

United States Senate Select Committee on Ethics
Senate Code of Official Conduct





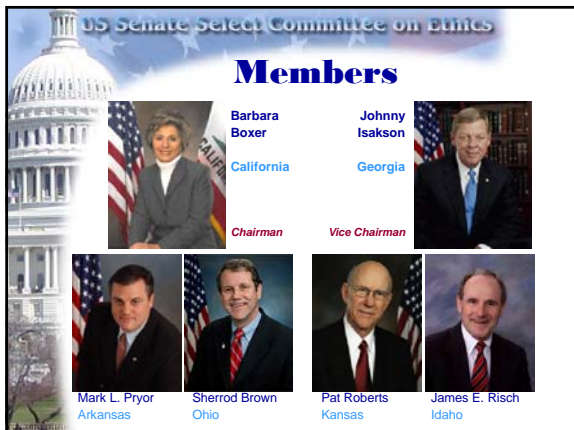


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REPEATED SMALL GIFTS

- Should not repeatedly accept small gifts otherwise permitted by the Senate Rules from the same donor



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VALUATION OF GIFTS

General Rule is **FAIR MARKET VALUE**



Determining Value

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Valuation of Sports and Entertainment Tickets

- Value of the ticket is the face value of the ticket.
- If the ticket has no face value, then the value of the ticket is the highest face value ticket for the event, unless Member or staffer can establish in **ADVANCE** with the Ethics Committee that the ticket has equivalent value to another ticket with face value.




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WHO IS RESTRICTED?

1. Members, officers, and employees
2. Gift to a family member may be attributed to the Member, officer, or employee



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NO BUY - DOWN

You cannot buy down a gift to bring it under the \$50 limit.



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AGGREGATION

- Divisible Gifts can accept one and refuse or pay for the others
- Gifts delivered to a Senate office (*Softball Rule*) may be aggregated and deemed one gift to the Senator
- Food delivered to an office (*Pizza Rule*) is always considered a gift to the Senator



Pointer: Even if food delivered to an office otherwise complies with the Rule, it may not be accepted if the person sending it has a direct interest in particular legislation that the staff is working on.

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-  1. Gifts from Relatives -35.1(c)(3)
-  2. Gifts Based on Personal Friendship -35.1(c)(4)(B)
-  3. Gifts from Another Member or Employee -35.1(c)(6)
-  4. Contributions to Legal Expense Trust Fund -35.1(c)(5)

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-  5. Benefits resulting from outside business or employment activities (i.e., spouse's law firm) - 35.1(c)(7)
-  6. Pension and Other Benefits - 35.1(c)(8)
-  7. Informational Materials - 35.1(c)(9)
-  8. Awards or Prizes from Public Contests -35.1(c)(10)

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-  9. Honorary Degrees and other Non-Monetary Awards in Recognition of Public Service - 35.1(c)(11)
-  10. Home State Products for Promotional Purposes/Artwork - 35.1(c)(12)
-  11. Officially-Connected Training in Interest of Senate - 35.1(c)(13)
-  12. Bequests and Inheritances - 35.1(c)(14)

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13. Anything (Officially-Connected) Paid for by Federal, State, or Local Governments - 35.1(c)(16) Native American Tribe

14. Personal Hospitality - 35.1(c)(17)

15. Widely-Attended Event - 35.1(d)

16. Free Attendance at a Charitable Event - 35.1(d)(3)

17. Attendance at a Fund-raising Event Sponsored by a Political Organization - 35.1(c)(2)

18. Benefits Available to a Wide Group, Not Defined by Senate Employment - 35.1(c)(19)(A) or (D)

19. Commemorative plaques and trophies -35.1(c)(20)

20. Food and Refreshments Other Than As Part of a Meal -35.1(c)(23)

21. Items of Little Intrinsic Value - 35.1(c)(23)

New Exception:

- **Free Attendance at a constituent event**
 - must be in home state.
 - group primarily consists of constituents and at least 5 constituents present at event.
 - no lobbyist or foreign agent in attendance at event.
 - value of meal must be \$ 49.99 or less

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TRAVEL RULES

	Lobbyists or Foreign Agents	Entities That Do Not Employ or Retain Lobbyists or Foreign Agents	501(c)(3) Non-profit Organizations That Employ or Retain Lobbyists or Foreign Agents	Private Entities That Employ or Retain Lobbyists or Foreign Agents
Time Limits	NO TRAVEL	3 days domestic 7 days foreign	3 days domestic 7 days foreign	1 day / 1 night
Pre-approval Required	NO TRAVEL	Yes	Yes	Yes

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TRAVEL REVIEW PROCESS AND REQUIRED PUBLIC FILINGS *(for privately sponsored travel)*

Must submit a completed travel package to the Ethics Committee no later than 30 days prior to the travel departure date.

