SUMMARY OF ACTIVITIES

ONE HUNDRED ELEVENTH CONGRESS

January 2, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Ms. LOFGREN and Mr. BONNER, from the Committee on Standards of Official Conduct, submitted the following

REPORT

The Committee on Standards of Official Conduct 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 Committee's staff is required by rule to be professional and nonpartisan.

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 impropriety and violations of House ethics rules. Within the scope of its training, advice and education, travel, and financial disclosure responsibilities, the Committee:

- Issued more than 780 formal advisory opinions regarding ethics rules;

- Fielded thousands of informal telephone calls, emails, and in-person requests for guidance on ethics issues;
- Released 11 advisory memoranda on various ethics topics to the House;
- Provided training to more than 10,000 House Members, officers, and employees each year, and reviewed their certifications for satisfying the House's mandatory training requirements; and
- Reviewed nearly 6,900 financial disclosure statements filed by House Members, senior staff, and House candidates.

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 111th Congress, within the scope of its investigative responsibilities, the Committee:

- Commenced or continued investigative fact-gathering regarding 111 separate investigative matters;

- Resolved 75 investigative matters without empaneling an investigative subcommittee or taking other formal action;
- Empaneled four investigative subcommittees, in the matters of the Carib News Foundation Multi-National Business Conferences, Representative Laura Richardson, Representative Maxine Waters, and former Representative Eric Massa;
- Carried over and expanded the jurisdiction of the investigative subcommittee in the matter of Representative Charles B. Rangel, completed the investigation and adjudication of that matter, and recommended a sanction to the full House of Representatives, which was subsequently adopted by the House; and
- Filed 12 reports with the House totaling more than 15,000 pages regarding various investigative matters.

Collectively, during the 111th Congress the investigative subcommittees formed by the Committee:

- Authorized the issuance of more than 240 subpoenas;
- Interviewed more than 140 witnesses;
- Reviewed more than 55,300 pages of documents; and
- Held more than 70 investigative subcommittee meetings.

In addition to the publicly-disclosed matters discussed in this report, there were a total of 16 investigative matters pending before the Committee as of December 31, 2010.

I. INTRODUCTION

House Rule XI, clause 1(d), requires each committee to submit to the House, not later than January 2 of each odd-numbered 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.

The jurisdiction of the Committee on Standards of Official Conduct ("Committee") is defined in clauses 1(q) 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(q)

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.

* * *

(q) **Committee on Standards of Official Conduct.**

The Code of Official Conduct.

Rule X, clause 11(g)(4)

(4) The Committee on Standards of Official Conduct 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 Standards of Official Conduct

3. (a) The Committee on Standards of Official Conduct 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 Standards of Official Conduct 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 Standards of Official Conduct, 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 Standards of Official Conduct 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 Standards of Official Conduct 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 Standards of Official Conduct, 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 Standards of Official Conduct, 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 Standards of Official Conduct 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 Standards of Official Conduct, 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 Standards of Official Conduct.

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 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.

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;
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> (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
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> (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
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> (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 Standards of Official Conduct. The Committee on Standards of Official Conduct 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 and staff, 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 and staff (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 Chair and Ranking Minority 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 and staff, and submitting them to the Chair and Ranking Minority Member for review and approval;
- Drafting advisory memoranda on the ethics rules for general distribution to House Members and staff, and submitting them to the Chair and Ranking Minority Member, or the full Committee, for review and approval; and
- Developing and conducting educational briefings for Members and staff.

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(i), 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 Members and staff 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(j) 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 111th 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 111th Congress, Committee attorneys responded to thousands of 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 advisory memoranda to all Members and staff. The memoranda issued during the 111th Congress were as follows:

- The 2009 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions (February 12, 2009);
- Annual Ethics Training Requirement (February 26, 2009);
- New Procedure for Certifying 2009 Annual Ethics Training Compliance (December 10, 2009);
- Simplified Process for Requesting Gift Rule Waivers for Gifts Anticipated due to Certain Special or Unusual Circumstances (December 15, 2009);
- Holiday Guidance on the Gift Rule (December 16, 2009);

- Helping Victims of the Haiti Earthquake (January 20, 2010);
- The 2010 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees (January 25, 2010);
- Calendar Year 2009 Financial Disclosure Statements (April 26, 2010);
- Annual Ethics Training Requirements (April 27, 2010);
- Negotiations for Future Employment and Restrictions on Post-Employment for House Staff (December 6, 2010); and
- Negotiations for Future Employment and Restrictions on Post-Employment for House Members and Officers (December 22, 2010).

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 February 2009. Copies of all current Committee publications are available from the Committee's Advice and Education office, and their text is posted on the Committee's Web site.

ETHICS TRAINING

Clause 3(a)(6) of House Rule XI, which was enacted during the 110th Congress, requires each House employee to complete ethics training each calendar year, pursuant to guidelines to be issued by the Committee. That clause of House Rule XI remained unchanged during the 111th Congress. For the 111th Congress, the Committee issued those guidelines in a pair of advisory memoranda, entitled "Annual Ethics Training Requirement" for calendar year 2009 and "Annual Ethics Training Requirements" for

calendar year 2010, released on February 26, 2009 and April 27, 2010, respectively. Those guidelines required each House employee to complete one hour of ethics training each calendar year. The guidelines also required all House employees who file an annual Financial Disclosure Statement to complete a second hour of training once each Congress on issues primarily of interest to senior staff. Rule 11 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 47 ethics briefings during 2009 and 44 during 2010. The Committee also taped some of these briefings and made them available for viewing through the House internal Internet server. During the 111th 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 a taped presentation on-line. 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 a specific topic or 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. Those sessions covered matters such as the rules on outside employment, completing a Financial Disclosure Statement, or the post-employment restrictions.

In 2009, the Committee trained over 2,880 employees in person at live ethics briefings, and more than 7,300 used one of the on-line training options. During 2010,

the Committee trained over nearly 1,700 employees in person at live ethics briefings, and more than 8,500 employees used one of the on-line training options. The total number of employees who completed ethics training in 2010 will be available after January 31, 2011, the date that House Rule XI established as the deadline for employees to certify completion of the ethics training requirement for 2010.

In addition to the training required under House Rule XI, the Committee also provided training in several other contexts. The Committee made a presentation to the Members-elect of the 112th Congress during the New Member Orientation. As part of that presentation, the Committee provided to each incoming Member a memorandum noting points of particular interest to Members-elect during their transition period. The Committee also led a briefing for the spouses of the Members-elect of the 112th Congress on the ethics rules applicable to them as congressional spouses. In addition, the Committee led a briefing for departing Members on ethics rules related to their transition to private life and the post-employment restrictions. The Committee also provided training open to all Members and staff 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 2009 and one in 2010, on the rules related to Member participation in the Congressional Art Competition.

Committee staff also participated in approximately five briefings sponsored by or held for the members of outside organizations. The Committee also had an information booth at the 2009 House Services Fair held by the Chief Administrative Officer. In addition, Committee staff led approximately eleven briefings for visiting international

dignitaries from a variety of countries, including Indonesia, China, Albania, and Argentina.

The Committee will continue this outreach activity in the 112th Congress.

ADVISORY OPINION LETTERS

The Committee's Office of Advice and Education, under the direction and supervision of the Committee's Chair and Ranking Minority Member, prepared and issued 790 private advisory opinions during the 111th Congress, 474 in 2009 and 316 in 2010. Opinions issued by the Committee in the 111th 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 during the 110th Congress, the Committee reviewed more than 1,590 requests, and issued letters approving more than 1,445 requests for travel in 2009. In 2010, 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. On January 28, 2010, the Committee announced that it had appointed a bipartisan working group to assess and make recommendations regarding its process for the review and approval of such travel. Committee members Representatives Peter Welch and Charles Dent comprised the working group. It is anticipated that the Committee will continue its review of the guidelines and regulations for privately-sponsored, officially-connected travel during the 112th Congress.

III. FINANCIAL DISCLOSURE, FOREIGN GIFTS & DECORATIONS, AND TRAVEL DISCLOSURE

Title I of the Ethics in Government Act of 1978, 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.

The Act 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. The Committee establishes policy, issues instructions, and designs the Financial Disclosure Statements to be filed by Members, officers, legislative branch employees, and candidates for the House.

After statements are filed with the Legislative Resource Center of the Clerk of the House, they are forwarded to the Committee to be reviewed for compliance with the law. Accountants from the General Accounting Office assist the Committee in its review efforts.

Each year the Committee publishes two detailed instruction booklets, one for current Members and employees, and one for candidates and new employees. The appropriate booklet is sent to each person required to file a disclosure statement with the Clerk of the House. Prior to the May 15 filing date in both 2009 and 2010, the Committee also held five briefings, two for Members and three for officers and employees, on the financial disclosure requirements. The Committee staff also met on an individual basis with any Member who had questions regarding the preparation of the Member's statement and who requested additional guidance. In addition, Committee staff members responded, by telephone, e-mail, or in person, to numerous questions on the financial disclosure filing requirements. Upon request, Committee staff reviewed statements in draft form, prior to their 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 2009 and 2010, the Legislative Resource Center of the Clerk's office referred a total of 6,898 financial disclosure statements to the Committee for review under the statute. Of those, 4,923 were statements filed by current or new House Members or employees, 408 were filed by departing House Members or employees, and 1,567 were statements filed by candidates for the House. The total number of disclosure statements filed will be available in January 2011. 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. 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.

IV. COMMITTEE RULES

On February 10, 2009, the Committee met and adopted the initial set of Committee rules for the 111th Congress. The substance of the initial set of Committee rules was largely identical to those adopted for the 109th Congress, except they were changed to gender-neutral language, in conformance with changes that had been made to the House rules for the 111th Congress. Pursuant to House Rule XI, clause 2(a)(2), the February 2009 Committee rules were submitted for publication in the *Congressional Record* on March 3, 2009. Subsequently, on June 9, 2009, the Committee met and adopted a revised set of Committee rules. The June 2009 amended Committee rules added new Committee Rule 17A, which established Committee procedures for handling investigative matters referred to the Committee by the Office of Congressional Ethics (OCE), an independent ethics investigative office established during the 109th Congress with the passage of H. Res. 895 on March 11, 2008, and reauthorized at the start of the 111th Congress when the House adopted H. Res. 5, containing the chamber's rules for the 111th Congress. Pursuant to House Rule XI, clause 2(a)(2), the June 2009 amended Committee rules were submitted for publication in the *Congressional Record* on June 9, 2009, the same day they were adopted

by the Committee. Copies of the February 2009 and amended June 2009 Committee rules are included as Appendices II and III, respectively, to this Report.

V. INVESTIGATIONS

In addition to the investigative authority granted to the Committee under House Rule XI, on June 5, 2007, the House of Representatives passed House Resolution 451 during the 110th Congress, resolving:

> That whenever a Member of the House of Representatives, including a Delegate or Resident Commissioner to the Congress, is indicted or otherwise formally charged with criminal conduct in a court of the United States or any State, the Committee on Standards of Official Conduct shall, not later than 30 days after the date of such indictment or charge –
>
> (1) empanel an investigative subcommittee to review the allegations; or
>
> (2) if the Committee does not empanel an investigative subcommittee to review the allegations, submit a report to the House describing its reasons for not empaneling such an investigative subcommittee, together with the actions, if any, the Committee has taken in response to the allegations.

H. Res. 451 was extended to the 111th Congress by clause 4(e) of H. Res. 5, which established the Chamber's rules for this Congress. The essential mandate of H. Res. 451 was enacted as Committee Rule 18(e)(2), which states:

> (e)(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.

The Committee publicly addressed seventeen investigative matters during the 111th Congress. On February 10, 2009, the Committee voted to reauthorize the Investigative Subcommittee for the 111th Congress that had been authorized during the 110th Congress in matters involving Representative Charles Rangel.

On April 2, 2009, the Committee voted not to establish an investigative subcommittee with regard to a charge of driving with an expired license that had been filed against Representative Zack Space.

On May 29, 2010, the Committee voted not to establish an investigative subcommittee with regard to the arrests of five Members – Representatives Keith Ellison, Lynn Woolsey, John Lewis, James McGovern, and Donna Edwards – for crossing a police line during a protest outside of the Embassy of Sudan.

On June 11, 2009, the Committee issued a press statement stating that it had previously begun an investigation pursuant to Committee Rule 18(a) into allegations involving Member interaction with the lobbying firm Paul Magliocchetti and Associates (PMA).

On June 24, 2009, the Committee voted to establish an investigative subcommittee to investigate officially-connected travel that was sponsored, funded, or organized by an organization known as Carib News.

On August 6, 2009, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding allegations of misconduct by Representative Maxine Waters. On October 29, 2009, the Committee voted to establish an investigative subcommittee to investigate the conduct of Representative Waters with respect to alleged

communications and activities with, or on behalf of, the National Bankers Association or OneUnited Bank.

On August 6, 2009, the Committee received a referral from the OCE regarding allegations that Representative Jesse Jackson, Jr. may have offered to raise funds for then-Illinois Governor Rod Blagojevich in exchange for appointment to the U.S. Senate seat that had been recently vacated by President Barack Obama.

On August 6, 2009, the Committee received a referral from the OCE with regard to allegations that Representative Sam Graves may have received an impermissible personal financial benefit from the testimony of a witness at a hearing held by the Committee on Small Business, on which he served as Ranking Republican Member.

On August 6, 2009, the Committee received a referral from OCE with regard to allegations of misconduct by Representative Laura Richardson. On October 29, 2009, the Committee voted to establish an investigative subcommittee to investigate the conduct of Representative Richardson with regard to financial disclosure and possible preferential treatment involving her property in Sacramento, California.

On November 2, 2009, the Committee received a referral from the OCE regarding allegations that Representative Fortney "Pete" Stark may have received an improper homestead tax credit on a personal residence he owned in Harwood, Maryland.

On December 8, 2009, the Committee voted not to establish an investigative subcommittee with regard to a charge of simple assault that had been filed against House employee Marc Goldberg.

On April 20, 2010, the Committee voted to establish an investigative subcommittee to investigate whether any Member or employee of the House violated any

law, rule, regulation, or other standard of conduct with respect to the handling of allegations of misconduct involving former Representative Eric Massa.

On that same date, the Committee voted not to establish an investigative subcommittee with regard to charges that House employee Randy Vogel had violated the laws of the State of Montana.

On May 26, 2010, the Committee voted not to establish an investigative subcommittee with regard to the arrests of Representative Luis Gutierrez and House employee Susan Collins for failure to obey a police officer in connection with their participation in a protest in front of the White House.

On July 30, 2010, the OCE referred to the Committee a matter involving allegations that six Members – Representatives Robert Aderholt, G.K. Butterfield, Eliot Engel, Alcee Hastings, Solomon Ortiz, and Joe Wilson – may have improperly retained excess per diem funds they received in connection with official travel.

On September 1, 2010, the OCE referred to the Committee the question of whether campaign fundraising by Representatives John Campbell and Tom Price had any connection to a mark-up and vote on financial regulation legislation.

On September 15, 2010, the Committee voted not to establish an investigative subcommittee with regard to charges against House employee Nicole Gustafson for driving while intoxicated and other related offenses.

These investigative matters are described in more detail below. Copies of all Committee press statements related to these matters are included as Appendix IV to this Report.

In the Matter of Representative Charles B. Rangel

On December 2, 2010, by a vote of 333 to 79, Representative Charles B. Rangel was censured by the House of Representatives pursuant to H. Res. 1737. The resolution also required Representative Rangel to pay restitution to the relevant taxing authorities for certain unpaid income taxes. This action followed a nine-to-one vote of the Committee on Standards of Official Conduct on November 18, 2010, to recommend that the House of Representatives adopt a resolution that Representative Rangel be censured and required to pay restitution.

The Committee's recommendation followed an investigative and adjudicatory process that formally began in September 2008 with the formation of an Investigative Subcommittee. The Investigative Subcommittee ultimately adopted a thirteen-count Statement of Alleged Violation charging that Representative Rangel committed multiple violations of the Code of Official Conduct and other laws, rules, regulations, and other standards of conduct applicable to a Member in the performance of the duties or discharge of the responsibilities of such Member. Subsequently, an Adjudicatory Subcommittee found that Counts I, II, IV, and VI through XIII were proven by clear and convincing evidence. In voting to recommend that Representative Rangel be censured and required to pay restitution, the Committee concluded that the cumulative violations of Representative Rangel were more serious in nature and merited a strong congressional response.

On September 24, 2008, the Committee voted to establish an Investigative Subcommittee to conduct a formal inquiry regarding Representative Rangel. The Committee gave the Investigative Subcommittee jurisdiction to determine whether

Representative Rangel violated the Code of Official Conduct, or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities with respect to the following matters: (1) his use of official resources to transmit letters in 2005, 2006, and 2007 to potential donors to the Charles B. Rangel Center for Public Service (Rangel Center) at the City College of New York; (2) his leasing of apartment units in the Lenox Terrace apartment complex located in Harlem, New York; (3) the financing of his ownership interests in a guest unit within the Punta Cana Yacht Club located in the Dominican Republic, and his compliance with financial disclosure requirements regarding that property; and (4) his compliance with Committee on House Administration rules regarding storage of a vehicle in a House garage, lot, or designated parking area.

Representative Gene Green served as Chairman of the Investigative Subcommittee, and Representative Jo Bonner served as Ranking Republican Member. The two other Members of the Investigative Subcommittee were Representative Bobby Scott and Representative Doc Hastings. On December 9, 2008, the Committee voted to expand the jurisdiction of the Investigative Subcommittee to include whether Representative Rangel violated the Code of Official Conduct, or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities with respect to contributions of money or pledges of money to the Rangel Center from any person or entity associated with the company Nabors Industries.

On February 10, 2009, the Committee voted to reauthorize the Investigative Subcommittee for the 111th Congress. The members of the Investigative Subcommittee

remained the same as during the 110th Congress. On October 8, 2009, the Committee voted to again expand the jurisdiction of the Investigative Subcommittee to include whether Representative Rangel violated the Code of Official Conduct, or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities with respect to all Financial Disclosure Statements and amendments filed in calendar year 2009 by or on behalf of Representative Rangel pursuant to title I of the Ethics in Government Act.

During the course of its investigation, the Investigative Subcommittee and its staff conducted 49 formal interviews of 41 witnesses, as well as additional informal interviews; issued over 160 formal document requests and subpoenas, in addition to informal requests for documents; reviewed over 28,000 pages of documents and testimony; and held more than 60 Investigative Subcommittee meetings.

On May 25, 2010, pursuant to Committee Rule 26(c), the Investigative Subcommittee provided Representative Rangel with a copy of the Statement of Alleged Violation that it intended to adopt in this matter. On May 27, 2010, following execution by Representative Rangel and his counsel of a non-disclosure agreement, the Investigative Subcommittee also provided Representative Rangel with the items required to be produced by the Committee pursuant to Committee Rules 25 and 26(c).

On June 17, 2010, the Investigative Subcommittee voted to adopt the Statement of Alleged Violation, finding substantial reason to believe that Representative Rangel committed multiple violations of the Code of Official Conduct and other laws, rules, regulations, and other standards of conduct applicable to a Member in the performance of the duties or discharge of the responsibilities of such Member. Subsequent to the

adoption of the Statement of Alleged Violation, Representative Rangel filed a Motion for a Bill of Particulars and a Motion to Dismiss, to each of which the Investigative Subcommittee responded.

On July 22, 2010, pursuant to Committee Rule 22(g), the Investigative Subcommittee transmitted the Statement of Alleged Violation to the full Committee. Also transmitted to the full Committee on that date were Respondent's Motion for Bill of Particulars, the Investigative Subcommittee' Order on Motion for Bill of Particulars and Memorandum in Support of Order, Respondent's Motion to Dismiss, the Investigative Subcommittee's Order on Motion to Dismiss and Memorandum in Support of Order, and the Investigative Subcommittee's Report regarding Matters within its Jurisdiction on Issues Not Referenced in Statement of Alleged Violation.

One of the items transmitted, the Investigative Subcommittee's Report regarding Matters within its Jurisdiction on Issues Not Referenced in Statement of Alleged Violation, was the Investigative Subcommittee's report to the full Committee on the issue of Representative Rangel's compliance with Committee on House Administration Rules regarding storage of a vehicle in a House garage, lot, or designated parking area. The report was issued pursuant to Committee Rule 19(g), which provides that where an investigative subcommittee does not adopt a Statement of Alleged Violation, the subcommittee is required to transmit to the full Committee a report containing a summary of the information received in the inquiry, its conclusions and reasons therefore, and any appropriate recommendation. The Investigative Subcommittee concluded that Representative Rangel's conduct with respect to compliance with the applicable parking policies did not rise to the level warranting charging it as a count in the Statement of

Alleged Violation. The Investigative Subcommittee recommended that the Committee consider making a recommendation to the Committee on House Administration that House Administration examine its rules regarding parking and the enforcement of those rules.

Count I of the Statement of Alleged Violation charged that Representative Rangel engaged in a pattern of soliciting for donations and other things of value on behalf of the Rangel Center from entities that were seeking official action from the House of Representatives and/or had interests that might be substantially affected by the performance or nonperformance of Representative Rangel's official duties, and that such solicitations were not within the parameters established by the Committee for solicitations on behalf of charitable organizations, in violation of federal statute (5 U.S.C. § 7353).

Count II of the Statement of Alleged Violation charged that contributions to the Rangel Center were made at the request of and as a favor to Representative Rangel, that contributions to the Rangel Center benefited Representative Rangel and those contributions were made by persons with interests before the Ways and Means Committee, on which Representative Rangel served as Chairman or Ranking Member, in violation of clause 5 of the Code of Ethics for Government Service.

Count III of the Statement of Alleged Violation charged that contributions solicited by Representative Rangel for the Rangel Center constituted indirect gifts attributable to Representative Rangel, in violation of the House gift rule (House Rule XXIII, clause 4).

Counts IV and V of the Statement of Alleged Violation charged that Representative Rangel used his congressional frank for the benefit of a charitable organization and for solicitation of funds, which is not official business, in violation of postal service laws (39 U.S.C. §§ 3210, 3215), Franking Commission regulations, and the franking statute (18 U.S.C. § 1719).

Count VI of the Statement of Alleged Violation charged that Representative Rangel and his staff drafted solicitation letters and performed other work related to solicitations on property of the House of Representatives, in violation of regulations issued by the House Office Building Commission.

Count VII of the Statement of Alleged Violation charged that Representative Rangel used House employees and other official resources for work related to the Rangel Center, in violation of the Purpose Law (31 U.S.C. § 1301) and the Member's Handbook issued by the Committee on House Administration.

Count VIII of the Statement of Alleged Violation charged that Representative Rangel sent letters related to the Rangel Center on letterhead bearing the words "Congress of the United States" and "House of Representatives," in violation of the Letterhead Rule (House Rule XXIII, clause 11).

Count IX of the Statement of Alleged Violation charged that Representative Rangel engaged in a pattern of submitting Financial Disclosure Statements that were incomplete and inaccurate, in violation of the Ethics in Government Act (5 U.S.C. app. 4 §§ 101 et seq.) and House Rule XVI.

