, 2012, to release the following statement:

On April 2, 2012, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Robert Andrews. Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A), 17A(c)(1), and 17A(j), the Chairman and Ranking Member jointly decided on July 17, 2012, to extend the Committee's review of the matter until August 31, 2012. In order to gather additional information necessary to complete its review, the Committee will review the matter pursuant to Committee Rule 18(a). The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee on Ethics Rule 7 regarding confidentiality, out of fairness to all respondents, and to assure the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its initial review.

Pursuant to Committee Rule 17A(c)(2), the Committee on Ethics hereby publishes OCE's Report and Findings relating to allegations against Representative Robert Andrews.

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U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

FOR RELEASE: Upon Receipt **September 20, 2012**

STATEMENT OF THE ACTING CHAIRMAN AND ACTING RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING THE MATTER OF REPRESENTATIVE MAXINE WATERS

Acting Chairman Bob Goodlatte and Acting Ranking Member John A. Yarmuth announce that the Committee on Ethics will hold a public hearing in the Matter of Representative Maxine Waters tomorrow, Friday, September 21, at 9:15 a.m. in Room 1310 of the Longworth House Office Building.

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U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

FOR RELEASE: Upon Receipt **September 25, 2012**

STATEMENT OF THE ACTING CHAIRMAN AND ACTING RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE MAXINE WATERS

Pursuant to Committee Rule 7(g), the Committee on Ethics (Committee) determined on September 25, 2012, to release the following statement:

On July 24, 2009, the Office of Congressional Ethics (OCE) forwarded to the Committee on Ethics (Committee) a Report and Findings related to Representative Maxine Waters' alleged violation of House rules and precedent regarding conflicts of interest with respect to certain actions taken on behalf of OneUnited Bank, in which Representative Waters' husband held stock and for which he had previously served on the Board of Directors.

On September 21, 2012, the Committee adopted, by a unanimous 10-0 vote, a Report based on its independent review, which resolves the allegations addressed by OCE. The Committee has unanimously determined that the evidence does not establish, to the standard of clear and convincing evidence, that Representative Waters violated House rules. It appears that Representative Waters recognized and made efforts to avoid a conflict of interest with respect to OneUnited. However, the Committee has also unanimously determined that Representative Waters' Chief of Staff, Mikael Moore, took certain actions on behalf of OneUnited when he knew, or should have known, of Representative Waters' personal financial interest, despite Representative Waters' instructions to avoid the conflict. Accordingly, the Committee unanimously voted to issue a letter of reproval to Mr. Moore for his conduct. The Committee, in reaching its conclusions, relied heavily on the work performed by outside counsel William R. "Billy" Martin, who conducted a thorough and impartial investigation into the facts of this matter, as well as allegations regarding the Committee's own conduct in the course of the investigation of Representative Waters during the 111th Congress. Mr. Martin has submitted a report, which concludes that Representative Waters' due process rights were not violated by the Committee's investigation, and contains findings and recommendations regarding the facts of this case which are consistent with the Committee's conclusions. The Committee has unanimously agreed to release Mr. Martin's report.

Before the Committee concludes this matter – and the six substitute Members selected to serve on the Committee solely for this matter conclude their service – we take note of certain lessons learned in the course of this investigation, and make the following nine recommendations to the House community.

First, the proper function of this Committee requires individual Members to act and rely on their individual expertise and background in shaping their opinions regarding matters pending

before the Committee. Unlike any other Committee, this Committee avoids partisan legislative concerns and policies, and must have bipartisan cooperation for the Committee to fulfill its constitutional mandate to police the Members, officers and employees of the House. That mission calls upon Members to step out of their partisan framework and approach the work of the Committee without regard to their party. It is our recommendation for any Member that serves on this Committee that he or she constantly evaluate their actions on the Committee, to ensure that they are living up to the highest standards of this Committee.

Second, while the nonpartisan professional staff of the Committee is, and must be, available to Committee Members for the internal work of the Committee, we recommend that Committee Members be sensitive to appearances that may be created if only particular staff members are routinely relied upon by Members of a particular party. Accordingly, if Committee Members find that distrust is arising along party lines with respect to particular staff members, that distrust should raise a red flag – and frank bipartisan discussions within the Committee should occur.

