Union Calendar No. 611

110TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
110–938

SUMMARY OF ACTIVITIES
ONE HUNDRED TENTH CONGRESS

A REPORT

OF THE

COMMITTEE ON
STANDARDS OF OFFICIAL CONDUCT
HOUSE OF REPRESENTATIVES

JANUARY 3, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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SUMMARY OF ACTIVITIES—ONE HUNDRED TENTH CONGRESS

LETTER OF SUBMITTAL

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, January 3, 2009.

Hon. LORRAINE C. MILLER,
Clerk, House of Representatives,
Washington, DC.

DEAR MS. MILLER: Pursuant to clause 1(d) of Rule XI of the Rules of the House of Representatives, we hereby submit to the House a report on the Activities of the Committee on Standards of Official Conduct for the 110th Congress.

Sincerely,

GENE GREEN,
Acting Chairman.
DOC HASTINGS,
Ranking Republican Member.

Union Calendar No. 611

110TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 110–938

SUMMARY OF ACTIVITIES

ONE HUNDRED TENTH CONGRESS

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Mr. GREEN and Mr. HASTINGS, from the Committee on Standards of Official Conduct, submitted the following

R E P O R T

Acknowledgement

The Committee notes the untimely death of its former Chairwoman, Representative Stephanie Tubbs Jones. Her hard work and dedication to public service will be missed by all.

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 his duties or the discharge of his responsibilities. 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 his responsibilities 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 chairman and ranking minority member jointly may appoint members to serve as an investigative subcommittee.

(ii) The chairman 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; or

(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 he believes the information is submitted in good faith and warrants the review and consideration of the committee.

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 chairman 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 chairman 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 disqualify himself 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 chairman 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 confiden-

tial 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 chairman 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 his or her employment or duties with the committee without specific prior approval from the chairman 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 chairman and ranking minority member each may appoint one individual as a shared staff member from his or her personal staff to perform service for the committee. Such shared staff may assist the chairman or ranking minority member on any subcommittee on which he 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 chairman 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 chairman 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 chairman and ranking minority member regarding properly filed complaints

(k)(1) The committee shall adopt rules providing that whenever the chairman 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 chairman 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 chairman 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 chairman and ranking minority member regarding information not constituting a complaint

(l) The committee shall adopt rules providing that whenever the chairman 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 chairman 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 infor-

mation 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 chairman shall designate one member of a subcommittee to serve as chairman and the ranking minority member shall designate one member of the subcommittee to serve as the ranking minority member; and

(3) the chairman 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 his counsel 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 his or her counsel 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 his counsel 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 chairman 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 chairman and ranking minority member of the subcommittee, and the outside counsel, if any;

(7) statements or information derived solely from a respondent or his 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; and

(8) whenever a motion to establish an investigative subcommittee does not prevail, the committee shall promptly send a letter to the respondent informing him 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 his or her 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;

(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

(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

(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 and the "employing agency" for certain purposes under the Foreign Gifts and Decorations Act. 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 Chairman 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 Chairman 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 Chairman and Ranking 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 110th 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 others in telephone calls and e-mails directed to the Committee office, and in meetings.

PUBLICATIONS

The Committee's major publication is the newly-revised House Ethics Manual, which was issued in March 2008. The new 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 work with official and outside organizations. The new House Ethics Man-

ual is available and posted in a searchable format on the Committee's website.

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 110th Congress were as follows:

- Interim Memorandum on Rules Changes in the 110th Congress (January 19, 2007);
- Gift Rule Amendments at the Beginning of the 110th Congress (February 6, 2007);
- Travel Guidelines and Regulations (February 20, 2007);
- New Travel Rules for Officially-Connected Travel Paid for by a Private Source (March 14, 2007);
- Financial Interests under the New Earmark Rules (March 27, 2007);
- Annual Ethics Training Requirement (April 3, 2007);
- Amendment to House Rule XXV (the "gift rule") (June 14, 2007);
- Travel Approval Requests Must Be Submitted in a Timely Manner (June 20, 2007);
- General Ethics Training for Congressional District Staff (June 29, 2007);
- New Notification Requirements for Members, Officers, and Very Senior Staff Concerning Future Employment Negotiations and Recusals (September 28, 2007);
- Specialized Ethics Training for Congressional District Senior Staff (December 3, 2007);
- Certifying Compliance with Ethics Training Requirement (December 3, 2007);
- Member Participation in Certain Events Taking Place During a National Political Convention (December 11, 2007);
- The 2008 Outside Earned Income Limit and Salaries Triggering Financial Disclosure Requirement and Post-Employment Restrictions (January 30, 2008);
- Annual Ethics Training Requirement for 2008 (February 13, 2008);
- Multiple Reservations on Commercial Flights (February 21, 2008);
- Negotiating for Future Employment (March 28, 2008);
- Post-Employment Restrictions for Members and Officers (April 8, 2008);
- Post-Employment Restrictions for Staff (April 8, 2008);
- Laws, Rules, and Standards of Conduct Governing Campaign Activity (April 25, 2008);
- New Committee Website (May 12, 2008);
- Gift Rule Provisions Applicable to National Political Conventions (May 20, 2008);
- FGDA disclosure of gifts and meals provided by foreign governments (August 1, 2008);
- Paid Employment of Family Members by Member-controlled Campaign Organizations (August 1, 2008);
- Changes to the Pre-Approval Process for Officially-Connected Travel Paid for by a Private Source (September 23, 2008);

- Guidance on House Staff Assisting in the Presidential Transition (November 5, 2008);
- New On-Line Ethics Training Option Available (November 6, 2008);
- Certifying Compliance with the 2008 Ethics Training Requirement (November 20, 2008);
- Ethics Laws and Rules for Departing Members and Staff (November 20, 2008);
- Member Swearing-in and Inauguration Day Receptions, and Attendance at Inaugural-Related Events (November 20, 2008);
- Rules Regarding Financial Disclosure of Mortgages (December 30, 2008). 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 updated versions of its summary memorandum, Highlights of the House Ethics Rules, in January 2007 and January 2008, with amended versions issued during each year to reflect changes to the rules regarding privately-funded, officially connected travel. Copies of all current Committee publications are available from the Committee office, and their text is posted on the Committee's website.

Notable among these publications was the Committee's issuance of guidelines for judging the reasonableness of expenses for privately-funded, officially connected travel in a pair of advisory memoranda released on February 20 and March 14, 2007. The Committee issued these guidelines pursuant to House Rule 25, clause 5(i), which was newly-enacted at the start of the 110th Congress. This rule charged the Committee with issuing, within 45 days, regulations on the acceptance of such travel expenses in light of new rules contained in House Rule 25, clauses 5(b)–(d). House Rule 25, clause 5(d)(2) required Committee approval prior to any Member or staff person undertaking such travel. Further details on the Committee's approval of privately-funded, officially connected travel is provided below in the subsection entitled "Travel Approval Letters."

ETHICS TRAINING

Clause 3(a)(6) of House Rule 11, which was enacted as part of House Resolution 6 on January 5, 2007, requires each House employee to complete ethics training each calendar year, pursuant to guidelines to be issued by the Committee. The Committee issued those guidelines in an advisory memorandum entitled "Annual Ethics Training Requirement," which was released on April 3, 2007. 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. Those senior staff topics included the financial disclosure requirements, outside employment and outside earned income limitations, ban on honoraria, and post-employment restrictions. 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 11, the Committee held 85 ethics briefings during 2007 and 50 during 2008. The Committee also taped some of these briefings and made them available for viewing through the House internal internet server. In 2007, only staff who were employed in offices outside of the Washington, DC area were permitted to watch a video presentation rather than attending a training session in person. In 2008, 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 2007 training sessions 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 2008 live and on-line general training sessions each provided more in-depth coverage of specific ethics topics, such as gifts and travel, campaign activity, or issues for departing employees. In addition, in November 2008, the Committee created an on-line ethics training quiz that could fulfill the general training requirement for current House employees.

In 2007, the Committee trained over 12,000 employees, 10,576 for general ethics training and 1,438 for senior staff training. Of the individuals who received general ethics training, approximately 3,000 were new House employees. During 2008, the Committee trained over 2,680 employees in person at live ethics briefings, and the remaining employees used one of the on-line training options. The total number of employees who completed ethics training in 2008 will be available after January 31, 2009, the date that House Rule 11 established as the deadline for certifying completion of the ethics training requirement for 2008.

In addition to the training required under House Rule 11, the Committee also provided training in several other contexts. The Committee made a presentation to the Members-elect of the 110th Congress during the New Member Orientation. As part of that presentation, the Committee provided to each incoming Member a copy of the Highlights of the House Ethics Rules memorandum, as well as a memorandum noting points of particular interest to Members-elect during their transition period. The Committee also provided training open to all Members and staff on the financial disclosure rules, which is discussed in Section III. Finally, together with the Committee on House Administration, the Committee participated in two general briefings, one in 2007 and one in 2008, on the rules related to Member participation in the Congressional Art Competition.

Committee staff also participated in approximately nine briefings sponsored by or held for the members of outside organizations. The Committee also had an information booth at the House Services Fair held annually by the Chief Administrative Officer. In addition, Committee staff led approximately five briefings for visiting international dignitaries from countries in South America, Europe, and the Far East.

The Committee will continue this outreach activity in the 111th Congress.

ADVISORY OPINION LETTERS

The Committee's Office of Advice and Education, under the direction and supervision of the Committee's Chairman and Ranking

Minority Member, prepared more than 1,000 private advisory opinions during the 110th Congress. Opinions issued by the Committee in the 110th 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 25, 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. To facilitate requests for Committee approval, the Committee created a pair of forms, one for the trip sponsor and one for the traveler, detailing the information required by the rule to be provided by those individuals or entities. Under this travel approval process, the Committee reviewed and approved more than 1,100 requests for travel in 2007. In 2008, the Committee reviewed and approved 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 25, clause 5(b)(1)(A)(ii), requesting amendments or other remedial action by the traveler when deemed necessary.

III. Financial Disclosure, Foreign Gifts and 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. On May 15th of each year, the 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 officials. 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 the other 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 each May 15th filing date, the Committee also held three briefings, each open to all Members, officers, and employees, on the financial disclosure requirements. At Member request, Committee staff also met on an individual basis with any Member who had questions regarding the preparation of the Mem-

ber's statement. 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.

In calendar years 2007 and 2008, the Legislative Resource Center of the Clerk's office referred a total of 6,205 financial disclosure statements to the Committee for review under the statute. Of those, 4,603 were statements filed by current or new House Members or employees, 553 were filed by departing House Members or employees, and 1,049 were statements filed by candidates for the House. Where the Committee 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.

Pursuant to its responsibilities under 5 U.S.C. § 7342, the Committee also continued its activities in implementing the Foreign Gifts and Decorations Act, including the disclosure and reporting requirements of the Act, and responded to questions from Members and staff regarding the Act. The regulations that the Committee has issued under the Act are published in the appendix to the House Ethics Manual issued by the Committee. Prior to issuance of the revised Manual in March 2008, the regulations were contained in the Committee's Gifts and Travel booklet. Reports of gifts from foreign governments (including travel and travel expenses) that Members and staff file in accordance with this Act are available for public inspection at the Committee office upon reasonable notice. Pursuant to the Act, the contents of those reports are published in the *Federal Register* on an annual basis.

As discussed above in the section on travel approval letters, the Committee staff also reviews the Member and Employee Post-Travel Disclosure Forms that are filed with the Legislative Resource Center (which makes the forms available to the public) pursuant to the gift rule (House Rule 25, cl. 5). Where the Committee found that a Member or staff person had improperly accepted travel or reimbursement for travel expenses, the Committee determined the appropriate remedy, which may have included a requirement that reimbursement be made with personal, official, or campaign funds.

IV. Committee Rules

On February 16, 2007, the Committee met and adopted Committee rules for the 110th Congress, which were identical to the Committee rules for the 109th Congress. Pursuant to House Rule XI, clause 2(a)(a), the Committee rules were submitted for publication in the Congressional Record on June 27, 2007. A copy of the

Committee rules for the 110th Congress is included as Appendix II to this Report.

V. INVESTIGATIONS

In addition to the investigative authority granted to the Committee under House Rule 11, on June 5, 2007, the House of Representatives passed 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.

On June 7, 2007, the Committee voted to carry over from the 109th Congress the matter concerning Representative William J. Jefferson and to expand the jurisdiction of that investigative subcommittee. On September 18, 2007, the Committee voted to establish an investigative subcommittee to investigate the conduct of Representative Bob Filner with respect to a criminal charge of misdemeanor assault and battery issued by the Loudoun County, Virginia General District Court. On February 28, 2008, the Committee voted to establish an investigative subcommittee to investigate the conduct of Representative Richard G. Renzi with regard to matters for which he was indicted in the United States District Court for the District of Arizona on February 21, 2008. On May 21, 2008, the Committee voted to establish an investigative subcommittee to investigate the conduct of Representative Vito Fossella with respect to his arrest on or about May 1, 2008 in Alexandria, Virginia for the misdemeanor charge of driving a motor vehicle while under the influence of alcohol. On September 24, 2008, the Committee voted to establish an investigative subcommittee to investigate the conduct of Representative Charles B. Rangel with regard to his conduct related to four different issues. The jurisdiction of the investigative subcommittee pertaining to Representative Rangel was expanded on December 9, 2008.

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

Representative William J. Jefferson

On May 17, 2006, the Committee voted to establish an Investigative Subcommittee to determine whether Representative William J. Jefferson violated any House rule, law, regulation, or other standard of conduct with respect to allegations that he or his family members received cash, stock shares, agreements for future profits, offers of employment, travel benefits, or other items of value from certain individuals or entities in exchange for action taken by Rep-

resentative Jefferson in his capacity as a Member of Congress or as a result of his status as a Member of Congress. This action was undertaken following guilty pleas by two individuals, one of whom was a former staff member of Representative Jefferson, in federal court to conspiracy to bribe a public official, whom they specifically identified as Representative Jefferson.

The members of the Investigative Subcommittee in the 109th Congress were Representative Melissa Hart as Chairman and Representative Stephanie Tubbs Jones as Ranking Member. The other two members of the Investigative Subcommittee were Representative Tom Latham and Representative Adam Schiff.

On June 7, 2007, the Committee voted to carry over the matter regarding Representative Jefferson to the 110th Congress. On the same date, the Committee voted to expand the scope of the investigation to include any or all of the matters for which Representative Jefferson was indicted on June 4, 2007 by a grand jury in the United States District Court for the Eastern District of Virginia. For the 110th Congress, Representative William Delahunt was designated to serve as Chairman of the Investigative Subcommittee, and Representative John Kline was designated to serve as its Ranking Member. The other two members of the Investigative Subcommittee were Representative Keith Ellison and Representative Tom Latham.

During the course of its review in the 110th Congress, the Investigative Subcommittee voted to refrain from attempting to interview or depose witnesses linked to the criminal proceedings involving Representative Jefferson. This unanimous decision of the Investigative Subcommittee followed the receipt of multiple communications transmitted by the United States Department of Justice that such investigative actions might create legal or factual issues that would complicate or impede the criminal prosecution and related law enforcement efforts in this matter.

The Investigative Subcommittee remained in effect and continued to monitor the ongoing criminal proceedings during the 110th Congress. Representative Jefferson was not re-elected to the 111th Congress, and the Committee will not have jurisdiction over him after January 3, 2009.

Representative Bob Filner

On or about August 20, 2007, a criminal charge for misdemeanor assault and battery filed was filed against Representative Bob Filner by the Loudoun County, Virginia General District Court.

On September 19, 2007, the Committee, upon considering and interpreting the requirements of H. Res. 451, voted to empanel an investigative subcommittee to conduct an inquiry regarding this matter. The Committee recommended that the Investigative Subcommittee defer action until the proceedings involving Representative Filner in Loudoun County had concluded.

Representative Gene Green was designated to serve as Chairman of the Investigative Subcommittee, and Representative J. Gresham Barrett was designated to serve as its Ranking Member. The other two members of the Investigative Subcommittee were Representative Joseph Crowley and Representative Lincoln Diaz-Balart.

On or about November 26, 2007, Representative Filner voluntarily entered an Alford plea to an amended charge of misdemeanor

trespassing, for which the presiding judge imposed a civil fine of $100.

After reviewing and considering this matter, the Investigative Subcommittee determined that Representative Filner's conduct was addressed in the proceedings before the Commonwealth of Virginia District Court and did not recommend further action against Representative Filner regarding the matter within the Investigative Subcommittee's jurisdiction. Nonetheless, it was the unanimous determination of the Investigative Subcommittee that Representative Filner's conduct demonstrated poor judgment on his part, and that he is responsible for creating a situation that implicated the reputation of the House of Representatives. On December 19, 2007, the Committee voted to accept the recommendation of the Investigative Subcommittee. On that same date, the Committee issued a press statement which constituted the Committee's concluding action and statement regarding this matter.

Representative Richard G. Renzi

On February 28, 2008, upon considering and interpreting the requirements of H. Res. 451, the Committee voted to establish an Investigative Subcommittee to conduct an inquiry regarding Representative Richard G. Renzi. The Investigative Subcommittee was given jurisdiction to determine whether Representative Renzi 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 any or all of the matters for which he was indicted on February 21, 2008 in *United States of America* v. *Richard G. Renzi*, Case Number CR 08–0212 in the United States District Court for the District of Arizona. The Investigative Subcommittee was also given jurisdiction to review any and all matters that may be contained in any superseding indictment related to this same criminal matter.

Representative Lucille Roybal-Allard was designated to serve as Chairman of the Investigative Subcommittee, and Representative Michael T. McCaul was designated to serve as its Ranking Member. The other two members of the Investigative Subcommittee were Representative Steven R. Rothman and Representative Greg Walden.

During the course of its review in the 110th Congress, the Investigative Subcommittee voted to refrain from attempting to interview or depose witnesses linked to the criminal proceedings involving Representative Renzi. This unanimous decision of the Investigative Subcommittee followed the receipt of a communication from the United States Department of Justice expressing concern that simultaneous investigative actions by the Committee might create legal or factual issues that would complicate or impede the criminal prosecution and related law enforcement efforts in this matter.

The Investigative Subcommittee remained in effect and continued to monitor the ongoing criminal proceedings during the 110th Congress. Representative Renzi did not seek re-election to the 111th Congress, and the Committee will not have jurisdiction over him after January 3, 2009.

Representative Vito Fossella

On May 21, 2008, upon considering and interpreting the requirements of H. Res. 451, the Committee voted to establish an Investigative Subcommittee regarding Representative Vito Fossella with respect to his arrest on or about May 1, 2008 in Alexandria, Virginia for the misdemeanor charge of driving a motor vehicle while under the influence of alcohol. The Committee recommended that the Investigative Subcommittee defer action on its investigation until the conclusion of proceedings involving Representative Fossella in Alexandria, Virginia. Representative Michael F. Doyle was designated to serve as Chairman of the Investigative Subcommittee, and Representative J. Gresham Barrett was designated to serve as its Ranking Member. The other two members of the Investigative Subcommittee were Representative Barbara Lee and Representative Rob Bishop.

The Investigative Subcommittee concluded its work without a recommendation of further action against Representative Fossella. The Investigative Subcommittee deferred action because of the pendency of the criminal proceedings involving Representative Fossella. Representative Fossella did not seek re-election, and the Committee will not have jurisdiction over him after January 3, 2009.

Representative Charles B. Rangel

On September 24, 2008, the Committee voted to establish an Investigative Subcommittee to conduct an inquiry regarding Representative Charles B. Rangel. The Investigative Subcommittee was given jurisdiction to determine whether Representative Rangel violated any House rule, law, 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

(1) Using official resources to transmit letters to potential donors to the Charles B. Rangel Center for Public Service at the City College of New York;

(2) Apartment units leased by Representative Charles B. Rangel 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 Punta Cana 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.

Acting Committee Chairman Gene Green and Ranking Republican Member Doc Hastings designated themselves as Chairman and Ranking Member, respectively, of the Investigative Subcommittee. Representative Robert C. Scott and Representative Jo Bonner were named as the other two members of the Investigative Subcommittee.

On December 9, 2008, the Committee voted to expand the jurisdiction of the investigative subcommittee to include an inquiry into 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 dis-

charge of his responsibilities, with respect to contributions of money or pledges of contributions of money to the Charles B. Rangel Center for Public Service at the City College of New York from any person or entity associated with Nabors Industries.

As of the conclusion of the 110th Congress, the Investigative Subcommittee had not completed its investigation into the matters under its jurisdiction.

Other Committee investigative actions

In addition to the publicly disclosed matters discussed in this report, the Chairman and Ranking Republican Member of the Committee either commenced or continued from the 109th Congress fact-gathering under Committee Rule 18(a) regarding the conduct of fourteen other Members and three House employees. Of these matters, seven were resolved during the 110th Congress without the empanelment of an investigative subcommittee or other formal action by the Committee, and the remaining matters are still pending.

APPENDIX I

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

January 19, 2007

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Interim Memorandum on Rules Changes in the 110th Congress

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The House Rules for the 110th Congress that were adopted on January 4 and 5, 2007 included several amendments to the provisions of House Rule 25, clause 5 (the "gift rule") concerning the acceptance by House Members and staff of gifts and privately-sponsored, officially-connected travel. The Committee intends to provide more detailed guidance as soon as practicable on issues that may arise under the new rules. This memorandum briefly summarizes the major changes effected by the new rules governing the acceptance of gifts.

The changes to the rules on the acceptance of gifts were effective when passed on January 4, 2007 and are therefore **now in effect**.

The House gift rule, both now and prior to the passage of the new rules, generally permits a Member or employee of the House to accept a gift (other than cash or cash equivalent) valued at less than $50.[1] **However, under the amended rule, the less than $50 provision no longer permits gifts "from a registered lobbyist or agent of a foreign principal or from a private entity that retains or employs registered lobbyists or agents of a foreign principal."** House Rule XXV, cl. 5(a)(1)(A)(ii).

Under the revised rules, House Members and staff also may no longer accept free attendance at charitable events sponsored by entities that retain or employ registered lobbyists or foreign agents, or sponsored by such lobbyists or agents themselves. Gifts within the exceptions to the gift rule found in House Rule XXV, clause 5(a)(3) continue to be permitted, even if the donor is a registered lobbyist, foreign agent or entity that retains or employs them.

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[1] Under the rule, the value of gifts from a single source that may be accepted during a calendar year must be under $100. Gifts worth less than $10 do not count towards the annual limit.

The change to the Code of Official Conduct prohibiting the use of personal funds, official funds, or campaign funds for flights on certain airplanes was also effective when passed on January 4, 2007.

New provisions regarding the acceptance of privately-sponsored travel are effective March 1, 2007. Until then, the travel rules that were in effect during the 109th Congress remain in place.

Before accepting any gift, Members, officers, and employees may **consult with the Committee's Office of Advice and Education**, at (202) 225-7103, with any questions.

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

February 6, 2007

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Gift Rule Amendments at the Beginning of the 110th Congress

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The House Rules for the 110th Congress that were adopted on January 4 and 5, 2007 included several amendments to the provisions of House Rule 25, clause 5 (the "gift rule") concerning the acceptance by House Members and staff of gifts and privately-sponsored, officially-connected travel. The changes to the rules on the acceptance of gifts became effective when passed, and the provisions affecting the acceptance of officially-connected travel will take effect on March 1, 2007.

This advisory memorandum addresses amendments to the rules on the acceptance of gifts. Amendments affecting the acceptance of officially-connected travel will be the subject of a forthcoming memorandum. Until the new travel rules take effect on March 1, 2007, the travel rules that were in effect during the 109th Congress remain in place.

Members and staff should keep in mind that the intent of the House gift rule is to protect the integrity of the House. The House Code of Official Conduct requires House Members and staff to ***adhere to the spirit*** as well as to the letter of the Rules of the House.[1] Narrow, technical readings of the House gift rule should be avoided. *See House Ethics Manual* at 15-16. For example, even though Members and staff may, consistent with the amendment to the gift rule, accept "food or refreshments of a nominal value offered other than as part of a meal" from registered lobbyists, foreign agents, and entities that retain or employ them, such benefits should not be accepted on a basis so frequent that a reasonable person would be led to believe that the Member or employee is using his public office for private gain. In short, it is never against the House rules to decline a gift, and Members and staff should avoid situations that present even the appearance of impropriety.[2]

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[1] House Rule XXIII, cl. 2.

[2] Of course, as with the old gift rule, the amended gift rule described in this advisory memorandum applies to Members and staff in all circumstances, including while on official travel such as a CODEL.

Before accepting any gift, Members and staff ***should review this memorandum closely*** and ***consult with the Committee's Office of Advice and Education***, at (202) 225-7103, with any questions.

Application of the Less than $50 Provision Significantly Restricted

The House gift rule, both now and prior to the recent gift rule amendments, generally permits a Member or employee of the House to accept a gift (other than cash or cash equivalent) valued at less than $50.[3] ***However, under the amended rule, the less than $50 provision no longer permits gifts "from a registered lobbyist or agent of a foreign principal or from a private entity that retains or employs registered lobbyists or agents of a foreign principal."***[4]

This limitation significantly restricts the range of gifts that were previously acceptable by House Members and staff. Under the new rule, ***it is no longer permissible to accept a gift, such as a meal or ticket to a sporting event, from a registered lobbyist,***[5] ***or any entity that retains or employs such an individual, under the less than $50 provision***. The new restriction applies not just to gifts given by individual lobbyists and foreign agents, but also to gifts given by entities that retain lobbyists or lobbying firms or that employ in-house lobbyists. Members and staff should bear in mind that many, if not most, organizations with interests before the House retain or employ lobbyists, including corporations, trade associations, unions, advocacy groups, and other special interest groups. A § 501(c)(3) charitable organization is also subject to the restriction if it retains or employs a lobbyist.

> *Example 1:* A representative of a large corporation that employs in-house lobbyists offers to take a House employee out for a $30 lunch. The lunch would have been acceptable under the previous rule, but the employee must now decline.
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> *Example 2:* A lobbying firm sends five pizzas to committee staff, knowing that they are working late on a bill. The pizza would generally have been acceptable under the previous rule up to a value of $49.99 per staff person. Under the new rule, the pizzas must be declined regardless of value because they are from a lobbying firm.[6]

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[3] Under the rule, the value of gifts from a single source that may be accepted during a calendar year must be under $100. Gifts worth less than $10 do not count towards the annual limit.

[4] House Rule XXV, cl. 5(a)(1)(A)(ii).

[5] The gift rule also restricts acceptance of items from an agent of a foreign principal or a private entity that retains or employs such an individual. For brevity's sake, references in the text to a lobbyist also include an agent of a foreign principal.

[6] Pizza is considered "part of a meal," and is not acceptable as food or refreshment of a nominal value, as discussed below.

> *Example 3:* A trade association that employs lobbyists offers a staff person a $40 ticket to a Nationals game. The ticket would have been acceptable under the previous rule, but must now be declined. As before, the staff person may attend the game if he pays the trade association for the ticket.

The new rule prohibits gifts "from" a private entity that retains or employs lobbyists. Certainly, a gift paid for with the private entity's funds (such as by use of a corporate credit card) would be considered a gift "from" the private entity. The new prohibition may also apply, depending on the circumstances, even when a non-lobbyist employee of an entity that retains or employs a lobbyist pays for a gift using *personal* funds, such as where the Member or employee knows that that donor is using personal funds to evade the application of the new rule.