Count X of the Statement of Alleged Violation charged that Representative Rangel's acceptance of a rent-stabilized apartment for nonresidential purposes was a

favor or benefit, the favor or benefit was from an entity with which Representative Rangel had interactions in his official capacity, and the favor or benefit was accepted by Representative Rangel under circumstances that might be construed by reasonable persons as influencing the performance of Representative Rangel's governmental duties, in violation of clause 5 of the Code of Ethics for Government Service.

Count XI of the Statement of Alleged Violation charged that Representative Rangel failed to report rental income related to his Punta Cana beach villa in violation of the Internal Revenue Code, and that Representative Rangel's conduct also violated other statutes and regulations, in violation of clause 2 of the Code of Ethics for Government Service.

Count XII of the Statement of Alleged Violation charged that Representative Rangel's conduct violated the spirit and letter of rules of the House of the Representatives, in violation of clause 2 of the Code of Official Conduct.

Count XIII of the Statement of Alleged Violation charged that Representative Rangel's pattern of indifference or disregard for the laws, rules, and regulations of the United States and the House of Representatives was serious violation, and that Representative Rangel's accumulation of actions reflected poorly on the institution of the House and, thereby, brought discredit to the House, in violation of clause 1 of the Code of Official Conduct.

On July 22, 2010, after receiving the Statement of Alleged Violation and associated pleadings and responses from the Investigative Subcommittee in this matter, and acting pursuant to Committee Rule 23, the Chair designated the Members of the Adjudicatory Subcommittee and set July 29, 2010, as the date for the Adjudicatory

Subcommittee to hold its first public meeting. Representative Zoe Lofgren, Chair of the Committee, served as Chair of the Adjudicatory Subcommittee, and Representative Michael McCaul served as its Ranking Republican Member. Also serving on the Adjudicatory Subcommittee were Representatives G.K. Butterfield, Michael Conaway, Kathy Castor, Charles Dent, Peter Welch, and Gregg Harper.

On July 29, 2010, the Adjudicatory Subcommittee held a public organizational meeting, at which time the Statement of Alleged Violation was publicly released. Also released were the transmittal letter from the Investigative Subcommittee to the full Committee, Respondent's Motion for Bill of Particulars, the Investigative Subcommittee's Order on Motion for Bill of Particulars and Memorandum in Support of Order, Respondent's Motion to Dismiss, the Investigative Subcommittee's Order on Motion to Dismiss and Memorandum in Support of Order, and the Investigative Subcommittee's Report regarding Matters within its Jurisdiction on Issues Not Referenced in Statement of Alleged Violation.

On November 15, 2010, the Adjudicatory Subcommittee commenced a hearing to determine whether any counts in the Statement of Alleged Violation had been proven by clear and convincing evidence. Representative Rangel appeared at the hearing, but left before the hearing was concluded. On November 8, 2010, Committee counsel had submitted a Notice of Motion and accompanying Affirmation. The Notice indicated Committee counsel's intent to move at the hearing for a determination, as to each count in the Statement of Alleged Violation, that no genuine issue of material fact existed and that the matter should be committed to the Adjudicatory Subcommittee for a determination as to whether each count had been proven based on the current record. At

the hearing, Committee counsel did offer the motion. Committee counsel also moved into the record Committee Exhibits 1 through 553, which were admitted without objection at the hearing.

After deliberating in executive session, the Adjudicatory Subcommittee granted Committee counsel's motion, finding that there was no genuine issue of material fact as to any count in the Statement of Alleged Violation. The Adjudicatory Subcommittee then began its deliberations in executive session to determine, as to each count, whether the count had been proven by clear and convincing evidence. The Adjudicatory Subcommittee found that Counts I, II, IV, and VI through XIII were proven by clear and convincing evidence. With respect to Count V, the Adjudicatory Subcommittee found that the conduct underlying Count V was the same as that in Count IV. The Adjudicatory Subcommittee took no action with respect to Count V because it determined that jurisdiction to charge and find a violation of the criminal statute at issue was more properly within the purview of the executive and judicial branches. The Adjudicatory Subcommittee found that Count III had not been proven by clear and convincing evidence. The Adjudicatory Subcommittee publicly announced its findings on November 16, 2010.

On November 18, 2010, the Committee held a Sanctions Hearing at which counsel for the Committee and Representative Rangel each made oral submissions regarding the sanction the Committee should recommend to the House of Representatives. Following the hearing, the Committee met in executive session to deliberate what sanction, if any, should be recommended to the House of Representatives. After carefully considering the report of the Adjudicatory

Subcommittee – which was adopted by the Committee – the Committee concluded that the violations committed by Representative Rangel on a continuous and prolonged basis were more serious in nature, meriting a strong Congressional response rebuking his behavior. Accordingly, the Committee agreed by a nine-to-one vote to recommend that the House adopt the following resolution:

HOUSE RESOLUTION

> *Resolved*, That (1) Representative Charles B. Rangel of New York be censured; (2) Representative Charles B. Rangel forthwith present himself in the well of the House for the pronouncement of censure; (3) Representative Charles B. Rangel be censured with the public reading of this resolution by the Speaker; and (4) Representative Rangel pay restitution to the appropriate taxing authorities or the U.S. Treasury for any unpaid estimated taxes outlined in Exhibit 066 on income received from his property in the Dominican Republic and provide proof of payment to the Committee.

On November 29, 2010, pursuant to Committee Rule 24, the Committee transmitted a report to the House of Representatives to accompany the resolution. The report contained a summary of evidence and reasons for adopting the recommended resolution. On December 2, 2010, by a vote of 333 to 79, Representative Rangel was censured by the House of Representatives pursuant to H. Res. 1737.

Representative Zack Space

In accordance with the requirements of H. Res. 451 and Committee Rule 18(e)(2), the Committee convened on April 2, 2009, to consider a citation issued to Representative Zack Space on March 28, 2009, in Washington County, Ohio, for the misdemeanor charge of operating a motor vehicle with an expired license. Prior to April 2, 2009,

Representative Space had paid a fine of $140 in Ohio. Payment of the fine ended legal proceedings on the matter in Ohio.

After reviewing and considering this matter, the Committee voted against empanelling an investigative subcommittee. The Committee found the misconduct to be minor, and that Representative Space had been subjected to sufficient penalty through payment of the fine. As such, the Committee determined the violation to be one for which review by an investigative subcommittee was not required. On April 2, 2009, the Committee submitted a report to the House of Representatives describing the facts and its findings regarding this matter.

In the Matter of the Sudanese Embassy Protest Arrests

In accordance with the requirements of H. Res. 451 and Committee Rule 18(e)(2), the Committee convened on May 29, 2009, to consider the arrests of five Members – Representatives Keith Ellison, Lynn Woolsey, John Lewis, James McGovern, and Donna Edwards – for crossing a police line during a protest outside the Embassy of Sudan in Washington, D.C., on April 27, 2009. Each of the five Members paid a $100 fine on the date of their arrest. Payment of the fine ended legal proceedings in the District 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 May 19, 2010, the Committee submitted a report to the House of Representatives describing the facts and its findings regarding this matter.

In the Matter of the Carib News Foundation Multi-National Business Conferences

In spring 2009, pursuant to Committee Rule 18(a), the Chair and Ranking Republican Member began to investigate officially-connected travel by Members of the House of Representatives to two conferences hosted by the Carib News Foundation, Inc. (the Foundation), which were held in Antigua and Barbuda in November 2007 and St. Maarten in November 2008. During the course of its Rule 18(a) investigation, the Committee received, on May 29, 2009, a referral regarding the same matter from the OCE. The referral from OCE named six specific Members who had participated in one or both of these trips: Representatives Carolyn Cheeks Kilpatrick, Donald M. Payne, Bennie G. Thompson, Charles B. Rangel, Yvette Clarke, and Donna M. Christensen.

On June 24, 2009, the Committee voted unanimously to establish an Investigative Subcommittee in this matter. The Investigative Subcommittee was charged with investigating any and all Members and House staff who participated in the one or both trips, not limited to the Members specifically named by OCE in its referral. Representative G.K. Butterfield served as the Chair of the Investigative Subcommittee and Representative J. Gresham Barrett as its Ranking Republican Member. The other two members of the Investigative Subcommittee were Representatives Brad Miller and Michael K. Simpson. On September 24, 2009, Representative Barrett resigned from the Standards Committee and was subsequently replaced as Ranking Republican Member of the Investigative Subcommittee by Representative Charles W. Dent.

The Investigative Subcommittee conducted a thorough, five-month investigation. The investigation included interviews of 29 witnesses, including 7 Members and 20

current and former employees of the House; review and analysis of more than 3,000 pages of documents; and more than 19 meetings of the Investigative Subcommittee.

On February 25, 2010, the Investigative Subcommittee transmitted its report in this matter to the full Committee. As detailed in its report, the Investigative Subcommittee found that agents of the Foundation provided false and misleading information to Members of Congress and the Committee with regard to the trips under investigation by falsely stating that the Foundation was the sole sponsor of the 2007 and 2008 conferences and providing improper post-travel expense totals. The Investigative Subcommittee found that Representatives Yvette Clarke, Carolyn Cheeks Kilpatrick, Donald Payne, and Bennie Thompson, and Delegate Donna Christensen did not receive an improper gift of travel. However, the Investigative Subcommittee found that Representative Charles Rangel did receive an improper gift of travel because his staff had express knowledge that the conferences were funded in part by private sponsors rather than solely by the Foundation. The Investigative Subcommittee recommended that the full Committee adopt the Investigative Subcommittee's report and publish it to the House, with the intent that such publication serve as a public admonishment of Representative Rangel. The Investigative Subcommittee further recommended that each Member named in the report repay the individual costs of their participation in the trip.

The Investigative Subcommittee, pursuant to Committee Rule 19(g), made several recommendations as a result of its investigation. These recommendations included referring to the Department of Justice the matters involving the false statements by representatives of the Foundation and construing the public dissemination of the report as

a public admonishment of House employee Dawn Kelly Mobley for potential violations of House rules and other standards of conduct.

The recommendations were unanimously adopted by the Committee on February 25, 2010 in connection with the full Committee's adoption of the Investigative Subcommittee's report. On February 26, 2010, the Committee referred the matters involving the Foundation employees to the Department of Justice, and later provided additional supporting information to the Department. On that same date, the Committee transmitted its report to the House.

Representatives Yvette Clarke, Carolyn Cheeks Kilpatrick, Donald Payne, and Bennie Thompson, and Delegate Donna Christensen each repaid the costs of their respective trips, and their matters were subsequently dismissed by the Committee.

In the Matter of Allegations Relating to the Lobbying Activities of Paul Magliocchetti and Associates Group, Inc. (PMA).

In the spring of 2009, the Committee initiated an investigation in the above-captioned matter, pursuant to Committee Rule 18(a). Pursuant to Committee Rules 7(d) and 7(f) regarding confidentiality of Committee proceedings, the commencement of this Rule 18(a) investigation was not publicly disclosed. On June 11, 2009, the Chair and Ranking Republican Member of the Committee issued a public statement acknowledging the Committee's ongoing investigation relating to the PMA matter in response to H. Res. 500, which was referred to the Committee for its consideration on June 3, 2009.

On December 2, 2009, the OCE forwarded to the Committee reports and findings in seven separate matters involving alleged potential connections between defense subcommittee earmarks and campaign contributions and the lobbying activities of PMA.

The OCE recommended dismissal in five of the matters, involving Representatives Norman Dicks, Marcy Kaptur, James Moran, John Murtha, and C.W. "Bill" Young. In the other two matters, which concerned Representatives Todd Tiahrt and Peter Visclosky, the OCE recommended that the Committee further review the allegations.

After a nine-month investigation, the Committee issued a Report on February 26, 2010, in which it concluded that no House Member or employee violated any provision of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to the individual's conduct in the performance of official duties or the discharge of the individual's responsibilities relating to proposed appropriations requests and activities of PMA. The Committee's investigation in this matter included a review of close to 250,000 pages of documents, which covered more than 40 companies with ties to PMA, interviews with 32 Members' offices, as well as the findings provided by OCE.

Based on the information gathered during its investigation, the Committee found no evidence that Members or their official staff considered campaign contributions as a factor when requesting earmarks. The Committee further found no evidence that any of the seven Members or their official staff were directly or indirectly engaged in seeking contributions in return for earmarks. Rather, the evidence showed that earmarks were evaluated based upon criteria independent of campaign contributions, such as the number of jobs created in the Members' districts or the value to the taxpayer or the U.S. military, and without Members or their official staff linking, or being aware that companies may have intended to link, contributions with earmarks. Accordingly, the Committee concluded that the evidence before the Committee merited dismissal of all seven matters from OCE and a close of its own independent investigation pertaining to PMA.

Representative Maxine Waters

Beginning in the spring of 2009, the Chair and Ranking Republican Member began a review of allegations regarding the conduct of Representative Maxine Waters pursuant to Standards Committee Rule 18(a). At issue were certain alleged communications and activities with, or on behalf of, the National Bankers Association or OneUnited Bank, a bank in which Representatives Waters' husband owned stock and had previously served on the Board of Directors, and the benefit, if any, Representative Waters or her husband received as a result. On August 6, 2009, while the Committee's inquiry was ongoing, the OCE forwarded to the Committee a report and findings recommending further review of the allegations involving Representative Waters. On September 15, 2009, pursuant to Committee Rules 17A(b)(1)(B) and 17A(c), the Committee voted to extend the matter regarding Representative Waters for a 45-day period.

On October 29, 2009, the Committee voted to establish an Investigative Subcommittee to determine whether Representative Waters violated the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to her conduct in the performance of her duties or the discharge of her responsibilities, with respect to Representative Waters' alleged communications and activities with or on behalf of the National Bankers Association or OneUnited Bank, a bank in which Representatives Waters' husband owned stock and had previously served on the board of directors, and the benefit, if any, Representative Waters or her husband received as a result. Representative Kathy Castor served as Chair of the Investigative Subcommittee and Representative Michael K. Conaway as its Ranking Republican Member. The other

two members of the Investigative Subcommittee were Representatives Keith Ellison and Marsha Blackburn.

On July 28, 2010, pursuant to clause 3 of House Rule XI and Rules 22 and 23 of the Committee, the Investigative Subcommittee in the matter of Representative Maxine Waters transmitted a Statement of Alleged Violation to the Chair and Ranking Republican Member of the Committee. According to the statement of alleged violation the Investigative Subcommittee found substantial reason to believe that Representative Waters had violated House rules and other standards of conduct.

The Chair and Ranking Republican Member announced on August 2, 2010, that the Committee had established an Adjudicatory Subcommittee to determine whether any counts in the Statement of Alleged Violation had been proven by clear and convincing evidence and to make findings of fact. Representative Zoe Lofgren served as the Chair of the Adjudicatory Subcommittee and Representative Jo Bonner served as its Ranking Republican Member. The other six members of the Adjudicatory Subcommittee were Representatives Ben Chandler, G.K. Butterfield, Peter Welch, Charles Dent, Gregg Harper, and Michael McCaul.

On August 9, 2010, pursuant to Committee Rule 17A, the Chair and Ranking Republican Member of the Committee issued a press statement and released the OCE's Report and Findings in the Matter of Representative Maxine Waters. The Chair and Ranking Republican Member noted that Rule 7(f) would have required that the materials be released at a later date, but determined, at their discretion, to release the materials at that time. Additionally, Representative Waters had waived any objection to the public release of the documents pursuant to Committee Rule 26(b).

On November 19, 2010, the Chair and Ranking Republican Member announced that the Committee had voted to recommit the matter regarding Representative Maxine Waters to the Investigative Subcommittee due to materials discovered during the course of preparation for the adjudicatory hearing that may have had an effect on the Investigative Subcommittee's transmittal of the Statement of Alleged Violation. As a result, the Adjudicatory Subcommittee no longer had jurisdiction over the matter.

As of the conclusion of the 111th Congress, the Investigative Subcommittee had not completed its investigation in the matters under its jurisdiction.

Representative Jesse Jackson, Jr.

In mid-2009, pursuant to its authority under Committee Rule 18(a), the Committee initiated an investigation into whether Representative Jesse Jackson, Jr., 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. Pursuant to Committee Rules 7(d) and 7(f) regarding confidentiality of Committee proceedings, the commencement of this Rule 18(a) investigation was not publicly disclosed. During the course of its investigation, on August 6, 2009, the Committee received a referral from the OCE regarding this same matter.

During this same time period, the Committee received a formal request from the United States Department of Justice to defer taking further action to investigate the matter until the Department concluded its own investigation into the actions of former Governor Blagojevich related to filling the Senate seat. On September 15, 2009, pursuant to House Rule XI, clause 3(b)(8)(C), Committee Rule 17A(h), and past Committee

precedent, the Committee voted unanimously to agree to the Department's request to defer investigation of this matter at that time. On that same date, the Committee issued a press release announcing its decision.

On August 17, 2010, a federal jury convicted former Governor Blagojevich of one count and deadlocked on 23 other counts, including those related to the Illinois Senate seat vacated by President Barack Obama. A retrial of former Governor Blagojevich has been set for April 20, 2011. Following these events, the Department asked the Committee to continue to defer consideration of this matter pending resolution of its own investigation and trial. On November 15, 2010, the Committee voted unanimously to agree to the Department's request to continue to defer taking action on the matter. On that same date, the Committee publicly announced that it would continue to defer taking action on the matter.

The Committee will continue to monitor the situation and will consider pursuing avenues of inquiry that it concludes do not interfere with the activities of the Department of Justice. At least annually, the Committee will make a public statement if it continues to defer taking action on the matter. The Committee reserves the right to assert its jurisdiction if, in its determination, a violation of House rules, code, or other laws under its jurisdiction is discovered that will not interfere with the Department of Justice's activities.

Representative Sam Graves

On August 6, 2009, the OCE referred to the Committee the question of whether Representative Sam Graves violated any House rule or other standard of conduct for his role in inviting a witness to testify regarding renewable fuels before the Committee on

Small Business on March 4, 2009. At issue was a financial connection between the witness and Representative Graves' wife. Both were investors in two renewable fuel cooperatives. The Chair and Ranking Republican Member reviewed the allegations pursuant to Committee Rule 18(a). On September 15, 2009, the Chair and Ranking Republican Member announced that the Committee had voted unanimously to extend its review of the matter for a 45-day period pursuant to Committee Rules 17A(b)(1)(B) and 17A(c). The Committee released a report summarizing its findings on October 29, 2009.

The Committee found that the process for inviting the witness to testify – and the criteria used to select him as a witness – followed the normal procedure of the Committee on Small Business. Representative Graves' Financial Disclosure Statements fully and accurately reflected his financial interests, including his wife's interest in both renewable fuel cooperatives. The witness also fully complied with all disclosure requirements for witnesses. Although the witness held investments in the two cooperatives in which Representative Graves' wife was invested, he was not employed by either company. The witness represented an industry association at the hearing, and the association drafted his testimony. The witness' testimony advocated on behalf of the members of the association, and not for either of the entities in which Representative Graves' wife owned an interest. Importantly, the Committee on Small Business hearing involved no legislation that would ultimately come to the House floor, and was held solely as a fact-gathering hearing about the impact of the economic crisis on the renewable fuels industry.

The Standards Committee reviewed Representative Graves' conduct under House Rule XXIII, clause 3, and paragraph 5 of the Code of Ethics for Government Service.

The Committee determined that based on the fact that the hearing involved no legislation that would ultimately come to the House floor, and that the witness' testimony did not advocate for either entity in which Representative Graves' wife was invested, Representative Graves could not benefit from the witness' testimony. The Committee further concluded that witness met all of the reasonable and objective requirements the Committee on Small Business minority staff had established for a witness, and that Representative Graves' involvement with the witness selection process for the March 4 hearing did not violate any applicable House rule or standard of conduct.

Representative Laura Richardson

On August 6, 2009, the OCE referred to the Committee the question of whether Representative Laura Richardson knowingly received preferential treatment from her lender in the form of a postponement and/or rescission of the foreclosure sale of her personal residence in Sacramento, California. The Chair and Ranking Republican Member reviewed the allegations pursuant to Committee Rule 18(a). On September 15, 2009, the Chair and Ranking Republican Member announced that the Committee had voted unanimously to extend its review of the matter for a 45-day period pursuant to Committee Rules 17A(b)(1)(B) and 17A(c). Based on the results of its initial review, on October 29, 2009, the Committee unanimously voted to establish an Investigative Subcommittee to determine whether Representative Richardson failed to disclose certain real property, income, and liabilities on her annual Financial Disclosure Statements and whether Representative Richardson received an impermissible "gift" or received preferential treatment from her lender relating to the foreclosure, rescission of the foreclosure sale, or loan modification agreement for or relating to her personal residence.

Representative Ben Chandler served as the Chair of the Investigative Subcommittee, and Representative Gregg Harper served as the Ranking Republican Member. The other two Members designated to serve on the Investigative Subcommittee were Representatives Emanuel Cleaver and Sue Myrick.

Based on its investigation, the Investigative Subcommittee concluded that Representative Richardson did not knowingly accept a gift from her lender or violate any applicable standard of conduct in connection with the purchase of, foreclosure on, rescission of foreclosure sale for, or modification of loan terms for the residential property she owns in Sacramento, California. During the course of the investigation, the mortgage broker used in connection with the purchase of Representative Richardson's Sacramento property admitted to knowingly submitting fraudulent information, without Representative Richardson's knowledge, to Washington Mutual in connection with her mortgage application. The Investigative Subcommittee recommended that the full Committee refer the matter involving the mortgage broker to the Justice Department for such action as the Department deems necessary and appropriate.

On June 30, 2010, the Committee unanimously voted to adopt the report of the Investigative Subcommittee and to include that report as part of the Committee's report to the House of Representatives. The Committee also unanimously voted to refer the mortgage broker to the Justice Department for such action as it deems necessary and appropriate. On July 1, 2010, the Committee transmitted its report to the House of Representatives.

Representative Fortney "Pete" Stark

On November 12, 2009, the OCE forwarded to the Committee a report and findings in which it recommended further review of allegations that Representative Fortney "Pete" Stark may have violated Maryland state law and the Code of Ethics for Government Service by intentionally filing a false application for a Maryland property tax credit for his home in Harwood, Maryland.

After conducting an investigation of this matter pursuant to Committee Rule 18(a), the Committee issued a report on January 29, 2010, in which it concluded that Representative Stark did not violate House ethics rules or the tax laws of the State of Maryland. In its report, the Committee found that the evidence established that Representative Stark did not actually receive a property tax credit based upon his February 2009 application. The Committee further found that Representative Stark did not file a false application for the Maryland property tax credit. Accordingly, the Committee voted unanimously that no disciplinary action was warranted in this matter.