Third, in a similar vein, the principle of open, frank communication should also apply to allegations of inappropriate remarks by Committee staff, whether the remarks are racially insensitive or otherwise improper. At the point the Committee's leadership or staff become aware of insensitive or inappropriate comments related to bias, it is incumbent on them to deal with such allegations in an open, frank, and bipartisan or nonpartisan manner.

Fourth, we recommend that the Committee follow the recommendations of the Investigative Subcommittee in *The Matter of the Investigation into Officially Connected Travel of House Members to Attend the Carib News Foundation Multinational Business Conferences in 2007 and 2008*, and establish written policies and procedures as to the duties and responsibilities of the designated counsels to the Chairman and Ranking Member of the Committee. These policies should reduce the possibility or the appearance that the nonpartisan work of the Committee might be improperly impacted by the partisan considerations, backgrounds, or suspicions of the designees.

Fifth, because one of the causes of suspicion and distrust within the Committee during the 111th Congress was the former Chief Counsel's association with partisan political activity, we recommend that the Committee avoid hiring professional staff who have previously served as partisan staff. Even if both Committee leaders and the individuals themselves believe they could serve on the nonpartisan, professional staff in a fair and unbiased fashion, Members or other staff are far more likely to begin to view any disagreement as a partisan issue, leading to suspicion and distrust.

Sixth, we believe the full Committee, or the House, should consider adoption of policies or Rules such that, in instances where a Member has determined that they should no longer be involved in advocacy on behalf of a particular person or entity because of a potential conflict of interest, the Member should take steps to inform all members of their staff, as well as the entity concerned, of the decision to recuse their office from further action. We recognize that the office may provide the entity with contact information for a Senator, a Representative of any other district in which that entity is a constituent, or a Committee.

Seventh, we believe the full Committee, or the House, should consider adopting policies or Rules to the effect that a Member should proactively notify staff of any financial or other conflicts of interest with constituent entities, so that staff does not take inappropriate official action on behalf of such entities or persons. This is even more important where a Member is intimately involved in representing a particular industry, policy interest, or other defined constituency, and the Member holds a personal financial interest in an entity within that constituency.

Eighth, we recommend that the Committee on Ethics provide a greater focus on conflicts of interest in their training and education materials. While the guidance that currently exists was certainly clear enough to make plain that the conflicts at issue should have been avoided, as Representative Waters recognized, an even greater focus may still be warranted.

Ninth, we believe that the full Committee, or the House, should consider adopting policies that recognize that employer/employee relationships with grandchildren can be just as fraught with risk as other familial relationships in the workplace, some of which are prohibited within the House by rule or statute.

We hope that the report and result in this matter, the significant attention to the matter in the House and the public, and the recommendations we have shared, will result in greater attention being paid to the issue of conflicts and, thereby, greater trust by all of our constituents. Given the adoption of the Committee's Report, no further action is warranted, and the Committee considers this matter closed.

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ONE HUNDRED TWELFTH CONGRESS

U.S. House of Representatives

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FOR RELEASE: Upon Receipt **October 12, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE SILVESTRE REYES

Pursuant to House Rule XI, Clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matter regarding Representative Silvestre Reyes, which was transmitted to the Committee by the Office of Congressional Ethics on August 30, 2012.

The Committee notes that the mere fact of a referral or an extension, and the mandatory disclosure of such an extension and the name of the subject of the matter, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

The Committee will announce its course of action in this matter on or before Wednesday, November 28, 2012.

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FOR RELEASE: Upon Receipt **November 26, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE MICHAEL GRIMM

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on November 26, 2012, to release the following statement:

On June 29, 2012, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding whether Representative Michael Grimm may have violated federal campaign finance laws by soliciting and accepting prohibited campaign contributions, caused false information to be included in campaign finance reports, and improperly sought assistance from a foreign national in soliciting campaign contributions in exchange for offering to use his official position to assist that individual in obtaining a green card. Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A), 17A(d), and 17A(j), the Committee unanimously voted on July 31, 2012, to extend the Committee's review of the matter until November 26, 2012.