> *Example 4:* A non-lobbyist employee of a constituent company that retains lobbyists offers to take the district director to a $40 lunch. The company's employee says that he intends to use his personal funds instead of company funds to avoid the prohibition on gifts from entities that retain or employ lobbyists. The district director may not accept the lunch.

Members and staff may still accept gifts worth less than $50 from persons and entities *other than* lobbyists and entities that retain or employ them. However, Members and staff should exercise caution when accepting gifts under this provision. It is incumbent on the Member or employee to ascertain that the offeror is a qualified donor by, for example, asking the offeror directly whether it retains or employs registered lobbyists, or by checking lobbying registration filings. When in doubt, a gift should not be accepted.

> *Example 5:* An employee of a constituent company offers to take the district director to a $40 lunch at company expense. Upon inquiry by the district director, the company's employee indicates that the company retains a law firm, but he does not know whether the firm engages in lobbying work on behalf of the company. The district director should decline the lunch because it is not clear that the company does not retain a lobbyist.

Most Exceptions to the Gift Rule Continue to Apply

The new prohibition described above *does not* restrict Members and staff from accepting, even from registered lobbyists and entities that retain or employ them, gifts under the existing exceptions to the gift rule found in House Rule XXV, clause 5(a)(3).

Widely Attended Events. House Members and staff may continue to accept free attendance, including food and refreshments, at a "widely attended event," regardless of the sponsor, provided that each of the requirements set forth in the provision and in this Committee's guidance are satisfied.[7] In short, the widely attended event provision permits free attendance at events such as conventions, conferences, dinners, and other similar events where (1) the event is open to individuals from throughout a given industry or profession, or those in attendance represent a range of persons interested in a given matter, *and* there is a reasonable expectation that at least 25 persons will attend, other than Members, officers or employees of Congress; (2) the invitation is provided by the sponsor of the event; and (3) the Member or employee reasonably determines that attendance at the event is related to his or her official duties. Each of these elements is described more fully in the Committee's *Gifts and Travel* booklet, at pages 22-28.

> *Example 6:* A Member is invited by a trade organization to speak at its annual dinner gala, which will have over 100 attendees from the organization. The Member may accept free attendance and dinner, regardless of whether the trade organization retains or employs lobbyists.
>
> *Example 7:* A staffer is invited to a defense industry association luncheon by a particular defense contractor that purchased a table at the event. The staffer may not accept the invitation because it was not offered by the sponsor of the event.

Food or Refreshments of a Nominal Value. Members and staff may continue to accept "food or refreshments of a nominal value offered other than as part of a meal,"[8] even when the donor is a lobbyist, foreign agent, or entity that employs them. Under this provision, the kinds of food and refreshments usually offered at receptions (such as hors d'oeuvres, appetizers, and beverages), and morning meetings (coffee, juice, pastry, or bagels), may be accepted. This provision does not, however, allow the acceptance of a meal, or of food or refreshments offered as part of a meal.

> *Example 8:* A trade association invites House staff to attend a holiday reception in its offices featuring hors d'oeuvres. Provided the food offered is of "nominal value" and is offered "other than as part of a meal," House staff may accept.
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> *Example 9:* A nonprofit organization that employs lobbyists invites House staff to attend an informational briefing on social security reform and will serve a box lunch. House staff may accept free attendance, but they

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[7] *See* House Rule XXV, cl. 5(a)(3)(Q), (4)(A).
[8] *See* House Rule XXV, cl. 5(a)(3)(U).

> may not accept the lunch because it would be considered "part of a meal."[9]

Items of a Nominal Value. Another exception to the gift rule permits Members and staff to accept "items of a nominal value such as a greeting card, baseball cap, or a T-shirt."[10] The Committee interprets this provision to permit the acceptance of the items explicitly referred to in the rule having a reasonable value, *i.e.*, a T-shirt or a baseball cap (even if worth more than $10), or other items that have a value of less than $10.

> *Example 10:* A company in a Member's district that employs lobbyists offers the Member a $15 baseball cap with the corporate logo. The Member may accept as "an item of a nominal value such as . . . a baseball cap."

> *Example 11:* A company in a Member's district that employs lobbyists offers the Member a coffee mug worth $12. The Member may not accept the mug. Under Committee precedent, Members and staff should not rely on the "items of a nominal value" provision in accepting any item having a value of $10 or more (except for a greeting card, baseball cap, or T-shirt).

Gifts Based on a Personal Friendship. The gift rule also permits Members and staff to accept gifts given on the basis of personal friendship.[11] While this provision continues to apply regardless of the donor, caution should be exercised when accepting a gift under this provision when the donor is a lobbyist. The rule requires that in determining whether a gift is provided on the basis of personal friendship, a Member or staff person must consider the circumstances under which the gift was offered, including (1) the history of his or her relationship with the donor, including any previous exchange of gifts; (2) whether, to the official's knowledge, the donor personally paid for the gift, or whether the donor sought a tax deduction or business reimbursement for it; and (3) whether, to the official's knowledge, the donor at the same time gave the same or similar gifts to other Members or staff. These elements are described more fully in the *Gifts and Travel* booklet, at pages 20-21.

> *Example 12:* A Member's former college roommate, who is also a lobbyist, offers to take the Member to dinner. The college roommate is paying for the dinner personally, and the Member and the former college roommate have previously purchased meals for each other. The Member may accept the meal.

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[9] Unless the event qualifies as a widely attended event, as described above.
[10] *See* House Rule XXV, cl. 5(a)(3)(W).
[11] *See* House Rule XXV, cl. 5(a)(3)(D).

> *Example 13:* A staffer has come to know well a lobbyist with whom he has worked for a number of years. The staffer often sees the lobbyist at events, and the lobbyist, under the old gift rule, occasionally took the staffer out for lunch. Although the staffer considers the lobbyist a "friend," they do not see each other socially or exchange gifts. The lobbyist offers to take the staffer to lunch, just as in previous years. The staffer may not accept.

Other Exceptions. Other gift rule exceptions that continue to apply, even when the donor is a lobbyist or entity that retains or employs a lobbyist, include: Gifts from a relative (clause 5(a)(3)(C)); informational materials sent to a House office (clause 5(a)(3)(I)); an item from a foreign government acceptable under the Foreign Gifts and Decorations Act (clause 5(a)(3)(N)); anything paid for by the federal government or a state or local government (clause 5(a)(3)(O)); a plaque, trophy, or other item that is substantially commemorative in nature (clause 5(a)(3)(S)); donations of "home state products" for display or free distribution (clause 5(a)(3)(V)).

Members and staff are reminded that each of these exceptions to the gift rule has certain requirements that must be satisfied in order to apply. Reiterating those requirements is beyond the scope of this advisory memorandum, and House Members and staff should carefully consult the applicable provision of the gift rule and the Committee's *Gifts and Travel* booklet in this regard.

> *Example 14:* A Member's brother, who is a lobbyist, gives the Member a birthday present worth $300 paid for with his personal funds. As long as the gift is unrelated to the performance of the Member's official duties, the Member may accept as a gift from a relative.
>
> *Example 15:* A Member, during a trade organization's annual dinner gala, is presented with a $75 plaque engraved with the organization's logo and the date of the event. The trade organization employs lobbyists. The Member may accept the plaque as a commemorative item.
>
> *Example 16:* A candy manufacturer in the district that retains a lobbyist offers sample-size packets of chocolates to the Member for distribution to visitors to the House office. The Member may accept the candy as a "home state product."
>
> *Example 17:* A Member is invited to attend a lunch valued at $100 hosted by a foreign government. If related to the Member's official duties, the Member may accept the

> invitation under the minimal value provision of the Foreign Gifts and Decorations Act.

Charity Events. Under the revised rules, House Members and staff may no longer accept free attendance at charitable events sponsored by entities that retain or employ registered lobbyists or foreign agents, or sponsored by such lobbyists or agents themselves. The new gift rule preserves only the exceptions found in subparagraph (3) of House Rule XXV, clause 5(a). The exception for charitable events is found in subparagraph (4).

> *Example 18:* A trade association that retains lobbyists invites a staff member to play in its annual charity golf tournament. The staff member may not accept.

Effect of the Gift Rule Amendment on Member and Staff Attendance at Political Events. A provision of the gift rule permits Members and staff to accept free attendance, including accompanying food or refreshments, at a fundraising or campaign event sponsored by a political organization.[12] In order to accept free attendance under this provision, the offer must originate from the political organization. A "political organization" is defined by reference to § 527(e) of the Internal Revenue Code, which defines the term in part as a "party, committee, fund, or other organization" that is organized for the purpose of "influencing the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office." This definition includes, for example, organizations such as the RNC, the DCCC, and political action committees.

This provision of the gift rule is unaffected by the recent changes to the rules. Members and staff may continue to accept free attendance at political events under this provision, even when lobbyists will attend the event or are involved in, or such individuals are employed by, the political organization. A meal with a lobbyist where the lobbyist provides a campaign contribution is not a "fundraising or campaign event" under this provision of the gift rule unless the meal is sponsored and paid for by a political organization, and the expenditures are reported as required by FEC rules or applicable state or local rules.

Valuation of Tickets to Sporting and Entertainment Events

The new rule codifies long-standing Committee guidance that a ticket to a sporting or entertainment event ***"shall be valued at the face value of the ticket, or in the case of a ticket without a face value, at the highest cost of a ticket with a face value for the event."*** In addition, to address the issue of artificially low face values, the rule also provides that the ***"price printed on the ticket to an event shall be deemed its face value only if it also is the price at which the issuer offers the ticket for sale to the public."***[13]

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[12] *See* House Rule XXV, cl. 5(a)(3)(B), (G)(iii).
[13] *See* House Rule XXV, cl. 5(a)(1)(B)(ii).

As to tickets for skyboxes or other private luxury boxes with no face value or an artificially low face value, the value is deemed to be the price of the highest individually-priced ticket for the event. For the vast majority of events, especially in the Washington, DC area, this value most likely will exceed $50. When the value equals or exceeds $50, the invited Member or employee must either decline the invitation or must pay for the ticket at the value of the highest individually priced seat for the event. Of course, as explained above, if the donor is a registered lobbyist, foreign agent, or an entity that employs them, a Member or employee may not accept free attendance, even if the ticket is valued at less than $50. Other methods of valuation, such as attaching a pro-rata, per-event cost based on a season ticket, are not permissible under the gift rule.[14] If an event does not have any individually priced tickets available to the public, contact the Committee's staff for guidance in determining their value.

Please contact the Committee at (202) 225-7103 with any questions.

[14] This guidance applies to valuation of tickets for purposes of the gift rule. For information regarding valuation of tickets for *campaign* events, Members and staff should consult the guidance of the Federal Election Commission.

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT
Washington, DC 20515

TRAVEL GUIDELINES AND REGULATIONS

MEMORANDUM TO ALL MEMBERS, OFFICERS, AND EMPLOYEESS

From: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

Date: February 20, 2007

The new travel rules that were passed at the beginning of the 110th Congress require the Committee to issue guidelines concerning the reasonableness of travel expenses and the types of information that must be submitted to the Committee in order to obtain prior approval of privately-sponsored, officially-connected travel.[1] The rules also direct the Committee to issue regulations describing when a two-night stay will be permitted in order for a Member, officer, or employee to participate in a one-day event sponsored by a private entity that retains or employs a lobbyist, and the circumstances under which a lobbyist is permitted to have *de minimis* involvement in planning, organizing, requesting, or arranging a trip.[2]

The Committee hereby issues guidelines and regulations concerning the new travel restrictions and requirements. In many significant areas, the regulations and guidelines set forth below are new restrictions and requirements that ***supersede*** the Committee's policies under the travel rules that existed in previous congresses, and ***they take effect on March 1, 2007.***

Travel Guidelines and Regulations[3]

A. Connection between Trip and Official Duties

A Member, officer, or employee seeking approval for travel must demonstrate that the activities on the trip are related to the individual's official responsibilities or matters arising from his or her official duties. In evaluating a request for approval to

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[1] House Rule 25, cl. 5(i).

[2] House Rule 25, cl. 5(b)(1)(C). For brevity's sake, references in the text to the term "lobbyist" also include agents of a foreign principal.

[3] These provisions address both the acceptance of in-kind transportation, lodging, and meals as well as reimbursement of travel expenses.

travel at private expense, the Committee will evaluate the individual's responsibilities, and/or whether the purpose of the trip relates to matters within the general legislative or policy interests of the Congress. Travel will not be approved if it does not include sufficient officially-connected activities, or if it includes excessive amounts of unscheduled time or opportunities for recreational activities during the official itinerary, even if such activities are engaged in at personal expense.

B. Reasonableness of Travel Expenses

(1) *Transportation to the Event*: Members, officers, and employees may accept up to business-class transportation on commercial air carriers or trains to participate in Committee-approved, privately-sponsored travel. Other transportation (including first-class airfare or train fare, charter travel, or travel on private aircraft) may *only* be accepted if:

(a) it is demonstrated that the cost of such travel does not exceed the cost of available business-class transportation (or if the traveler uses the traveler's own frequent flyer or similar benefits to upgrade to first class);

(b) such travel is necessary to accommodate a disability or other special need as substantiated in writing by a competent medical authority;

(c) genuine security circumstances require such travel;

(d) the scheduled flight time, including stopovers and change of planes, is in excess of 14 hours; or

(e) the Committee permits such travel based on *exceptional* circumstances.

(2) *Local Transportation*: Local area transportation expenses during a trip must be reasonable and unrelated to personal or recreational activities.

(3) *Lodging*:

(a) For travel to events arranged or organized *without regard* to congressional participation (for example, annual meetings of business or trade associations or other membership organizations), Members, officers, and employees may accept lodging accommodations at a pre-arranged location for event attendees commensurate with those customarily provided to or purchased by other event attendees. The quality or location of the accommodations may not be enhanced because of the official position of the Member, officer, or employee.

(b) For travel to events arranged or organized *specifically with regard* to congressional participation (for example, fact-finding trips, site visits, educational conferences, and other trips designed for congressional attendance), Members, officers, and employees may accept reasonable lodging expenses at an appropriate facility. Among the factors to be considered in judging the reasonableness of expenses for a lodging facility are the cost of the facility, the location of the facility and its proximity to

the site(s) being visited, the quality of its conference facilities, any security concerns, and whether the facility may accommodate the number of attendees at the event.

(4) *Food*:

(a) For travel to events arranged or organized *without regard* to congressional participation (for example, annual meetings of business or trade associations or other membership organizations), Members, officers, and employees may accept meals related to the event that are similar to those provided to or purchased by other event attendees.

(b) For privately-sponsored travel to events arranged or organized *specifically with regard* to congressional participation (for example, fact-finding trips, site visits, educational conferences, and other trips designed for congressional attendance), Members, officers, and employees may accept reasonable meal expenses at an appropriate facility. The factors to be considered in judging the reasonableness of a meal expense include the maximum *per diem* rates for meals for official Government travel published by the General Services Administration or, for international travel, the maximum *per diem* rate for meals published by the State Department.

(5) *Other Travel Expenses*: Members, officers, and employees may accept reasonable miscellaneous travel expenses, such as transportation to and from airports, security costs, interpreter fees, visa application fees, and similar expenses that are necessary for the officially-connected purpose of the trip.

C. Relationship Between an Event and the Officially-Connected Purpose of the Trip

The location of events arranged or organized *without regard* to congressional participation (for example, annual meetings of business or trade associations) is presumptively reasonable. The location of *other* events must be necessary to the purpose of the event, or if more than one possible location may be relevant to the event, then the location selected must be a reasonable one in relation to the alternatives. If there is no specific location necessary or relevant to the purpose of the event, the location selected must be a reasonable one in light of the nature of the event and its participants, and should not create the appearance that the Member, officer, or employee attending the event is using his or her public office for personal gain.

D. Direct and Immediate Relationship between Source of Funding and an Event

Expenses may only be accepted from an entity or entities that have a significant role in organizing and conducting a trip, and that also have a clear and defined organizational interest in the purpose of the trip or location being visited. Expenses may not be accepted from a source that has merely donated monetary or in-kind support to the trip but does not have a significant role in organizing and conducting the trip.

E. One-day Event Trips Sponsored by a Private Entity that Retains or Employs a Lobbyist

The Committee will authorize a Member, officer, or employee to accept a second night's lodging and meal expenses in order for the individual to participate in a one-day event when it determines that such expenses are necessary due to availability of transportation to or from the event, or in those circumstances when an additional night's stay is practically required in order to facilitate the individual's full participation in the event. The Member, officer, or employee seeking approval for a two-night stay *must request approval from the Committee.*

In determining whether to permit a second night's stay, the Committee will consider the following factors:

(1) the availability of transportation to and from the location of the one-day event;

(2) whether the trip is outside the continental United States or involves travel across two or more time zones;

(3) whether the Member or staff person is participating in a full-day's worth of officially-connected activities (*e.g.*, is the individual giving a speech, taking part in fact-finding, observing presentations, or participating in a panel discussion); or

(4) any other *exceptional* circumstances that are described in detail by the traveler.

F. *De Minimis* Lobbyist Involvement in Planning, Organizing, Requesting, or Arranging a Trip

Member and staff participation in officially-connected travel that is in any way planned, organized, requested, or arranged by a lobbyist is *prohibited*, except as provided below:

(1) when the travel is sponsored by an institution of higher education within the meaning of section 101 of the Higher Education Act of 1965; or

(2) when the travel is for a one-day event trip *and* the involvement of a lobbyist in planning, organizing, requesting, or arranging the trip is *de minimis*, meaning only negligible or otherwise inconsequential in terms of time and expense to the overall planning and purpose of the trip.

G. Information that must be Submitted to the Standards Committee for Purposes of Receiving Prior Approval of Privately-Sponsored Travel

A private sponsor offering officially-connected travel to a Member, officer, or employ must complete and sign a Private Sponsor Certification Form, and provide a copy of that form to the invitee(s). The sponsor should not submit that form directly to the Committee. Private sponsors are strongly urged to submit the form to the invitee(s) at least 30 days before the travel is scheduled to begin.

A Member, officer, or employee must submit to the Committee a completed and signed Privately Sponsored Travel Approval Form that attaches or includes the Private Sponsor Certification Form and, for staff travel, a copy of the Advance Authorization of Employee Travel Form.

U.S. House of Representatives
Committee on Standards of Official Conduct

PRIVATE SPONSOR TRAVEL CERTIFICATION FORM
(provide directly to invitee)

This form should be completed by private entities offering to provide travel or reimbursement for travel to House Members, officers or employees under House Rule XXV, clause 5. A completed copy of the form should be provided to each invited House Member, officer or employee, who will then forward the form to the Committee. The trip sponsor should NOT submit the form directly to the Committee.

*Private sponsors are urged to submit this form to the invitee at least **30 days** before travel is scheduled to begin.* The failure to provide the Committee with adequate time to review the form and attachments may result in the invitee not receiving approval for the trip. The submission of an incomplete form will delay the review process. Before completing this form, sponsors are also urged to *carefully review* the Committee's private travel regulations, guidelines and advisory memoranda detailing the rules and restrictions for private travel, and to call the Committee with any questions. *Please type form.*

1. Sponsor(s) (who will be paying for the trip): _____

   _____

2. I represent that the trip will not be financed (in whole or in part) by a federally-registered lobbyist or a registered foreign agent (*signify "yes" by checking box*): ☐

3. I represent that the trip sponsor(s) has not accepted from any other source funds earmarked directly or indirectly to finance any aspect of the trip (*signify "yes" by checking box*): ☐

4. Is travel being offered to an accompanying family member of the House invitee(s)? ☐ Yes ☐ No

5. Provide names and titles of House invitees; for each invitee, provide explanation of why the individual was invited (include additional pages if necessary): _____

   _____

   _____

6. Dates of travel: _____

7. If travel is for participation in a one-day event, check one of the following:
   a. One-night's lodging and meals are being offered: ☐ <u>or</u>
   b. Two-nights' lodging and meals are being offered: ☐
   If "b" is checked, please indicate the circumstances under which the second night is warranted: ___

   _____

8. Cities of departure – destination – return: _____

   _____

9. Reason for selecting the location of the event or trip: _____

   _____

   _____

10. Attached is a detailed agenda of the activities taking place during the travel (*i.e.*, an hourly description of planned activities) (*signify "yes" by checking box*): ☐

11. I represent that (*check as applicable*):
    a. The sponsor of the trip does not retain or employ a federally registered lobbyist or registered foreign agent: ☐ or
    b. The sponsor of the trip is an institution of higher education within the meaning of section 101 of the Higher Education Act of 1965: ☐ or
    c. The trip is for attendance at a one-day event *and* lobbyist involvement in planning, organizing, requesting, or arranging the trip was *de minimis* under the Committee's travel regulations. ☐

12. If the trip is not sponsored by an institution of higher education, I represent that a federally-registered lobbyist or foreign agent will not accompany House Members or employees on any segment of the trip (*signify "yes" by checking box*): ☐

13. Private sponsors must have a direct and immediate relationship with to the purpose of the trip or location being visited. Please describe the role of the sponsor(s) in organizing and conducting the trip:

    _____

    _____

14. Describe the sponsor's organizational interest in the purpose of the trip: _____

    _____

    _____

15. Describe the type and class of the transportation being provided. Indicate whether coach, business-class or first-class transportation will be provided. In addition, for travel via aircraft, please indicate if travel is being offered on a commercial flight, chartered flight or on an aircraft operated or paid for by a carrier not licensed by the Federal Aviation Administration to operate for compensation or hire (*i.e.*, a private aircraft). If first-class fare is being provided, or if travel is via chartered or private aircraft, please provide an explanation describing why such travel is warranted: _____

    _____

    _____

16. I represent that the expenditures related to local area travel during the trip will be unrelated to personal or recreational activities of the invitee(s) (*signify "yes" by checking box*): ☐

17. Name of hotel or other lodging facility: _____

18. Cost per night of hotel or other lodging facility (approximate cost may be provided): _____

    _____

19. Reason(s) for selecting hotel or other lodging facility: _____

    _____

    _____

20. I represent that either (*check one of the following*):
    a. The trip involves an event that is arranged or organized *without regard* to congressional participation and that meals provided to congressional participants are similar to those provided to or purchased by other event attendees: ☐ or
    b. The trip involves events that are arranged or organized *specifically with regard* to congressional participation: ☐
    If "b" is checked, detail the cost per day of meals (approximate cost may be provided): _____

    _____

21. TOTAL EXPENSES FOR EACH PARTICIPANT:

☐ actual amounts ☐ good faith estimates	Total *Transportation* Expenses per Participant	Total *Lodging* Expenses per Participant	Total *Meal* Expenses per Participant
For each Member, Officer, or employee			
For each accompanying family member			

	Other Expenses (dollar amount)	Identify Specific Nature of "Other" Expenses (*e.g.*, taxi, parking, registration fee, *etc.*)
For each Member, Officer, or employee		
For each accompanying family member		

22. I represent that reimbursement for miscellaneous travel expenses for the trip, such as travel to and from airports, security costs, interpreter fees, visa application fees, and similar expenses, will be for actual costs incurred and are necessary for the purpose of the trip (*signify "yes" by checking box*): ☐

23. I certify that the information contained in this form is true, complete, and correct to the best of my knowledge.

Signature: _____

Name and title: _____

Organization: _____

Address: _____

Telephone number: _____

Fax number: _____

Email Address: _____

The Committee staff may contact the above individual above if additional information is required.

If there are any questions regarding this form please contact the Committee at the following address:

Committee on Standards of Official Conduct
U.S. House of Representatives
HT-2, The Capitol
Washington, DC 20515
(202) 225-7103 (phone)
(202) 225-7392 (general fax)
(202) 226-7172 (fax for travel approvals)

Version date 2/2007 by Committee on Standards of Official Conduct

U.S. House of Representatives
Committee on Standards of Official Conduct

PRIVATELY-SPONSORED TRAVEL APPROVAL FORM
For Members, Officers and Employees
(submit directly to the Committee)

This form should be completed by House Members, officers or employees seeking Committee approval of privately-sponsored travel or reimbursement for travel under House Rule XXV, clause 5. The completed form should be submitted directly to the Committee by each invited House Member, officer or employee, together with the completed and signed Private Sponsor Travel Certification Form.

*Members, officers and employees seeking approval for travel are urged to submit all forms to the Committee at least **30 days** before travel is scheduled to begin.* The failure to provide the Committee with adequate time to review the form and attachments may result in the invitee not receiving approval for the trip. The submission of an incomplete form will delay the review process. A copy of this form will be made available for public inspection. *Please type form.* ***Form (and any attachments) may be faxed to the Committee at (202) 226-7172.***

1. Name of Member, officer or employee (traveler): _____
2. Sponsor(s) (who will be paying for the trip): _____
   _____
3. Is travel being offered to an accompanying family member? ☐ Yes ☐ No
4. Dates of travel: _____
5. If travel is for participation a one-day event, check one of the following:
   a. Approval for one-night's lodging and meals is being requested: ☐ or
   b. Approval for two-nights' lodging and meals is being requested: ☐
   If "b" is checked, please indicate the circumstances under which the second night is warranted: ____
   _____
6. Travel destination(s): _____
7. Purpose of the trip: _____
   _____
8. Provide explanation of why participation in the trip is connected to your official or representational duties: _____
   _____
   _____
9. Private Sponsor Travel Certification Form is attached (*signify "yes" by checking box*): ☐
10. For staff, Advance Authorization of Employee Travel Form is attached (*signify "yes" by checking box*): ☐

11. I certify that the information contained in this form is true, complete, and correct to the best of my knowledge.

Signature: _____

Office address: _____

Phone number: _____

Email address: _____

Committee staff may contact you if additional information is required.

If there are any questions regarding this form please contact the Committee:

Committee on Standards of Official Conduct
U.S. House of Representatives
HT-2, The Capitol
Washington, DC 20515
(202) 225-7103 (phone)
(202) 225-7392 (general fax)
(202) 226-7172 (fax for travel approvals)

Version date 2/2007 by Committee on Standards of Official Conduct

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT
Washington, DC 20515

March 14, 2007

MEMORANDUM TO ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman STJ
Doc Hastings, Ranking Republican Member DH

SUBJECT: New Travel Rules for Officially-Connected Travel Paid for by a Private Source

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The new travel rules that were adopted at the beginning of the 110th Congress impose new restrictions and requirements on officially-connected travel paid for by a private source. Specifically, the revised rules –

- prohibit certain sources of travel expenses and ban lobbyist accompaniment or involvement in planning, organizing, requesting, or arranging most trips;
- require approval of *all* privately-funded travel by the Committee following pre-travel certification by the trip sponsor, and impose new post-travel reporting requirements; and
- limit the acceptance of travel expenses to those that are reasonable under guidelines and regulations issued by the Standards Committee.

Attached to this advisory memorandum is a chart that summarizes the new travel rules. There are certain trips that are not affected by the new rules, including travel paid for by the Members' Representational Allowance or House committee funds; travel provided by federal, state, or local governmental entities; and certain travel unrelated to official duties that is paid for by a private source. Committee-approved guidelines and regulations implementing the new requirements were issued on February 20, 2007.[1] The Committee has also issued two new forms, one for *sponsors* ("Private Sponsor Travel Certification Form") and one for *travelers* ("Privately Sponsored Travel Approval Form"). New post-

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[1] *See* House Rule 25, cls. 5(b)(1)(C), 5(i).

travel disclosure forms have also been issued. All of these materials are available on the Committee's website (www.house.gov/ethics).

