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116TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 116–703

SUMMARY OF ACTIVITIES ONE HUNDRED SIXTEENTH CONGRESS

REPORT

OF THE

COMMITTEE ON ETHICS

DECEMBER 31, 2020.—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, December 31, 2020.

Hon. CHERYL L. JOHNSON,
Clerk, House of Representatives,
Washington, DC.

DEAR MS. JOHNSON: 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 116th Congress."

Sincerely,

THEODORE E. DEUTCH,
Chairman.
KENNY MARCHANT,
Ranking Member.

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DECEMBER 31, 2020—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DEUTCH and Mr. MARCHANT, 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 116th Congress, the Committee was led by Chairman Theodore E. Deutch and Ranking Member Kenny Marchant. The Members appointed at the beginning of the Congress were Grace Meng, John Ractliffe, Susan Wild, George Holding, Dean Phillips, Jackie Walorski, Anthony Brown, and Michael Guest. In May 2020, John Ratcliffe left the Committee and was not replaced.

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 19 times in the 116th Congress, including 10 times in 2019 and 9 times in 2020.

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

- Issued more than 730 formal advisory opinions regarding ethics rules;
- Reviewed and approved more than 3,000 requests to accept privately-sponsored, officially-connected travel;
- Fielded nearly 37,000 informal telephone calls, emails, and in-person requests for guidance on ethics issues;
- Released 28 advisory memoranda on various ethics topics to the House;
- Provided training to over 7,000 House Members, officers, and employees each year, and reviewed their certifications for satisfying the House's mandatory training requirements;
- Received nearly 6,000 Financial Disclosure Statements and amendments filed by House Members, officers, senior staff, and House candidates; and
- Received more than 4,000 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 impanelment of investigative subcommittees (ISC), 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 ISC.

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 116th Congress, within the scope of its investigative responsibilities, the Committee:

- Commenced or continued investigative fact-gathering regarding 50 separate investigative matters;
- Impanelled six ISCs, in the matters of Representative Chris Collins, Representative Matt Gaetz, Representative Duncan Hunter, Delegate Michael San Nicolas, Representative David Schweikert and Representative Steve Watkins;
- Held 32 ISC meetings;

- Filed 5 reports with the House totaling over 3,300 pages regarding various investigative matters;
- Publicly addressed 16 matters, described in Section VI of this report;
- Resolved 25 additional matters;
- Conducted 110 voluntary witness interviews;
- Authorized the issuance of 11 subpoenas;
- Conducted 4 interviews pursuant to subpoenas; and
- Reviewed over 420,000 pages of documents.

All votes taken in the ISCs were unanimous. There were a total of 17 investigative matters pending before the Committee as of December 31, 2020.

All of the Committee's work as summarized in this report is made possible by the Committee's talented professional, nonpartisan staff. The Members of the Committee wish to acknowledge their hard work and dedication to the Committee and the House. In addition, the Committee wishes to thank its departing Members, Ranking Member Kenny Marchant and Representative George Holding, for their service and for the thoughtfulness and collegiality they showed during their time on the Committee.

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 116th Congress.

The jurisdiction of the Committee on Ethics is defined in clauses 3(g), 4(d)(1) and 6(c)(5) of House Rule II, 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-

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.[1]

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 116th 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-

[1] For 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 116th Congress, Committee attorneys responded to more than 36,000 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*. 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 last update of the Manual was issued in March 2008. In the 116th Congress, the Committee began the process of updating the Manual by issuing new travel and gifts sections. As part of this effort, the Committee also issued the first revised Travel Regulations since 2012 and the first revised Foreign Gifts and Decorations Act (FGDA) Regulations, in over forty years.

All current Committee publications, including the *House Ethics Manual*, are available from the Committee's office and their text is posted in a searchable format on the Committee's Web site: https://ethics.house.gov. In the 116th Congress, in connection with the update of the Manual, the Committee redesigned its Web site for the first time since 2012. The new Web site and in particular the interface with the *House Ethics Manual*, is easier to access, more intuitive, and mobile-friendly.