Marc Goldberg

In accordance with Committee Rule 18(e)(2), the Committee convened on December 8, 2009, to consider criminal charges filed against Marc P. Goldberg, an employee of the House. On August 14, 2009, Mr. Goldberg was charged with one count of simple assault in the District of Columbia Superior Court. Following a bench trial on October 16, 2009, Mr. Goldberg was found guilty of simple assault. He received a 45-day suspended sentence and was placed on supervised probation for one year. Mr. Goldberg was also fined $700 and required to complete substance abuse treatment and testing, an anger management class, and 120 hours of community service.

After reviewing and considering this matter, the Committee voted against empanelling an investigative subcommittee. In reaching this determination, the Committee considered the scope and nature of Mr. Goldberg's conduct, and the fine and criminal disposition already imposed by the D.C. Superior Court, and determined that no further disciplinary action was warranted by the Committee. On December 10, 2009, the Committee submitted a report to the House of Representatives describing the facts and its findings regarding this matter.

Matters related to allegations against former Representative Eric Massa

On March 4, 2010, the Chair and Ranking Republican Member released a public statement that, pursuant to Committee Rule 18(a), the Committee was investigating and gathering additional information concerning matters related to allegations involving Representative Eric Massa. On March 5, 2010, Representative Massa announced that he would resign his House seat on March 8, 2010.

On April 20, 2010, the Committee established an Investigative Subcommittee 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 former Representative Eric 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 to disclose any such actual or alleged conduct on the part of former 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.

Representative Zoe Lofgren, the Chair of the Committee, served as the Chair of the Investigative Subcommittee, and Representative Jo Bonner, the Ranking Republican Member of the Committee, served as its Ranking Republican Member. The other two members of the Investigative Subcommittee were the next ranking Democrat and Republican members of the Committee, Representatives Ben Chandler and Michael Conaway, respectively.

As of the conclusion of the 111th Congress, the Investigative Subcommittee had not completed its investigation into the matters under its jurisdiction.

Randy Vogel

In accordance with Committee Rule 18(e)(2), the Committee convened on April 20, 2010, to consider misdemeanor charges that had been filed against Randy Vogel, an employee of the House, on March 3, 2010, by Montana's office of Fish, Wildlife & Parks for the alleged illegal killing of a spike bull elk during closed hunting season, and related charges. The alleged criminal acts occurred on November 18 and 19, 2009, prior to Mr. Vogel's employment by the House. On March 16, 2010, Mr. Vogel pleaded not guilty to the state charges.

After reviewing and considering this matter, the Committee voted against empanelling an investigative subcommittee, subject to reconsideration following conclusion of the matter Montana court. Given Mr. Vogel's denial of the charges and the fact that a state trial would be held to assess the merits of the allegations, the Committee determined not to initiate review by an investigative subcommittee at that time. The

Committee submitted a report to the House of Representatives describing the facts and its findings regarding this matter on April 21, 2010.

A jury trial was held on the charges in Montana state court in August 2010. On August 12, 2010, a jury found Mr. Vogel not guilty of all charges. The Committee did not reopen the matter following this result.

Representative Luis Gutierrez and Susan Collins

In accordance with H. Res. 451 and Committee Rule 18(e)(2), on May 26, 2010, the Committee convened for the purpose of considering the arrests of Representative Luis V. Gutierrez and House employee Susan Collins. Representative Gutierrez and Ms. Collins were arrested in Washington, D.C. on May 1, 2010, for failure to obey or comply with a necessary order or instruction of a police officer in connection with their participation in a protest in front of the White House. On May 7, 2010, Representative Gutierrez and Ms. Collins each paid a $100 fine using their personal funds. Payment of the fines resolved the legal proceedings in the District of Columbia related to the arrests of Representative Gutierrez and Ms. Collins.

After reviewing and considering this matter, the Committee voted against empanelling an investigative subcommittee related to the conduct of either Representative Gutierrez or Ms. Collins. In reaching this determination, the Committee considered the scope and nature of the conduct of Representative Gutierrez and Ms. Collins, and the penalty already incurred, and decided that review by an investigative subcommittee was not required. On May 26, 2010, the Committee submitted a report to the House of Representatives describing the facts and its findings regarding Representative Gutierrez and Ms. Collins in this matter.

In re Per Diem Expenses

On July 30, 2010, the OCE referred to the Committee a matter involving allegations that six Members – Representatives Robert Aderholt, G.K. Butterfield, Eliot Engel, Alcee Hastings, Solomon Ortiz, and Joe Wilson – may have improperly retained excess per diem funds they received in connection with official travel. On August 6, 2010, the Committee provided each of those Members with a copy of the OCE's Report and Findings related to that Member. During September 2010, Representatives Aderholt, Hastings, Wilson and Engel each submitted to the Committee a written response to the OCE's allegations. On November 15, 2010, the Chair and Ranking Republican Member publicly announced that they had jointly decided to extend review of the six matters for an additional 45-day period pursuant to Committee Rules 17A(b)(1)(B) and 17A(j).

The OCE alleged that the six named Members received and retained excess per diem funds allocated on official Congressional Delegation (CODEL) trips taken during the years 2008 through 2010. OCE deemed the funds "excess" because, it alleged, the Members had accepted funds intended to pay for meals which were instead provided to them at no charge by a host, such as the United States Air Force, a private company, or a foreign government.

On December 31, 2010, the Chair and Ranking Republican Member issued a public statement that the Committee's nonpartisan, professional staff had found no violation of any House rule, or any law, rule, regulation, or other standard of conduct by any of the six Members in relation to their alleged improper retention of excess per diem funds issued in connection with official travel. Accordingly, the staff recommended dismissing or taking no further action in each matter. In light of the recommendations of

the nonpartisan, professional staff, the Committee will take no further action regarding these six matters. In conjunction with their public statement, the Chair and Ranking Republican Member publicly released the 805-page staff report providing further detail on the staff's review of the allegations, their factual findings, and their recommendations.

Representatives John Campbell, Tom Price, and Joseph Crowley

On September 1, 2010, the OCE referred to the Committee the question of whether campaign fundraising by Representatives John Campbell and Tom Price had any connection to a mark-up and vote on financial regulation legislation.

As part of the same investigation, the OCE voted to refer the matter of Representative Joseph Crowley, waiting to make its referral of findings until November 3, 2010. Pursuant to H. Res. 895 and Committee Rule 17A(i), no referrals can be made to the Committee during a 60-day period before an election, and Representative Crowley was on the primary ballot in September 2010.

On December 15, 2010, the Chair and Ranking Member jointly decided to extend the matters of Representatives Campbell, Price and Crowley for a 45-day period pursuant to Committee Rules 17A(b)(1)(B) and 17A(j).

Nicole Gustafson

In accordance with Committee Rule 18(e)(2), the Committee convened on September 15, 2010, for the purpose of considering charges that had been filed against Nicole M. Gustafson, an employee of the House. On May 26, 2010, Ms. Gustafson was charged with one count each of operating while impaired, driving under the influence – first offense, and driving while intoxicated – first offense. Ms. Gustafson entered a plea of guilty to operating while impaired on July 21, 2010, and was sentenced to a 30-day

suspended sentence and placed on supervised probation for one year. Ms. Gustafson was also fined $400 and required to complete a traffic alcohol program, victim impact panel, alcohol treatment, and alcohol testing. All other charges were dismissed pursuant to the plea agreement. Ms. Gustafson indicated to the Committee that she intends to pay the $400 fine and is complying with the other terms of her sentence.

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 Ms. Gustafson's conduct, and the fine and criminal disposition ordered by the D.C. Superior Court. The Committee filed a report to the House describing the facts and its findings regarding this matter on December 17, 2010.

Other Committee investigative actions

In addition to the publicly disclosed matters discussed in this report, the Chair and Ranking Republican Member of the Committee either commenced or continued from the 110th Congress fact-gathering under Committee Rule 18(a) regarding the conduct of 89 investigative matters. Of these matters, 75 were resolved during the 111th Congress without the empanelment of an investigative subcommittee or other formal action by the Committee, and the remaining matters are still pending.

APPENDIX I

APPENDIX II

APPENDIX III

APPENDIX IV

APPENDIX I

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

February 12, 2009

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Zoe Lofgren, Chair
Jo Bonner, Ranking Republican Member

SUBJECT: The 2009 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions

THE OUTSIDE EARNED INCOME LIMIT AND OUTSIDE EMPLOYMENT RESTRICTIONS

By statute and House rule, the amount of outside earned income that Members and "senior staff" (as defined below) may have in any calendar year is limited. 5 U.S.C. app. 4 § 501(a)(1); House Rule 25, cl. 1(a)(1). In addition to House Members, the limit applies to House officers and employees who are paid at a rate equal to or greater than 120% of the minimum pay for GS-15 of the general schedule for more than 90 days in a calendar year. The GS-15, step 1 rate of basic pay for 2009 is $98,156 (locality pay is not considered in making this determination). Accordingly, the outside earned income limit applies to House officers and employees paid at or above the rate of **$117,787** for more than **90 days** in 2009.

The amount of the outside earned income limit for any year is 15% of the rate of pay for Level II of the Executive Schedule in effect on January 1 of the year. The rate of pay for Executive Level II in 2009 is $177,000. Accordingly, the outside earned income limit for Members and senior staff for calendar year 2009 is **$26,550**.

Under clauses 1-4 of House Rule 25 and related provisions of statutory law, Members, as well as officers and employees paid at or above the "senior staff" threshold rate, are also subject to a number of specific limitations on the types of outside employment. Information on these limitations is provided on pages 213 to 228 of the *2008 House Ethics Manual*, which is available on the Standards Committee website (ethics.house.gov). The Committee's Office of Advice and Education (extension 5-7103) can provide further explanation.

– OVER –

FINANCIAL DISCLOSURE

The requirement to file a Financial Disclosure Statement applies both to Members and to House officers and employees who are paid at a rate equal to or greater than 120% of the minimum pay for GS-15 for at least 60 days at any time during a calendar year. 5 U.S.C. app. 4 § 109(13). As noted above, 120% of GS-15 is now **$117,787**, and thus House officers and employees who are paid at or above that rate of pay (referred to as the "senior staff rate") for at least **60 days** during **2009** must file a Financial Disclosure Statement in May 2010. **In addition, any new employee paid at that rate must file a new employee Financial Disclosure Statement within 30 days of beginning House employment.**

Please note that the requirement to file a Financial Disclosure Statement covering calendar year 2008 applies to officers and employees who were paid at an annual rate of **$114,468** for at least 60 days in **2008**. The annual Financial Disclosure Statements for 2008 are due on Friday, May 15, 2009 for those individuals who continue to be officers or employees of the House on that date.

POST-EMPLOYMENT RESTRICTIONS

Members and officers of the House, as well as certain House employees, are subject to post-employment restrictions on lobbying. 18 U.S.C. § 207. 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.

The basic rate of pay for Members in 2009 is $174,000. Therefore, the post-employment threshold for employees who depart from a job in a Member, committee, or leadership office during 2009 is **$130,500**. The triggering salary for employees of other House or legislative branch offices (such as the CBO, GAO, and Library of Congress) is Level IV of the Executive Schedule, which for 2009 is $153,200. Information on the post-employment restrictions applicable to Members and staff is available in a pair of Standards Committee advisory memoranda, copies of which are available on the Committee website.

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CALENDAR YEAR 2009

OUTSIDE EARNED INCOME CAP ..... $ 26,550

OUTSIDE EARNED INCOME AND OUTSIDE EMPLOYMENT THRESHOLD $117,787

FINANCIAL DISCLOSURE THRESHOLD $117,787

POST-EMPLOYMENT THRESHOLD

For employees of Member, committee, or leadership offices **$130,500**

For employees of "other legislative offices" **$153,200**

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For employees of Member, committee, or leadership offices **$130,500**

For employees of "other legislative offices" **$153,200**

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

February 26, 2009

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Zoe Lofgren, Chair
Jo Bonner, Ranking Republican Member

SUBJECT: Annual Ethics Training Requirement for 2009

House Rule XI, clause 3(a)(6)(B)(ii) requires each House employee to certify to the Standards Committee by January 31 of each year that the individual completed ethics training during the preceding year. This memorandum outlines the ethics training requirement for all House employees for calendar year 2009.

Since the annual ethics training requirement was first added to the House Rules in 2007, the Committee has determined that the purpose of the rule would best be served by requiring all House employees to take one hour of ethics training per year. All new employees must complete their initial training *within 60 days of the first day of their House employment*. In addition, the Committee requires all senior staff to take an additional hour of specialized training on topics related to senior staff at least once per Congress.[1]

The remainder of this memorandum summarizes the 2009 ethics training requirement for various categories of House employees:

New Employees. A "new" House employee for purposes of the training requirement is an individual who first began employment with the House after November 1, 2008 and did not complete ethics training in 2008. Any former House employee from the last Congress who returns to House employment in the 111th Congress after a gap of more than 60 consecutive calendar days is considered to be a "new" employee. Interns who are paid for more than 60 days are also required to comply with this requirement.[2]

- New employees *must* complete training within 60 days of beginning House employment.
- New employees who work in Capitol Hill offices are required to attend *live* training sessions.

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[1] PLEASE NOTE: prior attendance at a Senate ethics training seminar does not satisfy any House employee's ethics requirement for 2009.

[2] Detailees, fellows, unpaid interns and any individuals who are employed by the House and paid for less than 60 days are not required to attend ethics training in 2009.

- New employees who work in offices not on Capitol Hill may watch the "New District Staff" training video available on HouseNet.

NOTE: new employees will *not* receive credit for attending or watching any training sessions other than those specifically designated "new employees" or "New District Staff."

Existing Employees. All House employees who are not "new" employees must take one hour of ethics training during calendar year 2009. There are three options for fulfilling this training requirement:

1) Attending a live training session on "gifts" or other general ethics topics;
2) Watching a training video on HouseNet regarding "gifts," "campaign activity" or other general ethics topics; *or*
3) Completing one of the training programs on HouseNet, which are interactive quizzes on topics such as general ethics rules or gifts and travel.

NOTE: existing employees will *not* receive 2009 credit for attending or watching any "new employee" or "senior staff" training sessions listed in those sections of this memorandum.

Senior Staff. "Senior staff" refers to any employee paid at the senior staff level, which is $117,787 or more for calendar year 2009. In general, senior staff employees are required to complete *two* ethics trainings in order to satisfy the Committee's training requirement.

- New senior staff must complete new employee training within 60 days of beginning House employment (described above) *and* complete a second hour of specialized "senior staff" training during calendar year 2009.
- Existing senior staff must complete one hour of ethics training during calendar year 2009 for all existing staff (described above) *and* complete a second hour of specialized "senior staff" training before the end of the 111th Congress.
- Existing employees who start 2009 at below the senior staff rate, but receive a raise such that they become "senior staff" must complete the second hour of specialized "senior staff" training before the end of the 111th Congress.
- There are two options for fulfilling the specialized "senior staff" training requirement:
    1) Watching the "senior staff" training video available on HouseNet; *or*
    2) Attending a live "senior staff" or "financial disclosure" training session.[3]

NOTE: senior staff employees who completed a second hour of specialized "senior staff" training during the 110th Congress are required to take an *additional* hour of specialized "senior staff" training session before the end of the 111th Congress.

[3] In contrast with last year's practice, the 2009 financial disclosure training sessions will only count towards this second hour of senior staff training and will not satisfy the general one-hour training requirement for existing employees.

Documenting Your Attendance[4]

For live ethics training sessions: (1) Sign in at the start of the training; and (2) remain for the entire session. Any employee who attends a live training session but fails to sign in on the attendance sheet or leaves before the hour is completed will *not* be given credit towards the ethics training requirement.[5]

For online ethics programs: (1) Fill out the certificate of completion available after completing the online video or training module; (2) have it signed by your staff supervisor (*e.g.*, chief of staff or district director); and (3) fax it to the Standards Committee at (202) 225-7392 as soon as possible following completion of the training. Shared staff (*i.e.*, individuals who work for more than one House Member or committee) should indicate on their form each office for which they work, but only one supervisor's signature is required.

The calendar of upcoming live training sessions for 2009 is available on the Committee's website: http://ethics.house.gov. Questions about any aspect of the ethics training requirement should be directed to Committee staff at (202) 225-7103.

The next page contains a checklist summarizing the available options for each type of House employee for ease of reference throughout 2009.

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[4] The Committee will provide directions regarding the year-end 2009 certification process for Members and potential penalties for failure to fulfill the training requirement later this calendar year.

[5] As in 2008, proof of attendance at live training sessions is confined to the sign-in sheets and the Committee will enter all information from those sheets into our internal database. No additional paperwork or forms are required for individual attendees to certify attendance at these sessions.

2009 ETHICS TRAINING REQUIREMENT FOR HOUSE EMPLOYEES

New Employees: Complete ONE of the following within 60 days of employment:

- ☐ "New employee" live training session (*required* for Capitol Hill employees)
- ☐ "New district staff" video training (District staff *only*)

Existing Employees: Complete ONE of the following in 2009:

- ☐ Live training session on "gifts" or other general ethics topics
- ☐ Video training on "gifts or other general ethics topics
- ☐ Ethics training quiz on HouseNet

New Senior Staff: Complete BOTH of the following in 2009:

- ☐ "New employee" training within 60 days of employment
- ☐ "Senior staff" training video or live session

Existing Senior Staff: Complete BOTH of the following:

- ☐ "Existing employee" training video, live session, or training module (by end of 2009)
- ☐ "Senior staff" training video or live session (by end of 111th Congress)

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

December 10, 2009

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Zoe Lofgren, Chair
Jo Bonner, Ranking Republican Member

SUBJECT: New Procedure for Certifying 2009 Annual Ethics Training Compliance

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Every House employee must complete his or her mandatory annual ethics training by December 31, 2009.

The Committee has issued two memoranda during 2009 outlining the mandatory ethics training requirements for all House employees for calendar year 2009.[1] Pursuant to that guidance, each House employee must complete one hour of ethics training during calendar year 2009. (A summary of required training for House employees is included at the end of this memorandum.)

In addition, each House employee must individually document that he or she has completed his or her required training.[2]

In past years, the Committee's policy has been to also require each employing authority, including Members, officers, committee chairs, and committee ranking members, to file a year-end certification letter with the Committee stating that the employing authority's House employees who were on the payroll as of December 31 of the training year fulfilled the annual training requirement.

By this memorandum, the Committee is eliminating the employing authority certification requirement for 2009.[3] The Committee is revising its guidance to alleviate the burdens of duplicative filings and to streamline the year-end certification process. The revised certification process will enable the Committee to ensure compliance with the annual training requirements more efficiently and effectively.

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[1] *See* "Annual Ethics Training Requirement for 2009" (February 26, 2009); and "Reminder About 2009 Ethics Training Requirement" (October 14, 2009).

[2] House Rule 11, clause 3(a)(6)(B)(ii) (requiring each individual to certify with the Committee no later than January 31 of each year that the individual attended the appropriate ethics training, as determined by the Committee, in the last year).

[3] Id.

Under the guidance announced in this memorandum, each House employee must certify to the Committee **no later than January 31, 2010**, his or her compliance with mandatory training requirements for calendar year 2009. Senior staff may certify completion of their additional training requirement for the 111th Congress, if they completed appropriate senior staff training during calendar year 2009.

FAILURE TO COMPLETE MANDATORY TRAINING IS AN ETHICS VIOLATION AND MAY SUBJECT STAFF TO SANCTIONS

It is a violation of House rules for House employees to fail to complete their mandatory annual training requirement.[4] The Committee is authorized to investigate alleged violations by House employees of standards of conduct applicable to their conduct.[5] The Committee may impose sanctions when it establishes that employees have failed to fulfill their mandated annual training requirements.[6] Potential sanctions include:

1) Dismissal from employment;

2) Reprimand;

3) Fine; or

4) Any other sanction determined by the Committee to be appropriate.[7]

In past memoranda regarding training requirements, the Committee has opined that publication of noncompliant employee names may be a possible sanction. The Committee has concluded that such publication is consistent with the Committee's ongoing efforts to improve transparency and accountability, as well as its confidentiality obligations. Although the Committee is eliminating the employing authority certification requirement for 2009, the Committee notes that the identity of a particular officer or employee's employing authority is a matter of public record.

2009 TRAINING CERTIFICATION PROCEDURE

Every House employee must complete appropriate ethics training by December 31, 2009. A summary of the training requirements is included at the end of this memorandum.

Each House employee must certify to the Committee his or her completion of the 2009 annual ethics training requirement **no later than January 31, 2010**. An employee may do so in one of two ways:

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[4] *See* id.

[5] House Rule 11, clause 3(a)(2).

[6] *See* House Rule 11, clause 3(a)(2); Committee Rule 18(a).

[7] *See* Committee Rule 24(f).

1) By signing in at any live training;[8] or

2) By completing the certificate of completion for video training or an on-line tutorial (which must be signed by a supervisor) *and sending the completed form to the Committee.*

On-line training certification forms may be sent to the Committee by hand delivery, or inside mail (HVC-227), fax (5-7392), or email (**standardscommittee@mail.house.gov**). House employees may send forms individually, or an office's ethics certification officer may collect forms and send them as a group to the Committee. Each employee should retain a copy of his or her certification form(s) as evidence of compliance. The Committee recommends that ethics certification officers also retain copies of such records.

After the January 31, 2010, submission deadline, the Committee will verify compliance with the annual training and certification requirements. Should the Committee identify employees who failed to complete or certify satisfaction of the mandated training requirements, the Committee may investigate such matters. If the Committee determines that violations occurred, it may impose sanctions, as discussed above. In doing so, the failure to properly notify the Committee of non-compliance with training requirements, as discussed below, may be considered.

EMPLOYEES WHO FAILED TO PROPERLY COMPLETE 2009 MANDATED ETHICS TRAINING

Any House employee who failed to comply with mandated training in 2009 **must** send a letter to the Committee explaining the circumstances leading to the failure to complete training. This requirement applies not only House employees who do not complete any annual training in 2009, but also new employees who completed training later than the 60-day deadline set by House rules. This letter must be received no later than January 31, 2010.

REQUESTS TO CONFIRM TRAINING COMPLETION

Ethics certification officers who would like to check the Committee's records as to which individual employees in their office have already completed training must email their request to **standardscommittee@mail.house.gov.** Due to the volume of such requests, these requests will not be handled via phone, fax, or in-person inquiry.

[8] NOTE: Sign-in sheets are made available only at the start of the training session to ensure attendees receive the full hour of training. Tardy staff will not be given credit for training sessions.

SUMMARY OF 2009 TRAINING REQUIREMENTS

New Employees

*** WITHIN 60 DAYS OF BEGINNING HOUSE EMPLOYMENT ***

- **New employees in Washington, D.C., offices** must attend a live "New Employee" briefing to satisfy their ethics training requirement.
    - The **LAST** New Employee Training session is scheduled for December 11, 2009, at 3:30 p.m. in the CVC Auditorium.
- **New employees in district offices must watch the "New District Office Staff"** training video, which is available on HouseNet.
- **New senior staff** (employees having a salary rate at or above $117,787 for 2009) must complete an **additional** training during calendar year 2009 by watching the **"Senior Staff"** training video, which is available on HouseNet.