The new travel rules impose a number of entirely new restrictions and requirements that ***supersede*** the previous travel rules and the Committee's policies that existed in the previous Congress. The new rules took effect on March 1, 2007. Before accepting travel from a private source, Members and staff should closely review this memorandum and the travel guidelines and regulations, and should contact the Committee's Office of Advice and Education, at (202) 225-7103, with any questions.

I. Prohibited Sources of Travel Expenses and Lobbyist Participation Ban

A. Prohibited Sources of Expenses for Officially-Connected Travel. Except as discussed below, the new travel rules ***ban the acceptance of travel or travel expenses from a private entity that retains or employs a lobbyist.*** The existing ban on accepting travel paid by a lobbyist remains in place.[2] Thus, other than under the two exceptions discussed below, companies, firms, non-profit organizations (including charities), and other private entities that retain or employ a lobbyist may no longer provide officially-connected travel to Members and staff.

Conversely, private entities that *do not* retain or employ a lobbyist generally may continue to provide officially-connected travel to Members and staff. There is no change in the durational limits on travel provided by a private source that does not retain or employ a lobbyist (*i.e.*, four days for a trip taking place within the continental United States, and seven days (exclusive of travel time) for travel outside the continental United States). As discussed below, however, such travel is subject to the new requirements for pre-travel certification, Committee approval, and post-travel disclosure.

B. Ban on Lobbyist Accompaniment and other Involvement. In addition to prohibiting Members and staff from accepting officially-connected travel from a private entity that retains or employs a lobbyist, the new rules ***prohibit*** Members and staff from accepting travel from a private source if the official will be accompanied by a lobbyist on "any segment" of the trip.[3] The Committee views the term "segment" to mean any parts of the travel to and from the event, rather than the event itself or the location being visited. Furthermore, except as discussed below, Members and staff are ***prohibited*** from participating in any trip that was planned, organized, requested, or arranged by a lobbyist.

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[2] House Rule 25, cl. 5(b)(1)(A). The new travel rules also restrict travel expenses from an agent of a foreign principal or a private entity that retains or employs such an individual. For brevity's sake, references in this memorandum to a lobbyist also include an agent of a foreign principal.

[3] *Id.*, cl. 5(c)(1)(A).

C. Limited Exceptions for Certain Trips. It is permissible for Members and staff to accept officially-connected travel from private entities that retain or employ a lobbyist in two limited circumstances:

- for a trip paid for directly by "an institution of higher education,"[4] or
- for a trip involving attendance at or participation in a "one-day event (exclusive of travel time and an overnight stay)."[5]

For trips sponsored by an institution of higher education, lobbyist accompaniment is permissible, and a lobbyist may be involved with planning, organizing, requesting, or arranging the trip.

With regard to one-day event trips, it is permissible for a Member or staff person to accept from a private source that retains or employs a lobbyist ***a single night's lodging and meals***, if offered by the trip sponsor. Members and staff must limit their involvement in connection with the event to *a single calendar day*. It would therefore be permissible for a Member or staff person to attend a single day of a multiple-day conference, forum, or other event that is being hosted primarily for individuals other than congressional invitees.

However, under the new travel guidelines and regulations, the Committee may permit ***a second night's stay*** when it determines, *on a case-by-case basis*, that the additional expenses are *practically required* for the individual to participate in the one-day event.[6] Some circumstances in which the Committee may permit a second night's stay are for certain long-distance trips, or when a Member or staff person is participating in a full day's worth of officially-connected activities such that a second night's stay is necessary to accomplish the purpose of the trip. However, Members and staff would be personally responsible for any expenses incurred beyond those allowed by the Committee in connection with the second-night's stay if they chose to extend the trip. Members and staff wishing to extend a trip at their own personal expense should consult the Committee's *Gifts and Travel* booklet, at p. 79, or contact the Committee's Office of Advice and Education for guidance in particular circumstances.

Lobbyist accompaniment is ***prohibited*** on a one-day event trip. In addition, under the new travel guidelines and regulations no more than *de minimis* lobbyist involvement is permitted in terms of planning, organizing, requesting, or arranging a one-day event trip.[7] Under the guidelines and regulations, the involvement of a lobbyist in connection

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[4] As used in the rule, "an institution of higher education" is one within the meaning of section 101 of the Higher Education Act of 1965, that is, an accredited, degree-granting postsecondary institution.

[5] House Rule 25, cl. 5(b)(1)(C).

[6] *Id.* In addition, the second night's stay must have been offered by the trip sponsor (*i.e.*, it may not be solicited by the Member or staff person), and the traveler must request the Committee's approval for the second night's stay.

[7] *Id.*, cl. 5(c)(2).

with the trip must be ***negligible or otherwise inconsequential to the overall planning and purpose of the trip***. In the Committee's view, it would be permissible for a lobbyist to respond to a trip sponsor's request that the lobbyist identify Members or staff with a possible interest in a particular issue relevant to a planned trip, ***provided that the request was not initiated by the lobbyist***, and ***that the lobbyist does not determine which Members or staff are actually invited on the trip***. In other words, it would ***not*** be permissible for a lobbyist to initiate contact with trip sponsors or planners for purposes of suggesting possible House invitees, ***nor*** would it be permissible for a lobbyist to have any other role in planning, organizing, requesting, or arranging the trip, other than possibly providing the names of possible invitees as described above. Thus, in order for a Member or staff person to receive Committee approval for a trip, a lobbyist should not be involved in selecting the destination of the trip, drafting the trip agenda, or accompanying Members and staff on the trip, except as otherwise permitted under the rules, regulations, and guidelines.

II. Pre-Travel Certification, Committee Approval, and Post-Travel Disclosure

Under the new rules, both certification by the sponsor of a variety of travel-related facts and approval of the travel by the Committee are required before Members and staff may accept officially-connected travel from a private source for *all* officially-connected trips (*i.e.*, regardless of whether the private source retains or employs a lobbyist). To receive Committee approval, Members and staff must provide the Committee with written certification from the private source as to the following:

- the trip will not be financed in any part by a lobbyist;
- that (1) the source does not retain or employ a lobbyist, (2) the source is a institution of higher education, or (3) the trip meets the requirements for travel to a one-day event and the source describes the *de minimis* involvement of a lobbyist in planning, organizing, requesting, or arranging the trip;
- no earmarked funds from another source for any aspect of the trip were accepted;
- the traveler will not be accompanied by a lobbyist (except for a trip sponsored by an institution of higher education); and
- the trip, except as otherwise permitted in the rules for one-day event trips and trips sponsored by an institution of higher education, will not be planned, organized, requested, or arranged by a lobbyist.[8]

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[8] *Id.*, cl. 5(d)(1).

A private sponsor offering officially-connected travel to a Member or staff person must complete and sign a Private Sponsor Certification Form, and provide a copy of that form to each House invitee (not directly to the Committee).

A Member or staff person seeking approval for a trip must submit to the Committee a completed and signed Privately Sponsored Travel Approval Form that attaches or includes the Private Sponsor Certification Form and, for staff travel, the Advance Authorization of Employee Travel Form signed by the supervising Member. *Each* Member or staff person participating on a trip is required to seek individual approval from the Committee in advance of accepting the travel.

Under the new post-travel disclosure requirements, Members and staff are required to file with the Clerk "all advance authorizations, certifications, and disclosures," and the Clerk is required to make all of that information available for public inspection as soon as possible after receipt.[9] Post-travel disclosure of expenses is required within ***15 days*** after the traveler returns.[10] ***It is a violation of House rules not to file the necessary disclosure within that time period.*** In addition, on their post-travel disclosure forms, Members and staff are now required to provide a description of the "meetings and events attended," in addition to other information required to be disclosed under the previous rules.[11]

III. Guidelines for Reasonable and Necessary Expenses

The travel rules concern not only the amount of expenses Members and staff may receive, but also the fundamental requirement that attendance on a trip must be related to the official duties of the participating Member or staff person and would not create the appearance that the individual is using public office for private gain.[12] These are not entirely new requirements, and the Committee's *Gifts and Travel* booklet, at pp. 71-73 and 75-76, contains guidance on this latter point as well as the requirements concerning the proper sources of expenses for officially-connected travel.

The Committee has now issued detailed guidelines and regulations that concern the types and amounts of travel, lodging, food, and other travel-related expenses that may be accepted under the new rules. The guidelines also address the requirements concerning the relationship between an event (and its location) and the officially-connected purpose of the trip, and the appropriate sponsorship requirements. Because this is a major change in the rules under which Members and staff may accept travel expenses from a private source, Members and staff are urged to review closely the new travel guidelines and regulations and seek guidance from the Committee as necessary.

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[9] *Id.*, cl. 5(b)(5).

[10] Under the rules in the 109th Congress, disclosures were required be filed within 30 days after the traveler returned from the officially-connected trip.

[11] House Rule 25, cl. 5(b)(3)(F).

[12] *See id.*, cls. 5(b)(2)(D), 5(b)(3)(G).

With regard to the guidelines for reasonable and necessary expenses, there are some major points worth noting, as follows.

A. Connection between Trip and Official Duties. Under the new rules, Members and staff requesting approval for travel paid for by a private source must demonstrate that the travel is connected to the individual's official duties, and would not create the appearance that the individual is using public office for private gain. Pursuant to the guidelines, a number of factors will be considered by the Committee in determining whether to approve a Member or staff person's travel request, including –

- the official's responsibilities,
- whether the trip relates to matters within the legislative or policy interests of Congress, and
- the amount of officially-connected activities scheduled to take place during the trip.

Member or staff participation will be evaluated on a case-by-case basis, and travelers are required to explain to the Committee (through the completion of the Privately Sponsored Travel Approval Form) how attendance on a given trip relates to their official and representational duties. That explanation, together with the rest of the information on that form, is part of what will be made publicly available.

B. Transportation Expenses. Under the guidelines, coach and business-class air or train fare may be accepted. However, first-class air or train fare, chartered flights, and private aircraft flights are permitted only under *limited* conditions, such as when the cost of such fare does not exceed business-class transportation (or when the traveler's frequent flyer or similar benefits are used to upgrade to first class), first-class travel is necessary due to a disability of the traveler, there are genuine security concerns such that first-class fare is required, or the flight is in excess of 14 hours. The Committee may also approve travel via first-class air or train fare, chartered flights, or private aircraft when *exceptional* circumstances are demonstrated in writing by the private sponsor.

C. Lodging and Food Expenses. Recognizing that Members and staff receive invitations to participate in various types of events, the guidelines distinguish between travel for –

- events organized *without regard* to congressional participation, including annual meetings, conferences, seminars, and symposiums of trade associations, professional societies, business associations, and other membership organizations, and
- those organized *specifically for* congressional participation, such as fact-finding trips, site visits, educational conferences, and other trips designed for congressional attendance.

For events falling into the former category, the Committee recognizes that flexibility is needed in authorizing lodging and food expenses in order for Members and staff to participate in or appear at events that are organized principally for the benefit of non-congressional attendees. The guidelines therefore permit Members and staff to accept lodging and food that is commensurate with what is customarily provided to or purchased by the non-congressional attendees in similar circumstances.

With regard to events designed specifically for congressional participation, the guidelines specify that "reasonable" lodging and food expenses may be accepted. In judging the reasonableness of food expenses, the Committee will consider the maximum *per diem* rates for meals for official government travel published by the General Services Administration or, for international travel, the maximum rate for meals published by the State Department. The pertinent *per diem* rate schedules are available on each agency's website.

D. The Relationship between the Event (including its Location) and the Officially-Connected Purpose of the Trip. The guidelines distinguish between travel to locations arranged or organized *without regard* to congressional participation, which is deemed to be presumptively reasonable, and trips that do that have such status. While a location may be deemed to be presumptively valid, Members and staff must still demonstrate that the purpose of the trip relates to their official and representational duties or that the purpose of the trip relates to matters within the legislative or policy interests of Congress, *and* there must be sufficient officially-connected activities for the House invitees during *each* day of the trip. Therefore, for many trips it may be necessary for the private sponsor to develop an agenda specifically for House participants that reflects a sufficient amount of officially-connected activities on each day of the trip.

Concerning the latter type of trip (*i.e.*, one designed specifically for Members and staff), the regulations require that the location to be visited must be necessary to the purpose of the trip, or if more than one possible location may be relevant to the purpose of the trip, the location selected must be reasonable in relation to the alternatives. Factors used to judge the reasonableness of a location include the nature of the event and its participants. For example, a fact-finding trip regarding a particular industry may be appropriate at one or more locations that have a connection to the industry, but the trip may not be appropriate if the destination is a resort location with no connection to the industry.

Please contact the Committee at (202) 225-7103 with any questions.

Summary of Travel Rules

Type of Trip	Permissible Sponsor	Lobbyist Involvement in Planning, Organizing, Requesting, or Arranging	Lobbyist and Foreign Agent Accompaniment	Certification, Committee Approval, and Post-travel Disclosure Required?	*Notes*
One-day Event Trip	Any sponsor *OTHER* than a lobbyist or foreign agent	*De minimis*	Not permitted	Yes	Travel may be extended to a two-night stay when determined by the Committee to be practically required for traveler to participate in the one-day event
Trip Sponsored by an Institution of Higher Education	Private universities and colleges	Permitted	Permitted	Yes	
Multiple-day Event Trip	Any sponsor *OTHER* than a lobbyist, foreign agent, or private entity that retains or employs such an individual	Not permitted	Not permitted	Yes	
Government-sponsored Travel	Federal, state, and local governments, including a public university or college	Permitted	Permitted	No	
Foreign Government-sponsored Travel	Foreign government with a MECEA-approved trip, or in-country foreign travel permitted under the FGDA	Permitted	Permitted	No	Special disclosure requirements for FGDA travel

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

March 27, 2007

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Financial Interests under the New Earmark Rules

The House Rules adopted at the beginning of the 110th Congress include a new provision in the Code of Official Conduct regarding earmarks. This provision, found at House Rule XXIII, clause 17, requires that a Member, Delegate, or Resident Commissioner[1] who requests an earmark or a limited tax or tariff benefit to provide certain information regarding the request and its purpose to the committee of jurisdiction, including a certification that neither the Member nor the Member's spouse has a financial interest in the provision. This advisory memorandum is intended to provide some general guidance based on questions the Committee has received concerning the new certification requirement. Members with specific questions should contact the Committee's Office of Advice and Education, at (202) 225-7103.

Summary

House Rule XXIII, clause 17 imposes a disclosure requirement on a Member who "requests a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or accompanying report) or in any conference report on a bill or joint resolution (or an accompanying joint statement of managers)." The committees with jurisdiction over earmark requests shall determine whether any particular spending provision constitutes an earmark or a "request" for an earmark. A Member who requests an earmark or other provision must provide a written statement to the chairman and ranking member of the committee of jurisdiction of the bill, resolution, or report that contains the following information:

- the name of the Member;
- in the case of an earmark, the name and address of the intended recipient or if there is no intended recipient, the location of the activity;

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[1] Hereinafter, Members, Delegates, and the Resident Commissioner are referred to collectively as "Members."

- in the case of a limited tax or tariff benefit, the name of the beneficiary;
- the purpose of the earmark or limited tax or tariff benefit; and
- a certification that both the Member and the Member's spouse have no financial interest in the earmark or limited tax or tariff benefit.

The application of the rule turns on a number of key terms, including "financial interest," "earmark," "limited tax benefit," and "limited tariff benefit." The latter three terms are defined in House Rule XXI, clauses 9(d), (e), and (f).[2]

What is a "Financial Interest" under House Rule XXIII, clause 17?

House Rule XXIII, clause 17(a)(5) requires a Member who requests an earmark[3] to certify that the Member and his or her spouse have "no financial interest in such congressional earmark." Whether a Member or a Member's spouse has a financial interest in an earmark will most frequently depend on the specific facts and circumstances regarding both the proposed provision and the personal financial circumstances of the Member and spouse. In the great majority of cases, Members should readily be able to determine whether they have a financial interest in an earmark. **Members are encouraged to consult the Standards Committee for guidance with any fact-specific questions they may have.** The Committee nevertheless provides the following general guidance.

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[2] The three terms are defined as follows:

(d) For the purpose of this clause, the term "congressional earmark" means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

(e) For the purpose of this clause, the term "limited tax benefit" means--

(1) any revenue-losing provision that--

(A) provides a Federal tax deduction, credit, exclusion, or preference to 10 or fewer beneficiaries under the Internal Revenue Code of 1986, and

(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or

(2) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986.

(f) For the purpose of this clause, the term "limited tariff benefit" means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

[3] Hereinafter, references to an "earmark" also include limited tax or tariff benefits.

A financial interest would exist in an earmark when it would be reasonable to conclude that the provision would have a direct and foreseeable[4] effect on the pecuniary interests of the Member or the Member's spouse. Such interests may relate to one's financial assets, liabilities, or other interests of the Member and spouse, such as ownership of certain financial instruments or investments in stocks, bonds, mutual funds, or real estate. A financial interest may also derive from a salary, indebtedness, job offer, or other similar interest. Many of these interests are required to be reported on the Member's annual Financial Disclosure Statement.[5]

A financial interest would not include remote, inconsequential, or speculative interests. For example, if a Member proposed an earmark benefiting a certain company, the Member generally would not be considered to have a financial interest in the provision by owning shares in a diversified mutual fund, employee benefit plan (*e.g.*, the Thrift Savings Plan or similar state benefit plan), or pension plan that, in turn, holds stock in the company.

As a general matter, a contribution to a Member's principal campaign committee or leadership PAC does not constitute the type of "financial interest" referred to in the rule. Nevertheless, a political contribution tied to an official action may raise other considerations. It is impermissible to solicit or accept a campaign contribution that is linked to any action taken or asked to be taken by a Member in the Member's official capacity – such as an earmark request that a Member has made or been asked to make. Accepting a contribution under these circumstances may implicate the federal gift statute or the criminal provisions on illegal gratuities or bribery.[6] Guidance in this area is found on pp. 32-34 and 36-37 of the *Campaign Activity* booklet and pp. 7 and 60-64 of the *Gifts and Travel* booklet.

If a Member determines that he or she has a financial interest in an earmark, the Member should not request the provision, nor ask another Member to request the measure on his or her behalf.

If it is not clear whether a Member has a financial interest in an earmark or other provision, the Member should contact the Standards Committee at (202) 225-7103 for guidance.

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[4] An effect is foreseeable if it is anticipated or predictable. For additional guidance, see 5 C.F.R. § 2640.103(a)(3) (defining the term "predictable" as "real, as opposed to a speculative, possibility that the matter will affect the financial interest").

[5] Members are required to report the financial interests of spouses and dependent children on the annual Financial Disclosure Statement. House Rule XXIII, clause 17(a) requires certification only with respect to the Member and spouse.

[6] *See* 5 U.S.C. § 7353; 18 U.S.C. § 201; *see also* House Rule 23, cl. 3 (providing that a Member "may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in Congress").

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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
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Washington, DC 20515–6328

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April 3, 2007

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Annual Ethics Training Requirement

The House Rules adopted at the beginning of the 110th Congress include a new provision that requires the Standards Committee to provide annual ethics training to all House Members, officers, and employees. The rules also require that House officers and employees certify that they have attended annual ethics training under guidelines established by the Standards Committee. All new officers and employees beginning work on or after March 1, 2007 must receive ethics training within 60 days after beginning their service to the House.

Guidelines describing how officers and employees may satisfy their ethics training requirements are attached to this memorandum. As noted there, training sessions meeting the certification requirements will begin next week. Additional sessions will be held throughout the year.

Members, officers, or employees with questions about the ethics training requirements should contact the Committee's Office of Advice and Education, at (202) 225-7103.

ETHICS TRAINING GUIDELINES

Pursuant to House Rule XI, clause 3(a)(6), the Committee on Standards of Official Conduct is providing annual ethics training to all Members, Delegates, Resident Commissioners, officers and employees of the House. By January 31 of each year, all officers and employees of the House must file a certification with the Committee that the officer or employee has attended ethics training in the preceding year. New officers and employees beginning work on or after March 1, 2007 must receive training within 60 days after beginning service to the House.

Details on the training requirements are set forth below, as well as some initial dates for training sessions. Please contact the Committee's Office of Advice and Education at 225-7103 with any questions.

Training sessions are currently scheduled in 345 Cannon House Office Building (the Cannon Caucus Room) at the following dates and times:

Wednesday, April 11 – 3:30 p.m.
Friday, April 13 – 2:30 p.m.
Friday, April 27 – 3:30 p.m.

Beginning in May, training sessions will be held every Friday throughout the year in Room HC-5, the Capitol, beginning at 3:00 p.m.

1. **All House employees must take at least one hour of general ethics training annually.**

The one hour of general ethics training will include a substantive discussion of all relevant House rules and standards of conduct. In addition to the dates provided above, additional training will be offered by Committee staff at regularly-scheduled sessions throughout the year. Employees will be notified in advance of future training sessions, and the dates and times of training sessions will also be posted on the Committee's website at www.house.gov/ethics. Employees will be asked to sign in at training sessions, and they will receive certification forms at the end of the training session. Reservations will not be required, but attendance will be limited by room capacity. Officers and employees who have already received comprehensive ethics training lasting at least one hour from Committee staff in the 110th Congress will receive credit for such training by submitting a certification form.

Training that satisfies the requirements of the new House rule may also be offered by Committee staff at other times and places to be determined by the Committee.

2. **All officers and certain senior-level staff must take an additional hour of detailed ethics training annually.**

The Committee has determined that an additional hour of detailed ethics training will be required for all officers and all employees who are required to file a Financial Disclosure Statement (including employees who file Financial Disclosure Statements because they have been designated as "principal assistants").

The additional hour of training may include specialized briefings on the rules and requirements concerning campaign activities, the financial disclosure requirements, the rules on hosting official events, casework considerations, and the outside earned income and employment limitations and related rules on outside activities, including possible conflict of interest considerations. These detailed ethics training sessions will be held periodically throughout the year.

3. **District office training may be done through video replays of live training sessions held in Washington, DC or through such other means as the Committee may provide. Web-based training will be developed and offered in a manner consistent with these guidelines.**

4. **Training will include written materials distributed to all participants, including but not limited to copies of the House Rules, the Code of Ethics for Government Service, the Ethics in Government Act, relevant provisions of Titles 5 and 18 of the United States Code, and explanatory material prepared by the Committee.**

5. **Each personal office, committee office and other office must designate and identify to the Committee on Standards an ethics certification officer or contact not later than April 30, 2007.**

6. **Certification forms will be available on the Committee on Standard's website. The ethics certification officer for each office must compile all completed employee certification forms and ensure that they are submitted with a letter to the Committee on Standards no later than January 31 of each year for training taking place in the preceding year.**

7. **Training is mandatory under House rules. Staff who fail to fulfill their annual training requirement will be notified in writing by the Committee, and the Committee will notify the employing office for any employee who fails to fulfill the training requirements.**

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June 14, 2007

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Amendment to House Rule XXV (the "gift rule")

On May 24, 2007, the House amended House Rule XXV, clause 5(a)(3)(Q) concerning the acceptance of offers of free attendance at charity events. *See* H. Res. 437. In view of the amendment, the Committee has revised its February 6, 2007 Advisory Memorandum on the gift rule amendments at the beginning of the 110th Congress. As discussed in the revised memorandum, it is now permissible for Members and staff to accept a sponsor's invitation to a charity event regardless of whether the sponsor retains or employs a registered lobbyist or an agent of a foreign principal. The Committee has also updated its Highlights Memorandum, and Members and staff who have attended one of the Committee's ethics training sessions may wish to update the materials they received to reflect this recent amendment.

Please contact the Committee's Office of Advice and Education at (202) 225-7103) with any questions about the effect of the amendment on any upcoming charity event you have been invited to attend.

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June 14, 2007*

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Gift Rule Amendments at the Beginning of the 110th Congress

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The House Rules for the 110th Congress that were adopted on January 4 and 5, 2007 included several amendments to the provisions of House Rule 25, clause 5 (the "gift rule") concerning the acceptance by House Members and staff of gifts and privately-sponsored, officially-connected travel. The changes to the rules on the acceptance of gifts became effective when passed, and the provisions affecting the acceptance of officially-connected travel will take effect on March 1, 2007.

This advisory memorandum addresses amendments to the rules on the acceptance of gifts. Amendments affecting the acceptance of officially-connected travel will be the subject of a forthcoming memorandum. Until the new travel rules take effect on March 1, 2007, the travel rules that were in effect during the 109th Congress remain in place.

Members and staff should keep in mind that the intent of the House gift rule is to protect the integrity of the House. The House Code of Official Conduct requires House Members and staff to ***adhere to the spirit*** as well as to the letter of the Rules of the House.[1] Narrow, technical readings of the House gift rule should be avoided. *See House Ethics Manual*, at pages 15-16. For example, even though Members and staff may, consistent with the amendment to the gift rule, accept "food or refreshments of a nominal value offered other than as part of a meal" from registered lobbyists, foreign agents, and entities that retain or employ them, such benefits should not be accepted on a basis so frequent that a reasonable person would be led to believe that the Member or employee is using his public office for private gain. In short, it is never against the House rules to

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* This memorandum is an updated version of the Committee's February 6, 2007 memorandum, revised to reflect an amendment to House Rule XXV, clause 5(a)(3)(Q), which permits free attendance at certain events. *See* H. Res. 437 (May 24, 2007).

[1] House Rule XXIII, cl. 2.

decline a gift, and Members and staff should avoid situations that present even the appearance of impropriety.[2]

Before accepting any gift, Members and staff ***should review this memorandum closely*** and ***consult with the Committee's Office of Advice and Education***, at (202) 225-7103, with any questions.

Application of the Less than $50 Provision Significantly Restricted

The House gift rule, both now and prior to the recent gift rule amendments, generally permits a Member or employee of the House to accept a gift (other than cash or cash equivalent) valued at less than $50.[3] ***However, under the amended rule, the less than $50 provision no longer permits gifts "from a registered lobbyist or agent of a foreign principal or from a private entity that retains or employs registered lobbyists or agents of a foreign principal."***[4]

This limitation significantly restricts the range of gifts that were previously acceptable by House Members and staff. Under the new rule, ***it is no longer permissible to accept a gift, such as a meal or ticket to a sporting event, from a registered lobbyist,***[5] ***or any entity that retains or employs such an individual, under the less than $50 provision***. The new restriction applies not just to gifts given by individual lobbyists and foreign agents, but also to gifts given by entities that retain lobbyists or lobbying firms or that employ in-house lobbyists. Members and staff should bear in mind that many, if not most, organizations with interests before the House retain or employ lobbyists, including corporations, trade associations, unions, advocacy groups, and other special interest groups.

> *Example 1:* A representative of a large corporation that employs in-house lobbyists offers to take a House employee out for a $30 lunch. The lunch would have been acceptable under the previous rule, but the employee must now decline.
>
> *Example 2:* A lobbying firm sends five pizzas to committee staff, knowing that they are working late on a

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[2] Of course, as with the old gift rule, the amended gift rule described in this advisory memorandum applies to Members and staff in all circumstances, including while on official travel such as a CODEL.