OCE's referral of this matter recommended dismissal because it could not establish with a sufficient certainty that a violation occurred after Representative Grimm became a Member of Congress. However, in prior Congresses, the Committee has held that it may investigate conduct that violated laws, regulations, or standards of conduct, which occurred during an initial campaign for the House of Representatives. Based on this precedent, notwithstanding OCE's view, on November 15, 2012, the Committee unanimously voted to continue to assert jurisdiction over matters relating to a successful campaign for election to the House of Representatives. Accordingly, the Committee authorized an inquiry into these matters pursuant to Committee Rule 18(a).

The Department of Justice has asked the Committee to defer consideration of this matter and the Committee, following precedent, unanimously voted to defer consideration of this matter at this time. At least annually, the Committee will make a public statement if it continues to defer taking action on the matter. The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

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FOR RELEASE: Upon Receipt **November 28, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE SILVESTRE REYES

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on November 28, 2012, to release the following statement:

On August 30, 2012, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Silvestre Reyes. Pursuant to House Rule XI, Clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member jointly decided on October 12, 2012, to extend the Committee's review of the matter until November 28, 2012.

Pursuant to Committee Rule 17A(c)(2), the Committee on Ethics hereby publishes OCE's Report and Findings relating to allegations against Representative Silvestre Reyes, and Representative Reyes' response. The Committee notes that the mere fact of a referral, and any mandatory disclosure of such a referral, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

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FOR RELEASE: Upon Receipt **December 14, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE BILL OWENS

Pursuant to House Rule XI, Clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A), 17A(c)(1), and 17A(j), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matter regarding Representative Bill Owens, which was transmitted to the Committee by the Office of Congressional Ethics on August 30, 2012.

The Committee notes that the mere fact of a referral or an extension, and the mandatory disclosure of such an extension and the name of the subject of the matter, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

The Committee will announce its course of action in this matter on or before Monday, January 28, 2013.

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FOR RELEASE: Upon Receipt **December 14, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE AARON SCHOCK

Pursuant to House Rule XI, Clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A), 17A(c)(1), and 17A(j), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matter regarding Representative Aaron Schock, which was transmitted to the Committee by the Office of Congressional Ethics on August 30, 2012.

The Committee notes that the mere fact of a referral or an extension, and the mandatory disclosure of such an extension and the name of the subject of the matter, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

The Committee will announce its course of action in this matter on or before Monday, January 28, 2013.

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FOR RELEASE: Upon Receipt **December 20, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE GREGORY W. MEEKS

Pursuant to Committee Rule 7(g), the Committee on Ethics (Committee) determined on December 18, 2012, to release the following statement:

On May 18, 2011, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Gregory W. Meeks. The Committee, pursuant to Committee Rule 18(a), conducted a further review of the matter and voted to accept the OCE's recommendation for further review of an allegation that Representative Meeks failed to disclose a loan he received in 2007 from Edul Ahmad (the Ahmad loan) in a timely manner.

The Committee adopted a Report on December 18, 2012 based on its independent review, which resolves the allegation regarding the Ahmad loan. The Committee has unanimously determined, based on the Committee's review of this allegation, that Representative Meeks failed to disclose the Ahmad loan as a liability on his 2007, 2008, and 2009 Financial Disclosure Statements. The Committee found no credible evidence that the errors were knowing or willful.

The Committee recognizes that unknowing failures to report such items are not uncommon. Such errors and omissions are typically corrected through amendments to Financial Disclosure Statements, and do not involve any further Committee action. Representative Meeks has since corrected the errors and omissions in his Financial Disclosure Statements by his subsequent amendments, which were filed in June 2010. Therefore, no further action by the Committee is warranted.

Although it was not the basis of the OCE referral, the Committee also investigated the allegation that the Ahmad loan was not accompanied by a written document and stated loan terms, and constituted an impermissible gift. The Committee determined that the evidence did not establish that the Ahmad loan was an impermissible gift.

Representative Meeks has consistently represented that the loan was memorialized in writing and had a set repayment schedule and rate of interest, but that he cannot produce the loan document now because he has misplaced it. Representative Meeks repaid the loan in June 2010, and stated that he ultimately paid an interest rate of 12.5%.

While counsel to Mr. Ahmad has represented that there was no loan document signed by Representative Meeks and no fixed interest rate, the Committee staff has been unable to confirm this allegation due to the inability to interview Mr. Ahmad. Mr. Ahmad has pleaded guilty to fraud charges in an unrelated federal criminal case. Mr. Ahmad's attorney has informed Committee staff that Mr. Ahmad would decline any request for a voluntary interview with the Committee, and, if subpoenaed, Mr. Ahmad would invoke his Fifth Amendment rights unless the Committee gave him immunity from criminal prosecution. Mr. Ahmad's attorney has also informed the Committee that no additional documentary evidence exists relating to the Ahmad loan.

