

Union Calendar No. 721

114TH CONGRESS }
2d Session }

HOUSE OF REPRESENTATIVES

{ REPORT
114-910 }

SUMMARY OF ACTIVITIES
ONE HUNDRED FOURTEENTH CONGRESS

A REPORT

OF THE

COMMITTEE ON ETHICS
HOUSE OF REPRESENTATIVES



JANUARY 3, 2017.—Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

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LETTER OF SUBMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ETHICS,
Washington, DC, January 2, 2017.

Hon. KAREN L. HAAS,
Clerk, House of Representatives,
Washington, DC.

DEAR MS. HAAS: Pursuant to clauses 3(a)(2) and 3(b) of Rule XI of the Rules of the House of Representatives, we herewith transmit the attached Report, "Summary of Activities 114th Congress."

Sincerely,

CHARLES W. DENT,
Chairman.
LINDA T. SÁNCHEZ,
Ranking Member.

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Mr. DENT and Ms. SÁNCHEZ, from the Committee on Ethics,
submitted the following

R E P O R T

OVERVIEW

The Committee on Ethics (Committee) is tasked with interpreting and enforcing the House's ethics rules. The Committee has sole jurisdiction over the interpretation of the Code of Official Conduct, which governs the acts of House Members, officers, and employees. The Committee is the only standing House committee with equal numbers of Democratic and Republican Members. The operative staff of the Committee is required by rule to be professional and nonpartisan.

In the 114th Congress, the Committee was led by Chairman Charles W. Dent and Ranking Member Linda T. Sánchez. The Members appointed at the beginning of the Congress were Patrick Meehan, Michael E. Capuano, Trey Gowdy, Yvette Clarke, Susan W. Brooks, Ted Deutch, Kenny Marchant, and John B. Larson.

The Committee's core responsibilities include providing training, advice, and education to House Members, officers, and employees; reviewing and approving requests to accept privately-sponsored travel related to official duties; reviewing and certifying all financial disclosure reports Members, candidates for the House, officers, and senior staff are required to file; and investigating and adjudicating allegations of misconduct and violations of rules, laws, or other standards of conduct.

The Committee met 24 times in the 114th Congress, including 12 times in 2015, and 12 times in 2016.

Within the scope of its training, advice and education, travel, and financial disclosure responsibilities, the Committee:

- Issued more than 850 formal advisory opinions regarding ethics rules;
- Reviewed and approved nearly 3,900 requests to accept privately-sponsored, officially-connected travel;
- Fielded nearly 55,000 informal telephone calls, emails, and in-person requests for guidance on ethics issues;
- Released 14 advisory memoranda on various ethics topics to the House;
- Provided training to approximately 11,000 House Members, officers, and employees each year, and reviewed their certifications for satisfying the House's mandatory training requirements;
- Received nearly 16,000 Financial Disclosure Statements and amendments filed by House Members, officers, senior staff, and House candidates; and
- Received more than 3,000 Periodic Transaction Reports filed by House Members, officers, and senior staff, containing thousands of transactions.

In addition, the Committee actively investigates allegations against House Members, officers, and employees, using a mix of investigative techniques to determine the validity of factual allegations, explore potential rules violations, and recommend appropriate sanctions and corrective actions. The Committee's options for investigating a matter include fact-gathering under Committee Rule 18(a), the empanelment of investigative subcommittees (ISCs), consideration of formal complaints, and the review of transmittals from the Office of Congressional Ethics (OCE). Committee review of a matter in any of these formats is an "investigation" under House and Committee rules. Also, it is not uncommon for a matter to be investigated by the Committee in more than one of these formats over the course of the Committee's overall review of that matter. For example, as discussed further in this report, from time to time the Committee may begin an investigation under Committee Rule 18(a) and subsequently determine that it is appropriate to continue the investigation through an investigative subcommittee.

The initiation or status of an investigative matter may or may not be publicly disclosed, depending on the circumstances of the individual matter. However, the fact that the Committee is investigating a particular matter, opts to investigate a matter in one format instead of another, is required or chooses to make a public statement regarding a pending investigative matter, or that a House Member, officer, or employee is referenced in an investigative matter should not be construed as a finding or suggestion that the Member, officer, or employee has committed any violation of the rules, law, or standards of conduct.

During the 114th Congress, within the scope of its investigative responsibilities, the Committee:

- Commenced or continued investigative fact-gathering regarding 78 separate investigative matters;
- Empanelled four new investigative subcommittees, in the matters of Representative Ed Whitfield, Representative Chaka Fattah, Representative Robert Pittenger, and Representative Corrine Brown;
- Held 11 investigative subcommittee meetings;

- Filed 5 reports with the House totaling nearly 2,100 pages regarding various investigative matters;
- Publicly addressed 23 matters, described in Section V of this report;
- Resolved 40 additional matters;
- Conducted 93 voluntary witness interviews;
- Authorized the issuance of 31 subpoenas; and
- Reviewed nearly 600,000 pages of documents.

All votes taken in the investigative subcommittees were unanimous. There were a total of 17 investigative matters pending before the Committee as of January 2, 2017.

All of the Committee's work as summarized in this report is made possible by the Committee's talented professional, non-partisan staff. The Members of the Committee wish to acknowledge their hard work and dedication to the Committee and the House. In particular, the Committee wishes to acknowledge the service and career of Joanne White, who retired in 2016 following more than 41 years of service to the House, including more than 25 years on the Committee's staff.¹

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. This report summarizes the activities of the Committee for the entirety of the 114th Congress.

The jurisdiction of the Committee on Ethics is defined in clauses 1(g) 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 attached as Appendix I to this Report.

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, officers, and employees, the Committee is both the "supervising ethics office" with regard to financial disclosure under the Ethics in Government Act (EIGA) (5 U.S.C. app. §§ 101 *et seq.*) and the "employing agency" for certain purposes under the Foreign Gifts and Decorations Act (5 U.S.C. § 7342). The outside employment and earned income limitations of the EIGA are administered by the Committee with respect to House Members, officers, and employees (5 U.S.C. app. 503(1)(A)). Finally, the notification of negotiation and recusal requirements created by the Honest Leadership and Open Government Act (HLOGA) are administered, in part, by the Committee.

II. ADVICE AND EDUCATION

Pursuant to a provision of the Ethics Reform Act of 1989 (2 U.S.C. § 4711(i)), the Committee maintains an Office of Advice and Education, which is staffed as directed by the Committee's Chair-

¹See 162 Cong. Rec. E1262, E1263 & E1255 (daily ed. Sep. 13, 2016) (statements of Chairman Dent, Ranking Member Sánchez, and former Chairman Conaway).

man and Ranking 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, officers, and employees, and submitting them to the Chairman and Ranking Member for review and approval;
- Drafting advisory memoranda on the ethics rules for general distribution to House Members, officers, and employees, and submitting them to the Chairman and Ranking Member, or the full Committee, for review and approval; and
- Developing and conducting educational briefings for House Members, officers, and employees.

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(j), 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 House Members, officers, and employees to seek Committee advice whenever they have any uncertainty on the applicable laws, rules, or standards, statutory law (2 U.S.C. § 4711(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(k) 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. Committee Rule 3(l) also precludes the Committee from using information provided to the Committee by a requesting individual "seeking advice regarding prospective conduct . . . as the basis for initiating an investigation," provided that the requesting individual "acts in good faith in accordance with the written advice of the Committee." 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.²

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 114th Congress are set forth below. In addition, on a daily basis Committee staff attorneys provided informal advice in response to inquiries received from Members, staff persons, and third parties in telephone calls and e-

²For example, a federal 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, 1403 n.2 (11th Cir. 1990).

mails directed to the Committee office, as well as in person. During the 114th Congress, Committee attorneys responded to nearly 55,000 phone calls and e-mail messages seeking advice, and participated in many informal meetings with Members, House staff, or outside individuals or groups regarding specific ethics matters.

PUBLICATIONS

The Committee's major publication is the *House Ethics Manual*, an updated version of which was issued in March 2008. The Manual provides detailed explanations of all aspects of the ethics rules and statutes applicable to House Members, officers, and employees. Topics covered by the Manual include the acceptance of gifts or travel, campaign activity, casework, outside employment, and involvement with official and outside organizations. The *House Ethics Manual* is posted in a searchable format on the Committee's Web site: <https://ethics.house.gov>.

The Committee updates and expands upon the materials in the Manual, as well as highlights matters of particular concern, through the issuance of general advisory memoranda to all House Members, officers, and employees. The memoranda issued during the 114th Congress were as follows:

- The 2015 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees (January 21, 2015);
- Upcoming Financial Disclosure Clinics & Training (April 17, 2015);
- Reminder about Annual Ethics Training Requirements for 2015 (November 24, 2015);
- Holiday Guidance on the Gift Rule (December 7, 2015);
- The 2016 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees (January 5, 2016);
- Upcoming Financial Disclosure Clinics & Training (April 15, 2016);
- Member Participation in Certain Events Taking Place During a National Political Convention (May 13, 2016);
- Gift Rules Applicable to National Political Conventions (June 10, 2016);
- Reminder about Annual Ethics Training Requirements for 2016 (September 20, 2016);
- Member Swearing-in and Inauguration Day Receptions, and Attendance at Inaugural-Related Events (November 29, 2016);
- Guidance on House Staff Assisting in the Presidential Transition (December 5, 2016);
- Holiday Guidance on the Gift Rule (December 5, 2016);
- Negotiations for Future Employment and Restrictions on Post-Employment for House Members and Officers (December 22, 2016); and
- Negotiations for Future Employment and Restrictions on Post-Employment for House Staff (December 22, 2016).

A copy of each of these advisory memoranda is included as Appendix II to this Report. In addition, these memoranda are avail-

able to the House and the public on the Committee's Web site: <https://ethics.house.gov>.

In addition to the advisory memoranda listed above, the Committee joined a new initiative with the Committee on House Administration to issue periodic joint guidance from the two committees on issues of overlapping jurisdiction. The Committee also issued an updated version of its summary memorandum, *Highlights of the House Ethics Rules*, in May 2015. Copies of all current Committee publications are available from the Committee's office, and their text is posted on the Committee's Web site. The Committee also submits a report each month of the Committee's activities to the Committee on House Administration. Finally, with this report, the Committee has sought to provide as much transparency as is appropriate. In addition to the many numbers referred to throughout this report, the Committee annually publishes the following summary chart in the interest of transparency.

Committee Report (numbers are approximate)	2015	2016	TOTAL
Formal Advice and Approval			
Advisory Opinion Requests Received	507	378	885
Advisory Opinions Mailed	498	360	858
Percentage of Opinions Mailed within 2 weeks	77%	69%	73%
Percentage of Opinions Mailed within 4 weeks	91%	82%	86.5%
Travel			
Travel Requests Received	2,451	1,933	4,381
Travel Opinions Mailed	2,046	1,829	3,875
Percentage of Travel Opinions Mailed within 2 weeks	5%	2.5%	3.5%
Percentage of Travel Opinions Mailed within 4 weeks	53%	52%	52.5%
Informal Advice (including Financial Disclosure)			
Phone Calls (approximate)	16,976	16,553	33,529
Emails (approximate)	10,096	9,767	19,863
Training			
Total # of House Employees (as of Dec. 23, 2016)	10,006	10,000	----
Employees having completed training	11,260	----	----
Training briefings (scheduled training sessions)	104	64	168
Personal Advisory Meetings with Members, officers, and employees	631	481	1,112
Investigations			
Investigative Matters carried over from the 113 th Congress	14	----	14
Investigative Matters commenced in the 114 th Congress	43	21	64
Investigative Subcommittees			
Investigative Subcommittees carried over from the 112 th Congress	0	----	0
Investigative Subcommittees commenced	3	1	4
Resolutions			
Publicly Disclosed Resolutions	10	3	13
Confidential Resolutions	15	25	40
Referrals received from the Office of Congressional Ethics	15	9	24
Financial Disclosures			
FD Reports filed by Members, officers, and employees	3,177	3,777	6,954
FD Reports filed by Candidates	339	820	1,159
FD Reports and amendments reviewed by Committee staff	4,123	3,689	7,812
PTRs filed by Members, officers, and employees	1,193	2,016	3,209
Total FD Reports and PTRs filed by all filers	4,709	6,613	11,322
Committee Publications			
Pink Sheets/General Advisories	4	10	14
Joint Guidance with the Committee on House Administration	0	2	2
Public Statements	10	14	24
Investigative Reports	2	3	5
Miscellaneous Oversight			
Recusals	45	42	87
Negotiations	78	83	161
Qualified Blind Trusts	2	2	2
Legal Expense Funds	8	9	8
Foreign Gifts and Travel Reports	10	3	13
Meetings			
Full Committee Meetings	12	12	24
Subcommittee Meetings	7	6	13
Personnel			
Lowest Total Staff Level	25	25	25
Highest Total Staff Level	28	27	28

ETHICS TRAINING

Clause 3(a)(6) of House Rule XI, which originated in the 110th Congress, requires each House employee to complete ethics training each calendar year, pursuant to guidelines to be issued by the Committee. The House rules and Committee's guidelines require each House employee to complete one hour of ethics training each calendar year. The guidelines also require all House employees who are paid at the "senior staff rate" to complete an additional hour of training once each Congress on issues primarily of interest to senior staff.³ Rule XI requires new House Members and employees to complete ethics training within 60 days of the commencement of their service to the House.⁴

Pursuant to its obligations under Rule XI, the Committee held 104 ethics training sessions during 2015 and 64 during 2016. During the 114th Congress, all employees other than new employees were permitted to fulfill their training requirement either through attending a training session in person or by viewing an on-line presentation. The training sessions for new employees provided a general summary of the House ethics rules in all areas, such as gifts, travel, campaign activity, casework, involvement with outside entities, and outside employment. The live and on-line sessions for existing House employees covered specific topics, such as gifts and travel or campaign work, on a more in-depth basis. The Committee also had several different options that senior staff could use to fulfill their requirement of one additional hour of training. The on-line training provided a general overview of ethics rules of particular interest to senior staff. The live training sessions focused in depth on a single topic, of import for senior staff.

In 2015, the Committee trained more than 2,000 employees in person at live ethics briefings, and nearly 8,000 used one of the on-line training options. During 2016, the Committee trained more than 2,200 employees in person at live ethics briefings, and nearly 9,000 through one of the on-line training options. The total number of employees who completed ethics training for 2016 will be determined after January 31, 2017, the date that House Rule XI established as the deadline for employees to certify completion of the ethics training requirement for 2016.

In addition to the training required under House Rule XI, the Committee also provided training in several other contexts. The House will include 52 new Members in the 115th Congress, most of whom have not previously served in the House. The Committee made a presentation to the Members-elect of the 115th Congress during New Member Orientation. The Committee also met with numerous departing Members and staff to counsel them on the ethics rules related to their transition to private life and the post-employment restrictions. The Committee also provided training open to all House Members, officers, and employees on the financial disclosure rules, which are discussed further in Section III. Finally, together with the Committee on House Administration, the Committee par-

³In 2016, the senior staff rate was \$123,175 per year, or a monthly salary above \$10,265. This figure is subject to change each year, and the Committee issues a general advisory memorandum to all House Members, officers, and employees announcing changes in this and other salary thresholds relevant to ethics rules.

⁴The requirement that new Members receive training within 60 days of commencement of their service to the House was added to House Rule XI in the 114th Congress.

ticipated in two general briefings, one in 2015 and one in 2016, on the rules related to Member participation in the Congressional Art Competition.

Committee staff also participated in approximately 10 briefings sponsored by or held for the members of outside organizations. In addition, Committee staff led approximately 12 briefings for visiting international dignitaries from a variety of countries, including Colombia, Kosovo, and Malawi.

The Committee will continue this outreach activity in the 115th Congress.

ADVISORY OPINION LETTERS

The Committee's Office of Advice and Education, under the direction and supervision of the Committee's Chairman and Ranking Member, prepared and issued nearly 900 private advisory opinions during the 114th Congress: 498 in 2015 and 360 in 2016. Opinions issued by the Committee in the 114th Congress addressed a wide range of subjects, including various provisions of the gift rule, Member or staff participation in fund-raising activities of charities and for other purposes, the outside earned income and employment limitations, campaign activity by staff, and the post-employment restrictions.

TRAVEL APPROVAL LETTERS

As discussed above, House Rule XXV, clause 5(d)(2), which was enacted at the start of the 110th Congress, charged each House Member or employee with obtaining approval of the Committee prior to undertaking any travel paid for by a private source on matters connected to the individual's House duties.

House Rule XXV, clause 5(i), charges the Committee with undertaking an annual review of its guidelines and regulations regarding privately-funded, officially-connected travel by House Members, officers, and employees. In the 112th Congress, the Committee carried over a bipartisan travel working group to assess and make recommendations regarding its process for the review and approval of such travel. Committee members Representatives Charles Dent and Donna F. Edwards comprised the working group. As a result of the efforts of the working group, the Committee adopted comprehensive revised travel regulations for privately-sponsored, officially-connected travel which were released as a general advisory on December 27, 2012. The regulations were made effective for travel beginning on April 1, 2013. The regulations are available to the House and the public on the Committee's Web site.⁵ In the 114th Congress, the Committee continued its ongoing efforts to review the guidelines and regulations regarding privately-funded, officially-connected travel. This review included a thorough examination of the forms used for privately-funded, officially-connected travel approval.

In general, the Committee requires that any House Member, officer, or employee who wishes to accept an offer of privately-sponsored, officially-connected travel must submit all required paperwork to the Committee at least 30 days prior to the start of the

⁵ House Comm. on Ethics, *Travel Guidelines and Regulations* ("Travel Regulations") (Dec. 27, 2012), available at https://ethics.house.gov/sites/ethics.house.gov/files/travel%20regs_0.pdf.

trip.⁶ However, the 30-day requirement does not apply to certain types of trips, and the Committee retains authority to approve requests submitted after that deadline in exceptional circumstances.⁷ When the Committee opts to approve a request filed after the general deadline, the approval letter sent to the traveler—which must ultimately be publicly disclosed—notes that fact.

Under the travel approval process established by the Committee to implement this rule, the Committee reviewed more than 2,400 requests to accept privately-sponsored, officially-connected travel, and issued letters approving more than 2,000 such requests in 2015. In 2016, the Committee reviewed nearly 2,000 requests to accept privately-sponsored, officially-connected travel, and issued letters approving more than 1,800 such requests.

House Rules and the Committee’s Travel Regulations require all House Members, officers, and employees who receive Committee approval to accept privately-sponsored, officially-connected travel to file detailed paperwork about the trip with the Clerk within 15 days of the conclusion of the trip.⁸ The Committee also reviewed the post-travel disclosure forms filed by the traveler for each approved trip and requested amendments or other remedial action by the traveler when deemed necessary.⁹

The post-travel filings are made available to the public in a searchable online database on the Clerk’s Web site, at http://clerk.house.gov/public_disc/gift/Travel-search.aspx. The public, the media, and outside groups have used this valuable resource for years, and the Committee anticipates that they will continue to do so. The Committee requires those Members, officers, and employees who are required to file financial disclosure statements, as discussed in Section III, to also provide information about privately-sponsored, officially-connected travel on their financial disclosure filings, but the public should be aware that much more detailed and timely public filings regarding such travel are required, and the most authoritative source of those filings is the Clerk’s Web site.

III. FINANCIAL DISCLOSURE

Title I of the Ethics in Government Act of 1978 (EIGA), as amended (5 U.S.C. app. §§ 101–111), requires certain officials in all branches of the federal government, as well as candidates for federal office, to file publicly-available Financial Disclosure Statements (Statements). These Statements disclose information concerning the filer’s finances, as well as those of certain family members. By May 15 of each year, these “covered individuals” are required to file a Statement that provides information for the preceding calendar year. In addition, the Stop Trading on Congressional Knowledge Act (STOCK Act) amended EIGA in 2012 to add a requirement that financial disclosure filers must report certain securities transactions over \$1,000 no later than 45 days after the

⁶*Id.* at Part 500—Committee Approval Process.

⁷*Id.* at § 501.1.

⁸House Rule XXV, clause 5(b)(1)(A)(ii); Travel Regulations at Part 600—Post-Travel Disclosure.

⁹From time to time, a traveler may inadvertently fail to file all of the required paperwork with their post-travel submission. That is not an indication that the information was not provided to the Committee prior to the trip and before the Committee approved the request, only that the traveler’s subsequent submission was incomplete.

transaction. The Committee has termed these interim reports “Periodic Transaction Reports” or “PTRs.”

Financial disclosure filings are not intended to be net worth statements, nor are they well suited to that purpose. As the Commission on Administrative Review of the 95th Congress stated in recommending broader financial disclosure requirements: “The objectives of financial disclosure are to inform the public about the financial interests of government officials in order to increase public confidence in the integrity of government and to deter potential conflicts of interest.”¹⁰

All Members of the House, including Members who are serving the first year of their first term, are required to file a Statement. In addition, any officer or employee of the House who was paid at or above 120 percent of the minimum pay for Executive Branch GS-15 (the “senior staff” rate) for at least 60 days in a calendar year must file a Statement on or before May 15 of the following year. Certain other employees, including those designated by a Member as a “principal assistant” for financial disclosure purposes and employees who are shared staff of three or more offices, are also subject to some financial disclosure filing requirements.

Starting in 2013, financial disclosure filers were able to use an online electronic filing system to draft and submit their Statements and PTRs. Thanks to a very industrious collaboration with the Clerk of the House to create the online system, and extensive outreach and education, more than half of all Members and staff used the online electronic filing system to submit their calendar year 2016 Statements. Specifically, 63% of Members and 72% of House staff used the online system to draft and submit their 2016 Statements.

The Committee engages in substantial training efforts to assist filers with completing their Statements and PTRs. The Committee held three briefings for Members, officers, and employees. The Committee hosted seven walk-in clinics to support filers’ use of the electronic filing system for Statements and PTRs.

For the 114th Congress, the Committee continued its long-standing practice of Committee staff meeting with Members, officers, and employees of the House to assist filers with their Statements and PTRs. Committee staff responded to telephone, e-mail, and in-person questions from filers on an as-needed basis, in addition to reviewing drafts of Statements and PTRs. The Committee encourages all financial disclosure filers to avail themselves of opportunities to seek and receive information and assistance.

For calendar year 2015, the Legislative Resource Center of the Clerk’s office referred a total of 3,516 Financial Disclosure Statements to the Committee for review. Of those, 3,177 were Statements filed by current or new House Members or employees, and 339 were Statements filed by candidates for the House. The Clerk’s office also referred a total of 1,193 PTRs to the Committee for review. The Committee received 554 PTRs from Members and 639 PTRs from officers and employees.

For calendar year 2016, the Legislative Resource Center of the Clerk’s office referred a total of 4,597 Statements to the Committee

¹⁰House Comm’n on Admin. Review, *Financial Ethics*, H. Doc. 95-73, 96th Cong., 1st Sess. 6 (1977).

for review. Of those, 3,777 were Statements filed by current or new House Members or employees, and 820 were Statements filed by candidates for the House. The Clerk's office also referred a total of 2,016 PTRs to the Committee for review. The Committee received 818 PTRs from Members and 1198 PTRs from officers and employees.

Where the Committee's review indicated that a filed Statement or PTR was deficient, the Committee requested an amendment from the filer. Such amendments are routine and, without evidence of a knowing or willful violation, the Committee will usually take no further action after the amendment has been filed. Amendments are made publicly available in the same manner as other financial disclosure filings. 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.

More information about financial disclosure, including the Committee's instruction booklet for filers and blank copies of Statement and PTR forms, is available on the Committee's Web site, at <https://ethics.house.gov/financial-disclosure>. In addition, financial disclosure filings of Members and candidates and other information about financial disclosure is available on the Clerk's Web site, at http://clerk.house.gov/public_disc/financial.aspx.

IV. COMMITTEE RULES

After the beginning of each Congress, the Committee must adopt rules for that Congress. On February 12, 2015, the Committee met and adopted the Committee rules for the 114th Congress. The substance of the Committee rules for the 114th Congress was largely identical to the amended rules adopted in the 113th Congress.¹¹

A copy of the Committee Rules for the 114th Congress is included as Appendix III to this Report.

V. INVESTIGATIONS

Article I, Section 5 of the Constitution grants each chamber of Congress the power to "punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member." The Committee is designated by House rule as the body which conducts the investigative and adjudicatory functions which usually precede a vote by the full House regarding such punishment or expulsion. House Rule XI, clause 3, as well as Committee Rules 13 through 28, describe specific guidelines and procedures for the exercise of that authority.

The Committee's investigations are conducted either pursuant to authorization by the Chairman and Ranking Member, under Committee Rule 18(a), or pursuant to a vote by the Committee to empanel an Investigative Subcommittee (ISC). Most investigations are conducted pursuant to Committee Rule 18(a). Even those investigations that ultimately result in the formation of an ISC usually begin as Committee Rule 18(a) investigations. Committee Rule 18(a) and ISC investigations differ only in process, not substance.

¹¹In the 112th Congress, as a result of the efforts of a working group formed to assess the Committee's rules and procedures, numerous changes were made to the Committee's investigative rules, including changes to Committee Rules 4, 9, 17A, 18, 19 and 23. Those changes were adopted by the Committee on May 18, 2012. House Comm. on Ethics, *Summary of Activities One Hundred Twelfth Congress*, H. Rept. 112-730, 112th Cong. 2nd Sess. at 21 (2012).

In both kinds of investigations, Committee staff is authorized by Members of the Committee to interview witnesses, request documents and information, and engage in other investigative actions. Further, both the Committee and ISC may authorize subpoenas for documents and witness testimony.¹² Members of the Committee can, and do, attend and participate in voluntary interviews with witnesses in both 18(a) and ISC investigations. House and Committee Rules require attendance of Members at interviews conducted pursuant to subpoena in both 18(a) and ISC investigations.

The Committee may opt to investigate a matter under Committee Rule 18(a) rather than an ISC for a number of reasons. For example, investigating pursuant to Committee Rule 18(a) preserves the Committee's ability both to deploy its limited resources in the most efficient manner possible, and to maintain the confidentiality of its investigations. In general, the Committee publicly announces when it has voted to empanel an ISC. In contrast, most investigations conducted pursuant to Committee Rule 18(a) are confidential. Maintaining the confidentiality of investigations minimizes the risk of interference and protects the identities of complainants. Indeed, in recent investigations, employees of a Member have brought allegations of misconduct to the Committee when they have remained in the employ of the Member and faced intimidation or reprisal.¹³ Maintaining a confidential investigation also avoids unnecessarily tarnishing a Member's reputation before a determination of wrongdoing has been made. As discussed further in this report, public disclosure of an ongoing confidential Committee investigation can also significantly impair the Committee's investigation.

The fact that an investigation is conducted in a confidential manner does not preclude the Committee from making a public statement at the end of the investigation. For example, in this and other recent Congresses, the Committee has issued public reports to the House and letters of reproof in a number of investigative matters that were initiated by the Committee and that had not previously been publicly disclosed by the Committee.¹⁴

Whether the Committee investigates a matter under Committee Rule 18(a) or through an ISC, by rule, the Committee may choose to exercise its investigative authority in several different scenarios.¹⁵ However, most Committee investigations begin when the Committee, on its own initiative, undertakes an investigation. In

¹²The mechanism for issuing a subpoena by the Committee or an ISC does differ. Where an ISC has been empanelled, it can authorize a subpoena, to be signed by the Committee's Chairman and Ranking Member. If the investigation is at the Committee Rule 18(a) stage, the full Committee can vote to issue a subpoena to be signed by the Chairman.

¹³See, e.g., House Comm. on Standards of Official Conduct, *In the Matter of Allegations Relating to Representative Laura Richardson*, H. Rept. 112-642, 112th Cong. 2d Sess. (2012).

¹⁴See, e.g., House Comm. on Ethics, *In the Matter of Allegations Relating to Representative David McKinley*, H. Rept. 114-795, 114th Cong. 2d Sess. (2016); House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Phil Gingrey*, H. Rept. 113-664, 113th Cong. 2d Sess. (2014); House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Judy Chu*, H. Rept. 113-665, 113th Cong. 2d Sess. (2014).

¹⁵Specifically, the Committee may exercise its investigative authority when: (1) information offered as a complaint by a Member of the House of Representatives is transmitted directly to the Committee; (2) information offered as a complaint by an individual not a Member of the House is transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee; (3) the Committee, on its own initiative, undertakes an investigation; (4) a Member, officer, or employee is convicted in a Federal, State, or local court of a felony; (5) the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation; or (6) a referral from the OCE is transmitted to the Committee. See Committee Rule 14(a).

the 114th Congress, the Committee commenced or continued investigative fact-gathering regarding 78 separate investigative matters, most of which were begun at the Committee's initiative. Those matters also included referrals from the OCE. In the 114th Congress, the OCE referred 24 matters to the Committee, 18 with a recommendation for further review and 6 with a recommendation for dismissal. For the six matters that OCE referred with a recommendation to the Committee that it dismiss the matter, OCE did not provide the Committee with any Findings explaining the recommendation, only a one-page Report with a conclusory recommendation that the matter be dismissed.

In the 114th Congress, the Committee issued letters of reproof in two matters, one following a confidential Committee-initiated investigation under Committee Rule 18(a) that was not publicly disclosed until the conclusion of the investigation, and one following an investigation conducted by an ISC following receipt of a referral from OCE that recommended the Committee further review the allegations in question. Including those two matters, since 2008, the Committee has recommended that the House issue a censure in one matter, recommended in another matter that the House issue a reprimand, and issued ten letters of reproof. Eight of those resolutions followed investigations initiated by the Committee under its own authority, while four of those resolutions followed recommendations by the OCE that the Committee review the allegations.

The OCE is an independent office within the House created by a House resolution in the 110th Congress after the release of a report of the Democratic Members of the Special Ethics Task Force on Ethics Enforcement (Task Force Report).¹⁶ According to the Task Force Report, the OCE Board has the responsibility to review information on allegations of misconduct by Members, officers, and employees of the House and make recommendations to the Committee for the Committee's official consideration and action.

Two OCE Board members may initiate a review by notifying all other OCE Board members in writing. The OCE Board then has 30 calendar days to consider the matter in a preliminary review phase and may vote to either terminate the review or progress to the second-phase review. Once in the second phase, the OCE Board has 45 calendar days (with a possible one-time extension of 14 days) to complete consideration of the matter and refer it to the Committee with a recommendation for dismissal, further review, or as unresolved due to a tie vote. The OCE Board's referral may not contain any conclusions regarding the validity of the allegations upon which it is based or the guilt or innocence of the individual who is the subject of the review. The Task Force believed that "the timeline requirements instituted by the new process are critical: matters will spend at most three months under consideration by the Board of the OCE before being referred to the Committee for resolution."¹⁷ The Task Force considered whether to give the OCE either direct or indirect subpoena power. But the Task Force Report ultimately decided not to give the OCE subpoena power based

¹⁶Special Task Force on Ethics Enforcement, 110th Cong., Report of the Democratic Members of the Special Task Force on Ethics Enforcement (Comm. Print 2007).

¹⁷*Id.* at 14. The 24 OCE referrals received by the Committee in the 114th Congress were transmitted an average of 120 days after the start of the preliminary review phase.

on a number of factors. Instead, the Task Force Report stated that the Board's referral may include recommendations for the issuance of subpoenas by the Committee where Members feel it appropriate.

When the Committee receives a referral from the OCE, it is required to review the referral "without prejudice or presumptions as to the merit of the allegations."¹⁸ The Committee thus makes an independent determination about how to proceed in the matter based on the information before the Committee, which may include not only the OCE referral and supporting documents provided to the Committee by the OCE, but other information. It is not uncommon that the Committee's review will require more than 90 days, because of the need to review documents, interview witnesses, and/or assess the legal significance of evidence, among other investigative steps. Some investigations may require the review of tens of thousands, if not hundreds of thousands, of pages of documents. For example, in the 113th Congress one investigation that spanned multiple Congresses required the Committee to review more than 220,000 pages of documents to resolve the matter.¹⁹

In one matter referred to the Committee during the 114th Congress, although the OCE recommended dismissal, the Committee continued review of the matter. In another matter referred during the 114th Congress, the Committee agreed with the OCE's recommendation to dismiss certain allegations against a Member but continued its own, confidential review of related allegations against the same Member that were not part of the OCE's referral. As described further below, one of those matters remains pending. Had the Committee simply accepted the OCE recommendation to dismiss each matter, it would not have been required to make any public statement or conduct any further investigation.

In some instances, the Committee may be asked to defer its investigation by another law enforcement entity, generally the U.S. Department of Justice (DOJ). The Committee typically honors such requests, barring unusual circumstances. For one thing, parallel investigations pose the risk of compromising one another. Also, for the most serious criminal violations, only DOJ can pursue a prosecution to seek imprisonment, the most serious possible consequence for a violation of law.²⁰ Provided that the Committee still retains jurisdiction, a decision by the Committee to defer does not preclude the Committee from continuing its investigation later, regardless of the outcome of the other entity's investigation. In addition, a decision by the Committee to defer an investigation does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee. In the 114th Congress, the Committee did opt to defer several investigations at the request of DOJ, as described further below.

The Committee publicly addressed 23 investigative matters during the 114th Congress. In addition to confidential matters, the Committee also carried over several public matters from the 113th

¹⁸ Committee Rule 17A(a).

¹⁹ House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Don Young*, H. Rept. 113-487, 113th Cong. 2d Sess. at 2 (2014). That investigation was begun at the Committee's initiative under Committee Rule 18(a). Subsequently, the Committee established an ISC to continue the investigation. Ultimately, the Committee issued a public report and letter of reproof to the Member.

²⁰ DOJ will not lose jurisdiction to continue an investigation and pursue prosecution, if it determines that is appropriate, in the event that a Member or employee leaves the House, whether through resignation or defeat for reelection.

Congress. In the 114th Congress, the Committee continued to address the matters concerning Representatives Vernon G. Buchanan, Luis Gutiérrez, Cathy McMorris Rodgers, Markwayne Mullin, Bobby Rush, Aaron Schock, and Ed Whitfield. A chronological overview of public statements made by the Committee in the 114th Congress regarding investigative matters follows.

On March 25, 2015, the Committee unanimously voted to establish an ISC with regard to allegations that Representative Ed Whitfield failed to prohibit lobbying contacts between his staff and his wife, improperly used his official position for the beneficial interest of himself or his wife, and dispensed special favors or privileges to either his wife, the Humane Society Legislative Fund, or the Humane Society of the United States.

On July 29, 2015, the Committee unanimously voted to establish an ISC with regard to allegations forming the basis for criminal charges of conspiracy, racketeering, bribery, fraud, falsification of records, making false statements, and money laundering, as filed against Representative Chaka Fattah in the United States District Court for the Eastern District of Pennsylvania on July 29, 2015.

On July 31, 2015, the Committee transmitted a Report to the House regarding allegations relating to privately-sponsored, officially-connected travel by Members and staff of the House to Azerbaijan in May 2013.

On September 3, 2015, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE that Representative Michael Honda used official resources for campaign purposes, improperly linked official activities to campaign or political support, and used congressional staff to assist him with personal matters.

On September 28, 2015, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations that Representative Blake Farenthold sexually harassed a former member of his staff, discriminated against her on the basis of her gender, and retaliated against her for complaining about the allegedly unlawful treatment.

On November 18, 2015, the Committee unanimously voted to establish an ISC with regard to allegations that Representative Robert Pittenger received compensation for his involvement with a fiduciary business, a real estate investment firm known as Pittenger Land Investments, Inc. The Committee, following precedent, unanimously recommended to the ISC that it defer action on its investigation in response to a request from DOJ.

On December 14, 2015, the Committee transmitted a Report to the House regarding allegations relating to Representative Jared Polis.

On March 16, 2016, the Committee unanimously voted to establish an ISC with regard to allegations that Representative Corrine Brown engaged in improper conduct relating to certain outside organizations, including allegations that she may have conspired with other persons in connection with fraudulent activity, improperly solicited charitable donations, used campaign funds for personal purposes, used official resources for impermissible non-official purposes, failed to comply with tax laws, and made false statements, and/or failed to make required disclosures, to the House of Representatives and Federal Election Commission. The Committee,

following precedent, unanimously recommended to the Investigative Subcommittee that it defer action on its investigation in response to a request from DOJ.

On April 5, 2016, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE that Representative Alan Grayson may have permitted the use of his name and received compensation from entities providing professional services involving a fiduciary relationship, agreed to receive compensation for representational services rendered by another at a time when he was a Member of Congress in proceedings in which the United States had a direct and substantial interest, did not report required information in his annual financial disclosure statements, may have permitted the use of official resources to support an outside business, held an agreement with the United States while serving in Congress, and used official resources for campaign purposes.

On June 24, 2016, the Committee transmitted a Report to the House regarding allegations related to Representative Vernon G. Buchanan.

On July 14, 2016, the Committee transmitted a Report to the House regarding allegations relating to Representative Ed Whitfield.

On August 11, 2016, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE that Representative Roger Williams improperly took official action on a matter in which he had a personal financial interest.

On August 17, 2016, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE that Representative Mark Meadows retained an employee who did not perform duties commensurate with the compensation the employee received and certified that the compensation met applicable House standards.

On September 28, 2016, the Committee transmitted a Report to the House regarding allegations relating to Representative David McKinley.

On November 29, 2016, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE that Representative Marlin Stutzman used campaign funds for a personal purpose.

On December 15, 2016, the Committee announced that, pursuant to House Rule XI, clause 3(b)(8)(A), and Committee Rules 17A(b)(1)(A), 17A(c)(1) and 17A(j), the Chairman and Ranking Member of the Committee jointly decided to extend the matter regarding Representative Duncan Hunter, which was transmitted to the Committee by the OCE on August 31, 2016. The Committee stated that it would announce its course of action in this matter following its organizational meeting and adoption of Committee Rules in the 115th Congress.

These investigative matters are described in more detail below, in alphabetical order. Copies of all of the Committee's public statements related to these matters are included as Appendix IV to this Report. Those statements, along with any attachments referenced in the statements, are available on the Committee's Web site. All

of the Committee's Reports as filed with the House are also available on the Committee's Web site.

In the Matter of Allegations related to Representative Corrine Brown

On March 16, 2016, the Committee unanimously voted to establish an Investigative Subcommittee (ISC) to determine whether Representative Corrine Brown violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of her duties or the discharge of her responsibilities, with respect to allegations that she engaged in improper conduct relating to certain outside organizations, including allegations that she may have conspired with other persons in connection with fraudulent activities, improperly solicited charitable donations, used campaign funds for personal purposes, used official resources for impermissible non-official purposes, failed to comply with tax laws, and made false statements, and/or failed to make required disclosures, to the House of Representatives and the Federal Election Commission (FEC). The Committee, following precedent, unanimously recommended to the ISC that it defer action on its investigation in response to a request from DOJ.

