

RULES

Office of Congressional Ethics



Adopted January 25, 2013
113th Congress

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

OFFICE OF
CONGRESSIONAL ETHICS
BOARD

UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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OFFICE OF CONGRESSIONAL ETHICS

RULES FOR THE CONDUCT OF INVESTIGATIONS

AS ADOPTED ON JANUARY 25, 2013

INTRODUCTION

The Office of Congressional Ethics, established by the United States House of Representatives, is an independent, non-partisan entity charged with reviewing allegations of misconduct against Members, officers and staff of the House and, when appropriate, referring matters to the Committee on Ethics (commonly referred to as the Ethics Committee). These rules are adopted under the authority granted by H. Res. 895 of the 110th Congress Section 1(c)(F).

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DEFINITIONS

(1) Board—the Board of Directors of the Office of Congressional Ethics

(2) Ethics Committee—the Committee on Ethics of the United States House of Representatives

(3) Employee—any employee of the House

(4) Exculpatory Evidence—evidence which disproves or tends to disprove an allegation that the Board refers to the Ethics Committee (Information that is merely favorable to the subject of an allegation does not constitute exculpatory evidence unless it is relevant to disproving the allegation)

(5) Member—any Representative in, or Delegate or Resident Commissioner to, the Congress

(6) Office or OCE—the Office of Congressional Ethics as described in H. Res. 895 of the 110th Congress; generally speaking, the Office consists of the Board of Directors and the Staff of the Office, including any detailees, consultants, contractors, special counsel or other personnel retained by the Board in any capacity

(7) Officer—officers of the House are the Sergeant-at-Arms, Clerk, Chief Administrative Officer and Chaplain

(8) Referrals—the report and any findings of the OCE in a matter transmitted to the Ethics Committee at the end of a second-phase review by the OCE

(9) Resolution—H. Res. 895 of the 110th

Congress, as amended

(10) Staff—staff of the Office of Congressional Ethics

(11) Subject—the Member, officer or employee against whom an allegation is made

(12) Witness—a person, including the subject of a review, who may have knowledge relating to a matter under review

Rule 1. Jurisdiction

The Office has jurisdiction to investigate allegations that:

(1) a Member, officer or employee of the House

(2) on or after March 11, 2008

(3) has violated a law, rule, regulation, or other standard of conduct in effect at the time the conduct occurred and applicable to the subject in the performance of his or her duties or the discharge of his or her responsibilities. Resolution Section 1(c)(1)(A) and (e).

The Board shall only review information related to allegations within the Office's jurisdiction.

When such information is obtained by the Office, the Staff shall determine whether the alleged conduct falls within the jurisdiction of the Board.

Commentary: In order to determine if jurisdiction exists, the Staff shall assume the facts alleged are true. This is the only time when the Staff shall make that assumption. The following is a list of some, but not all, of the substantive topics within the jurisdiction of the Office:

(1) conduct related to the Code of Official Conduct adopted under House Rule XXIV

(2) gifts

(3) travel

- (4) financial disclosure
- (5) outside employment and income

In the event a Member or officer leaves office, or a staff person ends his or her employment relationship with the House, then the Board's jurisdiction shall cease. At that time, the Board shall terminate any review and, depending on the stage, make appropriate reports to the Ethics Committee.

Rule 2. Board Meetings

The Board shall meet at the call of the Chairman or two Board members. Resolution Section 1(b)(9). The Board shall set a regular monthly meeting day. A regularly scheduled meeting need not be held when the Chairman determines there is no business to be considered. Notice for any Board meeting shall be provided at least seven days in advance. The Chairman may waive such period for good cause.

Four members of the Board, excluding alternates, shall constitute a quorum. The Chairman shall establish the agenda for the meetings of the Board. Any member of the Board may place additional items on the agenda. The Chairman shall preside at all meetings of the Board. In the absence of the Chairman, the Co-Chairman shall preside. Resolution Section 1(b)(8).

Alternates shall participate in all board meetings and conferences but may not vote. If (1) a vacancy occurs, (2) a Board member disqualifies him or herself because of a financial conflict of interest, (3) a Board member recuses him or herself because of a lack of impartiality in a particular matter, or (4) if a voting Board member is otherwise unable to participate in Board business for good cause, as determined by the Chairman, the most senior alternate Board member nominated by the same individual who nominated the unavailable Board member shall fill the voting Board member's seat until the voting Board member is again available or until a permanent replacement is selected.