[3] Under the rule, the value of gifts from a single source that may be accepted during a calendar year must be under $100. Gifts worth less than $10 do not count towards the annual limit.

[4] House Rule XXV, cl. 5(a)(1)(A)(ii).

[5] The gift rule also restricts acceptance of items from an agent of a foreign principal or a private entity that retains or employs such an individual. For brevity's sake, references in the text to a lobbyist also include an agent of a foreign principal.

> bill. The pizza would generally have been acceptable under the previous rule up to a value of $49.99 per staff person. Under the new rule, the pizzas must be declined regardless of the value because they are from a lobbying firm.[6]
>
> *Example 3:* A trade association that employs lobbyists offers a staff person a $40 ticket to a Nationals game. The ticket would have been acceptable under the previous rule, but must now be declined. As before, the staff person may attend the game if he pays the trade association for the ticket.

The new rule prohibits gifts "from" a private entity that retains or employs lobbyists. Certainly, a gift paid for with the private entity's funds (such as by use of a corporate credit card) would be considered a gift "from" the private entity. The new prohibition may also apply, depending on the circumstances, even when a non-lobbyist employee of an entity that retains or employs a lobbyist pays for a gift using *personal* funds, such as where the Member or employee knows that that donor is using personal funds to evade the application of the new rule.

> *Example 4:* A non-lobbyist employee of a constituent company that retains lobbyists offers to take the district director to a $40 lunch. The company's employee says that he intends to use his personal funds instead of company funds to avoid the prohibition on gifts from entities that retain or employ lobbyists. The district director may not accept the lunch.

Members and staff may still accept gifts worth less than $50 from persons and entities *other than* lobbyists and entities that retain or employ them. However, Members and staff should exercise caution when accepting gifts under this provision. It is incumbent on the Member or employee to ascertain that the offeror is a qualified donor by, for example, asking the offeror directly whether it retains or employs registered lobbyists, or by checking lobbying registration filings. When in doubt, a gift should not be accepted.

> *Example 5:* An employee of a constituent company offers to take the district director to a $40 lunch at company expense. Upon inquiry by the district director, the company's employee indicates that the company retains a law firm, but he does not know whether the firm engages in lobbying work on behalf of the company. The district director should decline the lunch because it is not clear that the company does not retain a lobbyist.

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[6] Pizza is considered "part of a meal," and is not acceptable as food or refreshment of a nominal value, as discussed below.

All Exceptions to the Gift Rule Continue to Apply

The new prohibition described above *does not* restrict Members and staff from accepting, even from registered lobbyists and entities that retain or employ them, gifts under the existing exceptions to the gift rule found in House Rule XXV, clause 5(a)(3).

Widely Attended Events. House Members and staff may continue to accept free attendance, including food and refreshments, at a "widely attended event," regardless of the sponsor, provided that each of the requirements set forth in the provision and in this Committee's guidance are satisfied.[7] In short, the widely attended event provision permits free attendance at events such as conventions, conferences, dinners, and other similar events where (1) the event is open to individuals from throughout a given industry or profession, or those in attendance represent a range of persons interested in a given matter, *and* there is a reasonable expectation that at least 25 persons will attend, other than Members, officers, or employees of Congress; (2) the invitation is provided by the sponsor of the event; and (3) the Member or employee reasonably determines that attendance at the event is related to his or her official duties. Each of these elements is described more fully in the Committee's *Gifts and Travel* booklet, at pages 22-28.

> *Example 6:* A Member is invited by a trade organization to speak at its annual dinner gala, which will have over 100 attendees from the organization. The Member may accept free attendance and dinner, regardless of whether the trade organization retains or employs lobbyists.
>
> *Example 7:* A staffer is invited to a defense industry association luncheon by a particular defense contractor that purchased a table at the event. The staffer may not accept the invitation because it was not offered by the sponsor of the event.

Food or Refreshments of a Nominal Value. Members and staff may continue to accept "food or refreshments of a nominal value offered other than as part of a meal,"[8] even when the donor is a lobbyist or an entity that retains or employs a lobbyist. Under this provision, the kinds of food and refreshments usually offered at receptions (such as hors d'oeuvres, appetizers, and beverages), and morning meetings (coffee, juice, pastry, or bagels), may be accepted. This provision does not, however, allow the acceptance of a meal, or of food or refreshments offered as part of a meal.

> *Example 8:* A trade association invites House staff to attend a holiday reception in its offices featuring hors d'oeuvres. Provided the food offered is of "nominal value"

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[7] *See* House Rule XXV, cl. 5(a)(3)(Q), (4)(A).

[8] *Id.*, cl. 5(a)(3)(U).

> and is offered "other than as part of a meal," House staff may accept.
>
> *Example 9:* A nonprofit organization that employs lobbyists invites House staff to attend an informational briefing on social security reform and will serve a box lunch. House staff may accept free attendance, but they may not accept the lunch because it would be considered "part of a meal."[9]

Items of a Nominal Value. Another exception to the gift rule permits Members and staff to accept "items of a nominal value such as a greeting card, baseball cap, or a T-shirt."[10] The Committee interprets this provision to permit the acceptance of the items explicitly referred to in the rule having a reasonable value, *i.e.*, a T-shirt or a baseball cap (even if worth more than $10), or other items that have a value of less than $10.

> *Example 10:* A company in a Member's district that employs lobbyists offers the Member a $15 baseball cap with the corporate logo. The Member may accept as "an item of a nominal value such as . . . a baseball cap."
>
> *Example 11:* A company in a Member's district that employs lobbyists offers the Member a coffee mug worth $12. The Member may not accept the mug. Under Committee precedent, Members and staff should not rely on the "items of a nominal value" provision in accepting any item having a value of $10 or more (except for a greeting card, baseball cap, or T-shirt).

Gifts Based on a Personal Friendship. The gift rule also permits Members and staff to accept gifts given on the basis of personal friendship.[11] While this provision continues to apply regardless of the donor, caution should be exercised when accepting a gift under this provision when the donor is a lobbyist. The rule requires that in determining whether a gift is provided on the basis of personal friendship, a Member or staff person must consider the circumstances under which the gift was offered, including (1) the history of his or her relationship with the donor, including any previous exchange of gifts; (2) whether, to the official's knowledge, the donor personally paid for the gift, or whether the donor sought a tax deduction or business reimbursement for it; and (3) whether, to the official's knowledge, the donor at the same time gave the same or similar gifts to other Members or staff. These elements are described more fully in the *Gifts and Travel* booklet, at pages 20-21.

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[9] However, a meal could be accepted if the briefing was a widely attended event, as described above.

[10] House Rule XXV, cl. 5(a)(3)(W).

[11] *Id.*, cl. 5(a)(3)(D).

Example 12: A Member's former college roommate, who is also a lobbyist, offers to take the Member to dinner. The college roommate is paying for the dinner personally, and the Member and the former college roommate have previously purchased meals for each other. The Member may accept the meal.

Example 13: A staffer has come to know well a lobbyist with whom he has worked for a number of years. The staffer often sees the lobbyist at events, and the lobbyist, under the old gift rule, occasionally took the staffer out for lunch. Although the staffer considers the lobbyist a "friend," they do not see each other socially or exchange gifts. The lobbyist offers to take the staffer to lunch, just as in previous years. The staffer may not accept.

Other Exceptions. Other gift rule exceptions that continue to apply, even when the donor is a lobbyist or entity that retains or employs a lobbyist, include: Gifts from a relative (clause 5(a)(3)(C)); informational materials sent to a House office (clause 5(a)(3)(I)); an item from a foreign government acceptable under the Foreign Gifts and Decorations Act (clause 5(a)(3)(N)); anything paid for by the federal government or a state or local government (clause 5(a)(3)(O)); a plaque, trophy, or other item that is substantially commemorative in nature (clause 5(a)(3)(S)); donations of "home state products" for display or free distribution (clause 5(a)(3)(V)).

Members and staff are reminded that each of these exceptions to the gift rule has certain requirements that must be satisfied in order to apply. Reiterating those requirements is beyond the scope of this advisory memorandum, and House Members and staff should carefully consult the applicable provision of the gift rule and the Committee's *Gifts and Travel* booklet in this regard.

Example 14: A Member's brother, who is a lobbyist, gives the Member a birthday present worth $300 paid for with his personal funds. As long as the gift is unrelated to the performance of the Member's official duties, the Member may accept as a gift from a relative.

Example 15: A Member, during a trade organization's annual dinner gala, is presented with a $75 plaque engraved with the organization's logo and the date of the event. The trade organization employs lobbyists. The Member may accept the plaque as a commemorative item.

Example 16: A candy manufacturer in the district that retains a lobbyist offers sample-size packets of chocolates to the Member for distribution to visitors to the House

office. The Member may accept the candy as a "home state product."

Example 17: A Member is invited to attend a lunch valued at $100 hosted by a foreign government. If related to the Member's official duties, the Member may accept the invitation under the minimal value provision of the Foreign Gifts and Decorations Act.

Charity Events. House Members and staff may continue to accept free attendance at charity events when invited by the sponsor of the event, even if the sponsor retains or employs a lobbyist. For an invitation to be acceptable under the charity event exception to the gift rule, the primary purpose of the event must be to raise funds for an entity organized under § 501(c)(3) of the Internal Revenue Code, the offer must come from the sponsor of the event (as opposed to an individual or entity who merely contributed to the event), and the offer must be unsolicited.[12] The charity event exception is described in further detail in the *Gifts and Travel* booklet, at pages 25-28.

Effect of the Gift Rule Amendment on Member and Staff Attendance at Political Events. A provision of the gift rule permits Members and staff to accept free attendance, including accompanying food or refreshments, at a fundraising or campaign event sponsored by a political organization.[13] In order to accept free attendance under this provision, the offer must originate from the political organization. A "political organization" is defined by reference to § 527(e) of the Internal Revenue Code, which defines the term in part as a "party, committee, fund, or other organization" that is organized for the purpose of "influencing the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office." This definition includes, for example, organizations such as the RNC, the DCCC, and political action committees.

This provision of the gift rule is unaffected by the recent changes to the rules. Members and staff may continue to accept free attendance at political events under this provision, even when lobbyists will attend the event or are involved in, or such individuals are employed by, the political organization. A meal with a lobbyist where the lobbyist provides a campaign contribution is not a "fundraising or campaign event" under this provision of the gift rule unless the meal is sponsored and paid for by a political organization, and the expenditures are reported as required by FEC rules or applicable state or local rules.

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[12] In addition, Members and staff may accept a sponsor's unsolicited offer of transportation and lodging in connection with their attendance at a charity event when certain criteria are met. See Advisory Memorandum of April 11, 2003 ("Recent Gift Rule Amendments") for further guidance.

[13] *See* House Rule XXV, cl. 5(a)(3)(B), (G)(iii).

Valuation of Tickets to Sporting and Entertainment Events

The new rule codifies long-standing Committee guidance that a ticket to a sporting or entertainment event ***"shall be valued at the face value of the ticket, or in the case of a ticket without a face value, at the highest cost of a ticket with a face value for the event."*** In addition, to address the issue of artificially low face values, the rule also provides that the ***"price printed on the ticket to an event shall be deemed its face value only if it also is the price at which the issuer offers the ticket for sale to the public."***[14]

As to tickets for skyboxes or other private luxury boxes with no face value or an artificially low face value, the value is deemed to be the price of the highest individually-priced ticket for the event. For the vast majority of events, especially in the Washington, DC area, this value most likely will exceed $50. When the value equals or exceeds $50, the invited Member or employee must either decline the invitation or must pay for the ticket at the value of the highest individually priced seat for the event. Of course, as explained above, if the donor is a registered lobbyist or an entity that retains or employs a lobbyist, a Member or employee may not accept free attendance, even if the ticket is valued at less than $50. Other methods of valuation, such as attaching a pro-rata, per-event cost based on a season ticket, are not permissible under the gift rule.[15] If an event does not have any individually priced tickets available to the public, contact the Committee's staff for guidance in determining their value.

Please contact the Committee at (202) 225-7103 with any questions.

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[14] *Id.*, cl. 5(a)(1)(B)(ii).

[15] This guidance applies to valuation of tickets for purposes of the gift rule. For information regarding valuation of tickets for *campaign* events, Members and staff should consult the guidance of the Federal Election Commission.

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June 20, 2007

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: **Travel Approval Requests Must Be Submitted in a Timely Manner**

This memorandum serves as a reminder to all House Members, officers, and employees that requests for Standards Committee approval of privately-funded, officially-connected travel are **mandatory and must be submitted in a timely manner**.

As part of the changes to the ethics rules made by H. Res. 6, effective March 1, 2007, every House Member or employee must receive approval from the Committee on Standards of Official Conduct *before* accepting officially-connected travel funded by a private source. The Committee issued travel guidelines and regulations on February 20, 2007 and an advisory memorandum on March 14, 2007 regarding the new rules. The Committee also created special forms, which are available on the Committee website (www.house.gov/ethics), to be completed by the trip sponsor and the traveler in seeking this approval. As indicated on those forms, **the Committee has asked that any request for approval of privately-funded, officially-connected travel be submitted to the Committee at least 30 days before the commencement of the trip.** That 30-day time period is necessary to allow the Committee ample time to review the submission and give final approval, while still permitting sufficient time for the traveler to make travel arrangements.

Notwithstanding this request, the Committee has repeatedly received requests far short of that 30-day deadline, including many merely a day or two before a trip was scheduled to begin. Given the volume of travel requests received, **the Committee cannot guarantee a response to any trip request submitted less than 30 days prior to the trip's departure date.** Acceptance of reimbursement for travel expenses for an unapproved trip violates House rules.

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

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June 29, 2007

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: General Ethics Training for Congressional District Staff

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The House Rules adopted at the beginning of the 110th Congress include a provision that requires the Standards Committee to provide annual ethics training to all House Members, officers, and employees. By January 31 of each year, all officers and employees must file with the Committee a certification of attendance at ethics training in the preceding year.

District office employee training guidelines are attached to this memorandum. As noted in the guidelines, a general ethics training video is now available on Housenet, located on the Personnel page, for congressional district office employees who are not able to attend one of the Committee's live training sessions. House employees who are located in Washington, D.C. must attend one of the Committee's live training sessions.

Members, officers, or employees with questions about the ethics training requirements should contact the Committee's Office of Advice and Education, at (202) 225-7103.

DISTRICT EMPLOYEE TRAINING GUIDELINES

On April 3, 2007, the Standards Committee issued guidelines on the annual ethics training requirement for all officers and employees. As discussed in those guidelines, all House employees, including district staff, must certify to the Standards Committee that they have received one hour of general ethics training.

District office employees may satisfy their certification requirement through attendance at a live training session when they are in Washington, D.C., by observing an on-line ethics training video developed by the Committee, or by other means as the Committee may provide. A general ethics training video for congressional district employees lasting approximately one hour is available through HouseNet, located on the "Personnel" page. District office employees are encouraged to observe the video in a group setting. Written training materials for district office employees are available on the Committee's website (www.house.gov/ethics) for use in conjunction with the presentation. The Committee will make available additional ethics training videos that satisfy the detailed ethics training requirement for officers and certain senior-level staff.

A certification form for completion by district office employees who observe the general ethics training video is available on the Committee's website. This form must be co-signed by the employee's immediate supervisor (that is, the Member's District director or person serving in an equivalent position) verifying that the employee has observed the entire presentation. The certification forms should be provided to your office's ethics certification officer, not directly to the Committee. Each ethics certification officer must compile all completed employee certification forms and submit them with a letter to the Standards Committee no later than January 31 of each year for training taking place in the preceding year.

If questions arise concerning the laws, rules, and standards of conduct addressed in the ethics training video, district office employees should contact the Committee's Office of Advice and Education at (202) 225-7103.

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September 28, 2007

MEMORANDUM TO ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: New Notification Requirements for Members, Officers, and Very Senior Staff Concerning Future Employment Negotiations and Recusals

---

The purpose of this memorandum is to advise Members, officers, and "very senior" staff[1] of the requirements of new House Rule 27, which took effect on September 14, 2007.[2] Pursuant to the new rule, Members, officers, and very senior staff must notify the Committee on Standards of Official Conduct within three (3) business days after the commencement of any negotiation or agreement for future employment or compensation with a private entity. The notification requirement applies to all job negotiations commenced, and agreements entered into, on or after the effective date of the rule.

The term "negotiation" is not defined in the legislation. However, the Committee generally considers an individual to have commenced employment negotiations with an outside party when 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.**"[3] Merely sending a private entity a copy of a resume is not considered negotiating for future employment.

In addition, Members, officers, and 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 in which they are negotiating or have an agreement for future employment

---

[1] "Very senior" staff are employees "earning in excess of 75 percent of the salary paid to a Member" (clause 2 of House Rule 27), currently an annual rate of $123,900.

[2] House Rule 27 was enacted pursuant to § 301 of the Honest Leadership and Open Government Act of 2007, Pub. L. No. 110-81 (Sept. 14, 2007).

[3] Advisory Memorandum on *Post-Employment and Related Restrictions for Members and Officers*, Sept. 29, 2006, at pp. 2-3 & n. 5 (citations & internal quotations omitted).

or compensation[4], and must notify the Standards Committee of such recusal. Members must also file the recusal notification with the Clerk for public disclosure.

The Committee has issued forms to be used for these new notification requirements. When notifying the Committee of negotiations or agreements for future employment or compensation, Members, officers, and very senior staff should complete and sign an "Employment Negotiation Form." There are two separate forms for notifying the Committee of recusals, one for Members ("Recusal Statement-Members Form") and another one for officers and very senior staff ("Recusal Statement-Employees Form"). These forms are attached to this memorandum and are also available on the Committee's website (www.house.gov/ethics).

Please contact the Committee at (202) 225-7103 with any questions.

[4] House Rule 27, cl. 4. Guidance concerning the standards for recusal is contained in the Committee's *Post-Employment* memorandum for Members and Officers, *supra* n. 3, at p. 3. Similar guidance is provided in the Committee's *Post-Employment* memorandum for staff.

United States House of Representatives
Committee on Standards of Official Conduct

Statement of Recusal for MEMBERS

1. This is to notify the Committee that, pursuant to House Rule XXVII, clauses 1 and 4 (as amended by S.1, § 301(a)), I have recused myself from any official matter that would affect the following private entity as a result of my negotiation or agreement regarding future employment or compensation:

   _____, effective as of

   _____, 2007.

2. Pursuant to this rule, I am required to recuse myself from participation in any official matter that will present a conflict of interest or give the appearance thereof. I recognize that this provision means that I cannot act directly or through others in deciding, approving, or disapproving official matters that will present a conflict of interest or the appearance of a conflict of interest, nor may I recommend, investigate, advise, or otherwise contribute to or influence such official matters. To comply with this provision, any official matter involving the above-named entity must be managed without my direct or indirect participation.

3. I will promptly inform the Committee in writing if I withdraw my recusal statement.

4. I recognize that this form will be made available for public review by the Clerk of the House.

Signature: _____

Print Name: _____

Date: _____

Submit ORIGINAL to: Committee on Standards of Official Conduct
HT-2, The Capitol

Submit COPY to: Clerk of the House
Legislative Resource Center
B-106 Cannon

NOTE: Forms may <u>not</u> be filed by fax.

United States House of Representatives
Committee on Standards of Official Conduct

MEMBER/EMPLOYEE
Notification of Negotiations or Agreement for Future Employment

1. Pursuant to House Rule XXVII, clauses 1-3 (as amended by S.1, § 301(a)),

   I am required to notify the Committee on Standards of Official Conduct within 3 business days after the commencement of negotiations or the formalization of an agreement regarding future employment or compensation.

2. This is to notify you that my negotiations or agreement for future employment

   commenced on _____, 2007 with the following private entity:

   _____.

3. I understand and acknowledge that, pursuant to this rule, I must recuse myself from any official matter that would present a conflict of interest or give the appearance thereof, in connection with the above-named entity, and that I must notify the Committee in writing of such recusal.

Signature: _____

Print Name: _____

Date: _____

Submit ORIGINAL to: Committee on Standards of Official Conduct
HT-2, The Capitol

NOTE: Forms may <u>not</u> be filed by fax.

United States House of Representatives
Committee on Standards of Official Conduct

Statement of Recusal for HOUSE EMPLOYEES

1. This is to notify the Committee that, pursuant to House Rule XXVII, clauses 2 and 4 (as amended by S.1, § 301(a)), I have recused myself from any official matter that would affect the following private entity as a result of my negotiation or agreement regarding future employment or compensation:

   _____, effective as of

   _____, 2007.

2. Pursuant to this rule, I am required to recuse myself from participation in any official matter that will present a conflict of interest or give the appearance thereof. I recognize that this provision means that I cannot act directly or through others in deciding, approving, or disapproving official matters that will present a conflict of interest or the appearance of a conflict of interest, nor may I recommend, investigate, advise, or otherwise contribute to or influence such official matters. To comply with this provision, any official matter involving the above-named entity must be managed without my direct or indirect participation.

3. I will promptly inform the Committee in writing if I withdraw my recusal statement.

Signature: _____

Print Name: _____

Date: _____

Submit ORIGINAL to: Committee on Standards of Official Conduct
HT-2, The Capitol

NOTE: Forms may <u>not</u> be filed by fax.

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December 3, 2007

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Specialized Ethics Training for Congressional District Senior Staff

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A specialized ethics training video is now available on Housenet, located on the Personnel page, for congressional district office senior staff who are not able to attend one of the Standards Committee's live training sessions. Training materials and certification forms for senior staff training are available on the Committee's website. Senior staff who are located in Washington, D.C. must attend one of the Committee's live training sessions.

Congressional district office staff are reminded that they must complete their **mandatory** ethics training requirements by the end of the year: all officers and employees must complete one hour of general ethics training, and all senior staff (any employee who filed a Financial Disclosure Statement in 2007) must complete one additional hour of specialized ethics training.

Revised district office employee training guidelines are attached to this memorandum. Members, officers, or employees with questions about their ethics training requirements should contact the Committee's Office of Advice and Education, at (202) 225-7103.

DISTRICT EMPLOYEE TRAINING GUIDELINES*

On April 3, 2007, the Standards Committee issued guidelines on the annual ethics training requirement for all officers and employees. As discussed in those guidelines, all House employees, including district staff, must certify to the Standards Committee that they have received one hour of general ethics training during the calendar year. In addition, House officers and certain senior level staff (those employees who filed a Financial Disclosure Statement during the year) must complete an additional hour of specialized ethics training annually. All new officers and employees must complete their ethics training within 60 days after beginning their service to the House.

District office employees may satisfy their certification requirement through attendance at a live training session when they are in Washington, D.C., by observing an on-line ethics training video developed by the Committee, or by other means as the Committee may provide. Both general and senior staff ethics training videos for congressional district employees, each lasting approximately one hour, are available through Housenet, located on the "Personnel" page. District office employees are encouraged to observe the videos in a group setting, if possible. Written training materials for district office employees are available on the Committee's website (www.house.gov/ethics) for use in conjunction with the presentations.

Certification forms for completion by district office employees who observe the ethics training videos are available on the Committee's website. These forms must be co-signed by the employee's immediate supervisor verifying that the employee has observed the entire presentation. The certification forms should be provided to your office's Ethics Certification Officer, not directly to the Committee. Each ethics certification officer must compile all completed employee certification forms and submit them with a letter to the Standards Committee no later than January 31 of each year for training taking place in the preceding year.

If questions arise concerning the laws, rules, and standards of conduct addressed in the training videos, district office employees should contact the Committee's Office of Advice and Education, at (202) 225-7103.

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* These guidelines are an updated version of the guidelines issued by the Standards Committee on June 29, 2007, which have been revised to address the specialized ethics training requirement for senior staff.

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December 3, 2007

MEMORANDUM FOR ALL MEMBERS, OFFICERS & COMMITTEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Certifying Compliance with Ethics Training Requirement

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This memorandum details the procedure for Members, officers, committees, and other legislative offices to certify to the Committee on Standards of Official Conduct ("Standards Committee") that their staff has complied with the annual ethics training requirement imposed by House rules.

Substance of the Training Requirement

As detailed in the implementing regulations issued by the Standards Committee, each House employee who worked for the House for at least 60 days during calendar year 2007 is required to complete one hour of training on the ethics rules. In addition, any employee who filed a Financial Disclosure Statement ("FD") in 2007 is required to complete a second hour of specialized ethics training for senior staff.[1] New employees are required to complete their training within 60 days of commencing employment with the House.

Staff located in Washington, DC are required to fulfill these requirements by attending a live briefing led by Standards Committee counsel. Staff employed in a district office may fulfill these requirements by viewing taped briefings that are available on-line through HouseNet.

Each employee who attended a live briefing should have signed in at the start of the presentation and received a certificate of attendance at its conclusion. Staff who watched an on-line presentation should fill out the appropriate certificate of completion for the video presentation viewed (general or senior staff) and have it signed by their

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[1] Any employee who was paid at an annual rate of $109,808 or more for at least 60 days in 2006 was required to file an FD in May 2007. Some staff paid below that rate may also have been required to file an FD because they were designated as the "Principal Assistant" for their employing Member. Regardless of salary level, any employee who filed an FD in 2007 is required to attend both hours of training for this calendar year.

District Director or other supervisor. The certificates of completion for the taped presentations are available on the Standards Committee website (www.house.gov/ethics).

The Standards Committee asked each personal and committee office to designate an Ethics Certification Officer to compile attendance certificates for the staff of that office. These certification officers should be responsible for ensuring compliance with the process detailed below.

Certifying Compliance with the Training Requirement

Each Member, officer, committee, and other legislative office must certify, by **January 31, 2008**, that all members of the staff of that office have complied with the training requirement.

To certify compliance, each employing authority should forward to the Standards Committee all attendance certificates – for both the general and senior staff training – for employees of that office, together with a letter from the employing Member certifying that all members of the staff have completed the required training. Attendance certificates for committee staff should be accompanied by a letter from the Chairman or Ranking Republican Member of the committee, as appropriate. For offices that are not supervised by a Member, such as the Parliamentarian, the letter should be signed by the most senior employee in the office.

If a Member, officer, committee, or other employing office has current employees who did not satisfy the training requirement, the cover letter should identify those individuals by name and provide an explanation as to why each such employee did not complete the required training.

House employees who moved from one House office to another during 2007 should be included with the staff of their current office, regardless of which office employed them at the time they completed the training. Attendance certificates for shared staff may be submitted by any office for which the individual is currently employed. Employees in these situations may wish to note that fact on their attendance form.

In a few instances, offices have already submitted attendance certificates for all or part of their office staff, without providing the cover letter described above. Those offices are still required to send a letter by the January 31, 2008 deadline certifying that all members of the staff have complied with the ethics training requirement. That letter should include any additional attendance certificates that were not submitted previously.

Anyone with questions about certifying completion of the training is encouraged to contact the Standards Committee at (202) 225-7103.