On July 6, 2016, the U.S. Attorney for the Middle District of Florida filed an indictment against Representative Brown in federal district court, charging her with mail and wire fraud, conspiracy to commit mail and wire fraud, theft of government funds, a scheme to conceal material facts, the corrupt endeavor to obstruct and impede the due administration of the internal revenue laws, and filing false federal tax returns. Proceedings in that matter are pending in federal court.

Representative Brown lost her bid for reelection to the House for the 115th Congress, and the Committee will not have jurisdiction over her after January 3, 2017.

In the Matter of Allegations related to Representative Vernon G. Buchanan

On January 27, 2012, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Vern Buchanan may have violated 18 U.S.C. 201, 1505, and 1512, as well as House Rule XXIII, clause 1, by making the settlement of a lawsuit against a former business partner contingent on the business partner signing a false affidavit to be filed with the FEC. The Committee in the 112th Congress released the OCE Report and Findings, along with Representative Buchanan's response, on May 9, 2012, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

In addition to the allegations that OCE referred to the Committee with a recommendation for further review, the Committee also investigated allegations relating to Representative Buchanan's campaign, including whether several car dealerships partly owned by Representative Buchanan illegally reimbursed their employees for contributions to Representative Buchanan's House campaigns, and whether Representative Buchanan himself may have been aware of the unlawful reimbursements at the time they occurred, or had some role in directing or approving them.

These allegations were also the subject of review by the FEC and the DOJ, and were considered by a Florida state court as part of civil litigation involving Representative Buchanan. Much of the material reviewed by the Committee in its investigation—over 6,000 pages of documents, including statements by 22 witnesses—was generated during these parallel proceedings. The Committee also conducted a voluntary interview with Representative Buchanan.

On June 24, 2016, the Committee in the 114th Congress unanimously voted to release a Report and take no further action against Representative Buchanan.²¹ In its Report, the Committee concluded that there was insufficient evidence to sustain any of the aforementioned allegations or to warrant any disciplinary action against Representative Buchanan. Specifically, the Committee concluded that three car dealerships partly owned by Representative Buchanan did illegally reimburse their employees for contributions to Representative Buchanan's House campaigns. However, the Committee found that the evidence was not sufficient to conclude that Representative Buchanan himself was aware of the unlawful reimbursements when they were made, or that he had any role in directing or approving them. The Committee further concluded that the evidence did not support a finding that Representative Buchanan improperly influenced his former business partner's testimony before the FEC. However, the Committee did caution Representative Buchanan to exercise more diligence over affairs related to his campaign.

In the Matter of Allegations related to Representative Blake Farenthold

On June 29, 2015, the OCE forwarded to the Committee a Report in which it recommended dismissal of allegations that Representative Blake Farenthold sexually harassed a former member of his staff, discriminated against her on the basis of her gender, and retaliated against her for complaining about the allegedly unlawful treatment in violation of federal law, House Rule XXIII, clause 9, and the Congressional Accountability Act. OCE did not provide the Committee with any Findings explaining the basis for its recommendation. The Committee released the OCE Report on September 28, 2015, and noted in a public statement that, although the OCE had recommended dismissal of the matter, the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Farenthold was reelected to the House for the 115th Congress.

In the Matter of Allegations related to Representative Chaka Fattah

On July 29, 2015, the Committee unanimously voted to empanel an ISC to determine whether Representative Chaka Fattah violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of his duties or the discharge of his responsibilities, with respect to allega-

²¹House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Vernon G. Buchanan*, H. Rept. 114-643, 114th Cong. 2d Sess. (2016).

tions forming the basis for criminal charges of conspiracy, racketeering, bribery, fraud, falsification of records, making false statements, and money laundering, as filed against him in the United States District Court for the Eastern District of Pennsylvania on July 29, 2015.

On June 21, 2016, Representative Fattah was convicted on all 23 counts in the indictment. Representative Fattah resigned from the House on June 23, 2016. On the date of Representative Fattah's resignation, the ISC's and the Committee's jurisdiction to continue their investigation of Representative Fattah ended.

On October 21, 2016, a federal judge upheld the conviction on most counts, but dismissed others. Appeals in the matter are pending.

In the Matter of Allegations related to Representative Alan Grayson

On January 6, 2016, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Alan Grayson may have violated federal law, House rules, and standards of conduct when he permitted the use of his name by, and received compensation from, entities providing professional services involving a fiduciary relationship; received compensation for representational services rendered by another while he was a Member of Congress, in proceedings in which the United States had a direct and substantial interest; did not provide required information on his annual financial disclosure statements; permitted the use of official resources to support an outside business; held an agreement with the United States while serving in Congress; and used official resources for campaign purposes. The Committee released the OCE Report and Findings, along with Representative Grayson's response, on April 5, 2016, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

Representative Grayson did not run for reelection to the House for the 115th Congress, and the Committee will not have jurisdiction over him after January 3, 2017.

In the Matter of Allegations related to Representative Luis V. Gutiérrez

On December 4, 2013, the OCE forwarded to the Committee in the 113th Congress a Report and Findings in which it recommended further review of allegations that Representative Luis V. Gutiérrez impermissibly used his Members' Representational Allowance (MRA) to pay a consultant to perform work on behalf of his official office. The referral also included an allegation that Representative Gutiérrez impermissibly allowed the consultant to lobby him while the consultant was employed by Representative Gutiérrez. The Committee released the OCE Report and Findings, along with Representative Gutiérrez's response, on May 5, 2014, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Gutiérrez was reelected to the House for the 115th Congress.

In the Matter of Allegations related to Representative Mike Honda

On June 5, 2015, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Mike Honda may have used official resources for campaign purposes and may have improperly linked official activities to campaign or political support. The OCE Report and Findings recommended dismissal of an allegation that Representative Honda used congressional staff to assist him with personal matters. The Committee released the OCE Report and Findings, along with Representative Honda's response, on September 3, 2015, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

Representative Honda lost his bid for reelection to the House for the 115th Congress, and the Committee will not have jurisdiction over him after January 3, 2017.

In the Matter of Allegations related to Representative Duncan Hunter

On August 31, 2016, the OCE forwarded to the Committee a matter involving Representative Duncan Hunter. Committee Rule 17A(j) provides that the Committee may postpone any reporting requirement related to an OCE referral that falls within 60 days of an election in which the subject of the referral is a candidate. Representative Hunter was on the general election ballot on November 8, 2016. Therefore, the announcement that the Chairman and Ranking Member jointly decided to extend the matter of Representative Hunter for a 45-day period, pursuant to Committee Rules 17A(b)(1)(A) and 17A(c)(1), was postponed until December 14, 2016. On that same day, the Chairman and Ranking Member released a public statement that the Committee would announce its course of action in this matter following its organizational meeting and adoption of Committee Rules in the 115th Congress.

As of the conclusion of the 114th Congress, the Committee had not completed its review of OCE's referral. Representative Hunter was reelected to the House for the 115th Congress.

In the Matter of Allegations related to Representative David McKinley

On November 2, 2010, Representative David McKinley was first elected to the House. At that time, he was the majority owner of a West Virginia firm, McKinley & Associates (the "Firm"), that provided engineering and architectural services. Soon after his election, Representative McKinley sought advice from Committee staff regarding his ownership of, and role with, McKinley & Associates. Staff's original advice was that the Firm would need to change its name because architecture is a fiduciary service, and federal law prohibits a House Member from permitting a firm which provides fiduciary services from using the Member's name.

Representative McKinley disagreed with that advice, and attempted to persuade the Committee to change its position, asserting that McKinley & Associates was a "family name," which referred to both himself and his father, who was a well-known engineer in West Virginia. While the Committee considered Representative McKinley's request for a formal advisory opinion, he began

the process of selling his interest in the Firm to the Firm's Employee Stock Option Plan (ESOP), without changing the name. Representative McKinley pursued this option based on the advice of his counsel that selling the Firm, with the name intact, would resolve any violations of federal law or House Rules. However, Representative McKinley did not inform the Committee of the sales process, or ask the Committee if his counsel's interpretation of the applicable federal law and House Rule was correct.²² Without waiting for the formal advisory opinion he had requested, and after receiving notice that the opinion, when issued, would require him to change the Firm's name, Representative McKinley signed an agreement that committed him to sell the Firm, as McKinley & Associates. Shortly after making this agreement, on June 24, 2011, the Committee issued a formal advisory opinion to Representative McKinley, stating that the Committee concluded that the Firm was named after Representative McKinley, not his father, and that federal law and House Rules required the Firm to change its name.

After the Committee learned that Representative McKinley had agreed to sell the Firm with his name attached, the Chairman and Ranking Member of the Committee sent Representative McKinley a letter on August 24, 2012, stating that the Committee expected Representative McKinley to change the Firm's name, and explaining that a failure to do so could be viewed as a knowing violation of the Ethics in Government Act (EIGA) and House Rule XXV, clause 2, and could result in further Committee proceedings against him. On September 14, 2012, Representative McKinley responded through counsel and stated that he had sold the Firm to the ESOP, and that he therefore could not change the Firm's name.

Due to Representative McKinley's failure to follow the Committee's formal advisory opinion by changing the Firm's name, the Chairman and Ranking Member authorized staff to investigate whether Representative McKinley's actions violated any House rule, law, regulation, or other standard of conduct. Pursuant to this authorization, under Committee Rule 18(a), the Committee sent separate requests for information to Representative McKinley and the Firm in March 2013. The Committee also interviewed relevant witnesses, including the Firm's President.

In July 2015, the Committee notified Representative McKinley that it was considering the adoption of a public Report and Letter of Reproval regarding this matter, and offered him the opportunity to review the draft materials. Representative McKinley personally reviewed the draft Report and Reapproval in November 2015, and submitted a written response, through counsel, in February 2016. Representative McKinley appeared before the Committee in September 2016.²³

²²The Committee determined that Representative McKinley's counsel was incorrect in his belief that selling the Firm, with the McKinley name attached, would resolve the prohibition on a Member permitting his name to be used by a firm that provides fiduciary services. In fact, selling the Firm without requiring it to remove the Member's name would actually imply such permission.

²³Although no House or Committee Rule requires it, the Committee has generally maintained a "blackout" period on public statements, including reports, in the 60 days prior to an election in which the subject of the statement is a candidate. This is consistent with House and Committee rules regarding receipt of complaints, referrals from OCE, and certain other public statements during this period. In June 2016, the Committee invited Representative McKinley to appear before the Committee in July 2016 to be heard in person. Representative McKinley informed the Committee that he did not believe that was sufficient time for him to prepare and asked if he could appear in September 2016, instead. The Committee granted that request, sub-

Following the Committee's investigation, and after hearing from Representative McKinley in writing and in person, the Committee determined that, by failing to remove his name from the Firm before selling it, Representative McKinley violated 5 U.S.C. app. § 502, which provides that a Member shall not "permit [his] name to be used by" firms providing professional services involving a fiduciary relationship. Representative McKinley's conduct also violated House Rule XXV, clause 2, which imposes limits on Members' outside earned income, and House Rule XXIII, clauses 1 and 2, which state that "[a] Member . . . shall behave at all times in a manner that shall reflect creditably on the House," and "shall adhere to the spirit and the letter of the Rules of the House." The Committee also found that the Firm, by its continued use of the McKinley name, could be in violation of 5 U.S.C. § 501, which prohibits firms that practice before federal agencies from using the name of a Member of Congress in advertising the business. The Committee informed the Firm of this determination, and cautioned that it should either change the Firm's name or avoid contracting with federal agencies.

On September 28, 2016, the Committee submitted a report to the House describing the facts and its findings in this matter and issued a public Letter of Reprimand to Representative McKinley.²⁴

In the Matter of Allegations related to Representative Cathy McMorris Rodgers

On December 23, 2013, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Cathy McMorris Rodgers may have violated House rules by using House resources for campaign activity and combined campaign and House resources for her campaign for a House leadership position. The Committee released the OCE Report and Findings, along with Representative McMorris Rodgers' response, on March 24, 2014, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative McMorris Rodgers was reelected to the House for the 115th Congress.

In the Matter of Allegations related to Representative Mark Meadows

On March 18, 2016, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Mark Meadows violated House rules and standards of conduct by retaining an employee who did not perform duties commensurate with the compensation the employee received, and by certifying that the compensation met applicable

ject to a clear written caution that if he chose that course the Committee's blackout practice would not apply to any final resolution of the matter. Representative McKinley chose to delay his appearance until September 2016. Although he appeared before the Committee prior to the start of the blackout period, the Committee's deliberations continued into the blackout period, and the Committee concluded its deliberations and voted to approve the final resolution within the blackout period.

²⁴House Comm. on Ethics, *In the Matter of Allegations Relating to Representative David McKinley*, H. Rept. 114-795, 114th Cong. 2d Sess. (2016).

House standards. Committee Rule 17A(j) provides that the Committee may postpone any reporting requirement related to an OCE referral that falls within 60 days of an election in which the subject of the referral is a candidate. Representative Meadows was on the primary election ballot on June 7, 2016. Therefore, the announcement that the Chairman and Ranking Member jointly decided to extend the matter of Representative Meadows for a 45-day period, pursuant to Committee Rules 17A(b)(1)(A) and 17A(c)(1), was postponed until July 5, 2016. The Committee released the OCE Report and Findings, along with Representative Meadows' response, on August 17, 2016, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Meadows was reelected to the House for the 115th Congress.

In the Matter of Allegations related to Representative Markwayne Mullin

On December 23, 2013, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Markwayne Mullin received outside earned income in excess of the outside earned income limitations that apply to Members of Congress, and that he impermissibly received payment for his service on the board of directors of a company. The Committee released the OCE Report and Findings, along with Representative Mullin's response, on March 24, 2014, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Mullin was reelected to the House for the 115th Congress.

In the Matter of Officially-Connected Travel by House Members to Azerbaijan in 2013

Early in the 114th Congress, the Chairman and Ranking Member authorized Committee staff, pursuant to Committee Rule 18(a), to investigate allegations that several House Members and employees may have received impermissible gifts of travel and tangible gifts in connection with privately-sponsored, officially-connected travel to Turkey and/or Azerbaijan, in violation of Article I, Section 9, Clause 8 of the United States Constitution (the Emoluments Clause), and various federal statutes and House rules. Prior to accepting the travel invitations, each of the House Members and employees who took part in the travel sought and obtained the Committee's approval to accept the travel as privately-sponsored, officially-connected travel. Each sponsoring non-profit organization submitted required disclosure forms to the Committee, certifying that it was the sole sponsor of the trips, and that it had not accepted direct or indirect funding for the trips from another source. However, allegations later arose that the various non-profit sponsors may have misrepresented the true source of the funds used for the privately-sponsored, officially-connected travel, and that the trips had not complied with the requirements for such travel.

On January 29, 2015, the OCE notified the Committee that it had initiated preliminary reviews of ten Members regarding their officially-connected travel to Turkey and/or Azerbaijan. On March 2, 2015, OCE notified the Committee that it was proceeding with a second-phase review for nine of the ten Members who were the subject of the preliminary reviews. On March 4, 2015, the Committee voted unanimously to request that OCE cease its review and immediately refer the matters to the Committee for its consideration, pursuant to House Rule XI, clause 3(r), and Committee Rule 17A(k)(1). Though the Committee's Chairman and Ranking Member sent a letter to OCE on March 4, 2015, formally requesting that it cease-and-refer the matters, OCE did not comply with that request. Instead, OCE continued its review.

On May 8, 2015, the OCE forwarded to the Committee separate Reports for nine Members who participated in privately-sponsored, officially-connected travel to Azerbaijan in May 2013. Although OCE is prohibited from transmitting any findings following receipt of a cease-and-refer request from the Committee, OCE also transmitted additional materials that it characterized as findings, which recommended further review of allegations that each Member may have received an impermissible gift of travel expenses in violation of House rules and regulations, standards of conduct, and federal law.²⁵ Such a recommendation was superfluous, as the Committee was, in fact, already investigating the allegations.²⁶

On June 22, 2015, the Chairman and Ranking Member of the Committee announced that the Committee had voted to extend the Committee's review of the matters referred to the Committee by OCE. The statement by the Chairman and Ranking Member also noted that a newspaper had obtained, and published, materials transmitted by OCE to the Committee, without the Committee's authorization, and that the unauthorized release may have violated House rules and other standards of conduct, while also having a direct impact on the Committee's investigation, which began well before OCE transmitted the materials to the Committee. As discussed further in the Committee's public report at the conclusion of the matter, at the time of the newspaper's publication of OCE's materials, the Committee had already issued a number of subpoenas to various individuals, and had issued requests for information to a number of entities in foreign countries.²⁷ Discussions with all of those parties about their cooperation with the Committee's investigation were ongoing. Following the newspaper's publication of the OCE materials, a central witness in the matter invoked his Fifth Amendment right and refused to comply with Committee subpoenas seeking his testimony and documents. Foreign entities outside of the Committee's jurisdiction to compel cooperation also subsequently declined to cooperate with the Committee's investigation. As such, the unauthorized disclosure of the material to the news-

²⁵The materials transmitted by OCE to the Committee included citations to 21 interviews of witnesses, including the dates of those interviews. Of those 21 interviews, only 1 interview had been conducted prior to March 4, 2015, when the Committee informed OCE that it had voted to make a cease and refer request for these matters. House Comm. on Ethics, *In the Matter of Officially-Connected Travel by House Members to Azerbaijan in 2013*, H. Rept. 114-239, 114th Cong. 1st Sess. at 15, n.86 (2015).

²⁶*Id.* at 14.

²⁷*Id.* at 16-18.

paper impeded the Committee's ongoing investigation, and prevented it from gathering information critical to its investigation.

The June 22 public statement of the Chairman and Ranking Member also explained that when the OCE transmits materials to the Committee, that does not resolve the matter, as an OCE referral is only a recommendation to the Committee about whether allegations in a particular matter should be investigated further or dismissed and an OCE referral is expressly precluded from containing any conclusions regarding the validity of the allegations upon which it is based or the guilt or innocence of the individual who is the subject of a review. Ultimately, only the Committee can determine whether a Member or other House employee has violated House rules or other standards of conduct.

On July 16, 2015, the Committee sent letters to six Members who participated in the travel, recommending that they return or otherwise remedy certain tangible gifts they received during the trips. All six Members complied immediately and took—or committed to take—the corrective action recommended by the Committee in its letters.

On July 29, 2015, the Committee voted unanimously to release a Report in this matter and take no further action with respect to any of the Members in question. Over the course of its investigation, the Committee issued 12 subpoenas and 18 voluntary requests for information, interviewed ten witnesses, and collected nearly 190,000 pages of information. In so doing, the Committee found that the House travelers had submitted all required travel documentation in good faith, and found no evidence that the House travelers knew or should have known of apparent attempts by the non-profit sponsors to obscure the true sponsors of and/or sources of funding for the travel.

Pursuant to House Rule XI, clause 3(a)(3) and Committee Rules 7(d) and 28, the Committee voted on July 29, 2015, to refer to the DOJ, for further action as it deemed necessary, the conduct by the private trip sponsors detailed in the Committee's Report. Pursuant to House Rule XI, clause 3(r), the Committee also voted to publicly release the OCE Reports as required under the cease-and-refer procedure. Because those rules only required the Committee to release the OCE Reports, and not the materials OCE characterized as "Findings," the Committee decided to withhold public release of any other materials to avoid interfering with any future investigation by the DOJ into possible criminal misconduct by the non-profit sponsors and related individuals and entities outside the House.²⁸ The Committee notes that DOJ has previously prosecuted individuals referred to it by the Committee following a Committee investigation.²⁹

²⁸ Despite these considerations, on September 25, 2015, the OCE voted to publicly release the OCE's Reports and the materials it characterized as "Findings" in this matter. The Board stated that its action was done "pursuant to House Resolution 895 of the 110th Congress § 1(f)(1)(B) (2008), which provides that the Board may release 'any communication' pursuant to its rules or as 'necessary to conduct official business.'"

²⁹ See House Comm. on Ethics, *In the Matter of the Investigation into Officially Connected Travel of House Members to Attend the Carib News Foundation Multinational Business Conferences in 2007 and 2008*, H. Rept. 111-422, 111th Cong. 2d Sess. (2010).

On July 31, 2015, the Committee submitted a Report to the House describing the facts and its findings in this matter, as well as its determination to take no further action in this matter.³⁰

In the Matter of Allegations related to Representative Robert Pittenger

On November 18, 2015, the Committee unanimously voted to empanel an ISC with jurisdiction to determine whether Representative Pittenger violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of his duties or the discharge of his responsibilities, with respect to allegations that he received compensation for his involvement with a fiduciary business, a real estate investment firm known as Pittenger Land Investments, Inc. The Committee, following precedent, unanimously recommended to the ISC that it defer action on its investigation at that time in response to a request from DOJ.

At the conclusion of the 114th Congress, the Committee continues to defer its investigation of this matter, at the request of DOJ. Representative Pittenger was reelected to the House for the 115th Congress.

In the Matter of Allegations related to Representative Jared Polis

On October 30, 2015, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Jared Polis may have violated House rules, laws, and other standards of conduct by engaging in activities that could be perceived as endorsements of a video game company and a menswear company, and by using official resources to promote the businesses.

The Committee investigated the allegations and concluded that Representative Polis' participation in a video produced by a video game company and a clothing event with a menswear company did not violate any law or House rules regarding official endorsements or the use of official resources for the promotion of a business endeavor. Accordingly, the Committee unanimously voted to dismiss the matter and to take no further action.

On December 15, 2015, the Committee submitted a Report to the House of Representatives describing the facts and its findings in this matter, as well as its determination to take no further action in this matter.³¹

In the Matter of Allegations related to Representative Bobby Rush

On June 10, 2014, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Bobby Rush received unpaid usage of office space. The Committee released the OCE Report and Findings, along with Representative Rush's response, on November 10, 2014, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

³⁰House Comm. on Ethics, *In the Matter of Officially-Connected Travel by House Members to Azerbaijan in 2013*, H. Rept. 114-239, 114th Cong. 1st Sess. (2015).

³¹House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Jared Polis*, H. Rept. 114-381, 114th Cong. 1st Sess. (2015).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Rush was reelected to the House for the 115th Congress.

In the Matter of Allegations related to Representative Aaron Schock

On August 30, 2012, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Aaron Schock may have solicited contributions for an independent expenditure-only political committee in excess of \$5,000 per donor, in violation of 52 U.S.C. § 30125(e), House Rule XXIII, clause 1, and the Code of Ethics for Government Service. The Committee released the OCE Report and Findings, along with Representative Schock's response, on February 6, 2013, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

On March 17, 2015, Representative Schock announced that he was resigning from the House, effective March 31, 2015. On the date of Representative Schock's resignation, the Committee's jurisdiction to continue its investigation of Representative Schock ended.

On November 10, 2016, the U.S. Attorney for the Central District of Illinois filed an indictment against former Representative Schock in federal district court, charging him with mail and wire fraud, theft of government funds, making false statements, falsifying FEC filings, and filing false federal tax returns. Proceedings in that matter are pending in federal court.

In the Matter of Allegations related to Representative Marlin Stutzman

On August 31, 2016, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Marlin Stutzman may have used campaign funds for personal purposes for a trip to California with his family in violation of 52 U.S.C. § 30114(b)(1) and House Rule XXIII, clauses 6(b) and (c). The Committee released the OCE Report and Findings, along with Representative Stutzman's response, on November 29, 2016, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

Representative Stutzman did not run for reelection to the House for the 115th Congress, and the Committee will not have jurisdiction over him after January 3, 2017.

In the Matter of Allegations related to Representative Ed Whitfield

On June 10, 2014, the OCE forwarded to the Committee in the 113th Congress a Report and Findings in which it recommended further review of allegations that Representative Whitfield violated House Rule XXV, clause 7, by failing to prohibit lobbying contacts between his staff and his wife, who was then a registered lobbyist, and that he dispensed special favors or privileges to either his wife or her employers, the Humane Society of the United States or the Humane Society Legislative Fund. The Committee released the OCE Report and Findings, along with Representative Whitfield's response, on November 10, 2014, and noted in a public statement

that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

On March 25, 2015, based on the results of the 18(a) investigation, the Committee unanimously voted to empanel an ISC to continue to investigate the allegations in the OCE referral. Over a thirteen month period, the ISC interviewed 11 witnesses, including Representative Whitfield and his wife, and reviewed over 140,000 pages of documents, including Representative Whitfield's own submissions regarding the allegations in this matter.

On April 20, 2016, the ISC voted to adopt a Report, finding that Representative Whitfield had violated the House Rule concerning lobbying contacts between a Member's spouse and his staff, as well as rules regarding the dispensation of special privileges. Though the ISC found that these violations were not intentional, it nonetheless found that Representative Whitfield failed to comprehend the importance of setting boundaries and limits on the interactions between his wife and his staff, and thus failed to take proper precautions to avoid either improper interactions or the appearance of impropriety. The ISC's Report recommended that the Committee reprove Representative Whitfield for such conduct, pursuant to House Rule XI, clause 3(a)(2).

Pursuant to House Rule XI, clause 3(a)(2), the Committee provided Representative Whitfield with copy of the ISC Report on April 29, 2016, and offered him an opportunity to be heard by the full Committee. Following Representative Whitfield's appearance, and after further consideration of Representative Whitfield's views and prior written submissions, the ISC unanimously agreed to make minor revisions to its Report, but still concluded that the violations were significant and numerous enough to warrant reproof by the Committee. On July 6, 2016, the ISC transmitted its revised Report to the Committee.

On July 12, 2016, the Committee considered the ISC's Report and, agreeing with its findings and recommendations, voted unanimously to release its own Report, finding that Representative Whitfield violated House Rule XXV, clause 7, the Code of Ethics for Government Service, section 5, and House Rule XXIII, clauses 1 and 2.

On July 14, 2016, the Committee submitted a Report to the House of Representatives describing the facts and its findings in this matter, and adopting the ISC's Report, which served as a reproof of Representative Whitfield.³²

In the Matter of Allegations related to Representative Roger Williams

On May 13, 2016, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Roger Williams may have taken an official action on a matter affecting his personal financial interest in an automobile dealership, by offering an amendment to certain surface transportation reauthorization legislation in the 114th Congress, in violation of House Rule III, clause 1, House Rule XXIII, clause 3, and Section 5 of the Code of Ethics for Government Serv-

³²House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Ed Whitfield*, H. Rept. 114-687, 114th Cong. 2d Sess. (2016).

ice. The Committee released the OCE Report and Findings, along with Representative Williams' response, on August 11, 2016, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Williams was reelected to the House for the 115th Congress.

Other Committee investigative actions

In addition to the publicly disclosed matters discussed in this Report, the Committee either commenced review of, or continued to review from the 113th Congress, 50 investigative matters. Of these 50 matters which remain confidential, 40 were resolved in the 114th Congress.

APPENDIX I

Rule X, clause 1(g)

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.

(g) Committee on Ethics.

The Code of Official Conduct.

Rule X, clause 1(g)(4)

(4) The Committee on Ethics 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 Ethics

3. (a) The Committee on Ethics 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 reproof or other administrative action of the committee pursuant to an investigation under subparagraph (2) shall only be issued or implemented as a part of a report required by such subparagraph.

(2) The committee may investigate, subject to paragraph (b), an alleged violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House of the Code of Official Conduct or of a law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, Delegate, Resident Commissioner, officer, or employee in the performance of the duties or the discharge of the responsibilities of such individual. After notice and hearing (unless the right to a hearing is waived by the Member, Delegate, Resident Commissioner, officer, or employee), the committee shall report to the House its findings of fact and recommendations, if any, for the final disposition of any such investigation and such action as the committee may consider appropriate in the circumstances.

(3) The committee may report to the appropriate Federal or State authorities, either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee, any substantial evidence of a violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House, of a law applicable to the performance of his duties or the discharge of the responsibilities of such individual that may have been disclosed in a committee investigation.

(4) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, Delegate, Resident Commissioner, officer, or employee. With appropriate deletions to ensure the privacy of the person concerned, the committee may publish such opinion for the guidance of other Members, Delegates, the Resident Commissioner, officers, and employees of the House.

(5) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XXIII.

(6)(A) The committee shall offer annual ethics training to each Member, Delegate, Resident Commissioner, officer, and employee of the House. Such training shall-

(i) involve the classes of employees for whom the committee determines such training to be appropriate; and

(ii) include such knowledge of the Code of Official Conduct and related House rules as may be determined appropriate by the committee.

(B)(i) A new officer or employee of the House shall receive training under this paragraph not later than 60 days after beginning service to the House.

(ii) Not later than January 31 of each year, each officer and employee of the House shall file a certification with the committee that the officer or employee attended ethics training in the last year as established by this subparagraph.

(b)(l)(A) Unless approved by an affirmative vote of a majority of its members, the Committee on Ethics may not report a resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House, or, except as provided in subparagraph (2), undertake an investigation of such conduct.

(B)(i) Upon the receipt of information offered as a complaint that is in compliance with this rule and the rules of the committee, the chair and ranking minority member jointly may appoint members to serve as an investigative subcommittee.

(ii) The chair and ranking minority member of the committee jointly may gather additional information concerning alleged conduct that is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or either of them has placed on the agenda of the committee the issue of whether to establish an investigative subcommittee.

(2) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, Delegate, Resident Commissioner, officer, or employee of the House only-

(A) upon receipt of information offered as a complaint, in writing and under oath, from a Member, Delegate, or Resident Commissioner and transmitted to the committee by such Member, Delegate, or Resident Commissioner;

(B) upon receipt of information offered as a complaint, in writing and under oath, from a person not a Member, Delegate, or Resident Commissioner provided that a Member, Delegate, or Resident Commissioner certifies in writing to the committee that such Member, Delegate, or Resident Commissioner believes the information is submitted in good faith and warrants the review and consideration of the committee; or

(C) upon receipt of a report regarding a referral from the board of the Office of Congressional Ethics.

If a complaint is not disposed of within the applicable periods set forth in the rules of the Committee on Ethics, the chair and ranking minority member shall establish jointly an investigative subcommittee and forward the complaint, or any portion thereof, to that

subcommittee for its consideration. However, if at any time during those periods either the chair or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

(3) The committee may not undertake an investigation of an alleged violation of a law, rule, regulation, or standard of conduct that was not in effect at the time of the alleged violation. The committee may not undertake an investigation of such an alleged violation that occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.

(4) A member of the committee shall be ineligible to participate as a member of the committee in a committee proceeding relating to the member's official conduct. Whenever a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker shall designate a Member, Delegate, or Resident Commissioner from the same political party as the ineligible member to act in any proceeding of the committee relating to that conduct.

(5) A member of the committee may seek disqualification from participating in an investigation of the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision in the case in which the member seeks to be disqualified. If the committee approves and accepts such affidavit of disqualification, the chair shall so notify the Speaker and request the Speaker to designate a Member, Delegate, or Resident Commissioner from the same political party as the disqualifying member to act in any proceeding of the committee relating to that case.

(6) Information or testimony received, or the contents of a complaint or the fact of its filing, may not be publicly disclosed by any committee or staff member unless specifically authorized in each instance by a vote of the full committee.

(7) The committee shall have the functions designated in titles I and V of the Ethics in Government Act of 1978 [on financial disclosure and the limitations on outside earned income and outside employment], in sections 7342 [the Foreign Gifts and Decorations Act], 7351 [on gifts to superiors], and 7353 [on gifts] of title 5, United States Code, and in clause 11(g)(4) of rule X.

(8)(A) Except as provided by subdivisions (B), (C), and (D), not later than 45 calendar days or 5 legislative days, whichever is later, after receipt of a written report and any findings and supporting documentation regarding a referral from the board of the Office of Congressional Ethics or of a referral of the matter from the board pursuant to a request under paragraph (r), the chair of the Committee on Ethics shall make public the written report and findings of the board unless the chair and ranking member, acting jointly, decide or the committee votes to withhold such information for not more than one additional period of the same duration, in which case the chair shall—

(i) upon the termination of such additional period, make public the written report and findings; and

(ii) upon the day of such decision or vote, make a public statement that the matter, relating to the referral made by the board of the Office of Congressional Ethics regarding the Member, officer, or employee of the House who is the subject of the applicable referral, has been extended.

At least one calendar day before the committee makes public any written report and findings of the board, the chair shall notify such board and the applicable Member, officer, or employee of that fact and transmit to such individual a copy of the statement on the committee's disposition

of, and any committee report on, the matter.

(B)(i) Notwithstanding subdivision (A)(i), if the committee votes to dismiss a matter which is the subject of a referral from the board of the Office of Congressional Ethics, the committee is not required to make public the written report and findings described in such subdivision unless the committee's vote is inconsistent with the recommendation of the board. For purposes of the previous sentence, a vote by the committee to dismiss a matter is not inconsistent with a report from the board respecting the matter as unresolved due to a tie vote.

(ii) Notwithstanding subdivision (A)(ii), if the board transmits a report respecting any matter with a recommendation to dismiss or as unresolved due to a tie vote, and the matter is extended for an additional period as provided in subdivision (A), the committee is not required to make a public statement that the matter has been extended.

(iii) Except as provided by subdivision (E), if the committee establishes an investigative subcommittee respecting any such matter, then the report and findings of the board shall not be made public until the conclusion of the investigative subcommittee process and the committee shall issue a public statement of the establishment of an investigative subcommittee, which statement shall include the name of the applicable Member, officer, or employee, and shall set forth the alleged violation. If any such investigative subcommittee does not conclude its review within one year after the board transmits a report respecting any matter, then the committee shall make public the report and upon the expiration of the Congress in which the report is made public, the committee shall make public any findings.

(C)(i) If, after receipt of a written report and any findings and supporting documentation regarding a referral from the board of the Office of Congressional Ethics or of a referral of the matter from the board pursuant to a request under paragraph (r), the committee agrees to a request from an appropriate law enforcement or regulatory authority to defer taking action on the matter—

(I) notwithstanding subdivision (A)(i), the committee is not required to make public the written report and findings described in such subdivision, except that if the recommendation of the board with respect to the report is that the matter requires further review, the committee shall make public the written report but not the findings; and

(II) before the end of the first day (excluding Saturdays, Sundays, and public holidays) after the day that the committee agrees to the request, the committee shall make a public statement that it is deferring taking action on the matter at the request of such authority.

(ii) If, upon the expiration of the one-year period that begins on the date the committee makes the public statement described in item (i)(II), the committee has not acted on the matter, the committee shall make a new public statement that it is still deferring taking action on the matter, and shall make a new statement upon the expiration of each succeeding one-year period during which the committee has not acted on the matter.

(D) The committee may not receive any referral from the board of the Office of Congressional Ethics within 60 days before a Federal, State, or local election in which the subject of the referral is a candidate. The committee may delay any reporting requirement under this subparagraph that falls within that 60-day period until the end of such period and in that case, for purposes of subdivision (A), days within the 60-day period shall not be counted.

(E) If, at the close of any applicable period for a reporting requirement under this subparagraph with respect to a referral from the board of the Office of Congressional Ethics, the vote of the committee is a tie or the committee fails to act, the report and the findings of the board shall be made public by the committee, along with a public statement by the chair explaining the status of the matter.

(c)(1) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Ethics 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 Ethics 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 Ethics, including members of a subcommittee of the committee selected under clause 5(a)(4) of rule X and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed:

"I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Ethics, 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 Ethics 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 Ethics, 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 Ethics.

Committee agendas

(f) The committee shall adopt rules providing that the chair shall establish the agenda for meetings of the committee, but shall not preclude the ranking minority member from placing any item on the agenda.

Committee staff

(g)(1) The committee shall adopt rules providing that-

(A) the staff be assembled and retained as a professional, nonpartisan staff;

(B) each member of the staff shall be professional and demonstrably qualified for the position for which he is hired;

(C) the staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner;

(D) no member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election;

(E) no member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to the employment or duties with the committee of such individual without specific prior approval from the chair and

ranking minority member; and

(F) no member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the committee.

(2) Only subdivisions (C), (E), and (F) of subparagraph (1) shall apply to shared staff.

(3)(A) All staff members shall be appointed by an affirmative vote of a majority of the members of the committee. Such vote shall occur at the first meeting of the membership of the committee during each Congress and as necessary during the Congress.

(B) Subject to the approval of the Committee on House Administration, the committee may retain counsel not employed by the House of Representatives whenever the committee determines, by an affirmative vote of a majority of the members of the committee, that the retention of outside counsel is necessary and appropriate.

(C) If the committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(D) Outside counsel may be dismissed before the end of a contract between the committee and such counsel only by an affirmative vote of a majority of the members of the committee.

(4) In addition to any other staff provided for by law, rule, or other authority, with respect to the committee, the chair and ranking minority member each may appoint one individual as a shared staff member from the respective personal staff of the chair or ranking minority member to perform service for the committee. Such shared staff may assist the chair or ranking minority member on any subcommittee on which the chair or ranking minority member serves.

Meetings and hearings

(h) The committee shall adopt rules providing that-

(1) 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

(2) any hearing held by an adjudicatory subcommittee or any sanction hearing held by the committee shall be open to the public unless the committee or subcommittee by an affirmative vote of a majority of its members closes the hearing to the public.

Public disclosure

(i) The committee shall adopt rules providing that, unless otherwise determined by a vote of the committee, only the chair or ranking minority member, after consultation with each other, may make public statements regarding matters before the committee or any subcommittee thereof.

Requirements to constitute a complaint

(j) The committee shall adopt rules regarding complaints to provide that whenever

information offered as a complaint is submitted to the committee, the chair and ranking minority member shall have 14 calendar days or five legislative days, whichever is sooner, to determine whether the information meets the requirements of the rules of the committee for what constitutes a complaint.

Duties of chair and ranking minority member regarding properly filed complaints

(k)(l) The committee shall adopt rules providing that whenever the chair and ranking minority member jointly determine that information submitted to the committee meets the requirements of the rules of the committee for what constitutes a complaint, they shall have 45 calendar days or five legislative days, whichever is later, after that determination (unless the committee by an affirmative vote of a majority of its members votes otherwise) to-

(A) recommend to the committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(B) establish an investigative subcommittee; or

(C) request that the committee extend the applicable 45-calendar day or five-legislative day period by one additional 45-calendar day period when they determine more time is necessary in order to make a recommendation under subdivision (A).

(2) The committee shall adopt rules providing that if the chair and ranking minority member jointly determine that information submitted to the committee meets the requirements of the rules of the committee for what constitutes a complaint, and the complaint is not disposed of within the applicable time periods under subparagraph (1), then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chair or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

Duties of chair and ranking minority member regarding information not constituting a complaint

(l) The committee shall adopt rules providing that whenever the chair and ranking minority member jointly determine that information submitted to the committee does not meet the requirements of the rules of the committee for what constitutes a complaint, they may-

(1) return the information to the complainant with a statement that it fails to meet the requirements of the rules of the committee for what constitutes a complaint; or

(2) recommend to the committee that it authorize the establishment of an investigative subcommittee.