Rule 3. Information For Board Consideration

(A) SUBMISSIONS

The Office will accept and review information concerning allegations within the Office's jurisdiction. While the Office will request the name and contact information of anyone submitting information, information may be submitted anonymously or confidentially.

When making any submission, the Office suggests including the following information:

- (1) the name, address, telephone number

and e-mail address, if any, of the person submitting the information, and the organization s/he is affiliated with, if any;

(2) the full name of the subject of the allegation;

(3) the date(s) the alleged conduct occurred;

(4) a concise statement of facts (or, the source of the information in the event that the person submitting the information does not have first-hand knowledge of the facts);

(5) the law, regulation or rule allegedly violated, if known;

(6) if applicable, name(s) and contact information for any potential witness(es);

(7) if applicable, copies of any documents related to the allegation; and

(8) a signed declaration that the person submitting the information acknowledges that section 1001 of title 18 United States Code (popularly known as the False Statements Act) applies to the information s/he is providing. A copy of the False Statements Act is attached as an appendix to these rules.

If the Staff finds that the information sufficiently alleges a violation within the jurisdiction of the Board, it may spend a reasonable amount of time gathering additional information with the authorization of the Chairman and Co-Chairman. If the Staff determines it is necessary to seek such information from sources other than public ones, including from

potential witnesses, it shall notify the subject of the allegations that it has received the allegations and is seeking information related to the Board's consideration of a preliminary review. The Staff shall keep the Board apprised at all times of information the Office has received.

(B) SUBMISSIONS FROM A STAFF OR BOARD MEMBER

Staff or any Board member may submit information regarding an alleged violation for consideration by the Board. The Staff may submit information to the Board that it has received from the public, in a form other than the one described above, or that it has derived from other sources including the press, third-party sources and other sources. Resolution Section 1(c)(2)(F). The Staff or Board member submitting information shall include the facts outlined in subsection (A) above, to the best of his or her ability.

(C) ALLEGATIONS AGAINST A BOARD MEMBER OR STAFF PERSON

In the event a submission alleging misconduct establishes a reasonable basis to believe that a member of the Board of Directors of the OCE has violated any law, rule, regulation, or other standard of conduct, applicable to the Board member in the performance of his or her duties or the discharge of his or her

responsibilities, the Board shall immediately forward such information to the Speaker of the House and the Minority Leader.

In the event a submission alleges that a staff person in the OCE has violated any law, rule or regulation, or other standard of conduct applicable to the staff person in the performance of his or her duties or the discharge of his or her responsibilities, the Staff Director shall notify the Chairman and Co-Chairman who shall take appropriate action.

Commentary: Allegations against a Board member shall be forwarded to the Speaker and Minority Leader because, as appointing authorities, the Speaker and Minority Leader are empowered to remove members of the Board for cause.

(D) CONSOLIDATING SUBMISSIONS

The Board may consolidate two or more submissions which involve the same Member or staff person as a subject or that involve substantially the same issues.

(E) ADDITIONAL INFORMATION

The Board may address any additional potential violations within its jurisdiction that are discovered in the course of a review as part of the same review during which the

information was discovered

(F) INFORMATION FROM A SUBJECT

A subject may provide information to the Office at any time during an investigation. Any information from a subject should be directed to the Staff Director and Chief Counsel, not to individual Board members. See Rule 9B.

Rule 4. Evidence

The Office may solicit testimony from witnesses and collect relevant evidence as may be necessary to carry out its duties. Resolution Section 1(c)(2)(D).

(A) FALSE STATEMENTS WARNING AND CERTIFICATION

(1) All witnesses that provide information must sign a statement acknowledging their understanding that section 1001 of title 18 United States Code (popularly known as the False Statements Act) applies to their testimony and to any documents they provide. Resolution Section 1(c)(F)(ii).

(2) Each witness who provides documents or other evidence in response to a written request for information must sign a statement certifying that (1) the witness has provided all

documents in the witness's possession that are responsive to the request; and, (2) if the witness has not provided a requested document or other evidence, that the witness has identified the document or evidence that is not available or withheld and explained why it is not available or withheld. This certification is subject to section 1001 of title 18, United States Code. Resolution Section 1(c)(F)(ii).