- **Travel Package must include**
 - A copy of the invitation from the sponsor.
 - A copy of the signed and completed "Private Sponsor Certification Form" with any attachments.
 - A copy of the "Employee Advance Travel Authorization and Disclosure Form" with Part I signed by the employee and supervising Senator/Officer.

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TRAVEL REVIEW PROCESS AND REQUIRED PUBLIC FILINGS *(for privately sponsored travel)*

- Within 30 days of returning from trip original documents must be filed with Office of Public Records (OPR) in 232 Hart.
- Senators/Officers follow the same procedure **except** they are required to complete a "Disclosure of Travel Expenses" form rather than a staff travel form.
- Incomplete travel packets or complete travel packets submitted later than 30 days prior to travel departure date will **not** be considered or approved.

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TRAVEL RULES

- Travel must relate to Senator's / Officer's / staff member's official duties.
- Senate invitees may not participate in trips planned, organized, arranged or requested by a lobbyist or foreign agent.
- Travel expenses for a Senate invitee's spouse or child (but not both) may be permissible if the family member has received an unsolicited invitation from the sponsor and the supervising Senator determines in advance and in writing that the spouse or child's attendance will assist in representing the Senate.

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TRAVEL RULES

- For all trips other than one-day trips paid for by sponsors that employ or retain lobbyists or foreign agents, a lobbyist or foreign agent may not accompany a Senator, Officer, or staff member "at any point throughout the trip."
 - Lobbyist accompaniment is forbidden on any parts of the travel to and from the event, as well as at the event itself or location being visited.
- For one-day trips paid for by sponsors that employ or retain lobbyists or foreign agents, a lobbyist or foreign agent may not accompany a Senator, Officer or staff member on "any segment of the trip."
 - "Any segment of the trip" means any parts of the travel to and from the event, rather than the event itself or the location being visited.

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TRAVEL RULES

- Acceptable sponsor may pay for the "necessary expenses" of travel for participating Senate personnel.
 - "Necessary Expenses" include:
 - Reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments.
 - Coach rate
 - Expenses must be generally comparable to the maximum per diem rates for official government travel.
 - Prohibited Expenses:
 - Charter airfare is prohibited for third party sponsored travel
 - Alcoholic beverages
 - Recreational activities
 - Personal expenses such as telephone calls.
 - Entertainment unless provided to all attendees as integral part of the event.
 - First class airfare without prior written approval from the Ethics Committee.

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FOREIGN GOVERNMENT PAID TRAVEL

- **FGDA**
 - Gifts as souvenir or mark of courtesy up to \$100
 - Travel expenses completely outside the US
- **§ 108 MECEA**
 - Program approved by the State Department
 - Travel must be disclosed on the Annual Financial Disclosure form, but not the RE -1/2 form
 - (Pre-approval not required)



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National Party Conventions

- During National Party Conventions for their respective political parties, a Member may not participate in an event honoring that Member, if such an event is directly paid for by a lobbyist, or a private entity that employs or retains a lobbyist, unless a Member is being honored as the Party's presidential or vice-presidential nominee or presumptive nominee.



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GOLDEN RULE

Never accept a gift if it appears that it is given to influence or reward official action.



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BRIBERY

vs.

ILLEGAL GRATUITY

- **Bribery**
 - is explicit quid pro quo; induces official action
- **Illegal Gratuity**
 - is a reward for favorable official action

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Political / Campaign Activity



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GENERAL RULE

- **Staff may participate in political / campaign activity:**
 - > on their own time
 - > with non-Senate resources



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**"Regular"
Senate Employee
MAY NOT...**

- receive
- solicit
- be custodian of
- or distribute

**... campaign funds of any
FEDERAL candidate**

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**Political Fund
Designees = PFD**

- Senator may Designate up to 3 PFDs
- at least 1 PFD must be in DC
- PFDs must have salary of at least \$10,000
- PFDs must file annual financial disclosure statement regardless of salary level



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**PFD may handle
funds for**

- principal campaign committee of the employing Senator
 - for a committee or organization established and controlled by a Senator or group of Senators (with the employing Senator's permission)
 - state or local committee of a national party (with the employing Senator's permission)



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PFD MAY NOT handle funds for



- committee set up by a trade organization
- interest groups
- corporations
- labor unions
- public policy or advocacy groups



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What may a non-PFD do?