Considering the highly compromised credibility of Mr. Ahmad, unless he could provide some documentary evidence indicating that the payment to Representative Meeks was not a loan—which his attorney has stated he cannot do—it would be unreasonable for the Committee to conclude, on the basis of his testimony alone, that Representative Meeks had been untruthful to the Committee in his sworn statement that such a document had accompanied the loan. Therefore, the Committee has decided to close its investigation regarding the allegation that Representative Meeks received an improper gift from Mr. Ahmad.

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FOR RELEASE: Upon Receipt **December 20, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESNTATIVE TIM RYAN

Today, the Committee transmitted the attached Report to the House regarding the charge filed against Representative Tim Ryan in Lexington, Virginia, on August 25, 2012.

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FOR RELEASE: Upon Receipt **December 20, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE SHELLEY BERKLEY

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on December 20, 2012, to release the following statement:

In early 2012, the Chairman and Ranking Member of the Committee for the 112th Congress authorized Committee staff to conduct an inquiry pursuant to Committee Rule 18(a) into allegations that Representative Shelley Berkley improperly used her official position for her financial interest, dispensed special favors or privileges to her husband, and allowed her husband to contact her or members of her staff on behalf of a third party. On February 9, 2012, during the course of the Committee's independent investigation into the allegations, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding allegations that Representative Berkley violated House rules and standards regarding conflicts of interest by taking official action on behalf of the University Medical Center of Southern Nevada (UMC) to prevent the Centers for Medicare and Medicaid Services (CMS) from revoking UMC's kidney transplant program's Medicare approval.

On June 29, 2012, based on information obtained during the Committee's initial investigation of this matter, the Committee unanimously voted to empanel an Investigative Subcommittee (ISC) to investigate the allegations. During the course of its investigation, the ISC met on 16 occasions and interviewed ten witnesses, including Representative Berkley and her husband, Dr. Lawrence Lehrner. The ISC also issued three subpoenas for the collection of documents resulting in the production of over 108,000 pages of materials.

On December 13, 2012, the ISC voted to issue its Report to the full Committee, finding that Representative Berkley had violated House Rules and other laws, rules, and standards of conduct with respect to some, but not all, of the allegations it had investigated. Specifically, the ISC found that that the evidence did not demonstrate a violation of House Rules or other laws, rules, and standards of conduct related to Representative Berkley's activities on behalf of the kidney transplant center at UMC, which was the subject of the OCE referral.

The ISC found, however, that Representative Berkley violated House Rules and other laws, rules, and standards of conduct by improperly using her official position for her beneficial interest by permitting her office to take official action specifically on behalf of her husband's practice. Finally, the ISC concluded that the evidence indicated that Representative Berkley did not violate House Rules and other laws, rules, and standards of conduct by dispensing special favors or privileges to her husband, Dr. Lawrence Lehrner, or with respect to her husband's contact with her office on behalf of third parties.

The ISC also noted a number of facts that, in the opinion of the Committee, provide context for the disposition of these violations. First, the ISC noted that there was no evidence that Representative Berkley acted with the intent to unduly enrich herself. Representative Berkley had a legitimate concern, raised at the time that these issues were ongoing, that failures on the part of government insurers to reimburse providers in a timely fashion might result in the providers opting not to see patients insured by those programs. Second, Representative Berkley testified credibly that she provided her husband with no assistance in seeking future benefits (as opposed to assisting with claims for services already rendered), and that the level of assistance was not unusual when compared to the assistance her office provided to other physicians. Ultimately, she was mistaken when she applied these facts to the ethics rules and determined that her course of action was proper, but the Committee takes note of the lack of any corrupt intent and believes that this mitigates the severity of the violations in question.

The ISC noted for the record that Representative Berkley was entirely cooperative with the investigation, and credited her testimony both in terms of candor, and in terms of her objective lack of malicious intent in violating the rules. The Committee, having reviewed the transcript of her testimony, concurs in that positive assessment of Representative Berkley's candor and cooperative nature. The Committee wishes to thank Representative Berkley for her forthright and proactive participation in this process.