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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives

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December 11, 2007

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Member Participation in Certain Events Taking Place During a National Political Convention

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The purpose of this advisory memorandum is to provide guidance to Members on the new provision of the House Rules (clause 8 of House Rule 25) that prohibits Member participation at certain events held during a national political convention.[1] The provision provides as follows:

> During the dates on which the national political party to which a Member (including a Delegate or Resident Commissioner) belongs holds its convention to nominate a candidate for the office of President or Vice President, the Member may not participate in an event honoring that Member, other than in his or her capacity as a candidate for such office, if such event is directly paid for by a registered lobbyist under the Lobbying Disclosure Act of 1995 or a private entity that retains or employs such a registered lobbyist.

Under this provision, a Member may not "participate[2] in an event honoring that Member" if the event takes place during a national political convention, other than to participate in the Member's capacity as a candidate for President or Vice President, and when certain other criteria are met. Member participation prohibited under the provision is for an event where the Member is named, including through the use of any personal title, as an honoree (including as a "special guest") in any invitations, promotional materials, or publicity for the event. Member participation also would be prohibited if the Member were to receive, through the Member's participation in the event, some

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[1] *See* The Honest Leadership and Open Government Act of 2007, Pub. L. No. 110-81, § 305, 121 Stat. 735, 753 (Sept. 14, 2007).

[2] The term "participate" is not defined in the underlying Act or the House rule. In the Committee's view, the prohibition on participation in the events that are the subject of the provision concerns Member attendance at the event. Members should contact the Committee with any questions regarding whether activities other than attendance may constitute participation in such events.

special benefit or opportunity that would not be available to some or all of the other participants, such as if the sponsor were to offer the Member an exclusive speaking role or a very prominent ceremonial role.

According to the legislative history of this provision, the restriction set forth above is intended to have the "effect of preventing lobbyists or an entity employing such lobbyists from directly paying for a party to honor a *specific* Member."[3] Thus, an event that is organized to honor a delegation or caucus, without naming any specific Member of the delegation or caucus, or providing any special benefit or opportunity to a particular Member, would be an event that Members may participate in under clause 8 of House Rule 25 – provided that, as discussed below, attendance at the event otherwise would be in compliance with clause 5 of House Rule 25 (the gift rule). There is no numerical requirement on the size of the delegation or caucus participating in the event. Furthermore, a Member would not be prohibited from participating in an event taking place during a national convention if the Member's name appears, for example, in a listing of the names of the honorary host committee members for the event if that listing includes the names of non-congressional host committee members.

The provision is very specific in prohibiting Member participation in an event that is "directly paid for" by a lobbyist or private entity that retains or employs lobbyists. The fact that a private organization received some of its funding for an event taking place during a national convention from a lobbyist or private entity that retains or employs lobbyists, by itself, would not disqualify a Member from participating in the organization's event.

The provision also states that Member participation is prohibited only at certain events taking place "[d]uring the dates" on which a national convention is held. Accordingly, the rule does not prohibit Member participation in an event that takes place on a date other than the dates on which the national convention is held.

It is important to note that the provision does not establish a new type of event for which free attendance may be accepted under the gift rule. In other words, a Member may accept an offer of free attendance at an event taking place during a national political convention only in accordance with the gift rule – that is, the event is a reception or it satisfies all of the criteria of a widely attended event, a charity event, or a fundraising or campaign event sponsored by a political organization. As it has in previous Presidential election years, the Committee will be reissuing guidance in 2008 that addresses the rules and standards relating to Member and staff activities at the national political conventions.

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

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[3] 153 Cong. Rec. E1759 (daily ed. Aug. 4, 2007) (statement of Rep. John Conyers, Jr.) (emphasis added).

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January 30, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: The 2008 Outside Earned Income Limit and Salaries Triggering 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 is now $95,390 (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 **$114,468** for more than **90 days** in 2008.

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 2008 is $172,200. Accordingly, the outside earned income limit for Members and senior staff for calendar year 2008 is **$25,830**.

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 101 to 111 of the *House Ethics Manual* and in a Committee advisory memorandum of February 23, 1998, both of which are available on the Standards Committee Web site (www.house.gov/ethics). The Committee's Office of Advice and Education (extension 5-7103) can provide further explanation.

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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 **$114,468**, and thus House officers and employees who are paid at or above that rate of pay for at least **60 days** during **2008** must file a Financial Disclosure Statement in 2009.

Please note that the requirement to file a Financial Disclosure Statement covering calendar year 2007 applies to officers and employees who were paid at an annual rate of **$111,675** for at least 60 days in **2007**. The annual Financial Disclosure Statements for 2007 are due on Thursday, May 15, 2008 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 2008 is $169,300. Therefore, the post-employment threshold for employees who depart from a job in a Member, committee, or leadership office during 2008 is **$126,975**. 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 2008 is $149,000. 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 2008

OUTSIDE EARNED INCOME CAP ..... $ 25,830

OUTSIDE EARNED INCOME AND
OUTSIDE EMPLOYMENT THRESHOLD $114,468

FINANCIAL DISCLOSURE THRESHOLD $114,468

POST-EMPLOYMENT THRESHOLD $126,975

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February 13, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Annual Ethics Training Requirement for 2008

House Rule XI, clause 3(b) 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. New employees[1] are required to take ethics training within 60 days of beginning employment. This memorandum outlines the ethics training requirement for calendar year 2008, including the certification process and potential penalties for failure to fulfill the training requirement.

SUBSTANCE OF THE TRAINING REQUIREMENT

The requirement that all employees receive annual ethics training was first imposed in 2007, and the Committee determined that the purpose of the rule would best be served by requiring all House employees to take one hour of ethics training, intended to provide a comprehensive overview of the rules and standards of conduct applicable to all employees. Senior staff[2] were required to take an additional hour of specialized training on topics related to senior staff. The Committee required Capitol Hill-based employees to attend live training sessions, while district staff were permitted to satisfy their training requirements by watching videotapes of training sessions on HouseNet. The Committee conducted 85 public training sessions, and more than ten thousand employees participated in training, either in a public training session or through other approved means, during 2007. The Committee is identifying and will individually address those employees who failed to comply with the training requirement.

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[1] A "new" House employee for purposes of this memorandum is an individual who first began employment with the House after November 1, 2007 and did not complete ethics training in 2007. Any employees who completed ethics training as new employees in 2007 are required to take the general ethics training in 2008.

[2] "Senior staff" is any employee – either new or current – who is paid at the senior staff level, which for 2008 is an annual rate of $114,468.

The Committee believes that those requirements were successful in providing all staff the opportunity to develop a common understanding of the breadth and scope of House ethics rules, and the Committee therefore intends to continue those requirements for **new** employees in 2008. For **all other employees**, the training requirements will be modified slightly in 2008, to give those employees greater choice in participating in ethics training that will benefit them. The details of the 2008 training requirements are set forth below.

New Employees. In 2008, new employees are required to take the same comprehensive ethics training offered to all employees in 2007. As in 2007, new employees who work in Capitol Hill offices are required to attend live sessions, while new district staff may watch the videotaped training sessions available on HouseNet. As noted above, all new employees must take that training within 60 days of beginning House employment. **New senior staff** will be required to take the additional hour of specialized training, and may do so either by attending live training sessions or by watching a videotape of the session on HouseNet. Senior staff training for new employees may be taken at any time in 2008.

All Other Employees. All House employees who are not "new" employees in 2008 must take one hour of ethics training in 2008. The Committee will offer a variety of ethics training sessions in 2008, and staff will be able to take the training in different ways. Live training sessions will be offered at various times throughout the year on several different topics, and staff may attend one of those training sessions. Topics will include campaign activity, financial disclosure, and other topics to be decided by the Committee. Some of those training sessions will be videotaped, and the videotapes will be made available for viewing on HouseNet. Staff (including Capitol-Hill based staff) may satisfy their training requirement by watching the training videos. Finally, the Committee anticipates offering training in other forms in 2008 which will satisfy the one hour training requirement. Scheduled training sessions will be announced on the Committee's website as they are scheduled, and the availability of training videotapes will also be posted on the website.

CERTIFYING ATTENDANCE

Any staff who attend a live ethics training sessions must sign in at the start of the training and remain for the entire session. Signing the attendance sheet will fulfill the employee's obligation to certify to the Committee that the individual completed the required training. Any employee who attends a live training session but fails to sign in on the attendance sheet will not be given credit for attending and must re-take the training.

Any staff who complete an on-line ethics program – whether for new, senior, or current staff – must fill out the appropriate certificate of completion, have it signed by their staff supervisor (such as a chief of staff or district director), and send it to the Standards Committee as soon as possible following completion of the training. Shared staff (*i.e.*, individuals who work for more than House Member or committee) should indicate on their form each office for which they work, although only one supervisor's signature is required. Completed forms should be faxed to the Standards Committee at (202) 225-7392.

Prior to January 31, 2009, each Member must send a letter to the Committee certifying that each of the Member's employees completed the required training during 2008. For staff

of a committee, the letter should be signed by the committee chairman or ranking member, as appropriate. The letter should list the names of each employee who is still on the payroll, and what type or types of training (general, new employee, or senior staff) the individual completed. Shared staff should be included in the letter sent by each office for which they work. The letter should also identify by name any employees who failed to complete the training and provide an explanation for each why the requirement was not fulfilled.

PENALTIES FOR FAILURE TO COMPLY

Note that training – for new or current employees – must be completed during calendar year 2008. The Committee will not offer any make-up sessions for individuals who fail to complete the training in a timely manner. Any House employee who fails to complete the required training during calendar year 2008 will be subject to the sanctions described below.

For 2008, the Committee will undertake a two-step process to penalize any employee who failed to comply with the training requirement. First, the Committee will send a letter to each Member, indicating the name(s) of that Member's employees whom Committee records indicate failed to complete training. The Member or named employee(s) will then have two weeks to provide documentation to the Committee that an individual so identified did, in fact, complete the required training. At the close of that two-week period, the Committee may publicize the names of all employees, together with their employing Member, committee, or office, who failed to satisfy the ethics training requirement. Other penalties may also be imposed as appropriate.

Questions about any aspect of the ethics training requirement should be directed to the Committee at (202) 225-7103.

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February 21, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Multiple Reservations on Commercial Flights

The Committee has received inquiries concerning whether the House gift rule (clause 5 of House Rule 25) prohibits Members, or congressional staff acting on a Member's behalf, from making multiple reservations on commercial flights for official travel if permitted to do so by commercial air carriers. These inquiries arose in the wake of the decision of some carriers to end the practice of permitting Members to make multiple reservations after enactment of amendments to the Senate gifts rule and lobbying disclosure requirements on September 14, 2007.[1] Following the decision by those carriers to end the practice, the Senate in October 2007 adopted an amendment to the Senate gift rule explicitly stating that allowing Senators the ability to make multiple reservations was not a gift.[2] No such change has been made to House Rules. The purpose of this advisory memorandum is to provide some general information to House Members, and congressional staff who arrange Member travel, on the subject of making multiple reservations for official travel if offered by an airline.

Background. Until recently, at times commercial air carriers have permitted Members to purchase a full fare, refundable ticket for a flight to or from Washington, D.C, while also permitting those Members to reserve seats on another flight or flights with the same itinerary at the time the initial ticket is purchased.

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[1] The House had made a number of changes to its gift rule in January 2007, but it does not appear that any airlines determined to end or modify their multiple reservations practice following those changes. It appears that the airlines decided to end the practice after the enactment of the requirement under Public Law the 110-81, the Honest Leadership and Open Government Act that lobbyists certify that they have not given gifts to Members or Congressional staff in violation of the gift rule. False certifications are subject to criminal penalties.

[2] We understand that some air carriers again began to offer the practice for Senators after determining that the Senate Ethics Committee and the Senate Rules Committee had concluded that the practice did not violate Senate rules if offered in connection with official travel.

Since Members work both in Washington, DC and in their districts, permitting Members to make multiple reservations in these limited circumstances, some have argued, improves the Members' ability to provide the representational services for which they were elected, by making it possible for Members to return to their districts more promptly following official Washington, D.C. activities.

The Committee understands that there is no industry-wide standard concerning the practice of permitting travelers to make multiple reservations, and in fact travelers are generally not permitted to reserve a seat or make multiple ticket purchases for multiple flights to a particular destination. The Committee has confirmed with airlines that the ability to make multiple reservations with a single ticket purchase is not a service or opportunity that may be purchased from airlines, either by Members or by other travelers.[3]

The Gift Rule. A threshold question concerns whether the practice described above implicates the House gift rule. The House gift rule specifies that a Member (or staff person) may not knowingly accept any gift except as provided for in the rule.[4] The term "gift" is defined as –

> a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.[5]

The Committee has previously advised that when a Member or staff person "is offered a tangible item, service, or anything else, he or she must first determine whether the item has monetary value. If it does, then the individual may accept it only in accordance with the provisions of the gift rule."[6]

As noted above, the ability to make multiple reservations in connection with the purchase of a single ticket to a particular destination is not something that is offered for purchase or as part of any official benefit that any air travelers may accrue, and the Committee has received no convincing information that the practice would lead to lost revenue for an airline that allows it. Finally, it is the Committee's understanding that the cost to a Member of a flight purchased pursuant to a multiple booking arrangement is not affected or influenced by the ability to make multiple reservations.

Accordingly, there appears to be little or no identifiable monetary value associated with airlines providing such a service to Members (or other travelers to whom such a service may be offered). But because the Committee cannot conclusively determine that the service has no monetary value, accordingly, the Committee cannot

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[3] If any airline were to allow passengers to purchase the ability to make multiple reservations for a set price, Members would have to pay that price in order to purchase the same opportunity available to other passengers for purchase.

[4] *See* House Rule 25, cl. 5(a)(1)(A)(i).

[5] *Id.*, cl. 5(a)(2)(A).

[6] *Gifts & Travel* booklet, at 13.

conclude that Members may make multiple reservations, if permitted to do so by an airline, without potentially violating the gift rule.

If the practice is deemed a gift, the practice may nevertheless be acceptable, depending on the circumstances, under the exception to the gift rule for certain widely available opportunities and benefits. As pertinent here, the provision permits the acceptance of opportunities and benefits that are "offered to members of a group or class in which membership is unrelated to congressional employment."[7] The Committee understands that some of the airlines may permit very high mileage travelers who participate in a "frequent flyer" or similar mileage program to make multiple reservations for flights to a single destination. Also, some carriers will permit multiple reservations on a case-by-case basis when a sufficient reason exists, as determined by individual reservations agents who have discretion to make such decisions. In such cases, if the ability of the Member to make multiple reservations is unrelated to the Member's official status as a member of Congress, the Member could accept the service under the gift rule.

The Committee also has the authority to waive the application of the gift rule "in an unusual case" (House Rule 25, clause 5(a)(3)(T)), but the Committee will waive the gift rule only when the circumstances demonstrate that "there is no potential conflict of interest or appearance of impropriety." See Committee Gifts and Travel Booklet at 53. For the reasons expressed below, the Committee concludes that this is an appropriate case to exercise its waiver authority, and does therefore waive the gift rule to permit Members to accept the ability to make multiple reservations in limited circumstances.

This is an "unusual case" within the meaning of the gift rule in several respects. As explained above, a service or opportunity may be considered a gift under the gift rule only when it has **monetary** value. The requirement that a gift have monetary value is underscored by other provisions of the gift rule, as well as statutory disclosure requirements such as the Ethics in Government Act and the Foreign Gifts and Decorations Act, which include provisions requiring differing treatment of gifts depending on their value. When, as here, the monetary value (if any) of a service cannot reasonably be calculated or estimated, the application of the gift rule is questionable, and a waiver may therefore be appropriate.

Even assuming for the sake of argument that the service has some monetary value, the service does not appear to personally benefit the Member other than as a matter of convenience or scheduling. The Member is merely flying on one scheduled flight rather than another. Unlike, for example, a first class seat, which provides personal benefit to the traveler in terms of service, accommodations and meals, the ability to make multiple reservations does not provide any benefit to the traveler in terms of the trip itself. Any actual monetary benefit associated with multiple reservations would accrue to the benefit of the House rather than any Member individually.

The representational benefit discussed above also makes this an unusual case. Most analyses under the gift rule concern personal benefit to Members, and rarely

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[7] *Id.*, cl. 5(a)(3)(R)(ii).

implicate issues regarding improving the Members' ability to serve their constituents more effectively.

The Committee concludes that there is no potential conflict associated with allowing Members to make multiple reservations, and that the practice does not create an appearance of impropriety. While airlines, both collectively and individually, may have interests before the House, the absence of personal benefit to Members from the practice, and the likely lack of any monetary value to the practice, mitigates any potential conflict.

Under no circumstances should a Member, or staff person acting on the Member's behalf, solicit this service if it is not offered by the airline. Multiple reservations may only be made for official travel. If any airline offers the ability to make multiple reservations for a fee, Members may make multiple reservations only if they pay the fee.

Please contact the Standards Committee's Office of Advice and Education at (202) 225-7103 with any questions.

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March 25, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Revised House Ethics Manual

The Committee is pleased to announce that a new edition of the *House Ethics Manual* is now available on the Committee's website (**www.house.gov/ethics**). This Manual supersedes the prior edition of the Manual, as well as the Committee's booklets on *Campaign Activity and Gifts and Travel*. Every House Member, officer, and employee will receive a copy of the Manual over the next two weeks as the Manual is printed by the Government Printing Office. Member D.C. offices are responsible for sending copies of the Manual to staff located in district offices. Members, officers, and staff are encouraged to contact the Committee at (202) 225-7103 with any questions they may have.

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March 28, 2008

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Negotiating for Future Employment

This memorandum consolidates the Committee's previous guidance concerning the rules governing negotiations for future employment by House Members,[1] officers, and staff and the requirement for Members and "very senior staff"[2] to disclose such negotiations to the Standards Committee, and, in certain circumstances, to recuse themselves from matters involving the private entity with which they are negotiating. It includes guidance on the additional restrictions imposed by the Honest Leadership and Open Government Act of 2007 (S.1),[3] which was enacted during the 110th Congress.

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 general statement remains true for both House Members and employees, and this memorandum provides more detailed guidance on the issues presented by such negotiations. However, House Rule 27 (which was created by S.1) established an additional restriction for House

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

[2] "Very senior staff" are those employees who were paid at least 75% of the Member pay rate for any 60 days during the previous twelve months. In 2008, Members will be paid $169,300 annually, resulting in a very senior staff rate of $126,975. For employees of "other legislative offices," the triggering salary is $149,000, which is Level IV of the Executive Schedule. "Other legislative offices" include the Architect of the Capitol, Botanic Garden, Library of Congress, Government Accountability Office, Congressional Budget Office, Government Printing Office, and the Capitol Police.

[3] Honest Leadership and Open Government Act of 2007, Pub. L. No. 110-81, 121 Stat. 735 (Sept. 14, 2007) (hereinafter S.1).

Members. Pursuant to House Rule 27, clause 1, a Member may not "directly negotiate or have any agreement of future employment until after his or her successor has been elected" ***unless*** the Member discloses those negotiations in the manner addressed in the second part of this memorandum.

The general guidance applicable to any Member or House employee who wishes to engage in negotiations for future employment is as follows. First and foremost, it would be improper for a Member or House employee to permit the prospect of future employment to influence the official actions of the Member or employee, or the employing office of the employee. Some Members and employees may determine to use an agent (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 legislation or House rule. In its past guidance, the Committee has given deference to court decisions interpreting a related federal criminal statute. That statute (18 U.S.C. § 208) 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. Those decisions found that the term "negotiation" should be construed broadly.[4] However, the Committee makes a distinction between "negotiations," which trigger the rule, and "[p]reliminary or exploratory talks," which do not. "Negotiations" connotes "a communication between two parties with a view toward reaching an agreement" and in which there is "active interest on both sides."[5] 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.[6] The Code of Ethics for Government Service (¶ 5) 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. Federal criminal law 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.[7] Although bribery necessarily entails a *quid pro quo* arrangement, the same statute also bans seeking or accepting "illegal gratuities" – *i.e.*, anything given because

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[4] *See, e.g., United States v. Schaltenbrand*, 930 F.2d 1554, 1559 (11th Cir. 1991), *cert. denied,* 502 U.S. 1005 (1991) and *United States v. Conlon*, 628 F.2d 150, 155 (D.C. Cir. 1980), *cert. denied*, 454 U.S. 1149 (1982).

[5] *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.

[6] House Rule 23, cl. 3.

[7] 18 U.S.C. § 201(b)(2)(A).

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.[8]

In light of these restrictions, Members and employees should be particularly careful in negotiating for future employment, especially when negotiating with anyone who could be substantially affected by the performance of official duties. It may be prudent for the Member or 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. Members and those employees who will be subject to the post-employment restrictions[9] 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 or employee is subject to post-employment restrictions, which should be briefly outlined.[10] Former Members and 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.[11] In addition, as addressed in the next section of this memorandum, Members, officers, and very senior staff must disclose the employment negotiations to the Standards Committee.

Provided that Members and 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

Pursuant to new House Rule 27, which took effect on September 14, 2007, Members, officers, and very senior staff must notify the Committee on Standards of Official Conduct within three (3) business days after the commencement of any

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[8] *Id.* § 201(c)(1)(B).

[9] The post-employment restrictions are discussed in detail in a pair of advisory memoranda – one for Members and officers and another for employees – issued annually by the Committee. Copies of the memoranda are available on the Standards Committee website, www.house.gov/ethics.

[10] 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 and employees may neither contact the individual's former congressional office or committee members 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. Detailed guidance on the restrictions is contained in the memoranda referenced in note 9.

[11] 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 Advisory Opinion 99 x 24 (Dec. 14, 1999) (available on the OGE website, www.usoge.gov).

negotiation or agreement for future employment or compensation with a private entity. The notification requirement applies to all job negotiations commenced, and employment or compensation agreements entered into, on or after the effective date of the rule. "Very senior staff" are those employees who are paid at an annual rate of $126,975 for at least 60 days during the calendar year.[12]

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."

In addition, officers, very senior staff, and those Members subject to the requirement 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.[13] Members who make such a recusal also must file their negotiation notification with the Clerk for public disclosure.

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, officers, and very senior staff 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 filers should keep a copy of their submission. There is a separate form for notifying the Committee of recusal, entitled the "Statement of Recusal." All Members, officers, and very senior staff who recuse themselves from official matters pursuant to Rule 27 must complete and submit the recusal form to the Committee. 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. The Clerk will make that form available for public disclosure. Copies of both forms are available on the Standards Committee website (www.house.gov/ethics).

Members must additionally determine whether it is necessary to abstain from voting or taking other 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.[14] Longstanding House precedent has 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.

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[12] A Member, Delegate, or Resident Commissioner is not subject to this requirement if his or her successor has been elected.

[13] House Rule 27, cl. 4.

[14] House Rule 3, cl. 1.

Thus, Members who were bar owners were permitted to vote on Prohibition, which affected them only as a member of a large class of business owners. [15]

However, as described above, House Rule 27, clause 4 imposes a new, additional 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." 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.[16] 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 who wish to avoid such conflicts are encouraged to delay any negotiations for future employment until after their successor has been elected.

BENEFITS OFFERED BY PROSPECTIVE EMPLOYERS WHILE ENGAGING IN JOB NEGOTIATIONS

The House gift rule provides that a Member, officer, or employee may accept "[f]ood, refreshments, lodging, transportation, and other benefits . . . customarily provided by a prospective employer in connection with bona fide employment discussions."[17] Thus, subject to the limitations set out in the rule, a Member or employee may accept travel expenses from a negotiating partner to interview 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 House Members and senior employees.

Please contact the Committee at (202) 225-7103 with any questions.

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[15] *See House Ethics Manual*, 102d Cong., 2d Sess. 120-23 (1992).

[16] *See* 5 Asher C. Hinds, *Hinds' Precedents of the House of Representatives* §§ 5950, 5952 at 502, 503-04 (1907).

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

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April 8, 2008

MEMORANDUM FOR ALL MEMBERS AND OFFICERS

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Post-Employment Restrictions for Members and Officers

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The purpose of this memorandum is to acquaint you with key issues of concern to departing Members and officers of the House of Representatives.[1] The matters discussed here include post-employment restrictions, financial disclosure requirements (termination reports), use of excess campaign funds, outside employment and earned income restrictions, and travel. The rules regarding seeking future employment are addressed in a separate advisory memorandum entitled "Negotiating for Future Employment." 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. The most critical points may be summarized as follows.

Departing Members **may not**:

- allow the prospect of future employment to affect their official actions;
- for one year after leaving office, communicate with or appear before any Member or staff of the House or Senate, or any legislative branch agency, on official business, as detailed below;
- represent, aid, or advise a foreign government or foreign political party with the intent of influencing any federal official for one year after leaving office;
- convert excess campaign funds to personal use.

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[1] Hereafter in this memorandum, the term "Members" is used to refer to House Members, Delegates, and the Resident Commissioner, as well as to the elected officers of the House. The restrictions discussed herein apply uniformly to these officials, except where noted with regard to the elected House officers. The elected officers of the House include the Clerk, Sergeant-at-Arms, and Chief Administrative Officer. The Committee has available a separate memorandum addressing a similar range of issues for departing employees of the House and certain other legislative offices.

Departing Members **must**:

- file termination financial disclosure statements within 30 days of leaving office, unless the Standards Committee grants an extension of the due date.

More detailed guidance follows. We encourage you to write to the Committee or call the Committee's Office of Advice and Education at extension 5-7103 for guidance addressed to your specific circumstances.

POST-EMPLOYMENT RESTRICTIONS

The Ethics Reform Act of 1989 contains post-employment restrictions applicable to legislative branch officials. These limitations are part of the federal criminal code (18 U.S.C. § 207(e), (f)), and they apply to Members and officers of the House, as well as to "very senior staff" of the House.[2] 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. 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 *sine die* adjournment), 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.

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[2] "Very senior staff" are those employees in a Member, committee, or leadership office who were paid at least 75% of the Member pay rate for any 60 days during the previous twelve months. In 2008, Members will be paid $169,300 annually, resulting in a very senior staff rate of $126,975. For employees of "other legislative offices," the triggering salary is $149,000, which is level IV of the Executive Schedule. "[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).

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,**[3] or current employees of any other legislative office,[4] with the intent to influence, on behalf of any other person, the official actions or decisions of such Member, officer, or employee.[5] The statute excepts certain representations made on behalf of specific types of entities. These exceptions are described below in the context of "permissible activity."

- ✕ 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.[6]

- ✕ 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.[7]

- ✕ **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.[8]

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 those

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[3] 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*.

[4] See note 2, *supra*, for a listing of "other legislative offices."

[5] 18 U.S.C. § 207(e)(1).

[6] 18 U.S.C. § 207(f)(1)(A), (i)(1)(B). Section § 207(f)(3) 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)). These restrictions also apply with regard to any foreign commercial corporation that "exercises the functions of a sovereign." *See* U.S. Office of Gov't Ethics, *Summary of Post-Employment Restrictions of 18 U.S.C. § 207* at 11 (July 29, 2004) (available on the OGE website, www.usoge.gov, under the link for DAEOgrams). Also pertinent to these provisions of the statute is a U.S. Office of Legal Counsel opinion of June 22, 2004, the text of which is available under the same link on the OGE website (DAEOgram of Oct. 5, 2004), which concludes that 18 U.S.C. § 207(f) covers representational contacts with Members of Congress.

[7] 18 U.S.C. § 207(f)(1)(B).