(3) Pursuant to Rule 6, the Board may deem non-compliance with this rule as a refusal to cooperate.

(B) WITNESSES

The Office may pay witnesses appearing before the Office in the same manner as prescribed by clause 5 of Rule XI of the Rules of the House of Representatives.

(C) IMPROPERLY OBTAINED EVIDENCE

The Office shall not rely upon any document, recording or physical evidence that was obtained in violation of any law, rule or regulation. When an individual submits evidence to the Office, s/he shall be asked to affirm to the best of their ability that the evidence was not obtained in violation of any law, rule or regulation.

(D) INTERROGATORIES

The Office may submit written interrogatories to a witness or subject and ask that they be answered within a reasonable amount of time.

(E) PRIVILEGES

The Office shall not consider evidence that is privileged under the precedents of the House of Representatives unless there is effective waiver.

(F) EXCULPATORY INFORMATION

Staff shall promptly provide to a subject any exculpatory evidence received that is not already known by or in the possession of the subject or the subject's counsel.

Rule 5. Investigator Is Impartial

Office staff shall be impartial and unbiased in the conduct of an investigation and shall collect all evidence related to the allegations, whether such evidence tends to prove or disprove the allegations. In the event that a staff person has a personal or professional relationship with a subject, a subject's opponent in any election or a witness involved in an investigation, staff shall disclose that fact to the

Staff Director who shall disclose it to the Board. Office staff shall notify the Staff Director and shall immediately discontinue working on an investigation in the event s/he feels s/he cannot be impartial and unbiased. If the Board believes that a staff person cannot be unbiased and impartial, the Board shall terminate that person's involvement in the matter.

Rule 6. Cooperation With the Office

The Office may request information from any source. In the event that the Office requests cooperation and it is not forthcoming, the Board may, but need not, draw a negative inference from any refusal to cooperate and may include a statement to that effect in any referral to the Ethics Committee. Resolution Section 1(c)(2)(C)(i)(II)(bb).

Rule 7. Preliminary Review

(A) STANDARD OF PROOF

The Board shall authorize a preliminary review of any allegation(s) when it determines there is a *reasonable basis* to believe the allegation(s) based on all the information then known to the Board. Resolution Section 1(c)(2)(F).

Commentary: A *reasonable basis* to believe the allegation(s) exists when there is a reasonable and articulable basis for believing the allegation(s). Such a determination does not constitute a finding that a violation has actually occurred.

(B) INITIAL STAFF REVIEW

The Staff shall advise the Board when it has done a reasonable initial investigation, with the authorization of the Chair and Co-Chair, either after receiving a submission or on its own initiative, and then recommend that the Board either authorize a preliminary review or take no action. Resolution Section 1(c)(2)(F). The Board may direct Staff to do additional investigation prior to reaching a decision as to whether to initiate a preliminary review.

(C) INITIATION

A preliminary review shall commence within seven calendar days of the receipt of a written request of two members of the Board, one of whom was appointed by the Speaker and one by the Minority Leader, stating the specific matter that is to be the subject of the preliminary review. Prior to submitting a request, Board members should notify the Chairman and Co-Chairman of their intention to do so.

Notwithstanding the minimum requirement for two concurring Board members, whenever possible the full Board shall in conference consider the Board members' request to initiate a preliminary review and attempt to reach consensus on the matter. The Staff shall record the date of receipt of any request for purposes of calculating applicable deadlines. Resolution Section 1(c)(1)(A) and (2)(F).

Commentary: As a preliminary review may be triggered by a *written request* of two members of the Board, such action does not require a vote by the Board and therefore, a quorum need not be present.

(D) DURATION

The Office shall complete all preliminary reviews within 30 calendar days (hereafter referred to as the "preliminary review time period.")

(E) PRELIMINARY REVIEW REPORT

Before the preliminary review time period expires, the Staff shall submit a written or oral preliminary review report to the Board. The report shall recommend either that the Board take no action or that the Board initiate a second-phase review.