Existing Employees

- All **existing staff** must complete a training course *on or before December 31, 2009.* Employees have a number of options:
    - **Watch** one of the ethics training videos available on HouseNet (Topics include: (1) Campaign Activity or (2) Gifts and Travel); or
    - **Complete** ONE online training module on HouseNet (Topics include: (1) General Ethics Training or (2) Gifts and Travel.).
- **Existing senior staff** must also complete a second hour of specialized "senior staff" training before the end of the 111th Congress (between January 1, 2009, and December 31, 2010) by either:
    - **Watching** the "senior staff" training video available on HouseNet; or
    - **Attending** a live "senior staff" or "financial disclosure" training session. A Senior Staff training session is scheduled for December 15, 2009, at 3:30 p.m. in HC-5.

* * *

If you have any questions about the training requirements, please feel free to contact the Committee at (202) 225-7103.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

December 15, 2009

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Zoe Lofgren, Chair
Jo Bonner, Ranking Republican Member

SUBJECT: Simplified Process for Requesting Gift Rule Waivers for Gifts Anticipated due to Certain Special or Unusual Occasions

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This memorandum explains a new process for House Members, officers, and employees to use when requesting a waiver of the gift rule for gifts anticipated in connection with certain special or unusual occasions: a wedding or engagement, the birth or adoption of a child, and a death in the family. These changes should simplify and expedite the process for individuals to request such waivers.

Background

House rules state that a House Member, officer, or employee may not knowingly accept any gift unless its acceptance is permitted by the House gift rule.[1] In certain circumstances, no provision of the gift rule permits the acceptance of a particular gift, and the recipient must seek a waiver of the gift rule restrictions from the Standards Committee (Committee) to accept the gift. The Committee has "flexibility to allow the acceptance of gifts . . . in cases where there is no potential conflict of interest or appearance of impropriety."[2] 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."

As a general matter, recipients must seek permission to accept gifts on a gift-by-gift basis. However, the Committee has historically granted waivers of the provisions of the gift rule to House Members and staff who sought a waiver in order to accept gifts they anticipated receiving in connection with a special or unusual occasion, such as a wedding or engagement, the birth or adoption of a child, or a death in the family. In the past, individuals sought such a waiver by sending a letter to the Committee providing the details of their request, and have received a letter in response from the Chair and Ranking Republican Member of the Committee.

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

[2] 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).

New Form for Requests of Waiver of Gift Rule

The Committee is introducing the following new process for seeking gift rule waivers in connection with a wedding or engagement, the birth or adoption of a child, or a death in the family:

1. Any House Member or employee who seeks a waiver of the gift rule under these circumstances should fill out the new "Special Occasion Gift Waiver Request" form (available on the Committee's Web site at http://ethics.house.gov/, in the "Gifts" section). NOTE: This form applies only to waiver requests for gifts received in connection with a wedding or engagement, the birth or adoption of a baby, or a death in the family. Any other waiver request should be submitted by letter to the Committee.

2. The Committee will review the request and, if appropriate, approve the request with signatures from the Committee Chair and Ranking Republican Member.

3. If approved, the Committee will return a copy of the reviewed and signed form to the individual seeking the gift waiver.

4. The general gift rule waiver will apply to permit the acceptance of any gifts offered in connection with the occasion mentioned in the request that were received after the date the request was submitted to the Committee.[3]

5. The form requesting such a waiver, and any Committee response, will remain confidential.

Requests for Waiver of Financial Disclosure Statement Reporting Obligations

Notwithstanding the grant of a waiver for acceptance of gifts through the above-described process, all Members and certain House staff may still be required to report certain gifts on the annual Financial Disclosure Statement (FD) required by the Ethics in Government Act (EIGA).[4] Any FD filers who have reportable gifts may seek a waiver of the FD reporting requirement through a formal, written request to the Committee.

The Committee has created a second form to be used in seeking such a waiver. The FD waiver request form is also available on the Committee's Web site at http://ethics.house.gov/, in the "Financial Disclosure" section. FD waiver requests will be processed in the same manner as the gift rule waivers discussed above, except that, as required by EIGA, the FD waiver request and the Committee's response will both be filed with the Clerk, where they will be available for public inspection.

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[3] If a gift rule waiver is required for any gifts received prior to that date, the recipient must provide additional information on the nature of each gift, the identity of each gift's donor, and the dollar value of each gift.

[4] 5 U.S.C. app. 4 §§ 101 *et seq.* Section 102(a)(2)(A) of the EIGA requires the filer to disclose any gifts totaling $335 in value received from someone other than a relative. Gifts worth less than $134 need not be counted towards the $335 limit.

The gift rule and FD waiver request forms should be submitted by hand, mail, or inside mail to the Committee's Office of Advice & Education at HVC 227, or via facsimile to (202) 225-7392.

If you have any questions about this guidance, please feel free to contact the Committee at (202) 225-7103.

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

FINANCIAL DISCLOSURE
GIFT DISCLOSURE WAIVER REQUEST

This form should be used by any House Member, officer, or employee who is seeking a waiver of the reporting requirements under the Ethics in Government Act for gifts the individual received in connection with a wedding or engagement, the birth or adoption of a child, or a death in the family (5 U.S.C. app. 4 § 102(a)(2)(A)). You must have already sought and received from the Committee a waiver of the House gift rule (House Rule 25, clause 5) for any such gifts. ***Once approved, a copy of this form will be filed with the Clerk of the House for public disclosure.***

Name of Requester: _____ Date: _____

Signature of Requester: _____

Employing Member/Committee: _____

Office Address: _____

Telephone: _____

Date gift rule waiver granted: _____

Occasion for which a gift rule waiver is requested (check one):

___ Wedding/engagement ___ Birth/adoption of child ___ Death in family

Request Approved pursuant to 5 U.S.C. app. 4 § 102(a)(2)(C):

_____ Date: _____
R. Blake Chisam, Chief Counsel

_____ _____
Zoe Lofgren, Chair Jo Bonner, Ranking Republican Member

Copy to: Legislative Resource Center
B-106 Cannon House Office Building
ATTENTION: Janice Glosson

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

SPECIAL OCCASION GIFT WAIVER REQUEST

This form should be used by any House Member, officer, or employee who is seeking a waiver of the House gift rule (House Rule 25, clause 5) for gifts the individual anticipates receiving in connection with a wedding or engagement, the birth or adoption of a child, or a death in the family. If you have already received any gifts that require a waiver, you must provide details on those gifts and donors to the Committee.

Name of Requester: _____ Date: _____

Signature of Requester: _____

Employing Member/Committee: _____

Office Address: _____

Office Telephone: _____

Occasion for which a gift rule waiver is requested (check one):

___ Wedding/engagement ___ Birth/adoption of child ___ Death in family

Conditions for Approval:

Notwithstanding the grant of this waiver, you should exercise caution in accepting any gift that likely would not have been offered but for your status as a House employee. With regard to any such gift, you should consider its source, nature, and value, as well as any possible conflict of interest with official duties.

This approval applies only to the acceptance of gifts under the gift rule. If you are required to file an annual Financial Disclosure Statement, you must report all gifts totaling more than $335 from a single source; however, gifts having a value of $134 or less need not be counted towards that $335 limit. If you also wish a waiver of the statutory reporting requirement, you must submit a separate written request to the Committee. Any such request, and the Committee's response, will be made publicly available pursuant to section 102(a)(2)(C) of the Ethics in Government Act.

Request Approved pursuant to House Rule 25, clause 5(a)(3)(T):

_____ Date: _____

R. Blake Chisam, Chief Counsel

_____ _____

Zoe Lofgren, Chair Jo Bonner, Ranking Republican Member

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

December 16, 2009

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Zoe Lofgren, Chair
Jo Bonner, Ranking Republican 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.[3] 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.[4] There are also no restrictions on accepting gifts from co-workers and supervisors.

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] *See generally* House Rule 25, clause 5.

[4] The term "relative" is broadly defined, and it includes fiancés and fiancées. *See 2008 House Ethics Manual* at 69 and 5 U.S.C. app. 4 § 109(16).

[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.[7] Members and senior staff[8] must also disclose the receipt and value of gifts on their annual Financial Disclosure Statements in certain circumstances.[9]

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 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.[10] The statutory provision also prohibits Members and staff from soliciting on behalf of other individuals or entities.[11]

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 similar invitations accepted from the host is less than $100 for the year.[12]

  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,"

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

[8] House employees paid at or above $117,787 for 60 days or more during calendar year 2009 are considered senior staff and must file an annual Financial Disclosure Statement.

[9] 5 U.S.C. § 7342.

[10] 5 U.S.C. § 7353.

[11] The Committee has determined that Members and staff may solicit on behalf of charitable organizations qualified under § 170(c) of the Internal Revenue Code, subject to certain restrictions. *See 2008 House Ethics Manual* at 347-349.

[12] House Rule 25, clause 5(a)(1)(B)(i). Any gift 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.

provided the aggregate value of all gifts and similar invitations accepted from the specific non-lobbyist 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 the aggregate value of all gifts and similar invitations accepted from the organization 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; **except** if 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.

  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 alumni. 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.[13]

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;[14]

  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.[15]

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

- An event paid for by a foreign government that is **less than $335** 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.[16] 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.

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

[14] The term "sponsor" means the person, entity, or entities primarily responsible for organizing an event.

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

[16] 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.[17] Provided the guidance below is followed, Members and staff may accept the following:

- Gifts (other than cash or cash equivalent)[18] 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 accepted from the donor is less than $100 for the year.[19]

  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 and similar invitations accepted from the specific non-lobbyist 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.[20]

  Example: A company team 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.**[21] Members and staff may determine without seeking Committee approval to accept a gift based on personal friendship, if the gift's value is less than $250.[22] 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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[17] As noted above, there are no restrictions prohibiting Members and staff from receiving gifts from relatives and from co-workers. In addition, on special occasions, such as during the holiday season, Members and supervisors may accept gifts from subordinates, provided the gifts are unsolicited and voluntarily given.

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

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

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

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

[22] 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 prior to accepting a gift.

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 lobbyist, 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 valued from a foreign government under the FGDA, as noted above, gifts valued at less than $335 per person, per occasion, that are offered as a souvenir or mark of courtesy.[23]

  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"[24] 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.[25]

Please note: For tickets to events that do not have a printed cost on the ticket, the value of the ticket is the highest ticket price for that particular event.[26]

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[23] 5 U.S.C. § 7342.

[24] 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.

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

[26] 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.

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.[27] The Committee will only grant written approval for a personal friendship gift exceeding $250 in value in response to a written request.[28] 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.[29]

  Example: A former co-worker and friend, who is now a federal lobbyist, has offered to pay your expenses for a ski weekend during the holidays. The trip is valued at $1,000. Since the gift's value is more than $250, you must seek written approval from the Committee prior to accepting. The Committee will consider the factors discussed above regarding the personal friendship exception to determine if you may accept the gift.

- 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."[30] 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.[31] 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.[32]

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

[28] *See 2008 House Ethics Manual* at 40.

[29] *Id.*

[30] *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).

[31] *2008 House Ethics Manual* at 71.

[32] *Id.*

Financial Disclosure Requirements

- Members and senior staff[33] must disclose certain gifts valued over $335 from a single source in a calendar year on Schedule VI on their annual Financial Disclosure Statements.[34] 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 $134 need not be counted towards the $335 disclosure threshold.[35]

  Please note: Gifts from relatives and gifts of personal hospitality do not have to be disclosed.[36] In addition, gifts that are received by your spouse or children, independent of your House status, do not have to be disclosed.[37] However, all other gifts that are over $335 in value, including gifts from other Members and House employees, 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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[33] House employees that are paid at an annual rate of pay of $117,787 for 60 days or more for 2009.

[34] 5 U.S.C. app. 4 § 102(a)(2).

[35] *See* note 24, *supra*, regarding determinations of market value.

[36] *See* Ethics in Government Act (EIGA), 5 U.S.C. app. 4 § 102(a)(2)(A).

[37] *Id.*

FREQUENTLY ASKED QUESTIONS (FAQs)

1) I am a federal lobbyist. My firm would like to have a reception and invite Members and staff. Is this permissible?

Answer: Yes, as long as the food and refreshments are limited to moderate appetizers and beverages, including alcohol, and do not include a full meal or luxury food items.

2) My friend invited me to his company's holiday party, but his company employs federally registered lobbyists. May I accept the invitation?

Answer: You may accept your friend's invitation if the company permits its employees to invite anyone they wish and you determine the invitation was offered based on personal friendship.

3) I have been invited by an embassy in Washington to attend a holiday party at the embassy. May I attend?

Answer: Yes, if the per person value of your meal and entertainment from the foreign government is less than $335.

4) My co-workers and I want to contribute and buy our Member a joint holiday gift. Are we permitted to do so?

Answer: Yes, as long as the gift and contributions collected for the gift are voluntary.

5) I work in the district office. The property owner for the district office is having a holiday party for all of the tenants in the building. May I attend the party?

Answer: Yes, as long as the party is for all of the tenants and you are not receiving anything different simply because you are a House employee.

6) I sit on the board for a nonprofit that is having its annual holiday party. All board members are invited and each is given one complimentary ticket to the party. May I accept the complimentary ticket?

Answer: Yes, you may accept the complimentary ticket as long as the invitation was not offered or enhanced because of your official position.

If you have any questions, please contact the Committee at (202) 225-7103.

Congress of the United States
Washington, DC 20515

January 20, 2010

Helping the Victims of the Haiti Earthquake

Dear Colleague:

Several offices have contacted the Committee on House Administration, the Commission on Congressional Mailing Standards (Franking Commission) and the Committee on Standards of Official Conduct (Standards Committee) to inquire about the extent to which official resources may be used to help those impacted by the devastating earthquake that occurred in Haiti on Tuesday, January 12, 2010. We would like to take this opportunity to provide a review of the applicable rules, regulations and procedures.

There are many international, federal, state, and local government agencies and departments responsible for providing or coordinating the delivery of U.S. aid and participation in the relief efforts. Telephone numbers and other contact information for several of the key agencies, departments and organizations can be found at the following websites:

The White House
http://www.whitehouse.gov/haitiearthquake_embed

Organization of American States
http://www.oas.org/en/

U.S. Department of State
http://www.state.gov/

United Nations
http://www.un.org/en

U.S. Geological Survey
http://earthquake.usgs.gov/earthquakes/recenteqsww/Quakes/us2010rja6.php#details

United States Agency for International Development's Office of Foreign Disaster (USAID)
http://www.usaid.gov/our_work/humanitarian_assistance/disaster_assistance/

In addition, to assist Americans seeking information about family members in Haiti, the U.S. Department of State's Operations Center has established the following hotline number: 1-888-407-4747. The Department advises that due to heavy volume, some callers may receive a recording. Further, the Department cautions that the information being sought may not yet be available as our embassy is still in the early stages of contacting American Citizens known to be in Haiti. Communications, as you might expect, are very difficult within Haiti at this time.

All of the above information may be communicated to your constituents via the usual and customary official communication tools, including your congressional frank, subject to applicable statute and House Rules and regulations. In addition, a Member may post on his or her official Web site(s), channels and pages (sites) a directory of and/or links to third party organizations that are germane to the official content of his or her official postings. Referrals to organizations or links to sites, the primary purpose of

which is the solicitation of goods, funds or services on behalf of individuals or organizations are not permitted under the rules of the House.

In addition, Members have asked to what extent they may use their official resources to solicit or collect donations of goods, funds, or services on behalf of charities and other private organizations involved in relief efforts.

We understand the good intentions of those making such inquiries, but the rules of the House preclude Members from using official resources for any purpose other than in support of the conduct of the Member's official and representational duties on behalf of the district which he or she currently represents. This has, in the past, been interpreted to mean that charitable solicitations using official resources are not permitted.

However, it would be permissible for Members to link to *official* government Web sites that give details about the delivery of relief aid, including information about how Members' constituents may provide aid and assistance during a crisis. With respect to the emergency in Haiti, it would be permissible to provide links to any of the government Web sites noted above, including to the official White House Web page for the crisis (http://www.whitehouse.gov/haitiearthquake_embed),or to the State Department's Web page (http://www.state.gov/p/wha/ci/ha/). It would also be permissible to notify constituents about the existence of these Web sites, provided that the franking regulations are followed.

While official resources may not be used to solicit contributions for charitable organizations or to imply that such organizations or purposes have been endorsed by the House of Representatives, Members and staff may solicit in their personal capacities on behalf of organizations that are qualified under § 170(c) of the Internal Revenue Code – including, for example, § 501(c)(3) charitable organizations such as the American Red Cross – without first obtaining Standards Committee approval. These personal efforts may not use official resources (including official time, telephones, office equipment, supplies, and official mailing lists). Other restrictions also apply. Solicitations on behalf of non-qualified entities or individuals are decided on a case-by-case basis through the submission to the Standards Committee of a written request for permission to make such solicitations. For example, solicitations of donations directly for individuals suffering as a result of the crisis, as opposed to § 501(c)(3) charities assisting sufferers, would need Standards Committee approval. For more information, please review the 2008 Ethics Manual (pp. 347-49) or contact the Standards Committee at 5-7103.

We understand that Members of the House may wish to assist during this time of tragedy in Haiti and we hope this information is helpful to you to inform your constituency of our nation's response, the aid and resources supporting the relief efforts, and the status of Haiti's recovery in the aftermath of this devastating quake. If you have any questions regarding the use of your:

1. Official resources in general, please contact the House Administration Committee at x52061 (majority) or x58281 (minority);

2. Communications resources, please contact the Franking Commission at x59337 (majority) or x60647 (minority); and/or

3. Personal and/or campaign resources or the loan of your name and title to private solicitations and initiatives in support of the relief efforts, please contact the Standards of Official Conduct Committee at x57103

Sincerely,

Robert A. Brady
Chairman
Committee on House Administration

Daniel E. Lungren
Ranking Minority Member
Committee on House Administration

Zoe Lofgren
Chairwoman
Committee on Standards of Official Conduct

Jo Bonner
Ranking Minority Member
Committee on Standards of Official Conduct

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

January 25, 2010

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Zoe Lofgren, Chair
Jo Bonner, Ranking Republican Member

SUBJECT: The 2010 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees

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) 2010 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 2010 is $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 is 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

[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 16, 2011.[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 2009 applies to officers and employees whose basic rate of pay for at least 60 days in **2009** was **$117,787**. Annual FD statements for CY 2009 are due on Monday, May 17, 2010, for those individuals who continue to be officers or employees of the House on that date.

In addition, House officers and employees paid at or above the senior staff rate for 60 days or more in a calendar year and terminate their House employment during that calendar year are required to file an FD statement within 30 days of their termination.[6]

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[7] attributable to each calendar year.[8] As noted above, the senior staff rate for CY 2010 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 $177,000.[9] Accordingly, the outside earned income limit for House officers and employees paid at or above the senior staff rate for CY 2010 is **$26,550.**[10]

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[4] 5 U.S.C. app. 4 §§ 101(c) and 109(f). Because May 15 falls on a Sunday in 2011, the due date for FD statements is the next business day, May 16, 2011.

[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] *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.

[7] 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).

[8] 5 U.S.C. app. 4 § 501(a)(1); House Rule 25, cls. 1(a)(1) and 4(a)(1).

[9] This rate is set as of January 1, before the pay adjustments for CY 2010 went into effect on January 3, 2010. Thus, the percentage amount for CY 2010 must be calculated based on the 2009 salary level. *See* 5 U.S.C. app. 4 § 501(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 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).

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] 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 2010 is $174,000. Therefore, the post-employment threshold for employees who depart from a job in a Member, committee, or leadership office during 2010 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 2010 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 Web site (ethics.house.gov).

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CALENDAR YEAR 2010

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

OUTSIDE EARNED INCOME LIMIT.....**$ 26,550.00**

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**

[11] Members are also subject to these restrictions.

[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."

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

April 22, 2010

CALENDAR YEAR 2009 FINANCIAL DISCLOSURE STATEMENTS

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Zoe Lofgren, Chair
Jo Bonner, Ranking Republican Member

The Financial Disclosure Statements of House Members, officers, and senior staff employees covering calendar year 2009 are due on **Monday, May 17, 2010**. The 2009 Financial Disclosure Statement and Instruction Booklet will be mailed shortly to all required filers. These materials, as well as the software to complete the Statement, are currently available and can be downloaded at any time by visiting the Committee's web site at www.ethics.house.gov and clicking on the "Financial Disclosure" link.

Staff of the Committee on Standards of Official Conduct will be conducting three additional training sessions open to all House Members and staff on how to complete the Statement. First-time filers are particularly encouraged to attend, as the training will provide detailed guidance on how to complete the Statement and will help filers avoid common mistakes.

The training sessions have been scheduled as follows:

DATE	TIME	LOCATION
Friday, April 23, 2010	2:00 p.m. to 3:00 p.m.	1100 Longworth HOB
Monday, April 26, 2010	9:30 a.m. to 10:30 a.m.	CVC Room HVC 215
Friday, April 30, 2010	2:00 p.m. to 3:00 p.m.	1100 Longworth HOB

Each clinic will last approximately one hour and may be taken to fulfill the extra hour of specialized training required once this Congress for senior staff employees under the mandatory

ethics training requirement. Pre-registration is now required for all ethics training sessions (walk-ins will be admitted only as space permits). In addition to pre-registering, employees must sign in before the session and attend the full hour to fulfill their ethics training requirement. Any late arrivals who miss the check-in period will not receive credit. The new registration process will allow employees to receive email verification that they have completed their required senior staff ethics training. You may register online at http://registerme.house.gov/.

In addition, Committee staff will be available to meet in person on a walk-in basis to answer questions and review drafts of your completed Statements on **Friday, April 30, from 9:30 a.m. to 12:00 p.m. in 2253 Rayburn HOB.** No pre-registration is required.

Committee staff will also respond to any questions on financial disclosure at (202) 225-7103 and are available to review Statements before they are filed with the Clerk of the House. **Staff must submit their draft reports for pre-review no later than Friday, May 7, 2010, to ensure that the review will be completed by the filing deadline.** Anyone wishing to have his or her form reviewed in advance of filing may fax a copy to Committee staff at (202) 225-3713.

The Committee may grant reasonable extensions of time not to exceed 90 days to file the Financial Disclosure Statement. Extension request must be made in writing, signed by the filer, directed to the Chair and Ranking Republican Member of the Committee, Representatives Zoe Lofgren and Jo Bonner, and state both the reason and length of the extension requested. **Any such request must be received on or before the due date of the Statement.** The Committee will accept extension requests via fax machine at (202) 225-3713.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

April 27, 2010

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Zoe Lofgren, Chair
Jo Bonner, Ranking Republican Member

SUBJECT: Annual Ethics Training Requirements for 2010

The Committee on Standards of Official Conduct (Standards Committee) is required to provide annual ethics training to each Member, Delegate, Resident Commissioner, officer, and employee of the House.[1] All new employees must complete an initial training session *within 60 days of commencing House employment.*[2] In addition, the Committee requires all senior staff employees to take an additional hour of specialized training at least once per Congress.[3]

By January 31 of each year, all House employees must certify with the Standards Committee that they completed ethics training during the preceding calendar year.[4] To streamline the certification process for House employees, the Committee has collaborated with the House Learning Center to provide employees with an online registration process for all ethics training. As part of the new online registration process, the Committee will be able to better track House employees' compliance of the mandatory training requirement. As a result, the new mandatory online registration process will replace the Committee's previous paper-based certification process.

