

**AN OVERVIEW OF THE
SENATE CODE OF CONDUCT
AND RELATED LAWS**

July 2004

**SELECT COMMITTEE ON ETHICS
UNITED STATES SENATE**

**One Hundred Eighth Congress
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This overview presents only a summary of the Code of Official Conduct (Senate Rules 34-43) prepared by Committee staff. For more complete information or advice about specific fact situations, please consult the Senate Ethics Manual, or contact a Committee counsel at (202) 224-2981.

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United States Senate

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FINANCIAL DISCLOSURE

*MEMBERS, OFFICERS, POLITICAL FUND DESIGNEES,
AND
EMPLOYEES PAID AT THE RATE OF 120%
OF GS-15 (\$104,927 FOR CY 2004)
(\$102,168 FOR CY 2003)*

Annual Public Financial Disclosure Reports covering the previous calendar year, are due by May 15th of each year.

New Employee Reports are due within 30 days of assuming a filing position.

Termination Reports are due within 30 days of leaving a filing position (including political fund designation).

Includes: payments in lieu of honoraria, assets and income (earned and unearned), transactions, liabilities, gifts, travel reimbursements, outside positions, and agreements.

Information regarding spouse and dependent children generally must be disclosed.

\$200 late filing fee: civil or criminal penalties for knowing and willful failure to disclose.

Senate Rule 34 and Title I of Ethics in Government Act

GIFTS

\$49.99 maximum per gift, \$99.99 maximum per year from each source (count gifts of \$10 or more).

Gift means ANYTHING of monetary value: e.g., meals, entertainment, travel, lodging, tickets.

Gifts to spouses are not subject to the limits, UNLESS there is reason to believe they are given because of official position of Member or employee.

Some exceptions: gifts from relatives; gifts from personal friends (only up to \$250 without Ethics Committee approval); gifts of personal hospitality; benefits connected with activities not connected to Senate duties; attendance at widely attended events in connection with official duties, and reimbursement for officially connected travel.

- ☞ Employee must obtain written authorization of supervising Member before taking reimbursed travel, and file with Secretary of Senate.
- ☞ Member and employee must disclose reimbursed expenses to Secretary of Senate.

See Rule 35 for additional exceptions.

Waivers available in “unusual” cases (but gift may need to be disclosed).

Prohibitions on Lobbyists:

- ☞ May not reimburse for officially connected travel.
- ☞ May not provide gifts of personal hospitality (unless they qualify as personal friend).
- ☞ May not contribute to legal defense funds.
- ☞ May not make charitable contributions to entities maintained or controlled by Member (e.g., family trust).
- ☞ May not make charitable contributions on basis of designation by Member (except in lieu of honoraria).
- ☞ May not underwrite or contribute to office conference, retreat, or similar event.

Gifts may NOT be solicited (5 USC 7353).

Gifts to supervisors must be approved by the Ethics Committee (5 USC 7351).

Gifts from foreign governments or officials (5 USC 7342):

- ☞ Souvenirs and courtesy gifts may be accepted if \$100 or less.
- ☞ Gifts > \$100 must be given to U.S. government.
- ☞ Gifts and approved travel expenses > \$100 must be reported to Ethics Committee.

NOTE: DON'T ACCEPT ANYTHING OF VALUE IN RETURN FOR OR BECAUSE OF AN OFFICIAL ACTION (18 USC 201, A CRIMINAL STATUTE)

Senate Rule 35 and Related Statutes

TRAVEL REIMBURSEMENTS

Private sources may not pay for OFFICIAL travel.

Privately funded travel expenses may be accepted from a sponsor if necessary for OFFICIALLY-CONNECTED fact-finding or services provided to the sponsor. If a sponsor is a foreign government, consult the Committee.

- ☞ Employee must obtain written authorization of supervising Member before taking reimbursed travel, and file with Secretary of Senate.
- ☞ Member and employee must disclose reimbursed expenses to Secretary of Senate.

Time limits on privately funded travel:

- ☞ 3 days, excluding travel time, for domestic travel;
- ☞ 7 days, excluding travel time, for foreign travel.

Trips may be extended beyond limits at the individual's expense.

Waiver of time limits available in "exceptional" circumstances.

A spouse or child may accompany a Member, officer, or employee, or a Senate employee may accompany a traveling Member and have necessary expenses paid by the sponsor of a fact-finding event.

Senate Rules 35 and 38; IRs 161, 412, 422

HONORARIA BAN

NO honoraria may be received by any Member, officer or employee.

☞ An honorarium is a fee for any speech, appearance, or article (including for a series of speeches, appearances, or articles if the series is directly related to an individual's Senate duties or if payment is made because of an individual's Senate position).

