

July 26, 2006

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
s/ Doc Hastings, Chairman
s/ Howard L. Berman, Ranking Minority Member

SUBJECT: Use of Campaign Funds and Campaign-Funded Resources for Official House Purposes

This concerns amendments to the House Rules that occurred at the beginning of this Congress permitting **the use of funds of a Member's principal campaign committee to pay certain congressional office expenses**. The major amendment on the use of campaign funds was to clause 1 of House Rule 24, which generally prohibits a Member from maintaining an "unofficial office account" to pay congressional expenses, or accepting any in-kind support from private sources for the congressional office. These rule changes should eliminate some inconveniences to Members under the previous rules.

We wish to emphasize that the changes are **limited**. They address only the source of funding for certain permissible expenses detailed below. Members and staff should bear in mind that there have been **no** changes to the rules that limit the use of official house resources to official house business, and that therefore **generally prohibit the use of official House resources, including House rooms and offices, for campaign or political activity**. Also unaffected are the provisions of the Code of Official Conduct **barring the use of campaign funds for personal**

purposes.^[*]

Congressional Expenses that May Be Paid with Funds of the Member's Principal Campaign Committee.

Expenses of a motor vehicle that is used for official House travel. It is now permissible for a Member to lease or purchase a motor vehicle with campaign funds and to use that vehicle on an unlimited basis for travel for *both* campaign *and* official House purposes. Campaign funds may also be used to pay the expenses incurred in operating the vehicle, such as insurance, maintenance and repair, registration fees, and any property tax.

However, when a vehicle that is paid for with campaign funds is used for personal purposes – *i.e.*, for driving to and from one's official or campaign office – it is necessary to reimburse the Member's campaign committee in an appropriate amount with personal funds. Members should consult with the Federal Election Commission (FEC) on how the amount of reimbursement should be determined. FEC regulations provide that reimbursement should be made within 30 days of the personal use, and thus it appears that reimbursement for regular personal use must be made on a monthly basis.

Expenses of a cellphone or BlackBerry that is used for official House business. It is now permissible for a Member to acquire a "handheld communications device" (*e.g.*, a cellphone, a BlackBerry, or a combination cellphone/BlackBerry device, and associated communications services) with campaign funds, and to use the device on an unlimited basis on both campaign matters and official House matters. Members should contact the House Administration Committee for information on connecting any handheld communications device to the House infrastructure.

We stress that the amendments do not change the general restrictions on engaging in campaign or political activity in House rooms or offices, or the rules that generally prohibit using congressional office resources for campaign or political purposes. In particular, Members and staff should be aware of the following:

A Member or staff person may **not** use a campaign-funded communications device to download data or information residing in the House infrastructure (*e.g.*, a correspondence management service (CMS) database, the global address book, or a Listserv database) and then use that data or information

for campaign purposes;

Even though a cellphone or BlackBerry is paid for with campaign funds, it may **not** be used to make or answer campaign-related calls, or to send or respond to e-mails on campaign matters, while the user is in a House room or office;

Criminal law (18 U.S.C. § 607) prohibits soliciting campaign contributions in federal rooms and buildings and, thus, **Members and staff are prohibited from using one of these devices to solicit a campaign contribution while in the Capitol, a House office building, or a district office;** and

While it is permissible to use a campaign-funded BlackBerry to send or respond to campaign or political e-mails when the user is not in a House room or office, **the use of one's office desktop computer (including one's "mail.house.gov" e-mail address) to send or receive such communications continues to be prohibited.**

See generally Campaign Activity booklet, pp. 9-14, 29-37.

Expenses of official or officially-related travel. A Member may use campaign funds to pay official or officially-related travel expenses. This authority should be especially useful for travel that is official in nature, but the expenses of which may not be payable from official allowances (including those for a congressional office job applicant, an unpaid congressional office intern while on official business, and a speaker or guest at an official House event). It is also permissible to use campaign funds for travel expenses associated with a proper officially-connected trip when the sponsor is not able to cover all of the expenses. However, before using campaign funds to pay the expenses of a private aircraft, a Member should consult with the FEC on the timing and proper rate of reimbursement.

Other congressional expenses. The rules change does not affect Members' ability to pay *food and beverage expenses* at official House events, as permitted under the Committee's previously-issued policy. See Committee Advisory Memorandum of May 8, 2002. Under the rules change, Members are now permitted to pay certain *other* expenses of such an event with campaign funds, such as room rental and rental of a sound system. It is also now permissible for a Member to use campaign funds to purchase a gift for a visiting foreign government official as a mark of courtesy.

Congressional Expenses that *May Not Be Paid with Campaign Funds.*

Under the rules change, there are five categories of congressional expenses that may **not** be paid using campaign funds. As a general matter, expenses in these categories **must** be paid with official House funds under regulations issued by the House Administration Committee. Three of those categories are generally self-explanatory, while the other two require further explanation:

- **Office space;**

- **Furniture;**

- **Equipment and associated information technology services** (except for handheld communications devices);

- **Mail or other communications.** Use of campaign funds to pay any expenses of congressional mail is prohibited. While the prohibition against use of campaign funds clearly applies to payment of the expenses of franked mail, the rules also prohibit a Member from using campaign funds to pay the expenses of preparing or sending any non-franked mail from his or her congressional office.

As a general matter, the forms of congressional “communications” that may not be paid with campaign funds are those set out in the regulations issued by the House Administration Committee on use of official allowances to pay for communications (*e.g.*, advertisements of a town meeting or other House event, the congressional office Web site, official stationery, and official audio and video recording and materials); and

- **Compensation for services.** A Member may not use campaign funds to pay any compensation for the performance of official duties or for services to his or her congressional office. Thus, for example, a Member may not use campaign funds to pay an individual to assist the Member in the performance of his or her official duties, even if the work was performed outside the congressional office.

Other Cautionary Points.

As Members consider using campaign funds to pay for certain congressional expenses, there are several additional points they should bear in mind:

1. The **only** campaign funds that a Member may use to pay for congressional expenses are funds of his or her **principal campaign committee** – **not** the funds of a leadership PAC or a multicandidate committee.

2. There has been **no** change in the rules insofar as they generally prohibit other **private organizations or individuals** from **subsidizing** any congressional office or activity, whether on a cash or an in-kind basis.

3. Neither a Member nor anyone working on his or her behalf may either solicit campaign contributions for the payment of congressional expenses or accept campaign contributions that are in any way **earmarked** for the payment of such expenses.

4. While it appears that the use of campaign funds addressed in this advisory memorandum are permissible under Federal Election Campaign Act (FECA), Members should nevertheless **consult with the FEC on any questions that arise under FECA**, including any questions on how payment of any congressional expense is to be disclosed on the reports that a Member's campaign committee files with the FEC.

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

[*] The provision of the House Rules barring the use of campaign funds for personal purposes provides that a Member "may not convert campaign funds to personal use in excess of an amount representing reimbursement for **legitimate** and **verifiable** campaign expenditures." House Rule 23, cl. 6(b) (emphasis added). See the Committee's *Campaign Activity* booklet (on pp. 50-61) for discussion on the personal use restrictions.