- plan events or set-up for fundraiser



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No Campaign Activity in a Federal Building - 18 U.S.C. Section 607

- NO soliciting or receiving contributions in a federal building by any Member, officer, or employee

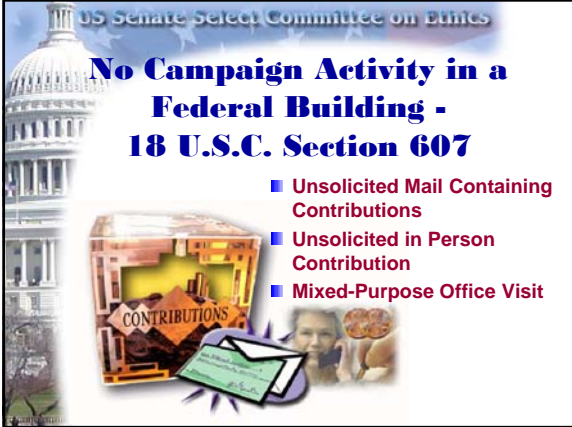


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No Campaign Activity in a Federal Building - 18 U.S.C. Section 607

- Unsolicited Mail Containing Contributions
- Unsolicited in Person Contribution
- Mixed-Purpose Office Visit



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Ban on Solicitation of Federal Employees - 18 U.S.C. Section 602



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Ban on Political Contributions to Employing Senator - 18 U.S.C. Section 603



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**Mixed Purpose
(Official & Campaign)
Letters/Phone Calls/E-mail**



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**Limited Minimal Overlap of
Campaign and Official
Activity Is O.K.**





Mixed Purpose Travel

- Expenses may be pro rated on a reasonable basis to accurately reflect the purpose of the trip
- FEC Contact: Duane Pugh
© (202) 694 -1006

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General Appropriations Statute



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Moratorium

■ 60 days prior to a primary or general election a Senator is prohibited from certain activities.



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Moratorium

■ 60 Moratorium

- No mass mailing 60 days prior to primary (only if up for re-election) or general biennial election (regardless of being up for re-election)
- No use of Senate television or radio recording studios.
- May not send out unsolicited e-mail (if up for re-election) if not in direct response
- Senate will not pay for the maintenance of a mobile office.
- Other than the actual costs of transportation, the Senate will not pay for the cost of official travel (no food or lodging per diem)



■ No moratorium if election is uncontested and no legal possibility for a write-in candidate.

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A Principal Purpose of Legislation cannot be :

- **To further financial or monetary interest of**
 - **Primarily Member, Officer, or employee**
 - **Or of a limited class to which a Member, Officer, or employee belongs**



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Appropriations Rule

- **A Senator who requests an earmark shall certify in writing to the Chairman and Ranking Member of the committee of jurisdiction, the purpose of the earmark, and that neither the Senator nor the Senator's immediate family has a financial or monetary interest in the earmark.**



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Immediate Family *(defined)*

- **father, mother, son, daughter, brother, sister, husband, wife, father-in-law and mother-in-law.**



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Committee Staff Holdings

Senate Rule 37.7

The Basics

- **Committee staffer**
 - earning more than \$25,000 a year
 - employed for more than 90 days

... must divest himself of any substantial holdings which may be directly affected by the actions of the employing committee




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Outside Employment

Senate Rule 37.5

- **May not conflict with Senate duties;**
- **Must be approved by supervising Senator in writing;**
- **Must report to Senator on starting of activity and each May 15th thereafter.**




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Anyone earning \$25,000 - \$119,554 a year and employed for more than 90 days in a calendar year

Senate Rule 37.5(a)

- ✗ **MAY NOT:**
 - Affiliate with outside business for purpose of providing professional services for compensation;
 - Permit their name to be used by outside business providing professional services for compensation; (IR 145).
 - Practice a profession for compensation to any extent during regular office hours in the employing Senate office.
- ✓ **MAY DO:**
 - As long as the individual avoids affiliating with a firm, he or she may practice a profession during off hours.