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 116th Congress were as follows:

- Reminder of Ethics Requirements for Financial Disclosure Filers (February 8. 2019)
- The 2019 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employers (February 8, 2019);
- The 2019 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees (February 8, 2019);
- Upcoming Financial Disclosure Clinics & Training (April 10, 2019);
- Non-Commercial Aircraft Travel (April 10, 2019);
- Member, Officer, and Employee Participation in Fundraising Activities (May 2, 2019);
- The 2019 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees (June 13, 2019);
- Important Information Relating to Hurricane Dorian: Joint House Administration-Ethics Guidance (August 30, 2019);
- Access to Classified Information and Controlled Areas (November 14, 2019);

- Reminder about Annual Ethics Training Requirements for 2019 (November 26, 2019);
- Outside Positions Regulations (December 11, 2019);
- Holiday Guidance on the Gift Rule (December 12, 2019));
- The 2020 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees (January 10, 2020);
- Intentional Use of Audio-Visual Distortions & Deep Fakes (January 28, 2020);
- Campaign-related Media Appearances on Congressional Grounds (March 10, 2020);
- Update about the Coronavirus: Joint House Administration-Ethics Committee Guidance (March 16, 2020);
- Update About the Coronavirus and Solicitation: Joint House Administration-Ethics Guidance (April 3, 2020);
- Upcoming Financial Disclosure Filing Deadline & Pandemic-Related Relief (April 7, 2020);
- Ethics Guidance—Coronavirus Aid, Relief, and Economic Security (CARES) Act (April 13, 2020);
- Webinar Ethics Training for New Employees and Paid Interns (April 29, 2020);
- Reminder of STOCK Act Requirements, Prohibition Against Insider Trading & New Certification Requirement (June 11, 2020);
- Reminder of Financial Disclosure Filing Deadline & Assistance Available (July 13, 2020)
- Campaign Activity Webinar Training (July 21, 2020);
- Guidance on House Staff Assisting in the Presidential Transition (November 24, 2020)
- Reminder About Annual Ethics Training Requirements for 2020 (December 1, 2020)
- Prohibition Concerning Campaign Contributions and Outlays (December 11, 2020)
- Negotiations for Future Employment and Restrictions on Post-Employment for House Members and Officers (December 18, 2020)
- Negotiations for Future Employment and Restrictions on Post-Employment for House Staff (December 18, 2020)

A copy of each of these advisory memoranda is included as Appendix II to this Report.

The Committee also submits a report each month of the Committee's activities to the Committee on House Administration (CHA). 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 publishes the following summary chart in the interest of transparency.

Committee Report (numbers are approximate)	2019	2020	TOTAL
Formal Advice and Approval			
Advisory Opinion Requests Received	510	225	735
Advisory Opinions Mailed	454	191	645
Percentage of Opinions Mailed within 2 weeks	67.00%	33.77%	50.00%
Percentage of Opinions Mailed within 4 weeks	77.00%	42.81%	60.00%
Travel Requests Received	2,522	531	3,053
Travel Opinions Mailed	1,971	256	2,227
Percentage of Travel Opinions Mailed within 2 weeks	4.30%	3.55%	3.93%
Percentage of Travel Opinions Mailed within 4 weeks	71.20%	68.61%	69.91%
Informal Advice (including Financial Disclosure)			
Phone Calls (approximate)	19,298	7,061	26,359
Emails (approximate)	5,720	5,027	10,747
Training			
Total # of House Employees (as of Dec. 31, 2020)	9,758	10,272	20,030
Employees having completed training	7,395	7,075	14,470
Training briefings (scheduled training sessions)	103	32	135
Personal Advisory Meetings with Members, officers, and employees	351	114	465
Investigations			
Investigative Matters carried over from the 115th Congress	8	----	8
Investigative Matters commenced in the 116th Congress	22	20	42
Investigative Subcommittees carried over from the 115th Congress	3	----	3
Investigative Subcommittees commenced	1	2	3
Publicly Disclosed Resolutions	1	5	6
Confidential Resolutions	4	21	25
Referrals received from the Office of Congressional Ethics	7	6	13
Financial Disclosures			
FD Reports filed by Members, officers, and employees	3,347	2,984	6,331
FD Reports filed by Candidates	728	968	1,696
FD Reports and amendments reviewed by Committee staff	4,682	4,311	8,993
PTRs filed by Members, officers, and employees	1,851	1,871	3,722
Total FD Reports and PTRs filed by all filers	5,919	5,823	11,742
Committee Publications			
Pink Sheets/General Advisories	11	10	21
Public Statements	21	12	33
Investigative Reports	1	4	5
Miscellaneous Oversight			
Recusals	38	43	81
Negotiations	85	62	147
Qualified Blind Trusts	2	3	5
Legal Expense Funds	5	6	11
Foreign Gifts and Travel Reports	22	0	22
Meetings			
Full Committee Meetings	10	9	19
Subcommittee Meetings	13	19	32
Personnel			
Lowest Total Staff Level	24	25	---
Highest Total Staff Level	28	29	---