Finally, the ISC noted in its Report the need for clearer guidance regarding conflict of interest rules to be provided to the House community. The ISC recommended that the conflict of interest rules be committed to a task force for review, and that the task force issue clear, thorough, and comprehensive rules pertaining to conflicts of interest that the House community can readily understand and abide by.

The Committee agreed with the ISC's Findings and Conclusions. Accordingly, on December 20, 2012, pursuant to Committee Rule 21(a) and 17A(c)(2), the Committee voted unanimously to adopt the ISC's Report and issue its own Report, along with OCE's Report and Findings regarding Representative Berkley, as well as Representative Berkley's response to the OCE referral.

In no small part based upon Representative Berkley's cooperative approach to this process and her candor, the Committee finds that no further action is necessary. Therefore, upon the submission of its Report to the House, the Committee considers this matter closed.

The Committee wishes to thank the members of the Investigative Subcommittee for their hard work, dedication, and service to the Committee and to the House. Representative K. Michael Conaway served as the Chair of the Investigative Subcommittee, and Representative Donna F. Edwards served as the Ranking Member. Representatives Robert E. Latta and Adam B. Schiff also served on the Subcommittee. Each of these Members devoted substantial time and effort to this matter, and the Committee thanks each of them for their service.

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FOR RELEASE: Upon Receipt **December 27, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING ALLEGATIONS CONCERNING THE "V.I.P." LOAN UNIT OF COUNTRYWIDE FINANCIAL CORPORATION

Today we announce the conclusion of the Committee on Ethics' review of the allegations related to the "V.I.P." program of the Countrywide Financial Corporation (Countrywide). In accordance with Committee Rules, this review was conducted in order to determine whether the allegations presented warranted further investigation by the Committee. After a lengthy and deliberate review, including over 2,000 of pages of documentation provided by Countrywide or its successor, Bank of America, as well as giving careful and serious consideration to the submission and reports of the Chairman of the Committee on Oversight and Government Reform, the Committee has unanimously agreed to end its review with the publication of this statement, and the issuance of a general advisory issued simultaneously on the subject of the use of one's position in the House of Representatives for personal gain or benefit.

Numerous allegations have been made that certain Members and employees of the House of Representatives acted improperly when they received "discounts" on personal residential or vacation property loans, or when their loan applications were handled by an office within Countrywide called the "V.I.P Loan Unit," or handled as "Friends of Angelo," referring to Angelo Mozilo, the former CEO of Countrywide. In addition, the evidence suggested that certain House employees made explicit requests to Countrywide lobbyists or spoke to a Countrywide lobbyist about their personal loan needs, and that the lobbyists then facilitated those loans.

While these allegations concern serious matters, almost all of the allegations concerned actions taken outside, or well outside, the jurisdiction of this Committee, as designated in House Rule XI, clause 3(b)(3), because they occurred before the third Congress prior to the current Congress. In addition, several of the Members and employees mentioned in the allegations are no longer serving in or employed by the House, and therefore are outside the Committee's jurisdiction pursuant to House Rule XI, clause 3(a)(2).

However, while there are no allegations of actual violations that fall within the Committee's jurisdiction, we take this opportunity to provide the House community and the

public at large with an analysis of these allegations, and guidance that may be helpful in considering future conduct and avoiding even the appearance of impropriety.

To begin with, the Committee conducted its own analysis of the role and practices of the Countrywide V.I.P. loan unit to determine if participation on its own indicated something improper had occurred. The Committee reached largely the same conclusion as the Senate Select Committee on Ethics, which indicated in 2009, in public letters to Senators also involved in the V.I.P. unit, that:

> It appears the V.I.P. Loan unit was initially established for the purposes of originating, processing, and funding home loans as a courtesy to senior-level employees and V.I.P. customers, but it increasingly grew in scope and size. A large subset of V.I.P. loans referred by Angelo Mozilo, former Countrywide C.E.O., were known as the "Friends of Angelo" or F.O.A. During the mortgage boom that occurred from late 2002 through 2004, the V.I.P loan unit handled thousands of loans worth billions of dollars for a very broad spectrum of individuals, large numbers of whom had never met, let alone befriended, Mr. Mozilo.
>
> Overall it appears that V.I.P.s were often offered quicker, more efficient loan processing and some discounts. However, it also appears that all V.I.P. loans, including F.O.A. loans, were required to meet the same underwriting standards and conditions for resale on the secondary market as non-V.I.P. loans. Furthermore, there is evidence on the record that the discounts offered to V.I.P.s and F.O.A.s were not the best deals that were available at Countrywide or in the marketplace at large. In sum, participation in the V.I.P. or F.O.A. programs did not necessarily mean that borrowers received the best financial deal available either from Countrywide or other lenders.