[8] *Id.* § 207(b).

terms have been defined under 18 U.S.C. § 207.[9] A Justice Department opinion defines "communication" as "the act of imparting or transmitting information with the intent that the information be attributed to the former official."[10] An advisory memorandum issued by the U.S. Office of Government Ethics 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."[11] The provision is broad enough that 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.[12]

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.[13]

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[9] 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.*). 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.

[10] U.S. Office of Legal Counsel, *"Communications" under 18 U.S.C. § 207* at 3 (Jan. 19, 2001) (available on the OLC website, www.usdoj.gov/olc, under the link for memoranda/opinions). In that opinion, the Office of Legal Counsel 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.*

[11] *Summary of Post-Employment Restrictions of 18 U.S.C. § 207, supra* note 6, at 3.

[12] Standards Committee interpretations of the statute that are set out 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 (*see also* note 30, below).

[13] 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 on the books.

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.[14] However, any such participation must remain behind-the-scenes; during the one-year "cooling-off" period, former Members must not permit their name to be openly associated with contacts made by other persons.[15]

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

- ✓ **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.[16]

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

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[14] Former 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 as Members. 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, Advisory Opinion 99 x 24 (Dec. 14, 1999) (available on the OGE website, www.usoge.gov).

[15] 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. Office of Government Ethics, 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. Office of Legal Counsel opinion that is cited in note 10 above, including with regard to activities that do not constitute permissible "behind-the-scenes" activities.

[16] 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.

- The former Member is carrying out official duties on behalf of the **federal government**;[17]
- The former Member is acting as an **elected official** or **employee** (not as a private consultant or other independent contractor) of a **state or local government**;[18]
- The former Member is an **employee** of an accredited, degree-granting **institution of higher education** and is acting on behalf of such institution;[19] 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.[20]

✓ **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; otherwise, former Members must wait one year before engaging in such activities.[21]

✓ **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.[22]

✓ **Give testimony under oath,** or make statements required to be made under penalty of perjury.[23]

✓ **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. Former Members may also make **political contributions** to, and sponsor or attend **political fundraisers** for, current Members of Congress, subject to the same provisos.

✓ **Contact staff of the Clerk of the House** regarding the former Member's compliance with the disclosure requirements under the Lobbying Disclosure Act.[24]

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[17] 18 U.S.C. § 207(j)(1).

[18] *Id.* § 207(j)(1), (2)(A).

[19] *Id.* § 207(j)(2)(B).

[20] *Id.*

[21] *Id.* § 207(j)(3).

[22] *Id.* § 207(j)(4).

[23] *Id.* § 207(j)(6).

[24] *Id.* § 207(e)(8).

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.

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.

Summary Table

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

Penalties

Each violation of the post-employment restrictions set forth in 18 U.S.C. § 207 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.[25] The statute further authorizes the Attorney General to seek an injunction prohibiting a person from engaging in conduct that violates the act.[26]

By their terms, the provisions of 18 U.S.C. § 207 summarized above govern the conduct of **former** Members, officers and employees, and do 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.[27] 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.

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 the requirement of the House Rules that each Member and staff person "conduct himself at all times in a manner that shall reflect creditably on the House."[28] 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."[29]

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 secure a written advisory opinion. While, as noted above, the 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

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[25] 18 U.S.C. § 216.

[26] *Id.* § 216(c).

[27] *See, e.g., United States v. Jack A. Abramoff*, Docket No. 06-CR-001 (D.D.C.). 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.

[28] House Rule 23, cl. 1.

[29] 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).

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.[30]

FLOOR PRIVILEGES

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 are registered lobbyists or agents of a foreign principal, have any direct personal or pecuniary interest in any pending legislation, or who work for or represent anyone "for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative proposal."[31] 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.[32]

FINANCIAL DISCLOSURE

A departing Member of Congress must file a final Financial Disclosure Statement, called a Termination Report, within 30 days of leaving office.[33] Extensions of up to 90 days are available upon written request to the Standards Committee when made prior to the original due date. The termination report, filed on the same form as the annual report, covers all financial activity through the end of the Member's term.

Schedule IX of the Financial Disclosure Statement requires disclosure of any agreement entered into by the Member, oral or written, with respect to future employment. Thus, if a Member accepts an employment position while still in office, the Member will have to disclose the agreement on his or her public termination filing. The date of the agreement, the employer, the position title and the starting date must be disclosed, but the amount of the compensation need not be disclosed. The Member will also have to

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[30] 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. *United States v. Hedges*, 912 F.2d 1397, 1404-06 (11th Cir. 1990).

[31] House Rule 4, cl. 4(a). The rule was amended by H. Res. 648 on February 1, 2006. In addition, § 511(c) of H. Res. 6, adopted on January 4, 2007, provides that former Members, 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" during the 110th Congress.

[32] Departing Members may also wish to review a memorandum issued by the Congressional Research Service, *"Selected Privileges and Courtesies Extended to Departing and Former Members of the House of Representatives,"* No. 98-962 (available on the CRS website, www.crs.gov).

[33] 5 U.S.C. app. 4 § 101(e).

disclose, on Schedule VII of the form, any travel reimbursements exceeding $335 received from a source in connection with job-search activity.

However, a Member who immediately accepts another federal position requiring the filing of a *public* financial disclosure statement need not file a Termination Report.

EXCESS CAMPAIGN FUNDS

House Rule 23, clause 6, prohibits the conversion of campaign funds to personal use by sitting Members of Congress. 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.[34] All campaign resources (including equipment, furniture, and vehicles) are subject to the same restrictions. A Member may not keep campaign property upon retirement from Congress unless he or she pays the campaign fair market value. In valuing the property, one may take into account the fact that it has been used.

> ***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, and contribution to any national, state, or local committee of a political party.[35] 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.[36] 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.[37] 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.

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[34] 2 U.S.C. § 439a; 11 C.F.R. Part 113.

[35] 2 U.S.C. § 439a.

[36] 11 C.F.R. § 113.2(a)(2).

[37] FEC Advisory Opinion 1996-14 (available on the FEC website, www.fec.gov).

OUTSIDE EMPLOYMENT AND EARNED INCOME RESTRICTIONS

All retiring Members remain subject to all House rules, including the gift rule and the limitations on outside employment and earned income,[38] even after the *sine die* adjournment, 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 he or she start work prior to leaving office. In calendar year 2008, a Member may not receive outside earned income (including, for example, a signing bonus) in excess of $25,830, 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. 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), although he or she may receive compensation for teaching, with specific prior permission from this Committee.

> ***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 Rule 24, clause 10, prohibits 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 the *sine die* adjournment of Congress.

With regard to privately funded travel that is factfinding in nature, because the gift rule requires that such travel be related to official duties, it is questionable whether a Member may accept an invitation for a such travel that would take place after the *sine die* adjournment. 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 individual to participate substantially in an officially related event, such as to give a speech.

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

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

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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives

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April 8, 2008

MEMORANDUM FOR ALL MEMBERS, COMMITTEES, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Post-Employment Restrictions for Staff

The purpose of this memorandum is to notify you regarding key issues of concern to staff members[1] who are departing from the House of Representatives or one of the legislative branch offices. The matters discussed here include post-employment restrictions, financial disclosure requirements (termination reports), and outside employment and earned income restrictions. The rules regarding seeking future employment are addressed in a separate advisory memorandum entitled "Negotiating for Future Employment." Although this memorandum will be of particular interest to departing staff, current staff and their employing Members should also familiarize themselves with these restrictions, especially the criminal restrictions on post-employment communications that have been the subject of recent attention by the United States Department of Justice. The most critical points may be summarized as follows:

A departing staff person who was paid at or above an annual rate of $126,975 for 60 days or more during the individual's last twelve months of House employment **may not**:

- for one year after leaving employment, communicate with or appear before his or her former employing Member, committee, or office on official business, as detailed below; or
- represent, aid, or advise a foreign government or foreign political party with the intent of influencing any federal official for one year after leaving employment.

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[1] The terms "staff," "staff person," and "employee" are used interchangeably throughout 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. The Committee has issued a separate memorandum addressing a similar range of issues for departing Members and officers of the House.

A departing staff member who was required to file a financial disclosure statement because of the employee's rate of pay **must**:

- file a termination financial disclosure statement within 30 days of leaving the House payroll, unless the Standards Committee grants an extension of the due date.

More detailed guidance follows. We encourage you to write the Committee or to call the Committee's Office of Advice and Education at (202) 225-7103 for guidance addressed to your specific circumstances.

POST-EMPLOYMENT RESTRICTIONS

The Ethics Reform Act of 1989 enacted post-employment restrictions applicable to legislative branch officials. These limitations are part of the federal criminal code (18 U.S.C. § 207(e), (f)), 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. The basic rate of pay for Members in calendar year 2008 is $169,300, and thus the post-employment threshold for individuals who terminate their employment with a Member, committee, or leadership office in 2008 is ***$126,975***. The threshold rate for other years is available from the Standards Committee. For employees of other legislative offices,[2] the basic rate of pay triggering the restrictions is level IV of the Executive Schedule, which for 2008 is $149,000.[3]

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.[4] 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.[5] House

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[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] 18 U.S.C. § 207(e)(6) & (e)(7)(B).

[4] 18 U.S.C. § 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.

[5] When, after an individual's services to the House have ceased, the office continues the individual on the payroll for the purpose of paying for accrued leave, the one-year cooling-off period will not begin until after the individual's final day on the House payroll.

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.[6] 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.

  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** of a Member may not seek official action, on behalf of other persons, from that Member or from any of the Member's employees.

  - Covered former **committee staff** 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.[7] 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.

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[6] 18 U.S.C. § 207(e)(1) & (3)-(7).

[7] 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 (18 U.S.C. § 207(g)).

- Covered former employees on the **leadership staff** may not seek official action, on behalf of other persons, from current Members of the leadership[8] or any current leadership staff.

- Covered former employees of any **other legislative office** may not seek official action, on behalf of other persons, from current officers and employees of that legislative office.

✕ 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.[9]

✕ 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.[10]

✕ **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.[11]

As to the prohibition against making any "communication to or appearance before" one's former office, employees should be aware of the broad manner in which those terms have been defined under 18 U.S.C. § 207.[12] A Justice Department opinion defines "communication" as "the act of imparting or transmitting information with the intent that the

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[8] 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).

[9] 18 U.S.C. § 207(f)(1)(A), (i)(1)(B). Section 207(f)(3) uses the same definitions of the terms "foreign government" and "foreign political party" as are found in the Foreign Agents Registration Act (22 U.S.C. § 611(e), (f)). These restrictions also apply with regard to any foreign commercial corporation that "exercises the functions of a sovereign." *See* U.S. Office of Gov't Ethics, *Summary of Post-Employment Restrictions of 18 U.S.C. § 207* at 11 (July 29, 2004) (available on the OGE website, www.usoge.gov, under the link for DAEOgrams). Also pertinent to these provisions of the statute is a U.S. Office of Legal Counsel opinion of June 22, 2004, the text of which is available under the same link on the OGE website (DAEOgram of Oct. 5, 2004), which concludes that 18 U.S.C. § 207(f) covers representational contacts with Members of Congress.

[10] 18 U.S.C. § 207(f)(1)(B).

[11] *Id.* § 207(b).

[12] 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.*). 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.

information be attributed to the former official."[13] An advisory memorandum issued by the U.S. Office of Government Ethics 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."[14] The provision is broad enough that it precludes a former employee from, for example, requesting or scheduling, for or on behalf of any other person, a meeting with the individual's former employing Member or a former colleague on official business.[15]

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.[16]

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**

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[13] U.S. Office of Legal Counsel, *"Communications" under 18 U.S.C. § 207* at 3 (Jan. 19, 2001) (available on the OLC website, www.usdoj.gov/olc, under the link for memoranda/opinions). In that opinion, the Office of Legal Counsel 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.*

[14] *Summary of Post-Employment Restrictions of 18 U.S.C. § 207, supra* note 9, at 3.

[15] Standards 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 (*see also* note 34, below).

[16] 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 and staff should be aware, however, that the law remains on the books.

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 official's participation.[17] Any such participation must remain behind-the-scenes; thus, during the one-year "cooling-off" period, former employees must not permit their name to be openly associated with such contact by other persons.[18]

- ✓ **Contact Executive Branch** officials with the intent to influence official action so long as not representing a foreign government or foreign political party.[19]

- ✓ **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.[20]

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[17] 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 as employees. 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, Advisory Opinion 99 x 24 (Dec. 14, 1999) (available on the OGE website, www.usoge.gov).

[18] As noted above, the major statutory restrictions set forth in 18 U.S.C. § 207(e) focus on communications and appearances. By contrast, if a former employee 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. Office of Government Ethics, 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. Office of Legal Counsel opinion that is cited in note 13 above, including with regard to activities that do not constitute permissible "behind-the-scenes" activities.

[19] 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" in the matter while a federal employee. *See* 25 U.S.C. § 450i(j); 18 U.S.C. § 207(j)(1)(B).

[20] 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. 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, the FARA provides that anyone who acts within the United States under the direction or control of a foreign principal to influence

- ✓ **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**;[21]
  - The former employee is acting as an **elected official or employee** (not as a private consultant or other independent contractor) of a **state or local government**;[22]
  - The former employee is an **employee** of an accredited, degree-granting **institution of higher education** located in a U.S. state or territory and is acting on behalf of such institution;[23] 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.[24]
- ✓ **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; otherwise, covered employees must wait one year before engaging in such activities.[25]
- ✓ **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.[26]
- ✓ **Give testimony under oath,** or make statements required to be made under penalty of perjury.[27]

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official decisions, official policies, or public opinion on behalf of a foreign principal must register with the Justice Department.

[21] 18 U.S.C. § 207(j)(1)(A).

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

[23] *Id.* § 207(j)(2)(B).

[24] *Id.*

[25] *Id.* § 207(j)(3).

[26] *Id.* § 207(j)(4).

[27] *Id.* § 207(j)(6).

- ✓ **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 any of the Members or staff specified above in the section on "Prohibited Activity." Covered former employees may also make **political contributions** to, and sponsor or attend **political fundraisers** for, current Members of Congress, subject to the same provisos.

- ✓ **Contact staff of the Clerk of the House** regarding the individual's compliance with the disclosure requirements under the Lobbying Disclosure Act.[28]

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.

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[28] *Id.* § 207(e)(8).

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 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.

Summary Table

Entity Contacted by Covered Former Employee

Entity Represented 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

Penalties

Each violation of the post-employment restrictions set forth in 18 U.S.C. § 207 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.[29] The statute further authorizes the Attorney General to seek an injunction prohibiting a person from engaging in conduct that violates the act.[30]

By their terms, the provisions of 18 U.S.C. § 207 summarized above govern the conduct of **former** Members, officers and employees, and do 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.[31] 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, House employee, or other individual who aids and abets a covered former employee in the violation may be prosecuted for conspiracy to violate the post-employment restrictions.

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 the requirement of the House Rules that each Member and staff person "conduct himself at all times in a manner that shall reflect creditably on the House."[32] 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."[33]

An employee who has any concerns about the applicability of the post-employment restrictions to the employee's proposed conduct should write to the Standards Committee to secure a written advisory opinion. While, as noted above, 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

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[29] 18 U.S.C. § 216.

[30] *Id.* § 216(c).

[31] *See, e.g., United States v. Jack A. Abramoff*, Docket No. 06-CR-001 (D.D.C.). 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.

[32] House Rule 23, cl. 1.

[33] House Comm. on Standards of Official Conduct, *Summary of Activities, One Hundred Sixth Congress*, H. Rep. 106-1044, 106th Cong., 2d Sess. at 10 (2000).

applicable opinions or guidance of the Justice Department or the U.S. Office of Government Ethics of which the Committee is aware. [34]

FINANCIAL DISCLOSURE

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.[35] 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. Extensions of up to 90 days are available upon written request. Note that the salary threshold for filing disclosure statements is lower than that which triggers the post-employment restrictions discussed above. For 2008, the financial disclosure filing threshold is an annual salary rate of $114,468 for 60 days or more.

The termination report, filed on the same form as the annual report, covers all financial activity through one's last day on the payroll. Schedule IX of the report requires disclosure of any agreement entered into by the filer, oral or written, with respect to future employment. Thus, if an employee accepts a position while still on the House payroll, the employee will have to disclose the agreement on the employee's public termination filing. The date of the agreement, the employer, the position or title and the starting date must be disclosed, but the amount of the compensation need not be disclosed. 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.

However, an employee who immediately accepts another federal position requiring the filing of a *public* financial disclosure statement need not file a Termination Report. Any employee who is not require to file a termination report for this reason must notify the Clerk *in writing* of that fact.

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,[36] as long as they remain on the

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[34] 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. *United States v. Hedges*, 912 F.2d 1397, 1404-06 (11th Cir. 1990).

[35] 5 U.S.C. app. 4, § 101(e).

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

government payroll. These rules are particularly important to bear in mind where an employee's prospective employer suggests that he or she begin work early, including, for example, while still drawing pay for accrued annual leave.[37] In calendar year 2008, a covered employee may not receive outside earned income (including, for example, a signing bonus) in excess of $25,830, and **no** earned income may be received for (1) providing professional services involving a fiduciary relationship, including the practice of law, (2) being employed by an entity that provides such services, or (3) serving as a board member or officer of any organization. Regardless of whether compensation is received, a staff member 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 honorarium (*i.e.,* a payment for a speech, article or appearance), although he or she may receive compensation for teaching, with specific prior permission from this Committee.

> ***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.

OFFICIALLY CONNECTED TRAVEL FUNDED BY A PRIVATE SOURCE

After *sine die* adjournment, 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,[38] 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.

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[37] 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 2007, the limit was $30,826, but it is likely to increase slightly for 2008. 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.

[38] House Rule 25, cl. 5(b)(1)(A).

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April 25, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Laws, Rules, and Standards of Conduct Governing Campaign Activity

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With the election year underway, it is important that Members and staff ensure that they are fully aware of the House rules and related laws and standards of conduct that apply to them when they engage in campaign activity. These laws, rules, and standards are important to ensuring that staff time and other congressional resources paid for by taxpayer funds are not improperly used for campaign purposes. **Members are urged to review this memorandum and the related Committee materials carefully.** In addition, because Members are responsible for ensuring that their staff members comply with applicable laws, rules, and standards, we also urge that Members **require** that their staff members who perform campaign work – including district staff – read this memorandum and the related materials. The Standards Committee also has made its training session on "Campaign Activity" available for viewing on HouseNet and we suggest that any staff members responsible for significant campaign work view this training video.

Campaign Activity by Congressional Staff. A full explanation of the laws, rules, and standards on campaign work by congressional staff is provided in Chapter 4 (pp. 121-184) of the 2008 *House Ethics Manual* published by the Standards Committee.[1] As discussed in the *Manual*, there are two fundamental rules that Members and staff must observe:

(1) Any campaign work by staff members must be done outside the congressional office, on their own time, and without using any congressional office resources; and

(2) No staff member may in any way be compelled or required to do any campaign work.

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[1] Copies of the *Manual* are available from the Committee office and on the Committee's website, www.house.gov/ethics.

What constitutes a staff member's "own time" is determined by the personnel policy of the employing office, but generally it is time during which the staff member is entirely free to engage in personal or other outside activities as the individual sees fit. Depending on the office policy, a staff member's own time may include a lunch period, time after the end of the business day, weekends, or annual leave.[2] Staff may also switch to part-time status, with an appropriate reduction in pay. In addition, subject to House Administration Committee regulations, staff may go on leave without pay status for the purpose of doing campaign work, but staff doing so generally must cease performing official duties.

The Committee **strongly** recommends that any staff member who will be devoting a significant amount of time to campaign work, or will be performing campaign work during the regular business day, maintain careful records of the time spent performing official duties and, separately, the time spent doing campaign work. Maintaining such records helps to ensure that no campaign work is done on "official" time, *i.e.*, time for which the individual is compensated with House funds. It also enables the staff member to demonstrate compliance with the applicable rules at all times. For additional information on these rules, *see* pp. 135-37 of the *Manual.*

These rules apply to **any** campaign work by congressional staff, whether for a Member's re-election campaign or for any other campaign or political undertaking. These rules also apply to **all** congressional staff members, including those who are employed in committee or leadership offices as well as those employed in Member personal offices.

Certain activities, such as soliciting contributions or working with campaign consultants, clearly constitute campaign activity and are subject to these rules. The performance of other sorts of tasks, such as drafting a speech or attending an event, may raise a question as to whether the activity is campaign work or instead constitutes the performance of official duties. Whenever such a question arises, guidance should be sought from the Committee.

Finally, 18 U.S.C. § 603 prohibits a House employee from making a "contribution" to his or her employing Member. Staff members should be aware that most outlays that an individual makes on behalf of a campaign is deemed a "contribution" under Federal Election Commission (FEC) regulations, **even if it is intended that the campaign will reimburse the individual promptly**. The major exception to this rule is for outlays that an individual makes to cover their own travel expenses incurred on behalf of a campaign, subject to FEC regulations. These rules are discussed in detail on pp. 138-39 of the *Manual.*

Use of Official Resources for Campaign Activity is Generally Prohibited. As a general matter, when engaging in campaign activity, neither Members nor staff may make use of any congressional resources, including office equipment, supplies, or files (including names or addresses contained in the files or official mailing lists). House

[2] On the other hand, it is permissible for a Member to require that a staff member work on evenings or weekends, provided that the work constitutes the performance of official duties, as opposed to campaign or non-official work, and other applicable provisions of law and regulation are complied with.

buildings, rooms and offices – including district offices – may not be used for any campaign or political activities. The rules on this point are discussed on pp. 123-35 of the *Manual*.

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

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May 12, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: New Committee Website

We are pleased to announce the launch of our new Committee website (**www.ethics.house.gov**). Among other things, the website contains the recently-published 2008 *House Ethics Manual*, the Committee's Highlights publication, copies of the current Committee Pink Sheets, Frequently Asked Questions (FAQ's), privately-sponsored travel forms and other forms, and an up-to-date training calendar. Members, officers, and staff are encouraged to contact the Committee at (202) 225-7103 with any comments on the website or with any questions they may have.

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May 20, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Gift Rule Provisions Applicable to National Political Conventions

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This advisory opinion summarizes the key provisions of the House gift rule (House Rule 25, clause 5) that apply in the context of the national political conventions. Any questions on how these provisions apply to a specific proposed event or other gift should be directed to the Committee.

Some of the advice below relates to attendance at events. Such advice must be read in conjunction with the guidance provided in the Committee's advisory memorandum of December 11, 2007, entitled "Member Participation in Certain Events Taking Place During a National Political Convention." That memorandum concerns the new provision, House Rule 25, clause 8, which prohibits a House Member from participating in an event held during the national political conventions honoring that Member, when the event is paid for by a lobbyist or entity that employs or retains a lobbyist. **This new rule prohibits Members from accepting free attendance even at the otherwise permissible events described below if the event is "in honor of" that Member and the other conditions of the new rule apply.**

The gift rule prohibits Members and House staff from accepting any gift – including any meal, entertainment, transportation, services, or anything else having monetary value – except as specifically provided in the rule. Members and staff are also generally prohibited from ***soliciting*** any gift, whether for themselves or for others. Under the gift rule as applied by the Committee, the following things **may** be acceptable under exceptions to the rule.

1. Things paid for by the ***cities of Denver or St. Paul***, or any unit of federal, state, or local government, may be accepted. However, this provision does ***not*** apply when a governmental entity is being used merely as a conduit for a gift from another person or entity. Thus, for example, if a city were given event tickets that were earmarked, either formally or informally, for distribution to Members or staff, those tickets would be deemed a gift from the original donor and would be subject to the restrictions of the rule that apply to gifts from that source.

2. The gift rule allows the acceptance of a range of gifts – including meals, lodging, entertainment, and transportation – from a ***political organization in connection with a campaign or fundraising event*** that the organization is sponsoring. Under this provision, Members and staff may accept such gifts provided in connection with the convention from the Democratic Congressional Campaign Committee (DCCC) or Republican National Committee (RNC) or the Democratic or Republican Convention Committees, as well as from the Convention Host Committees for Denver and St. Paul.[1] In addition, travel expenses to the convention may be accepted from a state or local party organization, or a Member may use his or her campaign funds to pay travel expenses to the convention.[2]

3. At times, state or local party organizations, campaign committees, and other political organizations sponsor their own ***campaign or fundraising events*** at the conventions. Under the same gift rule provision that is referred to in item 2, Members and staff may accept an offer of free attendance, and related benefits, at such events from the sponsoring political organization (but not from anyone other than the sponsoring political organization). However, Members and staff should also consult with the Federal Election Commission regarding their attendance at non-federal political fundraising events.

4. Attendance at ***receptions***, at which the food served is limited to hors d'oeuvres, beverages, and similar food of a nominal value and does not include a meal, is permissible under the gift rule.

5. House Members and employees who are ***convention delegates*** may accept invitations to events and other gifts that are offered to all of the convention delegates or to, for example, all of the convention delegates from their state. This authority stems from the gift rule exception that allows House Members and employees to accept benefits resulting from outside business or employment activities provided that the benefits were not offered or enhanced because of the official position of the Member or staff person and the benefits are provided to others in similar circumstances. Accordingly, benefits may be accepted under this provision only when provided to all delegates or to a group of delegates whose membership is unrelated to one's status as a House Member or employee.

6. A Member or staff person, as well as one accompanying individual, may accept an offer of free attendance at a ***"widely attended" event***, if all of the following are

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[1] However, the same caveat noted above with regard to gifts earmarked for distribution to Members or staff applies as well with regard to any such gifts received by these committees. Any such gifts would be deemed to be from the original donor, and not from the party, convention, or host committee.

[2] The Federal Election Commission has issued advisory opinions that address circumstances in which a Member may use campaign funds to pay the convention-related travel expenses of the Member's spouse or children, or those of a congressional staff member (please note, however, that a congressional staff member may attend a convention only on the individual's own time, not on official time). The FEC staff should be consulted directly with regard to use of campaign funds to pay the convention-related travel expenses of these other individuals.

true: (a) the invitation is extended by the event organizer; (b) the event will have at least 25 non-congressional attendees; (c) the event is open to individuals from throughout a given industry or profession, or the non-congressional attendees represent a wide range of individuals interested in a given matter; **and** (d) the Member or employee will have some participatory role in the event, or their attendance is related to the performance of their official duties. This provision generally does not allow free attendance at entertainment or recreational events such as shows or sporting events.

7. A House Member or employee may accept free attendance at a ***charity event*** provided that: (a) the invitation is extended by the event organizer; and (b) the primary purpose of the event is to raise funds for an organization qualified under § 170(c) of the Internal Revenue Code (including § 501(c)(3) charitable organizations). This latter criterion is generally satisfied when more than half of the cost of the admission fee is deductible as a charitable donation.

8. A Member or staff person may also accept any gift (other than cash or cash equivalent) having a value of ***less than $50***, provided the donor is not a registered federal lobbyist, registered foreign agent, or entity that employs or retains such individuals. Each Member or staff person has a cap of less than $100 in gifts from any one private source during the calendar year under this exception.

9. At times Members wish to hold a reception or other event of their own at the convention. As a general matter, Members may pay for such events with their campaign funds.