(F) TERMINATION

Four members of the Board may vote to terminate a preliminary review at any time before the end of the preliminary review time period. Resolution Section 1(c)(1)(C). The Board may do so for any reason, including that the matter under review is de minimis in nature. Resolution Section 1(c)(2)(F)(i)(I). If the Board takes no further action on a matter by the end of the preliminary review time period, the preliminary review terminates. Resolution Section 1(c)(1)(C). In that event, the Board may send a report and any findings to the Ethics Committee.

Rule 8. Second-Phase Review

(A) STANDARD OF PROOF

The Board shall authorize a second-phase review of any allegation(s) if it determines, based on all the information then known to the Board, *probable cause* to believe the allegation(s) occurred. In the event the Office is unable to obtain information reasonably believed to exist and necessary to reach a determination of probable cause, the Board may authorize a second-phase review if it determines there is a *reasonable basis* to believe the allegation(s).

Commentary: *Probable cause* exists if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that the allegation(s) are true. A finding of probable cause does not constitute a finding the violation has actually occurred.

(B) INITIATION

Three members of the Board convened with a quorum may vote to initiate a second-phase review. Resolution Section 1(c)(1)(C).

(C) DURATION

The Office shall complete a second-phase review within 45 calendar days after the Board commences such review. Resolution Section 1(c)(2)(A)(i). The Board may extend the second-phase review by an additional 14 calendar days upon an affirmative vote of a majority of its members. Resolution Section 1(c)(2)(A)(ii). (Hereafter referred to as “second-phase review time period”).

(D) SECOND-PHASE REVIEW REPORT

At the conclusion of the second-phase review time period, the Staff shall submit to the Board a written or oral second-phase

report recommending that the Board forward the matter to the Ethics Committee either for further action or for dismissal.

Rule 9. Referrals to the Ethics Committee

(A) STANDARD OF PROOF

The Board shall refer a matter to the Ethics Committee for further review if it determines there is a *substantial reason* to believe the allegation(s) based on all the information then known to the Board. However, in the event the Office is unable to obtain information necessary to reach that determination, but the Board does determine there is *probable cause* to believe the allegations, the Board may refer the matter to the Ethics Committee for further review.

Commentary: A *substantial reason* to believe exists where there is such relevant evidence a reasonable mind might accept as adequate to support a conclusion. A finding that there is a substantial reason to believe the allegations does not constitute a finding that a violation has actually occurred.

(B) STATEMENT FROM SUBJECT

Before the Board votes on a recommendation or statement to be transmitted to the

Ethics Committee at the end of a second-phase review, it shall provide the subject the opportunity to present a statement to the Board. Resolution Section 1(f)(3).

Such a statement by a subject should not be used as an opportunity to present new evidence to the Office and is not an alternative to cooperation pursuant to Rule 6.

(C) SECOND-PHASE REVIEW REPORT

At the end of a second-phase review, the Board shall adopt, by a vote of no less than four members, a report to the Ethics Committee recommending either that the Ethics Committee give the matter further review or that it dismiss the matter. In the event that four Board members do not support either further review or dismissal, the Board shall report to the Ethics Committee that the matter is unresolved. The report shall state the votes in the affirmative and in the negative, the nature of the alleged violation and the individual who is the subject. The report may also include findings and supporting documentation as described below. Resolution Section 1(c)(2)(C)(i)(I).

Commentary: The Board's vote and adoption of a report shall occur, as soon as practicable, after the end of the second-phase review period.

(D) FINDINGS

The Board's referral may include findings composed solely of the following:

- (1) Any findings of fact;
- (2) A description of any relevant information that it was unable to obtain or witnesses whom it was unable to interview, and the reasons therefor;
- (3) A recommendation for issuance of subpoenas where appropriate; and
- (4) A citation of any relevant law, rule, regulation, or standard of conduct.

Resolution Section 1(c)(2)(C)(i)(I).

(E) SUPPORTING DOCUMENTATION

The Board may submit to the Ethics Committee any supporting documentation. Resolution Section 1(c)(2)(C)(i)(II).

(F) PRESENTATION OF REPORT TO ETHICS COMMITTEE

In transmitting any report to the Ethics Committee, the Board shall designate a member of the Board or staff to present the report if the Ethics Committee requests.