Investigative and adjudicatory subcommittees

(m) The committee shall adopt rules providing that-

(l)(A) an investigative subcommittee shall be composed of four Members (with equal representation from the majority and minority parties) whenever such a subcommittee is established pursuant to the rules of the committee;

(B) an adjudicatory subcommittee shall be composed of the members of the committee who did not serve on the pertinent investigative subcommittee (with equal representation from

the majority and minority parties) whenever such a subcommittee is established pursuant to the rules of the committee; and

(C) notwithstanding any other provision of this clause, the chair and ranking minority member of the committee may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to information before a subcommittee with which they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee;

(2) at the time of appointment, the chair shall designate one member of a subcommittee to serve as chair and the ranking minority member shall designate one member of the subcommittee to serve as the ranking minority member; and

(3) the chair and ranking minority member of the committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex officio members.

Standard of proof for adoption of statement of alleged violation

(n) The committee shall adopt rules to provide that an investigative subcommittee may adopt a statement of alleged violation only if it determines by an affirmative vote of a majority of the members of the subcommittee that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives, has occurred.

Subcommittee powers

(o)(1) The committee shall adopt rules providing that an investigative subcommittee or an adjudicatory subcommittee may authorize and issue subpoenas only when authorized by an affirmative vote of a majority of the members of the subcommittee.

(2) The committee shall adopt rules providing that an investigative subcommittee may, upon an affirmative vote of a majority of its members, expand the scope of its investigation approved by an affirmative vote of a majority of the members of the committee.

(3) The committee shall adopt rules to provide that-

(A) an investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its statement of alleged violation anytime before the statement of alleged violation is transmitted to the committee; and

(B) if an investigative subcommittee amends its statement of alleged violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended statement of alleged violation.

Due process rights of respondents

(p) The committee shall adopt rules to provide that-

(1) not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a statement of alleged violation, the subcommittee shall provide the respondent with a copy of the statement of alleged violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness; but if such evidence is withheld, the

subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates;

(2) neither the respondent nor the counsel of the respondent shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (1) except for the sole purpose of settlement discussions where counsel for the respondent and the subcommittee are present;

(3) if, at any time after the issuance of a statement of alleged violation, the committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (1) to prove the charges contained in the statement of alleged violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the rules of the committee;

(4) evidence provided pursuant to paragraph (1) or (3) shall be made available to the respondent and the counsel of the respondent only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until-

(A) such time as a statement of alleged violation is made public by the committee if the respondent has waived the adjudicatory hearing; or

(B) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing;

but the failure of respondent and the counsel of the respondent to so agree in writing, and their consequent failure to receive the evidence, shall not preclude the issuance of a statement of alleged violation at the end of the period referred to in paragraph (1);

(5) a respondent shall receive written notice whenever-

(A) the chair and ranking minority member determine that information the committee has received constitutes a complaint;

(B) a complaint or allegation is transmitted to an investigative subcommittee;

(C) an investigative subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; or

(D) an investigative subcommittee votes to expand the scope of its investigation;

(6) whenever an investigative subcommittee adopts a statement of alleged violation and a respondent enters into an agreement with that subcommittee to settle a complaint on which that statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and respondent's counsel, the chair and ranking minority member of the subcommittee, and the outside counsel, if any;

(7) statements or information derived solely from a respondent or the counsel of a respondent during any settlement discussions between the committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the committee or otherwise publicly disclosed without the consent of the respondent; and

(8) whenever a motion to establish an investigative subcommittee does not prevail, the committee shall promptly send a letter to the respondent informing the respondent of such vote.

Committee reporting requirements

(q) The committee shall adopt rules to provide that-

(1) whenever an investigative subcommittee does not adopt a statement of alleged violation and transmits a report to that effect to the committee, the committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives;

(2) whenever an investigative subcommittee adopts a statement of alleged violation, the respondent admits to the violations set forth in such statement, the respondent waives the right to an adjudicatory hearing, and the respondent's waiver is approved by the committee-

(A) the subcommittee shall prepare a report for transmittal to the committee, a final draft of which shall be provided to the respondent not less than 15 calendar days before the subcommittee votes on whether to adopt the report;

(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.

(r) Upon receipt of any written notification from the board of the Office of Congressional Ethics that the board is undertaking a review of any alleged conduct of any Member, officer, or employee of the House and if the committee is investigating such matter, the committee may at any time so notify the board and request that the board cease its review and refer the matter to the committee for its consideration. If at the end of the applicable time period (including any permissible extension) the committee has not reached a final resolution of the matter or has not referred the matter to the appropriate Federal or State authorities, the committee shall so notify the board of the Office of Congressional Ethics in writing. The committee may not request the same matter from the board more than one time.

(s) The committee may not take any action that would deny any person any right or protection provided under the Constitution of the United States.

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 Ethics. The Committee on Ethics is authorized to issue guidance on any matter contained in this clause.

APPENDIX II

U.S. House of Representatives

COMMITTEE ON ETHICS
Washington, DC 20515

January 21, 2015

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Charles W. Dent, Chairman *CW*
Linda T. Sánchez, Ranking Member *LS*

SUBJECT: The 2015 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees

A House employee's salary level may trigger certain public disclosure requirements and employment restrictions, including the:

1. Requirement to file financial disclosure (FD) statements, including Periodic Transaction Reports (PTRs);¹
2. Restrictions on outside employment;
3. Disclosure of negotiations for private employment and recusal requirements; and
4. Post-employment restrictions.

This memorandum provides details on the current triggering salary figures for CY 2015 for each of the categories noted above, and summarizes them in a table on page 5 of this Memorandum.

¹ For detail on the PTR requirement, see the Committee's August 17, 2012, advisory memorandum "Periodic Reporting of Personal Financial Transactions Pursuant to the STOCK Act, as amended," which is available on the Committee Web site (ethics.house.gov), under the links for Reports/General Advisories. Note that the STOCK Act may require the filing of PTRs as often as once per month, effective January 3 for Members and any staff who are paid at the senior staff rate on January 3, 2015. Staff who rise to the senior staff rate for more than 60 days later in the year will also be subject to the requirement for the remainder of the calendar year.

FINANCIAL DISCLOSURE

House officers and employees whose “rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule” for at least 60 days at any time during a calendar year are required to file FD statements, provided that the officer or employee “performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year.”² The GS-15, step 1, basic pay rate for CY 2015 is \$101,630. The applicable 120% calculation for that rate is therefore **\$121,956**, or a monthly salary above \$10,163. This rate is referred to as the “senior staff rate.”

As a result, House officers and employees whose basic rate of pay is equal to or greater than the senior staff rate (\$121,956) for at least **60 days**³ during **2015** must file an FD statement on or before May 15, 2016.⁴ In addition, any new employee paid at the senior staff rate must file a “new employee” FD statement within 30 days of assuming employment with the House.⁵ Finally, any staff who are paid at the senior staff rate on January 3, 2015 (or their first day of employment, if later in the year) must file reports (PTRs) on an ongoing basis throughout the year regarding certain financial transactions. See footnote 1 of this Memorandum for more information on the PTR requirement.

Please note that the requirement to file an FD statement covering calendar year 2014 applies to officers and employees whose basic rate of pay for at least 60 days in **2014** was **\$120,749** or more (a monthly salary at or above \$10,062). Annual FD statements covering CY 2014 are due on Friday, May 15, 2015, for those individuals who continue to be Members, officers, or employees of the House on that date.

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

² Ethics in Government Act (EIGA) §§ 109(13) and 101(d), 5 U.S.C. app. 4 §§ 109(13) and 101(d) (hereinafter all citations to the EIGA will be to the appropriate federal code citation). In addition, all House Members are required to file FD statements. 5 U.S.C. app. 4 §§ 101(e) and (f).

³ The House payroll department operates on a 30-day payroll cycle, meaning that each monthly pay period, regardless of its actual length, is counted as 30 days. Thus, a change to an employee’s base rate of pay in any two months during the calendar year (even non-consecutive months) may trigger the requirement to file a Financial Disclosure Statement. This is true even if the pay change affects only part of a month.

⁴ 5 U.S.C. app. 4 §§ 101(c) and 109(f).

⁵ See 5 U.S.C. app. 4 § 101(a). The only exception to this filing requirement is for new employees who assume employment with the House within 30 days of leaving a position with the federal government in which they filed a publicly-available financial disclosure statement. Individuals who are exempt from filing under these circumstances must notify the Clerk of the House of that fact in writing by letter or through the new e-filing system for filing financial disclosure statements.

⁶ See 5 U.S.C. app. 4 § 101(e). The only exception is for filers who, within 30 days of their termination from the House, accept a position with the federal government that requires the filing of a publicly-available financial disclosure statement. Departing employees who are exempt from filing under these circumstances must notify the Clerk of that fact in writing by letter or through the new e-filing system for filing financial disclosure statements.

**THE OUTSIDE EARNED INCOME LIMIT
AND OUTSIDE EMPLOYMENT RESTRICTIONS**

House officers and employees whose rate of basic pay is equal to or greater than the senior staff rate for **more than 90 days** are subject to limits on the amount of outside earned income⁷ attributable to each calendar year.⁸ As noted above, the senior staff rate for CY 2015 is **\$121,956**, or a monthly salary above \$10,163.

The limit on outside earned income attributable to a calendar year is 15% of the rate of basic pay for Executive Schedule Level II in effect on January 1 of the year. As of January 1, 2015, the rate of basic pay for Executive Level II is \$181,500. Accordingly, the outside earned income limit for House Members, officers, and employees paid at or above the senior staff rate for CY 2015 is **\$27,225**.⁹ Members, officers, and House employees paid at or above the senior staff rate for more than 90 days are also subject to a number of specific limitations on the types of outside employment.¹⁰ Detailed information regarding these limitations may be found on pages 213 to 238 of the *2008 House Ethics Manual*, which is available on the Committee's Web site (ethics.house.gov). The Committee's Office of Advice and Education (extension 5-7103) is available to explain these limitations further.

DISCLOSURE OF EMPLOYMENT NEGOTIATIONS AND RECUSALS

House Members, officers, and employees paid at the senior staff rate must notify the Committee within three (3) business days after they commence any negotiation or agreement for future employment with a private entity.¹¹ In addition, House Members, officers, and senior staff must recuse themselves from "any matter in which there is a conflict of interest or an appearance of a conflict" with the private entity with which they are negotiating or have an agreement for future employment or compensation, and they must notify the Ethics Committee in writing of such recusal.¹² As noted above, the senior staff rate for CY 2015 is **\$121,956**, or a monthly salary above \$10,163.

⁷ The term "outside earned income" means any "wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered" by a House Member, officer, or employee. House Rule 25, cl. 4(d)(1). It does not include the individual's salary from the House, nor does it include income for services rendered before the individual was employed by the House. *Id.* at cls. 4(d)(1)(A), (B).

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

⁹ This amount is proportionally reduced when an individual becomes a Member, officer, or senior employee during the calendar year. For example, an individual who is hired into a senior staff position on July 1 has an outside earned limit that is one-half of the full amount, or \$13,613. *See* 5 U.S.C. app. 4 § 501(a)(2); House Rule 25, cl. 1(b).

¹⁰ *See* 5 U.S.C. app. 4 § 502(a); House Rule 25, cls. 1-4.

¹¹ House Rule 27, cl. 2; Stop Trading on Congressional Knowledge Act, Pub. L. No. 112-105 (Apr. 4, 2012) § 17.

¹² House Rule 27, cl. 4.

Information on the disclosure and recusal requirements related to seeking private employment applicable to Members, officers, and senior staff is available in two Committee advisory memoranda, one for Members and officers and one for staff. Copies of both memoranda, which are dated December 19, 2014, are available on the Committee's Web site (ethics.house.gov) under "Reports/General Advisories," and forms for making the notifications regarding job negotiations or recusal are available under "Forms/Post-Employment."

POST-EMPLOYMENT RESTRICTIONS

House Members and officers, as well as certain other House employees, are subject to post-employment restrictions on lobbying.¹³ A former employee of a Member, committee, or leadership office is subject to the restrictions if, for at least **60 days** during the one-year period preceding termination of House employment, the employee was paid at a rate equal to or greater than 75% of the basic rate of pay for Members at the time of termination. This amount is referred to as the "very senior staff rate."

The basic rate of pay for Members in 2015 will remain \$174,000.¹⁴ Therefore, the post-employment threshold for employees who depart from a job in a Member, committee, or leadership office in CY 2015 remains **\$130,500**, or a monthly salary of \$10,875 or more. However, the triggering salary for employees of other House or legislative branch offices (such as the CBO, GAO, GPO, Capitol Police, Library of Congress, Clerk, Parliamentarian, Office of Legal Counsel, and Chief Administrative Officer) is Executive Schedule Level IV. For 2015, that salary has increased to **\$158,700**, or a monthly salary above \$13,225.

Information on the post-employment restrictions applicable to Members, officers, and very senior staff is available in the two Committee advisory memoranda referenced in the previous section.

* * * * *

See page 5 for a table summarizing the information contained in this memorandum.

¹³ 18 U.S.C. § 207.

¹⁴ Section 8 of Division Q of the Consolidated and Further Continuing Appropriations Act, 2015 Pub. L. No. 113-235 (Dec. 16, 2014), prohibited a scheduled cost-of-living pay raise for Members. As a result, Member pay will remain at \$174,000 for 2015.

CALENDAR YEAR 2015

Item	2015 Amount
Outside earned income & outside employment threshold - Outside employment fiduciary restrictions if paid at rate for more than 90 days during 2015	\$121,956 (\$10,163/mo)
Outside earned income limit	\$27,225
Financial Disclosure/PTR threshold - Annual FD required in May 2016 if paid at rate for 60 days or more in CY 2015 - PTRs required during CY 2015 if: - Paid at rate on first day of calendar year or first day of House employment (if later); <i>or</i> - Paid at rate for any two pay periods during CY 2015 (e.g., if get bonus or pay raise during calendar year), subject to PTR requirement for remainder of year	\$121,956 (\$10,163/mo)
Written disclosure of job negotiations and recusals required	\$121,956 (\$10,163/mo)
Post-Employment threshold for employees of Member, committee, or leadership offices	\$130,500 (\$10,875/mo)
Post-Employment threshold for employees of "other legislative offices" (see p. 4)	\$158,700 (\$13,225/mo)

Charles W. Dent, Pennsylvania
Chairman
Linda T. Sánchez, California
Ranking Member

Patrick Meehan, Pennsylvania
Trey Gowdy, South Carolina
Susan W. Brooks, Indiana
Kenny Marchant, Texas

Michael E. Capuano, Massachusetts
Yvette D. Clarke, New York
Ted Deutch, Florida
John B. Larson, Connecticut



ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

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April 17, 2015

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MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Charles W. Dent, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Upcoming Financial Disclosure Clinics & Training

The Committee on Ethics will offer three Financial Disclosure Clinics in April in advance of the upcoming May 15, 2015, due date for the filing of all annual Public Financial Disclosure Statements (FD Statements). In addition, the Committee will hold one Senior Staff Training before the May 15 deadline.

Financial Disclosure Clinics give filers a chance to work closely with financial disclosure staff to address individual filers' questions. Financial Disclosure Clinics also serve to help filers use the electronic filing system to input and submit Statements and Periodic Transaction Reports.

Senior Staff Training provides additional ethics guidance to staff who are required to file Statements pursuant to the Ethics in Government Act (EIGA). Attendance at Senior Staff Training will satisfy either the annual ethics training requirement, or the requirement that senior staff complete an additional hour of specialized training per Congress.

Please note that participation in the Clinics will not satisfy any House-mandated training requirements.

The date, time, and location for each Clinic are included below. Committee staff will be available for the entire two hours of each Clinic, but attendees are welcome to walk in at any time, and may stay for as long as they need. You can find this and additional information about financial disclosure requirements on the Committee's Web site at <http://ethics.house.gov>.

Date	Time	Location
Monday, April 20	1:30pm – 3:30pm	B249 Longworth HOB, Rooms B & C
Friday, April 24	10:00am – 12:00pm	B249 Longworth HOB, Rooms B & C
Wednesday, April 29	10:00am – 12:00pm	B249 Longworth HOB, Rooms B & C

Although registration for the Clinics is not required, all those interested in participating are recommended to pre-register as space is limited. Please follow the directions below to register:

1. Visit <https://registerme.house.gov>
2. Click on “Ethics,” then “All Staff”
3. Add desired Financial Disclosure Clinic
4. Select “Register” on the left of the page
5. Login and Submit

In addition to the Clinics, the Committee will offer a Senior Staff Training that *will* satisfy either the annual ethics training requirement or the additional hour of training required for senior staff for the 114th Congress (staff must choose one or the other).¹ This training will cover general information about the requirement to file Financial Disclosure and Periodic Transaction Reports. It will take place on the following date, at the listed time, and in the listed location:

Date	Time	Location
Monday, April 27	10:00am – 11:00am	HVC-215, Capitol

In order to receive credit for this training, senior staff are *required to pre-register* by following the same directions as above and adding the desired Financial Disclosure Training in step three.

The Committee strongly recommends that filers use the electronic filing system to make all filings, but will provide assistance to both paper filers and electronic filers. Filers (and designated third-party preparers) can log onto the system at <https://fd.house.gov>. You can also download a blank copy of the paper form on the Committee’s Web site at <http://ethics.house.gov>. If you need to make a filing, but did not receive login information, or if you have lost your temporary password, please contact the Legislative Resource Center at (202) 226-5200 for assistance.

* * *

Any questions on these matters should be directed to the Committee at (202) 225-7103.

¹ For 2015, senior staff are House officers and employees whose basic rate of pay is equal to or greater than \$121,956 for at least 60 days during 2015.

Charles W. Dent, Pennsylvania
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ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

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MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Charles W. Dent, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Reminder about Annual Ethics Training Requirements for 2015

This memorandum is a reminder to all offices to encourage staff to complete their 2015 training requirement. The Committee on Ethics is required to provide annual ethics training to each Member, Delegate, Resident Commissioner, officer, and employee of the House.¹ Existing House officers and employees are required to take one hour of general ethics training each calendar year. For “new” employees, they must complete this training session *within 60 days of commencing House employment*.² In addition, the Committee requires all senior staff³ – whether new or existing employees – to take an additional hour of specialized training at least once per Congress.⁴

By January 31 of each year, all House employees must certify to the Ethics Committee that they have completed ethics training during the preceding calendar year.⁵ Employees who pre-register for and sign the attendance sheet at a live training *or* fully complete one of the online training options available through HouseConnect will have made their necessary certification to the Committee. The following are the ethics training requirements for 2015, as well as the details of how to complete the registration and/or certification process for both live and online ethics training programs.

¹ House Rule 11, clause 3(a)(6)(A). The Committee defines an “officer or employee” as an individual appointed to position of employment in the U.S. House of Representatives by an authorized employing authority who is receiving a salary disbursed by the Chief Administrative Officer or is in a leave without pay or furlough status.

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

³ “Senior staff” for training purposes are employees who are paid at the “senior staff rate” for at least 60 days in either (or both) calendar years of a Congress. Please note that the senior staff annual salary rate is subject to change in 2016. For 2015, the senior staff rate was \$121,956, or a monthly pay rate at or above \$10,163.

⁴ The 114th Congress began on January 3, 2015, and ends on January 3, 2017.

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

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

2015 ETHICS TRAINING REQUIREMENTS

"New" House Employees

All new employees must complete ethics training within 60 days of beginning House employment. A "new" House employee for purposes of the 2015 training requirement is an individual who first begins employment with the House on or after January 3, 2015. Any former House employee who returns to House employment after a gap of more than 60 consecutive calendar days is considered to be a "new" employee. Interns paid by the House for more than 60 days also must comply with this requirement.⁶ New employees, depending on their work location, may satisfy their training requirement in the following manner:

- New employees who work in Capitol Hill offices are required to attend a *live* training session. The schedule of upcoming new employee live ethics training sessions is available on the Committee Web site, <http://ethics.house.gov>.
- New employees who do not work in Capitol Hill offices may either attend a live training session *or* watch the "2015 New District Staff" training video online through the HouseConnect Web site. No other video satisfies the training requirement for new employees.⁷

New employees will *not* receive credit for attending or watching any training sessions other than those specifically designated "New Employee" or "New District Staff." New employees in Capitol Hill offices will not receive credit for completing online, rather than live, training. Note that new employees who are senior staff have an additional hour of training to complete, as explained more fully below under "Senior Staff Training."

Existing House Employees

"Existing" (*i.e.*, not new) House employees must complete one hour of training before the end of the calendar year. For 2015, this means all existing House employees must complete one hour of training by **December 31, 2015**. **There are no extensions to this deadline, for any reason.** In addition, employees who are senior staff may have an additional hour of training to complete, as explained more fully in the next section. Employees are responsible for knowing whether they are considered senior staff.

As a general matter, existing employees will fulfill their general ethics training requirement by completing an online session designated for general ethics training through the

⁶ Detailees, fellows, unpaid interns, and any individuals who are employed by the House and paid for less than 60 days are not required to attend ethics training in 2015. The Ethics Committee nonetheless encourages these individuals to complete ethics training so they become familiar with the House ethics rules while working in a House office or for a House committee.

HouseConnect Web site. The Ethics Committee will also offer some live training sessions that fulfill the general ethics training requirement. Note that attending a live training session for *new* employees does not satisfy the annual ethics requirement for *existing* House employees.

Senior Staff Training

All employees who are “senior staff”⁸ are required to take an additional hour of training at least once per Congress on issues primarily of concern to senior staff or supervisors. For the 114th Congress, this means all senior staff must complete one hour of training by **January 3, 2017**. This “senior staff” hour is required *in addition to* the one hour of general ethics training all officers and staff are required to complete annually. Senior staff employees may fulfill the requirement for an additional hour of senior staff training in one of two ways:

- 1) Completing an online senior staff training session through the HouseConnect Web site; or
- 2) Attending a live senior staff training session.

Briefings that satisfy the senior staff training requirement includes general sessions on issues of concern to senior staff, sessions on completing financial disclosure (FD) statements or Periodic Transaction Reports (PTRs), or sessions on the post-employment restrictions. However, employees may *not* complete more than one hour of senior staff training in lieu of completing their general ethics training requirement.

ONLINE REGISTRATION & CERTIFICATION PROCESS

For live ethics training

Employees who plan to attend any live training session ***must*** preregister at <https://registerme.house.gov> ***and*** sign in on the attendance form prior to the start of the training. Even if employees preregister, they must sign in and attend the full hour to fulfill their ethics training requirement. Attendees must arrive within five minutes of the start of the training to be able to sign the attendance sheet. **Any late arrivals who miss the sign-in period will not receive credit.** After their attendance, employees who have signed the attendance sheet and attended the full hour of training will receive email certificates, which they should preserve for their own records. The email certificates are confirmation for employees that they have satisfied the annual training and certification requirement. Any employee who has received this email confirmation statement has made the necessary certification to the Committee that they have completed their ethics training requirement.

The list of upcoming live training sessions for the remainder of 2015 is listed below and also available on the Ethics Committee Web site: <http://ethics.house.gov>. All scheduled training sessions – whether for new, existing, or senior staff – will be listed on the Committee calendar on an ongoing basis.

⁷ See footnote 3 for the definition of “senior staff.”

General Ethics Training	RHOB 2168	December 4, 2015, 2pm-3pm
New Employee Ethics Training	LHOB 1310	December 11, 2015, 2pm-3pm
Senior Staff Ethics Training	RHOB 2168	December 14, 2015, 2pm-3pm
General Ethics Training	RHOB 2168	December 18, 2015, 2pm-3pm

For online ethics training

Employees who want to complete ethics training online can access the training through the HouseConnect Web site: <https://houseconnect.house.gov>. Employees must complete the entire online training program to receive credit. You must use a House computer to access the HouseConnect Web site. Employees who do not have access to a House computer or do not have a House email account should contact the Ethics Committee to make alternate arrangements for completing their training.

After completing an online training program, the system will automatically log the employee as "complete." This information is automatically transmitted to the Ethics Committee. Thus, once the system labels an employee as "complete," the employee has satisfied the annual training and certification requirement. Employees will be able to check HouseConnect at any time to verify completion of their own annual ethics training requirement. The Ethics Committee does not have access to this information prior to the end of the calendar year and therefore cannot check your completion status for you with regard to online training.

To access your own record in HouseConnect, you should log in to your own account page in the HouseConnect Web site: <https://houseconnect.house.gov>. On your account page, the entry in the "Complete" column next to the particular training session read "True" if the session has been completed. (If the session has not been completed, the column will read "False.") Anyone needing to check whether they have completed an online training session can view and print their own screen for verification. Their name appears in the upper right corner of the screen.

FAILURE TO COMPLY WITH THE TRAINING REQUIREMENTS

Failure to satisfy the annual training requirement is a violation of House rules⁹ and may result in any of the specified disciplinary sanctions for House employees, informing employees' supervisors of their noncompliance, publication of noncompliant employees' names and employing offices, additional ethics training, or other actions the Committee deems appropriate.

* * * * *

⁸ See House Rule 11, clause 3(a)(6)(B)(ii).

Charles W. Dent, Pennsylvania
Chairman
Linda T. Sánchez, California
Ranking Member

Patrick Meehan, Pennsylvania
Trey Gowdy, South Carolina
Suzuki W. Brooks, Indiana
Kenny Marchant, Texas

Michael E. Capuano, Massachusetts
Yvette D. Clarke, New York
Ted Deutch, Florida
John B. Larson, Connecticut



ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

December 7, 2015

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MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Charles W. Dent, Chairman *CW*
Linda T. Sánchez, Ranking Member *LS*

SUBJECT: Holiday Guidance on the Gift Rule

The House gift rule applies to all Members, officers, and employees (Members and staff) at all times, even during the holiday season.¹ This memorandum does not announce new rules or guidance, but is simply a reminder of some of the restrictions of the gift rule and some of the more common questions that arise during the holiday season. This guidance does not cover every situation. As a result, if you are unsure about a particular situation, please contact the Committee staff at (202) 225-7103. In addition to the guidance below, a poetic take on the gift rule, that includes common gift exceptions, is included at the end of this memorandum.

Overview of the Gift Rule and Other Gift Statutes

Members and staff may not accept any gift, except as provided in the gift rule.² The rule defines the term "gift" broadly to include "a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value."³ The gift rule contains numerous exceptions permitting Members and staff to accept gifts. There are certain gifts that staff may accept without worry. For example, there are no restrictions on accepting gifts, including cash or cash equivalents, of any dollar value, from relatives.⁴ There are also no restrictions on accepting personal holiday gifts from House co-workers and supervisors.

¹ House Rule 25, cl. 5. Generally, gifts to a Member or employee's spouse, dependent child, or other family member are not subject to the gift rule unless there is reason to believe they are given because of the official position of the Member or employee and the Member or employee is aware of the gift. Even if a gift to a family member would be attributed to a Member or employee, a gift that falls within one of the specific exceptions to the rule may be accepted.

² House Rule 23, cl. 4 and House Rule 25, cl. 5.

³ House Rule 25, cl. 5(a)(2)(A).

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

Generally, Members and supervisors may not accept gifts from their subordinates.⁵ However, the Committee has provided for a common-sense exception for voluntary gifts extended on special occasions such as holidays.⁶ Accordingly, Members and supervisors may accept gifts from their subordinates that are customarily extended during the holiday season.

In certain circumstances, Members and staff must seek written permission before accepting a gift. Members and senior staff⁷ must also disclose the value of gifts received on their annual Financial Disclosure Statements in certain circumstances. These circumstances are explained more fully in the final section of this memorandum.

Although the gift rule defines what Members and staff may accept, it does not authorize them to ask for any gift. There is also a statutory gift provision, which prohibits Members and staff from asking for or accepting anything of value from anyone who seeks official action from the House, does business with the House, or has interests that may be substantially affected by the performance of official duties.⁸ The statutory provision also prohibits Members and staff from soliciting on behalf of other individuals or entities, other than political solicitations or certain solicitations for charity.

A brief description of some of the common gift rule exceptions applicable to the holiday season are listed below.

Parties and Receptions

During the holiday season, Members and staff may be invited as guests to parties or related events that are sponsored by individuals or organizations that have, or plan to have, business dealings before Congress. Provided the guidance below is followed, Members and staff may accept an invitation to the following:

- An event where the per person cost or ticket price (if sold) is **less than \$50**, provided:
 - 1) The invitation is not from a federally registered lobbyist, foreign agent, or private entity that retains or employs such individuals; and
 - 2) The total value of gifts or other invitations you accept from the host under this exception is less than \$100 for the calendar year. Any gift worth less than \$10 does not count towards the annual limitation.

⁵ 5 U.S.C. § 7351.

⁶ See *2008 House Ethics Manual* at 70.

⁷ House employees paid at or above \$121,956 for 60 days or more (two pay periods) during calendar year 2015 are considered senior staff and must file an annual Financial Disclosure Statement.

⁸ 5 U.S.C. § 7353.

Example: If an individual who is not a federally registered lobbyist invites you to a holiday dinner party and the cost of your meal before tax and tip is less than \$50, you may accept the meal under the “less than \$50 exception,” provided the aggregate value of all gifts and similar invitations you accept from the host does not exceed \$100 for the year.

- A non-business event, such as a holiday party, hosted by an individual, at the personal residence of that individual or the individual’s family, unless offered by a federally registered lobbyist or foreign agent.

Example: An individual who is not a federally registered lobbyist invites you to a holiday party at her personal residence to celebrate the holiday season. You may accept food and refreshments offered within the home under the **personal hospitality** exception.

- A **reception or open house**, provided that only food and refreshments of nominal value are offered other than as a part of a meal (*e.g.*, light appetizers and beverages, including alcoholic beverages). This exception **does not** include full meals (whether or not you stand to eat or use silverware) or luxury or expensive food items. This exception also assumes that you will not consume what is offered such that it becomes a full meal.

Example: A firm that is federally registered as a lobbying firm invites you to attend a holiday reception to be held in its offices. It will serve appetizers and drinks at the reception. Provided that the food and refreshments are of “nominal value” and offered “other than as part of a meal,” you may attend and accept these items.

- An event where invitations are offered to a group or class in which membership is **unrelated to House employment**.

Example: Your college alumni association is having a holiday party for its members. You may attend as an alumnus of the college.

- An event that is **open to the public or to all federal employees**.

Example: A local park is having a free holiday concert that is open to the public. You may attend as a member of the public.

- An event where invitations are offered because of the **outside business or activity of the invitees or their spouses**, provided the invitation:

- 1) was not offered or enhanced because of the individual’s House status; and
- 2) is customarily provided to others in similar circumstances.

Example: Your spouse's employer is having a holiday party and all employees may bring their spouses as guests. You may attend as your spouse's guest and receive the same food, refreshments, and entertainment that are provided to all attendees.

- A "widely attended event" provided:
 - 1) The event relates to the Members' or employees' official duties;
 - 2) The invitation comes from the event sponsor;
 - 3) The sponsor has a reasonable expectation that at least 25 non-congressional invitees will be in attendance; and
 - 4) The event is open to the public, or will be attended by a diverse group of individuals interested in a given topic.

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

- An event paid for by a **foreign government** valued at less than \$375 per person, per occasion. Under the Foreign Gifts and Decorations Act (FGDA), Members and staff may receive a gift item received as a souvenir or mark of courtesy.⁹ The Committee has interpreted this provision to allow Members and staff to accept meals and entertainment in the United States related to their official duties.

Example: A foreign embassy in Washington, D.C., is having a holiday dinner at a local D.C. restaurant to foster inter-country relations. The cost of your meal will be \$100. You may accept the dinner under the FGDA.

Other Holiday Gifts

In addition to the provisions discussed above, other gift rule exceptions may permit acceptance of holiday gifts. Provided the guidance below is followed, Members and staff may accept the following:

- Gifts (other than cash or cash equivalent) valued at **less than \$50**, provided:
 - 1) The gift is not from a federally registered lobbyist, foreign agent, or private entity that retains or employs such individuals; and

⁹ 5 U.S.C. § 7342.

- 2) The total value of gifts you accept from the donor under this exception is less than \$100 for the year.

Please note: Gift cards and gift certificates are considered “cash equivalent” and **may not** be accepted under this exception.

Example 1: If an individual who is not a federally registered lobbyist gives you a \$40 pen set during the holiday season, you may accept the gift under the “less than \$50 exception.” However, the aggregate value of all gifts you accept from the donor under this exception may not exceed \$100 for the year.

Example 2: If an organization that does not employ a federally registered lobbyist sends perishable food, such as a fruit basket, to a House office for all the staff, the gift is considered a gift to the individual recipients and not to the employing Member. Each staff member may accept items from the fruit basket having a value of less than \$50, provided that no recipient accepts more than \$100 of gifts in the aggregate from the organization during the year.

- A **baseball hat, T-shirt, or any item valued at less than \$10**, even if from a lobbyist. This exception does **not** include food items.

Example: A company that employs a federally registered lobbyist sends the office 10 T-shirts along with a letter stating that one is to be given to the Member and any staff member that would like to receive one. The Member and staff may each accept one of the T-shirts under this exception.

- Gifts based on **personal friendship**. Members and staff may, without seeking Committee approval, accept a gift based on personal friendship if the gift’s market value is \$250 or less.¹⁰ The following factors must be considered before accepting a gift under this exception:
 - 1) The history of the recipient’s relationship with the donor, including any previous exchange of gifts;
 - 2) Whether the donor personally paid for the gift, or whether the donor sought a tax deduction or business reimbursement for it; and
 - 3) Whether the donor gives the same or similar gifts to other Members or staff at the same time.

Example: Your former roommate, who is a real estate agent, offers you a \$100 ticket to a holiday play. The roommate personally paid for the ticket. You and the

¹⁰ You must seek Committee written approval before accepting a gift with a market value over \$250 under the personal friendship exception. Please see the section below regarding seeking written Committee approval for details on how to submit a request.

roommate have exchanged gifts throughout the years. The roommate does not contact you or your office on official matters. To the best of your knowledge, the roommate has not made a similar offer to other Members or staff. You may accept the ticket without seeking Committee approval.

- **Gifts from a foreign government** under the FGDA. As noted above, gifts valued at less than \$375 per person, per occasion, that are offered as a souvenir or mark of courtesy may be accepted.

Example: A French government official sends you a \$300 bottle of French champagne, on behalf of the French government. You may accept the champagne under the FGDA.

Handling Unacceptable Gifts

If Members or staff receive gifts that they may not accept under the gift rule, they may:

- Pay the donor the “fair market value”¹¹ and keep the gift;
- Return the gift to the donor; or
- For perishable items (*e.g.*, flowers or fresh food), donate the items to charity or destroy them. **You may not donate non-perishable items to charity in lieu of returning or paying for them.**

Please note: For tickets to events that do not have a printed cost on the ticket, the value of the ticket is the highest cost of a ticket available through the venue with a face value for that particular event.

Example: You are invited to sit in the premium box for a concert. The offer does not meet one of the gift exceptions, but you would still like to attend. Your ticket does not have a price on it, but the highest ticket price available through the venue for that particular concert is \$285. You must pay the donor \$285 in order to accept the ticket.

Some provisions of the gift rule require knowledge of the identity of the donor to assess whether the gift may be accepted. For example, the exceptions with respect to gifts worth less than \$50 and for those authorized by the FGDA require knowledge of the donor’s identity before accepting the gift since those provisions permit acceptance of gifts from donors who meet certain criteria. (Other gift rule exceptions, such as those that permit acceptance of nominal value gifts and informational materials, apply regardless of the identity of the donor, since they are not limited to certain types of donors.)

¹¹ Items are valued at market/retail, rather than wholesale, prices. For tickets, the fair market value is the cost printed on the ticket, regardless of whether the donor paid more or less. *See* House Rule 25, cl. 5(a)(3)(A); *2008 House Ethics Manual* at 73.

At times when a Member, officer, or employee is unexpectedly presented with a gift at an event, he or she may be uncertain whether it can be accepted under the gift rule. In that circumstance, the individual may receive the gift and wait until after the event to review the provisions of the gift rule and make a decision on the gift's acceptability.¹²

Prior Written Committee Approval Required

Members and staff must seek written Committee approval before accepting the following:

- A gift based on personal friendship with a market value over \$250. The Committee will only grant written approval for a personal friendship gift exceeding \$250 in value in response to a written request. The request should include: (1) the donor's identity and employment; (2) any interests the donor may have before Congress; (3) the history of the recipient's relationship with the donor, including any reciprocal gift giving; (4) a description and the market value of the gift; and (5) whether the donor will be paying for the gift personally and if a tax deduction will be taken.
- A gift that is not otherwise acceptable, but that the Member or staffer believes the Committee should permit them to accept. The Committee has "flexibility to allow the acceptance of gifts . . . in cases where there is no potential conflict of interest or appearance of impropriety."¹³ Thus, the House gift rule authorizes the Committee to grant a waiver to permit acceptance of a gift "in an unusual case." Members and staff must submit a written request for a gift waiver from the Committee prior to accepting such a gift. Any request should include, at a minimum, a description of the gift, including its market value, the identity of the donor, and a statement of the reasons believed to justify acceptance of the gift.

Financial Disclosure Requirements

Members and senior staff must disclose certain gifts valued over \$375 from a single source in a calendar year on Schedule G ("Gifts") of their annual Financial Disclosure Statements.¹⁴ This disclosure must include the source of such gifts and a brief description of the gifts. Any gift with a market value of less than \$150 need not be counted towards the \$375 disclosure threshold.

¹² If the return of a gift is impossible – e.g., if the identity of the donor is unknown – the recipient may "return" the item by donating it to charity or destroying it, or the recipient may keep the item by paying the fair market value to the U.S. Treasury.

¹³ See House Bipartisan Task Force on Ethics, *Report on H.R. 3660*, 101st Cong., 1st Sess. (Comm. Print, Comm. on Rules 1989), reprinted in 135 Cong. Rec. H9255 (daily ed. Nov. 21, 1989).

¹⁴ 5 U.S.C. app. § 102(a)(2).

Please note: Gifts from relatives, gifts of personal hospitality, tickets to widely attended events, and certain other gifts do not have to be reported on a Financial Disclosure Statement. In addition, gifts that are received by your spouse or children, independent of your House status, do not have to be disclosed. However, all other gifts that are over \$375 in value must be disclosed.

Example: Your spouse's college roommate gives your spouse a \$400 coat as a holiday present. You would not have to report this gift on your Financial Disclosure Statement if you believe that the gift was given regardless of your House employment.

Members and staff seeking a waiver of the reporting requirement must send a written request to the Committee. The written request and the Committee's response will be made publicly available.

If you have any questions, please contact the Committee's Advice and Education staff at (202) 225-7103.