ETHICS TRAINING

Clause 3(a)(6) of House Rule XI, which originated in the 110th Congress, requires all House Members and employees 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.[2] Rule XI requires new House Members and employees to complete ethics training within 60 days of the commencement of their service to the House.[3]

Pursuant to its obligations under Rule XI, the Committee held 103 ethics training sessions during 2019 and 32 during 2020. During the 116th 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 2019, the Committee trained more than 2,300 employees in person at live ethics briefings, and more than 5,100 used one of the on-line training options. During 2020, the Committee trained nearly 800 employees in person at live ethics briefings, and more than 6,343 through one of the on-line training options. The total number of employees who completed ethics training for 2020 will be determined after January 31, 2021, the date that House Rule XI established as the deadline for employees to certify completion of the ethics training requirement for 2020.

In addition to the training required under House Rule XI, the Committee also provided training in several other contexts. The House will include 57 new Members in the 117th Congress, most of whom have not previously served in the House. The Committee made a presentation to the Members-elect of the 117th 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.

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[2] In 2020, the senior staff rate was $131,239 per year, or a monthly salary above $10,936. 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.

[3] The 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.

Committee staff also participated in approximately 5 briefings sponsored by or held for the members of outside organizations. In addition, Committee staff led approximately 8 briefings for visiting international dignitaries from a variety of countries, including Argentina, India, and Sri Lanka.

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 735 private advisory opinions during the 116th Congress: 510 in 2019 and 225 in 2020

Opinions issued by the Committee in the 116th 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. Since 2007, the Committee has conducted a thorough review of each proposed privately-sponsored trip.

Committee approval of a proposed trip does not reflect an endorsement of the trip sponsor or a determination regarding the safety or security a proposed trip. Instead, Committee approval is limited to the question of whether the proposed trip complies with the relevant laws, rules, or regulations. To that end, the Committee's nonpartisan, professional staff recommends changes where necessary to bring a proposed trip into compliance with relevant laws, rules, or regulations and, on occasion, informs House Members and employees that a proposed trip is not permissible. The Committee recognizes both the significant benefit the public receives when their Representatives and their Representatives' staff receive hands-on education and experience, as well as the mandate that outside groups be appropriately limited in what gifts and support they are allowed to provide to Members of Congress and congressional staff.

The Committee is directed by House Rules to develop and revise as necessary guidelines and regulations governing the acceptance of privately-sponsored, officially-connected travel by House Members, officers, and employees.[4] The Committee issued initial travel regulations in a pair of memoranda dated February 20 and March 14, 2007. At the end of the 112th Congress, the Committee adopted new travel regulations (Travel Regulations). The new Travel Regulations were issued on December 27, 2012, and were effective for all trips beginning on or after April 1, 2013. In the 116th 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

[4] House Rule XXV, clause 5(i).

forms used for privately-funded, officially-connected travel approval.

On December 9, 2020, the Committee voted unanimously to adopt revised Travel Regulations[5] and FGDA Regulations.[6] These new Travel Regulations will be effective for all trips starting on or after April 1, 2021, and the new FGDA Regulations are effective immediately.

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 trip.[7] 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.[8] 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 2,500 requests to accept privately-sponsored, officially-connected travel, and issued letters approving more than 1,900 such requests in 2019. In 2020, the Committee reviewed nearly 550 requests to accept privately-sponsored, officially-connected travel, and issued letters approving nearly 260 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.[9] 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.[10]

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/giftTravel-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.

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[5] House Rule 25, clause 5(i).

[6] 5 U.S.C. § 7342(g)(1).

[7] Travel Regulations at Part 500—Committee Approval Process.

[8] *Id.* at § 501.1.

[9] House Rule XXV, clause5(b)(1)(A)(ii); Travel Regulations at Part 600—Post-Travel Disclosure.

[10] From 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.

OUTSIDE POSITIONS WORKING GROUP

The Committee adopted regulations governing outside positions held by Members and staff during the 116th Congress. House Resolution 6 (H. Res. 6), created a new clause in the Code of Official Conduct, effective January 1, 2020, prohibiting Members and staff from serving as an officer or director of any public company traded on a U.S. exchange. H. Res. 6 also required that, "[n]ot later than December 31, 2019, the Committee on Ethics shall develop regulations addressing other types of prohibited service or positions that could lead to conflicts of interest."