Therefore, mere inclusion in one of these programs is not, in and of itself, a violation of any rules, laws, or standards of conduct governing Members, officers, or employees of the House of Representatives. In addition, insofar as the widely available and indisputable evidence indicates that loan "discounts" or "discount points" are labels applied to standard and publicly available terms in every day arms-length negotiations with commercial lenders, they are not the kind of "gift" which would be, in and of itself, outside the realm of reasonable market rates for commercially available loans. Finally, given that the standard market practices on negotiating for desirable loan customers varies widely, it is not evident that any of the fee structures presented by the evidence are outside of reasonable market rates for commercially available loans, even if those loans were within the jurisdiction of the Committee.

To be clear, however, whether terms are within or without a commercially reasonable range, it is improper to knowingly use one's position or influence within the House of Representatives to obtain a personal benefit. Therefore, if a Member, officer, or employee has reason to believe there was such an explicit connection between their position and some personal business transaction, it is incumbent on that Member, officer, or employee to take steps to ensure they are being treated no differently than a member of the public who is similarly situated in other relevant ways. Without doubt, there is a wide range of possible and appropriate steps. For

instance, while the steps reportedly taken by Representative Pete Sessions, rejecting any offers of negotiated discounts, are an excellent way to avoid even the appearance of impropriety, there is still no requirement that a Member, officer, or employee refuse to participate in normal negotiations, or refuse to accept terms of negotiation regularly available to a member of the public.. In other words, while Members, officers, and employees must not personally benefit in a manner directly caused by their position, they also need not suffer financially due to nothing but their position.

Instead, other steps that may be taken if and when a Member or employee is given specific reason to believe they may be treated differently based on their position include receiving reasonable assurances or certifications that the offered terms are commercially reasonable and would be available to the borrower based entirely on reasons unrelated to the individual's position in the House. Another option that is always available to all Members, officers and employees is calling the Ethics Committee for assistance in examining the nature of the loan offer and negotiations.

While these are just some of the steps that may be taken to avoid the appearance of impropriety, they would not be required under normal commercial circumstances when one visits or calls a commercial institution for a loan, indicates their place of employment onlyon a loan application (as is almost always required) and continues to be handled by the regular loan department. In this matter, for instance, with one exception occurring well outside the Committee's jurisdiction, there has been no evidence presented that the Members or employees of the House of Representatives were aware of their inclusion in the V.I.P. unit or that they were labeled "Friends of Angelo." If, however, they were referred by, or handled by, persons who were not regular loan officers, or, more significantly, persons involved in congressional affairs, then steps should have been taken to ensure that no improper connection was being made between their sphere of influence and their personal loan negotiations.

Of greatest concern to the Committee, therefore was email evidence regarding the specific conduct of some employees of the House of Representatives who may have reached out to lobbyists or other government affairs officials at Countrywide for assistance with their personal loans (there was no such credible evidence that Members engaged in this kind of conduct). Had any of these actions occurred within the Committee's jurisdiction, further investigations would have been conducted that may have led to disciplinary action against these staffers or former staffers. This is because, as most Members, officers, and employees understand, it is improper to, for instance, take a meeting with a representative of an outside organization or a constituent seeking some action or general assistance, and then immediately make a request for assistance with one's own personal finances at the same meeting. This conduct is not made any less improper merely because there is some separation in time between a past or future meeting and the personal request.

Therefore, every member of the House community should understand that, when your relationship with a representative of a particular business or outside organization is based on your power to affect that person's organization, and their efforts to influence you or your office in the exercise of that power, that is a relationship that should never be used for your personal benefit. Where there is credible evidence of such conduct within the jurisdiction of this Committee, the Committee will act to enforce this standard.