* * *

Again, as noted at the beginning of this memorandum, Member participation in any of the events discussed above is subject to the prohibition on Member participation in events held in honor of that Member when the event is paid for by a lobbyist or entity that employs or retains a lobbyist. *See* House Rule 25, clause 8, and the Committee's Advisory Memorandum of December 11, 2007.

Further explanation of the gift rule and guidance on the application of its provisions is available from the Committee's Office of Advice and Education at extension 5-7103.

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August 1, 2008

MEMORANDUM

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: FGDA disclosure of gifts and meals provided by foreign governments.

This advisory memorandum clarifies the Committee's application of a certain provision of its Foreign Gifts and Decorations Act (FGDA) regulations related to the acceptance and disclosure of meals and other gifts of minimal value offered by foreign governments to House Member, officers and employees. In sum, Members, officers and employees are not required to disclose gifts of minimal value (currently less than $335), regardless of whether such gifts are received in the United States or outside the United States.

Foreign Gifts and Decorations Act

The U.S. Constitution prohibits federal officials, including House Members and staff, from accepting any gifts from foreign governments except with the consent of Congress (Art. I, §9, cl. 8). Congress has granted certain limited consent to the acceptance of gifts, decorations and travel from foreign governments, primarily through the FGDA as set forth at Title 5 U.S.C. § 7342.[1] One category of gifts that can be accepted pursuant to the FGDA is "gifts of minimal value"[2] offered by a foreign government as a souvenir or mark of courtesy.[3] The FGDA does not require that gifts of minimal value be disclosed.

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[1] The term "foreign government" as used in the FGDA includes international and multinational organizations, as well as representatives of foreign governments while acting as such.
[2] The FGDA defines "minimal value" as a dollar amount that the General Services Administration re-calculates every three years according to a particular formula (5 U.S.C. § 7342(a)(5)(A)), and is currently set at $335.
[3] See Title 5 U.S.C. § 7342 for a complete listing of the gifts and decorations House Members, officers and employees may accept and any corresponding disclosure requirement.

Committee Regulations

The FGDA also authorizes various federal offices, each of which is referred to in the statute as an "employing agency," to issue implementing regulations for the officials within their jurisdiction. For House Members, officers and employees that authority is vested in this Committee. The House gifts rule, in turn, includes a provision that allows the acceptance of any item the receipt of which is authorized by the FGDA or any other statute (clause 5(a)(3)(N) of House Rule 25).

The Committee's FGDA regulations are published on pages 389-393 of the 2008 House Ethics Manual. Pursuant to paragraph 6(a) of the Committee's FGDA regulations, as set forth on page 391, House Members, officers and employees may accept "gifts of minimal value" for calendar year 2008 up to a value of $335. Also, gifts of minimal value are defined in paragraph 6(a) of the Committee's regulations as "a souvenir or mark of courtesy, including a meal, entertainment or local travel in the United States." Paragraph 6(a) of the Committee's FGDA regulations is intended to encompass *meals, entertainment, local travel and other gifts of minimal value* offered by foreign governments regardless of where the House Member, officer or employee is geographically located when the gift is offered or accepted. For example, if a Member is offered a $45 meal and a government car ride valued at $50 to transport the Member to and from the place of dining (in the aggregate worth less than the FGDA disclosure threshold of $335 for gifts of minimal value) by the French government while on an officially paid-for CODEL to Paris, the Member could accept the meal and the car ride as an aggregate gift of minimal value and would not be required to disclose acceptance of the gift on the Committee's FGDA disclosure form or on his or her annual Financial Disclosure Statement. Additionally, the figure of $335 is a per-occasion limit, not an annual limit. This application of paragraph 6(a) of the Committee's FGDA regulations is consistent with the statutory requirements and disclosure scheme of the FGDA.

Further explanation of the FGDA or the Committee's FGDA regulations and guidance on the application of each is available from the Committee's Office of Advice and Education at extension 5-7103.

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

August 1, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Paid Employment of Family Members by Member-controlled Campaign Organizations

The purpose of the memorandum is to ensure that House Members are familiar with existing rules and standards regarding the personal use of campaign funds, as well as to provide additional guidance and direction to House Members who employ or intend to employ members of their families for compensation in campaign organizations.

Summary of Rules Regarding the Personal Use of Campaign Funds

Clause 6 of House Rule 23 (the House Code of Official Conduct) restricts Members' use of campaign funds. The rule states that:

> A Member, Delegate, or Resident Commissioner—
>
> (a) shall keep his campaign funds separate from his personal funds;
>
> (b) may not convert campaign funds to personal use in excess of an amount representing reimbursement for legitimate and verifiable campaign expenditures; and
>
> (c) except as provided in clause 1(b) of rule XXIV [regarding the use of campaign funds for official purposes], may not expend funds from his campaign account that are not attributable to bona fide campaign or political purposes.

Additional House rules are implicated by a Member's failure to comply with the above provision of the Code of Official Conduct, including Clause 1 of House Rule 23 (requiring that Members conduct themselves "at all times in a manner that shall reflect creditably on the House") and Clause 2 of House Rule 23 (obligating Members to adhere to not only the letter, but also the spirit of House rules). In addition, laws and regulations

under the enforcement jurisdiction of the Federal Election Commission place additional restrictions on the use of campaign funds.[1] As emphasized in the 2008 edition of the *House Ethics Manual*, Clause 6 of House Rule 23 requires that campaign outlays by a Member not only be "legitimate," but "verifiable."[2] *Id.* at 170. The verification requirements under House rules are separate from, and in addition to recordkeeping requirements imposed by the FEC. *Id.* at 165.

Guidance and Recommendations

While the employment of family members by a Member's campaign organization is not prohibited under Clause 6 of House Rule 23, such employment arrangements should be entered into with caution and in accordance with House rules and the guidance herein. Compensation paid to a family member that exceeds fair market value may be considered "personal use," and may constitute a violation of the House rules described above.[3] This guidance applies when family members are either employees or contractors of a Member's principal campaign committee, as well as when they are employed or contracted by any other campaign organization under the Member's control, including so-called "leadership" committees.

A Member's campaign organization must be able to verify and demonstrate that compensation to family members is reasonable for the work performed. The Committee recommends that the Member's campaign maintain employment records, agreements, or other documentation that clearly describes the type of work and the position for which a family member is being hired, the rate of compensation, and the method and basis used for determining the rate of compensation. Additional records should verify that compensation corresponds to actual work performed.

In circumstances when a Member's campaign hires a family member as a vendor to perform specific services for a campaign, such as fundraising, consulting, polling, etc., particular care should be taken to maintain a written agreement and other records verifying that the amount paid to the family member rendering services as a vendor is for "bona fide" services provided to the campaign at a rate not exceeding the fair market value for such services obtainable from other vendors.

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[1] The Federal Election Campaign Act prohibits expressly the conversion of campaign funds to personal use. *See* 2 U.S.C. § 439a(b)(1). Preventing the personal use of campaign funds in either a direct or indirect manner also has been a concern of the FEC as reflected in advisory opinions addressing expenditures by campaign committees to organizations in which the candidate or members of his family play leadership roles. *See, e.g.,* FEC Advisory Opinion 1999-1 and FEC Advisory Opinion 1994-8.

[2] "Absent a requirement for verification, the prohibition against converting campaign funds to personal use would be nullified in part," and "[f]urthermore, the verification requirement should serve to cause Members and their campaign staffs to exercise caution in spending campaign funds, and to ensure that no outlay is for an impermissible personal purpose." *2008 House Ethics Manual* at 164-165.

[3] Such compensation may also violate FEC regulations that define the personal use of campaign funds to include "[s]alary payments made to a member of a candidate's family, unless the family member is providing *bona fide* services to the campaign." 11 C.F.R. § 113.1(g)(1)(i)(H) (emphasis added). The regulation further provides that "[i]f a family member provides bona fide services to the campaign, any salary payment in excess of fair market value of the services provided is personal use." *Id.*

Moreover, if compensation for such services is calculated or paid based on a percentage of campaign funds raised, such an arrangement should be clearly described in a written agreement or other record to verify the employed family member's compensation. Nonetheless, as in all matters, Members should at all times conduct themselves in a manner that reflects creditably on the House.

Members should avoid the appearance of a personal financial gain resulting from compensation paid to a family member for campaign services.

The Committee is available to provide guidance to any Members with questions about the propriety of proposed compensation arrangements between a member of their family and a campaign organization under that Member's control. Any questions on these matters should be directed to the Committee's Office of Advice and Education at (202) 225-7103.

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

September 23, 2008

MEMORANDUM TO ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Standards of Official Conduct**
Gene Green, Acting Chairman
Doc Hastings, Ranking Republican Member

SUBJECT: Changes to the Pre-Approval Process for Officially-Connected Travel Paid for by a Private Source

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This memorandum will outline two key changes to the travel approval process for privately funded officially-connected travel. The changes are (1) a new, hard deadline for pre-trip approval requests to be submitted to the Standards Committee, and (2) information on updates to the forms to be used in making requests to participate in such travel and in disclosing the travel after the trip has been completed.

I. TRAVEL REQUESTS MUST BE SUBMITTED NO LATER THAN 14 DAYS PRIOR TO TRIP

Despite repeated requests from the Committee that travel forms be submitted 30 days prior to the departure date of proposed travel, many Members and staff have continued to submit pre-trip approval requests far short of that guideline, often only a day or two prior to the start of the trip in question. In the vast majority of cases, such belated requests are not due to any special circumstances, but instead stem merely from a failure to submit the request in a timely fashion. The Committee has nonetheless generally processed such pre-trip approval requests. This practice has, however, proven to be too burdensome.

To address this burden the Committee generally will no longer process pre-trip approval requests submitted after the deadline noted in the process detailed below. However, recognizing that most trips cannot be arranged 30 days in advance, the Committee has changed the deadline for submitting pre-trip approval requests from 30 days to 14 days. ***This means that pre-trip approval requests, including all the requisite information and documentation, must be submitted to the Committee no less than 14 days before the start date of a trip, even if the Committee has approved of the participation of another Member or staff member in a particular trip.*** This deadline is calendar days, and includes weekend days and holidays. It applies irrespective of whether or not the House is in session. ***The new deadline will be effective for any trip commencing on or after October 21, 2008.***

Each individual Member or House employee must obtain Committee approval prior to participating in a privately funded officially-connected trip. Failure to obtain pre-trip approval may result in the participating Member or staff member having to reimburse the sponsor of a trip from the travel participant's personal funds, a Member's principal campaign committee funds, or the Member's MRA (Member's Representational Allowance). Use of the MRA for such travel must comply with the rules and regulations governing official travel that are issued by the Committee on House Administration. Guidance on those regulations should be sought from that committee directly.

The only exception to the new 14-day deadline will be for instances when a House Member receives a last-minute request from a media outlet to appear for purposes of a media interview or appearance. Otherwise, exceptions to the 14-day deadline will be granted only in exceptional circumstances. "Exceptional circumstances" do *not* include instances when the sponsor provides the prospective traveler with an invitation less than 14 days before the trip, or when prospective travelers fail to forward their requests to the Committee until after the 14-day deadline has passed.

Anyone who fails to submit a request for privately-funded travel prior to the 14-day deadline may still be able to participate in a trip using one of the alternate funding sources listed above. Specifically, if a Member deems that his or her participation in a trip is officially-connected, or that the participation of an employee in their personal office is officially-connected, then monies from that Member's MRA or principal campaign committee may be acceptable alternative sources of funding to facilitate participation on the trip. Members (but not staff) may also use their personal funds to pay for official travel.

II. NEW FORMS FOR PRIVATELY FUNDED TRAVEL REQUESTS

In response to concerns expressed by staff about the public disclosure of their signatures on paperwork related to privately-funded officially-connected travel, the Committee has created new forms for use in the travel pre-trip approval and post-travel disclosure processes. On the revised forms, any signature required of a staff member will now appear on the first page of the form. The initial (signature) pages of both the Traveler Form and Employee Post-Travel Disclosure Form will not be made available for public inspection by the Clerk.

The Committee has also made minor editorial changes to all forms related to the travel process in an effort to assist filers in completing them correctly. In addition, the Committee has issued instructions to provide additional information to individuals completing the Traveler Form. Copies of all rules, forms, and instructions relating to travel are available on the Standards Committee website at http://www.ethics.house.gov.

Please contact the Committee at (202) 225-7103 with any questions.

____ *Original* ____ *Amendment*

U.S. House of Representatives
110th Congress

EMPLOYEE
POST-TRAVEL DISCLOSURE FORM

This form is for disclosing the receipt of travel expenses from private sources for meetings, speaking engagements, fact-finding trips, or similar events undertaken in connection with official duties. This form does not eliminate the need to report all privately-funded travel on the annual Financial Disclosure Statements of those persons required to file them. In accordance with House Rule 25, clause 5, complete this form and file it with the Clerk of the House of Representatives, B-106 Cannon House Office Building, within **15 days** after travel is completed. The Clerk is to make the second page of this form publicly available as soon as possible after it is filed.

Name of Traveler (print or type): _____

I certify that the information contained on all pages of this form is true, complete, and correct to the best of my knowledge.

SIGNATURE OF TRAVELER: _____

DATE: _____

I authorized this travel in advance. I have determined that all of the expenses listed on this form were necessary and that the travel was in connection with the employee's official duties and would not create the appearance that the employee is using public office for private gain.

NAME OF SUPERVISING MEMBER: _____

SIGNATURE OF SUPERVISING MEMBER: _____

DATE: _____

Version date 9/2008 by Committee on Standards of Official Conduct

___ *Original* ___ *Amendment*

EMPLOYEE
POST-TRAVEL DISCLOSURE FORM

1. Name of Traveler (print or type): _____

2. a. Name of Accompanying Family Member (if any): _____
   b. Relationship to Employee: ___ Spouse ___ Child ___ Other (specify): _____

3. a. Date of Departure and Date of Return: _____
   b. Dates at personal expense (if any): _____

4. Itinerary (cities of departure – destination – return): _____

   _____

5. Sponsor(s) (who paid for the trip): _____

   _____

6. Describe meetings and events attended (attach additional pages if necessary): _____

   _____

7. Attached to this form are EACH of the following (*signify that each item is attached by checking the corresponding box*):
   a. ☐ the Private Sponsor Travel Certification Form completed by the trip sponsor, including all attachments;
   b. ☐ the Traveler Form completed by the employee; ***and***
   c. ☐ the Committee on Standards' letter approving my participation on this trip.

8. a. I represent that I participated in each of the activities reflected in the sponsor's agenda. (*Signify that statement is true by checking box*): ☐
   b. If not, explain: _____

   _____

9. TRAVEL EXPENSES: *Obtain actual dollar amounts from the sponsor. If exact dollar amounts are unavailable by the due date, provide a good faith estimate and file an amended form once the correct amounts are received.*

	Total Transportation Expenses	Total Lodging Expenses	Total Meal Expenses
For employee:			
For accompanying family member:			

	Other Expenses (dollar amount)	Specific Nature of Expenses (*e.g.*, taxi, parking, registration fee, etc.)
For employee:		
For accompanying family member:		

U.S. House of Representatives
Committee on Standards of Official Conduct

PRIVATELY SPONSORED TRAVEL: TRAVELER FORM
For Members, Officers, and Employees

This form should be completed by House Members, officers, or employees seeking Committee approval of privately-sponsored travel or reimbursement for travel under House Rule 25, clause 5. The completed form should be submitted directly to the Committee by each invited House Member, officer, or employee, together with the completed and signed Private Sponsor Travel Certification Form and any attachments. A copy of this form, minus this initial page, will be made available for public inspection. *Please type form.* ***Form (and any attachments) may be faxed to the Committee at (202) 225-7392.***

YOUR COMPLETED REQUEST MUST BE SUBMITTED TO THE COMMITTEE NO LESS THAN 14 DAYS BEFORE YOUR PROPOSED DEPARTURE DATE. Absent exceptional circumstances, permission will not be granted for requests received less than 14 days before the trip commences.

Name of Traveler: _____

I certify that the information contained on both pages of this form is true, complete, and correct to the best of my knowledge.

Signature: _____

Name of Signatory (if other than traveler): _____

For staff, name of employing Member/Committee: _____

Office address: _____

Phone number: _____

Email address of contact person: _____

☐ Check this box if the sponsoring entity is a media outlet and the traveler is a Member traveling to make a media appearance sponsored by that entity and these forms are being submitted to the Committee less than 14 days before the trip departure date.

NOTE: You must complete the contact information fields above, as Committee staff may need to contact you if additional information is required.

If there are any questions regarding this form please contact the Committee:

Committee on Standards of Official Conduct
U.S. House of Representatives
HT-2, The Capitol
Washington, DC 20515
(202) 225-7103 (phone)
(202) 225-7392 (fax)

Version date 9/2008 by Committee on Standards of Official Conduct

U.S. House of Representatives
Committee on Standards of Official Conduct

PRIVATELY SPONSORED TRAVEL: TRAVELER FORM

1. Name of Traveler: _____

2. Sponsor(s) (who will be paying for the trip): _____

   _____

3. Travel destination(s): _____

4. a. Date of Departure and Date of Return: _____

   b. Will you be extending the trip at your personal expense? ☐ Yes ☐ No

   If yes, dates at personal expense: _____

5. a. Will you be accompanied by a family member at the sponsor's expense? ☐ Yes ☐ No

   b. If yes, name of accompanying family member: _____

   c. Relationship to traveler: ___ Spouse ___ Child ___ Other (specify): _____

6. a. Did the trip sponsor answer "yes" to Question 9(c) on the Trip Sponsor form (*i.e.*, the travel is being sponsored by an entity that employs a lobbyist)? ☐ Yes ☐ No

   b. If yes, check one of the following: ☐ N/A – Sponsor checked 9(a) or 9(b)

   (1) Approval for one-night's lodging and meals is being requested: ☐ <u>or</u>

   (2) Approval for two-nights' lodging and meals is being requested: ☐

   If "(2)" is checked, explain why the second night is warranted: _____

   _____

7. Private Sponsor Travel Certification Form is attached, including agenda, invitee list, and any other attachments (*indicate that form is attached by checking box*): ☐

8. Explain why participation in the trip is connected to <u>your</u> individual official or representational duties:

   _____

   _____

9. **FOR STAFF:**
   TO BE COMPLETED BY YOUR EMPLOYING MEMBER:

   I hereby authorize the individual named above, an employee of the U.S. House of Representatives who works under my direct supervision, to accept expenses for the trip described in this request. I have determined that the above-described travel is in connection with my employee's official duties and that acceptance of these expenses will not create the appearance that the employee is using public office for private gain.

   Date: _____ _____
   Signature of Employing Member

NOTE: This page must be submitted with your post-travel disclosure form within 15 days of your return, so you should maintain a photocopy of the completed form for your records.

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

November 5, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Gene Green, Acting Chairman
Doc Hastings, Ranking Republican Member

SUBJECT: Guidance on House Staff Assisting in the Presidential Transition

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In addition to the guidance provided below, House staff interested in working on the Presidential transition may also wish to contact the Committee on House Administration and the Office of House Employment Counsel to ensure that any arrangements with the Transition Team comply with the statutes and regulations within their respective jurisdictions.

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Consistent with guidance offered by the Committee relating to past transitions of new Administrations, there are three alternatives under which House employees may assist the transition of the new Administration.

1. Assist the Transition as Part of Congressional Duties. Members and officers of Congress are given wide latitude in the deployment of their official staffs, though certain restrictions do apply. The Code of Official Conduct instructs Members and officers to retain no one on their staffs "who does not perform duties for the offices of the employing authority commensurate with the compensation he receives." House Rule 23, clause 8. House rules also state that professional staff members of the standing committees of the House "(A) may not engage in any work other than committee business during congressional working hours; and (B) may not be assigned a duty other than one pertaining to committee business." House Rule 10, clause 9(b)(1). Moreover, appropriated funds may be used only for the purposes for which appropriated. 31 U.S.C. § 1301(a). Congressional funds, therefore, may not be used to pay any personal, political, or campaign-related expenses. *See Comm. on House Admin., Member's Handbook* at 8; *Comm. on House Admin., Committee's Handbook* at 2. The Standards Committee has construed post-election transition work (*i.e.*, work performed after the new Administration has been officially recognized by the GSA) to be governmental rather than political in nature.

Within the parameters described above, Members have wide discretion in establishing the duties of their staffs. Members could reasonably determine that having staff assist the incoming Administration would inure to the long-term benefit of their committee, their constituents, or their leadership office, and such assistance could therefore appropriately be deemed to pertain to

official congressional business. The closer House employees' duties with the transition relate to their regular duties with the House, the more reasonable it would be for their employing Members to make that determination. Assisting the transition is, of course, by definition a temporary assignment.

Under this alternative, House employees would remain responsible to and under the direction of their employing Members. They would *not* become employees of the President-elect, the transition, or any person working for the transition. By signing the monthly salary certification, their employing Members would vouch that they continue to perform official congressional business. Subject to these conditions, House employees may assist the transition and continue to receive their House salaries and benefits while doing so. They would remain subject to all House rules, including the House gift rule, while they work on matters related to the transition.

2. Assist the Transition as a Detailee. House employees may, with the consent of their employing Members, be formally detailed to the transition of the incoming Administration. The Presidential Transition Act of 1963, as amended, provides in pertinent part:

> That any employee of any agency of any branch of the Government may be detailed to such [transition] staffs on a reimbursable basis with the consent of the head of the agency; and while so detailed such employee shall be responsible only to the President-elect or Vice-President-elect for the performance of his duties: Provided further, [t]hat any employee so detailed shall continue to receive the compensation provided pursuant to law for his regular employment, and shall retain the rights and privileges of such employment without interruption.[1]

The legislative history of the 1976 amendments to the Presidential Transition Act indicates that "on a reimbursable basis" means that reimbursement of the employees' salaries by the transition is required. One purpose of the amendments, according to the Senate report accompanying the amendments, was to "require that when personnel is detailed to the office staffs of the incoming and outgoing Presidents and Vice Presidents from a federal department or agency, *reimbursements must be made* to the appropriate agency for such services."[2]

House employees detailed to the transition retain full House salary and benefits but become responsible to the President- or Vice President-elect for that period, rather than to their employing Member. The Office of the President-elect, however, must reimburse the House for the salaries of the detailed employees.

3. Assist the Transition as a Volunteer. As long as employees do not engage in activities inconsistent with House rules and congressional duties, they are free to spend non-working hours doing whatever they choose, subject to the approval of their employing Members. Thus, House employees may use vacation time accrued pursuant to established office policy or take Leave

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[1] 3 U.S.C. § 102 note.

[2] S. Rep. No. 94-1322, 94th Cong., 2d Sess., at 1 (1976) (emphasis added).

Without Pay (LWOP) to assist the transition.[3] House employees who assist the transition under this alternative would be responsible to the transition rather than to their employing Members. Employees should note that they are not permitted to perform any official House duties while they are on leave without pay from their House position.

House employees who choose to assist the transition under this alternative should be aware that they may be prohibited from receiving compensation from the transition for the services they render while on vacation or on LWOP. Under the dual government compensation statute, House employees may not receive compensation from a non-House, federal job if the combined salaries of the two positions exceed $31,598 during the calendar year 2008. 5 U.S.C. § 5533(c)(1). Thus, even if House employees take LWOP to work for the transition, they could not accept compensation from the transition if their ***combined*** House and transition salaries would exceed $31,598 for the calendar year.

Under either scenario, House employees working on the transition would remain subject to all House rules, including the House gift rule, during their service to the President-elect.

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In conclusion, House employees may assist the Presidential transition team so long as their activities on behalf of the transition comply with the guidance given above. Further explanation of these rules and advice on specific questions are available from the Committee's Office of Advice and Education at extension 5-7103.

[3] Any staff members wishing to go on LWOP status may do so only in accordance with the guidelines on LWOP issued by the Committee on House Administration.

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

November 6, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Gene Green, Acting Chairman
Doc Hastings, Ranking Republican Member

SUBJECT: New On-Line Ethics Training Option Available

The Standards Committee has created a new on-line option for House staff to use in fulfilling the annual ethics training requirement imposed by House Rule 11, clause 3(a)(6). The new alternative consists of a computerized quiz on the ethics rules relating to gifts and travel, including explanations and cites for the relevant provisions. Employees can access the training by selecting "Ethics" under the "Personnel" tab on HouseNet.

Completion of the quiz will satisfy the annual ethics training requirement for current House staff. Attending a live training session conducted by Committee staff, or watching one of the video presentations available on-line, remain as other options for fulfilling the ethics requirement. (An employee must complete only one of these options to fulfill the one-hour training requirement).

For individuals taking the on-line quiz, the program automatically takes the user to a completion certification form once the program has been completed. All employees who complete the on-line quiz must fill out the form, have it signed by their supervisor, and fax it to Committee as soon as possible. Employees who do not send the certification form to the Committee will ***not*** receive credit for having taken the training.

Note that the on-line quiz does ***not*** satisfy the ethics training requirement for new House employees. New House employees must complete the ethics training specifically titled "new employee" training within 60 days of beginning their employment with the House. New employees based in Washington, DC must attend a live new employee training session in person, and new employees in district office may watch the on-line video presentation available on HouseNet.

As a reminder, all employees other than new employees have until ***December 31, 2008*** to satisfy their ethics training requirement for this calendar year. Prior to January 31, 2009, each Member must send a letter to the Committee certifying that each of the Member's employees completed the required training during 2008. For staff of a committee, the letter should be signed by the committee chairman or ranking member, as

appropriate. The letter should list the names of each employee who is still on the payroll, and what type or types of training (general, new employee, or senior staff) the individual completed. Shared staff should be included in the letter sent by each office for which they work. The letter should also identify by name any employees who failed to complete the training and provide an explanation for each why the requirement was not fulfilled.

For 2008, the Committee will undertake a two-step process to penalize any employee who failed to comply with the training requirement. First, the Committee will send a letter to each Member, indicating the name(s) of that Member's employees whom Committee records indicate failed to complete training. The Member or named employee(s) will then have two weeks to provide documentation to the Committee that an individual so identified did, in fact, complete the required training. At the close of that two-week period, the Committee may publicize the names of all employees, together with their employing Member, committee, or office, who failed to satisfy the ethics training requirement. Other penalties may also be imposed as appropriate.

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

November 20, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS & COMMITTEES

FROM: Committee on Standards of Official Conduct
Gene Green, Acting Chairman
Doc Hastings, Ranking Republican Member

SUBJECT: Certifying Compliance with the 2008 Ethics Training Requirement

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This memorandum details the procedure for Members, officers, committees, and other legislative offices to certify to the Committee on Standards of Official Conduct ("Standards Committee") that their staff has complied with the annual ethics training requirement imposed by House rules.

Certifying Compliance with the Training Requirement

All House employees, other than new employees, have until **December 31, 2008** to satisfy their ethics training requirement for 2008. Each Member, officer, committee, and other legislative office must certify, prior to **January 31, 2009**, that all employees in that office have complied with the training requirement.

To certify compliance, each employing authority should forward to the Standards Committee a letter addressed to Congressman Gene Green, the Acting Chairman of the Standards Committee, and signed by the employing Member. The employing Member for committee staff is the chairman or ranking member of the full committee, as appropriate. For offices that are not supervised by a Member, such as the Parliamentarian, the letter should be signed by the most senior employee in the office. The letter should include a list of all employees still on payroll as of December 31, 2008 and what type or types of training that individual completed, such as Campaign Activity or New Employee. Shared staff (individuals that work for more than one office) should be included in the letter sent by each office for which they are employed.