Rule 10. Period of Suspension of Referrals

The Board shall not transmit any referrals to the Ethics Committee within 60 days before a Federal, State, or local election in which the subject of the referral is a candidate. If the end of the second-phase review occurs within this suspension period, the Board shall complete its work on the referral and transmit it to the Ethics Committee on the first business day following the election. Clause 3(b)(8)(D) of Rule XI of the Rules of the House.

Rule 11. Notice

(A) INITIATION OF A PRELIMINARY REVIEW

The Office shall notify the Ethics Committee and the subject of any preliminary review initiated by the Board and shall provide the subject with a statement of the nature of the review. Resolution Section 1(c)(1)(A)(i)-(ii).

(B) TERMINATION OF A PRELIMINARY REVIEW

The Office shall notify the Ethics Committee and the subject of any decision by the Board to terminate a preliminary review or if a review terminates because the Board takes no further action. Resolution Section

1(c)(1)(C).

(C) INITIATION OF A SECOND-PHASE REVIEW

The Office shall notify the Ethics Committee and the subject of any second-phase review initiated by the Board. Resolution Section 1(c)(1)(C).

(D) REFERRAL TO THE STANDARDS COMMITTEE

The Office shall provide to the subject a copy of the report it transmits to the Ethics Committee recommending further review, dismissal or reporting that the matter is unresolved. Resolution Section 1(c)(2)(C)(ii).

Rule 12. Requests From the Ethics Committee

(A) REQUESTS FROM ETHICS COMMITTEE

Upon receipt of a written request from the Ethics Committee that the Board cease its review and refer the matter to the Committee because of an ongoing investigation of such matter by an investigatory subcommittee of the Ethics Committee, the Board shall refer such matter to the Committee and cease its preliminary or second-phase review, as applicable, and so notify the subject. The Board shall send a written report to the Committee

containing a statement that, upon the request of the Committee, the matter is referred for its consideration, but shall not include any findings. Resolution Section 1(d)(1).

(B) MATTERS UNRESOLVED BY THE ETHICS COMMITTEE

If the Ethics Committee notifies the Board in writing that it is unable to resolve any matter it had previously asked the Board to stop reviewing, the Board shall immediately begin or resume, as the case may be, a second-phase review of the matter. Resolution Section 1(d)(2).

Commentary: If the matter was in a second-phase review when the Ethics Committee asked the Board to cease the review then, for purposes of calculating the second-phase review time period, the number of calendar days remaining when the Ethics Committee asked the Board to cease its review shall be available to the Board when the second-phase review resumes.

(C) BOARD DUE DILIGENCE

In a case when the Ethics Committee asks the Board to cease review of a matter under this Rule, the Board shall inquire at regular

intervals to determine if the Ethics Committee has been [un]able to resolve the matter.

Rule 13. Referrals to Other Entities

(A) REFERRALS TO THE OFFICE OF COMPLIANCE

The Board may refer allegations related to the following laws to the Office of Compliance:

(1) The Age Discrimination in Employment Act of 1967

(2) The Americans with Disabilities Act of 1990

(3) Title VII of the Civil Rights Act of 1964

(4) The Employee Polygraph Protection Act of 1988

(5) The Fair Labor Standards Act of 1938

(6) The Family and Medical Leave Act of 1993

(7) The Federal Service Labor-Management Relations Statute

(8) Occupational Safety and Health Act of 1970

(9) The Rehabilitation Act of 1973

(10) Veterans' employment and reemployment rights at Chapter 43 of Title 38 of the U.S. Code

(11) The Worker Adjustment and Retraining Notification Act

(B) REFERRALS TO THE HOUSE OFFICE OF INSPECTOR GENERAL

The Board may refer allegations of fraud, waste and abuse in the operations of the House or joint entities of Congress to the House Office of Inspector General for investigation under clause 6(c)(1) of Rule II of the House.

(C) REFERRALS TO THE HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

The Board may refer allegations relating to the proper use of the franking privilege to the House Commission on Congressional Mailing Standards.

(D) STATE AND FEDERAL AUTHORITIES

The Staff, in consultation with the Chairman and Co-Chairman, may refer information to state and federal authorities in the event that information indicates a crime has occurred or is about to occur.

