

**Amendment in the Nature of a Substitute to
Committee Resolution
Before the Committee on Education and Labor**

A resolution to add a Rule 24 to the Rules of the Committee on Education and Labor to provide a process for taking depositions.

Strike Section 1 and replace with the following:

**Section 1. – ADDING RULE 24 TO THE RULES OF THE COMMITTEE ON
EDUCATION AND LABOR**

The Rules of the Committee on Education and Labor are amended to insert after Rule 23 the following text:

‘RULE 24. Deposition Authority

In accordance with the Committee receiving special authorization by the House for the taking of depositions in furtherance of a Committee investigation, the Chairman, upon consultation with the ranking minority member, may order the taking of depositions pursuant to notice or subpoena.

The Chairman or majority staff shall consult with the ranking minority member or minority staff no less than three business days before any notice or subpoena for a deposition is issued. Upon completion of such consultation, all members shall receive written notice that a notice or subpoena for a deposition will be issued.

A notice or subpoena issued for the taking of a deposition shall specify the date, time, and place of the deposition and the method or methods by which the deposition will be recorded.

A deposition shall be conducted by one or more members or Committee counsel as designated by the Chairman or ranking minority member.

A deposition shall be taken under oath or affirmation administered by a member or a person otherwise authorized to administer oaths and affirmations.

A deponent may be accompanied at a deposition by counsel to advise the deponent of the deponent’s rights. Only members and Committee counsel, however, may examine the deponent. No one may be present at a deposition other than members, Committee staff designated by the Chairman or ranking minority member, such individuals as may be required to administer the oath or affirmation and transcribe or record the proceedings, the deponent, and the deponent’s counsel (including personal counsel and counsel for the entity employing the deponent if the scope of the deposition is expected to cover actions taken as part of the deponent’s employment). Observers or counsel for other persons or entities may not attend.

Questions in a deposition shall be propounded in rounds, alternating between the majority and minority. A single round shall not exceed 60 minutes per side, unless the members or counsel conducting the deposition agree to a different length of questioning. In each round, a member or Committee counsel designated by the Chairman shall ask questions first, and the member or Committee counsel designated by the ranking minority member shall ask questions second.

Any objection made during a deposition must be stated concisely and in a non-argumentative and non-suggestive manner. Counsel may instruct a deponent not to answer only when necessary to preserve a privilege. In instances where the deponent or counsel has objected to a question to preserve a privilege and accordingly the deponent has refused to answer the question to preserve such privilege, the Chairman may rule on any such objection after the deposition has adjourned. If the Chairman overrules any such objection and thereby orders a deponent to answer any question to which a privilege objection was lodged, such ruling shall be filed with the clerk of the Committee and shall be provided to members and the deponent no less than three days before the ruling is implemented. If a member of the Committee appeals in writing the ruling of the Chairman, the appeal shall be preserved for Committee consideration. A deponent who refuses to answer a question after being directed to answer by the Chairman in writing may be subject to sanction, except that no sanctions may be imposed if the ruling of the Chairman is reversed on appeal. In all cases, when deposition testimony for which an objection has been made is offered for admission in evidence before the Committee, all properly lodged objections shall be timely and shall be considered by the Committee at that time.

Deposition testimony shall be transcribed by stenographic means and may also be video recorded. The Clerk of the Committee shall receive the transcript and any video recording and promptly forward such to minority staff at the same time the Clerk distributes such to other majority staff.

The individual administering the oath, if other than a member, shall certify on the transcript that the deponent was duly sworn. The transcriber shall certify that the transcript is a true, verbatim record of the testimony, and the transcript and any exhibits shall be filed, as shall any video recording, with the clerk of the Committee in Washington, DC. In no case shall any video recording be considered the official transcript of a deposition or otherwise supersede the certified written transcript. Depositions shall be considered to have been taken in Washington, DC, as well as the location actually taken, once filed with the clerk of the Committee for the Committee's use.

After receiving the transcript, majority staff shall make available the transcript for review by the deponent or deponent's counsel. No later than ten business days thereafter, the deponent may submit suggested changes to the Chairman. Committee majority staff may direct the Clerk of the Committee to note any typographical errors, including any requested by the deponent or minority staff, via an errata sheet appended to the transcript. Any proposed substantive changes, modifications, clarifications, or amendments to the deposition testimony must be submitted by the deponent as an affidavit that includes the deponent's reasons therefore. Any substantive changes, modifications, clarifications, or amendments shall be included as an appendix to the transcript. Majority and minority staff both shall be provided with a copy of the final transcript of the deposition with any appendices at the same time.

The Chairman and ranking minority member shall consult regarding the release of deposition transcript or electronic recordings. If either objects in writing to a proposed release of a deposition transcript or electronic recording or a portion thereof, the matter shall be promptly referred to the Committee for resolution.

A deponent shall not be required to testify unless the deponent has been provided with a copy of the Committee's rules, the House Resolution authorizing the taking of the deposition, and Rule X of the Rules of the House of Representatives.'