THE HOUSE GIFT RULE – A RHYME FOR THE HOLIDAYS

*The holidays are coming, and all through the House, its people were stirring & beginning to grouse.
That they needed reminders if gifts came their way, because within Ethics rules they wanted to stay.*

*So let's start with the basics, federal statutes and such, that apply to employees and Members as much.
There's no soliciting for gifts – it's simply not done, you may not ask for gifts, not even in fun.*

*And no rule requires you to accept any gift; you may decline without causing a rift.
Or you may pay for that gift using fair market cost, and be within the rules so you shouldn't feel lost.*

*The House gift rule, House Rule Twenty-Five, is also important so into it let's dive.
It says that "gifts" are a term that is broad, as gifts could be discounts, favors, or something quite odd.*

*The rule requires an exception before accepting a gift; so read on and common exceptions we'll list.
For example, an exception permits your relatives to give gifts without limit – go ahead – nothing to forgive.*

*Gifts from dear friends worth less than \$250? Perhaps. It depends on the friendship and running the traps.
What's that, a thank you gift for an official act? This must be refused unless nominal in fact.*

*Gifts worth less than 50 dollars really aren't scary, unless there's a lobbyist, then please be wary.
Please refuse that gift card or cash sent your way, because gifts such as this are never okay.*

*A government gift has us not seeing red, provided it comes from a state, local, or fed.
Gifts from foreign governments are limited as thus – to less than \$375 or there could be a fuss.*

*Receptions are gifts but are permitted if they aren't a meal, and aren't pricey, then they are okay.
What if the event's political, held by an IRC 527(e)? If invited directly, you can attend for free.*

*You may be invited to events widely attended, but your duties must be related or the invite's upended.
So too if the invitation came indirectly to you, or less than 25 non-Hill attendees will be there, too.*

*How 'bout a fundraising gala for a 501(c)(3)? Sponsor sent the invite? Then attend with glee.
Member to Member gifts are also permitted if sent, but staffer to Member require that special event.*

*So, too, if an outside employer decides, to you or your spouse a gift to provide.
This is permitted so long as you and the rest, get the same gift – no special treatment's the test.*

*There are other exceptions that possibly apply, so don't feel distraught or ready to cry.
We know the rules and the statutes can be a bit hairy, which is why we're sending this memo so merry.*

*We'll end now and leave you with hopes that you'll call, our Committee with questions even if small.
For we're here to help you, most every day, and say to you sincerely, have a good holiday!*

Charles W. Dent, Pennsylvania
Chairman
Linda T. Sánchez, California
Ranking Member

Patrick Meehan, Pennsylvania
Trey Gowdy, South Carolina
Susan W. Brooks, Indiana
Kenny Marchant, Texas

Michael E. Capuano, Massachusetts
Yvette D. Clarke, New York
Ted Deutch, Florida
John B. Larson, Connecticut



ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

January 5, 2016

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MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: *JD* Committee on Ethics
Charles W. Dent, Chairman
TS Linda T. Sánchez, Ranking Member

SUBJECT: The 2016 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees

A House employee's salary level may trigger certain public disclosure requirements and employment restrictions, including the:

1. Requirement to file financial disclosure (FD) statements, including Periodic Transaction Reports (PTRs);¹
2. Restrictions on outside employment;
3. Disclosure of negotiations for private employment and recusal requirements; and
4. Post-employment restrictions.

This memorandum provides details on the current triggering salary figures for CY 2016 for each of the categories noted above, and summarizes them in a table on page 5 of this Memorandum.

¹ For detail on the PTR requirement, see the Committee's August 17, 2012, advisory memorandum "Periodic Reporting of Personal Financial Transactions Pursuant to the STOCK Act, as amended," which is available on the Committee Web site (ethics.house.gov), under the links for Reports/General Advisories. Note that the STOCK Act may require the filing of PTRs as often as once per month for Members and any staff who are paid at the senior staff rate on the first day of the 2016 pay cycle (January 3, 2016). Staff who rise to the senior staff rate for more than 60 days later in the year will also be subject to the requirement for the remainder of the calendar year.

FINANCIAL DISCLOSURE

House officers and employees whose “rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule” for at least 60 days at any time during a calendar year are required to file FD statements, provided that the officer or employee “performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year.”² The GS-15, step 1, basic pay rate for CY 2016 is \$102,646. The applicable 120% calculation for that rate is therefore **\$123,175**, or a monthly salary above \$10,265. This rate is referred to as the “senior staff rate.”

As a result, House officers and employees whose basic rate of pay is equal to or greater than the senior staff rate (\$123,175) for at least **60 days**³ during **2016** must file an FD statement on or before May 15, 2017.⁴ In addition, any new employee paid at the senior staff rate must file a “new employee” FD statement within 30 days of assuming employment with the House.⁵ Finally, any staff who are paid at the senior staff rate on January 3, 2016 (or their first day of employment, if later in the year) must file reports (PTRs) on an ongoing basis throughout the year regarding certain financial transactions. See footnote 1 of this Memorandum for more information on the PTR requirement.

Please note that the requirement to file an FD statement covering calendar year 2015 applies to officers and employees whose basic rate of pay for at least 60 days in **2015** was **\$121,956** or more (a monthly salary at or above \$10,163). Annual FD statements covering CY 2015 are due on Monday, May 16, 2016, for those individuals who continue to be Members, officers, or employees of the House on that date.⁶

In addition, House Members, officers, and employees paid at or above the senior staff rate for 60 days or more in a calendar year who terminate their House employment during that calendar year are required to file an FD statement within 30 days of their termination.⁷

² Ethics in Government Act (EIGA) §§ 109(13) and 101(d), 5 U.S.C. app. §§ 109(13) and 101(d) (hereinafter all citations to the EIGA will be to the appropriate federal code citation). In addition, all House Members are required to file FD statements. 5 U.S.C. app. §§ 101(e) and (f).

³ The House payroll department operates on a 30-day payroll cycle, meaning that each monthly pay period, regardless of its actual length, is counted as 30 days. Thus, a change to an employee’s base rate of pay in any two months during the calendar year (even non-consecutive months) may trigger the requirement to file a Financial Disclosure Statement. This is true even if the pay change affects only part of a month.

⁴ 5 U.S.C. app. §§ 101(c) and 109(f).

⁵ See 5 U.S.C. app. § 101(a). The only exception to this filing requirement is for new employees who assume employment with the House within 30 days of leaving a position with the federal government in which they filed a publicly-available financial disclosure statement. Individuals who are exempt from filing under these circumstances must notify the Clerk of the House of that fact in writing by letter or through the e-filing system for filing financial disclosure statements.

⁶ FD statements are due May 15 annually. In the event that May 15 or other filing deadline fall on a weekend or a holiday, the filing deadline shall be on the next business day.

⁷ See 5 U.S.C. app. § 101(e). The only exception is for filers who, within 30 days of their termination from the House, accept a position with the federal government that requires the filing of a publicly-available financial disclosure statement. Departing employees who are exempt from filing under these circumstances must notify the Clerk of that fact in writing by letter or through the e-filing system for filing financial disclosure statements.

**THE OUTSIDE EARNED INCOME LIMIT
AND OUTSIDE EMPLOYMENT RESTRICTIONS**

House officers and employees whose rate of basic pay is equal to or greater than the senior staff rate for **more than 90 days** are subject to limits on the amount of outside earned income⁸ attributable to each calendar year.⁹ As noted above, the senior staff rate for CY 2016 is **\$123,175**, or a monthly salary above \$10,265.

The limit on outside earned income attributable to a calendar year is 15% of the rate of basic pay for Executive Schedule Level II in effect on January 1 of the year. As of January 1, 2016, the rate of basic pay for Executive Level II is \$183,300. Accordingly, the outside earned income limit for House Members, officers, and employees paid at or above the senior staff rate for CY 2016 is **\$27,495**.¹⁰ Members, officers, and House employees paid at or above the senior staff rate for more than 90 days are also subject to a number of specific limitations on the types of outside employment.¹¹ Detailed information regarding these limitations may be found on pages 213 to 238 of the *2008 House Ethics Manual*, which is available on the Committee's Web site (ethics.house.gov). The Committee's Office of Advice and Education (extension 5-7103) is available to explain these limitations further.

DISCLOSURE OF EMPLOYMENT NEGOTIATIONS AND RECUSALS

House Members, officers, and employees paid at the senior staff rate must notify the Committee within three (3) business days after they commence any negotiation or agreement for future employment with a private entity.¹² In addition, House Members, officers, and senior staff must recuse themselves from "any matter in which there is a conflict of interest or an appearance of a conflict" with the private entity with which they are negotiating or have an agreement for future employment or compensation, and they must notify the Ethics Committee in writing of such recusal.¹³ As noted above, the senior staff rate for CY 2016 is **\$123,175**, or a monthly salary above \$10,265.

⁸ The term "outside earned income" means any "wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered" by a House Member, officer, or employee. House Rule 25, cl. 4(d)(1). It does not include, among other things, the individual's salary from the House, nor does it include income for services rendered before the individual was employed by the House. *Id.* at cls. 4(d)(1)(A), (B).

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

¹⁰ This amount is proportionally reduced when an individual becomes a Member, officer, or senior employee during the calendar year. For example, an individual who is hired into a senior staff position on July 1 has an outside earned limit that is one-half of the full amount, or \$13,613. *See* 5 U.S.C. app. § 501(a)(2); House Rule 25, cl. 1(b).

¹¹ *See* 5 U.S.C. app. § 502(a); House Rule 25, cls. 1-4.

¹² House Rule 27, cl. 2; Stop Trading on Congressional Knowledge Act, Pub. L. No. 112-105 (Apr. 4, 2012) (hereinafter STOCK Act) § 17.

¹³ House Rule 27, cl. 4; STOCK Act § 17.

Information on the disclosure and recusal requirements related to seeking private employment applicable to Members, officers, and senior staff is available in two Committee advisory memoranda, one for Members and officers and one for staff. Copies of both memoranda, which are dated December 19, 2014, are available on the Committee's Web site (ethics.house.gov) under "Reports/General Advisories," and forms for making the notifications regarding job negotiations or recusal are available under "Forms/Post-Employment."

POST-EMPLOYMENT RESTRICTIONS

House Members and officers, as well as certain other House employees, are subject to post-employment restrictions on lobbying.¹⁴ 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. This amount is referred to as the "very senior staff rate."

The basic rate of pay for Members in 2016 will remain \$174,000.¹⁵ Therefore, the post-employment threshold for employees who depart from a job in a Member, committee, or leadership office in CY 2016 remains **\$130,500**, or a monthly salary of \$10,875 or more. However, the triggering salary for employees of other House or legislative branch offices (such as the CBO, GAO, GPO, Capitol Police, Library of Congress, Clerk, Parliamentarian, Office of Legal Counsel, and Chief Administrative Officer) is Executive Schedule Level IV. For 2016, that salary has increased to **\$160,300**, or a monthly salary above \$13,358.

Information on the post-employment restrictions applicable to Members, officers, and very senior staff is available in the two Committee advisory memoranda referenced in the previous section.

* * * * *

See page 5 for a table summarizing the information contained in this memorandum.

¹⁴ 18 U.S.C. § 207.

¹⁵ Section 9 of Division Q of the Consolidated Appropriations Act, 2016 Pub. L. No. 114-113 (Dec. 18, 2015), prohibited a scheduled cost-of-living pay raise for Members. As a result, Member pay will remain at \$174,000 for 2016.

CALENDAR YEAR 2016

Item	2016 Amount
Outside earned income & outside employment threshold - Outside employment fiduciary restrictions if paid at rate for more than 90 days during 2016	\$123,175 (\$10,265/mo)
Outside earned income limit	\$27,495
Financial Disclosure/PTR threshold - Annual FD required in May 2017 if paid at rate for 60 days or more in CY 2016 - PTRs required during CY 2016 if: - Paid at rate on first day of calendar year or first day of House employment (if later); <i>or</i> - Paid at rate for any two pay periods during CY 2016 (e.g., if get bonus or pay raise during calendar year), subject to PTR requirement for remainder of year	\$123,175 (\$10,265/mo)
Written disclosure of job negotiations and recusals required	\$123,175 (\$10,265/mo)
Post-Employment threshold for employees of Member, committee, or leadership offices	\$130,500 (\$10,875/mo)
Post-Employment threshold for employees of "other legislative offices" (see p. 4)	\$160,300 \$13,358

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Linda T. Sánchez, California
Ranking Member

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ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

April 15, 2016

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MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Charles W. Dent, Chairman 
Linda T. Sánchez, Ranking Member

SUBJECT: Upcoming Financial Disclosure Clinics & Training

The Committee on Ethics will offer four Financial Disclosure Clinics in April in advance of the upcoming May 16, 2016, due date for the filing of all annual Public Financial Disclosure Statements (FD Statements). In addition, the Committee will hold two Senior Staff Trainings before the May 16 deadline.¹

In addition to the Clinics and Trainings, the Committee's nonpartisan staff is available to review forms in advance of filing for House Members, Officers, and employees. Employees, however, must submit their forms to the Committee for prescreening no later than Monday, May 2, 2016, to ensure that the prescreening is completed by the filing deadline. You may fax your prescreen requests to (202) 225-3713 or e-mail it to financial.disclosure@mail.house.gov.

Financial Disclosure Clinics give filers a chance to work closely with financial disclosure staff to address individual filers' questions. Financial Disclosure Clinics also serve to help filers use the electronic filing system to input and submit Statements and Periodic Transaction Reports.

Senior staff training provides additional ethics guidance to staff who are required to file Statements pursuant to the Ethics in Government Act (EIGA). Attendance at Senior Staff Training will satisfy either the annual ethics training requirement or the requirement that senior staff complete an additional hour of specialized training per Congress. **Please note that participation in the Clinics will not satisfy any House-mandated training requirements.**

The date, time, and location for each Clinic are included below. Committee staff will be available for the entire time for each Clinic, but attendees are welcome to walk in at any time,

¹ May 15, 2016, falls on a Sunday. As a result, the annual filing deadline for Calendar Year (CY) 2015 FD Statements is Monday, May 16, 2016. The deadline will be May 15 again in 2017.

and may stay for as long as they need. You can find this and additional information about financial disclosure requirements on the Committee's Web site at <https://ethics.house.gov>.

Date	Time	Location
Friday, April 15, 2016	11:00am – 12:30pm	B249 Longworth HOB, Rooms B & C
Thursday, April 21, 2016	11:00am – 12:30pm	B249 Longworth HOB, Rooms B & C
Monday, April 25, 2016	10:00am – 11:30am	B249 Longworth HOB, Rooms B & C
Friday, April 29, 2016	11:00am – 12:30pm	B249 Longworth HOB, Room C

Members, officers, and employees are invited to attend these Clinics. We recommend that interested participants pre-register for the Clinics as space is limited.

To register:

1. Visit <https://registerme.house.gov>
2. Click on "Ethics," then "All Staff"
3. Add desired Financial Disclosure Clinic
4. Select "Register" on the left of the page
5. Login and Submit

In addition to the Clinics, the Committee will offer senior staff training that *will* satisfy either the annual ethics training requirement or the additional hour of training required for senior staff for the 114th Congress (staff must choose one or the other). This training will cover general information about the requirement to file Financial Disclosure and Periodic Transaction Reports. These trainings will take place on the following dates, at the listed times, and in the listed locations:

Date	Time	Location
Friday, April 15, 2016	2:00pm – 3:00pm	1310 Longworth
Thursday, April 21, 2016	2:00pm – 3:00pm	HVC-215, Capitol

In order to receive credit for this training, senior staff are *required to pre-register* by following the same directions as above and adding the desired Financial Disclosure Training in step three.

The Committee strongly recommends that filers use the electronic filing system to make all filings, but will provide assistance to both paper filers and electronic filers. Filers (and designated third-party preparers) can log onto the system at <https://fd.house.gov>. You can also download a blank copy of the paper form on the Committee's Web site at <https://ethics.house.gov>. If you need to make a filing, but did not receive login information, or if you have lost your temporary password, please contact the Legislative Resource Center at (202) 226-5200 for assistance.

* * *

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

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ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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May 13, 2016

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Charles W. Dent, Chairman
Linda T. Sánchez, Ranking Member

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

The purpose of this advisory memorandum is to remind Members about the provision of the House rules 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 the 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.²

Under this provision, a Member may not “participate in an event honoring that Member” if the event takes places 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.³

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 House Rule 25, cl. 8.

³ The term “participate” is not defined in the underlying Act of 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.

Members are prohibited from participating in an event where the Member is named, including through the use of any personal title,⁴ as an honoree (including as a “special guest”) in any invitations, promotional materials, or publicity for the event. A Member is also prohibited from participating in an event if the Member were to receive, through the Member’s participation in the event, some special benefit or opportunity that would not be available to some or all of the other participants, such as if the sponsor offers 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 prevent registered federal lobbyists from directly paying for a party to honor a *specific* Member.⁵ Thus, an event that is organized to honor a convention delegation, House committee, or caucus, without naming any specific Member of the delegation, committee, or caucus, or providing any special benefit or opportunity to a particular Member, would be an event that Members may participate in under the rule – provided that, as discussed below, attendance at the event otherwise would be in compliance with the House gift rule.⁶ There is no numerical minimum, or maximum, on the size of the delegation or caucus invited to or participating in such an 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 registered federal lobbyist or a private entity that retains or employs registered federal lobbyists. The fact that a private organization received some of its funding to hold or sponsor an event taking place during a national convention from a registered federal lobbyist or a private entity that retains or employs registered federal 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 during which the national convention is held.⁷

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 House gift rule. This rule limits Members’ participation in certain events, even if the Members purchase their own tickets. An offer of free

⁴ A Member’s personal titles include Congressman/Congresswoman, Representative, and Member of Congress, as well as any role in House leadership, or service as chair or ranking member of a full committee.

⁵ See 153 Cong. Rec. E1759 (daily ed. Aug. 4, 2007) (statement of Rep. John Conyers, Jr.) (“This provision will have the effect of preventing lobbyists or an entity employing such lobbyists from directly paying for a party to honor a specific Member.”).

⁶ House Rule 25, cl. 5.

⁷ As of the date of this memorandum, the restricted dates are July 18 to 21, 2016, for the Republican convention, and July 25 to 28, 2016, for the Democratic convention. Although these are the currently scheduled dates, these dates are subject to change and the restricted dates will be the actual dates of the conventions.

attendance for an event in which Members may otherwise participate is only an acceptable gift if it satisfies all of the criteria for an exception to the gift rule, for example, a reception, a widely attended event, a charity event, or a fundraising or campaign event sponsored by a political organization, or meeting. As it has in previous Presidential election years, the Committee will be reissuing guidance that addresses the rules and standards relating to gifts received in connection with the national political conventions.

* * * * *

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

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ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

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June 10, 2016

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MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Charles W. Dent, Chairman ^{wd}
Linda T. Sánchez, Ranking Member ^{ls}

SUBJECT: Gift Rules Applicable to National Political Conventions

With the time for the 2016 Presidential nominating conventions approaching, we believe it would be helpful to provide you with a summary of the key provisions of the House gift rule (House Rule 25, clause 5) that apply in the context of the conventions. Any questions on how these provisions apply to a specific proposed event or other gift should be directed to the Committee.

Note that the advice contained in this memorandum should be read in conjunction with the guidance provided in the Committee's general advisory memorandum of May 13, 2016, entitled "Member Participation in Certain Events Taking Place During a National Political Convention," addressing events held in honor of a Member and sponsored by a lobbyist or entity that employs lobbyists. While that memorandum addressed a particular rule applicable only to national political conventions, this memorandum summarizes the general rules that are always applicable, and places them in the context of the national political conventions.

* * *

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, gifts that *may* be accepted in connection with the conventions include the following.

1. Any gift paid for by the host *cities of Cleveland or Philadelphia*, 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 designated by the donor, 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 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, as applied by the Committee, Members and staff may accept such gifts provided in connection with the convention from the Democratic National Committee (DNC) or Republican National Committee (RNC) or the Democratic or Republican Convention Committee, as well as from the convention host committees for Cleveland and Philadelphia.¹ In addition, travel expenses to the convention may be accepted from a state or local party organization, or a Member may use the Member’s 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 consult with the FEC regarding their attendance at non-federal political fundraising events.

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

5. Staff and Members 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.

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 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 the general public, or the non-congressional attendees represent a wide range of individuals interested in a given matter; **and** (d) the Member’s or staff person’s attendance is connected to the performance of their official duties. This provision generally does not allow free attendance at events

¹ However, the same caveat noted at item 1 with regard to gifts earmarked for distribution to Members or staff applies as well with regard to any such gifts received from 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 (FEC) has issued advisory opinions that address circumstances in which a Member may use campaign funds to pay for the convention-related travel expenses of the Member’s spouse or child, or those of a congressional staff member. Please note, however, that a congressional employee may attend a convention only on the individual’s own time, not on official time. FEC staff should be consulted directly with regard to use of campaign funds to pay the convention-related travel expenses of these other individuals. The FEC’s congressional liaison office may be reached at (202) 694-1006.

such as shows or sporting events. In addition, events that are political in nature or are fundraising events for any entity generally are deemed not to be connected to official duties for purposes of the gift rule.

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 an entity that employs or retains such individuals. Each Member or staff person has a cap of less than \$100 in gifts from any one source during the calendar year under this exception. *Members and staff must be especially cautious about accepting invitations to sporting events, shows, recreational activities, or small group or one-on-one meals.* Unless acceptable under one of the gift rule provisions noted above, attendance likely will be permissible only if the market value of the gift is worth less than \$50. For the purposes of valuing tickets to an event, the gift rule provides that a ticket to a sporting or entertainment event is “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.” If individually priced tickets for a particular event are not made available for sale to the public, please contact the Committee for advice on the value of tickets.

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

10. This guidance is limited to the acceptance of gifts. Members and senior staff may need to disclose the acceptance of gifts on their financial disclosure statements.³ However, tickets to widely attended events and political events are not required to be disclosed.

* * *

If you have any questions regarding this guidance, or would like further explanation of the gift rule, please feel free to contact the Committee’s Office of Advice and Education at (202) 225-7103.

³ In 2016, staff are considered to be “senior staff” for financial disclosure purposes if they are paid at or above the annual rate of \$123,175 for 60 days or more during the calendar year.

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ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

September 20, 2016

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MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Charles W. Dent, Chairman 
Linda T. Sánchez, Ranking Member 

SUBJECT: Reminder about Annual Ethics Training Requirements for 2016

This memorandum is a reminder to all offices to encourage staff to complete their 2016 training requirement. The Committee on Ethics is required to provide annual ethics training to each Member, Delegate, Resident Commissioner, officer, and employee of the House.¹ Existing House officers and employees are required to take one hour of general ethics training each calendar year. New House Members and employees must complete a training session specifically designated for new Members and employees *within 60 days of commencing House employment*.² In addition, the Committee requires all senior staff³ – whether new or existing employees – to take an additional hour of specialized training at least once per Congress.⁴

By January 31 of each year, all House employees must certify to the Ethics Committee that they have completed ethics training during the preceding calendar year.⁵ Employees who pre-register for and sign the attendance sheet at a live training *or* fully complete one of the online training options available through HouseConnect will have made their necessary certification to the Committee. The following are the ethics training requirements for 2016, as well as the details of how to complete the registration and/or certification process for both live and online ethics training programs.

¹ House Rule 11, clause 3(a)(6)(A). The Committee defines an “officer or employee” as an individual appointed to position of employment in the U.S. House of Representatives by an authorized employing authority who is receiving a salary disbursed by the Chief Administrative Officer or is on a leave without pay or furlough status.

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

³ “Senior staff” for training purposes are employees who are paid at the “senior staff annual salary rate” for at least 60 days in either (or both) calendar years of a Congress. For 2016, the senior staff annual salary rate is \$123,175, or a monthly pay rate at or above \$10,265. Please note that the senior staff annual salary rate is subject to change in 2017.

⁴ The 114th Congress ends on January 3, 2017.

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

2016 ETHICS TRAINING REQUIREMENTS

“New” House Employees

All new Members and new employees must complete ethics training within 60 days of beginning House employment. A “new” Member for the purposes of the 2016 training requirement is an individual who was *first* sworn in on after January 6, 2015. A “new” House employee for purposes of the 2016 training requirement is an individual who first began employment with the House on or after January 4, 2016. Any former House employee who returns to House employment after a gap of more than 60 consecutive calendar days is considered to be a “new” employee. Interns paid by the House for more than 60 days also must comply with this requirement.⁶ New employees, depending on their work location, may satisfy their training requirement in the following manner:

- New employees who work in Capitol Hill offices are required to attend a *live* training session. The schedule of upcoming new employee live ethics training sessions is available on the Committee Web site, <http://ethics.house.gov>.
- New employees who do not work in Capitol Hill offices may either attend a live training session *or* watch the “2016 New District Staff” training video online through the HouseConnect Web site. No other video satisfies the training requirement for new employees.⁷

New employees will *not* receive credit for attending or watching any training sessions other than those specifically designated “New Employee” or “New District Staff.” New employees in Capitol Hill offices will not receive credit for completing online, rather than live, training. Note that new employees who are senior staff have an additional hour of training to complete, as explained more fully below under “Senior Staff Training.”

Existing House Employees

“Existing” (*i.e.*, not new) House employees must complete one hour of training before the end of the calendar year. For 2016, this means all existing House employees must complete one hour of training by **December 31, 2016**. **There are no extensions to this deadline, for any reason.** In addition, employees who are senior staff may have an additional hour of training to complete, as explained more fully in the next section. Employees are responsible for knowing whether they are considered senior staff.

As a general matter, existing employees will fulfill their general ethics training requirement by completing an online session designated for general ethics training through the HouseConnect Web site. The Ethics Committee will also offer some live training sessions that

⁶ Detailees, fellows, unpaid interns, and any individuals who are employed by the House and paid for less than 60 days are not required to attend ethics training in 2016. The Ethics Committee nonetheless encourages these individuals to complete ethics training so they become familiar with the House ethics rules while working in a House office or for a House committee.

fulfill the general ethics training requirement. Note that attending a live training session for *new* employees does not satisfy the annual ethics requirement for *existing* House employees.

Senior Staff Training

All employees who are “senior staff”⁸ are required to take an additional hour of training at least once per Congress on issues primarily of concern to senior staff or supervisors. For the 114th Congress, this means all senior staff must complete one hour of training by **January 3, 2017**. This “senior staff” hour is required *in addition to* the one hour of general ethics training all officers and staff are required to complete annually. Senior staff employees may fulfill the requirement for an additional hour by attending a live senior staff training session or completing an online senior staff training session through the HouseConnect Web site.

Briefings that satisfy the senior staff training requirement includes general sessions on issues of concern to senior staff, sessions on completing financial disclosure (FD) statements or Periodic Transaction Reports (PTRs), or sessions on the post-employment restrictions. However, employees may *not* complete more than one hour of senior staff training in lieu of completing their general ethics training requirement.

ONLINE REGISTRATION & CERTIFICATION PROCESS

For live ethics training

Employees who plan to attend any live training session **must** preregister at <https://registerme.house.gov> **and** sign in on the attendance form prior to the start of the training. Even if employees preregister, they must sign in and attend the full hour to fulfill their ethics training requirement. Attendees must arrive within five minutes of the start of the training to be able to sign the attendance sheet. **Any late arrivals who miss the sign-in period will not receive credit.** After their attendance, employees who have signed the attendance sheet and attended the full hour of training will receive email certificates, which they should preserve for their own records. The email certificates are confirmation for employees that they have satisfied the annual training and certification requirement. Any employee who has received this email confirmation statement has made the necessary certification to the Committee that they have completed their ethics training requirement.

The list of upcoming live training sessions for the remainder of 2016 is listed below and also available on the Ethics Committee Web site: <http://ethics.house.gov>. All scheduled training sessions – whether for new, existing, or senior staff – will be listed on the Committee calendar on an ongoing basis.

⁷ See *supra* note 3.

General Ethics Training	HVC-215	September 30, 2016, 11am-12pm October 28, 2016, 11am-12pm November 4, 2016, 11am-12pm December 2, 2016, 11am-12pm
New Employee Ethics Training	HVC-215	October 11, 2016, 11am-12pm November 29, 2016, 11am-12pm December 16, 2016, 11am-12pm
Senior Staff Ethics Training	RHOB 2168	November 15, 2016, 2pm-3pm December 9, 2016, 11am-12pm

For online ethics training

Employees who want to complete ethics training online can access the training through the HouseConnect Web site: <https://houseconnect.house.gov>. Employees must complete the entire online training program to receive credit. You must use a House computer to access the HouseConnect Web site. Employees who do not have access to a House computer or do not have a House email account should contact the Ethics Committee to make alternate arrangements for completing their training.

After completing an online training program, the system will automatically log the employee as "complete." This information is automatically transmitted to the Ethics Committee. Thus, once the system labels an employee as "complete," the employee has satisfied the annual training and certification requirement. Employees will be able to check HouseConnect at any time to verify completion of their own annual ethics training requirement. The Ethics Committee does not have access to this information prior to the end of the calendar year and therefore cannot check your completion status for you with regard to online training.

To access your own record in HouseConnect, you should log in to your own account page in the HouseConnect Web site: <https://houseconnect.house.gov>. On your account page, the entry in the "Complete" column next to the particular training session read "True" if the session has been completed. (If the session has not been completed, the column will read "False.") Anyone needing to check whether they have completed an online training session can view and print their own screen for verification. Their name appears in the upper right corner of the screen.

FAILURE TO COMPLY WITH THE TRAINING REQUIREMENTS

Failure to satisfy the annual training requirement is a violation of House rules⁹ and may result in any of the specified disciplinary sanctions for House employees, informing employees' supervisors of their noncompliance, publication of noncompliant employees' names and employing offices, additional ethics training, or other actions the Committee deems appropriate.

⁸ See House Rule 11, clause 3(a)(6)(B)(ii).

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

* * * * *

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ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

November 29, 2016

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

FROM: Committee on Ethics,
Charles W. Dent, ~~Chairman~~
Linda T. Sánchez, ~~Ranking Member~~

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

This memorandum summarizes the ethics rules relating to two subjects: (1) the receptions that Members may wish to hold in connection with their swearing-in 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. Members – especially Members elected to the House for the first time – may wish to host a reception or similar event for their constituents 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.

It is generally *not* permissible for a lobbying firm or other private entity to pay the costs of a reception or other event hosted by a Member in connection with the Member's swearing-in or Inauguration Day. Such arrangements are *not* permissible, as the payment of the costs of the Member's event would constitute an impermissible gift to the Member under the House gift rule (House Rule 25, clause 5). However, as discussed further below, a private entity may host its own event in honor of a Member or group of Members, subject to certain limitations.

Attendance at Privately-Sponsored Events. Offers of free attendance at swearing-in or Inaugural-related events sponsored by private entities 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. For example, it is common for state societies and other private organizations to sponsor events in conjunction with a presidential inauguration. 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 deciding whether attendance at an event would be appropriate to the individual’s official duties, one must also bear in mind the legislative history of the gift rule, which states that an event may not be merely for the personal pleasure or entertainment of the Member or staff person. For example, a Member who represents State A (or a House employee who works for such a Member) may determine that attendance at an inaugural event hosted by a state society associated with State A is connected to his or her official duties, but not an event hosted by a similar state society associated with State B.

In addition, Members and staff are generally free to attend any reception, *i.e.*, an event at which the food served is limited to moderate hors d’oeuvres, beverages, and similar items and does not constitute a meal. The gift rule also allows a Member, officer, or employee to accept a gift, including free attendance at an event, having a value of less than \$50, provided that the source of the gift is not a registered federal lobbyist, foreign agent, or private entity that retains or employs such individuals. The cumulative value of gifts that may be accepted from any one source in a calendar year under this exception must be less than \$100, and no gifts of cash or cash equivalent are permitted.

A third-party may wish to sponsor a swearing-in reception in honor of a Member. As long as the identity of the sponsor is made clear to all participants (e.g. on the invitations), an event nominally “in honor of” a Member or group of Members is not generally considered a gift in itself to the honoree(s).² However, the Members being recognized should not identify themselves as hosts or receive any particular benefit from the event. Furthermore, it would *not* be permissible for a Member, officer, or employee to solicit another individual or group to hold a reception or event in his or her honor, or to solicit support for such an event. Members and staff may have no involvement in the organizing, planning, or conducting the event, including providing the sponsor with a guest list. As stated above, whether Members and staff may attend such a reception will depend on if their attendance is permissible under the House gift rule.

¹ The Committee on Ethics has determined that an event is “widely attended” if (a) there is a reasonable expectation that 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. Individuals who are officials of other branches or levels of government count toward the required minimum of 25, but spouses and others who accompany the congressional Members and staff do not count toward the required minimum. See *2008 House Ethics Manual at 41-42*.

² See *House Ethics Manual (2008)* at 76-77.

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

* * *

Please note that the Committee's guidance is subject to change if the 115th Congress adopts changes to the ethics rules. Members and staff with questions on the matters addressed above should contact the Committee after the 115th 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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ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

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December 5, 2016

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Charles W. Dent, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Guidance on House Staff Assisting in the Presidential Transition

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.

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."¹ 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."² Moreover, appropriated funds may be used only for the purposes for which they were appropriated.³ Congressional funds, therefore, may not be used to pay any personal, political, or campaign-related expenses.⁴ The Ethics Committee has

¹ House Rule 23, clause 8.

² House Rule 10, clause 9(b)(1).

³ 31 U.S.C. § 1301(a).

⁴ See *Comm. on House Admin., Members' Congressional Handbook* at 1-2.

construed post-election transition work (*i.e.*, work performed after the new Administration has been officially recognized by the U.S. Government Services Administration (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 Reimbursed 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 (PTA), as amended, provides in pertinent part:

[A]ny 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.⁵

The legislative history of the 1976 amendments to the PTA 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."⁶

⁵ 3 U.S.C. § 102 note.

⁶ S. Rep. No. 94-1322, 94th Cong., 2d Sess., at 1 (1976) (emphasis added).

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 Without Pay (LWOP) to assist the transition.⁷ House employees who assist the transition under this alternative would be responsible to the transition rather than to their employing Members for work performed for the transition. 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 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 \$34,160 during calendar year 2016.⁸ 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 \$34,160 for the calendar year.

In addition, House employees who are considered “senior staff”⁹ and are compensated by the transition team may be subject to a limit on the cumulative amount of income they may receive from an outside source in a calendar year. Currently, the outside earned income limit for senior staff is \$27,495. Further, outside employment restrictions define certain activities for which senior staff may not receive any compensation whatsoever. The restrictions prohibit senior staff from, among other things, (1) receiving compensation for practicing any profession that involves a fiduciary relationship, including, for example, law or accounting, and (2) serving for compensation as an officer or director of any entity. Accordingly, senior staff, as defined above, may not receive any compensation for either providing legal or accounting services to the transition in their personal capacities.

⁷ 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.

⁸ 5 U.S.C. § 5533(c)(1).

⁹ Senior staff are subject to the outside earned income limit are those employees whose rate of basic pay is equal to or greater than \$123,175 annually, or \$10,265 per month for any 90 day period.

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. Under any of these scenarios, House employees working on the transition would remain subject to all House rules, including the House gift rule, during their service to the transition.

Finally, House employees who may wish to participate in the transition and their employing Members should be aware that federal law will require the transition to make a public report of the names and most recent employment of all transition personnel (whether full-time, part-time, public, private, or volunteer) and the sources of funding which support the transition activities of each team member.¹⁰

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.

¹⁰ 3 U.S.C. § 102 note; PTA, § 6(b).

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MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Charles W. Dent, Chairman
Linda T. Sánchez, Ranking Member

SUBJECT: Holiday Guidance on the Gift Rule

The House gift rule applies to all Members, officers, and employees (Members and staff) at all times, even during the holiday season.¹ This memorandum does not announce new rules or guidance, but is simply a reminder of some of the restrictions of the gift rule and some of the more common questions that arise during the holiday season. This guidance does not cover every situation. As a result, if you are unsure about a particular situation, please contact the Committee staff at (202) 225-7103. In addition to the guidance below, a poetic take on the gift rule, that includes common gift exceptions, is included at the end of this memorandum.

Overview of the Gift Rule and Other Gift Statutes

Members and staff may not accept any gift, except as provided in the gift rule.² The rule defines the term "gift" broadly to include "a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value."³ The gift rule contains numerous exceptions permitting Members and staff to accept gifts. There are certain gifts that staff may accept without worry. For example, there are no restrictions on accepting gifts, including cash or cash equivalents, of any dollar value, from relatives.⁴ There are also no restrictions on accepting personal holiday gifts from House co-workers and supervisors.

¹ House Rule 25, cl. 5. Generally, gifts to a Member or employee's spouse, dependent child, or other family member are not subject to the gift rule unless there is reason to believe they are given because of the official position of the Member or employee and the Member or employee is aware of the gift. Even if a gift to a family member would be attributed to a Member or employee, a gift that falls within one of the specific exceptions to the rule may be accepted.

² House Rule 23, cl. 4 and House Rule 25, cl. 5.

³ House Rule 25, cl. 5(a)(2)(A).

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

Generally, Members and supervisors may not accept gifts from their subordinates, and employees may not give gifts to their superiors.⁵ However, the Committee has provided for a common-sense exception for voluntary gifts extended on special occasions such as holidays.⁶ Accordingly, Members and supervisors may accept gifts from their subordinates that are customarily extended during the holiday season, and employees may give such gifts.

In certain circumstances, Members and staff must seek and receive written permission from the Committee on Ethics before accepting a gift. Members, senior staff, and other staff who are financial disclosure filers must also disclose the value of gifts received on their annual Financial Disclosure Statements in certain circumstances. These circumstances are explained more fully in the final two sections of this memorandum.

Although the gift rule defines what Members and staff may accept, it does not authorize them to ask for any gift. There is also a statutory gift provision, which prohibits Members and staff from asking for or accepting anything of value from anyone who seeks official action from the House, does business with the House, or has interests that may be substantially affected by the performance of official duties.⁷ The statute also prohibits Members and staff from soliciting on behalf of other individuals or entities, other than political solicitations or certain solicitations for charity.

A brief description of some of the common gift rule exceptions applicable to the holiday season are listed below.

Parties and Receptions

During the holiday season, Members and staff may be invited as guests to parties or related events that are sponsored by individuals or organizations that have, or plan to have, business dealings before Congress. Provided the guidance below is followed, Members and staff may accept an invitation to the following:

- An event where the per person cost or ticket price (if sold) is **less than \$50**, provided:
 - 1) The invitation is not from a federally registered lobbyist, foreign agent, or private entity that retains or employs such individuals; and
 - 2) The total value of gifts or other invitations you accept from the host under this exception is less than \$100 for the calendar year. Any gift worth less than \$10 does not count towards the annual limitation.

Example: If an individual who is not a federally registered lobbyist invites you to a holiday dinner party and the cost of your meal before tax and tip is less than

⁵ 5 U.S.C. § 7351.

⁶ See *2008 House Ethics Manual* at 70.

⁷ 5 U.S.C. § 7353.