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Anyone making at or above 120% of GS-15 = \$119,554 (CY 2010)
Senate Rule 37.5(b)

✗ MAY NOT:



- Receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship;
- Provide professional services resulting in a fiduciary relationship to anyone for compensation;
- Be employed by a firm that provides professional services;
- Outside earned income limit of \$26,550.



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Outside Earned Income Limit


■ Anyone earning a Senate rate of pay in excess of \$119,554 (CY 2010) may not earn more than \$26,550 (CY 2010) from all combined outside sources, including campaign work.




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Rate of Pay

■ For a part time staffer, gross salary must be annualized to 100% in order to determine rate of pay.



➤ For example, a staffer working half-time (50%) who earns an annual gross salary of \$60,000 is still earning a rate of pay of \$120,000 (*the amount he or she would have earned if he or she had worked full time for that year*).



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Officer, Board or Advisory Service Rule *Senate Rule 37.6(a)*

- Service on the board of an outside organization involves a fiduciary duty and an increased potential for an appearance of a conflict of interest.



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If employed for more than 90-days and earn over \$25,000

- ✗ **MAY NOT**
 - Serve as officers or members of the board of any publicly-held or publicly-regulated company.
- ✓ **MAY DO**
 - Uncompensated service as an officer or board member of
 - a tax-exempt organization (IRC Section 501(c)(3)), and
 - an organization which is principally available to Members, officers and employees of the Senate and their families.



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BUT WATCH FOR...

- Federal-Funding Conflict
- Subject-Matter Overlap Conflict



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Charitable Fundraising Events

■ In their personal capacity Senators may serve as **honorary** chairpersons of non-profit events or charity events if consistent with Rule 37.




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Post-Employment Lobbying Restrictions

Senate Rules 37.8 and 37.9

- **Members:**
 - Can not lobby Congress for two years
- Staff paid more than 75% (\$130,500 for CY 2010) of a Member salary:
 - Can not lobby the Senate for one year
- Staff paid less than 75% (\$130,500 for CY 2010) of a Member's salary:
 - Can not lobby employing office or committee for one year



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Rule on Negotiating for future employment

- Senator who wants to negotiate for jobs involving lobbying must wait until successor is elected.
- Senator who negotiates for employment not involving lobbying are similarly restricted unless, Senator files statement with Secretary of the Senate within 3 days of beginning such negotiations.

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Rule on Negotiating for future employment

- Senior Staff who earn more than 75% of a Member's Salary (*\$130,500 for CY 2010*) must notify the Ethics Committee in writing within 3 days of beginning job negotiations or entering an arrangement with a private employer.
- Senior Staff engaging in job negotiations with private employers must recuse themselves from legislative matters that create a conflict of interest, or the appearance of a conflict of interest and notify the Ethics Committee in writing of such recusals and negotiations.

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Negotiations *(defined)*

- The discussion of terms and conditions of employment after an offer has been made and the Senator or staffer is considering accepting.



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Rule on Lobbying by Member Spouses and Family

- If a Member's spouse or immediate family member is a registered lobbyist, or is employed or retained by such a registered lobbyist, or an entity that hires or retains a registered lobbyist, that Member shall prohibit all staff supervised by that Member from having any contact with that spouse or family member that constitutes a lobbying contact.

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Lobbying by Member Spouses and Family

- Staff of a Member are also prohibited from having any lobbying contact with a Member's spouse who is a registered lobbyist, or is employed or retained by such a registered lobbyist.

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Lobbying Contact *(defined)*

2 USC § 1602(8)

- The term "lobbying contact" means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to--



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Lobbying Contact *(defined)*

- the formulation, modification, or adoption of Federal legislation (including legislative proposals);
- the formulation, modification, or adoption of Federal Rule, regulation, Executive order, or any other program, policy, or position of the United States Government;
- the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or
- the nomination or confirmation of a person for a position subject to confirmation by the Senate.

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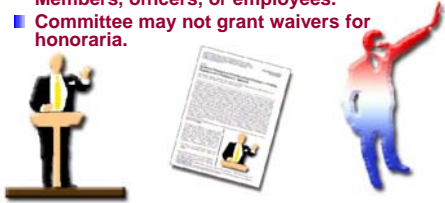
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Honoraria Ban

Senate Rule 36


- Honorarium is a payment for an appearance, speech, or article (other than a book).
- Absolute ban on honoraria received by Members, officers, or employees.
- Committee may not grant waivers for honoraria.