Rule 14. Counsel

(A) REPRESENTATION

If a subject or witness is known to be repre-

sented by a lawyer, all communication to the subject or witness shall be made through the subject's or witness's lawyer. The subject or witness must notify the Office if they are represented.

(B) MULTIPLE REPRESENTATIONS

The Board may limit or prohibit a lawyer or law firm from representing multiple witnesses or subjects if the Board finds a substantial risk that a conflict of interest may prejudice the review, without regard to whether the represented parties waive the possible conflict. If a subject or witness refuses to resolve the conflict of interest, the Board may determine pursuant to Rule 6 that the represented subject or witness refused to cooperate with the review.

Commentary: Multiple representation of witnesses by the same lawyer prejudices a review when the representation threatens the integrity of the investigation or risks obstructing the fact-finding process.

Rule 15. No Ex Parte Communications

There shall be no *ex parte* communication between any member of the Board and any subject or between any member of the Board and any interested party. No Member, officer or employee of the House may communicate

with any member of the Board regarding any matter under review by the Board except as authorized by the Board. Resolution Section 1(c)(2)(F)(iii). In the event a Board member inadvertently receives *ex parte* communications or after a communication is made becomes aware that they have received *ex parte* communications, they shall notify the Chair and Co-Chair who in turn shall inform the Board.

Rule 16. Alternative Procedures

Upon a finding by the Board that the just and expeditious determination of a matter requires simplification, alteration, or non-application of any or all of these rules, or the adoption of supplemental procedures, four members of the Board may vote to utilize such alternative procedures as are reasonable and necessary and consistent with the relevant law and which do not jeopardize the rights of a subject. In the event the Board adopts alternative procedures, the subject and other relevant persons, as determined by the Board, shall be furnished with copies of these procedures.

Commentary: For example, in a matter involving classified information alternate procedures would need to be adopted to ensure proper handling of such information.

APPENDIX A

PUBLIC RELEASE OF BOARD REFERRALS

[excerpted from H. Res. 895 of the 110th Congress (as amended by H. Res. 5 of the 111th Congress) Section 3]

(A) General Timeframe for Release and Delayed Release

Except as provided by clause 3(b) of Rule XI of the U.S. House of Representatives 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, the chairman of the Committee on Standards of Official Conduct¹ shall make public the written report and findings of the board unless the chairman 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 chairman shall—

¹ Beginning in the 112th Congress, the name of the Committee on Standards of Official Conduct was changed to the Committee on Ethics.

(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 committee has voted to extend 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.

At least one calendar day before the committee makes public any written report and findings of the board, the chairman 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) Timeframe for Release When Committee on Standards of Official Conduct Votes To Dismiss a Board Referral

(i) Notwithstanding clause 3(b) of Rule XI of the U. S. House of Representatives 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 recom-

mendation 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 clause 3(b) of Rule XI of the U.S. House of Representatives 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 committee votes to extend the matter for an additional period as provided in subdivision (A), the SOOC is not required to make a public statement that the committee has voted to extend the matter.

(iii) Except as provided by clause 3(b) of Rule XI of the U.S. House of Representatives 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) Timeframe for Release When Law Enforcement Requests Committee on Standards of Official Conduct Defer Action

(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) of Clause 3 of Rule XI of the Rules of the U.S. House of Representatives, the SOOC agrees to a request from an appropriate law enforcement or regulatory authority to defer taking action on the matter—

(I) notwithstanding subdivision (A)(i), of clause 3 of Rule XI of the Rules of the U.S. House of Representatives the SOCC 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 Section 1(c)(2)(C)(i)(II) of H. Res. 895 of the 110th Congress, the SOOC 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) Receipt of Referrals During Campaigns

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) Release of Referrals When Committee on Standards of Official Conduct Ties

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 chairman explaining the status of the matter.

APPENDIX B

FALSE STATEMENTS ACT

From the U.S. Code Online via GPO Access
[www.gpoaccess.gov]
[Laws in effect as of January 3, 2007]
[CITE: 18USC1001]

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

PART I—CRIMES

CHAPTER 47—FRAUD AND FALSE STATEMENTS

Sec. 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent state-

ment or entry;
shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch;
or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of

the House or Senate.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 103-322, title XXXIII, Sec. 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-292, Sec. 2, Oct. 11, 1996, 110 Stat. 3459; Pub. L. 108-458, title VI, Sec. 6703(a), Dec. 17, 2004, 118 Stat. 3766; Pub. L. 109-248, title I, Sec. 141(c), July 27, 2006, 120 Stat. 603.)