\$50, you may accept the meal under the “less than \$50 exception,” provided the aggregate value of all gifts and similar invitations you accept from the host does not exceed \$100 for the year.

- A non-business event, such as a holiday party, hosted by an individual, at the personal residence of that individual or the individual’s family, unless offered by a federally registered lobbyist or foreign agent.

Example: An individual who is not a federally registered lobbyist invites you to a holiday party at her personal residence to celebrate the holiday season. You may accept food and refreshments offered within the home under the **personal hospitality** exception.

- A **reception or open house**, provided that only food and refreshments of nominal value are offered other than as a part of a meal (*e.g.*, light appetizers and beverages, including alcoholic beverages). This exception **does not** include full meals (whether or not you stand to eat or use silverware) or luxury or expensive food items. This exception also assumes that you will not consume what is offered such that it becomes a full meal.

Example: A firm that is federally registered as a lobbying firm invites you to attend a holiday reception to be held in its offices. It will serve appetizers and drinks at the reception. Provided that the food and refreshments are of “nominal value” and offered “other than as part of a meal,” you may attend and accept these items.

- An event where invitations are offered to a group or class in which membership is **unrelated to House employment**.

Example: Your college alumni association is having a holiday party for its members. You may attend as an alumnus of the college.

- An event that is **open to the public or to all federal employees**.

Example: A local park is having a free holiday concert that is open to the public. You may attend as a member of the public.

- An event where invitations are offered because of the **outside business or activity of the invitees or their spouses**, provided the invitation:

- 1) was not offered or enhanced because of the individual’s House status; and
- 2) is customarily provided to others in similar circumstances.

Example: Your spouse’s employer is having a holiday party and all employees may bring their spouses as guests. You may attend as your spouse’s guest and

receive the same food, refreshments, and entertainment that are provided to all attendees.

- A **“widely attended event”** provided:
 - 1) The event relates to the Members’ or employees’ official duties;
 - 2) The invitation comes from the event sponsor;
 - 3) The sponsor has a reasonable expectation that at least 25 non-congressional invitees will be in attendance; and
 - 4) The event is open to the public, or will be attended by a diverse group of individuals interested in a given topic.

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

- An event paid for by a **foreign government** valued at less than \$375 per person, per occasion. Under the Foreign Gifts and Decorations Act (FGDA), Members and staff may receive a gift item received as a souvenir or mark of courtesy.⁸ The Committee has interpreted this provision to allow Members and staff to accept meals and entertainment in the United States related to their official duties.

Example: A foreign embassy in Washington, D.C., is having a holiday dinner at a local D.C. restaurant to foster inter-country relations. The cost of your meal will be \$100. You may accept the dinner under the FGDA.

Other Holiday Gifts

In addition to the provisions discussed above, other gift rule exceptions may permit acceptance of holiday gifts. Provided the guidance below is followed, Members and staff **may accept** the following:

- Gifts (other than cash or cash equivalent) valued at **less than \$50**, provided:
 - 1) The gift is not from a federally registered lobbyist, foreign agent, or private entity that retains or employs such individuals; and
 - 2) The total value of gifts you accept from the donor under this exception is less than \$100 for the year.

Please note: Gift cards and gift certificates are considered “cash equivalent” and **may not** be accepted under this exception.

⁸ 5 U.S.C. § 7342.

Example 1: If an individual who is not a federally registered lobbyist gives you a \$40 pen set during the holiday season, you may accept the gift under the “less than \$50 exception.” However, the aggregate value of all gifts you accept from the donor under this exception may not exceed \$100 for the year.

Example 2: If an organization that does not employ a federally registered lobbyist sends perishable food, such as a fruit basket, to a House office for all the staff, the gift is considered a gift to the individual recipients and not to the employing Member. Each staff member may accept items from the fruit basket having a value of less than \$50, provided that no recipient accepts more than \$100 of gifts in the aggregate from the organization during the year.

- A **baseball hat, T-shirt, or any item valued at less than \$10**, even if from a lobbyist. This exception does **not** include food items.

Example: A company that employs a federally registered lobbyist sends the office 10 T-shirts along with a letter stating that one is to be given to the Member and any staff member that would like to receive one. The Member and staff may each accept one of the T-shirts under this exception.

- Gifts based on **personal friendship**. Members and staff may, without seeking Committee approval, accept a gift based on personal friendship if the gift’s market value is \$250 or less.⁹ The following factors must be considered before accepting a gift under this exception:
 - 1) The history of the recipient’s relationship with the donor, including any previous exchange of gifts;
 - 2) Whether the donor personally paid for the gift, or whether the donor sought a tax deduction or business reimbursement for it; and
 - 3) Whether the donor gives the same or similar gifts to other Members or staff at the same time.

Example: Your former roommate, who is a real estate agent, offers you a \$100 ticket to a holiday play. The roommate personally paid for the ticket. You and the roommate have exchanged gifts throughout the years. The roommate does not contact you or your office on official matters. To the best of your knowledge, the roommate has not made a similar offer to other Members or staff. You may accept the ticket without seeking Committee approval.

⁹ You must seek Committee written approval before accepting a gift with a market value over \$250 under the personal friendship exception. Please see the section below regarding seeking written Committee approval for details on how to submit a request.

- **Gifts from a foreign government** under the FGDA. As noted above, gifts valued at less than \$375 per person, per occasion, that are offered as a souvenir or mark of courtesy may be accepted.

Example: A French government official sends you a \$300 bottle of French champagne, on behalf of the French government. You may accept the champagne under the FGDA.

Handling Unacceptable Gifts

If Members or staff receive gifts that they may not accept under the gift rule, they may:

- Pay the donor the “fair market value”¹⁰ and keep the gift;
- Return the gift to the donor; or
- For perishable items (*e.g.*, flowers or fresh food), donate the items to charity or destroy them. **You may not donate non-perishable items to charity in lieu of returning or paying for them.**
- If the return of a gift is impossible (*e.g.*, if the identity of the donor is unknown) the recipient may “return” the item by donating it to charity or destroying it, or the recipient may keep the item by paying the fair market value to the U.S. Treasury. Please check with the Ethics Committee if you have any questions about whether return of a particular gift is impossible.

Please note: For tickets to events that do not have a printed cost on the ticket, the value of the ticket is the highest cost of a ticket available through the venue with a face value for that particular event.

Example: You are invited to sit in the premium box for a concert. The offer does not meet one of the gift exceptions, but you would still like to attend. Your ticket does not have a price on it, but the highest ticket price available through the venue for that particular concert is \$285. You must pay the donor \$285 in order to accept the ticket.

Some provisions of the gift rule require knowledge of the identity of the donor to assess whether the gift may be accepted. For example, the exceptions with respect to gifts worth less than \$50 and for those authorized by the FGDA require knowledge of the donor’s identity before accepting the gift since those provisions permit acceptance of gifts from donors who meet certain criteria. (Other gift rule exceptions, such as those that permit acceptance of nominal value gifts

¹⁰ Items are valued at market/retail, rather than wholesale, prices. For tickets, the fair market value is the cost printed on the ticket, regardless of whether the donor paid more or less. See House Rule 25, cl. 5(a)(3)(A); 2008 House Ethics Manual at 73.

and informational materials, apply regardless of the identity of the donor, since they are not limited to certain types of donors.)

At times when a Member, officer, or employee is unexpectedly presented with a gift at an event, he or she may be uncertain whether it can be accepted under the gift rule. In that circumstance, the individual may receive the gift and wait until after the event to review the provisions of the gift rule and make a decision on the gift's acceptability.

Prior Written Committee Approval Required

Members and staff must seek and receive written approval from the Committee on Ethics before accepting the following:

- A gift based on personal friendship with a market value over \$250. The Committee will only grant written approval for a personal friendship gift exceeding \$250 in value in response to a written request. The request should include: (1) the donor's identity and employment; (2) any interests the donor may have before Congress; (3) the history of the recipient's relationship with the donor, including any reciprocal gift giving; (4) a description and the market value of the gift; and (5) whether the donor will be paying for the gift personally and if a tax deduction will be taken.
- A gift that is not otherwise acceptable, but that the Member or staffer believes the Committee should permit them to accept. The Committee has "flexibility to allow the acceptance of gifts . . . in cases where there is no potential conflict of interest or appearance of impropriety."¹¹ Thus, the House gift rule authorizes the Committee to grant a waiver to permit acceptance of a gift "in an unusual case." Members and staff must submit a written request for a gift waiver from the Committee prior to accepting such a gift. Any request should include, at a minimum, a description of the gift, including its market value, the identity of the donor, and a statement of the reasons believed to justify acceptance of the gift.

Financial Disclosure Requirements

Members and financial disclosure filers¹² must disclose certain gifts valued over \$375 from a single source in a calendar year on Schedule G ("Gifts") of their annual Financial

¹¹ See House Bipartisan Task Force on Ethics, *Report on H.R. 3660*, 101st Cong., 1st Sess. (Comm. Print, Comm. on Rules 1989), reprinted in 135 Cong. Rec. H9255 (daily ed. Nov. 21, 1989).

¹² 5 U.S.C. app. § 102(a)(2)(B). House staff may be subject to financial disclosure filing requirements for a number of reasons, including 1) they are paid at or above the annual senior staff rate (\$123,175 for 2016, subject to change in future calendar years) for 60 days or more during the calendar year, even if on a temporary basis; 2) they are designated as a "principal assistant" for financial disclosure filing purposes by their employing Member; and 3) they are a shared employee of three or more offices, regardless of their rate of pay. Please contact the Committee if you have further questions about financial disclosure.

Disclosure Statements.¹³ This disclosure must include the source of such gifts and a brief description of the gifts. Any gift with a market value of less than \$150 need not be counted towards the \$375 disclosure threshold.

Please note: Gifts from relatives, gifts of personal hospitality, tickets to widely attended events, and certain other gifts do not have to be reported on a Financial Disclosure Statement. In addition, gifts that are received by your spouse or children, independent of your House status, do not have to be disclosed. However, all other gifts that are over \$375 in value must be disclosed.

Example: Your spouse's college roommate gives your spouse a \$400 coat as a holiday present. You would not have to report this gift on your Financial Disclosure Statement if you believe that the gift was given regardless of your House employment.

Members and staff seeking a waiver of the reporting requirement must send a written request to the Committee. The written request and the Committee's response will be made publicly available.

If you have any questions, please contact the Committee's Advice and Education staff at (202) 225-7103.

¹³ 5 U.S.C. app. § 102(a)(2).

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December 22, 2016

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Charles W. Dent, *Chairman*
Linda T. Sánchez, *Ranking Member*

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

The purpose of this memorandum is to remind you about issues of concern to House Members¹ and officers² who are negotiating for future employment or departing from employment with the House of Representatives.³ The matters discussed here include negotiations for future employment, post-employment restrictions, financial disclosure requirements (Termination Reports), and outside employment and earned income restrictions.⁴ Although this memorandum will be of particular interest to departing Members, current Members should also familiarize themselves with these restrictions, particularly the criminal restrictions on post-employment communications. Current Members and staff are reminded that they may not assist in the violation of these restrictions.

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

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

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

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

In addition, the Committee would like to take this opportunity to note one statutory provision that applies to **all House Members and staff**. House Members and staff may not use confidential information obtained by means of personal and substantial participation in ongoing trade or treaty negotiations for one year prior to leaving House employment in the course of representing, aiding, or advising anyone other than the United States regarding those ongoing negotiations.⁵ As with other provisions of this statute, this prohibition lasts for one year after departure from the House payroll.⁶

NEGOTIATING FOR FUTURE EMPLOYMENT

In the past, the Committee's general guidance on job negotiations has been that House Members and employees are free to pursue future employment while still employed by the House, subject to certain ethical constraints. This memorandum provides more detailed guidance on the issues presented by such negotiations, as well as mandatory disclosure obligations such negotiations may trigger.

The general guidance applicable to any Member who wishes to engage in negotiations for future employment is as follows. First and foremost, it would be improper for a Member to permit the prospect of future employment to influence the official actions of the Member.⁷ Some Members may determine to use an agent (*e.g.*, a "headhunter") to solicit job offers on their behalf in order to avoid any appearance of improper activity. Regardless of whether job negotiations are undertaken personally or through an agent, the following generally-applicable principles must be observed.

The term "negotiation" is not defined in the relevant statute or House rule. In its past guidance, the Committee has given deference to court decisions interpreting a related federal criminal statute that bars Executive Branch employees from participating in matters affecting the financial interests of an entity with which the employee is "negotiating or has any arrangement" concerning future employment.⁸ Those decisions found that the term "negotiation" should be construed broadly.⁹ However, these decisions make a distinction between "negotiations," which trigger the rule, and "[p]reliminary or exploratory talks," which do not.¹⁰ The term

⁵ 18 U.S.C. § 207(b). For purposes of this provision, the term "trade negotiation" means "negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made" and the term "treaty" means "an international agreement made by the President that requires the advice and consent of the Senate." *Id.* at § 207(b)(2).

⁶ *Id.*

⁷ See House Rule 23, cl. 3; Code of Ethics for Government Service ¶¶ 5, 6, reprinted in *2008 House Ethics Manual* at 355.

⁸ 18 U.S.C. § 208.

⁹ See, *e.g.*, *United States v. Schaltenbrand*, 930 F.2d 1554, 1559 (11th Cir. 1991); *United States v. Conlon*, 628 F.2d 150, 155 (D.C. Cir. 1980).

¹⁰ *Schaltenbrand*, 930 F.2d at 1558-59.

“negotiations” connotes “a communication between two parties with a view toward reaching an agreement” and in which there is “active interest on both sides.”¹¹ 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.¹² The Code of Ethics for Government Service forbids anyone in government service from accepting “favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance” of governmental duties.¹³ 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.¹⁴ Although bribery necessarily entails a *quid pro quo* arrangement, the same statute also bans seeking or accepting “illegal gratuities” — *i.e.*, anything given because of, or in reward for, a future or past official act, whether or not the official action would be, or would have been, taken absent the reward.¹⁵

In light of these restrictions, Members should be particularly careful in negotiating for future employment, especially when negotiating with anyone who could be substantially affected by the Member’s performance of official duties.¹⁶ It may be prudent for the Member to have an exchange of correspondence with any serious negotiating partner, stipulating that the prospective employer will receive no official favors in connection with the job negotiations. Because Members will be subject to the post-employment restrictions, which are addressed later in this memorandum, they may also wish to establish in correspondence with any prospective employer that the future employer understands that (1) it will receive no official favors as a result of the job negotiations, and (2) the Member is subject to post-employment restrictions, which should be briefly outlined.¹⁷ Departing Members who are lawyers should consult their local bar associations concerning the application of rules governing their involvement in matters in which

¹¹ *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.

¹² House Rule 23, cl. 3.

¹³ Code of Ethics for Government Service ¶ 5, *reprinted in 2008 House Ethics Manual* at 355.

¹⁴ 18 U.S.C. § 201(b)(2)(A).

¹⁵ *Id.* § 201(c)(1)(B).

¹⁶ *See* Code of Ethics for Government Service ¶ 5, *reprinted in 2008 House Ethics Manual* at 355.

¹⁷ *See* 18 U.S.C. § 207. These restrictions are explained in detail later in this memorandum. Briefly, House Members may not contact any Member, officer, or employee of the House or Senate on official business for one year after leaving office, nor may they assist any foreign government or foreign political party in seeking to influence a decision of any federal official during that year. House officers may neither contact the individual’s former congressional office on official business for one year after leaving House employment, nor assist any foreign entity, *i.e.* a foreign government or foreign political party, in seeking to influence a decision of any federal official during that year.

they participated personally and substantially during their time with the House.¹⁸ In addition, as addressed in the next section of this memorandum, Members must disclose employment negotiations in writing to the Ethics Committee.

Provided that Members conduct themselves in accordance with the considerations discussed above, they may engage in negotiations for employment in the same manner as any other job applicant. Discussions may specifically address salary, duties, benefits, and other terms.

DISCLOSURE OF EMPLOYMENT NEGOTIATIONS AND RECUSAL REQUIREMENTS

Members must notify the Committee within three (3) business days after they commence any negotiation or agreement for future employment or compensation with a *private* entity.¹⁹ As stated above, the term “negotiation” is not defined in the relevant statute or House rule. 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 to reaching an agreement” and in which there is “discussion and active interest on both sides.”²⁰

In addition, Members must recuse themselves from “any matter in which there is a conflict of interest or an appearance of a conflict” with the private entity with which they are negotiating or have an agreement for future employment or compensation, and they must notify the Ethics Committee in writing of such recusal.²¹ Members who recuse themselves also must, at that time, file their negotiation notification with the Clerk in the Legislative Resource Center (B-135 Cannon House Office Building) for public disclosure.²²

The Committee has issued forms, available on the Committee Web site (ethics.house.gov), to be used for these notification requirements. When notifying the Committee of negotiations or agreements for future employment or compensation, Members and officers should complete and sign an employment negotiation form, formally titled the “Notification of Negotiations or Agreement for Future Employment.” The original, completed form must be submitted to the Committee, but all filers should keep a copy of their submission, as explained below.

¹⁸ 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. (OGE Web site at <https://www.oge.gov>).

¹⁹ House Rule 27, cl. 1; Stop Trading on Congressional Knowledge Act, Pub. L. No. 112-105 (Apr. 4, 2012) (hereinafter STOCK Act) § 17.

²⁰ See *Hedges*, 912 F.2d at 1403 n.2.

²¹ House Rule 27, cl. 4.

²² *Id.* House Rule 27 does not require House employees to file their notice of negotiation with the Clerk.

There is a separate form for notifying the Committee of recusal, titled the “Statement of Recusal.” All Members and officers who recuse themselves from official matters pursuant to House Rule 27 must complete and submit the original 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. As noted above, the requirement to make a simultaneous filing with the Clerk of the corresponding job negotiation form applies only to Members and not to House officers or employees.

The terms “conflict” and “appearance of conflict” are not defined in the rule. The Committee has stated that a “conflict of interest becomes problematic when a Member uses his position to enhance his personal financial interests or his personal financial interests impair his judgment in conducting his public duties.”²³ Members should also avoid situations that might be viewed as presenting even a risk that the Member might be improperly influenced by personal financial interests.²⁴

Among the “official matters” covered by the recusal provision discussed above is abstention from voting, or affirmatively taking official actions, on matters that would affect an outside party with whom the Member is negotiating, or from whom the Member has accepted employment. This inquiry has traditionally been governed solely by House Rule 3, which states that abstention from voting on the House floor is not warranted unless the Member has “a direct personal or pecuniary interest in” the matter.²⁵ Longstanding House precedent interpreted this rule to mean that Members may vote on any matter that affects them merely as part of a large class of individuals or entities rather than with particularity.²⁶ Thus, for example, Members who

²³ House Comm. on Standards of Official Conduct, *In the Matter of Representative Sam Graves*, H. Rep. No. 111-320, 111th Cong., 1st Sess. 16 (2009); *see also* House Bipartisan Task Force on Ethics, *Report on H.R. 3660*, 101st Cong., 1st Sess. (Comm. Print, Comm. on Rules 1989), *reprinted in* 135 Cong. Rec. H9253 at H9259 (daily ed. Nov. 21, 1989) (“A conflict of interest is generally defined as a situation in which an official’s private financial interests conflict or appear to conflict with the public interest.”); House Rule 23, cl. 3 (“A Member . . . may not receive compensation and may not permit compensation to accrue to the beneficial interest of such individual from any source, the receipt of which would occur by virtue of influence improperly exerted from the position of such individual in Congress.”).

²⁴ *See Federal Conflict of Interest Legislation*, Staff Report to Subcomm. No. 5 of the Comm. on the Judiciary, 85th Cong., 2d Sess. 1 (Comm. Print 1958) (“Within reasonable limits, also, the importance of public confidence in the integrity of the Federal service justifies the requirement that the Federal employee shall avoid the appearance of evil, as well as evil itself.”); Code of Ethics for Government Service ¶ 5, *reprinted in 2008 House Ethics Manual* at 355 (“Any person in government service should . . . never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.”); *see also* House Rule 23, cl. 2 (“A Member . . . shall adhere to the spirit and letter of the Rules of the House . . .”).

²⁵ House Rule 3, cl. 1.

²⁶ *See* 5 Asher C. Hinds, *Hinds’ Precedents of the House of Representatives* § 5952 at 503-04 (1907) (hereinafter *Hinds’ Precedents*); *see also* Thomas J. Wickham, Jr., *Parliamentarian, Constitution, Jefferson’s Manual, and Rules of the House of Representatives, One Hundred Fourteenth Congress*, H. Doc. 113-181, 113th Cong., 2d Sess. (2015), § 673 (hereinafter *House Rules and Manual*).

were veterans were permitted to vote on military pay and pensions, which affected them only as members of a class of thousands of individuals who held or had held similar positions.²⁷ 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.²⁸

However, as described above, a House rule now also imposes a requirement that Members who are negotiating for future employment “shall recuse” themselves “from any matter in which there is a conflict of interest or an appearance of a conflict for that Member.”²⁹ 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 House Rule 27. Members are strongly encouraged to abstain from voting on legislation that provides a benefit targeted to any entity with which the Member is negotiating or from which the Member has accepted future employment. Members likewise are discouraged from sponsoring legislation or earmarks for such an entity. In addition, House Rule 23, clause 17 requires that Members who request an earmark certify to the chairman and ranking member of the committee of jurisdiction that the Member and the Member’s spouse have “no financial interest” in the earmark.³⁰ Any earmark benefitting an entity with which a Member is negotiating or has accepted future employment could be deemed to provide a financial interest to the Member under this provision.

BENEFITS OFFERED BY PROSPECTIVE EMPLOYERS DURING JOB NEGOTIATIONS

Members may accept “[f]ood, refreshments, lodging, transportation, and other benefits . . . customarily provided by a prospective employer in connection with bona fide employment discussions.”³¹ Thus, subject to the limitations set out in the rule, a Member may accept travel expenses from an entity with which the Member is interviewing for a position and to meet prospective colleagues. Such travel is *not* subject to the requirement for prior, written approval from the Committee that applies to privately-funded travel undertaken as part of one’s House duties. However, travel expenses that exceed \$375 from any one source must be disclosed on Schedule H (“Travel Payments and Reimbursements”) of the termination financial disclosure

²⁷ See *Hinds’ Precedents* § 5952, at 503-04; see also *2008 House Ethics Manual* at 234-35.

²⁸ See *Hinds’ Precedents* §§ 5950, 5952 at 502-04; see also *House Rules and Manual* § 672.

²⁹ House Rule 27, cl. 4.

³⁰ House Rule 23, cl. 17.

³¹ House Rule 25, cl. 5(a)(3)(G)(ii).

statement required of departing Members.³² In addition, any agreement for future employment also must be disclosed on Schedule F (“Agreements”) of that statement.³³

POST-EMPLOYMENT RESTRICTIONS

Since 1989, legislative branch officials, including certain employees, have been subject to restrictions on their post-House employment under the Ethics Reform Act.³⁴ These limitations are part of the federal criminal code, and they apply to Members and officers of the House,³⁵ as well as to employees of House Member, committee, and leadership offices who are paid at least 75% of a Member’s salary, inclusive of any federal civil service or military annuity.³⁶ For these covered individuals, the law establishes a one-year “cooling-off period” measured from the date of the individual’s departure from the House payroll.³⁷ For Members who are not re-elected to the House, this date will be January 3 of the year following the election (not the date of adjournment *sine die*),³⁸ 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 Department of Justice (DOJ), rather than by the Ethics Committee, and Committee interpretations of the statute are not binding on DOJ.

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,**³⁹ or current employees of any other legislative office,⁴⁰ with the intent to influence, on behalf of any other person, the official actions

³² 5 U.S.C. app. § 102(a)(2)(B).

³³ *Id.* § 109(a)(7)(A).

³⁴ 18 U.S.C. § 207 (e), (f).

³⁵ *Id.* § 207(e)(1).

³⁶ *Id.* § 207(e)(7).

³⁷ *Id.* § 207(e).

³⁸ See U.S. Const. amend. XX, § 2 (establishing the start of the congressional session at noon on January 3).

³⁹ 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*.

⁴⁰ “[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

or decisions of such Member, officer, or employee.⁴¹ 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 entity, i.e. 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.⁴²
- × **Knowingly aid or advise a foreign entity, i.e. 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.⁴³
- × **Use confidential information obtained by means of personal and substantial participation in ongoing 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 ongoing negotiations.⁴⁴

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

Technology Assessment, Congressional Budget Office, and Capitol Police. The term also includes any other House legislative branch office not covered by the other provisions of the statute, such as the Clerk, Parliamentarian, Office of General Counsel, and Chief Administrative Officer. See 18 U.S.C. § 207(e)(9)(G).

⁴¹ 18 U.S.C. § 207(e)(1).

⁴² *Id.* §§ 207(f)(1)(A) and (i)(1)(B). Section § 207 restricts activities with respect to a “foreign entity,” which is defined as either the “government of a foreign country” or a “foreign political party” as those terms are, in turn, defined in the Foreign Agents Registration Act (22 U.S.C. § 611(e), (f)). See *id.* § 207(f)(3). A U.S. Office of Legal Counsel (OLC) opinion of August 13, 2008, concluded that a foreign corporation is to be considered a foreign entity for purposes of 18 U.S.C. § 207(f) if it “exercises sovereign authority or functions de jure (i.e. by formal delegation) or de facto.” See OLC Memorandum Opinion, *Application of 18 U.S.C. § 207(f) to a Former Senior Employee* (available on the OLC Web site at <https://www.justice.gov/sites/default/files/olc/opinions/attachments/2015/06/23/op-olc-v032-p0115.pdf>). See OLC Memorandum Opinion, *Application of 18 U.S.C. § 207(f) to a Former Senior Employee* (available on the OLC Web site at <https://www.justice.gov/sites/default/files/olc/opinions/attachments/2015/06/23/op-olc-v032-p0115.pdf>). See also U.S. OGE, LA-16-08: *Introduction to the Primary Post-Government Employment Restrictions Applicable to Former Executive Branch Employees*, at 10 (September 23, 2016) (available on the OGE Web site at [https://www.oge.gov/web/oge.nsf/All%20Documents/3741DC247191C8B88525803B0052BD7E/\\$FILE/LA-16-08.pdf?open](https://www.oge.gov/web/oge.nsf/All%20Documents/3741DC247191C8B88525803B0052BD7E/$FILE/LA-16-08.pdf?open)). Also pertinent to these provisions of the statute is an OLC opinion of June 22, 2004, which concludes that 18 U.S.C. § 207(f) covers representational contacts with Members of Congress. See OLC Memorandum Opinion, *Application of 18 U.S.C. § 207(f) to a Former Senior Employee* (available on the OLC Web site at www.justice.gov/sites/default/files/olc/opinions/2004/06/31/op-olc-v028-p0097_0.pdf).

⁴³ 18 U.S.C. § 207(f)(1)(B).

⁴⁴ *Id.* § 207(b).

which the DOJ has defined those terms.⁴⁵ A DOJ opinion defines “communication” as “the act of imparting or transmitting information with the intent that the information be attributed to the former official.”⁴⁶

Further, an advisory memorandum issued by the U.S. Office of Government Ethics (OGE) for Executive Branch employees states, “[a]n ‘appearance’ extends to a former employee’s mere physical presence at a proceeding when the circumstances make it clear that his attendance is intended to influence the United States.”⁴⁷ 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.⁴⁸ While OGE guidance is merely persuasive, rather than binding, on Committee interpretations of the statute, this Committee endeavors when possible to interpret the statute in a manner consistent with OGE practice.

In addition to the one-year “cooling-off period” restrictions set out above, Members should further be aware of a permanent federal statutory restriction that prohibits any U.S. citizen acting without authority of the United States from:

- × Directly or indirectly **commencing or carrying on any correspondence or intercourse with any foreign government**, or any officer or agent thereof, with the intent to influence the measures or conduct of any foreign government or of any officer or agent thereof in relation to any disputes or controversies with the United States, or to defeat the measures of the United States.⁴⁹

⁴⁵ 18 U.S.C. § 207. The provisions of 18 U.S.C. § 207 should not be confused with those of the Lobbying Disclosure Act (2 U.S.C. §§ 1601 *et seq.*) (LDA). In other words, merely because a particular activity does not constitute “lobbying” for purposes of that Act does not mean that the activity is permissible under 18 U.S.C. § 207.

⁴⁶ OLC, “*Communications*” under 18 U.S.C. § 207 at 3 (Jan. 19, 2001) (available on the OLC Web site at http://www.justice.gov/sites/default/files/olc/opinions/2001/01/31/op-olc-v025-p0059_0.pdf). In that opinion, the OLC provides the following illustrative examples: “A high-ranking official who aggressively publicizes the fact that he is leaving an agency to start a one-man consulting firm, then submits a report to the agency shortly thereafter under the name of that firm, almost certainly intends that the report will be attributed to him. Similarly, a former official who is not introduced by name, but participates on a conference call with his former agency colleagues, almost certainly intends that his colleagues will recognize his voice.” *Id.*

⁴⁷ *Introduction to the Primary Post-Government Employment Restrictions Applicable to Former Executive Branch Employees*, note 42 above, at 3.

⁴⁸ 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 DOJ and OGE. However, as noted above, 18 U.S.C. § 207 is a criminal statute, and Committee interpretations of it are not binding on DOJ (*but see* note 73, below).

⁴⁹ 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*

Permissible Activity

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

- ✓ **Aid or advise clients** (other than foreign entities, i.e. 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.⁵⁰ 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.⁵¹
- ✓ **Contact Executive Branch** officials with the intent to influence official action so long as not representing a foreign entity, i.e. a foreign government or foreign political party.⁵²
- ✓ **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.⁵³

Procedures, Korean Influence Investigation, 95th Cong., 1st Sess. 18-19 (Comm. Print 1977). Members should be aware, however, that the law remains part of the criminal code.

⁵⁰ Former Members who are lawyers may have additional restrictions, as explained above in note 16.

⁵¹ 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 (with the exception of the provision that applies to all former employees relating to ongoing trade or treaty negotiations). This construction is consistent with regulations promulgated by OGE, interpreting a comparable prohibition that applies to Executive Branch personnel. *See* 5 C.F.R. § 2637.201(b)(3), (6). This matter is also addressed in the 2001 OLC opinion that is cited in note 46 above, including with regard to activities that do not constitute permissible “behind-the-scenes” activities.

⁵² Former Members who are representing a tribal government as an employee of the tribe or as an officer or employee of the United States assigned to a tribe have an additional restriction on contacts with the Executive Branch and certain other entities. Such individuals must first notify the head of the department, agency, court, or commission being contacted of “any personal and substantial involvement” they had in the matter while a Member. *See* 25 U.S.C. § 5323(j) (formerly 25 U.S.C. § 450i(j)); 18 U.S.C. § 207(j)(1)(B).

⁵³ 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 DOJ. *See generally* 22 U.S.C. §§ 611 *et seq.*; U.S. Dep’t of Justice (DOJ), “FARA FAQ” (available on the DOJ Web site, www.fara.gov).

- ✓ **Contact Members, officers and employees of the House and Senate and other Legislative Branch officials** under any of the following circumstances:
 - The former Member is carrying out official duties on behalf of the **federal government** or the District of Columbia;⁵⁴
 - The former Member is acting as an **elected official of a state or local government**;⁵⁵
 - The former Member is an **employee** (not a private consultant or other independent contractor) of a **state or local government**, or an agency or instrumentality thereof, acting on its behalf;⁵⁶
 - The former Member is an **employee** of an accredited, degree-granting **institution of higher education** and is acting on behalf of such institution;⁵⁷ 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.⁵⁸
- ✓ **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.⁵⁹ Otherwise, former Members must wait one year before engaging in such activities.
- ✓ Make statements or communications as an **employee of a candidate, authorized campaign committee, national or state party, or political committee**, if acting on behalf of that committee or party.⁶⁰ However, if the former Member is employed by a

⁵⁴ 18 U.S.C. § 207(j)(1)(A).

⁵⁵ *Id.*

⁵⁶ *Id.* § 207(j)(2)(A).

⁵⁷ *Id.* § 207(j)(2)(B). The statute uses the definition of "institution of higher education" contained in § 101 of the Higher Education Act of 1965 (20 U.S.C. §§ 1001 *et seq.*). As a general matter, the definition includes only nonprofit, degree-granting educational institutions located in the United States or its territories. *See* 20 U.S.C. § 1001(a)-(b).

⁵⁸ 18 U.S.C. § 207(j)(2)(B). For this exception to apply, the hospital or medical research organization must be exempted under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)). *Id.*

⁵⁹ *Id.* § 207(j)(3).

⁶⁰ *Id.* § 207(j)(7)(A).

person or entity who represents, aids, or advises only such persons or entities, the communications would be prohibited.⁶¹

- ✓ **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.⁶²
- ✓ **Give testimony under oath**, or make statements required to be made under penalty of perjury.⁶³
- ✓ **Contact staff of the Clerk of the House** regarding the Member’s compliance with the disclosure requirements under the Lobbying Disclosure Act.⁶⁴
- ✓ **Make political contributions** to, and **sponsor or attend political fundraisers** for, current Members of Congress, *provided that* no appearances or communications are made with the intent to influence, on behalf of any other person, the official actions or decisions of current Members or staff.⁶⁵
- ✓ **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.⁶⁶

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 contact Congress on behalf of his state.

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

⁶¹ *Id.* § 207(j)(7)(B)(ii)(II).

⁶² *Id.* § 207(j)(4). “Special knowledge” is not defined in the statute. The Federal Register, which provides rules on the application of the statute to employees in the Executive Branch, states that a “former employee has special knowledge concerning a subject area if he is familiar with the subject area as a result of education, interaction with experts, or other unique or particularized experience.” 5 C.F.R. § 2641.301(d)(1). In addition, in the proposed rulemaking for this provision, the OGE emphasized that it regarded its interpretation of this exception as being “relatively narrow.” *See* 73 Fed. Reg. 36183 (June 25, 2008). While these definitions are not binding on the Ethics Committee, they provide guidance as to how the term should be interpreted.

⁶³ 18 U.S.C. § 207(j)(6).

⁶⁴ *Id.* § 207(e)(8).

⁶⁵ *See id.* § 207.

⁶⁶ *See id.*

Example 4. Member *D* retires and moves back to her home state. *D* may immediately contact 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.

Entity Contacted by Former Member

Entity Represented by Former Member

	Congress	Executive Branch	Foreign Entity	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 Entity	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 classifies the subject matter as one of national interest, former Member may immediately advise international organization and contact Congress directly; otherwise, must wait 1 year to do either	If Secretary of State classifies the subject matter as one of national interest, former Member may immediately advise international organization and contact executive branch directly; otherwise, must wait 1 year to do either	May contact immediately	May contact immediately
Accredited U.S. College or University	May contact immediately if an employee of the college or university	May contact immediately	May contact immediately	May contact immediately
Charitable Hospital or Medical Research Organization	May contact immediately if an employee of the hospital or organization	May contact immediately	May contact immediately	May contact immediately
Candidate, Political Campaign, or Party	May make communications immediately as employee of candidate, authorized campaign committee, or federal or state party or committee, unless employed by entity that advises only such entities	May contact immediately	May contact immediately	May contact immediately

Penalties

Each violation of the post-employment restrictions set forth in the statute is a felony punishable by imprisonment up to one year (or up to five years for willful violations) and a fine of up to \$94,681 for each violation or the value of the compensation received for the act that violated the restrictions, whichever is greater.⁶⁷ The statute further authorizes the Attorney General to seek an injunction prohibiting a person from engaging in conduct that violates the act.⁶⁸

By its terms, 18 U.S.C. § 207 governs the conduct of **former** Members, officers, and employees, and does not apply to the conduct of **current** Members, officers, and employees. However, the post-employment restrictions have been the subject of close attention by DOJ, as reflected in the guilty pleas by former House staff and others to criminal violations of the statute.⁶⁹ 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 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.⁷⁰

Furthermore, in an Ethics Committee disciplinary case that was completed in the 106th Congress, a Member admitted to engaging in several forms of conduct that violated House rules requiring that each Member and staff person “conduct himself at all times in a manner that shall reflect creditably on the House.”⁷¹ 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.”⁷²

⁶⁷ 18 U.S.C. § 216. In 2016 the \$50,000 penalty established in the statute was adjusted to \$94,681 in accordance with the Bipartisan Budget Act of 2015. Civil Monetary Penalties Inflation Adjustment, 81 Fed. Reg. 42,491 (June 30, 2016).

⁶⁸ *Id.* § 216(c).

⁶⁹ See, e.g., *United States v. Jack A. Abramoff*, Docket No. 06-CR-001 (D.D.C.) (“*Abramoff* action”). In addition, in September 2006, former Representative Robert W. Ney pleaded guilty to conspiracy to violate, among other statutes, the post-employment restrictions for former covered employees (“*Ney* action”). Also note, in September 2012, a former Senate staffer, Doug Hampton, was sentenced to one year probation for violating the post-employment restriction (“*Hampton* action”).

⁷⁰ See, e.g., *Abramoff* and *Ney* actions, note 67 above.

⁷¹ House Rule 23, cl. 1; see also House Comm. on Standards of Official Conduct, *In the Matter of Representative E.G. “Bud” Shuster*, H. Rep. 106-979, 106th Cong., 2d Sess. vol. I (July 19, 2002) (“*Shuster* Report”).

⁷² House Comm. on Standards of Official Conduct, *Summary of Activities, One Hundred Sixth Congress*, H. Rep. 106-1044, 106th Cong., 2d Sess. at 10, 13, 16 (2000); see also *Shuster* Report, note 69 above, vol. I. See also, Senate Select Comm. on Ethics, *Report of the Preliminary Inquiry into the Matter of Senator John E. Ensign* (May 10, 2011) available at http://www.ethics.senate.gov/public/index.cfm/files/serve?File_id=676ADD17-2C7F-40F7-A4D9-B35526E4DA97.

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 Ethics Committee to request a written advisory opinion. While, as noted above, Ethics Committee interpretations of 18 U.S.C. § 207 are not binding on DOJ, those interpretations are based on the Committee's analysis of the terms and purposes of the statute, as well as any applicable opinions or guidance of DOJ or OGE of which the Committee is aware.⁷³

FLOOR PRIVILEGES OF A FORMER MEMBER

The type of work that a Member does after leaving office may limit the Member's future floor privileges. While former Members generally are entitled to admission to the Hall of the House, this privilege is not extended to those who: (1) are registered lobbyists or agents of a foreign principal; (2) have any direct personal or pecuniary interest in any pending legislation; *or* (3) work for or represent anyone "for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative proposal."⁷⁴ 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.⁷⁵

In addition, a resolution adopted at the start of the 114th Congress provides that former Member and officers, as well as their spouses, who are registered federal lobbyists or agents of a foreign principal are also prohibited from access "to any exercise facility which is made available exclusively to Members and former Members, officers and former officers" during the 114th Congress.⁷⁶

FINANCIAL DISCLOSURE REQUIREMENTS FOLLOWING DEPARTURE FROM HOUSE EMPLOYMENT

A departing Member of Congress must file a final Financial Disclosure Statement, called a "Termination Report," within 30 days of leaving office.⁷⁷ Extensions of up to 90 days are available upon written request to the Committee when made prior to the original due date.⁷⁸

⁷³ It should be noted that one court held that it is a complete defense to a prosecution for conduct assertedly in violation of a related federal criminal strict-liability statute (18 U.S.C. § 208) that the conduct was undertaken in good faith reliance upon erroneous legal advice received from the official's supervising ethics office. *Hedges*, 912 F.2d at 1404-06.