[Necessary expenses of travel are not honoraria.]

Up to \$2,000 per event may be paid directly by a sponsor to a charity, so long as neither the individual nor his or her family (parent, sibling, spouse, child or dependent relative) receives any financial benefit from the charity (170(c) organization).

Payments in lieu of honoraria must be reported on Public Financial Disclosure Report, and charities named in a corresponding confidential report to the Ethics Committee.

A payment in lieu of honoraria made by a registered lobbyist or lobbying firm or by a foreign agent to a 170(c) charity (not controlled by a Member, officer, or employee) must be reported by the Member, officer, or employee making the designation to the Secretary of the Senate within 30 days after such designation or recommendation.

Senate Rules 36 and 34

**RESTRICTIONS ON OUTSIDE
EMPLOYMENT**

*ALL SENATE MEMBERS, OFFICERS, AND
EMPLOYEES*

Outside activities may not conflict with an individual's official duties.

All outside employment by employees must be approved by the supervising Senator.

*MEMBERS, OFFICERS, AND EMPLOYEES
COMPENSATED AT A RATE ABOVE \$25,000
AND EMPLOYED FOR MORE THAN 90 DAYS*

May not affiliate with outside business organizations for purpose of providing compensated professional services to others.

Name may not be used by an entity providing professional services.

Generally, no individual may serve as an officer or board member of a publicly held or regulated business organization.
Uncompensated service on board of charitable organizations may be permitted, with limitations.

Senate Rules 37 and 36; IRs 227, 286, 308, 312, 342, 431

**RESTRICTIONS ON OUTSIDE
EMPLOYMENT**

*RESTRICTIONS ON MEMBERS, OFFICERS, AND
EMPLOYEES PAID AT A RATE OF 120% OF GS-15
OR MORE (\$104,927 FOR CY 2004)
(\$102,168 FOR CY 2003)*

Outside earned income is limited to 15% of Member's salary level.
(\$23,715 for CY 2004; \$23,205 for CY 2003)

May not provide compensated professional services involving a
fiduciary relationship (e.g. consulting).

May not be compensated for affiliating with an organization which
provides professional services to others.

No paid service as an officer or board member of ANY
organization.

No acceptance of a paid teaching position without prior written
approval from the Ethics Committee.

Senate Rules 36 and 37

CONFLICTING INTERESTS

May not receive compensation from any source because of improper influence exerted from position as Member, officer, or employee of the Senate.

May not use official position to introduce or pass legislation, where a principal purpose is to further a Member, officer, employee, or other immediate family member's financial interests, or the financial interests of a limited class to which such individuals belong.

A committee employee whose compensation is more than \$25,000 for more than 90 days must sell any substantial holdings directly affected by actions of the committee, unless otherwise approved in writing by supervisor and Ethics Committee.

Without a waiver, employees compensated at a rate above 120% of GS-15 (*\$104,927 FOR CY 2004*)
(*\$102,168 FOR CY 2003*)

may not participate in contact with an agency regarding non-legislative matters affecting any non-governmental entity/person in which the employee has a significant financial interest.

Senate Rule 37; IRs 142, 147

POST EMPLOYMENT RESTRICTIONS

FOR ONE YEAR AFTER LEAVING OFFICE

Senate Rule

Covers every Member, officer, and employee regardless of salary level.

Former Members and officers may not attempt to influence current Members, officers, or employees of either the Senate or the House, or any other employee of any other legislative office of Congress.

Former employees from the personal staff of a Member may not attempt to influence that Member or that Member's staff.

Former committee employees may not attempt to influence any committee Members or committee staff.

Former Members and staffers who were involved with trade or treaty negotiations may not aid or advise anyone other than the U.S. government concerning those trade or treaty negotiations.

Criminal Law

Former Members, and officers, or employees paid at a rate at or above 75% of a Member's salary (*\$118,575 for CY 2004*)
(*\$116,025 for CY 2003*)
may not represent a foreign entity, or aid or advise a foreign entity with an intent to influence a decision by a U.S. government official or employee.

Note: Some legislative offices (not personal, committee, or leadership) trigger criminal law at rate of pay at or above Level V of Executive Schedule (\$128,200 for CY 2004).

Senate Rule 37 and 18 USC 207 (A Criminal Statute); IRs 79, 380

CAMPAIGN ACTIVITIES

Staff may engage in volunteer campaign work only on their own time; compensated campaign work must be approved by supervising Senator.

Staff MAY NOT solicit, receive, have custody of, or distribute federal campaign contributions unless they are one of three political fund designees, and then only for certain campaign committees. Such political fund designees must file Form 41.1 and also file an annual public financial disclosure report.