Last updated: December 23, 2008

APPENDIX C

CODE OF CONDUCT OF THE OFFICE OF CONGRESSIONAL ETHICS AS ADOPTED SEPTEMBER 27, 2011

The Board of the Office of Congressional Ethics (OCE) adopts this Code of Conduct pursuant to the authority granted to the Office by H. Res. 895 Section 1(c)(2)(F)(iv). This Code applies to the Board and staff of the OCE. In addition, the Code of Official Conduct, and all other relevant statutes, regulations, rules and standards of conduct applicable to House employees, apply to the staff of the OCE.

1. General Ethical Standards

A Member of the Board shall conduct him or herself at all times in a manner that shall reflect creditably on the Board and the Office of Congressional Ethics.

2. Statement of Principles

The Board and staff shall endeavor at all times to uphold the highest ethical standards. In so doing, the Board and staff will be guided by the following principles.

- (a) Upholding this Code and applicable

rules of the U.S. House of Representatives in all activities of the OCE;

(b) Discharging all official duties in a non-partisan manner;

(c) Maintaining objectivity in the review of all allegations against any Member, Officer or staff person;

(d) Acting in a manner that is faithful to the letter and spirit of the transparency and confidentiality provisions of H. Res. 895 of the 110th Congress;

(e) Serving as good stewards of public funds and House resources; and

(f) Remaining free of conflicts of interest.

3. Oath of Board Members and Staff

Before any individual who is appointed to serve on the board (including an individual who is an alternate) or before any individual is hired to be a staff member of the Office may do so, the individual shall execute a signed document containing the following statement: "I agree not to be a candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress for

purposes of the Federal Election Campaign Act of 1971 until at least 3 years after I am no longer a member of the board or staff of the Office of Congressional Ethics.”.

4. Compensation, Gifts and Gratuities for Board Service

A member of the Board may not receive compensation for his service on the Board from any source other than the per diem provided for under H. Res. 895 of the 110th Congress.

A member of the Board may not receive compensation and may not permit compensation to accrue to his or her beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his or her position on the Board.

A member of the Board may not accept or solicit a gift or gratuity linked to any official action a Board member has taken or is asked to take.

5. Financial Disclosure

Members of the board and senior staff (to the extent required by the House Code of Official Conduct) shall file annual financial

disclosure reports with the Clerk of the House on or before May 15 of each calendar year after any year in which they perform the duties of that position. Such reports shall be on a form prepared by the Clerk that is substantially similar to form 450 of the Office of Government Ethics. The Clerk shall send a copy of each such report filed with the Clerk within the seven-day period beginning on the date on which the report is filed to the Committee on Standards of Official Conduct and shall have them printed as a House document and made available to the public.

6. Disqualification for Financial Conflict of Interest

If any matter before the Board or transaction with the Office involves a close relative, partner, client or business associate of a Board member, or any person or organization with which the board member is affiliated, is negotiating or has any arrangement concerning prospective employment or financial interest, that member:

(1) shall promptly so notify the other members of the Board when that member first learns of the transaction or matter;

(2) shall not participate in any Board action, discussion or deliberation of the matter;

(3) shall not at any time discuss the merits or status of the matter formally or informally with any member of the Board, with any current member of the staff, or with any former member of the staff who, while employed by the Office, had access to confidential information about the matter.

(4) shall not at any time examine the Board's files or records pertaining to the matter; and

(5) shall not while the matter is pending before the Board, discuss its merits or status with anyone whose interest gave rise to the disqualification or with their representatives.

In addition, if a Board member has a connection with a vendor, consultant or other contractor with whom the Board is considering entering into any relationship, which would give rise to a perception of conflict of interest, the Board member shall disclose that fact to the Board when the Board member first learns that the Board is considering entering into any such relationship.

Staff shall review the financial disclosure forms submitted by each Board member for any potential conflicts prior to presenting any transaction to the Board in any form.