ONLINE REGISTRATION PROCESS

Online preregistration is now 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

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[1] House Rule 11, clause 3(a)(6)(A). The Committee defines an "officer or employee" as an individual who is appointed to a position of employment in the U.S. House of Representatives by an authorized employing authority and who receives a salary disbursed by the Chief Administrative Officer. It also includes such individuals who are in a leave without pay or furlough status.

[2] House Rule 11, clause 3(a)(6)(B)(i).

[3] A "Congress" is a period of two years. The 111th Congress convened on January 26, 2009.

[4] House Rule 11, clause 3(a)(6)(B)(ii).

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 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 certificates, which they should preserve for their own records. The email certificates are confirmation for employees that they have satisfied the annual training and certification requirement. **Please do not send copies of the certificates to the Committee.**

The calendar of upcoming live training sessions for 2010 is available on the Standards Committee 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 and certification requirement. Employees will be able to check HouseConnect at any time to verify completion of their annual ethics training requirement.

2010 TRAINING CERTIFICATION REQUIREMENTS

Every House employee must preregister and complete the appropriate ethics training **by December 31, 2010**. In addition, Each House employee must certify to the Committee his or her completion of the 2010 annual ethics training requirement **no later than January 31, 2011**.[5] An employee may do so in one of two ways:

1) By preregistering online and signing in at any live training; or

2) By preregistering online and completing a video training or an online tutorial.

House employees who preregister online and complete the appropriate training by December 31, 2010, will have met the certification requirement, and thus will not have to file any documentation with the Committee by January 31, 2011. After January 31, 2011, the Committee will verify compliance with the annual training and certification requirements. Should the Committee identify employees who failed to complete or certify satisfaction of the mandated training requirements, the Committee may investigate such matters. If the Committee determines that violations occurred, it may impose sanctions, as discussed below.

[5] House Rule 11, clause 3(a)(6)(B)(ii).

TRAINING REQUIREMENTS

"New Employee" Training

All new employees *must* complete ethics training within 60 days of beginning House employment. For the purposes of the training requirement, a "new" House employee is an individual who first began employment with the House on or after November 1, 2009, and did not complete ethics training in 2009.[6] Any former House employee who returns to House employment after a gap of more than 60 consecutive calendar days is considered to be a "new" employee.[7] Interns paid by the House for more than 60 days also must comply with this requirement.[8] New employees, depending on their work location, may satisfy their training requirement in the following manner.

- New employees who work in offices in Washington, D.C., are required to attend a *live* training session.
- New employees who work in offices not in Washington, D.C., may watch the "New District Staff" training video online.[9]

New employees will *not* receive credit for attending or watching any training sessions other than those specifically designated "New Employee" or "New District Staff."

General Ethics Training

Existing House employees must complete one hour of general ethics training during calendar year 2010.[10] For purposes of the 2010 training requirement, an "existing" House employee is an individual who first began employment with the House before November 1, 2009, and was required to complete ethics training in 2009.

Existing House employees may fulfill this training requirement by:

1) Attending a live general ethics training session; or

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[6] For new employees hired after November 1, 2009, who complete the "New Employee" training in 2010, the "New Employee" training will also satisfy their 2010 annual training requirement. Therefore, such employees are not required to take "General Ethics" training in 2010.

[7] However, a person who was a House employee in 2010, satisfied their 2010 training requirement, and then subsequently terminated House employment for more than 60 days before again becoming a House employee in another position does not need to repeat ethics training for 2010.

[8] Detailees, fellows, unpaid interns, and any individuals who are employed by the House and paid for less than 60 days are not required to attend ethics training in 2010. The Standards Committee nonetheless encourages these individuals to attend training so they become familiar with the House ethics rules while working in a House office or committee.

[9] Available on HouseConnect: http://houseconnect.house.gov.

[10] For new employees hired after November 1, 2009, who complete the "New Employee" training in 2010, the "New Employee" training will also satisfy their 2010 annual training requirement. Therefore, such employees are not required to take "General Ethics" training in 2010.

2) Completing an online general ethics training session.[11]

"Senior Staff" Training

All senior staff employees are required to take an additional hour of senior staff training at least once per Congress to satisfy their training requirements. "Senior staff" are those House officers and employees whose basic rate of pay is equal to or greater than the senior staff rate ($119,553.60 for CY 2010) for at least 60 days during 2010.[12] Senior staff employees may fulfill their additional hour of training requirement in one of two ways:

1) Attending a live senior staff training session; or

2) Completing an online senior staff training session.[13]

The senior staff training is in addition to the one hour general or new employee ethics training required of all House employees, as described above.

FAILURE TO COMPLY WITH THE MANDATORY TRAINING AND CERTIFICATION REQUIREMENTS

It is a violation of House rules for House employees to fail to comply with the mandatory annual training and certification requirements.[14] The Committee is authorized to investigate alleged violations by House employees of standards of conduct applicable to their conduct.[15] The Committee may impose sanctions when it establishes that an employee has failed to fulfill the mandated annual training requirement.[16] Potential sanctions include:

1) Dismissal from employment;

2) Reprimand;

3) Fine;

4) Publication of the employee's name; or

5) Any other sanction determined by the Committee to be appropriate.[17]

If you have any questions regarding this guidance, please contact the Committee's Office of Advice and Education at (202) 225-7103.

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[11] Available on HouseConnect: http://houseconnect.house.gov.

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

[13] Available on HouseConnect: http://houseconnect.house.gov.

[14] House Rule 11, clause 3(a)(6)(B)(ii).

[15] House Rule 11, clause 3(a)(2).

[16] House Rule 11, clause 3(a)(2); Committee Rule 18(a).

[17] Committee Rule 24(f).

FREQUENTLY ASKED QUESTIONS (FAQs)

1. Where do I find the ethics training certification forms for 2010?

   Answer: There are no training certification forms for 2010. The online registration process will replace the training certification forms. Employees must preregister and take the appropriate training before December 31, 2010, in order to certify their compliance.

2. I just completed online ethics training. How does the Committee know I completed the training?

   Answer: After a House employee completes an online training session, the system will log the employee as "complete." This information is automatically transmitted to the Committee. Thus, once the system labels you as "complete" you have satisfied the annual training and certification requirement. The system also allows House employees to check whether they have completed training at any time.

3. If I have a problem registering who should I contact?

   Answer: House employees who have registration problems should contact the House Learning Center at (202) 226-3800.

4. My committee just hired an employee from a Member's office. The employee completed training in January 2010 while employed in the personal office. Does the employee have to retake training now that he works for the committee?

   Answer: No. House employees are not required to retake training after switching House offices or committees.

5. I am a senior staff employee and I completed the senior staff training in 2008 during the 110th Congress. Do I have to complete senior staff training again in the 111th Congress?

   Answer: Yes. House employees may not carry over training credit from one Congress to another. Therefore, senior staff employees are required to complete a second hour of specialized "senior staff" before the end of the 111th Congress even if they completed the training in the 110th Congress.

6. Are Members required to complete annual ethics training?

   Answer: No. Members are not currently required by House rules to complete annual ethics training. However, the Committee is required to provide annual ethics training to each Member, Delegate, Resident Commissioner, officer, and employee of the House. The Committee will continue to offer Member-only training sessions, and Committee staff is available for personal briefings for Members by request.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

December 6, 2010

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Zoe Lofgren, Chair
Jo Bonner, Ranking Republican 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, very senior staff must disclose the employment negotiations in writing to the Standards 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, www.usoge.gov).

entity.[16] Staff subject to this disclosure requirement are those employees of the House who are paid at an annual rate of $130,500.[17] Staff paid at this rate are referred to as "very 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, very 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 Standards 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 might be viewed as presenting even a risk that the individual might be improperly influenced by personal financial interests."[21]

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[16] House Rule 27, cl. 2. 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." In 2010, Members will earn $174,000 annually, making $130,500 the salary which triggers the disclosure requirement. Employees whose employing authority is not a Member, committee, or leadership office should note that this triggering salary threshold is different than the one that triggers the restrictions on post employment discussed later in this memorandum. Offices whose employees are subject to the two differing salary triggers include the Clerk, Parliamentarian, Office of Legal Counsel, and Chief Administrative Officer.

[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.").

[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 . . . . ").

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, very 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." Very senior staff who recuse themselves from official matters pursuant to Rule 27 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 $335 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]

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 2010 is $174,000, and thus the post-employment threshold for individuals who terminate their employment with a Member, committee, or leadership office in 2010 is ***$130,500***. The threshold rate for other years is available from the Standards Committee. For employees of "other legislative offices,"[29] the

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[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.

[27] *See* 18 U.S.C. § 207(e), (f).

[28] *Id.* § 207(e)(7).

[29] For the definition of "other legislative offices," see *supra* note 2.

basic rate of pay triggering the restrictions is level IV of the Executive Schedule, which for 2010 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 Standards Committee, and Committee interpretations of the statute are not binding on the Department.

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.

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[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 Standards 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).

[33] *Id.*

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]

- 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]

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[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).

[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 *supra* note 2.

[43] 18 U.S.C. §§ 207(e)(6) and (e)(9)(G).

- ✕ 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 information be attributed to the former official."[48] Such DOJ guidance is binding on the Standards 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

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[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, *Summary of Post-Employment Restrictions of 18 U.S.C. § 207* at 11 (July 29, 2004) (available on the OGE Web site, www.usoge.gov, under the link for DAEOgrams). Also pertinent to these provisions of the statute is a U.S. Office of Legal Counsel (OLC) opinion of June 22, 2004, the text of which is available under the same link on the OGE Web site (DAEOgram of Oct. 5, 2004), which concludes that 18 U.S.C. § 207(f) covers representational contacts with Members of Congress.

[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.

[48] U.S. OLC, *"Communications" under 18 U.S.C. § 207* at 3 (Jan. 19, 2001) (available on the OLC Web site, www.usdoj.gov/olc, under the link for memoranda/opinions). 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*, *supra* note 44, at 3.

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, 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-

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[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.

[52] Former employees who are lawyers may have additional restrictions, as explained in note 15, *supra*.

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:

  - 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]

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[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.justice.gov/criminal/fara/).

[56] 18 U.S.C. § 207(j)(1)(A).

[57] *Id.*

[58] *Id.* (j)(2)(A).

- 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 only such persons or entities, the communications would be prohibited.[63]

✓ **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]

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[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).

[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 as being "relatively narrow." *See* 73 Fed. Reg. 36183 (June 25, 2008). While these definitions are not binding on the Standards 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).

- ✓ **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.

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

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[67] *See id.* § 207.

[68] *See id.*

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 M 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 Represented by Covered Former Employee

Entity Contacted 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 a Standards 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 Standards Committee to request a written advisory opinion. While, as noted above,

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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, on September 15, 2006 the Department of Justice filed a plea agreement in which former Representative Robert W. Ney pleaded guilty to conspiracy to violate, *inter alia*, the post-employment restrictions for former covered employees ("*Ney* action").

[72] *See, e.g., Abramoff* and *Ney* actions, *supra* note 71.

[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, vol. I.

Standards 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 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 2010, the financial disclosure filing threshold is an annual salary rate of $119,553.60 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 $335 received from any source in connection with job-search activity.[83]

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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 Standards of Official Conduct, *Instruction Guide for Completing Calendar Year 2009 Financial Disclosure Statement Form A (2009 Form A FD Instructions)* at 2.

[78] 5 U.S.C. app. 4 § 101(g)(1); *see also 2009 Form A FD Instructions, supra* note 77, at 3.

[79] *See* 5 U.S.C. app. 4 § 109(13)(B)(i).

[80] *Id.* § 101(e).

[81] *Id.* § 102(a)(7).

[82] *See id.*; *see also 2009 Form A FD Instructions, supra* note 77, at 23.

[83] 5 U.S.C. app. 4 § 102(a)(2)(B).

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 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.

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[84] *Id.* § 101(e).

[85] *See 2009 Form A FD Instructions, supra* note77, at 2.

[86] House Rule 25, cl. 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 2010, 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 would exceed the statutory limit. *Id.*

[88] House Rule 25, cl. 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).

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. 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).

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

December 22, 2010

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Zoe Lofgren, Chair
Jo Bonner, Ranking Republican Member

SUBJECT: Negotiations for Future Employment and Restrictions on Post-Employment for House Members and Officers

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The purpose of this memorandum is to remind you about issues of concern to House Members[1] and officers[2] who are negotiating for future employment or departing from employment with the House of Representatives.[3] The matters discussed here include negotiations for future employment, post-employment restrictions, financial disclosure requirements (termination reports), and outside employment and earned income restrictions.[4] Although this memorandum will be of particular interest to departing Members, current Members should also familiarize themselves with these restrictions, especially the criminal restrictions on post-employment contact that have been the subject of recent attention by the United States Department of Justice.

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[1] This Memorandum uses the term "Member" to refer to House Members, Delegates, and the Resident Commissioner.

[2] The elected officers of the House are the Clerk, Sergeant-at-Arms, Chaplain, and Chief Administrative Officer. *See* House Rule 2, cl. 1.

[3] The restrictions discussed herein apply uniformly to House Members, Delegates, the Resident Commissioner, and officers, except where noted with regard to the elected House officers.

[4] The Committee has issued a separate memorandum addressing a similar range of issues for departing employees of the House and certain other legislative offices. Employees who are seeking future employment or departing House employment should consult that memorandum, entitled "Negotiations for Future Employment and Restrictions on Post-Employment for House Staff," rather than this memorandum, for guidance.

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.

The general guidance applicable to any Member who wishes to engage in negotiations for future employment is as follows. First and foremost, it would be improper for a Member to permit the prospect of future employment to influence the official actions of the Member.[5] Some Members 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.[6] Those decisions found that the term "negotiation" should be construed broadly.[7] However, the Committee makes a distinction between "negotiations," which trigger the rule, and "[p]reliminary or exploratory talks," which do not.[8] 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."[9] 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.[10] 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.[11] Federal criminal law

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[5] *See* House Rule 23, cl. 3; Code of Ethics for Government Service ¶¶ 5, 6, *reprinted in 2008 House Ethics Manual* at 355.

[6] 18 U.S.C. § 208.

[7] *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).

[8] *Schaltenbrand*, 930 F.2d at 1558-59.

[9] *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.

[10] House Rule 23, cl. 3.

[11] 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.[12] 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.[13]

In light of these restrictions, Members should be particularly careful in negotiating for future employment, especially when negotiating with anyone who could be substantially affected by the Member's performance of official duties.[14] It may be prudent for the Member 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. Because Members will be subject to the post-employment restrictions, which are addressed later in this memorandum, they 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 Member is subject to post-employment restrictions, which should be briefly outlined.[15] Departing Members 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.[16] In addition, as addressed in the next section of this memorandum, Members must disclose the employment negotiations in writing to the Standards Committee.

Provided that Members 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.

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[12] 18 U.S.C. § 201(b)(2)(A).

[13] *Id.* § 201(c)(1)(B).

[14] *See* Code of Ethics for Government Service ¶ 5, *reprinted in 2008 House Ethics Manual* at 355.

[15] *See* 18 U.S.C. § 207. These restrictions are explained in detail later in this memorandum. Briefly, House Members may not contact any Member, officer, or employee of the House or Senate 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. House officers may neither contact the individual's former congressional office on official business for one year after leaving House employment, nor assist any foreign government in securing official action from any federal official during that year.

[16] A former Member 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 when 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, www.usoge.gov).

DISCLOSURE OF EMPLOYMENT NEGOTIATIONS AND RECUSAL REQUIREMENTS

Members must notify the Committee within three (3) business days after they commence any negotiation or agreement for future employment or compensation with a ***private*** entity.[17] As stated above, 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, Members 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 Standards Committee in writing of such recusal.[19] Members who recuse themselves also must, at that time, file their negotiation notification with the Clerk in the Legislative Resource Center (B-106 Cannon House Office Building) for public disclosure.[20]

The Committee has issued forms to be used for these notification requirements. When notifying the Committee of negotiations or agreements for future employment or compensation, Members and officers 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, as explained below.

There is a separate form for notifying the Committee of recusal, entitled the "Statement of Recusal." All Members and officers who recuse themselves from official matters pursuant to Rule 27 must complete and submit the recusal form to the Committee.[21] At that time, Members must *also* submit to the Clerk a copy of the completed employment negotiation form regarding that private entity, which they had previously submitted to the Committee.[22] The Clerk will make that form available for public disclosure.[23] As noted above, the requirement to make a simultaneous filing with the Clerk of the corresponding job negotiation form applies only to Members and not to House officers or employees. Copies of both forms are available on the Standards Committee Web site (ethics.house.gov).

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[17] House Rule 27, cl. 1.

[18] *See Hedges*, 912 F.2d at 1403 n.2.

[19] House Rule 27, cl. 4.

[20] *Id.* House Rule 27 does not require House employees to file their notice of negotiation with the Clerk.

[21] *Id.*

[22] *Id.*

[23] *Id.*

The terms "conflict" and "appearance of conflict" are not defined in the rule. The Committee has stated that a "conflict of interest becomes problematic when a Member uses his position to enhance his personal financial interests or his personal financial interests impair his judgment in conducting his public duties."[24] Members also should avoid situations that might be viewed as presenting even a risk that the Member might be improperly influenced by personal financial interests.[25]

Among the "official matters" covered by the recusal provision discussed above is abstention from voting, or affirmatively taking official actions, on matters that would affect an outside party with whom the Member is negotiating, or from whom the Member has accepted employment. This inquiry has traditionally been governed solely by House Rule 3, which states that abstention from voting on the House floor is not warranted unless the Member has "a direct personal or pecuniary interest in" the matter.[26] Longstanding House precedent interpreted this rule to mean that Members may vote on any matter that affects them merely as part of a large class of individuals or entities rather than with particularity.[27] Thus, for example, Members who were veterans were permitted to vote on military pay and pensions, which affected them only as members of class of thousands of individuals who held or had held similar positions.[28] Historical practice has established that, with regard to House Rule 3, there is no authority to force a House Member to abstain from voting, and the decision on whether abstention from voting was necessary has been left for individual Members to determine for themselves under the circumstances.[29]

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[24] 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.").

[25] *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 ("A Member . . . shall adhere to the spirit and letter of the Rules of the House . . . . ").

[26] House Rule 3, cl. 1.

[27] *See* 5 Asher C. Hinds, *Hinds' Precedents of the House of Representatives* § 5952 at 503-04 (1907) (hereinafter *Hinds' Precedents*); *see also* John V. Sullivan, Parliamentarian, *Constitution, Jefferson's Manual, and Rules of the House of Representatives, One Hundred Eleventh Congress*, H. Doc. 110-162, 110th Cong., 2d Sess. (2009), § 673 (hereinafter *House Rules and Manual*).

[28] *See Hinds' Precedents* § 5952, at 503-04; *see also 2008 House Ethics Manual* at 234-35.

[29] *See Hinds' Precedents* §§ 5950, 5952 at 502, 503-04; *see also House Rules and Manual* § 672.

However, as described above, a House rule now also imposes a requirement that Members who are negotiating for future employment "shall recuse" themselves "from any matter in which there is a conflict of interest or an appearance of a conflict for that Member."[30] At a minimum, Members faced with a vote on a matter that directly impacts a private entity with which they are negotiating would have difficulty balancing the duty they owe to their constituents with the recusal provisions of Rule 27. Members are strongly encouraged to abstain from voting on legislation that provides a benefit targeted to any entity with which the Member is negotiating or from which the Member has accepted future employment. Members likewise are discouraged from sponsoring legislation or earmarks for such an entity. In addition, a House Rule now requires that Members who request an earmark certify to the chairman and ranking member of the committee of jurisdiction that the Member and the Member's spouse have "no financial interest" in the earmark.[31] Any earmark benefitting a entity with which a Member is negotiating or has accepted future employment could be deemed to provide a financial interest to the Member under this provision.

BENEFITS OFFERED BY PROSPECTIVE EMPLOYERS DURING JOB NEGOTIATIONS

Members may accept "[f]ood, refreshments, lodging, transportation, and other benefits . . . customarily provided by a prospective employer in connection with bona fide employment discussions."[32] Thus, subject to the limitations set out in the rule, a Member may accept travel expenses from an entity with which the Member 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 $335 from any one source must be disclosed on Schedule VII of the termination financial disclosure statement required of departing Members.[33] In addition, any agreement for future employment also must be disclosed on Schedule IX of that statement.[34]

POST-EMPLOYMENT RESTRICTIONS

Since 1989, legislative branch officials, including certain employees, have been subject to restrictions on their post-House employment under the Ethics Reform Act.[35] These limitations are part of the federal criminal code, and they apply to Members and officers of the House,[36] as

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[30] House Rule 27, cl. 4.

[31] House Rule 23, cl. 17.

[32] House Rule 25, cl. 5(a)(3)(G)(ii).

[33] 5 U.S.C. app. 4 § 102(a)(2)(B).

[34] *Id.* § 109(a)(7)(A).

[35] 18 U.S.C. § 207.

[36] *Id.* § 207(e)(1).

well as to employees of House Member, committee, and leadership offices who are paid at least 75% of a Member's salary.[37] For these covered individuals, the law establishes a one-year "cooling-off period" measured from the date of the individual's departure from the House payroll.[38] For Members who are not re-elected to the House, this date will be January 3 of the year following the election (not the date of adjournment *sine die*),[39] unless the Member resigns prior to that date.

Set out below is a detailed description of prohibited and permitted post-employment activities of former Members 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 Standards Committee, and Committee interpretations of the statute are not binding on the Justice Department.

Prohibited Activity

Under the statute, former Members may **not**, for a period of **one year** after leaving office:

- ✕ Knowingly **communicate with or appear before any Member, officer, or employee of the House or the Senate,**[40] or current employees of any other legislative office,[41] with the intent to influence, on behalf of any other person, the official actions or decisions of such Member, officer, or employee.[42] The statute excepts certain representations made on behalf of specific types of entities. These exceptions are described below in the context of "permissible activity."

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[37] *Id.* §§ 207(e)(2)–(e)(7).

[38] *Id.* § 207(e).

[39] *See* U.S. Const. amend. XX, § 2 (establishing the start of the congressional session at noon on January 3).

[40] Unlike former Members, former elected officers of the House are unrestricted in their post-employment interactions with all Senate personnel and may similarly interact with employees of "other legislative offices." *See* 18 U.S.C. § 207(e)(1)(B)(iii). Put another way, during the statutory "cooling-off" period, a former House officer is restricted from contacting only Members, officers, and employees *of the House.*

[41] "[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. The term also includes any other House legislative branch office not covered by the other provisions of the statute, such as the Clerk, Parliamentarian, Office of Legal Counsel, and Chief Administrative Officer. *See* 18 U.S.C. § 207(e)(9)(G).