If a Member, officer, committee, or other employing office has current employees who did not satisfy the training requirement, the letter should identify those individuals by name and provide an explanation as to why each such employee did not fulfill the requirement.

House employees who moved from one House office to another during 2008 should be included with the staff of their current office, regardless of which office employed them at the time they completed the training.

Failure to Comply with the Training Requirement

For 2008, the Committee will undertake a two-step process to penalize any employee who failed to comply with the training requirement. First, the Committee will send a letter to each Member indicating the names of that Member's employees who Committee records indicate failed to complete the training. The Member or named employees will then have two weeks to provide documentation to the Committee that the identified individuals did, in fact, complete the required training. At the close of that two-week period, the Committee may publicize the names of all employees, together with their employing Member, committee, or office, who failed to satisfy the ethics training requirement. Other penalties may also be imposed as appropriate.

Please contact the Standards Committee at (202) 225-7103 with any questions about certifying completion or how to satisfy the training requirement.

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

November 20, 2008

MEMORANDUM FOR DEPARTING MEMBERS

FROM: **Committee on Standards of Official Conduct**
Gene Green, Acting Chairman GG
Doc Hastings, Ranking Republican Member DH

SUBJECT: Ethics Laws and Rules for Departing Members and Staff

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With the 110th Congress drawing to a close, we thought it would be helpful to highlight some of the ethics laws and rules that apply to departing Members and their staffs.

Financial Disclosure Statement for Calendar Year 2008

The due date established for Member Financial Disclosure Statements covering calendar year 2008 is 30 days after you leave office. For departing Members who serve a complete term, which will end at midnight on January 2, 2009, the due date will be February 2, 2009. If you need an extension of time to make this filing, you must write to the Committee with that request. The Committee must receive your request on or before your due date, and can grant extensions for up to 90 days.

Forms for this "termination" Financial Disclosure Statement will be mailed to you by the Clerk of the House. Your termination Financial Disclosure Statement will be identical to your previous annual ones, including information on your income, assets, liabilities, gifts, and travel. In addition, if you accept new employment prior to your departure from the House, you must disclose the terms of that agreement (*e.g.*, name of employer, title of position, and starting date) in the "Agreements" section of the Statement (Schedule IX).

Any of your departing employees who were paid at the "senior staff" rate (*i.e.*, at or above the annual rate of $114,468 for 60 days or more during 2008) will also have to file a termination Financial Disclosure Statement within 30 days after leaving House employment.[1] If no employee in the office of a departing Member is paid at the senior staff rate, then the designated "Principal Assistant" must file a termination report.

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[1] Because the financial disclosure requirement is triggered by pay at the threshold rate for as few as two months in a year, at times staff members become subject to the requirement through acceptance of a bonus paid over such a period of time. However, this result can be avoided by paying a bonus in the form of a "lump sum payment" rather than by increasing the employee's base rate of pay. Any questions on the procedures to be followed in making lump sum payments should be directed to the Committee on House Administration.

New Employment

Both you and any of your employees who are paid at the senior staff rate continue to be subject to the outside earned income restrictions until your term of office ends. The restrictions cover both the amount of outside income these individuals may receive, as well as certain types of employment that may not be undertaken. It would therefore be advisable for you to consult with the Standards Committee prior to accepting any new employment that would commence before you leave the House. Pages 211-223 and 228-233 of the *2008 House Ethics Manual* contain further guidance on these restrictions.

House Rule 27, which was enacted during the 110th Congress, established additional disclosure obligations regarding job negotiations by any House Member whose successor has not been elected and "very senior staff" (*i.e.*, those House employees who are paid at or above an annual rate of $126,975 for any 60 days during their last twelve months of House employment). Any Member whose successor was elected in the November 4 election is no longer subject to the Rule 27 disclosure requirements, but very senior staff continue to be for as long as they remain employed by the House. Any individual covered under the rule may not directly negotiate or have any agreement of future employment" *unless* those negotiations are disclosed, in writing, to the Standards Committee within three business days. Additional guidance on this disclosure requirement is contained at pages 208-211 of the *2008 House Ethics Manual* and in an advisory memorandum entitled "Negotiating for Future Employment," dated March 28, 2008, which is available on the Committee website (ethics.house.gov).

In addition, a provision of the federal criminal code, 18 U.S.C. § 207, imposes certain post-employment restrictions upon departing Members and very senior staff. Explanations of the restrictions are provided in a pair of advisory memoranda dated April 8, 2008 – one concerning Members, and the other staff. Copies of both memoranda are available on the Committee website.

Travel of Departing Members and Staff

House Rule 24, clause 10 prohibits the use of official House funds for travel after the date of a general election in which a Member ran unsuccessfully. For retiring Members (who did not participate in an election this year), the rule prohibits any official travel following the ***earlier of*** the general election (November 4, 2008) or the adjournment *sine die* of the House. This provision generally precludes departing Members from participating in a CODEL for the remainder of their term, as date of the general election has now passed. However, travel to and from one's district for official purposes using your Member's Representational Allowance is still permitted.

In a similar vein, departing Members and staff should not participate in privately-funded travel that is fact-finding in nature after the adjournment *sine die* of the House (*see* page 103 of the 2008 *House Ethics Manual*). However, you may continue to accept travel expenses from a private source where the purpose of the trip is to give a speech at or otherwise to participate substantially in an event in connection with your official House duties. Please bear in mind that you and your staff continue to be bound by the

gift rule, including its provision on acceptance of travel expenses from private sources, until your term of office ends (or staff leave House employment).

Use of Campaign Funds to Pay Member Moving Expenses

Both the Federal Election Commission (FEC) and this Committee have taken the position that a departing Member may use funds from the Member's principal campaign committee to pay the expenses of moving both office furnishings and personal household furnishings and effects back to the individual's home state (*see 2008 House Ethics Manual* at 162). As a related matter, the FEC regulations on proper use of campaign funds provide that those funds may be used to defray the costs of winding down the office of a former federal officeholder for a period of six months after the officeholder leaves office (*see* 11 C.F.R. § 113.2(a)(2)).

* * *

Any questions on these matters should be directed to the Committee's Office and Education at extension 5-7103.

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

November 20, 2008

MEMORANDUM FOR ALL MEMBERS, MEMBERS-ELECT, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Gene Green, Acting Chairman
Doc Hastings, Ranking Republican Member

SUBJECT: Member Swearing-in and Inauguration Day Receptions, and Attendance at Inaugural-Related Events

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Recently the Committee has received a number of inquiries on the rules relating to two subjects: (1) the receptions that Members wish to hold in connection with their swearing-in on January 6, 2009 and on Inauguration Day, and (2) Member and staff attendance at events held in connection with the Presidential Inauguration. The major rules that apply in these areas are briefly summarized below, and guidance addressed to specific circumstances is available by calling or writing to the Committee.

Member Swearing-in and Inauguration Day Receptions. At times Members – especially newly-elected Members – wish to hold a reception or similar event for their supporters in connection with their swearing-in. The Committee has long advised that Members may use their campaign funds to pay the costs of such a reception, and this is so even if the reception is held in the Member's office or another House room. However, such events should not be campaign or political in nature, such as limiting the invitee list to include only campaign contributors. A Member may also use campaign funds to pay for an Inauguration Day reception for visiting constituents held in the Member's office or elsewhere. Questions about the use of the Members' Representational Allowance to hold an event in connection with either ceremony should be directed to the Committee on House Administration.

The Committee has received several inquiries, the substance of which is whether it is permissible for a lobbying firm or other private entity to pay the costs of a Member's swearing-in or Inauguration Day reception. Such arrangements are *not* permissible, as the payment of the costs of the event would constitute an impermissible gift to the Member under the House gift rule (clause 5 of House Rule 25).

Attendance at Privately-Sponsored Events. Offers of free attendance at swearing-in or Inaugural-related events are fully subject to the House gift rule. Thus, a Member or staff person may accept such an offer only if acceptance is allowed under one of the provisions of the rule. Many of the inquiries that the Committee has received concern attendance at events sponsored by a state society or other private organizations. Free attendance at those events is generally permissible under the "widely attended" event provision of the gift rule, provided that the offer was made by the event organizer (not a person or entity that simply bought tickets or donated to the event), the offer is limited to the Member or staff person and one accompanying individual only, the requirements on event size are satisfied, [1] and attendance is connected to the individual's official duties.

In addition, Members and staff are generally free to attend any reception, *i.e.*, an event at which the food served is limited to hors d'oeuvres, beverages, and similar items and does not constitute a meal. The gift rule also allows the acceptance of virtually any gift, including free attendance at an event, having a fair market value of less than $50, subject, however, to the overall limitation of less than $100 in such gifts from any one source in a calendar year, provided that the donor is not a registered federal lobbyist or foreign agent, or an entity that employs or retains such an individual.

Detailed information on the provisions of the gift rule regarding attendance at events is available in chapter 2 of the Committee's *2008 House Ethics Manual*, copies of which are available from the Committee's office, and the text of which is on the Committee's website, ethics.house.gov.

* * *

Please note that the Committee's guidance is subject to change if the 111th Congress adopts changes to the ethics rules. Members and staff with questions on the matters addressed above should contact the Committee after the 111th Congress has convened to seek further guidance about any such rule changes.

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

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[1] The Standards Committee has determined that an event is "widely attended" if (a) there is a reasonable expectation of at least 25 persons, other than Members, officers, or employees of Congress, will attend the event, and (b) attendance is open to individuals from throughout a given industry or profession, or those in attendance represent a range of persons interested in a given matter. *See 2008 House Ethics Manual at 41-42.*

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

December 30, 2008

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Gene Green, Acting Chairman
Doc Hastings, Ranking Republican Member

SUBJECT: Rules Regarding Financial Disclosure of Mortgages

The purpose of this memorandum is to clarify the rules regarding when a mortgage liability must be disclosed on the annual Financial Disclosure Statement required of all Members and certain House staff under the Ethics in Government Act (5 U.S.C. app. 4 § 101 et seq.) (EIGA). An apparent inconsistency between information contained in the *2008 House Ethics Manual* and that in the statute has led to confusion about the disclosure requirements.

Section 102(4) of the EIGA requires the disclosure of –

> [t]he identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $10,000 at any time during the preceding calendar year, excluding–
>
> (A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and
>
> (B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

As subsection (A) of this provision makes clear, filers of a Financial Disclosure Statement are not required to disclose a mortgage on their personal residence. This exception applies regardless of the fair market value of the property or the amount due on the .mortgage. The Committee's instructions for completing a Financial Disclosure Statement also make clear that this exclusion extends to home equity loans and home equity lines of credit on personal residences, as long as the property is used only as a personal residence and does not generate any rental income. *See Instructions Guide for Completing Financial Disclosure Statement Form A* (2008) at 19.

Subsection (B) of this provision also excludes from disclosure any debt on a car, furniture, or appliances unless the amount of the debt is more than the purchase price of

the item. The construction of the statute makes clear that the requirement to disclose liabilities when the amount of the debt exceeds the purchase price applies only to items covered by subsection (B) – cars and household items – and *not* to those in subsection (A) – personal residences.

Page 258 of the *2008 House Ethics Manual* discusses both subsections together in a single sentence that appears to indicate that the "debt in excess of purchase price" requirement applies to both household items and to personal residences. As stated above, the requirement does *not* apply to personal residences that do not generate rental income. Thus, Financial Disclosure filers need not disclose a personal residence that does not generate rental income on their Statement regardless of the amount owed, or the ratio between the amount owed and the purchase price of the house. The *Ethics Manual* guidance will be amended in future editions to clarify this point.

Any further questions on the financial disclosure requirements should be directed to the Committee's Financial Disclosure unit at 5-7103.

APPENDIX II

RULES

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Adopted February 16, 2007
110th Congress

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

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

STEPHANIE TUBBS JONES, Ohio, *Chairwoman*
GENE GREEN, Texas
LUCILLE ROYBAL-ALLARD, California
MICHAEL F. DOYLE, Pennsylvania
WILLIAM D. DELAHUNT, Massachusetts

DOC HASTINGS, Washington, *Ranking Republican Member*
JO BONNER, Alabama
J. GRESHAM BARRETT, South Carolina
JOHN KLINE, Minnesota
MICHAEL T. MCCAUL, Texas

WILLIAM V. O'REILLY, *Chief Counsel/Staff Director*

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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, 110th 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 Chairman 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 Chairman 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 Chairman 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 Chairman 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 in the public record is made public.

(c) The Chairman 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 state-

ment 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 Chairman 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 Chairman 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 Chairman 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 informa-

tion 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 Wednesday of each month, except when the House of Representatives is not meeting on that day. When the Committee Chairman determines that there is sufficient reason, a meeting may be called on additional days. A regularly scheduled meeting need not be held when the Chairman determines there is no business to be considered.

(b) The Chairman 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 Chairman.

(f) Insofar as practicable, notice for any Committee or subcommittee meeting shall be provided at least seven days in advance of the meeting. The Chairman 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 he 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 his or her employment or duties with the Committee without specific prior approval from the Chairman 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 Chairman and Ranking Minority Member each may appoint one individual as a shared staff member from his or her personal staff to perform service for the Committee. Such shared staff may assist the Chairman or Ranking Minority Member on any subcommittee on which he 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 confiden-

tiality 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 Chairman 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 Chairman and Ranking Minority Member of the Committee may consult with an investigative subcommittee either on their own ini-

tiative 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 Chairman 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 Chairman 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 he is the respondent.

(e) A member of the Committee may disqualify himself 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 Chairman 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) Adoption or amendment 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) Adoption of a recommendation to the House of Representatives that a sanction be imposed.

(7) Adoption of a report relating to the conduct of a Member, officer, or employee.

(8) Issuance of 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 his or her will to be photographed or otherwise to have a graphic reproduction of his or her 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 he or she 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; or

(5) the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation.

(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 he or she 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 Chairman and Ranking Minority Member

(a) Whenever information offered as a complaint is submitted to the Committee, the Chairman 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 Chairman 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 Chairman 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 Chairman 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 Chairman or Ranking Minority Member has placed on the agenda the issue of whether to establish an investigative subcommittee.

(d) If the Chairman 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 Chairman 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 Chairman 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 five 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 he/she 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 Chairman 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 ten 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 subcommittee member cannot render an impartial and unbiased decision. The subcommittee member against whom the objection is made shall be the sole judge of his or her 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 his or her duties or the discharge of his or her responsibilities. The Chairman 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 processed 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 Chairman 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 Chairman and Ranking Minority Member of the Committee. At the time of appointment, the Chairman shall designate one member of the subcommittee to serve as the chairman and the Ranking Minority

Member shall designate one member of the subcommittee to serve as the ranking minority member of the investigative subcommittee. The Chairman 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 Chairman 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 Chairman 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 Chairman or subcommittee member designated by the Chairman 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 Chairman 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. The 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 his or her 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

(c) 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 Chairman 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 Chairman 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 Chairman 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 Chairman of the investigative subcommittee to the Chairman and Ranking Minority Member of the Committee.

Rule 23. Adjudicatory Hearings

(a) If a Statement of Alleged Violation is transmitted to the Chairman and Ranking Minority Member pursuant to Rule 22, and no waiver pursuant to Rule 26(b) has occurred, the Chairman shall designate the members of the Committee who did not serve on the investigative subcommittee to serve on an adjudicatory subcommittee. The Chairman and Ranking Minority Member of the Committee shall be the Chairman 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 ten 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 his or her 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 his or her 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 five 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 applica-

tion 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 Chairman 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's counsel, or a member of the subcommittee may appeal any ruling to the members present at that proceeding. The 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 Chairman 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 Chairman 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 Chairman 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 Chairman.

(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 Chairman's discretion. Subcommittee members may then question witnesses. Unless otherwise directed by the Chairman, questions by Subcommittee members shall be conducted under the five-minute rule.

(5) The Chairman 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 Chairman.

(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 Chairman 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 Chairman or Committee member designated by the Chairman 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 respond-

ent 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 his or her 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 his 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 his or her 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 his 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 Chairman 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 Chairman and Ranking Minority Member of the subcommittee, and the outside counsel, if any.

(i) Statements or information derived solely from a respondent or his 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 him 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 Chairman 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 Chairman 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 his or her deposition or other testimony taken in executive session, or, with the approval of the Chairman 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 its members, 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

STEPHANIE TUBBS JONES, OHIO
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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives

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STATEMENT OF THE CHAIRWOMAN AND RANKING MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

June 7, 2007

Today the Committee voted to re-authorize an investigative subcommittee for the 110th Congress that had been previously authorized during the 109th Congress for the matter involving Representative William J. Jefferson.

Pursuant to the Committee's action, the investigative subcommittee was given jurisdiction to determine whether Representative Jefferson 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 allegations that Representative Jefferson or his family members received cash, stock shares, agreements to receive future profits, retainers, offers of employment, travel benefits, or any other items of value from Brett Pfeffer, Lori Mody, Vernon Jackson, iGate, Inc., or any other individual or entity associated with those individuals or that entity, and the relationship, if any, between the cash, stock shares, agreements to receive future profits, retainers, offers of employment, travel benefits, or other items of value and Representative Jefferson's status or actions as a Member of Congress.

The Committee also voted to expand the jurisdiction of the investigative subcommittee to include any or all of the matters for which Representative Jefferson was indicted by a grand jury in the United States District Court for the Eastern District of Virginia for 16 counts of alleged criminal conduct on June 4, 2007.

Representative William D. Delahunt will serve as Chairman of the investigative subcommittee, and Representative John Kline will serve as its Ranking Member. The other two members of the subcommittee are Representative Keith Ellison and Representative Tom Latham.

As Chairwoman and Ranking Member of the Committee, we are committed to ensuring that proceedings involving Representative Jefferson are conducted in a fair manner, and in accordance with the processes established by the Committee's standing rules and established precedent.

STEPHANIE TUBBS JONES, OHIO
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GENE GREEN, TEXAS
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STATEMENT OF THE CHAIRWOMAN AND RANKING MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

August 3, 2007

The Investigative Subcommittee investigating allegations related to the conduct of Representative William J. Jefferson has communicated to the Chairwoman and Ranking Member that, after careful deliberation, the Investigative Subcommittee has voted to refrain *at this time*, from attempting to interview or depose witnesses linked to the criminal proceedings involving Representative Jefferson. The unanimous determination of the Investigative Subcommittee followed the receipt of multiple communications transmitted by the United States Department of Justice expressing concern that such investigative actions might create legal or factual issues that would complicate or impede the criminal prosecution and related law enforcement efforts in this matter.

The Investigative Subcommittee's scope of jurisdiction involves review of factual allegations that are the subject of the criminal indictment of Representative Jefferson in the United States District Court for the Eastern District of Virginia which is currently set for trial on January 16, 2008. While recognizing that the allegations involving Representative Jefferson are of the most serious nature and must be addressed by the House of Representatives acting under its rules and precedents, the Investigative Subcommittee concluded that it cannot move forward in this matter at this time without engaging in investigative activities that would risk interfering with the criminal prosecution and related ongoing investigation. This determination follows a review of the Committee's historical handling of investigations involving Members under examination by law enforcement or regulatory authorities.

The Investigative Subcommittee will remain in effect to continue to monitor the criminal proceedings and will consider pursuing avenues of inquiry that it concludes do not interfere with the criminal indictment pending against Representative Jefferson.

STEPHANIE TUBBS JONES, OHIO
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GENE GREEN, TEXAS
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September 19, 2007

Statement of Chairwoman Stephanie Tubbs Jones and Ranking Republican Member Doc Hastings

The Committee on Standards of Official Conduct voted on September 18, 2007 to establish an investigative subcommittee to conduct an inquiry regarding Representative Bob Filner with respect to the criminal charge of misdemeanor assault and battery against Representative Filner issued by the Loudoun County, Virginia General District Court on or about August 20, 2007.

The Committee recommended that the investigative subcommittee defer action on its investigation until the proceedings involving Representative Filner in Loudoun County have concluded.

Representative Gene Green will serve as Chairman of the investigative subcommittee, and Representative J. Gresham Barrett will serve as its Ranking Republican Member. The other two members of the subcommittee are Representative Joseph Crowley and Representative Lincoln Diaz-Balart.

STEPHANIE TUBBS JONES, OHIO
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Statement of the Committee on Standards of Official Conduct in the Matter of Representative Bob Filner

December 19, 2007

On September 18, 2007, an investigative subcommittee was established to conduct an inquiry regarding Representative Bob Filner with respect to the charge of misdemeanor assault and battery made against Representative Filner in Loudoun County, Virginia.

Legal proceedings regarding this matter have now concluded before the Commonwealth of Virginia's General District Court in Loudoun County, Virginia. On November 26, 2007, Representative Filner voluntarily entered an *Alford* plea of guilty to an amended charge of misdemeanor trespass for which the presiding judge imposed a civil fine of $100.

The investigative subcommittee has completed its review of this matter, which included examination of the complete record of the court proceedings in this matter, as well as additional documents and information furnished by Representative Filner. The documents included a letter of apology issued by Representative Filner to the airline employee that made the complaint against him, as well as a separate statement made by Representative Filner to the Investigative Subcommittee in accordance with Committee Rule 19(b)(3).

The investigative subcommittee considered Representative Filner's conduct in light of the rules and standards applicable to him and the Committee's precedents in matters involving the conduct of Members of the House. At the conclusion of its deliberations, based on the facts and circumstances presented, the investigative subcommittee determined that Representative Filner's conduct was addressed in the proceedings before the Commonwealth of Virginia District Court. The Investigative Subcommittee made no recommendation of further action against Representative Filner regarding the matter within the investigative subcommittee's jurisdiction. Notwithstanding this determination, the investigative subcommittee agreed unanimously that Representative Filner's conduct demonstrated poor judgment on his part, and that he is responsible for creating a situation that implicated the reputation of the House of Representatives.

On December 19, 2007, the Committee accepted the recommendation of the Subcommittee. This statement constitutes the Committee's concluding action and statement regarding this matter.

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Statement of the Chairwoman and Ranking Member of the Committee on Standards of Official Conduct

The Committee on Standards of Official Conduct voted on February 28, 2008 to establish an investigative subcommittee to conduct an inquiry regarding Representative Richard G. Renzi.

The investigative subcommittee shall have jurisdiction to determine whether Representative Renzi 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 any or all of the matters for which Representative Renzi was indicted on February 21, 2008 in *United States of America v. Richard G. Renzi*, Case Number CR 08-0212 in the United States District Court for the District of Arizona. The scope of jurisdiction of the investigative subcommittee shall additionally include any and all matters that may be contained in any superseding indictment related to this same criminal matter.

Representative Lucille Roybal-Allard will serve as Chairman of the investigative subcommittee, and Representative Michael T. McCaul will serve as its Ranking Member. The other two members of the subcommittee are Representative Steven R. Rothman and Representative Greg Walden.

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STATEMENT OF THE CHAIRWOMAN AND RANKING MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

May 21, 2008

The Committee on Standards of Official Conduct voted on May 21, 2008 to establish an investigative subcommittee to conduct an inquiry regarding Representative Vito Fossella with respect to his arrest on or about May 1, 2008 in Alexandria, Virginia for the misdemeanor criminal charge of driving a motor vehicle while under the influence of alcohol.

The Committee recommended that the investigative subcommittee defer action on its investigation until the proceedings involving Representative Fossella in Alexandria, Virginia have concluded.

Representative Michael F. Doyle will serve as Chairman of the investigative subcommittee, and Representative J. Gresham Barrett will serve as Ranking Republican Member. The other two members of the subcommittee are Representative Barbara Lee and Representative Rob Bishop.

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STATEMENT OF THE CHAIRWOMAN AND RANKING MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

May 22, 2008

The Investigative Subcommittee investigating allegations related to the conduct of Representative Richard G. Renzi has communicated to the Chairwoman and Ranking Member of the full Committee that, after careful deliberation, the Investigative Subcommittee has voted to refrain at this time from attempting to interview or depose witnesses linked to the criminal proceedings involving Representative Renzi. The unanimous determination of the Investigative Subcommittee followed the receipt of a communication from the United States Department of Justice expressing concern that such investigative actions might create legal or factual issues that would complicate or impede the criminal prosecution and related law enforcement efforts in this matter.

The Investigative Subcommittee's scope of jurisdiction involves review of factual allegations that are the subject of the criminal indictment of Representative Renzi in the United States District Court for the District of Arizona which is scheduled for trial later this year. While recognizing that the allegations involving Representative Renzi are of a very serious nature and must be addressed by the House of Representatives acting under its rules and precedents, the Investigative Subcommittee concluded that it cannot move forward in this matter at this time without engaging in investigative activities that would risk interfering with the criminal prosecution and related ongoing investigation. This determination follows a review of the Committee's historical handling of investigations involving Members under examination by law enforcement or regulatory authorities.

The Investigative Subcommittee will remain in effect to continue to monitor the criminal proceedings and will consider pursuing avenues of inquiry that it concludes do not interfere with the law enforcement efforts and criminal indictment pending against Representative Renzi.

STEPHANIE TUBBS JONES, OHIO
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STATEMENT OF THE CHAIRWOMAN AND RANKING MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

July 31, 2008

Representative Charles Rangel has recently asked the Committee on Standards of Official Conduct to review his rental agreements at the Lenox Terrace apartments located in Harlem, New York, as well as his use of Congressional letterhead in his correspondence regarding the City College of New York's "Charles B. Rangel Center for Public Service" in light of ethical standards of the House of Representatives.

The Committee on Standards of Official Conduct is reviewing these matters pursuant to Committee rules.

U.S. House of Representatives
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STATEMENT OF THE ACTING CHAIRMAN AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

September 24, 2008

The Committee on Standards of Official Conduct voted on September 24, 2008 to establish an investigative subcommittee to conduct an inquiry regarding Representative Charles B. Rangel. The investigative subcommittee shall have 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

(1) Using official resources to transmit letters in 2005, 2006, and 2007 to potential donors to the Charles B. Rangel Center for Public Service at the City College of New York;

(2) Apartment units leased by Representative Charles B. Rangel in the Lenox Terrace apartment complex located in Harlem, New York;

(3) Representative Charles B. Rangel's financing of his ownership interests in a guest unit within the Punta Cana Yacht Club located in Punta Cana in the Dominican Republic and his compliance with financial disclosure requirements regarding that property; and

(4) Representative Charles B. Rangel's compliance with Committee on House Administration Rules regarding storage of a vehicle in a House garage, lot, or designated parking area.

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

U.S. House of Representatives
COMMITTEE ON STANDARDS OF
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Washington, DC 20515

STATEMENT OF THE ACTING CHAIRMAN AND RANKING REPUBLICAN MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICAL CONDUCT

December 9, 2008

The Committee on Standards of Official Conduct voted on December 9, 2008, to expand the jurisdiction of the investigative subcommittee's inquiry regarding the Matter of Representative Charles B. Rangel. Accordingly, the investigative subcommittee shall have the additional jurisdiction 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 contributions of money or pledges of contributions of money to the Charles B. Rangel Center for Public Service at the City College of New York from any person or entity associated with Nabors Industries. The expansion of the investigative subcommittee's jurisdiction is consistent with the formal request of Representative Charles B. Rangel to do the same.