⁷⁴ House Rule 4, cl. 4(a).

⁷⁵ Departing Members may also wish to review a memorandum issued by the Congressional Research Service, *Selected Privileges and Courtesies Extended to Former Members of Congress*, Report No. R41121 (Dec. 5, 2014).

⁷⁶ H. Res. 5 § 3(k) (adopted Jan. 6, 2015). Although this restriction applies only during the 114th Congress, departing Members should note that similar language has been adopted in previous Congresses.

⁷⁷ 5 U.S.C. app. § 101(e).

⁷⁸ *Id.* § 101(g); Comm. on Ethics, *2015 Instruction Guide for Completing Financial Disclosure Statements and Periodic Transaction Reports (2015 FD and PTR Instructions)* at 7.

The Termination Report, filed on the same form as the annual report, covers all financial activity through the end of the Member's term.⁷⁹ Schedule F ("Agreements") of the report requires disclosure of any agreement entered into by the filer, oral or written, with respect to future employment.⁸⁰ Thus, if a Member accepts a future position while still on the House payroll, the Member will have to disclose the agreement on the Member's public termination filing. The date of the agreement, the future employer, the position or title and the starting date must be disclosed, but the amount of the compensation need not be reported.⁸¹ The Member will also have to disclose, on Schedule H ("Travel Payments and Reimbursements") of the Termination Report, any travel reimbursements exceeding \$375 received from any source in connection with job-search activity.⁸²

However, a departing Member who, prior to thirty days after leaving office, has accepted another federal position requiring the filing of a *public* financial disclosure statement need not file a Termination Report.⁸³ Any departing Member who is not required to file a Termination Report for this reason must notify the Clerk *in writing* of that fact.⁸⁴

USE OF EXCESS CAMPAIGN FUNDS

Members are prohibited by House rules from converting campaign funds to personal use.⁸⁵ 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.⁸⁶ All campaign resources (including equipment, furniture, and vehicles) are subject to the same restrictions.⁸⁷ A Member may not keep campaign property upon retirement from Congress unless he or she pays the campaign fair market value.⁸⁸ In valuing the property, the Member may take into account the fact that it has been used.⁸⁹

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.

⁷⁹ *Id.* § 101(e). For Members who serve out their full term, this date will be January 3; Members who retire earlier than the end of the term will have different end date.

⁸⁰ *Id.* § 102(a)(7).

⁸¹ *See id.*; *see also* 2015 FD and PTR Instructions at 32.

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

⁸³ *Id.* § 101(e).

⁸⁴ *See* 2015 FD and PTR Instructions at 5. A form for this purpose is available on the Committee's Web site, at http://ethics.house.gov/sites/ethics.house.gov/files/FD_TerminationExemption.pdf.

⁸⁵ House Rule 23, cl. 8.

⁸⁶ 52 U.S.C. § 30114(b)(1); 11 C.F.R. § 113.2(e).

⁸⁷ *See generally* 52 U.S.C. § 30114(b)(1); 11 C.F.R. § 113.1.

⁸⁸ 11 C.F.R. §§ 113.1(g)(3) and 113.2(c).

⁸⁹ 11 C.F.R. § 113.1(g)(3).

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,⁹⁰ and contribution to any national, state, or local committee of a political party.⁹¹ 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.⁹² In addition, both the FEC and the Ethics 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.⁹³ A retiring Member should consult with FEC staff on the specifics of statutory law and FEC rules on the use or disposition of excess campaign funds, including with regard to maintaining those funds for use in a future campaign, or making donations to other candidates.

OUTSIDE EMPLOYMENT AND EARNED INCOME RESTRICTIONS

All departing Members remain subject to all House rules, including the gift rule and the limitations on outside employment and earned income,⁹⁴ even after adjournment *sine die*, until the end of their term, unless they elect to resign earlier. These rules are particularly important to bear in mind for a departing Member whose prospective employer suggests that the Member start work prior to leaving office. In calendar year 2016, a Member may not receive outside earned income (including, for example, a signing bonus) in excess of \$27,495, 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.⁹⁵ 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),⁹⁶ although he or she may receive compensation for teaching, if the Member first secures specific prior permission from this Committee.⁹⁷

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.

⁹⁰ 52 U.S.C. § 30114(a)(3); 11 C.F.R. § 113.2(b); *see also* 11 C.F.R. § 113.1(g)(2).

⁹¹ 52 U.S.C. § 30114(a)(4); 11 C.F.R. § 113.2(c).

⁹² 11 C.F.R. § 113.2(a)(2).

⁹³ FEC Advisory Opinion 1996-14 (available on the FEC Web site, www.fec.gov); *2008 House Ethics Manual* at 162.

⁹⁴ House Rule 25, cls. 1-5. The outside employment and earned income limitations are also codified at 5 U.S.C. app. §§ 501-502.

⁹⁵ House Rule 25, cls. 1-4; *see also* 5 U.S.C. app. §§ 501-502.

⁹⁶ House Rule 23, cl. 5; House Rule 25, cl. 1(a)(2).

⁹⁷ House Rule 25, cl. 2(e).

**ACCEPTANCE OF OFFICIALLY CONNECTED
TRAVEL FUNDED BY A PRIVATE SOURCE**

Several rules may affect a departing Member's travel decisions. House rules prohibit the use of committee funds and local currencies owned by the United States to pay for travel by a Member: (1) after the date of a general election in which he or she was not elected to the succeeding Congress; or (2) in the case of a Member who is not a candidate in a general election, after the **earlier** of the date of the general election or adjournment *sine die* of Congress.⁹⁸

With regard to privately funded travel that is fact-finding in nature, because the gift rule requires that such travel be related to official duties,⁹⁹ it is questionable whether a departing Member may accept an invitation for a such travel that would take place after the adjournment *sine die* of the House. As of that time, the official responsibilities that may justify acceptance of travel expenses for such a purpose will practically have come to an end. However, this consideration does not limit the ability of a departing Member to accept travel expenses from a private source for the purpose of enabling the Member to participate substantially in an officially-related event, such as to give a speech.

* * *

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

⁹⁸ House Rule 24, cl. 10.

⁹⁹ House Rule 25, cl. 5(b)(1)(A); *see also* House Rule 25, cl. 5(b)(3)(G).



ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

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December 22, 2016

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Charles W. Dent, Chairman
Linda T. Sánchez, Ranking Member

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

The purpose of this memorandum is to remind you about issues of concern to staff members¹ who are negotiating for future employment or departing from employment with the House of Representatives or one of the legislative branch offices.² The matters discussed here include negotiations for future employment, post-employment restrictions, financial disclosure requirements (Termination Reports), and outside employment and earned income restrictions. Although this memorandum will be of particular interest to departing staff, current staff and their employing Members should also familiarize themselves with these restrictions, particularly the criminal restrictions on post-employment communications.³ Current Members and staff are reminded that they may not assist in the violation of these restrictions.

In addition, the Committee would like to take this opportunity to note one statutory provision that applies to **all House Members and staff**. House Members and staff may not use

¹ The terms "staff" and "employee" are used interchangeably throughout this memorandum to refer to persons who are employed by a Member, committee, leadership office, or other legislative offices (see note 2, below). Relevant distinctions among these categories of employees are noted as necessary.

² "[O]ther legislative offices" include employees of the Architect of the Capitol, United States Botanic Garden, Government Accountability Office, Government Printing Office, Library of Congress, Office of Technology Assessment, Congressional Budget Office, and Capitol Police. It also includes any other House legislative branch office not covered by the other provisions, such as the Clerk, Parliamentarian, Office of General Counsel, and Chief Administrative Officer. See 18 U.S.C. § 207(e)(9)(G).

³ This guidance, as well as some additional requirements and restrictions, also applies to House Members and officers, and is addressed in a separate memorandum entitled "Negotiations for Future Employment and Restrictions on Post-Employment for House Members and Officers." This staff memorandum will not specifically mention the requirements for Members and officers, or how they differ from those pertaining to House staff. Members and officers seeking guidance should consult the companion memorandum referenced above.

confidential information obtained by means of personal and substantial participation in ongoing trade or treaty negotiations for one year prior to leaving House employment in the course of representing, aiding, or advising anyone other than the United States regarding those ongoing negotiations.⁴ As with other provisions of this statute, this prohibition lasts for one year after departure from the House payroll.⁵

NEGOTIATING FOR FUTURE EMPLOYMENT

In the past, the Committee's general guidance on job negotiations has been that House Members and employees are free to pursue future employment while still employed by the House, subject to certain ethical constraints. This memorandum provides more detailed guidance on the issues presented by such negotiations, as well as mandatory disclosure obligations such negotiations may trigger.

The general guidance applicable to any House employee, regardless of salary level, who wishes to engage in negotiations for future employment, is as follows. First and foremost, it would be improper for a House employee to permit the prospect of future employment to influence the official actions of the employee, or the employing office of the employee.⁶ Some employees may determine to use an agent (e.g., a "headhunter") to solicit job offers on their behalf in order to avoid any appearance of improper activity. Regardless of whether job negotiations are undertaken personally or through an agent, the following generally-applicable principles must be observed.

The term "negotiation" is not defined in the relevant statute or House rule. In its past guidance, the Committee has given deference to court decisions interpreting a related federal criminal statute that bars Executive Branch employees from participating in matters affecting the financial interests of an entity with which the employee is "negotiating or has any arrangement" concerning future employment.⁷ Those decisions found that the term "negotiation" should be construed broadly.⁸ However, these decisions make a distinction between "negotiations," which trigger the rule, and "[p]reliminary or exploratory talks," which do not.⁹ The term "negotiations" connotes "a communication between two parties with a view toward reaching an agreement" and

⁴ 18 U.S.C. § 207(b). For purposes of this provision, the term "trade negotiation" means "negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made" and the term "treaty" means "an international agreement made by the President that requires the advice and consent of the Senate." *Id.* at § 207(b)(2).

⁵ *Id.*

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

⁷ 18 U.S.C. § 208.

⁸ See, e.g., *United States v. Schaltenbrand*, 930 F.2d 1554, 1559 (11th Cir. 1991); *United States v. Conlon*, 628 F.2d 150, 155 (D.C. Cir. 1980).

⁹ See *Schaltenbrand*, 930 F.2d at 1558-59.

in which there is “active interest on both sides.”¹⁰ 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.¹¹ The Code of Ethics for Government Service forbids anyone in government service from accepting “favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance” of governmental duties.¹² 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.¹³ Although bribery necessarily entails a *quid pro quo* arrangement, the same statute also bans seeking or accepting “illegal gratuities”—*i.e.*, anything given because of, or in reward for, a future or past official act, whether or not the official action would be, or would have been, taken absent the reward.¹⁴

In light of these restrictions, all House employees should be particularly careful in negotiating for future employment, especially when negotiating with anyone who could be substantially affected by the performance of the employee’s official duties.¹⁵ It may be prudent for the employee to have an exchange of correspondence with any serious negotiating partner, stipulating that the prospective employer will receive no official favors in connection with the job negotiations. Those employees who will be subject to the post-employment restrictions, which are addressed later in this memorandum, may also wish to establish in correspondence with any prospective employer that the future employer understands that (1) it will receive no official favors as a result of the job negotiations, and (2) the employee is subject to post-employment restrictions, which should be briefly outlined.¹⁶ Departing employees who are lawyers should consult their local bar associations concerning the application of rules governing their involvement in matters in which they participated personally and substantially during their time with the House.¹⁷ In addition, as addressed in the next section of this memorandum, senior staff must disclose employment negotiations in writing to the Ethics Committee.

¹⁰ *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.

¹¹ House Rule 23, cl. 3.

¹² Code of Ethics for Government Service ¶ 5, *reprinted in 2008 House Ethics Manual* at 355.

¹³ 18 U.S.C. § 201(b)(2)(A).

¹⁴ *Id.* § 201(c)(1)(B).

¹⁵ *See* Code of Ethics for Government Service ¶ 5, *reprinted in 2008 House Ethics Manual* at 355.

¹⁶ *See* 18 U.S.C. § 207. These restrictions are explained in detail later in this memorandum. Briefly, “very senior” House employees may not contact their former employing Member or Members on official business for one year after leaving office, nor may they assist any foreign entity, *i.e.* a foreign government or foreign political party, in seeking to influence a decision of any federal official during that year.

¹⁷ 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. (OGE Web site at <https://www.oge.gov>).

Provided that employees conduct themselves in accordance with the considerations discussed above, they may engage in negotiations for employment in the same manner as any other job applicant. Discussions may specifically address salary, duties, benefits, and other terms.

DISCLOSURE OF EMPLOYMENT NEGOTIATIONS AND RECUSAL REQUIREMENTS

Certain House staff must notify the Committee within three (3) business days after they commence any negotiation or agreement for future employment or compensation with a *private* entity.¹⁸ Staff subject to this disclosure requirement are those employees of the House who are paid at or above an annual rate of \$123,175 (\$10,265 per month) for any two months in a calendar year, including any federal civil service or military annuities.¹⁹ Please note that the aforementioned annual pay rate is subject to change in 2017, and that staff paid at this rate are referred to as “senior staff.”

The term “negotiation” is not defined in the relevant statute or House rule. 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 to reaching an agreement” and in which there is “discussion and active interest on both sides.”²⁰ In addition, senior staff must recuse themselves from “any matter in which there is a conflict of interest or an appearance of a conflict” with the private entity with which they are negotiating or have an agreement for future employment or compensation, and they must notify the Ethics Committee in writing of such recusal.²¹

The terms “conflict” and “appearance of conflict” also are not defined in the rule. The Committee has stated that a “conflict of interest becomes problematic when [an employee] uses his position to enhance his personal financial interests or his personal financial interests impair his judgment in conducting his public duties.”²² Employees should also avoid situations that

¹⁸ House Rule 27, cl. 2; Stop Trading on Congressional Knowledge Act, Pub. L. No. 112-105 (Apr. 4, 2012) (hereinafter STOCK Act) § 17. House Rule 27, clause 1, which imposes a similar restriction on House Members, limits the disclosure requirement for Members to negotiations with *private* employers. While the express language of clause 2, which covers employees, does not limit its terms to negotiations with private employers, the Committee has read the two clauses consistently as excluding from the disclosure requirement any job negotiations with government entities for both Members and employees.

¹⁹ House Rule 27, clause 2, imposes the disclosure requirement on any “employee of the House earning in excess of 75 percent of the salary paid to a Member.” In 2016, that rate is \$130,500 per year for most House employees. Section 17 of the STOCK Act extended this requirement to “any individual required to file a financial disclosure report under section 101 of the Ethics in Government Act of 1978,” which includes all senior staff. For more information on this change, see pages 5-6 of the April 4, 2012, Committee advisory memorandum entitled “New Ethics Requirements Resulting from the STOCK Act,” which is available on the Committee Web site at <http://ethics.house.gov/pink-sheets>.

²⁰ See *Hedges*, 921 F.2d at 1403 n.2.

²¹ House Rule 27, cl. 4.

²² House Comm. on Standards of Official Conduct, *In the Matter of Representative Sam Graves*, H. Rep. No. 111-320, 111th Cong., 1st Sess. 16 (2009); see also House Bipartisan Task Force on Ethics, *Report on H.R. 3660*, 101st Cong., 1st Sess. (Comm. Print, Comm. on Rules 1989), reprinted in 135 Cong. Rec. H9253 at H9259

might be viewed as presenting even a risk that the individual might be improperly influenced by personal financial interests.”²³

The Committee has issued forms, available on the Committee Web site (ethics.house.gov), to be used for these notification requirements. When notifying the Committee of negotiations or agreements for future employment or compensation, senior staff should complete and sign an employment negotiation form, formally titled the “Notification of Negotiations or Agreement for Future Employment.”²⁴ The original, completed form must be submitted to the Committee. All filers should keep a copy of their submission for their records. There is a separate form for notifying the Committee of recusal, titled the “Statement of Recusal.” Senior staff who recuse themselves from official matters pursuant to House Rule 27 and/or the STOCK Act must complete and submit the original recusal form to the Committee.²⁵

BENEFITS OFFERED BY PROSPECTIVE EMPLOYERS DURING JOB NEGOTIATIONS

House employees may accept “[f]ood, refreshments, lodging, transportation, and other benefits . . . customarily provided by a prospective employer in connection with bona fide employment discussions.”²⁶ Thus, subject to the limitations set out in the rule, a House employee may accept travel expenses from an entity with which the individual is interviewing for a position and to meet prospective colleagues. Such travel is *not* subject to the requirement for prior, written approval from the Committee that applies to privately-funded travel undertaken as part of one’s House duties. However, travel expenses that exceed \$375 from any one source must be disclosed on Schedule H (“Travel Payments and Reimbursements”) of the Termination Report required of departing senior employees.²⁷ In addition, any agreement for future employment also must be disclosed on Schedule F (“Agreements”) of that statement.²⁸

(daily ed. Nov. 21, 1989) (“A conflict of interest is generally defined as a situation in which an official’s private financial interests conflict or appear to conflict with the public interest.”); House Rule 23, cl. 3 (“A Member . . . may not receive compensation and may not permit compensation to accrue to the beneficial interest of such individual from any source, the receipt of which would occur by virtue of influence improperly exerted from the position of such individual in Congress.”).

²³ See *Federal Conflict of Interest Legislation*, Staff Report to Subcomm. No. 5 of the Comm. on the Judiciary, 85th Cong., 2d Sess. 1 (Comm. Print 1958) (“Within reasonable limits, also, the importance of public confidence in the integrity of the Federal service justifies the requirement that the Federal employee shall avoid the appearance of evil, as well as evil itself.”); Code of Ethics for Government Service ¶ 5, *reprinted in 2008 House Ethics Manual* at 355 (“Any person in government service should . . . never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.”); see also House Rule 23, cl. 2 (“[An] . . . employee of the House shall adhere to the spirit and letter of the Rules of the House . . .”).

²⁴ House Rule 27, cls. 1-3.

²⁵ *Id.*, cl. 4. Clause 4 does not require staff to file their notice of negotiation with the Clerk, as is required of House Members.

²⁶ House Rule 25, cl. 5(a)(3)(G)(ii).

²⁷ 5 U.S.C. app. § 102(a)(2)(B). Such travel must be disclosed on the employee’s Financial Disclosure Statement even if the individual ultimately remains employed by the House rather than accepting private employment.

²⁸ *Id.* § 102(a)(7)(A).

POST-EMPLOYMENT RESTRICTIONS

Since 1989, legislative branch officials, including certain employees, have been subject to restrictions on their post-House employment under the Ethics Reform Act.²⁹ These limitations are part of the federal criminal code, and they apply to Members and officers of the House, as well as to employees of House Member, committee, and leadership offices who are paid at least 75% of a Member's salary, inclusive of any federal civil service or military annuity.³⁰ The basic rate of pay for Members in calendar year 2016 is \$174,000, and thus the post-employment threshold for individuals who terminate their employment with a Member, committee, or leadership office in 2016 is **\$130,500**. The threshold rate for other years is available from the Ethics Committee. For employees of "other legislative offices,"³¹ the basic rate of pay triggering the restrictions is level IV of the Executive Schedule, which for 2016 is **\$160,300**.³² Please note that this rate of pay is subject to change in 2017.

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.³³ 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 by adjusting the employee's basic rate of pay in two or more months, even if the adjustment is intended to be temporary.³⁴ 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 begins from the date of the individual's departure from the House payroll.³⁵ When an office continues an individual on the payroll for the purpose of paying for accrued leave after the individual's services to the House have ceased, the one-year cooling-off period will not begin until after the individual's final day on the House payroll. In general, House employees whose pay is **below** the threshold are **not** subject to the post-employment restrictions set out in the statute, with the exception of the provision described earlier in this memorandum regarding participation in trade and treaty negotiations, 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

²⁹ See 18 U.S.C. § 207(e), (f).

³⁰ *Id.* § 207(e)(7). With regard to House employees who are federal civil service or military annuitants, it is the view of the Ethics 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.

³¹ For the definition of "other legislative offices," see note 2, above.

³² 18 U.S.C. § 207(e)(7)(B).

³³ *Id.* § 207(e)(7).

³⁴ The Committee has determined that lump sum payments, when properly used by an employing office, do not constitute part of the recipient's "basic rate of pay." See *2008 House Ethics Manual* at 240, n.112.

³⁵ *Id.* § 207(e)(3)-(7).

that briefly summarizes the statutory restrictions. Please note that the statute, as part of the criminal code, is enforced by the Department of Justice (DOJ), rather than by the Ethics Committee, and Committee interpretations of the statute are not binding on DOJ.

Prohibited Activity

Under the statute, a covered former employee may **not**, for a period of **one year** after House employment:

- × **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.³⁶ 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**³⁷ of a Member may not seek official action, on behalf of other persons, from that Member or from any of the Member's employees.³⁸
- Covered former **committee staff**³⁹ 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.⁴⁰ 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.⁴¹

³⁶ *Id.*

³⁷ *Id.* § 207(e)(9)(E).

³⁸ *Id.* § 207(e)(3). The statute expressly prohibits contacting any employee of a Member whom the departed employee is prohibited from contacting. *Id.* § 207(e)(3)(B)(i).

³⁹ *Id.* § 207(e)(9)(A). For the purposes of the statute, a **detailee** is deemed to be an employee of both the entity from which the detailee comes and the House committee to which the individual is detailed. *Id.* § 207(g).

⁴⁰ *Id.* § 207(e)(4).

⁴¹ *Id.* (barring communication or appearances on "any matter" on which the former employee seeks action).

- Covered former employees on the **leadership staff**⁴² may not seek official action, on behalf of other persons, from current Members of the leadership⁴³ or any current staff of those Members.⁴⁴
- Covered former employees of any **other legislative office**⁴⁵ may not seek official action, on behalf of other persons, from current officers and employees of that legislative office.⁴⁶
- × **Knowingly represent a foreign entity, i.e. 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.⁴⁷
- × **Knowingly aid or advise a foreign entity, i.e. 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.⁴⁸
- × **Use confidential information obtained by means of personal and substantial participation in ongoing trade or treaty negotiations** within one year preceding the

⁴² *Id.* § 207(e)(9)(H).

⁴³ 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).

⁴⁴ *See id.* §§ 207(e)(5)(B) and (e)(9)(H).

⁴⁵ [O]ther legislative offices” include employees of the Architect of the Capitol, United States Botanic Garden, Government Accountability Office, Government Printing Office, Library of Congress, Office of Technology Assessment, Congressional Budget Office, and Capitol Police. The term also includes any other House legislative branch office not covered by the other provisions of the statute, such as the Clerk, Parliamentarian, Office of General Counsel, and Chief Administrative Officer. *See* 18 U.S.C. § 207(e)(9)(G).

⁴⁶ 18 U.S.C. §§ 207(e)(6) and (e)(9)(G).

⁴⁷ *Id.* §§ 207(f)(1)(A) and (1)(B). Section § 207 restricts activities with respect to a “foreign entity,” which is defined as either the “government of a foreign country” or a “foreign political party” as those terms are, in turn, defined in the Foreign Agents Registration Act (22 U.S.C. § 611(e), (f)). *See id.* § 207(f)(3). A U.S. Office of Legal Counsel (OLC) opinion of August 13, 2008, concluded that a foreign corporation is to be considered a foreign entity for purposes of 18 U.S.C. § 207(f) if it “exercises sovereign authority or functions de jure (i.e. by formal delegation) or de facto.” *See* OLC Memorandum Opinion, *Application of 18 U.S.C. § 207(f) to a Former Senior Employee* (available on the OLC Web site at <https://www.justice.gov/sites/default/files/olc/opinions/attachments/2015/06/23/op-olc-v032-p0115.pdf>). *See also* U.S. OGE, LA-16-08: *Introduction to the Primary Post-Government Employment Restrictions Applicable to Former Executive Branch Employees*, at 10 (September 23, 2016) (available on the OGE Web site at [https://www.oge.gov/web/oge.nsf/All%20Documents/3741DC247191C8B88525803B0052BD7E/\\$FILE/LA-16-08.pdf?open](https://www.oge.gov/web/oge.nsf/All%20Documents/3741DC247191C8B88525803B0052BD7E/$FILE/LA-16-08.pdf?open)). Also pertinent to these provisions of the statute is an OLC opinion of June 22, 2004, which concludes that 18 U.S.C. § 207(f) covers representational contacts with Members of Congress. *See* OLC Memorandum Opinion, *Application of 18 U.S.C. § 207(f) to a Former Senior Employee* (available on the OLC Web site at https://www.justice.gov/sites/default/files/olc/opinions/2004/06/31/op-olc-v028-p0097_0.pdf).

⁴⁸ 18 U.S.C. § 207(f)(1)(B).

employee's departure from the House payroll, in the course of representing, aiding, or advising anyone other than the United States regarding those ongoing negotiations.⁴⁹

As to the prohibition against making any "communication to or appearance before" anyone in the legislative branch, covered former employees should be aware of the broad manner in which DOJ has defined those terms.⁵⁰ A DOJ opinion defines "communication" as "the act of imparting or transmitting information with the intent that the information be attributed to the former official."⁵¹

Further, an advisory memorandum issued by the U.S. Office of Government Ethics (OGE) for Executive Branch employees states, "[a]n 'appearance' extends to a former employee's mere physical presence at a proceeding when the circumstances make it clear that his attendance is intended to influence the United States."⁵² The provision is broad enough that it precludes a covered former employee even from, for example, requesting or scheduling, for or on behalf of any other person, a meeting with any Member, officer, or employee whom the individual is prohibited from contacting on official business.⁵³ While OGE guidance is merely persuasive, rather than binding, on Committee interpretations of the statute, this Committee endeavors when possible to interpret the statute in a manner consistent with OGE practice.

In addition to these one-year "cooling-off period" restrictions, departing employees should also be aware of a permanent federal statutory restriction that prohibits any U.S. citizen acting without authority of the United States from:

- × Directly or indirectly **commencing or carrying on any correspondence or intercourse with any foreign government**, or any officer or agent thereof, with the intent to influence the measures or conduct of any foreign government or of any officer or agent thereof in relation to any disputes or controversies with the United States, or to defeat the measures of the United States.⁵⁴

⁴⁹ *Id.* § 207(b).

⁵⁰ 18 U.S.C. § 207. The provisions of 18 U.S.C. § 207 should not be confused with those of the Lobbying Disclosure Act (2 U.S.C. §§ 1601 *et seq.*) (LDA). In other words, merely because a particular activity does not constitute "lobbying" for purposes of that Act does not mean that the activity is permissible under 18 U.S.C. § 207.

⁵¹ OLC, "Communications" under 18 U.S.C. § 207 at 3 (Jan. 19, 2001) (available on the OLC Web site at http://www.justice.gov/sites/default/files/olc/opinions/2001/01/31/op-olc-v025-p0059_0.pdf). In that opinion, the OLC provides the following illustrative examples: "A high-ranking official who aggressively publicizes the fact that he is leaving an agency to start a one-man consulting firm, then submits a report to the agency shortly thereafter under the name of that firm, almost certainly intends that the report will be attributed to him. Similarly, a former official who is not introduced by name, but participates on a conference call with his former agency colleagues, almost certainly intends this his colleagues will recognize his voice." *Id.*

⁵² *Introduction to the Primary Post-Government Employment Restrictions Applicable to Former Executive Branch Employees*, note 47 above, at 3.

⁵³ 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 DOJ and OGE. However, as noted above, 18 U.S.C. § 207 is a criminal statute, and Committee interpretations of it are not binding on the Justice Department (*but see* note 78, below).

⁵⁴ 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

Permissible Activity

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

- ✓ **Contact Members, officers, and employees of the Senate, and – except for those officials specified above in the section on “Prohibited Activity” – Members, officers, and employees of the House and other Legislative Branch offices,** with intent to influence official action so long as not representing a foreign entity, i.e. a foreign government or foreign political party.
- ✓ **Aid or advise clients** (other than foreign entities, i.e. foreign governments or foreign political parties) **concerning how to lobby Congress**, provided the former employee makes no appearance before or communication to those officials specified above in the “Prohibited Activity” section. Such a “background role” would not pose the contemplated risk of improper influence since the current officials would not be aware of the former employee’s participation.⁵⁵ However, any such participation must remain behind-the-scenes; during the one-year “cooling-off” period, former employees must not permit their name to be openly associated with such contact by other persons.⁵⁶
- ✓ **Contact Executive Branch** officials with the intent to influence official action so long as not representing a foreign entity, i.e. a foreign government or foreign political party.⁵⁷
- ✓ **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.⁵⁸

publicly questioned its constitutionality. House Comm. on Standards of Official Conduct, *Manual of Offenses and Procedures, Korean Influence Investigation*, 95th Cong., 1st Sess. 18-19 (Comm. Print 1977). Members should be aware, however, that the law remains part of the criminal code.

⁵⁵ Former employees who are lawyers may have additional restrictions, as explained above in note 17 of this Memorandum.

⁵⁶ As noted above, the major restrictions set forth in 18 U.S.C. § 207(e) focus on communications and appearances. By contrast, if a covered 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 (with the exception of the provision that applies to all former employees relating to ongoing trade or treaty negotiations). This construction is consistent with regulations promulgated by OGE, interpreting a comparable prohibition that applies to Executive Branch personnel. *See* 5 C.F.R. § 2637.201(b)(3), (6). This matter is also addressed in the 2001 OLC opinion that is cited in note 51 above, including with regard to activities that do not constitute permissible “behind-the-scenes” activities.

⁵⁷ Covered former employees who are representing a tribal government as an employee of the tribe or as an officer or employee of the United States assigned to a tribe have an additional restriction on contacts with the Executive Branch and certain other entities. Such individuals must first notify the head of the department, agency, court, or commission being contacted of “any personal and substantial involvement” they had in the matter while a federal employee. *See* 25 U.S.C. § 5323(j) (formerly 25 U.S.C. § 450i(j)); 18 U.S.C. § 207(j)(1)(B).

- ✓ **Contact any Members, officers, and employees of the House and Senate and other Legislative Branch officials** on official business under any of the following circumstances:
 - The former employee is carrying out official duties on behalf of the **federal government** or the District of Columbia;⁵⁹
 - The former employee is acting as an **elected official of a state or local government**;⁶⁰
 - The former employee is an **employee** (not a private consultant or other independent contractor) of a **state or local government**, or an agency or instrumentality thereof, acting on its behalf;⁶¹
 - The former employee is an **employee** of an accredited, degree-granting **institution of higher education** and is acting on behalf of such institution;⁶² 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.⁶³
- ✓ **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.⁶⁴ Otherwise, covered employees must wait one year before engaging in such activities.
- ✓ Make statements or communications as an **employee of a candidate, authorized campaign committee, national or state party, or political committee**, if acting on

⁵⁸ No federal statute expressly permits such contacts, but so far as the Committee is aware, no federal statute prohibits such contacts. Thus, it appears that such contacts are permissible under federal law. Covered former employees who intend to undertake such activity, however, should carefully review the Foreign Agents Registration Act (22 U.S.C. §§ 611 *et seq.*) (FARA) to ensure compliance with its requirements. Briefly stated, FARA provides that anyone who acts within the United States under the direction or control of a foreign principal to influence official decisions, official policies, or public opinion on behalf of a foreign principal must register with the Justice Department. *See generally* 22 U.S.C. §§ 611 *et seq.*; U.S. Dep't of Justice (DOJ), "FARA FAQ" (available on the DOJ Web site, www.fara.gov).

⁵⁹ 18 U.S.C. § 207(j)(1)(A).

⁶⁰ *Id.*

⁶¹ *Id.* (j)(2)(A).

⁶² *Id.* § 207(j)(2)(B). The statute uses the definition of "institution of higher education" contained in § 101 of the Higher Education Act of 1965 (20 U.S.C. §§ 1001 *et seq.*). As a general matter, the definition includes only nonprofit, degree-granting educational institutions located in the United States or its territories. *See* 20 U.S.C. § 1001(a)-(b).

⁶³ 18 U.S.C. § 207(j)(2)(B). For this exception to apply, the hospital or medical research organization must be exempted under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)). *Id.*

⁶⁴ *Id.* § 207(j)(3).

behalf of that committee or party.⁶⁵ However, if the former employee is employed by a person or entity who represents, aids, or advises only such persons or entities, the communications would be prohibited.⁶⁶

- ✓ **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.⁶⁷
- ✓ **Give testimony under oath**, or make statements required to be made under penalty of perjury.⁶⁸
- ✓ **Contact staff of the Clerk of the House** regarding the individual’s compliance with the disclosure requirements under the Lobbying Disclosure Act.⁶⁹
- ✓ **Make political contributions** to, and **sponsor or attend political fundraisers** for, current Members of Congress, *provided that* no appearances or communications are made with the intent to influence, on behalf of any other person, the official actions or decisions of current Members or staff.⁷⁰
- ✓ **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.⁷¹

Unless stated otherwise, each of the following examples assumes that the staffer is a covered former employee because their compensation while on House payroll triggered the substantive post-employment restrictions.

Example 1. Staff member *A* resigns from her position on Member *B*’s personal staff. She may not contact *B* or anyone on his staff for one year (except on behalf of an exempt organization), but she may contact any other Member or staff member on behalf of anyone other than a foreign entity, i.e. a foreign government or foreign political party, as soon as she leaves the House payroll.

⁶⁵ *Id.* § 207(j)(7)(A).

⁶⁶ *Id.* § 207(j)(7)(B)(ii)(II).

⁶⁷ *Id.* § 207(j)(4). “Special knowledge” is not defined in the statute. The Federal Register, which provides rules on the application of the statute to employees in the Executive Branch, states that a “former employee has special knowledge concerning a subject area if he is familiar with the subject area as a result of education, interaction with experts, or other unique or particularized experience.” 5 C.F.R. § 2641.301(d)(1). In addition, in the proposed rulemaking for this provision, the OGE emphasized that it regarded its interpretation of this exception to be “relatively narrow.” *See* 73 Fed. Reg. 36183 (June 25, 2008). While these definitions are not binding on the Ethics Committee, they provide guidance as to how the term should be interpreted.

⁶⁸ 18 U.S.C. § 207(j)(6).

⁶⁹ *Id.* § 207(e)(8).

⁷⁰ *See id.* § 207.

⁷¹ *See id.*

Example 2. Staff member *C* resigns from his position on the Ways and Means Committee. He may not contact 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, contact any other Member or staff member on any issue, except on behalf of a foreign entity, i.e. a foreign government or foreign political party.

Example 3. Staff member *D*, who is not a covered employee, 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* resigns from Member *G*'s staff to accept a position in an Executive Branch agency. *F* may contact *G* immediately on behalf of the agency.

Example 5. Staff member *H* resigns from his congressional position to join the staff of the Governor of his state. As a state employee, *H* may contact anyone in Congress, including his former employing Member, on behalf of the state.

Example 6. Staff member *I* resigns her congressional position and moves back to her home state. *I* may contact state government officials on behalf of any clients.

Example 7. Staff member *J* 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* 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 while in each position. *M* may not contact *N* or the committee on behalf of any non-exempt person or entity for one year following his termination from each employer. Thus, *M* would be barred from contacting *N* until July 1 of the following year and current and former members of the committee and current committee staff until December 31 of the following year.

Example 10. Staff member *M*, from the previous example, was paid less than the triggering rate in the Member's office, then she accepted a promotion to a committee that did pay more than the triggering rate. *M* would not be restricted from contacting the Member office once she ends her employment with the House.

Example 11. During his one-year "cooling-off" period, former staff member *O* 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 because the request would be a communication intended to influence official action.

Example 12. During his first year after leaving House employment, *P* 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 because the statute bars such contacts regardless of whether the former employee would be compensated for them.

Entity Contacted by Covered Former Employee

Entity Represented by Covered Former Employee

	Former Congressional Office/Committee	Executive Branch	Foreign Entity	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 Entity	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 classifies the subject matter as one of national interest, may immediately advise international organization and contact Congress directly; otherwise, must wait 1 year to do either	If Secretary of State classifies the subject matter as one of national interest, 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 Org.	May contact immediately if an employee of the hospital or organization	May contact immediately	May contact immediately	May contact immediately
Candidate, Political Campaign, or Party	May make communications immediately as employee of candidate, authorized campaign committee, or federal or state party or committee, unless employed by entity that advises only such entities	May contact immediately	May contact immediately	May contact immediately

Penalties

Each violation of the post-employment restrictions set forth in the statute is a felony punishable by imprisonment up to one year (or up to five years for willful violations) and a fine of up to \$94,681 for each violation or the value of the compensation received for the act which violated the restrictions, whichever is greater.⁷² The statute further authorizes the Attorney General to seek an injunction prohibiting a person from engaging in conduct that violates the act.⁷³

By its terms, 18 U.S.C. § 207 governs the conduct of **former** Members, officers and employees, and does not apply to the conduct of **current** Members, officers and employees. However, the post-employment restrictions have been the subject of close attention by DOJ, as reflected in the guilty pleas by former House staff and others to criminal violations of the statute.⁷⁴ 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 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.⁷⁵

Furthermore, in an Ethics Committee disciplinary case that was completed in the 106th Congress, a Member admitted to engaging in several forms of conduct that violated House rules requiring that each Member and staff person “conduct himself at all times in a manner that shall reflect creditably on the House.”⁷⁶ 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.”⁷⁷

⁷² 18 U.S.C. § 216. In 2016 the \$50,000 penalty established in the statute was adjusted to \$94,681 in accordance with the Bipartisan Budget Act of 2015. Civil Monetary Penalties Inflation Adjustment, 81 Fed. Reg. 42,491 (June 30, 2016).

⁷³ *Id.* § 216(c).

⁷⁴ See, e.g., *United States v. Jack A. Abramoff*, Docket No. 06-CR-001 (D.D.C.) (“*Abramoff* action”). Similarly, in September 2006, former Representative Robert W. Ney pleaded guilty to conspiracy to violate, among other statutes, the post-employment restrictions for former covered employees (“*Ney* action”). Also note, in September 2012, a former Senate staffer, Doug Hampton, was sentenced to one year probation for violating the post-employment restriction (“*Hampton* action”).

⁷⁵ See, e.g., *Abramoff* and *Ney* actions, note 71 above.

⁷⁶ House Rule 23, cl. 1; see also House Comm. on Standards of Official Conduct, *In the Matter of Representative E.G. “Bud” Shuster*, H. Rep. 106-979, 106th Cong., 2d Sess. vol. I (July 19, 2002) (“*Shuster* Report”).