[42] 18 U.S.C. § 207(e)(1).

- ✕ 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 carrying out his or her official duties.[43]

- ✕ 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.[44]

- ✕ **Use confidential information obtained by means of personal and substantial participation in trade or treaty negotiations** within one year preceding their departure from office, in the course of representing, aiding, or advising anyone other than the United States regarding those negotiations.[45]

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.[46] A DOJ opinion defines "communication" as "the act of imparting or transmitting information with the intent that the information be attributed to the former official."[47] Such DOJ guidance is binding on the Standards 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."[48] The provision is broad enough that

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[43] *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, *Summary of Post-Employment Restrictions of 18 U.S.C. § 207* at 11 (July 29, 2004) (available on the OGE Web site, www.usoge.gov, under the link for DAEOgrams). Also pertinent to these provisions of the statute is a U.S. Office of Legal Counsel (OLC) opinion of June 22, 2004, the text of which is available under the same link on the OGE Web site (DAEOgram of Oct. 5, 2004), which concludes that 18 U.S.C. § 207(f) covers representational contacts with Members of Congress.

[44] 18 U.S.C. § 207(f)(1)(B).

[45] *Id.* § 207(b).

[46] 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.

[47] U.S. OLC, *"Communications" under 18 U.S.C. § 207* at 3 (Jan. 19, 2001) (available on the OLC Web site, www.usdoj.gov/olc, under the link for memoranda/opinions). 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.*

[48] *Summary of Post-Employment Restrictions of 18 U.S.C. § 207*, *supra* note 43, at 3.

it precludes a former Member even from, for example, requesting or scheduling, for or on behalf of any other person, a meeting with any current Member, officer, or employee on official business.[49] 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 the one-year "cooling-off period" restrictions set out above, Members should further 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.[50]

Permissible Activity

Under federal statutory law, former Members **may, immediately** upon leaving office:

✓ **Aid or advise clients** (other than foreign governments or foreign political parties) **concerning how to lobby Congress**, provided the former Member makes no appearance before or communication to Members or employees of Congress. Such a "background role" would not pose the contemplated risk of improper influence since the current officials would not be aware of the former official's participation.[51] However, any such participation must remain behind-the-scenes; during the one-year

[49] 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 74, below).

[50] 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.

[51] Former Members who are lawyers may have additional restrictions, as explained in note 16, *supra*.

"cooling-off" period, former Members must not permit their name to be openly associated with contacts made by other persons.[52]

✓ **Contact Executive Branch** officials with the intent to influence official action so long as not representing a foreign government or foreign political party.[53]

✓ **Contact state government officials** with the intent to influence state government actions or decisions. Former Members should comply with any state laws governing such contacts.

✓ **Contact one foreign government on behalf of another** foreign government.[54]

✓ **Contact Members, officers and employees of the House and Senate and other Legislative Branch officials** under any of the following circumstances:

- The former Member is carrying out official duties on behalf of the **federal government** or the District of Columbia;[55]
- The former Member is acting as an **elected official of a state or local government;** [56]
- The former Member 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;[57]

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[52] 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 47 above, including with regard to activities that do not constitute permissible "behind-the-scenes" activities.

[53] Former Members 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 Member. *See* 25 U.S.C. § 450i(j); 18 U.S.C. § 207(j)(1)(B).

[54] 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. Members 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.justice.gov/criminal/fara/).

[55] 18 U.S.C. § 207(j)(1)(A).

[56] *Id.*

- The former Member is an **employee** of an accredited, degree-granting **institution of higher education** and is acting on behalf of such institution;[58] or

- The former Member is an **employee** of a **charitable hospital or medical research organization** and is acting on behalf of such hospital or organization.[59]

✓ **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.[60] Otherwise, former Members 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.[61] However, if the former Member is employed by a person or entity who represents, aids, or advises only such persons or entities, the communications would prohibited.[62]

✓ **Make statements based upon the "special knowledge"** of the former Member concerning the particular area that is the subject of the statement, if no compensation is received in connection therewith.[63]

✓ **Give testimony under oath**, or make statements required to be made under penalty of perjury.[64]

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[57] *Id.* § 207(j)(2)(A).

[58] *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).

[59] 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.*

[60] *Id.* § 207(j)(3).

[61] *Id.* § 207(j)(7)(A).

[62] *Id.* § 207(j)(7)(B)(ii)(II).

[63] *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 as being "relatively narrow." *See* 73 Fed. Reg. 36183 (June 25, 2008). While these definitions are not binding on the Standards Committee, they provide guidance as to how the term should be interpreted.

[64] 18 U.S.C. § 207(j)(6).

- ✓ **Contact staff of the Clerk of the House** regarding the Member's compliance with the disclosure requirements under the Lobbying Disclosure Act.[65]

- ✓ **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.[66]

- ✓ **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.[67]

Example 1. Member *A* retires to accept an appointed position in an Executive Branch agency. *A* may immediately contact Congress on behalf of the agency.

Example 2. Member *B* retires to become governor of his state. *B* may immediately lobby Congress on behalf of his state.

Example 3. Member *C* retires to become the president of a private university. *C* may immediately lobby Congress on behalf of the school.

Example 4. Member *D* retires and moves back to her home state. *D* may immediately lobby state government officials on behalf of any clients.

Example 5. Member *E* retires to become a lobbyist. During her first year out of office, *E* lobbies only Executive Branch personnel, *E* never contacts Members or employees of Congress on behalf of clients, and *E* has no foreign clients. *E* is complying with the law.

Example 6. During his one-year "cooling-off" period, former Member F wishes to call a current Member to request that she meet with representatives of one of his clients to discuss legislation of interest to the client. F would not be present at the meeting. F would violate the statute by requesting the meeting, in that the request would be a communication intended to influence official action.

Example 7. During his first year out of office, former Member *G* wishes to contact a current Member to urge him to support federal funding for a non-profit organization operated by a friend of *G*. The non-profit organization is not a client of *G*, and *G* would receive no compensation for making the contact. *G* would violate the statute by doing so, in that the statute bars such contacts regardless of whether the former official would be compensated for them.

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[65] *Id.* § 207(e)(8).

[66] *See id.* § 207.

[67] *See id.*

Example 8. During her one-year "cooling-off" period, former Member *H*, who has become a lobbyist, is asked by a current Member about the views of one of her clients on a pending piece of legislation. *H* would violate the statute if she were to state her client's views to the current Member, in that there is no exception in the statute for covered communications that are solicited by a current Member or staff person. However, it may be permissible for *H* to refer the Member to one of her colleagues who is not subject to post-employment restrictions.

Entity Contacted by Former Member

Entity Represented by Former Member

	Congress	Executive Branch	Foreign Governments	State Governments
Private Entity	Must wait 1 year before contacting Congress directly. May advise entity behind scenes immediately	May contact immediately	May contact immediately	May contact immediately
Federal, State, or Local Government	May contact Congress immediately if elected official or employee of the federal, state, or local government	May contact immediately	May contact immediately	May contact immediately
Tribal Government	Must wait 1 year before contacting Congress directly. May advise entity behind scenes 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 Member	May contact immediately	May contact immediately
Foreign Government	Must wait 1 year before contacting Congress 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 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 the 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 immediately if an employee of the college or university	May contact immediately	May contact immediately	May contact immediately
Charitable Hospital or Medical Research Organization	May contact immediately if an employee of the hospital or 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 that violated the restrictions, whichever is greater.[68] The statute further authorizes the Attorney General to seek an injunction prohibiting a person from engaging in conduct that violates the act.[69]

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.[70] 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.[71]

Furthermore, in a Standards 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."[72] 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."[73]

A Member (or former Member) who has any concerns about the applicability of the post-employment restrictions to his or her proposed conduct should write to the Standards Committee to request a written advisory opinion. While, as noted above,

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[68] 18 U.S.C. § 216.

[69] *Id.* § 216(c).

[70] *See, e.g., United States v. Jack A. Abramoff*, Docket No. 06-CR-001 (D.D.C.) ("*Abramoff* action"). In addition, on September 15, 2006, the Department of Justice filed a plea agreement in which former Representative Robert W. Ney pleaded guilty to conspiracy to violate, *inter alia*, the post-employment restrictions for former covered employees ("*Ney* action").

[71] *See, e.g., Abramoff* and *Ney* actions, *supra* note 70.

[72] 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").

[73] 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 72, vol. I.

Standards 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 well as any applicable opinions or guidance of the Justice Department or the U.S. OGE of which the Committee is aware.[74]

FLOOR PRIVILEGES OF A FORMER MEMBER

The type of work that a Member does after leaving office may limit the Member's future floor privileges. While former Members generally are entitled to admission to the Hall of the House, this privilege is not extended to those who: (1) are registered lobbyists or agents of a foreign principal; (2) have any direct personal or pecuniary interest in any pending legislation; *or* (3) work for or represent anyone "for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative proposal."[75] In short, a Member may not take advantage of his or her status as a former Member to lobby current Members on the House floor (that is, those areas restricted to the public). Unlike the post-employment restrictions, this rule has no time limit.[76]

In addition, a resolution adopted at the start of the 111th Congress provides that former Member and officers, as well as their spouses, who are registered federal lobbyists or agents of a foreign principal are also prohibited from access "to any exercise facility which is made available exclusively to Members and former Members, officers and former officers" during the 111th Congress.[77]

FINANCIAL DISCLOSURE REQUIREMENTS FOLLOWING DEPARTURE FROM HOUSE EMPLOYMENT

A departing Member of Congress must file a final Financial Disclosure Statement, called a "termination report," within 30 days of leaving office.[78] Extensions of up to 90 days are available upon written request to the Committee when made prior to the original due date.[79]

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[74] 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.

[75] House Rule 4, cl. 4(a).

[76] Departing Members may also wish to review a memorandum issued by the Congressional Research Service, *Selected Privileges and Courtesies Extended to Former Members of Congress*, Report No. R41121.

[77] H. Res. 5 § 3(c)(1) (adopted Jan. 6, 2009).

[78] 5 U.S.C. app. 4 § 101(e).

[79] *Id.* § 101(g); Comm. on Standards of Official Conduct, *Instruction Guide for Completing Calendar Year 2009 Financial Disclosure Statement Form A* (*2009 Form A FD Instructions*) at 3.

The termination report, filed on the same form as the annual report, covers all financial activity through the end of the Member's term.[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 Member accepts a future position while still on the House payroll, the Member will have to disclose the agreement on the Member'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 Member will also have to disclose, on Schedule VII of the report, any travel reimbursements exceeding $335 received from any source in connection with job-search activity.[83]

However, a departing Member who, prior to thirty days after leaving office, has accepted another federal position requiring the filing of a *public* financial disclosure statement need not file a Termination Report.[84] Any departing Member who is not require to file a termination report for this reason must notify the Clerk *in writing* of that fact.[85]

USE OF EXCESS CAMPAIGN FUNDS

Members are prohibited by House rules from converting campaign funds to personal use.[86] Federal election law, as implemented by a set of regulations issued by the Federal Election Commission (FEC), bans the use of excess campaign funds for personal purposes by anyone, incumbents and non-incumbents alike.[87] All campaign resources (including equipment, furniture, and vehicles) are subject to the same restrictions.[88] A Member may not keep campaign property upon retirement from Congress unless he or she pays the campaign fair market value.[89] In valuing the property, the Member may take into account the fact that it has been used.[90]

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[80] *Id.* § 101(e). For Members who serve out their full term, this date will be January 3; Members who retire earlier than the end of the term will have different end date.

[81] *Id.* § 102(a)(7).

[82] *See id.*; *see also 2009 Form A FD Instructions, supra* note 79, at 23.

[83] 5 U.S.C. app. 4 § 102(a)(2)(B). Such travel must be disclosed on the Member's Financial Disclosure Statement even if the Member ultimately remains in Congress rather than accepting private employment.

[84] *Id.* § 101(e).

[85] *See 2009 Form A FD Instructions, supra* note 79, at 2.

[86] House Rule 23, cl. 8.

[87] 2 U.S.C. § 439a(b)(1); 11 C.F.R. § 113.2(e).

[88] *See generally* 2 U.S.C. § 439a(b)(1); 11 C.F.R. § 113.1.

[89] 11 C.F.R. §§ 113.1(g)(3) and 113.2(e).

[90] 11 C.F.R. § 113.1(g)(3).

Example 9. Member *J* would like to keep the car owned by his campaign when he retires. If he pays the campaign the car's fair market value, *J* may do so.

As to excess campaign funds, among the permissible uses under statutory law are donation to charities described in § 170(c) of the Internal Revenue Code,[91] and contribution to any national, state, or local committee of a political party.[92] A former Member may use campaign funds to defray the costs of winding down his or her congressional office for a period of up to six months after leaving office.[93] In addition, both the FEC and the Standards Committee have ruled that a retiring Member may use campaign funds to pay the expenses of moving both congressional office furnishings and personal household furnishings and effects back to the Member's home state.[94] A retiring Member should consult with FEC staff on the specifics of statutory law and FEC rules on the use or disposition of excess campaign funds, including with regard to maintaining those funds for use in a future campaign, or making donations to other candidates.

OUTSIDE EMPLOYMENT AND EARNED INCOME RESTRICTIONS

All departing Members remain subject to all House rules, including the gift rule and the limitations on outside employment and earned income,[95] even after adjournment *sine die*, until the end of their term, unless they elect to resign earlier. These rules are particularly important to bear in mind for a departing Member whose prospective employer suggests that the Member start work prior to leaving office. In calendar year 2010, a Member 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.[96] Regardless of whether compensation is received, a Member may not allow his or her name to be used by an organization that provides fiduciary services. In addition, a Member may not receive any honoraria (*i.e.*, a payment for a speech, article or appearance),[97] although he or she may receive compensation for teaching, if the Member first secures specific prior permission from this Committee.[98]

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[91] 2 U.S.C. § 439a(a)(3); 11 C.F.R. § 113.2(b); *see also* 11 C.F.R. § 113.1(g)(2).

[92] 2 U.S.C. § 439a(a)(4) ; 11 C.F.R. § 113.2(c).

[93] 11 C.F.R. § 113.2(a)(2).

[94] FEC Advisory Opinion 1996-14 (available on the FEC Web site, www.fec.gov); *2008 House Ethics Manual* at 162.

[95] House Rule 25, cl. 1-5. The outside employment and earned income limitations are also codified at 5 U.S.C. app. 4 §§ 501-502.

[96] House Rule 25, cl. 1-4; *see also* 5 U.S.C. app. 4 §§ 501-502.

[97] House Rule 23, cl. 5; House Rule 25, cl. 1(a)(2).

[98] House Rule 25, cl. 2(e).

Example 10. Member *K* plans to join a law firm when she leaves office. Since this is a firm providing professional services of a fiduciary nature, *K* may not commence employment with the firm until the new Congress is sworn in, unless she resigns early.

TRAVEL

Several rules may affect a departing Member's travel decisions. House rules prohibit the use of committee funds and local currencies owned by the United States to pay for travel by a Member: (1) after the date of a general election in which he or she was not elected to the succeeding Congress; or (2) in the case of a Member who is not a candidate in a general election, after the **earlier** of the date of the general election or adjournment *sine die* of Congress.[99]

With regard to privately funded travel that is factfinding in nature, because the gift rule requires that such travel be related to official duties,[100] it is questionable whether a Member may accept an invitation for a such travel that would take place after the adjournment *sine die* of the House. As of that time, the official responsibilities that may justify acceptance of travel expenses for such a purpose will practically have come to an end. However, this consideration does not limit the ability of a departing Member to accept travel expenses from a private source for the purpose of enabling the Member to participate substantially in an officially-related event, such as to give a speech.

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Any questions on these matters should be directed to the Committee's Office of Advice and Education at (202) 225-7103.

[99] House Rule 24, cl. 10.

[100] House Rule 25, cl. 5(b)(1)(A); *see also* House Rule 25, cl. 5(b)(3)(G).

APPENDIX II

RULES

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

111th Congress
Adopted February 10, 2009

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

ZOE LOFGREN, California, *Chair*
BEN CHANDLER, Kentucky
G.K. BUTTERFIELD, North Carolina
KATHY CASTOR, Florida
PETER WELCH, Vermont

JO BONNER, Alabama, *Ranking Republican Member*
J. GRESHAM BARRETT, South Carolina
JOHN KLINE, Minnesota
MICHAEL CONAWAY, Texas
CHARLES DENT, Pennsylvania

Kenyen R. Brown, *Acting Chief Counsel/Staff Director*

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RULES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

FOREWORD

The Committee on Standards of Official Conduct 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, 111th 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 Standards of Official Conduct.

(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) "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.

(e) "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.

(f) "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.

(g) "Sanction Hearing" means a Committee hearing to determine what sanction, if any, to adopt or to recommend to the House of Representatives.

(h) "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.

(i) "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.

(j) "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; 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) 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.

(g) Where a request is unclear or incomplete, the Office of Advice and Education may seek additional information from the requester.

(h) 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(l), 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.

(i) The Committee shall keep confidential any request for advice from a Member, officer, or employee, as well as any response thereto.

(j) 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.

(k) 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.

(l) 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.

(m) 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.

(n) 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) 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.

(d) 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.

(e) 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.

(f) Any late report that is submitted without a required filing fee shall be deemed procedurally deficient and not properly filed.

(g) 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.

(h) 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.

(i) 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.

(j) Each Financial Disclosure Statement shall be reviewed within 60 days after the date of filing.

(k) 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.

(l) Within the time specified, including any extension granted in accordance with clause (c), 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.

(m) 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.

(n) Within the time specified, including any extension granted in accordance with clause (c), 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.

(o) The Committee shall be the final arbiter of whether any Statement requires clarification or amendment.

(p) 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 or hearing 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 Standards of Official Conduct, 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.

(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) 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, or if a member is disqualified pursuant to Rule 17(e) or Rule 23(a), 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) No witness shall be required against the witness' will to be photographed or otherwise to have a graphic reproduction of the witness' image made at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any witness, all media microphones shall be turned off, all television and camera lenses shall be covered, and the making of a graphic reproduction at the hearing shall not be permitted. This paragraph supplements clause 2(k)(5) of Rule XI of the Rules of the House of Representatives relating to the protection of the rights of witnesses.

(c) 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.

(d) 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.

(e) 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, establishes an investigative subcommittee;

(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

(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 pertinent 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.

(e) 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.

Rule 18. Committee-Initiated Inquiry

(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.

(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 inquiry 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) 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.

Rule 19. Investigative Subcommittee

(a) 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.

(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 pertinency 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 investigation.

(e) Upon completion of the investigation, 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.

(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 pertinency 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 pertinent 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 pertinent 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 STANDARDS OF OFFICIAL CONDUCT

Adopted February 10, 2009
Amended June 9, 2009
111th Congress

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

COMMITTEE ON STANDARDS
OF OFFICIAL CONDUCT

UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

ZOE LOFGREN, California, Chair
BEN CHANDLER, Kentucky
G.K. BUTTERFIELD, North Carolina
KATHY CASTOR, Florida
PETER WELCH, Vermont

JO BONNER, Alabama, Ranking Republican Member
J. GRESHAM BARRETT, South Carolina
JOHN KLINE, Minnesota
MICHAEL CONAWAY, Texas
CHARLES DENT, Pennsylvania

R. Blake Chisam, *Chief Counsel/Staff Director*

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STANDARDS OF OFFICIAL CONDUCT

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FOREWORD

The Committee on Standards of Official Conduct 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, 111th 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 Standards of Official Conduct.

(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 Standards of Official Conduct, 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(q) 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 IV

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

February 10, 2009

Today the Committee voted to re-authorize an investigative subcommittee for the 111th Congress that had been previously authorized during the 110th Congress for the matter involving Representative Charles B. Rangel.

Representative Gene Green will serve as Chair of the investigative subcommittee, and Representative Jo Bonner will serve will serve as Ranking Republican Member. The other two members of the subcommittee are Representative Robert C. Scott and Representative Doc Hastings.

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U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

April 2, 2009

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

In accordance with H. Res. 451, adopted on June 5, 2007, and extended in the 111th Congress by H. Res. 5, Section 4(e), the Committee on Standards of Official Conduct submited the following report to the House of Representatives:

"On April 2, 2009, the Committee convened for the purpose of considering the citation issued to Representative Zack Space March 28, 2009 in Washington County, Ohio for the minor misdemeanor charge of operating a motor vehicle with an expired license. The Committee voted against empanelling an investigative subcommittee regarding this matter. The Committee found the conduct to be minor, and that Representative Space has publicly acknowledged the violation and paid the associated fine. As such, the Committee concluded the violation to be a *de minimis* (minor) matter for which review by an Investigative Subcommittee is not required."

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ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

REPORT OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

MAY 19, 2009

In accordance with H. Res. 451, adopted on June 5, 2007, and extended in the 111th Congress by H. Res. 5, Section 4(e), the Committee on Standards of Official Conduct hereby submits the following Report to the House of Representatives:

On May 19, 2009, the Committee convened for the purpose of considering the protest arrests on April 27, 2009 of five Members of the House outside the Embassy of Sudan in Washington, D.C. The five Members arrested were Representative Keith Ellison, Representative Lynn C. Woolsey, Representative John Lewis, Representative James P. McGovern, and Representative Donna F. Edwards. Each of the Members paid a $100 fine for crossing a police line. The fines were paid on the same date as the arrests, and the local proceedings related to the arrests of the five Members are now resolved.

The Committee voted against empanelling an investigative subcommittee regarding this matter. The Committee considered the scope and nature of the conduct of the Members and determined that review by an investigate subcommittee is not required in this matter.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

Statement of the Chair and Ranking Republican Member of the Committee on Standards of Official Conduct

May 19, 2009

Today, the Committee transmitted the attached Report to the House regarding five Members of the House who were arrested on April 27, 2009, during a protest outside of the Embassy of Sudan in Washington, D.C.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

SUITE HT-2, THE CAPITOL
(202) 225-7103

June 11, 2009

FOR IMMEDIATE RELEASE

Rep. Zoe Lofgren, Chair of the Committee on Standards of Official Conduct, and Rep. Jo Bonner, Ranking Republican Member of the Committee, today issued the following statement:

> "On June 3, 2009, the House referred H. Res. 500 to the Committee for its consideration. We acknowledge the referral of H. Res. 500. Prior to the House referral of the resolution to the Committee, the Chair and Ranking Republican Member of the Committee, acting jointly pursuant to Committee Rule 18(a), had previously authorized a review of certain, specified allegations within the Committee's jurisdiction that relate to the subject of this resolution. Pursuant to this authority, the Committee is continuing to review these matters. As appropriate and where permitted by House and Committee rules, the Committee may release future statements regarding these matters."

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ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

June 24, 2009

FOR IMMEDIATE RELEASE

On June 24, 2009, the Committee adopted a resolution establishing an investigative subcommittee to investigate officially-connected travel in 2007 and 2008 that was sponsored, funded, or organized by an organization known as Carib News or Carib News Foundation. This Committee-initiated action follows the discretionary review of allegations undertaken by the Chair and Ranking Republican Member of the Committee in accordance with House and Committee rules and precedent.