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Charitable Contribution in Lieu of Honoraria

- Organization may make \$2,000 charitable contribution in lieu of honorarium to a Senator.
 - Charity may not benefit Member or employee.
 - Honoraria must be reported on financial disclosure form.
 - If donation is from lobbyist or foreign agent, it must be reported to Secretary of the Senate within 30 days



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Teaching

Senate Rule 37.5(b)

- Teaching may not be an avenue to circumvent the honoraria ban.



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Ethics Committee Approval for Teaching

- Members and those earning in excess of 120% of GS-15 (= \$119,554) may not teach for compensation unless they receive prior approval by the Ethics Committee.
- Staff earning less than 120% of GS-15 are encouraged, but are not required, to receive prior approval to teaching.



Welcome U.S. SENATE

UNITED STATES SENATE FINANCIAL DISCLOSURE REPORT
FOR ANNUAL AND TERMINATION REPORTS



PUBLIC FINANCIAL DISCLOSURE

US Senate Select Committee on Ethics

Purpose of Financial Disclosure

- Financial interests and investments of Members and employees, as well as those of candidates for the Senate, may present conflicts of interest with official duties.
- Public financial disclosure provides the mechanism for monitoring and deterring conflicts.
- Public disclosure is intended to provide the information necessary to allow constituents to judge official conduct in light of possible financial conflicts with private holdings.



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WHO HAS TO FILE Annual Reports?

- **SENATORS**
- **CANDIDATES FOR THE SENATE**
- **POLITICAL FUND DESIGNEES**
- **FELLOWS / DETAILEES** who earned a rate of pay from an outside source equal to or in excess of \$119,554
- **STAFFERS** who earned a rate of pay equal to or in excess of \$ 119,554 for a period equal to or in excess of 60 days
 - **Employees Who Received a Bonus: A report is required if:**
 - Paid at a rate of pay in excess of the reporting threshold of \$119,554 for more than 60 days; and
 - Gross earning for the calendar year was equal to or in excess of \$119,554



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DEADLINES

- Annual reports covering the previous calendar year are due every May 15
- New staff entering a filing position must submit a report within 30 days of starting the filing position
- Filers terminating a filing position must submit a report within 30 days of terminating the filing position



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MISCELLANEOUS INFORMATION

- Additional details are included in the instructions for completing the report.
- Civil and criminal sanctions may be imposed for individuals who knowingly and willfully fail to file this report.
- The Ethics Committee sponsors separate training sessions for financial disclosure and is available to answer specific questions.

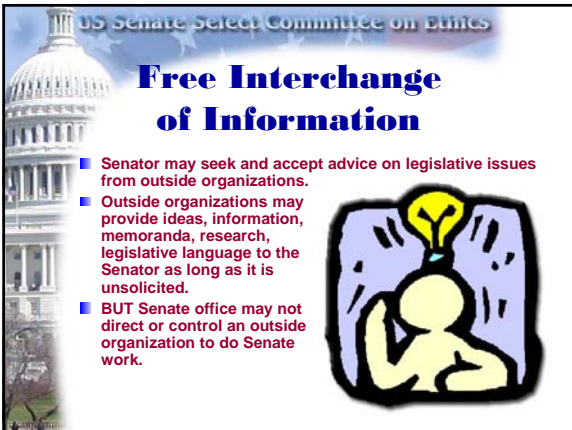


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"Official" or "Officially - Connected" Expenses May Be Paid From

- Appropriated Funds,
- Member's personal funds,
- Campaign funds,
- Reimbursement from private parties in context of approved fact-finding travel.



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Special Rules For Appropriated Funds

- Appropriated funds may not be used to pay for gifts or refreshments.
- Consult Committee on Rules and Administration.



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Special Rules For Campaign Funds

- **May not use campaign funds to:**
 - Supplement franking allowance (may only use appropriated funds);
 - Supplement mass mailing (\$50,000 allowance);
 - Pay employee salaries (may only use appropriated funds or Senator's personal funds);
 - Pay for office space (may only use appropriated funds);
 - Buy office equipment and any associated information technology services (use only appropriated funds);
 - Support Home State Office (may only be paid for with appropriated funds);
 - Pay Committee expenses (may only be paid for with appropriated funds).
- **If campaign funds are used to purchase something, campaign funds must be used to maintain it.**

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**Constituent Service
Rule 43**

- **Type of Agency Proceeding**
 - Do not do damage to the administrative process by Congressional intervention.