⁷⁷ House Comm. on Standards of Official Conduct, *Summary of Activities, One Hundred Sixth Congress*, H. Rep. 106-1044, 106th Cong., 2d Sess. at 10, 13, 16 (2000); see also *Shuster* Report, *supra* note 73 above, vol. I; See also, Senate Select Comm. on Ethics, *Report of the Preliminary Inquiry into the Matter of Senator John E. Ensign* (May 10, 2011) available at http://www.ethics.senate.gov/public/index.cfm/files/serve?File_id=676ADD17-2C7F-40F7-A4D9-B35526E4DA97.

An employee (or former employee) who has any concerns about the applicability of the post-employment restrictions to his or her proposed conduct should write to the Ethics Committee to request a written advisory opinion. While, as noted above, Ethics Committee interpretations of 18 U.S.C. § 207 are not binding on DOJ, those interpretations are based on the Committee's analysis of the terms and purposes of the statute, as well as any applicable opinions or guidance of DOJ or OGE of which the Committee is aware.⁷⁸

FINANCIAL DISCLOSURE REQUIREMENTS FOLLOWING DEPARTURE FROM HOUSE EMPLOYMENT

A departing staff member who was required to file a Financial Disclosure statement because of the employee's rate of pay must file a final Financial Disclosure Statement, called a Termination Report, within 30 days of leaving the House payroll.⁷⁹ 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.⁸⁰ Extensions of up to 90 days are available upon written request to the Committee when made prior to the original due date.⁸¹ Please note that the salary threshold for filing disclosure statements is lower than that which triggers the post-employment restrictions discussed above. For 2016, the financial disclosure filing threshold is an annual salary rate of \$123,175 (or a monthly salary of \$10,265-) for 60 days or more.⁸²

The Termination Report, filed on the same form as the annual report, covers all financial activity through the filer's last day on the House payroll.⁸³ Schedule F ("Agreements") of the report requires disclosure of any agreement entered into by the filer, oral or written, with respect to future employment.⁸⁴ Thus, if a covered employee accepts a future position while still on the House payroll, the employee will have to disclose the agreement on the individual's Termination Report. The date of the agreement, the future employer, the position or title and the starting date must be disclosed, but the amount of the compensation need not be reported.⁸⁵ The employee will also have to disclose, on Schedule H ("Travel Payments and Reimbursements") of the

⁷⁸ It should be noted that one court held that it is a complete defense to a prosecution for conduct assertedly in violation of a related federal criminal strict-liability statute (18 U.S.C. § 208) that the conduct was undertaken in good faith reliance upon erroneous legal advice received from the official's supervising ethics office. *Hedges*, 912 F.2d at 1404-06.

⁷⁹ 5 U.S.C. app. § 101(e).

⁸⁰ See Comm. on Ethics, *2015 Instruction Guide for Completing Financial Disclosure Statements and Periodic Transaction Reports (2015 FD and PTR Instructions)* at 5.

⁸¹ 5 U.S.C. app. § 101(g)(1); see also *2015 FD and PTR Instructions* at 7.

⁸² See 5 U.S.C. app. § 109(13)(B)(i). The 60 days do not have to be consecutive; being paid at the senior staff rate for any two months of the calendar year triggers the requirement to file a Termination Report.

⁸³ *Id.* § 101(e).

⁸⁴ *Id.* § 102(a)(7).

⁸⁵ See *id.*; see also *2015 FD and PTR Instructions* at 32.

report, any travel reimbursements exceeding \$375 received from any source in connection with job-search activity.⁸⁶

However, a departing employee who, prior to thirty days after leaving office, has accepted another federal position requiring the filing of a *public* financial disclosure statement need not file a Termination Report.⁸⁷ Any departing employee who is not required to file a Termination Report for this reason must notify the Clerk *in writing* of that fact.⁸⁸

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,⁸⁹ as long as they remain on the House payroll. These rules are particularly important to bear in mind when an employee's prospective employer suggests that the individual begin work early, including, for example, while still drawing pay for accrued annual leave.⁹⁰ In calendar year 2016, a covered employee may not receive outside earned income (including, for example, a signing bonus) in excess of \$27,495, 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.⁹¹ Regardless of whether compensation is received, a covered employee may not allow his or her name to be used by an organization that provides fiduciary services. In addition, a covered employee may not receive any honoraria (*i.e.*, a payment for a speech, article, or appearance),⁹² although he or she may receive compensation for teaching, if the employee first secures specific prior permission from this Committee.⁹³

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.

⁸⁶ 5 U.S.C. app. § 102(a)(2)(B).

⁸⁷ *Id.* § 101(e).

⁸⁸ See *2015 FD and PTR Instructions at 5*. A form for this purpose is available on the Committee's Web site, at http://ethics.house.gov/sites/ethics.house.gov/files/FD_TerminationExemption.pdf.

⁸⁹ House Rule 25, cls. 1-5. The outside employment and earned income limitations are also codified at 5 U.S.C. app. §§ 501-502.

⁹⁰ 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 2016, the limit is \$34,160. 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 from the two positions would exceed the statutory limit. *Id.*

⁹¹ House Rule 25, cls. 1-4; *see also* 5 U.S.C. app. §§ 501-502.

⁹² House Rule 23, cl. 5; House Rule 25, cl. 1(a)(2).

⁹³ House Rule 25, cl. 2(e).

**ACCEPTANCE OF OFFICIALLY CONNECTED
TRAVEL FUNDED BY A PRIVATE SOURCE**

After the adjournment *sine die* of Congress, it is questionable whether any employee of a departing Member may participate in any privately-funded travel that is fact-finding in nature. The gift rule requires that such travel be related to official duties,⁹⁴ 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.

⁹⁴ *Id.*, cl. 5(b)(1)(A).

APPENDIX III

RULES

COMMITTEE ON ETHICS

Adopted February 12, 2015
114th Congress

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

COMMITTEE ON ETHICS

UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

CHARLES W. DENT, Pennsylvania, *Chairman*
PATRICK MEEHAN, Pennsylvania
TREY GOWDY, South Carolina
SUSAN W. BROOKS, Indiana
KENNY MARCHANT, Texas

LINDA T. SÁNCHEZ, California, *Ranking Member*
MICHAEL E. CAPUANO, Massachusetts
YVETTE D. CLARKE, New York
TED DEUTCH, Florida
JOHN LARSON, Connecticut

THOMAS A. RUST, *Staff Director and Chief Counsel*

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FOREWORD

The Committee on Ethics 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, 114th Congress.

(b) The rules of the Committee may be modified, amended, or repealed by a vote of a majority of the Committee.

(c) When the interests of justice so require, the Committee, by a majority vote of its members, may adopt any special procedures, not inconsistent with these rules, deemed necessary to resolve a particular matter before it. Copies of such special procedures shall be furnished to all parties in the matter.

(d) The Chair and Ranking Minority Member shall have access to such information that they request as necessary to conduct Committee business.

Rule 2. Definitions

(a) "Committee" means the Committee on Ethics.

(b) "Complaint" means a written allegation of improper conduct against a Member, officer, or employee of the House of Representatives filed with the Committee with the intent to initiate an inquiry.

(c) "Inquiry" means an investigation by an investigative subcommittee into allegations against a Member, officer, or employee of the House of Representatives.

(d) "Investigate," "Investigating," and/or "Investigation" mean review of the conduct of a Member, officer, or employee of the House of Representatives that is conducted or authorized by the Committee, an investigative subcommittee, or the Chair and Ranking Minority Member of the Committee.

(e) "Board" means the Board of the Office of Congressional Ethics.

(f) "Referral" means a report sent to the Committee from the Board pursuant to House Rules and all applicable House Resolutions regarding the conduct of a House Member, officer, or employee, including any accompanying findings or other supporting documentation.

(g) "Investigative Subcommittee" means a subcommittee designated pursuant to Rule 19(a) to conduct an inquiry to determine if a Statement of Alleged Violation should be issued.

(h) "Statement of Alleged Violation" means a formal charging document filed by an investigative subcommittee with the Committee containing specific allegations against a Member, officer, or employee of the House of Representatives of a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct

applicable to the performance of official duties or the discharge of official responsibilities.

(i) “Adjudicatory Subcommittee” means a subcommittee designated pursuant to Rule 23(a) that holds an adjudicatory hearing and determines whether the counts in a Statement of Alleged Violation are proved by clear and convincing evidence.

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

(k) “Respondent” means a Member, officer, or employee of the House of Representatives who is the subject of a complaint filed with the Committee or who is the subject of an inquiry or a Statement of Alleged Violation.

(l) “Office of Advice and Education” refers to the Office established by section 803(i) of the Ethics Reform Act of 1989. The Office handles inquiries; prepares written opinions in response to specific requests; develops general guidance; and organizes seminars, workshops, and briefings for the benefit of the House of Representatives.

(m) “Member” means a Representative in, or a Delegate to, or the Resident Commissioner to, the U.S. House of Representatives.

Rule 3. Advisory Opinions and Waivers

(a) The Office of Advice and Education shall handle inquiries; prepare written opinions providing specific advice, including reviews of requests for privately-sponsored travel pursuant to the Committee’s travel regulations; develop general guidance; and organize seminars, workshops, and briefings for the benefit of the House of Representatives.

(b) Any Member, officer, or employee of the House of Representatives may request a written opinion with respect to the propriety of any current or proposed conduct of such Member, officer, or employee.

(c) The Office of Advice and Education may provide information and guidance regarding laws, rules, regulations, and other standards of conduct applicable to Members, officers, and employees in the performance of their duties or the discharge of their responsibilities.

(d) In general, the Committee shall provide a written opinion to an individual only in response to a written request, and the written opinion shall address the conduct only of the inquiring individual, or of persons for whom the inquiring individual is responsible as employing authority.

(e) A written request for an opinion shall be addressed to the Chair of the Committee and shall include a complete and accurate statement of the relevant facts. A request shall be signed by the requester or the requester's authorized representative or employing authority. A representative shall disclose to the Committee the identity of the principal on whose behalf advice is being sought.

(f) Requests for privately-sponsored travel shall be treated like any other request for a written opinion for purposes of paragraphs (g) through (l).

(1) The Committee's Travel Guidelines and Regulations shall govern the request submission and Committee approval process for privately-sponsored travel consistent with House Rules.

(2) A request for privately-sponsored travel of a Member, officer, or employee shall include a completed and signed Traveler Form that attaches the Private Sponsor Certification Form and includes all information required by the Committee's

travel regulations. A private sponsor offering officially-connected travel to a Member, officer, or employee must complete and sign a Private Sponsor Certification Form, and provide a copy of that form to the invitee(s).

(3) Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file, a Traveler Form or Private Sponsor Certification Form may be subject to civil penalties and criminal sanctions pursuant to 18 U.S.C. § 1001.

(g) The Office of Advice and Education shall prepare for the Committee a response to each written request for an opinion from a Member, officer, or employee. Each response shall discuss all applicable laws, rules, regulations, or other standards.

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

(i) The Chair and Ranking Minority Member are authorized to take action on behalf of the Committee on any proposed written opinion that they determine does not require consideration by the Committee. If the Chair or Ranking Minority Member requests a written opinion, or seeks a waiver, extension, or approval pursuant to Rules 3(m), 4(c), 4(e), or 4(h), the next ranking member of the requester's party is authorized to act in lieu of the requester.

(j) The Committee shall keep confidential any request for advice from a Member, officer, or employee, as well as any response thereto. Upon request of any Member, officer, or employee who has submitted a written request for an opinion or submitted a request for privately-sponsored travel, the Committee may release to the requesting individual a copy of their own written request for advice or submitted travel forms, any subsequent written communications between such individual and Committee staff regarding the request, and any Committee advisory opinion or travel letter issued to

that individual in response. The Committee shall not release any internal Committee staff work product, communications, or notes in response to such a request, except as authorized by the Committee.

(k) The Committee may take no adverse action in regard to any conduct that has been undertaken in reliance on a written opinion if the conduct conforms to the specific facts addressed in the opinion.

(l) Information provided to the Committee by a Member, officer, or employee seeking advice regarding prospective conduct may not be used as the basis for initiating an investigation under clause 3(a)(2) or clause 3(b) of Rule XI of the Rules of the House of Representatives, if such Member, officer, or employee acts in good faith in accordance with the written advice of the Committee.

(m) A written request for a waiver of clause 5 of House Rule XXV (the House gift rule), or for any other waiver or approval, shall be treated in all respects like any other request for a written opinion.

(n) A written request for a waiver of clause 5 of House Rule XXV (the House gift rule) shall specify the nature of the waiver being sought and the specific circumstances justifying the waiver.

(o) An employee seeking a waiver of time limits applicable to travel paid for by a private source shall include with the request evidence that the employing authority is aware of the request. In any other instance where proposed employee conduct may reflect on the performance of official duties, the Committee may require that the requester submit evidence that the employing authority knows of the conduct.

Rule 4. Financial Disclosure

(a) In matters relating to Title I of the Ethics in Government Act of 1978, the Committee shall coordinate with the Clerk of the House of Representatives, Legislative Resource Center, to assure that appropriate individuals are notified of their obligation to file reports required to be filed under Title I of the Ethics in Government Act and that such individuals are provided in a timely fashion with filing instructions and forms developed by the Committee.

(b) The Committee shall coordinate with the Legislative Resource Center to assure that information that the Ethics in Government Act requires to be placed on the public record is made public.

(c) Any reports required to be filed under Title I of the Ethics in Government Act filed by Members of the Board of the Office of Congressional Ethics that are forwarded to the Committee by the Clerk shall not be subject to paragraphs (d) through (q) of this Rule. The Office of Congressional Ethics retains jurisdiction over review of the timeliness and completeness of filings by Members of the Board as the Board's supervising ethics office.

(d) The Chair and Ranking Minority Member are authorized to grant on behalf of the Committee requests for reasonable extensions of time for the filing of Financial Disclosure Statements. Any such request must be received by the Committee no later than the date on which the Statement in question is due. A request received after such date may be granted by the Committee only in extraordinary circumstances. Such extensions for one individual in a calendar year shall not exceed a total of 90 days. No extension shall be granted authorizing a nonincumbent candidate to file a statement later than 30 days prior to a primary or general election in which the candidate is participating.

(e) An individual who takes legally sufficient action to withdraw as a candidate before the date on which that individual's Financial Disclosure Statement is due under the Ethics in Government Act shall not be required to file a Statement. An individual shall not be excused from filing a Financial Disclosure Statement when withdrawal as a candidate occurs after the date on which such Statement was due.

(f) Any individual who files a report required to be filed under Title I of the Ethics in Government Act more than 30 days after the later of—

(1) the date such report is required to be filed, or

(2) if a filing extension is granted to such individual, the last day of the filing extension period, is required by such Act to pay a late filing fee of \$200. The Chair and Ranking Minority Member are authorized to approve requests that the fee be waived based on extraordinary circumstances.

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

(h) The Chair and Ranking Minority Member are authorized to approve requests for waivers of the aggregation and reporting of gifts as provided by section 102(a)(2)(C) of the Ethics in Government Act. If such a request is approved, both the incoming request and the Committee response shall be forwarded to the Legislative Resource Center for placement on the public record.

(i) The Chair and Ranking Minority Member are authorized to approve blind trusts as qualifying under section 102(f)(3) of the Ethics in Government Act. The correspondence relating to formal approval of a blind trust, the trust document, the list of assets transferred to the trust, and any other documents required by law to be made public, shall be forwarded to the Legislative Resource Center for such purpose.

(j) The Committee shall designate staff counsel who shall review reports required to be filed under Title I of the Ethics in Government Act and, based upon information contained therein, indicate in a form and manner prescribed by the Committee whether the Statement appears substantially accurate and complete and the filer appears to be in compliance with applicable laws and rules.

(k) Each report required to be filed under Title I of the Ethics in Government Act shall be reviewed within 60 days after the date of filing.

(l) If the reviewing counsel believes that additional information is required because (1) the report required to be filed under Title I of the Ethics in Government Act appears not substantially accurate or complete, or (2) the filer may not be in compliance with applicable laws or rules, then the reporting individual shall be notified in writing of the additional information believed to be required, or of the law or rule with which the reporting individual does not appear to be in compliance. Such notice shall also state the time within which a response is to be submitted. Any such notice shall remain confidential.

(m) Within the time specified, including any extension granted in accordance with clause (d), a reporting individual who concurs with the Committee's notification that the report required to be filed under Title I of the Ethics in Government Act is not complete, or that other action is required, shall submit the necessary information or take appropriate action. Any amendment may be in the form of a revised report required to be filed under Title I of the Ethics in Government Act or an explanatory letter addressed to the Clerk of the House of Representatives.

(n) Any amendment shall be placed on the public record in the same manner as other reports required to be filed under Title I of the Ethics in Government Act. The

individual designated by the Committee to review the original report required to be filed under Title I of the Ethics in Government Act shall review any amendment thereto.

(o) Within the time specified, including any extension granted in accordance with clause (d), a reporting individual who does not agree with the Committee that the report required to be filed under Title I of the Ethics in Government Act is deficient or that other action is required, shall be provided an opportunity to respond orally or in writing. If the explanation is accepted, a copy of the response, if written, or a note summarizing an oral response, shall be retained in Committee files with the original report.

(p) The Committee shall be the final arbiter of whether any report required to be filed under Title I of the Ethics in Government Act requires clarification or amendment.

(q) If the Committee determines, by vote of a majority of its members, that there is reason to believe that an individual has willfully failed to file a report required to be filed under Title I of the Ethics in Government Act or has willfully falsified or willfully failed to file information required to be reported, then the Committee shall refer the name of the individual, together with the evidence supporting its finding, to the Attorney General pursuant to section 104(b) of the Ethics in Government Act. Such referral shall not preclude the Committee from initiating such other action as may be authorized by other provisions of law or the Rules of the House of Representatives.

Rule 5. Meetings

(a) The regular meeting day of the Committee shall be the second Tuesday of each month, except when the House of Representatives is not meeting on that day. When the Committee Chair determines that there is sufficient reason, meetings may be called on additional days. A regularly scheduled meeting need not be held when the Chair determines there is no business to be considered.

(b) The Chair shall establish the agenda for meetings of the Committee and the Ranking Minority Member may place additional items on the agenda.

(c) All meetings of the Committee or any subcommittee shall occur in executive session unless the Committee or subcommittee, by an affirmative vote of a majority of its members, opens the meeting to the public.

(d) Any hearing held by an adjudicatory subcommittee or any sanction hearing held by the Committee shall be open to the public unless the Committee or subcommittee, by an affirmative vote of a majority of its members, closes the hearing to the public.

(e) A subcommittee shall meet at the discretion of its Chair.

(f) Insofar as practicable, notice for any Committee or subcommittee meeting shall be provided at least seven days in advance of the meeting. The Chair of the Committee or subcommittee may waive such time period for good cause.

Rule 6. Committee Staff

(a) The staff is to be assembled and retained as a professional, nonpartisan staff.

(b) Each member of the staff shall be professional and demonstrably qualified for the position for which the individual is hired.

(c) The staff as a whole and each individual member of the staff shall perform all official duties in a nonpartisan manner.

(d) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(e) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to the

employment or duties with the Committee of such individual without specific prior approval from the Chair and Ranking Minority Member.

(f) All staff members shall be appointed by an affirmative vote of a majority of the members of the Committee. Such vote shall occur at the first meeting of the membership of the Committee during each Congress and as necessary during the Congress.

(g) Subject to the approval of the Committee on House Administration, the Committee may retain counsel not employed by the House of Representatives whenever the Committee determines, by an affirmative vote of a majority of the members of the Committee, that the retention of outside counsel is necessary and appropriate.

(h) If the Committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(i) Outside counsel may be dismissed prior to the end of a contract between the Committee and such counsel only by a majority vote of the members of the Committee.

(j) In addition to any other staff provided for by law, rule, or other authority, with respect to the Committee, the Chair and Ranking Minority Member each may appoint one individual as a shared staff member from the respective personal staff of the Chair or Ranking Minority Member to perform service for the Committee. Such shared staff may assist the Chair or Ranking Minority Member on any subcommittee on which the Chair or Ranking Minority Member serves. Only paragraphs (c) and (e) of this Rule and Rule 7(b) shall apply to shared staff.

Rule 7. Confidentiality

(a) Before any Member or employee of the Committee, including members of an investigative subcommittee selected under clause 5(a)(4) of Rule X of the House of Representatives and shared staff designated pursuant to Committee Rule 6(j), may have access to information that is confidential under the rules of the Committee, the following oath (or affirmation) shall be executed in writing:

“I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Ethics, any information received in the course of my service with the Committee, except as authorized by the Committee or in accordance with its rules.”

Copies of the executed oath shall be provided to the Clerk of the House as part of the records of the House. Breaches of confidentiality shall be investigated by the Committee and appropriate action shall be taken.

(b) No member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the Committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the Committee.

(c) Committee members and staff shall not disclose any evidence relating to an investigation to any person or organization outside the Committee unless authorized by the Committee.

(d) Members and staff of the Committee shall not disclose to any person or organization outside the Committee, unless authorized by the Committee, any information regarding the Committee’s or a subcommittee’s investigative, adjudicatory, or other proceedings, including but not limited to: (i) the fact or nature of any complaints;

(ii) executive session proceedings; (iii) information pertaining to or copies of any Committee or subcommittee report, study or other document which purports to express the views, findings, conclusions or recommendations of the Committee or subcommittee in connection with any of its activities or proceedings; or (iv) any other information or allegation respecting the conduct of a Member, officer, or employee of the House. This rule shall not prohibit the Chair or Ranking Minority Member from disclosing to the Board of the Office of Congressional Ethics the existence of a Committee investigation, the name of the Member, officer or employee of the House who is the subject of that investigation, and a brief statement of the scope of that investigation in a written request for referral pursuant to Rule 17A(k). Such disclosures will only be made subject to written confirmation from the Board that the information provided by the Chair or Ranking Minority Member will be kept confidential by the Board.

(e) Except as otherwise specifically authorized by the Committee, no Committee member or staff member shall disclose to any person outside the Committee, the name of any witness subpoenaed to testify or to produce evidence.

(f) Except as provided in Rule 17A, the Committee shall not disclose to any person or organization outside the Committee any information concerning the conduct of a respondent until it has transmitted a Statement of Alleged Violation to such respondent and the respondent has been given full opportunity to respond pursuant to Rule 22. The Statement of Alleged Violation and any written response thereto shall be made public at the first meeting or hearing on the matter that is open to the public after such opportunity has been provided. Any other materials in the possession of the Committee regarding such statement may be made public as authorized by the Committee to the extent consistent with the Rules of the House of Representatives. If no public hearing is held on

the matter, the Statement of Alleged Violation and any written response thereto shall be included in the Committee's final report on the matter to the House of Representatives.

(g) Unless otherwise determined by a vote of the Committee, only the Chair or Ranking Minority Member of the Committee, after consultation with each other, may make public statements regarding matters before the Committee or any subcommittee.

(h) The Committee may establish procedures necessary to prevent the unauthorized disclosure of any testimony or other information received by the Committee or its staff.

Rule 8. Subcommittees—General Policy and Structure

(a) Notwithstanding any other provision of these Rules, the Chair and Ranking Minority Member of the Committee may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to evidence and information before a subcommittee with whom they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee. Except for the Chair and Ranking Minority Member of the Committee pursuant to this paragraph, evidence in the possession of an investigative subcommittee shall not be disclosed to other Committee members except by a vote of the subcommittee.

(b) The Committee may establish other noninvestigative and nonadjudicatory subcommittees and may assign to them such functions as it may deem appropriate. The membership of each subcommittee shall provide equal representation for the majority and minority parties.

(c) The Chair may refer any bill, resolution, or other matter before the Committee to an appropriate subcommittee for consideration. Any such bill, resolution, or other

matter may be discharged from the subcommittee to which it was referred by a majority vote of the Committee.

(d) Any member of the Committee may sit with any noninvestigative or nonadjudicatory subcommittee, but only regular members of such subcommittee may vote on any matter before that subcommittee.

Rule 9. Quorums and Member Disqualification

(a) The quorum for the Committee or an investigative subcommittee to take testimony and to receive evidence shall be two members, unless otherwise authorized by the House of Representatives.

(b) The quorum for an adjudicatory subcommittee to take testimony, receive evidence, or conduct business shall consist of a majority plus one of the members of the adjudicatory subcommittee.

(c) Except as stated in clauses (a) and (b) of this rule, a quorum for the purpose of conducting business consists of a majority of the members of the Committee or subcommittee.

(d) A member of the Committee shall be ineligible to participate in any Committee or subcommittee proceeding in which such Member is the respondent.

(e) A member of the Committee may seek disqualification from participating in any investigation of the conduct of a Member, officer, or employee of the House of Representatives upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision. If the Committee approves and accepts such affidavit of disqualification, the Chair shall so notify the Speaker and ask the Speaker to designate a Member of the House of Representatives from the same political party as the disqualified member of the

Committee to act as a member of the Committee in any Committee proceeding relating to such investigation.

Rule 10. Vote Requirements

(a) The following actions shall be taken only upon an affirmative vote of a majority of the members of the Committee or subcommittee, as appropriate:

- (1) Issuing a subpoena.
- (2) Adopting a full Committee motion to create an investigative subcommittee.
- (3) Adopting or amending of a Statement of Alleged Violation.
- (4) Finding that a count in a Statement of Alleged Violation has been proved by clear and convincing evidence.
- (5) Sending a letter of reproof.
- (6) Adopting a recommendation to the House of Representatives that a sanction be imposed.
- (7) Adopting a report relating to the conduct of a Member, officer, or employee.
- (8) Issuing an advisory opinion of general applicability establishing new policy.

(b) Except as stated in clause (a), action may be taken by the Committee or any subcommittee thereof by a simple majority, a quorum being present.

(c) No motion made to take any of the actions enumerated in clause (a) of this Rule may be entertained by the Chair unless a quorum of the Committee is present when such motion is made.

Rule 11. Committee Records

(a) All communications and all pleadings pursuant to these rules shall be filed with the Committee at the Committee's office or such other place as designated by the Committee.

(b) All records of the Committee which have been delivered to the Archivist of the United States shall be made available to the public in accordance with Rule VII of the Rules of the House of Representatives.

Rule 12. Broadcasts of Committee and Subcommittee Proceedings

(a) Television or radio coverage of a Committee or subcommittee hearing or meeting shall be without commercial sponsorship.

(b) Not more than four television cameras, operating from fixed positions, shall be permitted in a hearing or meeting room. The Committee may allocate the positions of permitted television cameras among the television media in consultation with the Executive Committee of the Radio and Television Correspondents' Galleries.

(c) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the Committee, or the visibility of that witness and that member to each other.

(d) Television cameras shall not be placed in positions that unnecessarily obstruct the coverage of the hearing or meeting by the other media.

PART II—INVESTIGATIVE AUTHORITY

Rule 13. House Resolution

Whenever the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation, the provisions of the resolution, in

conjunction with these Rules, shall govern. To the extent the provisions of the resolution differ from these Rules, the resolution shall control.

Rule 14. Committee Authority to Investigate—General Policy

(a) Pursuant to clause 3(b) of Rule XI of the Rules of the House of Representatives, the Committee may exercise its investigative authority when:

(1) information offered as a complaint by a Member of the House of Representatives is transmitted directly to the Committee;

(2) information offered as a complaint by an individual not a Member of the House is transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee;

(3) the Committee, on its own initiative, undertakes an investigation;

(4) a Member, officer, or employee is convicted in a Federal, State, or local court of a felony;

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

(6) a referral from the Board is transmitted to the Committee.

(b) The Committee also has investigatory authority over:

(1) certain unauthorized disclosures of intelligence-related information, pursuant to House Rule X, clauses 11(g)(4) and (g)(5); or

(2) reports received from the Office of the Inspector General pursuant to House Rule II, clause 6(c)(5).

Rule 15. Complaints

(a) A complaint submitted to the Committee shall be in writing, dated, and properly verified (a document will be considered properly verified where a notary executes it with the language, "Signed and sworn to (or affirmed) before me on (date) by (the name of the person)" setting forth in simple, concise, and direct statements—

(1) the name and legal address of the party filing the complaint (hereinafter referred to as the "complainant");

(2) the name and position or title of the respondent;

(3) the nature of the alleged violation of the Code of Official Conduct or of other law, rule, regulation, or other standard of conduct applicable to the performance of duties or discharge of responsibilities; and

(4) the facts alleged to give rise to the violation. The complaint shall not contain innuendo, speculative assertions, or conclusory statements.

(b) Any documents in the possession of the complainant that relate to the allegations may be submitted with the complaint.

(c) Information offered as a complaint by a Member of the House of Representatives may be transmitted directly to the Committee.

(d) Information offered as a complaint by an individual not a Member of the House may be transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee.

(e) A complaint must be accompanied by a certification, which may be unsworn, that the complainant has provided an exact copy of the filed complaint and all attachments to the respondent.

(f) The Committee may defer action on a complaint against a Member, officer, or employee of the House of Representatives when the complaint alleges conduct that the Committee has reason to believe is being reviewed by appropriate law enforcement or regulatory authorities, or when the Committee determines that it is appropriate for the conduct alleged in the complaint to be reviewed initially by law enforcement or regulatory authorities.

(g) A complaint may not be amended without leave of the Committee. Otherwise, any new allegations of improper conduct must be submitted in a new complaint that independently meets the procedural requirements of the Rules of the House of Representatives and the Committee's Rules.

(h) The Committee shall not accept, and shall return to the complainant, any complaint submitted within the 60 days prior to an election in which the subject of the complaint is a candidate.

(i) The Committee shall not consider a complaint, nor shall any investigation be undertaken by the Committee, of any alleged violation which occurred before the third previous Congress unless the Committee determines that the alleged violation is directly related to an alleged violation which occurred in a more recent Congress.

Rule 16. Duties of Committee Chair and Ranking Minority Member

(a) Whenever information offered as a complaint is submitted to the Committee, the Chair and Ranking Minority Member shall have 14 calendar days or 5 legislative days, whichever occurs first, to determine whether the information meets the requirements of the Committee's rules for what constitutes a complaint.

(b) Whenever the Chair and Ranking Minority Member jointly determine that information submitted to the Committee meets the requirements of the Committee's rules

for what constitutes a complaint, they shall have 45 calendar days or 5 legislative days, whichever is later, after the date that the Chair and Ranking Minority Member determine that information filed meets the requirements of the Committee's rules for what constitutes a complaint, unless the Committee by an affirmative vote of a majority of its members votes otherwise, to –

(1) recommend to the Committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(2) establish an investigative subcommittee; or

(3) request that the Committee extend the applicable 45-calendar day period when they determine more time is necessary in order to make a recommendation under paragraph (1) or (2) of Rule 16(b).

(c) The Chair and Ranking Minority Member may jointly gather additional information concerning alleged conduct which is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or the Chair or Ranking Minority Member has placed on the agenda the issue of whether to establish an investigative subcommittee.

(d) If the Chair and Ranking Minority Member jointly determine that information submitted to the Committee meets the requirements of the Committee rules for what constitutes a complaint, and the complaint is not disposed of within 45 calendar days or 5 legislative days, whichever is later, and no additional 45-day extension is made, then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. If at any time during the time period

either the Chair or Ranking Minority Member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the Committee.

(e) Whenever the Chair and Ranking Minority Member jointly determine that information submitted to the Committee does not meet the requirements for what constitutes a complaint set forth in the Committee rules, they may (1) return the information to the complainant with a statement that it fails to meet the requirements for what constitutes a complaint set forth in the Committee's rules; or (2) recommend to the Committee that it authorize the establishment of an investigative subcommittee.

Rule 17. Processing of Complaints

(a) If a complaint is in compliance with House and Committee Rules, a copy of the complaint and the Committee Rules shall be forwarded to the respondent within 5 days with notice that the complaint conforms to the applicable rules.

(b) The respondent may, within 30 days of the Committee's notification, provide to the Committee any information relevant to a complaint filed with the Committee. The respondent may submit a written statement in response to the complaint. Such a statement shall be signed by the respondent. If the statement is prepared by counsel for the respondent, the respondent shall sign a representation that the respondent has reviewed the response and agrees with the factual assertions contained therein.

(c) The Committee staff may request information from the respondent or obtain additional information relevant to the case from other sources prior to the establishment of an investigative subcommittee only when so directed by the Chair and Ranking Minority Member.

(d) The respondent shall be notified in writing regarding the Committee's decision either to dismiss the complaint or to create an investigative subcommittee.

Rule 17A. Referrals from the Board of the Office of Congressional Ethics

(a) The Committee has exclusive jurisdiction over the interpretation, administration, and enforcement of the Code of Official Conduct pursuant to clause 1(g) of House Rule X. Receipt of referrals from the Board under this rule does not limit the Committee's discretion to address referrals in any way through the appropriate procedures authorized by Committee Rules. The Committee shall review the report and findings transmitted by the Board without prejudice or presumptions as to the merit of the allegations.

(b)(1) Whenever the Committee receives either (A) a referral containing a written report and any findings and supporting documentation from the Board; or (B) a referral from the Board pursuant to a request under Rule 17A(k), the Chair shall have 45 calendar days or 5 legislative days after the date the referral is received, whichever is later, to make public the report and findings of the Board unless the Chair and Ranking Minority Member jointly decide, or the Committee votes, to withhold such information for not more than one additional 45-day period.

(2) At least one calendar day before the Committee makes public any report and findings of the Board the Chair shall notify in writing the Board and the Member, officer, or employee who is the subject of the referral of the impending public release of these documents. At the same time, the Chair shall transmit a copy of any public statement on the Committee's disposition of the matter and any accompanying Committee report to the individual who is the subject of the referral.

(3) All public statements and reports and findings of the Board that are required to be made public under this Rule shall be posted on the Committee's website.

(c) If the OCE report and findings are withheld for an additional 45-day period pursuant to paragraph (b)(1), the Chair shall—

(1) make a public statement on the day of such decision or vote that the matter referred from the Board has been extended; and

(2) make public the written report and findings pursuant to paragraph (b) upon the termination of such additional period.

(d) If the Board transmits a report with a recommendation to dismiss or noting a matter as unresolved due to a tie vote, and the matter is extended for an additional period as provided in paragraph (b), the Committee is not required to make a public statement that the matter has been extended pursuant to paragraph (b)(1).

(e) If the Committee votes to dismiss a matter referred from the Board, the Committee is not required to make public the written report and findings of the Board pursuant to paragraph (c) unless the Committee's vote is inconsistent with the recommendation of the Board. A vote by the Committee to dismiss a matter is not considered inconsistent with a report from the Board that the matter is unresolved by the Board due to a tie vote.

(f) Except as provided by paragraph (g):

(1) If the Committee establishes an investigative subcommittee respecting any matter referred by the Board, then the report and findings of the Board shall not be made public until the conclusion of the investigative subcommittee process. The Committee shall issue a public statement noting the establishment of an investigative subcommittee,

which shall include the name of the Member, officer, or employee who is the subject of the inquiry, and shall set forth the alleged violation.

(2) If any such investigative subcommittee does not conclude its review within one year after the Board's referral, then the Committee shall make public the report of the Board no later than one year after the referral. If the investigative subcommittee does not conclude its review before the end of the Congress in which the report of the Board is made public, the Committee shall make public any findings of the Board on the last day of that Congress.

(g) If the vote of the Committee is a tie or the Committee fails to act by the close of any applicable period(s) under this rule, the report and the findings of the Board shall be made public by the Committee, along with a public statement by the Chair explaining the status of the matter.

(h)(1) If the Committee agrees to a request from an appropriate law enforcement or regulatory authority to defer taking action on a matter referred by the Board under paragraph (b) –

(A) The Committee is not required to make public the written report and findings of the Board pursuant to paragraph (c), except that if the recommendation of the Board is that the matter requires further review, the Committee shall make public the written report of the Board but not the findings; and

(B) The Committee shall make a public statement that it is deferring taking action on the matter at the request of such law enforcement or regulatory authority within one day (excluding weekends and public holidays) of the day that the Committee agrees to the request.

(2) If the Committee has not acted on the matter within one year of the date the public statement described in paragraph (h)(1)(B) is released, the Committee shall make a public statement that it continues to defer taking action on the matter. The Committee shall make a new statement upon the expiration of each succeeding one-year period during which the Committee has not acted on the matter.

(i) The Committee shall not accept, and shall return to the Board, any referral from the Board within 60 days before a Federal, State, or local election in which the subject of the referral is a candidate.

(j) The Committee may postpone any reporting requirement under this rule that falls within that 60-day period until after the date of the election in which the subject of the referral is a candidate. For purposes of calculating any applicable period under this Rule, any days within the 60-day period before such an election shall not be counted.

(k)(1) At any time after the Committee receives written notification from the Board of the Office of Congressional Ethics that the Board is undertaking a review of alleged conduct of any Member, officer, or employee of the House at a time when the Committee is investigating, or has completed an investigation of the same matter, the Committee may so notify the Board in writing and request that the Board cease its review and refer the matter to the Committee for its consideration immediately. The Committee shall also notify the Board in writing if the Committee has not reached a final resolution of the matter or has not referred the matter to the appropriate Federal or State authorities by the end of any applicable time period specified in Rule 17A (including any permissible extension).

(2) The Committee may not request a second referral of the matter from the Board if the Committee has notified the Board that it is unable to resolve the matter previously

requested pursuant to this section. The Board may subsequently send a referral regarding a matter previously requested and returned by the Committee after the conclusion of the Board's review process.

Rule 18. Committee-Initiated Inquiry or Investigation

(a) Notwithstanding the absence of a filed complaint, the Committee may consider any information in its possession indicating that a Member, officer, or employee may have committed a violation of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of the duties or the discharge of the responsibilities of such individual. The Chair and Ranking Minority Member may jointly gather additional information concerning such an alleged violation by a Member, officer, or employee unless and until an investigative subcommittee has been established. The Chair and Ranking Minority Member may also jointly take appropriate action consistent with Committee Rules to resolve the matter.

(b) If the Committee votes to establish an investigative subcommittee, the Committee shall proceed in accordance with Rule 19.

(c) Any written request by a Member, officer, or employee of the House of Representatives that the Committee conduct an investigation into such person's own conduct shall be considered in accordance with subsection (a) of this Rule.

(d) An inquiry shall not be undertaken regarding any alleged violation that occurred before the third previous Congress unless a majority of the Committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.

(e)(1) An inquiry shall be undertaken by an investigative subcommittee with regard to any felony conviction of a Member, officer, or employee of the House of Representatives in a Federal, State, or local court who has been sentenced. Notwithstanding this provision, the Committee has the discretion to initiate an inquiry upon an affirmative vote of a majority of the members of the Committee at any time prior to conviction or sentencing.