The subcommittee will have jurisdiction to conduct a full and complete inquiry into allegations that have arisen regarding the sponsorship of the travel in 2007 and 2008. At the conclusion of its inquiry, the subcommittee is to report its findings, conclusions and recommendations to the full Committee.

Members who participated in the trips include Representative Carolyn C. Kilpatrick, Representative Donald M. Payne, Representative Bennie G. Thompson, Representative Charles B. Rangel, and Delegate Donna M. Christensen. The rules potentially implicated include the House gift rule (House Rule 25, clause 5), and other rules and laws, regulations, or other standards of conduct applicable to the conduct of Members, Delegates, or Employees of the House in the performance of their duties or the discharge of their responsibilities.

Representative G.K. Butterfield will serve as Chair of the investigative subcommittee, and Representative J. Gresham Barrett will serve as Ranking Republican Member. The other two members of the subcommittee are Representative Brad Miller and Representative Michael K. Simpson. No other public comment will be made on this matter except in accordance with Committee rules.

###

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

SUITE HT-2, THE CAPITOL
(202) 225-7103

STATEMENT OF THE CHAIRWOMAN AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE JESSE JACKSON, JR.

September 15, 2009

FOR IMMEDIATE RELEASE

Pursuant to Committee Rule 18, the Committee on Standards of Official Conduct has been investigating whether Representative Jesse Jackson Jr., 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.

During the course of the Committee's investigation, the Committee received a referral from the Office of Congressional Ethics regarding this same matter. The Committee has also been in communication with the Department of Justice relating to the criminal indictment against Rod Blagojevich and investigation into the facts surrounding Rod Blagojevich's consideration of multiple candidates to fill the vacant Senate seat.

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.

The Committee will continue to monitor the situation and will consider pursuing avenues of inquiry that it concludes do not interfere with the activities of the Department of Justice. At least annually, the Committee will make a public statement if it continues to defer taking action on the matter. The Committee reserves the right to assert its jurisdiction if, in its determination, a violation of House rules, code, or other laws under its jurisdiction are discovered that will not interfere with the Department of Justice's activities.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

SUITE HT-2, THE CAPITOL
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STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE SAM GRAVES

September 15, 2009

FOR IMMEDIATE RELEASE

The Committee on Standards of Official Conduct voted unanimously on September 15, 2009, to extend the matter regarding Representative Sam Graves, which was referred to this Committee from the Office of Congressional Ethics, for a 45-day period pursuant to Rules 17A(b)(1)(B) and 17A(3)(c).

The Committee has voted to extend the matter for two reasons. First, the Office of Congressional Ethics did not find a "substantial reason to believe" that there was a substantive violation of any provision of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to Representative Graves' conduct in the performance of his duties or the discharge of his responsibilities. Nevertheless, it referred the matter to the Committee for further review. Second, the Committee has identified materials in the Office of Congressional Ethics' report and findings that may contain exculpatory evidence, which OCE never provided to Representative Graves. The Committee has voted unanimously to extend this matter to provide Representative Graves with potentially exculpatory materials, which the Committee understands, in the interests of justice, should have been provided to Representative Graves pursuant to Office of Congressional Ethics Rule 4(F). Additionally, Committee Rule 25 requires us to disclose these materials to Representative Graves.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE MAXINE WATERS

September 15, 2009

FOR IMMEDIATE RELEASE

The Committee on Standards of Official Conduct has voted unanimously to extend the matter regarding Representative Maxine Waters, which was referred to this Committee from the Office of Congressional Ethics, for a 45-day period pursuant to Rules 17A(b)(1)(B) and 17A(b)(3)(c). Before or by the end of this 45-day period, the Committee will announce its course of action in this matter.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

October 8, 2009

The Committee on Standards of Official Conduct voted unanimously on October 8, 2009, to expand the jurisdiction of the investigative subcommittee's inquiry regarding the Matter of Representative Charles B. Rangel to determine if Representative Rangel violated the Code of Official Conduct or any law, rule, regulation or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities with respect to all Financial Disclosure Statements and all amendments filed in calendar year 2009 by or on behalf of Representative Charles B. Rangel pursuant to Title I of the Ethics in Government Act.

The investigative subcommittee has collaborated in a bipartisan manner in the performance of its duties and obligations. To that end, the investigative subcommittee to date has: authorized the issuance of close to 150 subpoenas; interviewed approximately 34 witnesses resulting in over 2,100 pages of transcripts; reviewed and analyzed over 12,000 pages of documents; and held over 30 investigative subcommittee meetings.

The Committee's confidentiality rules restrict the disclosure of information under consideration by the investigative subcommittee, and we therefore will not comment further on this matter at this time.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE LAURA RICHARDSON

October 29, 2009

FOR IMMEDIATE RELEASE

In accordance with Clause 3 of House Rule XI and Rules 14(a)(3) and 18 of the Committee on Standards of Official Conduct, which authorize the Committee to establish an investigative subcommittee of its own initiative, the Committee has unanimously voted to establish an investigative subcommittee to conduct an inquiry regarding Representative Laura Richardson.

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(q) 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.

Based on the Committee's initial investigation and review of OCE's report and findings, the Committee exercised its authority under House and Committee rules to empanel an investigative subcommittee to obtain and review additional evidence necessary to make a determination as to whether Representative Richardson violated House Rules or any applicable statutes.

Pursuant to the Committee's action, the investigative subcommittee shall have jurisdiction to determine whether Representative Laura Richardson violated House Rules, the Code of Official Conduct or the Ethics in Government Act by failing to disclose certain real property, income and liabilities on her financial disclosure forms (and amendments thereto) and whether Representative Richardson received an impermissible "gift" or received preferential treatment from her lender relating to the foreclosure, rescission of the foreclosure sale or loan modification agreement for or relating to her property in Sacramento, California.

Representative Ben Chandler will serve as Chair of the investigative subcommittee, and Representative Gregg Harper will serve as its Ranking Republican Member. The other two members of the subcommittee are Representative Keith Ellison and Representative Sue Myrick.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE MAXINE WATERS

October 29, 2009

FOR IMMEDIATE RELEASE

In accordance with Clause 3 of House Rule XI and Rules 14(a)(3) and 18 of the Committee on Standards of Official Conduct, which authorize the Committee to establish an investigative subcommittee of its own initiative, the Committee has unanimously voted to establish an investigative subcommittee to conduct an inquiry regarding Representative Maxine Waters.

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(q) 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.

Based on the Committee's initial investigation and review of OCE's report and findings, the Committee exercised its authority under House and Committee rules to empanel an investigative subcommittee to obtain and review additional evidence necessary to make a determination as to whether Representative Waters violated House Rules or any applicable statutes.

Pursuant to the Committee's action, the investigative subcommittee shall have jurisdiction to determine whether Representative Maxine Waters violated the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to her conduct in the performance of her duties or the discharge of her responsibilities, with respect to Representative Waters' alleged communications and activities with, or on behalf of, the National Bankers Association or OneUnited Bank, a bank in which Representatives Waters' husband owned stock and previously served on the board of directors, and the benefit, if any, Representative Waters or her husband received as a result.

Representative Kathy Castor will serve as Chair of the investigative subcommittee, and Representative Mike Conaway will serve as its Ranking Republican Member. The other two members of the subcommittee are Representative Emanuel Cleaver and Representative Marsha Blackburn.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING ITS REPORT IN THE MATTER OF REPRESENTATIVE SAM GRAVES

October 29, 2009

FOR IMMEDIATE RELEASE

Pursuant to Committee Rules 7(d) and 7(g), the Committee on Standards of Official Conduct (Standards Committee) determined on October 29, 2009, to release the following statement:

The Standards Committee unanimously voted today to release a public Report finding that Representative Sam Graves did not violate any provision of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities with respect to an invitation extended to testify before a Committee on Small Business hearing on issues facing the renewable fuels industry to Mr. Brooks Hurst, who held investments in the same renewable fuel cooperatives as Representative Graves' wife. The Committee considers the matter closed and no further inquiry is warranted.

In accordance with Clause 3 of House Rule XI and Rules 14(a)(3) and 18 of the Committee on Standards of Official Conduct, the Standards Committee unanimously voted to issue the attached Report to the House. The Report follows the receipt of materials forwarded to the Standards Committee by the Office of Congressional Ethics (OCE) and addresses the findings and conclusions of the Standards Committee with regard to the conduct of Representative Graves. OCE's Report and Findings are contained within the Standards Committee's Report as is Representative Graves' response.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE FORTNEY "PETE" STARK

December 24, 2009

FOR IMMEDIATE RELEASE

The Chair and Ranking Republican Member of the Committee on Standards of Official Conduct (the Committee) have jointly decided to extend a matter regarding Representative Pete Stark, which was transmitted to the Committee by the Office of Congressional Ethics, for a 45-day period pursuant to House Rule XI, Clause 3(a)(8)(A), and Committee Rules 17A(b)(1) and 17A(c)(1). The Office of Congressional Ethics forwarded a matter regarding Representative Stark to the Committee on November 12, 2009. The Committee will announce its course of action in this matter on or before February 10, 2010.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE PETER VISCLOSKY

January 15, 2010

FOR IMMEDIATE RELEASE

Pursuant to House Rule XI, Clause 3(a)(8)(A), and Committee Rules 17A(b)(1) and 17A(c)(1), the Chair and Ranking Republican Member of the Committee on Standards of Official Conduct (the Committee) are extending the matter regarding Representative Peter Visclosky, which was transmitted to the Committee by the Office of Congressional Ethics on December 2, 2009. The Committee will announce its course of action in this matter forwarded to the Committee by the Office of Congressional Ethics on or before March 2, 2010.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE TODD TIAHRT

January 15, 2010

FOR IMMEDIATE RELEASE

Pursuant to House Rule XI, Clause 3(a)(8)(A), and Committee Rules 17A(b)(1) and 17A(c)(1), the Chair and Ranking Republican Member of the Committee on Standards of Official Conduct (the Committee) are extending the matter regarding Representative Todd Tiahrt, which was transmitted to the Committee by the Office of Congressional Ethics on December 2, 2009. The Committee will announce its course of action in this matter forwarded to the Committee by the Office of Congressional Ethics on or before March 2, 2010.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

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STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING ITS REPORT IN THE MATTER OF REPRESENTATIVE FORTNEY "PETE" STARK

January 28, 2010

FOR IMMEDIATE RELEASE

Pursuant to Committee Rules 7(g), the Committee on Standards of Official Conduct (Standards Committee) determined to release the following statement:

The Standards Committee has unanimously voted to release a public Report finding that Representative Pete Stark did not violate any provision of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities relating to a state law requirement that all Maryland homeowners submit a one-time application to verify eligibility for a property tax credit called the Homestead Tax Credit. The Committee finds that no further action in this matter is warranted. The matter is dismissed and the Committee considers it closed.

In accordance with clauses 3(a)(2) and 3(b) of House Rule XI, and Standards Committee Rule 10(a)(7), the Standards Committee unanimously agreed to issue the attached Report to the House. The Report follows the receipt of materials forwarded to the Standards Committee by the Office of Congressional Ethics (OCE) and addresses the findings and conclusions of the Standards Committee with regard to the conduct of Representative Stark. OCE's Report and Findings and Representative Stark's Response are contained within the Standards Committee's Report.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING ITS REPORT IN THE MATTER OF ALLEGATIONS RELATING TO THE LOBBYING ACTIVITIES OF PAUL MAGLIOCCHETTI AND ASSOCIATES GROUP, INC. (PMA)

February 26, 2010

FOR IMMEDIATE RELEASE

Pursuant to Committee Rule 7(g), the Committee on Standards of Official Conduct (Standards Committee) determined to release the following statement:

The Standards Committee has unanimously voted to release a public Report finding that, based upon the totality of current information gathered during the past nine months, no House Member or employee violated any provision of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to his or her conduct in the performance of his or her duties or the discharge of his or her responsibilities relating to proposed appropriations requests and activities of the former lobbying group, Paul Magliocchetti and Associates Group, Inc., known as PMA.

The Standards Committee's staff reviewed close to one-quarter of a million pages of documents. The investigation covered more than 40 companies with ties to PMA and more than 25 Member offices. It involved interviews with CEOs of companies, and chiefs of staff and military legislative aides to Members, among other staffers.

Accordingly, the Standards Committee hereby closes its investigation in the above-captioned matter, which includes the dismissal of seven separate matters that the Office of Congressional Ethics (OCE) forwarded to the Standards Committee. Each of those matters concerned allegations related to the activities of PMA. OCE's Board recommended dismissal in five matters. Those matters involved Representatives Norman Dicks, Marcy Kaptur, James Moran, John Murtha, and C.W. Bill Young. In the other two matters, which concerned Representatives Todd Tiahrt and Peter Visclosky, OCE's Board recommended that the Standards Committee further review OCE's allegations.

In accordance with clauses 3(a)(2) and 3(b) of House Rule XI, and Standards Committee Rule 10(a)(7), the Standards Committee unanimously agreed to issue the attached Report to the House. The Report addresses the findings and conclusions of the Standards Committee with regard to the conduct of Members and their staff based upon the current information before the Committee. OCE's reports and findings for each of the seven separate matters are contained within the Standards Committee's Report.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING ITS REPORT IN THE MATTER OF THE CARIB NEWS FOUNDATION MULTI-NATIONAL BUSINESS CONFERENCES IN 2007 AND 2008

February 26, 2010

FOR IMMEDIATE RELEASE

Pursuant to Committee Rule 7(g), the Committee on Standards of Official Conduct (Standards Committee) determined on February 25, 2010, to release the following statement:

Pursuant to Rule 18, in 2009 the Committee, on its own initiative, began investigating officially-connected travel in 2007 and 2008 that was sponsored, funded, or organized by organizations known as Carib News or Carib News Foundation. The travel involved in the investigation concerned the Carib News Foundation Multi-National Business Conferences, which were held in Antigua and Barbuda in November 2007 and St. Maarten in November 2008. During the course of the Committee's independent investigation, the Committee received referrals naming particular Members from the Office of Congressional Ethics (OCE) regarding this matter. On June 24, 2009, in accordance with clause 3 of House Rule XI and Committee Rules 14(a)(3) and 18, the Committee voted unanimously to establish an Investigative Subcommittee to conduct an inquiry regarding allegations that have arisen regarding sponsorship of travel relating to six Members.

The Investigative Subcommittee conducted a thorough eight-month investigation. The Investigative Subcommittee authorized the issuance of six subpoenas; interviewed 29 witnesses; reviewed and analyzed over 3,000 pages of documents; and held over 19 Investigative Subcommittee meetings. The members of the Subcommittee voted unanimously to adopt the report which was presented to the Committee.

Following the conclusion of the Subcommittee's investigation and report to the full Committee, the Standards Committee has unanimously voted to release a public Report finding that Representatives Bennie Thompson, Yvette Clarke, Donald Payne, Carolyn Cheeks Kilpatrick, and Delegate Donna Christensen did not knowingly violate any provision of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to each

individual's conduct in the performance of his or her duties or the discharge of his or her responsibilities with respect to the acceptance of payment or reimbursement for travel to either or both of the Carib News Foundation Multi-National Business conferences held in 2007 and 2008. These Members properly relied on the information provided to them by the officers and employees of Carib News and the Carib News Foundation, in seeking and receiving pre-trip approval from the Committee to accept these trips.

The Investigative Subcommittee found that these Members did not violate any House rule, regulation, law, or other standard of conduct. Only after the initiation of the Subcommittee's investigation was it learned that payments were made for their travel that were impermissible. Unfortunately, because false and misleading information was provided to the Committee, the Members inadvertently received impermissible gifts of travel that require repayment for the costs of their trips.

Although the Committee had approved the Members' travel, that approval was conditional upon the information provided to the Committee being true and correct. That was not the case. Since the Members were provided false information by others, and relied upon that information in seeking approval to accept the trips, the Committee concludes that the Members committed no wrongdoing. Nevertheless, since the Members did, in fact, receive impermissible gifts of travel, they must repay the costs of their trips to the respective entities that paid for their travel. Because some portions of transportation costs were paid by Carib News out of funds the actual source of which could not be determined, the Committee will require those funds to be paid to the U.S. Treasury.

The Report further finds that Representative Charles B. Rangel violated the House gift rule by accepting payment or reimbursement for travel to the 2007 and 2008 conferences. The evidence shows that members of Representative Rangel's staff knew that corporations had contributed funds to Carib News specifically for the 2007 and 2008 conferences. This information was not provided to the Standards Committee when he sought and received approval from the Committee to accept these trips. The Committee does not find sufficient evidence to conclude, nor does it believe that it would discover additional evidence to alter its conclusion, that Representative Rangel had actual knowledge of the memoranda written by his staff. However, the report finds that Representative Rangel was responsible for the knowledge and actions of his staff in the performance of their official duties. It is the intention of the Committee that publication of this Report will serve as a public admonishment by the Standards Committee of Representative Rangel. The Committee will also require Representative Rangel to repay the costs of the trips to the respective entities that paid for his travel. Because some portions of his transportation costs were paid by Carib News out of funds the actual source of which could not be determined, the Committee will require those funds to be paid to the U.S. Treasury.

The Report further finds that Dawn Kelly Mobley, then designated counsel to the former Chair of the Standards Committee, improperly communicated confidential internal Committee information to officers and employees of Carib News, Karl Rodney and Patricia Louis, and that she improperly influenced the information provided by Karl Rodney and Patricia Louis to Standards Committee staff during the Committee's review of the 2007 Multi-National Business

Conference. It is the intention of the Committee that publication of this Report will serve as a public admonishment by the Standards Committee of Ms. Mobley.

Finally, the Report finds that officers and employees of Carib News and the Carib News Foundation – Karl Rodney, Faye Rodney, and Patricia Louis – submitted false or misleading information to the Committee during its pre-travel review of the 2007 and 2008 conferences and again when providing sworn testimony to the Investigative Subcommittee. The Committee unanimously voted to refer the conduct of these officers and employees of Carib News and the Carib News Foundation to the United States Department of Justice for further action as it deems appropriate.

In accordance with clauses 3(a)(2) and 3(b) of House Rule XI, and Standards Committee Rule 10(a)(7), the Standards Committee unanimously agreed to issue the attached Report to the House. The Report follows the receipt of materials forwarded to the Standards Committee by the Office of Congressional Ethics (OCE) and addresses the findings and conclusions of the Standards Committee with regard to the conduct of Representatives Thompson, Payne, Kilpatrick, Clarke, Rangel, and Delegate Christensen. OCE's Report and Findings for each member are contained within the Standards Committee's Report.

The Standards Committee thanks the members of the Investigative Subcommittee for their hard work, dedication, and service to the Committee and to the House. Representative G.K. Butterfield served as Chair of the Investigative Subcommittee. Representative Charles W. Dent served as Ranking Republican Member. Representatives Brad Miller and Michael K. Simpson also served on the Subcommittee. In addition, Representative J. Gresham Barrett initially served as Ranking Republican Member before resigning his position on the Standards Committee, at which time Representative Dent was selected as Ranking Republican Member. Each of these members devoted substantial time and effort to this investigation, and the Committee thanks each of them for their service.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING THE INVESTIGATION OF ALLEGATIONS INVOLVING REPRESENTATIVE ERIC MASSA

March 4, 2010

FOR IMMEDIATE RELEASE

Pursuant to Committee Rule 7(g), the Committee on Standards of Official Conduct (Standards Committee) agreed to issue the following statement:

The Committee, pursuant to Rule 18(a), is investigating and gathering additional information concerning matters related to allegations involving Representative Eric Massa.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

SUITE HT–2, THE CAPITOL
(202) 225–7103

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

APRIL 21, 2010

FOR IMMEDIATE RELEASE

The Committee on Standards of Official Conduct (the Committee), pursuant to Committee Rule 18(a), has been investigating and gathering additional information concerning matters related to allegations involving former Representative Eric Massa.

The allegations surrounding former Representative Massa are serious and warrant a full and complete investigation. In accordance with Clause 3 of House Rule XI and Committee Rules 14(a)(3) and 18, the Committee has unanimously voted to establish an investigative subcommittee to conduct a full and complete inquiry into whether the conduct of any Member, officer, or employee of the House violated any law, rule, regulation, or other standard of conduct applicable to the performance of their duties with respect to the allegations of misconduct involving former Representative Massa.

The Committee resolution establishing the investigative subcommittee is attached.

Chair Zoe Lofgren and Ranking Republican Member Jo Bonner will lead the subcommittee. The next most senior members of the Committee, Representative Ben Chandler and Representative Mike Conaway, will also serve on the subcommittee.

RESOLUTION

WHEREAS pursuant to Committee Rule 18(a) the Chair and Ranking Republican Member of the Standards Committee have been jointly engaged in an investigation concerning alleged or actual misconduct on the part of former Representative Eric Massa including actions that were offensive, inappropriate, created a hostile work environment, or were otherwise in violation of laws, rules, regulations or other standards of conduct;

WHEREAS Members, officers, or employees of the House of Representatives had or may have had personal knowledge, or were or may have been made aware by or through other persons, of such alleged or actual conduct on the part of former Representative Eric Massa that was in violation of laws, rules, regulations or other standards of conduct applicable to his conduct in the performance of his duties;

WHEREAS Members, officers or employees of the House of Representatives may have failed to properly report or fully disclose allegations of such misconduct;

WHEREAS Members, officers or employees of the House of Representatives who learned of such alleged misconduct may have had a duty to pursue or call attention to such allegations of misconduct;

WHEREAS monies or other payments may have been misappropriated, or otherwise fraudulently or improperly distributed or received in violation of laws, rules, regulations or other standards of conduct;

WHEREAS the conduct of a current or former Member, officer, or employee of the House, in connection with the aforementioned allegations, may have violated one or more laws, rules, regulations, or other standards of conduct applicable to the conduct of a Member, officer or employee of the House in the performance of the duties or the discharge of the responsibilities of such individual; and

WHEREAS the Standards Committee has the authority to empanel an investigative subcommittee regarding such conduct pursuant to House Rule XI, clauses 3(a)(2) and 3(b)(2), and pursuant to Committee Rules 14(a)(3) and 18; and

WHEREAS the Standards Committee has determined pursuant to Committee Rule 1(c) that the interests of justice require the adoption of special procedures in order for the Committee to carry out its investigative and enforcement responsibilities with respect to the aforementioned allegations;

It is HEREBY RESOLVED by the Committee

1. That an Investigative Subcommittee be established with jurisdiction to conduct a full and complete inquiry into whether the conduct of any Member, officer, or employee violated any law, rule, regulation or other standard of conduct applicable to the performance of their duties with respect to the allegations of misconduct recited above;
2. That the scope of the inquiry may extend to any matters related to the jurisdiction of the Investigative Subcommittee as set forth in this resolution;
3. That at the conclusion of the inquiry, the Investigative Subcommittee shall report to the Committee its findings, conclusions, and recommendations;
4. That Members of the Investigative Subcommittee shall be designated pursuant to Committee Rule 19(a);
5. That Committee Rules 7 (Confidentiality), 8(a) (Subcommittees – General Policy and Structure), 9 (Quorums and Members Disqualification), and 10 (Vote Requirements) are fully applicable to this inquiry by the Investigative Subcommittee;
6. That the Investigative Subcommittee is authorized to obtain evidence and relevant information by the means and in the manner set forth in Committee Rules 19(b) – (c), except as those rules apply to respondents;
7. That witnesses before the Investigative Subcommittee shall be provided with a copy of the special procedures for this inquiry (as set forth in this resolution), as well as accorded the rights set forth in Committee Rules 26(k) – (o);
8. That the Standards Committee intends that all witnesses who provide testimony before the Investigative Subcommittee should be sequestered and should not communicate with any other witnesses regarding any aspect of their testimony unless the Investigative Subcommittee permits otherwise;
9. That at any point during its inquiry, or at the conclusion of its inquiry, the jurisdiction of the Investigative Subcommittee may be expanded in accordance with the requirements of Committee Rule 19(d) if the Investigative Subcommittee obtains information indicating that a Member, officer, or employee of the House may have committed a violation of the any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his or her duties of the discharge of his or her responsibilities. If the scope of the jurisdiction of the Investigative Subcommittee is expanded to investigate the conduct of an identified Member, officer or employee of the House, the inquiry regarding the identified Member, officer, or employee shall proceed before the same Investigative Subcommittee and in accordance with all the Rules of the Committee regarding an inquiry involving a respondent; and
10. That except as otherwise provided in this Resolution, the Rules of the Committee shall be applicable in this matter and will be interpreted by the Investigative Subcommittee in a manner not inconsistent with this Resolution.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT TO THE HOUSE REGARDING H. RES. 1193, H. RES. 1220, H. RES. 1255, AND H. RES. 1287

HON. ZOE LOFGREN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, April 26, 2010

Ms. ZOE LOFGREN of California. Madam Speaker, I rise along with my colleague Congressman BONNER to provide, pursuant to Rule 7(g) of the Rules of the Committee on Standards of Official Conduct, a statement of the Chair and Ranking Republican Member regarding H. Res. 1193, H. Res. 1220, H. Res. 1255, and H. Res. 1287.