The Staff Director shall inform the Board of any matter which presents facts and legal issues similar to those in any other matter which is pending and in which a member of the Board is disqualified from participating. The disqualified member of the Board should thereupon determine whether he should participate in the similar case. That determination should be based on the degree to which resolution of the similar case would be dispositive of the case in which there is the disqualification.

Once a member of the Board has disqualified him or herself pursuant to this section, the staff will not send or otherwise make available to that member any materials pertaining to that matter.

A majority of the Board may vote to disqualify a Board member for conflict of interest.

Notwithstanding the above provisions, if three members of the Board are disqualified from participating in a specific Board action, discussion or deliberation, the disqualified members may nonetheless participate under a rule of necessity.

7. Recusal

A Board member who determines he or she

cannot review a matter before the Board in an impartial manner must recuse him or herself. A lack of impartiality may arise from personal or professional affiliations with a subject or other person involved in a matter before the Board.

A Board member who has engaged in political activity on behalf of a subject, or a subject's opponent in an election, or intends to do so, shall disclose such activity to the Board and shall, if that activity compromises that Board member's ability to act in an impartial manner, recuse him or herself.

Four members of the Board may vote to recuse a member for lack of impartiality.

If a Board member has made a political contribution to a subject or a subject's opponent in any election, or to any entity controlled by a subject or a subject's opponent, or to a legal defense fund either for a subject or a subject's opponent, in any election within the last five years, that Board member shall recuse him or herself from any matter involving allegations against that subject.

8. Prohibition on Public Disclosure

When an individual becomes a member of

the Board or staff of the Office, that individual shall execute the following oath or affirmation in writing: “I do solemnly swear (or affirm) that I will not disclose to any person or entity outside the Office any information received in the course of my service with the Office, except as authorized by the Board as necessary to conduct as official business or pursuant to its rules.” Copies of the executed oath shall be provided to the Clerk of the House as part of the records of the House.

No testimony received or any other information obtained as a member of the Board or staff of the Office shall be publicly disclosed by any such individual to any person or entity outside the Office. Any communication to any person or entity outside the Office may occur only as authorized by the Board as necessary to conduct official business or pursuant to its rules.

All staff and Board members shall abide by the procedures contained in the Office’s procedures manual that address prevention of unauthorized disclosure of any information received by the Office.

Any breach of confidentiality shall be investigated by the Board and appropriate action shall be taken.

These provisions do not preclude its report or findings or testifying before the Committee on Standards of Official Conduct by any member of the Board or staff of the Office if requested by such committee pursuant to its rules.

9. Requirements for Public Speaking by Board Members or Staff

No member of the staff or Board may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the Office without specific prior approval from the chairman and co-chairman.

10. Appearance Before the Office by Former Board Members or Staff

No former member of the Board or staff shall, after the termination of his or her service or employment, represent any person or entity by making any formal appearance or any oral or written communication with the intent to influence a decision of the Board, until at least one year has elapsed since the termination of his or her service or employment.

11. Anti-Discrimination Policy

A member of the Board may not discharge and may not refuse to hire an individual as a staff member of the OCE, or otherwise discriminate against an individual with respect to compensations, terms, condition, or privileges of employment, because of the race, color, religion, sexual orientation, gender, marital or parental status, disability, age, national origin or political affiliation of such individual.

12. Prohibition on Partisan Activity by Board and Staff

Each Board member and each staff member shall perform all official duties in a nonpartisan manner.

No member of the staff shall engage in any partisan political activity affecting any election, including making campaign contributions.

No member of the Board shall engage in any partisan political activity affecting an election to the House of Representatives or affecting any election in which a Member, officer or staff of the House of Representatives is a candidate, including making campaign contributions.

Any Board member or staff member whose activity violates this rule shall disclose such activity to the Board and shall be recused pursuant to Rule 7 on any matter affected by the activity.

13. Certification and Annual Training

Each member of the Board and staff shall certify that they have read and agree to abide by the provisions of this Code and to participate in annual ethics training.

14. Violation; Recommendation of Resignation and Dismissal

A majority of a quorum of the Board may recommend to a Board member who has willfully violated this Code of Conduct that he or she resign and, in the absence of a resignation, may recommend to the Speaker and the Minority Leader that the member be dismissed and replaced.