(2) Not later than 30 days after a Member of the House is indicted or otherwise formally charged with criminal conduct in any Federal, State, or local court, the Committee shall either initiate an inquiry upon a majority vote of the members of the Committee or submit a report to the House describing its reasons for not initiating an inquiry and describing the actions, if any, that the Committee has taken in response to the allegations.

Rule 19. Investigative Subcommittee

(a)(1) Upon the establishment of an investigative subcommittee, the Chair and Ranking Minority Member of the Committee shall designate four members (with equal representation from the majority and minority parties) to serve as an investigative subcommittee to undertake an inquiry. Members of the Committee and Members of the House selected pursuant to clause 5(a)(4)(A) of Rule X of the House of Representatives are eligible for appointment to an investigative subcommittee, as determined by the Chair and Ranking Minority Member of the Committee. At the time of appointment, the Chair shall designate one member of the subcommittee to serve as the Chair and the Ranking Minority Member shall designate one member of the subcommittee to serve as the ranking minority member of the investigative subcommittee. The Chair and Ranking

Minority Member of the Committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex-officio members.

(2) The respondent shall be notified of the membership of the investigative subcommittee and shall have 10 days after such notice is transmitted to object to the participation of any subcommittee member. Such objection shall be in writing and must be on the grounds that the subcommittee member cannot render an impartial and unbiased decision. The members of the Committee shall engage in a collegial discussion regarding such objection. The subcommittee member against whom the objection is made shall be the sole judge of any disqualification and may choose to seek disqualification from participating in the inquiry pursuant to Rule 9(e).

(b) In an inquiry undertaken by an investigative subcommittee—

(1) All proceedings, including the taking of testimony, shall be conducted in executive session and all testimony taken by deposition or things produced pursuant to subpoena or otherwise shall be deemed to have been taken or produced in executive session.

(2) The Chair of the investigative subcommittee shall ask the respondent and all witnesses whether they intend to be represented by counsel. If so, the respondent or witnesses or their legal representatives shall provide written designation of counsel. A respondent or witness who is represented by counsel shall not be questioned in the absence of counsel unless an explicit waiver is obtained.

(3) The subcommittee shall provide the respondent an opportunity to present, orally or in writing, a statement, which must be under oath or affirmation, regarding the allegations and any other relevant questions arising out of the inquiry.

(4) The staff may interview witnesses, examine documents and other evidence, and request that submitted statements be under oath or affirmation and that documents be certified as to their authenticity and accuracy.

(5) The subcommittee, by a majority vote of its members, may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary to the conduct of the inquiry. Unless the Committee otherwise provides, the subpoena power shall rest in the Chair and Ranking Minority Member of the Committee and a subpoena shall be issued upon the request of the investigative subcommittee.

(6) The subcommittee shall require that testimony be given under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this subcommittee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered by the Chair or subcommittee member designated by the Chair to administer oaths.

(c) During the inquiry, the procedure respecting the admissibility of evidence and rulings shall be as follows:

(1) Any relevant evidence shall be admissible unless the evidence is privileged under the precedents of the House of Representatives.

(2) The Chair of the subcommittee or other presiding member at any investigative subcommittee proceeding shall rule upon any question of admissibility or relevance of evidence, motion, procedure, or any other matter, and may direct any witness to answer any question under penalty of contempt. A witness, witness counsel,

or a member of the subcommittee may appeal any rulings to the members present at that proceeding. A majority vote of the members present at such proceeding on such appeal shall govern the question of admissibility, and no appeal shall lie to the Committee.

(3) Whenever a person is determined by a majority vote to be in contempt of the subcommittee, the matter may be referred to the Committee to determine whether to refer the matter to the House of Representatives for consideration.

(4) Committee counsel may, subject to subcommittee approval, enter into stipulations with the respondent and/or the respondent's counsel as to facts that are not in dispute.

(d) Upon an affirmative vote of a majority of the subcommittee members, and an affirmative vote of a majority of the full Committee, an investigative subcommittee may expand the scope of its inquiry.

(e) Upon completion of the inquiry, the staff shall draft for the investigative subcommittee a report that shall contain a comprehensive summary of the information received regarding the alleged violations.

(f) Upon completion of the inquiry, an investigative subcommittee, by a majority vote of its members, may adopt a Statement of Alleged Violation if it determines that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives has occurred. If more than one violation is alleged, such Statement shall be divided into separate counts. Each count shall relate to a separate violation, shall contain a plain and concise statement of the alleged facts of such violation, and shall include a reference to the provision of the Code of Official Conduct

or law, rule, regulation, or other applicable standard of conduct governing the performance of duties or discharge of responsibilities alleged to have been violated. A copy of such Statement shall be transmitted to the respondent and the respondent's counsel.

(g) If the investigative subcommittee does not adopt a Statement of Alleged Violation, it shall transmit to the Committee a report containing a summary of the information received in the inquiry, its conclusions and reasons therefore, and any appropriate recommendation.

Rule 20. Amendments to Statements of Alleged Violation

(a) An investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its Statement of Alleged Violation anytime before the Statement of Alleged Violation is transmitted to the Committee; and

(b) If an investigative subcommittee amends its Statement of Alleged Violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended Statement of Alleged Violation.

Rule 21. Committee Reporting Requirements

(a) Whenever an investigative subcommittee does not adopt a Statement of Alleged Violation and transmits a report to that effect to the Committee, the Committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives;

(b) Whenever an investigative subcommittee adopts a Statement of Alleged Violation but recommends that no further action be taken, it shall transmit a report to the Committee regarding the Statement of Alleged Violation; and

(c) Whenever an investigative subcommittee adopts a Statement of Alleged Violation, the respondent admits to the violations set forth in such Statement, the respondent waives the right to an adjudicatory hearing, and the respondent's waiver is approved by the Committee—

(1) the subcommittee shall prepare a report for transmittal to the Committee, a final draft of which shall be provided to the respondent not less than 15 calendar days before the subcommittee votes on whether to adopt the report;

(2) the respondent may submit views in writing regarding the final draft to the subcommittee within 7 calendar days of receipt of that draft;

(3) the subcommittee shall transmit a report to the Committee regarding the Statement of Alleged Violation together with any views submitted by the respondent pursuant to subparagraph (2), and the Committee shall make the report, together with the respondent's views, available to the public before the commencement of any sanction hearing; and

(4) the Committee shall by an affirmative vote of a majority of its members issue a report and transmit such report to the House of Representatives, together with the respondent's views previously submitted pursuant to subparagraph (2) and any additional views respondent may submit for attachment to the final report; and

(d) Members of the Committee shall have not less than 72 hours to review any report transmitted to the Committee by an investigative subcommittee before both the commencement of a sanction hearing and the Committee vote on whether to adopt the report.

Rule 22. Respondent's Answer

(a)(1) Within 30 days from the date of transmittal of a Statement of Alleged Violation, the respondent shall file with the investigative subcommittee an answer, in writing and under oath, signed by respondent and respondent's counsel. Failure to file an answer within the time prescribed shall be considered by the Committee as a denial of each count.

(2) The answer shall contain an admission to or denial of each count set forth in the Statement of Alleged Violation and may include negative, affirmative, or alternative defenses and any supporting evidence or other relevant information.

(b) The respondent may file a Motion for a Bill of Particulars within 10 days of the date of transmittal of the Statement of Alleged Violation. If a Motion for a Bill of Particulars is filed, the respondent shall not be required to file an answer until 20 days after the subcommittee has replied to such motion.

(c)(1) The respondent may file a Motion to Dismiss within 10 days of the date of transmittal of the Statement of Alleged Violation or, if a Motion for a Bill of Particulars has been filed, within 10 days of the date of the subcommittee's reply to the Motion for a Bill of Particulars. If a Motion to Dismiss is filed, the respondent shall not be required to file an answer until 20 days after the subcommittee has replied to the Motion to Dismiss, unless the respondent previously filed a Motion for a Bill of Particulars, in which case the respondent shall not be required to file an answer until 10 days after the subcommittee has replied to the Motion to Dismiss. The investigative subcommittee shall rule upon any motion to dismiss filed during the period between the establishment of the subcommittee and the subcommittee's transmittal of a report or Statement of Alleged Violation to the

Committee or to the Chair and Ranking Minority Member at the conclusion of an inquiry, and no appeal of the subcommittee's ruling shall lie to the Committee.

(2) A Motion to Dismiss may be made on the grounds that the Statement of Alleged Violation fails to state facts that constitute a violation of the Code of Official Conduct or other applicable law, rule, regulation, or standard of conduct, or on the grounds that the Committee lacks jurisdiction to consider the allegations contained in the Statement.

(d) Any motion filed with the subcommittee pursuant to this rule shall be accompanied by a Memorandum of Points and Authorities.

(e)(1) The Chair of the investigative subcommittee, for good cause shown, may permit the respondent to file an answer or motion after the day prescribed above.

(2) If the ability of the respondent to present an adequate defense is not adversely affected and special circumstances so require, the Chair of the investigative subcommittee may direct the respondent to file an answer or motion prior to the day prescribed above.

(f) If the day on which any answer, motion, reply, or other pleading must be filed falls on a Saturday, Sunday, or holiday, such filing shall be made on the first business day thereafter.

(g) As soon as practicable after an answer has been filed or the time for such filing has expired, the Statement of Alleged Violation and any answer, motion, reply, or other pleading connected therewith shall be transmitted by the Chair of the investigative subcommittee to the Chair and Ranking Minority Member of the Committee.

Rule 23. Adjudicatory Hearings

(a) If a Statement of Alleged Violation is transmitted to the Chair and Ranking Minority Member pursuant to Rule 22, and no waiver pursuant to Rule 26(b) has occurred, the Chair shall designate the members of the Committee who did not serve on the investigative subcommittee to serve on an adjudicatory subcommittee. The Chair and Ranking Minority Member of the Committee shall be the Chair and Ranking Minority Member of the adjudicatory subcommittee unless they served on the investigative subcommittee. The respondent shall be notified of the designation of the adjudicatory subcommittee and shall have 10 days after such notice is transmitted to object to the participation of any subcommittee member. Such objection shall be in writing and shall be on the grounds that the member cannot render an impartial and unbiased decision. The members of the Committee shall engage in a collegial discussion regarding such objection. The member against whom the objection is made shall be the sole judge of any disqualification and may choose to seek disqualification from serving on the subcommittee pursuant to Rule 9(e).

(b) A majority of the adjudicatory subcommittee membership plus one must be present at all times for the conduct of any business pursuant to this rule.

(c) The adjudicatory subcommittee shall hold a hearing to determine whether any counts in the Statement of Alleged Violation have been proved by clear and convincing evidence and shall make findings of fact, except where such violations have been admitted by respondent.

(d) 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. A subpoena for

documents may specify terms of return other than at a meeting or hearing of the subcommittee. 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)(1)-(4), (6)-(7) and (k) of Rule XI of the Rules of the House of Representatives shall apply to adjudicatory hearings. All such hearings shall be open to the public unless the adjudicatory subcommittee, pursuant to such clause, determines that the hearings or any part thereof should be closed.

(f)(1) The adjudicatory subcommittee shall, in writing, notify the respondent that the respondent and respondent's counsel have the right to inspect, review, copy, or photograph books, papers, documents, photographs, or other tangible objects that committee 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 committee counsel intends to call, and a summary of their expected testimony, no less than 15 calendar days prior to any such hearing. Except in extraordinary circumstances, no evidence may be introduced or witness called in an adjudicatory hearing unless the respondent has been afforded a prior opportunity to review such evidence or has been provided the name of the witness.

(2) After a witness has testified on direct examination at an adjudicatory hearing, the Committee, at the request of the respondent, shall make available to the respondent any statement of the witness in the possession of the Committee which relates to the subject matter as to which the witness has testified.

(3) Any other testimony, statement, or documentary evidence in the possession of the Committee which is material to the respondent's defense shall, upon request, be made available to the respondent.

(g) No less than 5 days prior to the hearing, the respondent or counsel shall provide the adjudicatory subcommittee with the names of witnesses expected to be called, summaries of their expected testimony, and copies of any documents or other evidence proposed to be introduced.

(h) The respondent or counsel may apply to the subcommittee for the issuance of subpoenas for the appearance of witnesses or the production of evidence. The application shall be granted upon a showing by the respondent that the proposed testimony or evidence is relevant and not otherwise available to respondent. The application may be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(i) No later than two weeks or 5 legislative days after the Chair of the Committee designates members to serve on an adjudicatory subcommittee, whichever is later, the Chair of the adjudicatory subcommittee shall establish a schedule and procedure for the hearing and for prehearing matters. The procedures may be changed either by the Chair of the adjudicatory subcommittee or a by a majority vote of the members of the subcommittee. If the Chair makes prehearing rulings upon any question of admissibility or relevance of evidence, motion, procedure, or any other matter, the Chair shall make available those rulings to all subcommittee members at the time of the ruling.

(j) The procedures regarding the admissibility of evidence and rulings shall be as follows:

(1) Any relevant evidence shall be admissible unless the evidence is privileged under the precedents of the House of Representatives.

(2) The Chair of the subcommittee or other presiding member at an adjudicatory subcommittee hearing shall rule upon any question of admissibility or

relevance of evidence, motion, procedure, or any other matter, and may direct any witness to answer any question under penalty of contempt. A witness, witness counsel, or a member of the subcommittee may appeal any ruling to the members present at that proceeding. A majority vote of the members present at such proceeding on such an appeal shall govern the question of admissibility and no appeal shall lie to the Committee.

(3) Whenever a witness is deemed by a Chair or other presiding member to be in contempt of the subcommittee, the matter may be referred to the Committee to determine whether to refer the matter to the House of Representatives for consideration.

(4) Committee counsel may, subject to subcommittee approval, enter into stipulations with the respondent and/or the respondent's counsel as to facts that are not in dispute.

(k) Unless otherwise provided, the order of an adjudicatory hearing shall be as follows:

(1) The Chair and Ranking Minority Member of the subcommittee shall open the hearing with equal time and during which time, the Chair shall state the adjudicatory subcommittee's authority to conduct the hearing and the purpose of the hearing.

(2) The Chair shall then recognize Committee counsel and the respondent's counsel, in turn, for the purpose of giving opening statements.

(3) Testimony from witnesses and other relevant evidence shall be received in the following order whenever possible:

(i) witnesses (deposition transcripts and affidavits obtained during the inquiry may be used in lieu of live witnesses) and other evidence offered by the Committee counsel,

(ii) witnesses and other evidence offered by the respondent,

(iii) rebuttal witnesses, as permitted by the Chair.

(4) Witnesses at a hearing shall be examined first by counsel calling such witness. The opposing counsel may then cross-examine the witness. Redirect examination and recross examination by counsel may be permitted at the Chair's discretion. Subcommittee members may then question witnesses. Unless otherwise directed by the Chair, questions by Subcommittee members shall be conducted under the five-minute rule.

(5) The Chair shall then recognize Committee counsel and respondent's counsel, in turn, for the purpose of giving closing arguments. Committee counsel may reserve time for rebuttal argument, as permitted by the Chair.

(l) A subpoena to a witness to appear at a hearing shall be served sufficiently in advance of that witness' scheduled appearance to allow the witness a reasonable period of time, as determined by the Chair of the adjudicatory subcommittee, to prepare for the hearing and to employ counsel.

(m) Each witness appearing before the subcommittee shall be furnished a printed copy of the Committee rules, the relevant provisions of the Rules of the House of Representatives applicable to the rights of witnesses, and a copy of the Statement of Alleged Violation.

(n) Testimony of all witnesses shall be taken under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this subcommittee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or

affirmation shall be administered by the Chair or Committee member designated by the Chair to administer oaths.

(o) 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. Committee counsel or respondent's counsel may move the adjudicatory subcommittee to make a finding that there is no material fact at issue. If the adjudicatory subcommittee finds that there is no material fact at issue, the burden of proof will be deemed satisfied.

(p) 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.

(q) The findings of the adjudicatory subcommittee shall be reported to the Committee.

***Rule 24. Sanction Hearing and Consideration of Sanctions
or Other Recommendations***

(a) If no count in a Statement of Alleged Violation is proved, the Committee shall prepare a report to the House of Representatives, based upon the report of the adjudicatory subcommittee.

(b) If an adjudicatory subcommittee completes an adjudicatory hearing pursuant to Rule 23 and reports that any count of the Statement of Alleged Violation has been proved, a hearing before the Committee shall be held to receive oral and/or written submissions by counsel for the Committee and counsel for the respondent as to the sanction the Committee should recommend to the House of Representatives with respect to such violations. Testimony by witnesses shall not be heard except by written request and vote of a majority of the Committee.

(c) Upon completion of any proceeding held pursuant to clause (b), the Committee shall consider and vote on a motion to recommend to the House of Representatives that the House take disciplinary action. If a majority of the Committee does not vote in favor of the recommendation that the House of Representatives take action, a motion to reconsider that vote may be made only by a member who voted against the recommendation. The Committee may also, by majority vote, adopt a motion to issue a Letter of Reproval or take other appropriate Committee action.

(d) If the Committee determines a Letter of Reproval constitutes sufficient action, the Committee shall include any such letter as a part of its report to the House of Representatives.

(e) With respect to any proved counts against a Member of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

- (1) Expulsion from the House of Representatives.
- (2) Censure.
- (3) Reprimand.
- (4) Fine.

(5) Denial or limitation of any right, power, privilege, or immunity of the Member if under the Constitution the House of Representatives may impose such denial or limitation.

(6) Any other sanction determined by the Committee to be appropriate.

(f) With respect to any proved counts against an officer or employee of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

(1) Dismissal from employment.

(2) Reprimand.

(3) Fine.

(4) Any other sanction determined by the Committee to be appropriate.

(g) With respect to the sanctions that the Committee may recommend, reprimand is appropriate for serious violations, censure is appropriate for more serious violations, and expulsion of a Member or dismissal of an officer or employee is appropriate for the most serious violations. A recommendation of a fine is appropriate in a case in which it is likely that the violation was committed to secure a personal financial benefit; and a recommendation of a denial or limitation of a right, power, privilege, or immunity of a Member is appropriate when the violation bears upon the exercise or holding of such right, power, privilege, or immunity. This clause sets forth general guidelines and does not limit the authority of the Committee to recommend other sanctions.

(h) The Committee report shall contain an appropriate statement of the evidence supporting the Committee's findings and a statement of the Committee's reasons for the recommended sanction.

Rule 25. Disclosure of Exculpatory Information to Respondent

If the Committee, or any investigative or adjudicatory subcommittee at any time receives any exculpatory information respecting a Complaint or Statement of Alleged Violation concerning a Member, officer, or employee of the House of Representatives, it shall make such information known and available to the Member, officer, or employee as soon as practicable, but in no event later than the transmittal of evidence supporting a proposed Statement of Alleged Violation pursuant to Rule 26(c). If an investigative subcommittee does not adopt a Statement of Alleged Violation, it shall identify any exculpatory information in its possession at the conclusion of its inquiry and shall include such information, if any, in the subcommittee's final report to the Committee regarding its inquiry. For purposes of this rule, exculpatory evidence shall be any evidence or information that is substantially favorable to the respondent with respect to the allegations or charges before an investigative or adjudicatory subcommittee.

Rule 26. Rights of Respondents and Witnesses

(a) A respondent shall be informed of the right to be represented by counsel, to be provided at the respondent's own expense.

(b) A respondent may seek to waive any procedural rights or steps in the disciplinary process. A request for waiver must be in writing, signed by the respondent, and must detail what procedural steps the respondent seeks to waive. Any such request shall be subject to the acceptance of the Committee or subcommittee, as appropriate.

(c) Not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a Statement of Alleged Violation, the subcommittee shall provide the respondent with a copy of the Statement of Alleged Violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt,

including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness, but if such evidence is withheld, the subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates.

(d) Neither the respondent nor respondent's counsel shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (c) except for the sole purpose of settlement discussions where counsels for the respondent and the subcommittee are present.

(e) If, at any time after the issuance of a Statement of Alleged Violation, the Committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (c) to prove the charges contained in the Statement of Alleged Violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the Committee's rules.

(f) Evidence provided pursuant to paragraph (c) or (e) shall be made available to the respondent and respondent's counsel only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until—

(1) such time as a Statement of Alleged Violation is made public by the Committee if the respondent has waived the adjudicatory hearing; or

(2) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing; but the failure of respondent and respondent's counsel to

so agree in writing, and therefore not receive the evidence, shall not preclude the issuance of a Statement of Alleged Violation at the end of the period referenced to in (c).

(g) A respondent shall receive written notice whenever-

(1) the Chair and Ranking Minority Member determine that information the Committee has received constitutes a complaint;

(2) a complaint or allegation is transmitted to an investigative subcommittee;

(3) that subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; and

(4) the Committee votes to expand the scope of the inquiry of an investigative subcommittee.

(h) Whenever an investigative subcommittee adopts a Statement of Alleged Violation and a respondent enters into an agreement with that subcommittee to settle a complaint on which the Statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and the respondent's counsel, the Chair and Ranking Minority Member of the subcommittee, and outside counsel, if any.

(i) Statements or information derived solely from a respondent or respondent's counsel during any settlement discussions between the Committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the Committee or otherwise publicly disclosed without the consent of the respondent.

(j) Whenever a motion to establish an investigative subcommittee does not prevail, the Committee shall promptly send a letter to the respondent informing the respondent of such vote.

(k) Witnesses shall be afforded a reasonable period of time, as determined by the Committee or subcommittee, to prepare for an appearance before an investigative subcommittee or for an adjudicatory hearing and to obtain counsel.

(l) Prior to their testimony, witnesses shall be furnished a printed copy of the Committee's Rules of Procedure and the provisions of the Rules of the House of Representatives applicable to the rights of witnesses.

(m) Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights. The Chair may punish breaches of order and decorum, and of professional responsibility on the part of counsel, by censure and exclusion from the hearings; and the Committee may cite the offender to the House of Representatives for contempt.

(n) Each witness subpoenaed to provide testimony or other evidence shall be provided the same per diem rate as established, authorized, and regulated by the Committee on House Administration for Members, officers and employees of the House, and, as the Chair considers appropriate, actual expenses of travel to or from the place of examination. No compensation shall be authorized for attorney's fees or for a witness' lost earnings. Such per diem may not be paid if a witness had been summoned at the place of examination.

(o) With the approval of the Committee, a witness, upon request, may be provided with a transcript of the witness' own deposition or other testimony taken in executive session, or, with the approval of the Chair and Ranking Minority Member, may be permitted to examine such transcript in the office of the Committee. Any such request shall be in writing and shall include a statement that the witness, and counsel, agree to

maintain the confidentiality of all executive session proceedings covered by such transcript.

Rule 27. Frivolous Filings

If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee, the Committee may take such action as it, by an affirmative vote of a majority deems appropriate in the circumstances.

Rule 28. Referrals to Federal or State Authorities

Referrals made under clause 3(a)(3) of Rule XI of the Rules of the House of Representatives may be made by an affirmative vote of two-thirds of the members of the Committee.

APPENDIX IV

Charles W. Dent, Pennsylvania
Chairman
Linda T. Sánchez, California
Ranking Member

Patrick Meehan, Pennsylvania
Trey Gowdy, South Carolina
Susan W. Brooks, Indiana
Kenny Marchant, Texas

Michael E. Capuano, Massachusetts
Yvette D. Clarke, New York
Ted Deutch, Florida
John B. Larson, Connecticut



ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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FOR RELEASE: Upon Receipt

March 27, 2015

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER
OF THE COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE ED WHITFIELD**

In accordance with House Rule XI, clause 3, and Committee Rules 10(a)(2) and 18, the Committee on Ethics (Committee) unanimously voted on March 25, 2015, to establish an Investigative Subcommittee. Pursuant to the Committee's action, the Investigative Subcommittee shall have jurisdiction to determine whether Representative Ed Whitfield violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of his duties or the discharge of his responsibilities, with respect to allegations that he failed to prohibit lobbying contacts between his staff and his wife, improperly used his official position for the beneficial interest of himself or his wife, and dispensed special favors or privileges to either his wife, the Humane Society Legislative Fund, or the Humane Society of the United States.

The Committee has determined to take this action based upon a discretionary review of the allegations, as well as evidence obtained pursuant to Committee Rule 18(a), authorized by the Chairman and Ranking Member of the Committee for the 113th Congress. On June 10, 2014, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding the aforementioned allegations. The Committee publicly released that referral on November 10, 2014, in accordance with House and Committee Rules. As provided by House Rule X, clause 1(g) and Committee Rule 17A(a), the Committee has exclusive jurisdiction over the interpretation, administration, and enforcement of the Code of Official Conduct. Consistent with the Committee's rules, it reviews OCE's Report and Findings without prejudice or presumptions as to the merit of the allegations.

The Committee notes that the mere fact of establishing an Investigative Subcommittee does not itself indicate that any violation has occurred.

The Honorable Kenny Marchant will serve as the Chair of the Investigative Subcommittee, and the Honorable Ted Deutch will serve as the Ranking Member. The other two members of the Investigative Subcommittee are the Honorable Barbara Comstock and the Honorable John Carney. No other public comment will be made on this matter except in accordance with Committee rules.

###

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Ranking Member

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Kenny Marchant, Texas

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FOR RELEASE: Upon Receipt

July 31, 2015

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER
OF THE COMMITTEE ON ETHICS REGARDING OFFICIALLY-CONNECTED
TRAVEL TO AZERBAIJAN IN 2013**

The Committee on Ethics (Committee) has been reviewing allegations relating to officially-connected travel by Members and staff of the House to Azerbaijan in May 2013. Today the Committee filed a Report to the House announcing its conclusions. The Committee unanimously voted to adopt the attached Report and its findings. As described in the Report, the Committee found no evidence that the Members and staff who participated in the trip knowingly violated any House Rule, law, regulation, or other standard of conduct.

The Committee conducted an extensive investigation. It issued 12 subpoenas and 18 voluntary requests for information, and collected nearly 190,000 pages of materials, including approximately 10,000 pages of supplemental materials provided to the Committee by the Office of Congressional Ethics (OCE). The Committee also interviewed ten witnesses.

All of the Members and staff who went on the trips did so only after getting Committee approval to accept the trips. Neither the Committee nor OCE found any evidence of any knowing violation by any Member or House staffer. In addition, all Members and staff fully cooperated with the Committee's review.

However, both the Committee and OCE found evidence suggesting that a number of parties outside the House may have affirmatively lied to and/or withheld information from both the Committee and the House Members and staff who were invited.

The Committee is referring the matter of third parties apparently engaging in a criminal conspiracy to lie to Congress to the Department of Justice for such further action as it deems appropriate. So as not to interfere with or undermine any criminal investigation, the Committee will provide materials from the nearly 190,000 pages of documents it acquired, including bank records, to the Department of Justice confidentially.

During the Committee's investigation, materials transmitted by OCE to the Committee were disclosed to a newspaper. This unauthorized public disclosure impeded the Committee's ongoing investigation, and prevented it from gathering information critical to its investigation. Following this unauthorized public disclosure, a central witness to most of the substantive allegations in question invoked his Fifth Amendment right to refuse to testify and refused to

comply with a subpoena for documents issued to him by the Committee. Foreign entities outside of the Committee's jurisdiction to compel cooperation also subsequently declined to cooperate with the Committee's investigation.

Because the House travelers acted in good faith, and the evidence was inconclusive as to the true source of funds for the travel, the Committee concluded that the trips did not constitute an impermissible gift of travel, and decided that no further action is required regarding the House travelers' acceptance of any trip expenses.

Separately from the travel expenses, House travelers also received tangible gifts during the trips. These gifts may have been permissible under the gift rule, but the relevant provisions would require knowledge of the true identity of the donor to make that determination. Given the lack of cooperation from third parties, the Committee was not able to make that determination, so it has directed the travelers to take remedial action. All of the Members who went on the trip have already taken that remedial action or committed to do so.

The Committee intends to take no further action regarding this matter and thus considers it closed. This Report constitutes a final resolution of this matter under House Rule XI, clause 3(r).

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FOR RELEASE: Upon Receipt

August 3, 2015

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER
OF THE COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE CHAKA FATTAH**

In accordance with House Rule XI, clause 3, and Committee Rules 10(a)(2) and 18(e)(2), the Committee on Ethics (Committee) unanimously voted on July 29, 2015, to establish an Investigative Subcommittee. Pursuant to the Committee's action, the Investigative Subcommittee shall have jurisdiction to determine whether Representative Chaka Fattah violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of his duties or the discharge of his responsibilities, with respect to allegations forming the basis for criminal charges of conspiracy, racketeering, bribery, fraud, falsification of records, making false statements, and money laundering, as filed against him in the United States District Court for the Eastern District of Pennsylvania on July 29, 2015.

The Honorable Susan W. Brooks will serve as the Chair of the Investigative Subcommittee, and the Honorable Yvette D. Clarke will serve as the Ranking Member. The other two members of the Investigative Subcommittee are the Honorable John M. Katko and the Honorable Janice K. Hahn.

No other public comment will be made on this matter except in accordance with Committee rules.

###

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FOR RELEASE: Upon Receipt

September 3, 2015

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE
COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE MICHAEL HONDA**

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on September 3, 2015, to release the following statement:

On June 5, 2015, the Committee on Ethics received a referral from the Office of Congressional Ethics (OCE) regarding Representative Michael Honda. Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rule 17A, the Chairman and Ranking Member jointly decided on July 20, 2015, to extend the Committee's review of the matter. In order to gather additional information necessary to complete its review, the Committee will review the matter pursuant to Committee Rule 18(a). The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee Rule 7 regarding confidentiality, out of fairness to all respondents, and to assure the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its initial review.

Pursuant to Committee Rule 17A, the Committee hereby publishes OCE's Report and Findings relating to allegations against Representative Honda and Representative Honda's submission to the Committee.

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FOR RELEASE: Upon Receipt

September 28, 2015

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE
COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE BLAKE FARENTHOLD**

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on September 28, 2015, to release the following statement:

On June 29, 2015, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding whether Representative Blake Farenthold sexually harassed a former member of his staff, discriminated against her on the basis of her gender, and retaliated against her for complaining about the alleged unlawful treatment. Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rule 17A, the Chairman and Ranking Member jointly decided on August 13, 2015, to extend the Committee's review of the matter.

In its referral, OCE unanimously recommended that the Committee dismiss the matter, because OCE did not find substantial reason to believe that Representative Farenthold engaged in the alleged conduct.

These allegations are also the subject of a lawsuit filed in the United States District Court for the District of Columbia, and currently pending in that court. Due to the ongoing nature of the lawsuit, the Committee has not yet been able to complete its review of the matter and therefore is not in a position to dismiss the matter at this time. The Committee will continue its review and ultimately will take any additional action it deems necessary, consistent with the House and Committee rules. The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee Rule 7 regarding confidentiality, out of fairness to all respondents, and to assure the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its initial review.

Pursuant to Committee Rule 17A, the Committee hereby publishes OCE's Report related to allegations against Representative Farenthold. OCE did not transmit findings to the Committee in this matter, so no findings are published.

###

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FOR RELEASE: Upon Receipt

November 19, 2015

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER
OF THE COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE ROBERT PITTENGER**

In accordance with House Rule XI, clause 3, and Committee Rules 2(b), 10(a)(2), 16(e)(2), and 18(a-c), the Committee on Ethics (Committee) unanimously voted on November 18, 2015, to establish an Investigative Subcommittee. Pursuant to the Committee's action, the Investigative Subcommittee shall have jurisdiction to determine whether Representative Robert Pittenger violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of his duties or the discharge of his responsibilities, with respect to allegations that he received compensation for his involvement with a fiduciary business, a real estate investment firm known as Pittenger Land Investments, Inc.

The Honorable Charles W. Dent will serve as the Chairman of the Investigative Subcommittee, and the Honorable Linda T. Sánchez will serve as the Ranking Member. The other two members of the Investigative Subcommittee are the Honorable John Katko and the Honorable Ed Perlmutter.

The Department of Justice has asked the Committee to defer consideration of the matters in the Investigative Subcommittee's jurisdiction. The Committee, following precedent, unanimously recommended to the Investigative Subcommittee that it defer action on its investigation at this time. No other public comment will be made on this matter except in accordance with Committee rules.

###

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Ranking Member

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FOR RELEASE: Upon Receipt

December 14, 2015

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE
COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE JARED POLIS**

On December 14, 2015, the Committee released the attached Report regarding allegations relating to Representative Jared Polis.

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Charles W. Dent, Pennsylvania
Chairman
Linda T. Sanchez, California
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FOR RELEASE: Upon Receipt

March 23, 2016

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER
OF THE COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE CORRINE BROWN**

In accordance with House Rule XI, clause 3, and Committee Rules 10(a)(2) and 18, the Committee on Ethics (Committee) unanimously voted on March 16, 2016, to establish an Investigative Subcommittee. Pursuant to the Committee's action, the Investigative Subcommittee shall have jurisdiction to determine whether Representative Corrine Brown violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of her duties or the discharge of her responsibilities, with respect to allegations that she engaged in improper conduct relating to certain outside organizations, including allegations that she may have conspired with other persons in connection with fraudulent activity, improperly solicited charitable donations, used campaign funds for personal purposes, used official resources for impermissible non-official purposes, failed to comply with tax laws, and made false statements, and/or failed to make required disclosures, to the House of Representatives and Federal Election Commission.

The Honorable Patrick Meehan will serve as the Chairman of the Investigative Subcommittee, and the Honorable John Larson will serve as the Ranking Member. The other two members of the Investigative Subcommittee are the Honorable Martha Roby and the Honorable Terri A. Sewell.

The Department of Justice has asked the Committee to defer consideration of the matters in the Investigative Subcommittee's jurisdiction. The Committee, following precedent, unanimously recommended to the Investigative Subcommittee that it defer action on its investigation at this time. No other public comment will be made on this matter except in accordance with Committee rules.

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Ranking Member

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Kenny Marchant, Texas

Michael E. Capuano, Massachusetts
Yvette D. Clarke, New York
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John B. Larson, Connecticut



ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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Joanne White
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FOR RELEASE: Upon Receipt

April 5, 2016

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE
COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE ALAN GRAYSON**

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on April 5, 2016, to release the following statement:

On January 6, 2016, the Committee on Ethics received a referral from the Office of Congressional Ethics (OCE) regarding Representative Alan Grayson. Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rule 17A, the Chairman and Ranking Member jointly decided on February 20, 2016, to extend the Committee's review of the matter. In order to gather additional information necessary to complete its review, the Committee will review the matter pursuant to Committee Rule 18(a). The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee Rule 7 regarding confidentiality, out of fairness to all respondents, and to assure the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its initial review.

Pursuant to Committee Rule 17A, the Committee hereby publishes OCE's Report and Findings relating to allegations against Representative Grayson and Representative Grayson's submission to the Committee.

###

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FOR RELEASE: Upon Receipt

June 24, 2016

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE
COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE VERNON G. BUCHANAN**

On June 24, 2016, the Committee released the attached Report regarding allegations relating to Representative Vernon G. Buchanan.

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FOR RELEASE: Upon Receipt

July 14, 2016

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE
COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE ED WHITFIELD**

On July 14, 2016, the Committee released the attached Report regarding allegations relating to Representative Ed Whitfield.

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FOR RELEASE: Upon Receipt

August 11, 2016

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER
OF THE COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE ROGER WILLIAMS**

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on August 11, 2016, to release the following statement:

On May 13, 2016, the Committee on Ethics received a referral from the Office of Congressional Ethics (OCE) regarding Representative Roger Williams. Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A) and 17A(c)(1), the Chairman and Ranking Member jointly decided on June 27, 2016, to extend the Committee's review of the matter. In order to gather additional information necessary to complete its review, the Committee will review the matter pursuant to Committee Rule 18(a). The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee Rule 7 regarding confidentiality, out of fairness to all respondents, and to assure the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its initial review.

Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rule 17A(c)(2), the Committee hereby publishes OCE's Report and Findings relating to allegations against Representative Williams and Representative Williams' response to OCE's Report and Findings.

###

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FOR RELEASE: Upon Receipt

August 17, 2016

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER
OF THE COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE MARK MEADOWS**

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on August 17, 2016, to release the following statement:

On March 18, 2016, the Committee on Ethics received a referral from the Office of Congressional Ethics (OCE) regarding Representative Mark Meadows. Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rules 17A(b)(1)(A), 17A(c)(1) and 17A(j), the Chairman and Ranking Member jointly decided on July 3, 2016, to extend the Committee's review of the matter. In order to gather additional information necessary to complete its review, the Committee will review the matter pursuant to Committee Rule 18(a). The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee Rule 7 regarding confidentiality, out of fairness to all respondents, and to assure the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its initial review.

Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rules 17A(c)(2) and 17A(j), the Committee hereby publishes OCE's Report and Findings relating to allegations against Representative Meadows and Representative Meadows' response to OCE's Report and Findings.

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FOR RELEASE: Upon Receipt

September 28, 2016

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE
COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE DAVID MCKINLEY**

On September 28, 2016, the Committee released the attached Report regarding
allegations relating to Representative David McKinley.

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FOR RELEASE: Upon Receipt

November 29, 2016

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER
OF THE COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE MARLIN STUTZMAN**

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on November 29, 2016, to release the following statement:

On August 31, 2016, the Committee on Ethics received a referral from the Office of Congressional Ethics (OCE) regarding Representative Marlin Stutzman. Pursuant to House Rule XI, clause 3(b)(8)(A) and Committee Rule 17A, the Chairman and Ranking Member jointly decided on October 17, 2016, to extend the Committee's review of the matter. In order to gather additional information necessary to complete its review, the Committee will review the matter pursuant to Committee Rule 18(a). The Committee notes that the mere fact of conducting further review of a referral, and any mandatory disclosure of such further review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

In order to comply with Committee Rule 7 regarding confidentiality, out of fairness to all respondents, and to assure the integrity of its work, the Committee will refrain from making further public statements on this matter pending completion of its initial review.

Pursuant to Committee Rule 17A, the Committee hereby publishes OCE's Report and Findings relating to allegations against Representative Stutzman, and Representative Stutzman's response to OCE's Report and Findings.

###

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FOR RELEASE: Upon Receipt

December 15, 2016

**STATEMENT OF THE CHAIRMAN AND RANKING MEMBER
OF THE COMMITTEE ON ETHICS REGARDING
REPRESENTATIVE DUNCAN HUNTER**

Pursuant to House Rule XI, clause 3(b)(8)(A), and Committee Rules 17A(b)(1)(A), 17A(c)(1) and 17A(j), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matter regarding Representative Duncan Hunter, which was transmitted to the Committee by the Office of Congressional Ethics on August 31, 2016.

The Committee notes that the mere fact of a referral or an extension, and the mandatory disclosure of such an extension and the name of the subject of the matter, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee.

The Committee will announce its course of action in this matter following its organizational meeting and adoption of Committee Rules in the 115th Congress.

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