However, for all the reasons indicated above, and after lengthy and careful consideration, it does not appear that there is any specific credible evidence of actual violations that remain within the jurisdiction of the Committee. The Committee therefore has unanimously determined to end its consideration of allegations related to improper participation in Countrywide's V.I.P. program.

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Chairman
Linda T. Sánchez, California
Ranking Member

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K. Michael Conaway, Texas
Charles W. Dent, Pennsylvania
Gregg Harper, Mississippi

John A. Yarmuth, Kentucky
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ONE HUNDRED TWELFTH CONGRESS

U.S. House of Representatives

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FOR RELEASE: Upon Receipt **December 27, 2012**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING CHANGES TO TRAVEL REGULATIONS

Pursuant to House Rule 25, clause 5(i), on December 18, 2012, the Committee on Ethics voted unanimously to adopt new regulations for the acceptance and approval of privately sponsored, officially related travel. This action was the result of more than three years of hard work by Members of the Committee and staff assigned to the Travel Working Groups over the course of the 111th and 112th Congresses. The Committee thanks the members of the Working Groups for their service. Representative Charles Dent served in the 111th and 112th Congresses, Representative Peter Welch served in the 111th Congress, and Representative Donna Edwards served in the 112th Congress. As part of the process, the Working Groups met with other Members of Congress and representatives of the ethics community, with interests in privately sponsored congressional travel.

The new regulations seek to provide a greater level of clarity into the requirements and conditions for receiving the Committee's approval to accept privately sponsored travel. The Working Group for the 112th Congress ("The Working Group") and The Committee took into account both the significant benefit the public receives when their Representatives and their Representatives' staff receive hands-on education and experience, as well as the mandate that outside groups be appropriately limited in what gifts and support they are allowed to provide to Members of Congress and congressional staff.

With both of those interests in mind, the Committee adopted detailed regulations regarding all aspects of privately funded travel, including the approval process. Many policies have not changed, but some have been modified in significant ways. For instance, the Committee adopted more realistic guidance on how various types of entities may provide financial or logistical support for trips or events, such as trade shows or conferences, that may be a part of appropriate congressional fact finding opportunities.

The Committee also gave significant consideration to the question of whether nonprofit organizations operating pursuant to section 501(c)(3) of the Internal Revenue Code should be

distinguished by their relationship to other groups, including groups which retain lobbyists. The Committee took note that the IRS has strict rules for the operation of such organizations which are in place to ensure an appropriate level of independence. Beyond these strict requirements for independence, the Committee did not identify a fair way to distinguish between different non-profits with legitimate interests in providing appropriate fact finding opportunities to Members of Congress. The Committee took note that members of the ethics community who addressed the issue with the Working Group could not articulate a specific and fair manner in which the Committee could draw such distinctions, either. In addition, they generally acknowledged that legitimate privately sponsored travel is beneficial for Members of Congress because it can provide multiple perspectives, information, direct contact, and outside-the-Beltway conversations regarding the many important topics they address on a regular basis.

Instead, the Committee will add to the disclosure requirements in new certification forms to increase the significant transparency that has already led to abundant reporting and comment on these trips. With the improved processes, the Committee will continue to examine the growth of groups related to organizations that retain lobbyists, and will continue to consider whether there is a need and fair manner to regulate further, beyond the significant transparency already in place.

In addition, the Committee ***increased the deadline for submitting travel approval requests to the Committee from 14 days before travel, the current deadline, to 30 days before travel.*** This will significantly increase the ability of the Committee staff to continue the already thorough and detailed review they perform of all travel approval requests. It will also help the Committee provide a more timely response to those Members and staff who submit their requests ahead of the deadline.

These new regulations will become effective for all trips taking place on or after April 1, 2013. This will give sponsors, travelers, and the House community time to digest and adjust to the new regulations. Prior to that time, the Committee will provide training on these regulations and will be available to discuss them with potential travelers and sponsors or their representatives. Note that the effective date, with the new deadline for filing travel paperwork, means that the request to travel on a trip departing on April 1, 2013, will be required to be submitted to the Committee no later than Friday, March 1, 2013. Any request to travel on or after the April 1, 2013, effective date of the new regulations, must be on the new forms issued by the Committee, which will be available on the Committee Web site (www.ethics.house.gov) on or before February 15, 2013.

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