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**Constituent Service
Rule 43**

- **If Agency Is Performing a Quasi-judicial, Adjudicative, or Enforcement Function**
 - **DO NOT INTERVENE, because**
 - such formal proceeding should only be decided on the record made by the agency, and
 - ex parte communications are forbidden during formal adjudicative proceeding, enforcement or quasi-judicial proceeding



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**Constituent Service
Rule 43**

- **Role of the Congressional Liaison**
 - After deciding that contacting the agency is probably appropriate, the Senate office should always contact congressional liaison:
 - to determine whether the agency has restrictions on outside communications with regard to a matter at issue, and
 - to determine who is the appropriate addressee of the intended communication.



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United States Senate Select Committee on Ethics
Senate Code of Official Conduct







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US Senate Select Committee on Ethics

Who Is Responsible for the Use of the Frank?

- Each Senator is **personally** responsible for ensuring that the use of the frank complies with the law, Senate Rules and regulations and interpretive rulings of the Ethics Committee.
- Violation of the franking privilege may result in your Senator being held personally responsible for the cost of the mailing. If the office uses the frank for personal purposes, criminal fines are possible.



US Senate Select Committee on Ethics

Restitution for Misuse of the Frank

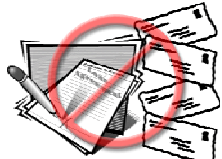
- The Committee will view as an act of good faith an offer by a Member to pay restitution to the Treasury for the cost of improper use of the franking privilege.



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No Loan of the Frank

- May not loan the frank to outside group or organization, e.g., include an outside organization's pamphlet in a franked mailing, may not lend text of document to outside organization.



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Features of Frankable Mail

- Must be official;
- May not be political, partisan, campaign, charitable solicitation, or personal.



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Frankable Mail

- Matters of Public Concern and Congressional Actions;
- Official Newsletters and Press Releases;
- Questionnaires Seeking Public Opinion;
- Mail between DC and State Office;
- Mail to Other Members of Congress and all other legislators;
- Congratulations on Public Distinction.



US Senate Select Committee on Ethics

Frankable Mail

- Federal Regulations or Federal Publications Containing General Information;
- Nonpartisan Voter Registration or Election Information;
- Biographical Material or Pictures in Federal Publications or in Direct Response;
- Whole or part of the Congressional Record;
- Public Service Material;
 - Created with government appropriated funds;
- Seeds and Agricultural Reports.

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Nonfrankable Mail

- Laudatory and Complimentary to Member on Personal Rather than Official Basis;
- Holiday Greetings Unless They Are Incidental Reference in Otherwise Frankable Mail;
- Member's Family Activities Other Than in Connection With Official Function;
- Solicitations for Political Support or Financial Assistance;
- Personal Mail;
- Condolences or Congratulations on Personal Distinction;

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Mass Mailing

■ Mass Mailings must be franked. Mass Mailing is a mailing of 500 or more substantially similar pieces of mail within 1 session of Congress, regardless of whether the pieces are mailed at same time or separately.



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What Isn't a Mass Mailing

- Mail in Direct Response
- Mail to other Members of Congress, federal, state, or local officials;
- News Releases to the Media;
- Town Meeting Notices;
- Federal Publication or Item Provided to All Senators or Made Available for Purchase With Official Funds for Distributions;
- Responding to signed petition.



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More about Mass Mailings

(Often seen in form of newsletters)

- Not more than 2 legal-size sheets;
- Prepared by or for Senator making the mailing;
- Information concerning views of or otherwise relating to Senator;
- No gratuitous biographical information;
- Limited to 8 personal references (name of Senator) per page;
- Senator's name other than in the masthead may not have font larger than 1/4 of an inch;
- Limited to 4 photos of the Senator;
- Photos must relate to the text;



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More about Mass Mailings

(Often seen in form of newsletters)

- At bottom of first page must print the phrase "PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSE" in 7 point type.
- May not be personal or partisan
- Committee newsletters sent under the frank of the chairman must be relating to normal and regular business of the committee and not focus unduly on chairman;
- Must be prepared by the office of Printing, Graphics, and Direct Mail, may not use private funds to purchase paper, print or prepare any mass mailing material;
- Mass mailings must be registered quarterly.

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Senate Letterhead

- Official Senate Letterhead may only be used for official Senate business.



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