Senate space and equipment may not be used for campaign activities.

Staff may not contribute or make advances to their supervising Senator's campaign.

Contributions may not be solicited on, or for delivery to, Senate property.

Note: Certain moratorium periods apply to use of Senate facilities/frank/official expenses before primaries and elections.

Senate Rule 41.1, 31 USC 1301(a), and 18 USC 601-607 (Criminal Statutes); IRs 154, 263, 349, 387

FUNDS FOR SENATE BUSINESS

Private parties may not pay expenses of OFFICIAL Senate duties.

Senate funds, a Member's personal funds, or excess funds of a Member's principal campaign committee may be used to pay official expenses, with certain limitations noted below.

Excess principal campaign committee and other non-Senate funds (other than a Member's personal funds) may **NOT** be used to pay official expenses for franked mail, employee salaries, office space or equipment and any associated information technology services (excluding handheld communications devices). For comprehensive information, see I.R. 444 (February 14, 2002).

Interns, fellows, and volunteers may be utilized by an office if they are there **primarily for their educational benefit and do not work on issues of particular benefit to sponsors/employers**. Public reporting may be required.

Senate Rule 38; IRs 44, 428, 444

FRANK/MASS MAILING

The frank may be used only for official purposes related to legislative or representative functions, which include:

- ☞ correspondence regarding legislation;
- ☞ assisting or responding to a constituent;
- ☞ congratulations for public (not personal) distinctions.

May not use the frank for the benefit of an outside entity.

For example, generally can't mail an outside entity's materials under the frank.

A mass mailing (over 500 substantially identical items within a session; not in direct response) must be:

- ☞ prepared with Senate funds;
- ☞ sent under the frank;
- ☞ sent through Service Department;
- ☞ limited to two sheets of paper;
- ☞ identified as paid for by the taxpayers;
- ☞ publicly reported quarterly;
- ☞ subject to a 60-day moratorium before elections; and is
- ☞ subject to Senate funding limitations (see Rules Committee).

Senate Rule 40; S. Res. 212

EMPLOYMENT PRACTICES

By law, no one may discriminate against an employee of the legislative branch based on race, color, religion, sex, national origin, age, or disability in any personnel action. In addition, various labor and workplace laws apply to employees of the legislative branch. These include the Fair Labor Standards Act, the Family and Medical Leave Act, the Occupational Safety and Health Act, the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Notification Act, the Rehabilitation Act, and laws relating to federal service labor-management relations, and veterans' employment and reemployment.

The Congressional Accountability Act establishes remedies and procedures for employees in instances of violations of these laws, and creates the Office of Compliance to administer and enforce the rights created under the Congressional Accountability Act.

Employees who believe that their rights under any of these statutes may have been violated should promptly contact the Office of Compliance.

Senate Rule 42; Congressional Accountability Act of 1995

INTERVENTIONS WITH OTHER GOVERNMENT AGENCIES

Appropriate interventions include: urging prompt consideration of a case, making status inquiries, scheduling appointments and interviews, expressing judgments, and requesting reconsideration of a decision based upon current laws and regulations.

However, a decision to provide assistance to a petitioner may not be based upon contributions or services provided to campaigns or other organizations.

EX PARTE communications may be prohibited in some judicial and quasi-judicial proceedings.

Without a waiver, employees compensated at a rate above 120% of GS-15 (*\$104,927 FOR CY 2004*)
(*\$102,168 FOR CY 2003*)

may not participate in contact with an agency regarding non-legislative matters affecting any non-governmental entity/person in which the employee has a significant financial interest.
(Rule 37.10)

Senate Rule 43; IR 237; Committee Report 102-223; 5 USC 3303

INTERVENTIONS WITH OTHER GOVERNMENT AGENCIES

Other than in the performance of Senate duties:

Members, officers, and employees may not solicit or receive compensation for representing another person or entity before a government agency in a matter in which the U.S. government has an interest. (18 USC 203)

Officers and employees may not represent another person or entity before any other agency in a matter in which the U.S. government has an interest, or prosecute a claim against the U.S. with or without compensation. (18 USC 205)

NOTE: THESE ARE CRIMINAL STATUTES!

CY 2004 FINANCIAL THRESHOLDS

120% of GS-15 = \$104,927
15% of Member's Salary = \$23,715
75% of Member's Salary = \$118,575
Level V of Executive Schedule = \$128,200

CY 2003 FINANCIAL THRESHOLDS

120% of GS-15 = \$102,168
15% of Member's Salary = \$23,205
75% of Member's Salary = \$116,025
Level V of Executive Schedule = \$125,370