The House has referred H. Res. 1193, H. Res. 1220, H. Res. 1255, and H. Res. 1287 to the Committee for its consideration. We acknowledge the referral of those resolutions. If adopted, the resolutions would have required the Committee to report to the House regarding aspects of its investigation "In the Matter of Allegations Relating to the Lobbying Activities of Paul Magliocchetti and Associates Group, Inc. (PMA)." Although the resolutions were not adopted, we are responding to expand further upon the Committee's previous public statements regarding its investigation in this matter.

The outside Office of Congressional Ethics (OCE), after investigation, concluded that matters for five Members regarding the PMA matter should be dismissed. After review, the Committee concurred with the outside ethics office. The Committee concluded that the matters of two other Members should also be dismissed because the facts regarding those Members' actions were not different from those of the five Members for whom both the Committee and OCE concluded dismissal was appropriate. The Committee's action to date does not preclude future Committee action related to these matters should new information warranting action become available.

The Committee publicly released a 305-page report that discusses the scope of the Committee's work in the PMA matter, as well as the basis for the Committee's bipartisan and unanimous conclusions. This report is available to the House and the public on the Committee's Web site, at http://ethics.house.gov/. As noted in that report, the Committee's investigation during a nine-month period included extensive document reviews and interviews with numerous witnesses. As a result of its own investigation and OCE's seven separate reports and findings, the Committee – whose Members include equal numbers of Democrats and Republicans – unanimously determined that the evidence presently before the Committee merited dismissal of all seven matters.

The information reviewed by the Committee included statements from all seven Members. Summaries of interviews with five Members were included in OCE's findings, which the Committee chose to publish. Since the Committee agreed with OCE's recommendation that those five matters should be dismissed, the Committee was not required to publish any statement or OCE's reports and findings in those matters, but did so because of the unique circumstances of this matter and in the interests of public disclosure and transparency.

In addition, the Committee sought statements from Representatives Tiahrt and Visclosky to respond specifically to allegations about their conduct. Both Members provided the Committee with statements through counsel, and the Members certified under penalty of perjury to the truth of those statements. Both statements are available, in their entirety, in the Committee's public report. Based in part on those statements, the Committee found no evidence to conclude that the facts regarding Representatives Tiahrt and Visclosky differed substantially from the facts regarding the other five Members – for whom both the Committee and OCE recommended dismissal. Accordingly, the Committee concluded that the matters of the two other Members should also be dismissed.

In reaching its unanimous conclusion, the Committee relied not only on the findings provided by OCE, but its own investigation. During the course of its investigation in this matter, the Committee's staff reviewed close to one-quarter of a million pages of documents. The Committee investigation covered more than 40 companies with ties to PMA. OCE's findings included summaries of interviews with five Members' offices. The Committee investigation included interviews with 32 Members' offices. The Committee investigation involved interviews with chiefs of staff, military legislative aides, other Members' staff, and Appropriations Committee staff. In reaching its conclusions, the Committee relied on the totality of this large magnitude of information.

As in other investigations, although the Committee has discussed in general terms the scope of its investigation, it did not address more specific details of various investigative steps taken by the Committee. To do so would compromise the investigative capabilities of the Committee in this and future matters by chilling voluntary cooperation. Requiring the disclosure of the details of any investigative body's activities would damage its ability to conduct its activities. Ethics investigations, in particular, rely not only upon subpoenas, but upon voluntary cooperation. Success in such an investigation usually comes because people connected to the matter choose to cooperate with the investigators and volunteer information. In many cases,

their decision to cooperate is based, in part, on their belief that their identity or the details of their cooperation will not be publicly disclosed.

Moreover, disclosing specific investigative steps taken in the PMA matter could compromise any ongoing criminal investigations; harm the ability of the Committee to investigate any additional allegations of wrongdoing in this or related matters; discourage those who might bring credible allegations to the Committee in the future from doing so; and chill the voluntary cooperation of those called before the Committee in various investigations.

Prior to the House referral of the resolutions to the Committee, on February 26, 2010, the Committee unanimously voted to release a public report in the PMA matter. By a unanimous and bipartisan vote, the Committee concluded that, based upon the totality of current information gathered during a nine-month investigation, no House Member or employee violated provisions of the Code of Official Conduct or laws, rules, regulations, or other standards of conduct applicable to his or her conduct in the performance of his or her duties or the discharge of his or her responsibilities relating to proposed appropriations requests and activities of PMA.

In addition, we note that policy decisions – whether about the current appropriations process, including earmarks, or about the campaign finance system – are not within the jurisdiction of the Committee. Whether these policies should be changed is a subject that should be taken up in the appropriate venue.

The task before the Committee in the PMA matter was to determine whether House Members and staff complied with the current law and House rules. In a unanimous and bipartisan manner, the Committee concluded the evidence presently before the Committee merited dismissal of all seven matters. The Committee's action to date does not preclude future Committee action related to these matters should new information warranting action become available.

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ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

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STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING ITS REPORT IN THE MATTER OF REPRESENTATIVE LAURA RICHARDSON

July 1, 2010

FOR IMMEDIATE RELEASE

Pursuant to Committee Rules 7(d) and 7(g), the Committee on Standards of Official Conduct (Standards Committee) determined on June 30, 2010, to release the following statement:

Based on the findings and conclusions of the Investigative Subcommittee following a thorough seven-month investigation, the Standards Committee unanimously voted to dismiss its review of the allegations regarding Representative Richardson that were referred to the Standards Committee by the Office of Congressional Ethics (OCE). Representative Richardson did not knowingly accept a gift from Washington Mutual Bank (Washington Mutual) or violate any applicable standard of conduct in connection with the purchase of, foreclosure on, rescission of foreclosure sale for, or modification of loan terms for a residential property she owns in Sacramento, California. In addition, Representative Richardson did not violate the Ethics in Government Act (EIGA) in connection with her financial disclosure statements relating to her California properties.

On October 29, 2009, the Standards Committee, in accordance with clause 3 of House Rule XI and Standards Committee Rules 14(a)(6), 17A(f), and 19, unanimously voted to establish an investigative subcommittee to determine whether Representative Laura Richardson violated the Code of Official Conduct or any law, rule, regulation or other standard of conduct applicable to her conduct in the performance of her duties or the discharge of her responsibilities by failing to disclose certain real property, income and liabilities on her financial disclosure forms (and amendments thereto) and whether Representative Richardson received an impermissible "gift" or received preferential treatment from her lender relating to the foreclosure, rescission of the foreclosure sale, or loan modification agreement for or relating to her property in Sacramento, California. This followed a referral from the Office of Congressional Ethics (OCE) regarding this matter, which was forwarded to the Standards Committee on August 6, 2009. Prior to establishing the Investigative Subcommittee, the Standards Committee conducted an initial investigation into the matter pursuant to Standards

Committee Rule 18(a), during which the Standards Committee authorized the issuance of three subpoenas.

The Investigative Subcommittee conducted a thorough seven-month investigation. The Investigative Subcommittee authorized the issuance of fourteen subpoenas; interviewed seven witnesses; and reviewed approximately seven thousand pages of documents. The Investigative Subcommittee also hired an independent consultant with experience in the mortgage industry to advise the Investigative Subcommittee. At the conclusion of the Investigative Subcommittee's investigation, the independent mortgage consultant reviewed the documents collected by the Investigative Subcommittee and the transcripts of the Investigative Subcommittee's interviews. Based on his review of the documents and interview transcripts, the mortgage consultant advised the Investigative Subcommittee as to whether the actions of Washington Mutual, the bank that granted Representative Richardson the loan to purchase her Sacramento, California property, were commercially reasonable practices within the mortgage industry.

Following its investigation, the members of the Investigative Subcommittee voted unanimously to adopt a report finding that Representative Richardson did not knowingly accept a gift from Washington Mutual or violate any applicable standard of conduct in connection with the purchase of, foreclosure on, rescission of foreclosure sale for, or modification of loan terms for a residential property she owns in Sacramento, California. In addition, the Investigative Subcommittee found that Representative Richardson did not violate the Ethics in Government Act in connection with her financial disclosure statements relating to her California properties. The Investigative Subcommittee recommended that the Standards Committee refer the matter involving the mortgage broker used in connection with the purchase of Representative Richardson's Sacramento property, who during the course of the investigation admitted to knowingly submitting fraudulent information, without Representative Richardson's knowledge, to Washington Mutual in connection with her mortgage application, to the Justice Department for such action as the Department deems necessary and appropriate.

The Investigative Subcommittee presented its report to the Standards Committee. On June 30, 2010, in accordance with clause 3 of House Rule XI and Rules 19 and 21(a) of the Committee on Standards of Official Conduct, the Standards Committee unanimously voted to adopt the Report of the Investigative Subcommittee and to include that Report as part of the Standards Committee's Report to the House of Representatives on this matter. The Standards Committee also unanimously voted to refer the mortgage broker, Charles Thomas, to the Justice Department for further action as it deems necessary and appropriate. OCE's report and findings are contained within the Investigative Subcommittee's report.

The Standards Committee thanks the members of the Investigative Subcommittee for their hard work, dedication, and service to the Committee and to the House. Representative Ben Chandler served as Chair of the Investigative Subcommittee. Representative Gregg Harper served as Ranking Republican Member. Representatives Emmanuel Cleaver, II and Sue Myrick also served on the Subcommittee. Each of these members devoted substantial time and effort to the investigation, and the Committee thanks each of them for their service.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE CHARLES B. RANGEL

July 22, 2010

FOR IMMEDIATE RELEASE

On July 22, 2010, in accordance with Clause 3 of House Rule XI and Rules 22 and 23 of the Committee on Standards of Official Conduct, the investigative subcommittee in the matter of Representative Charles B. Rangel transmitted a Statement of Alleged Violation and related motions and replies to the Chair and Ranking Republican Member of the Committee.

Pursuant to Committee Rule 23(a), the Chair has designated members of the Committee to serve on an adjudicatory subcommittee to determine whether any counts in the Statement of Alleged Violation have been proved by clear and convincing evidence and to make findings of fact.

Chair Zoe Lofgren will act as Chair of the adjudicatory subcommittee and Representative Michael McCaul will act as Ranking Member of the adjudicatory subcommittee. Representatives G.K. Butterfield, Kathy Castor, Peter Welch, Mike Conaway, Charles Dent, and Gregg Harper will also serve on the subcommittee. Under Committee Rule 23(a) and House Rule 11, clause 3(m)(1)(B), members who served on the Rangel investigative subcommittee may not serve on the adjudicatory subcommittee. Under the rules, an equal number of Democrats and Republicans serve on adjudicatory subcommittees.

The adjudicatory subcommittee will hold an organizational meeting open to the public on Thursday, July 29, 2010, at 1:00 p.m. in 1310 Longworth House Office Building.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR

OF THE

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

REGARDING THE MATTER OF REPRESENTATIVE CHARLES B. RANGEL

July 27, 2010

FOR IMMEDIATE RELEASE

The location of the first public meeting of the Adjudicatory Subcommittee in *In the Matter of Representative Charles B. Rangel* has been changed. The organizational meeting will be held on Thursday, July 29, 2010, at 1:00 p.m. in the Capitol Visitor Center, Room HVC 210. This meeting will be open to the public. Media personnel interested in obtaining Capitol Hill press credentials may call:

- Radio/TV: 202-225-5214
- Daily Press: 202-225-3945
- Periodical Press: 202-225-2941
- Still Photographers: 202-224-6548

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ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE MAXINE WATERS

August 2, 2010

FOR IMMEDIATE RELEASE

Pursuant to Committee Rules 7(d) and 7(g), the Chair and Ranking Republican Member of the Committee on Standards of Official Conduct (Standards Committee) on August 2, 2010, released the following statement:

On July 28, 2010, in accordance with clause 3 of House Rule XI and Rules 22 and 23 of the Committee on Standards of Official Conduct, the investigative subcommittee in the matter of Representative Maxine Waters transmitted a Statement of Alleged Violation and related motions and replies to the Chair and Ranking Republican Member of the Committee.

Pursuant to Committee Rule 23(a), the Chair has designated members of the Standards Committee to serve on an adjudicatory subcommittee to determine whether any counts in the Statement of Alleged Violation have been proved by clear and convincing evidence and to make findings of fact.

Chair Zoe Lofgren will act as Chair of the adjudicatory subcommittee and Ranking Republican Member Jo Bonner will act as the Ranking Member of the adjudicatory subcommittee. Representatives Ben Chandler, G.K. Butterfield, Peter Welch, Charles Dent, Gregg Harper, and Michael McCaul will also serve on the adjudicatory subcommittee. Under Committee Rule 23(a) and House Rule XI, clause 3(m)(1)(B), members who served on the Waters investigative subcommittee may not serve on the adjudicatory subcommittee. Under the rules, an equal number of Democrats and Republicans serve on adjudicatory subcommittees.

The adjudicatory subcommittee will hold an organizational meeting at a time and location that has yet to be determined.

House Rule XI, clause 3(b)(8)(B), and Standards Committee Rule 17A require the Chair of the Standards Committee to make public the written report and findings of the Board of the Office of Congressional Ethics (OCE) at the end of the investigative subcommittee process. Pursuant to House Rule XI, clause 3(b)(8)(B), the Chair is making public OCE's written report and findings in this matter.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

August 9, 2010

FOR IMMEDIATE RELEASE

Pursuant to Committee Rule 17A, the Committee on August 2, 2010, released the Office of Congressional Ethics' report and findings in the Matter of Representative Maxine Waters.

The Chair and Ranking Republican Member, in the interest of transparency and fairness and pursuant to Committee Rule 7(g), are releasing the following documents in the Matter of Representative Maxine Waters:

- Statement of Alleged Violation adopted by the Investigative Subcommittee on June 15, 2010;
- Respondent's Motion for a Bill of Particulars;
- Investigative Subcommittee's Order on Motion for a Bill of Particulars and Memorandum in Support of Order;
- Respondent's Motion to Dismiss; and
- Investigative Subcommittee's Order on Motion to Dismiss and Memorandum in Support of Order.

While the Committee would have been required pursuant to Rule 7(f) to release these documents at a later date, in light of the House calendar, the Chair and Ranking Republican Member have determined it is appropriate to release these materials at this time.

Pursuant to Committee Rule 26(b), Representative Waters has waived any objection to the public release of these materials.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

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STATEMENT OF THE CHAIR

REGARDING THE MATTERS OF REPRESENTATIVE CHARLES B. RANGEL

AND REPRESENTATIVE MAXINE WATERS

October 7, 2010

Under Rule 23(c) of the Committee on Standards of Official Conduct, the adjudicatory subcommittees in the matters of Representative Charles B. Rangel and Representative Maxine Waters will hold adjudicatory hearings to determine whether any counts in the Statement of Alleged Violation regarding either Representative Rangel or Representative Waters have been proven by clear and convincing evidence.

The Committee's rules vest the Chair with the authority to set the schedule for hearings, but at the request of minority members of the Committee I had agreed to work together to establish schedules. To that end, we had numerous bipartisan meetings, discussions, and exchanges to address procedural issues and to reach consensus on how and when to proceed in each matter.

Last week's unprecedented statement by the minority members of the Committee, in contrast to their prior requests and ongoing discussions, called upon the Chair to unilaterally establish the schedule, as the Committee rules allow. Accordingly, as Chair of each adjudicatory subcommittee, with this statement I am announcing the schedule for each hearing, and notifying Representatives Rangel and Waters and their respective counsels of the schedules and other procedural issues.

Pursuant to Rule 5(e) and Rule 23(e) of the Committee on Standards of Official Conduct and Clause 2(g)(3) of House Rule XI, the Chair of the adjudicatory subcommittee is required to make a public announcement in advance of an adjudicatory hearing. Accordingly, notice is hereby provided that the adjudicatory hearing in the matter of Representative Rangel will begin on Monday, November 15, 2010, at 9:00 a.m. The adjudicatory hearing in the matter of Representative Waters will begin on Monday, November 29, 2010, at 9:00 a.m.

Substantial actions must be taken before a public hearing can begin. The nonpartisan Committee staff who bear the burden of proof to establish the facts alleged in the Statement of Alleged Violation must prepare their case and be prepared to meet a higher burden of proof than that used in the investigative subcommittee phase.

Evidence to be used at the hearing must be shared between lawyers for the committee and the respondent Member of Congress. Any objections raised by either party should be resolved, as well as any other procedural or evidentiary issues, before the hearing. Committee rules also require that subpoenas issued to witnesses must be served sufficiently in advance of the hearing to allow witnesses reasonable time to prepare for the hearing and retain counsel, if they choose.

A quorum is required for an ASC to conduct any business. Each ASC has eight members, and at least six members must be present for the ASC to conduct business under its rules. Six members of each ASC also sit on the ASCs in both matters, which precludes the possibility of holding the hearings simultaneously.

The adjudicatory subcommittee process is not complete upon the conclusion of an adjudicatory hearing. After the hearing, the members of the ASC must conduct deliberations, vote on each count alleged in the SAV, and send a report of findings to the full Committee.

The full Committee must then hold a public sanctions hearing, if any violation is found, vote on a sanction recommendation, and then write and transmit a report to the full House. Under its rules, the Committee's report to the House is the first public statement regarding the ultimate findings of the ASC process.

Other materials the Committee has previously publicly released in these matters, including the Statements of Alleged Violation and related motions and replies, are available on the Committee's web site, at http://ethics.house.gov.

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ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVES ROBERT ADERHOLT, G. K. BUTTERFIELD, ELIOT ENGEL, ALCEE HASTINGS, SOLOMON ORTIZ, AND JOE WILSON

November 15, 2010

FOR IMMEDIATE RELEASE

Pursuant to House Rule XI, Clause 3(a)(8)(A), and Committee Rules 17A(b)(1)(A), 17A(c)(1), and 17A(j), the Chair and Ranking Republican Member of the Committee on Standards of Official Conduct have jointly decided to extend the matters regarding Representatives Robert Aderholt, G. K. Butterfield, Eliot Engel, Alcee Hastings, Solomon Ortiz, and Joe Wilson, which were transmitted to the Committee by the Office of Congressional Ethics on July 30, 2010. The Committee will announce its course of action in these matters on or before December 20, 2010.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
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STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE JESSE JACKSON, JR.

November 15, 2010

FOR IMMEDIATE RELEASE

Pursuant to House Rule 11, clauses 3(b)(8)(C) and (D) and Committee Rules 17A(h) and (j), the Committee on Standards of Official Conduct (Standards Committee) determined to release the following statement.

In accordance with the above-referenced House and Committee rules, the Standards Committee is announcing today that it has agreed to the Department of Justice's request to continue to defer taking action into whether Representative Jesse Jackson, Jr., 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 August 17, 2010, a federal jury convicted Rod Blagojevich of one count and deadlocked on 23 other counts, including those related to the Illinois Senate seat vacated by President Barack Obama. A retrial of former Governor Blagojevich has been set for April 20, 2011.

The Department of Justice has asked the Standards Committee to continue to defer consideration of this matter and the Standards Committee, following precedent, agreed to continue to defer consideration of this matter at this time.

The Standards Committee will continue to monitor the situation and will consider pursuing avenues of inquiry that it concludes do not interfere with the activities of the Department of Justice. At least annually, the Standards Committee will make a public statement if it continues to defer taking action on the matter. The Standards Committee reserves the right to assert its jurisdiction if, in its determination, a violation of House rules, code, or other laws under its jurisdiction is discovered that will not interfere with the Department of Justice's activities.

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ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE MAXINE WATERS

November 19, 2010

FOR IMMEDIATE RELEASE

Pursuant to Committee Rules 7(d) and 7(g), the Chair and Ranking Republican Member of the Committee on Standards of Official Conduct (Committee) released the following statement:

The Committee voted to recommit the matter regarding Representative Maxine Waters to the investigative subcommittee due to materials discovered that may have had an effect on the investigative subcommittee's transmittal to the Committee.

As a result, the adjudicatory subcommittee no longer has jurisdiction over this matter and the adjudicatory hearing previously scheduled for November 29, 2010, will not be held.

ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515–6328

STATEMENT OF THE CHAIR AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING REPRESENTATIVE JOHN CAMPBELL, REPRESENTATIVE JOSEPH CROWLEY, AND REPRESENTATIVE TOM PRICE

December 15, 2010

FOR IMMEDIATE RELEASE

Pursuant to House Rule 11, clauses 3(b)(8)(A) and (D), and Committee Rules 17A(b)(1)(A), 17A(c)(1), and 17A(j), the Chair and Ranking Republican Member of the Committee on Standards of Official Conduct have jointly decided to extend the matters regarding Representatives John Campbell, Joseph Crowley, and Tom Price, which were transmitted to the Committee by the Office of Congressional Ethics either on September 1, 2010, or November 3, 2010. The Committee will announce its course of action in these matters on or before January 29, 2011.

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