To effectuate its mandate, the Committee established a working group, consisting of Representative Susan Wild and Representative Van Taylor, to explore potential positions that may lead to conflicts of interest. The working group reviewed an extensive amount of research, solicited public comment concerning the Committee's mandate under H. Res. 6, and convened a public session on July 25, 2019, where four outside groups made presentations. The working group also solicited input from Members of the House of Representatives. After approximately six months of work, the working group provided bipartisan proposals to the Committee. In December of 2019, the Committee voted to adopt Outside Position Regulations (OPR) that went into effect on January 1, 2020. A complete version of the OPR is available at: https://ethics.house.gov/sites/ethics.house.gov/files/ FINAL%20Adopted%20OPR%20 Regulations%20-Pink%20Sheet%2012052019_.pdf

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 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." [11]

All Members of the House, including Members who are serving the first year of their first term, are required to file a Statement.

[11] House Comm'n on Admin. Review, *Financial Ethics*, H. Doc. 95–73, 96th Cong., 1st Sess. 6 (1977).

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, nearly all Members and staff used the online electronic filing system to submit their calendar year 2020 Statements. Specifically, 93% of Members and House staff used the online system to draft and submit their 2020 Statements.

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

For the 116th 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 2019, the Legislative Resource Center of the Clerk's office referred a total of 4,105 Financial Disclosure Statements to the Committee for review. Of those, 3,376 were Statements filed by current or new House Members or employees, and 729 were Statements filed by candidates for the House. The Clerk's office also referred a total of 1,852 PTRs to the Committee for review. The Committee received 689 PTRs from Members and 1,163 PTRs from officers and employees.

For calendar year 2020, the Legislative Resource Center of the Clerk's office referred a total of 4,308 Statements to the Committee for review.[12] Of those, 3,340 were Statements filed by current or new House Members or employees, and 968 were Statements filed by candidates for the House. The Clerk's office also referred a total of 1,872 PTRs to the Committee for review. The Committee received 669 PTRs from Members and 1,204 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

[12] In 2020, due to the unprecedented challenges created by the COVID–19 pandemic, the Committee exercised its authority under EIGA to automatically grant all House Members and employees who were required to file an annual Financial Disclosure Statement the full 90-day extension permitted by law.

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-dislosure. 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 27, 2019, the Committee met and adopted the Committee rules for the 116th Congress. The substance of the Committee rules for the 116th Congress was largely identical to the amended rules adopted in the 115th Congress.[13]

A copy of the Committee Rules for the 116th Congress is included as Appendix III to this Report.

V. COVID–19 RESPONSE

In recognition of the unprecedented challenges created by the COVID–19 pandemic, the Committee took proactive measures to assist the House community.

The Committee issued several general advisory opinions applying the ethics rules to the unique issues raised by the pandemic. The Committee also exercised its authority under EIGA to automatically grant all House Members and employees who were required to file an annual Financial Disclosure Statement the full 90-day extension permitted by law. In addition, the Committee joined with the Committee on House Administration to announce a temporary exception to longstanding guidance regarding solicitation activity permitting Members to use official communications to solicit for blood donations and in-kind resources on behalf of charitable organizations.

The Committee also reduced the number of live, in-person ethics training sessions and increased its online training opportunities, including rolling out new live webinar options. The Committee temporarily waived the requirement that New Employee training be conducted in a live session. The Committee closed some of its physical offices and limited the number of staffers who were in the office at any given time. The Committee also took the necessary steps to be able to conduct remote Committee business meetings, including holding a dress rehearsal for a remote Committee hearing and two remote Committee hearings. The Committee Chairman then submitted a letter for printing in the Congressional Record from a majority of the Members of the Committee notifying the Speaker that the requirements for conducting a remote business meeting had been met and that the Committee was prepared to conduct a remote meeting and permit remote participation.

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[13] In 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. 21 (2012).

VI. 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.

As a general matter, the Committee's investigative jurisdiction extends to current House Members, officers and employees.[14] When a Member, officer, or employee, who is the subject of a Committee investigation, resigns, the Committee loses jurisdiction over the individual. In the 116th Congress, four individuals resigned from the House while the Committee had an open investigation regarding them.

The Committee may not undertake an investigation of 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.[15]

In most cases, the Committee only investigates matters that allegedly occurred while the individual was a House Member, officer, or employee. However, the Committee has asserted jurisdiction over alleged conduct that may have violated laws, regulations, or standards of conduct, which occurred during an initial campaign for the House of Representatives. Further, the Committee is required to investigate whenever a Member, officer or employee of the House is convicted of a felony, regardless of whether the underlying conduct occurred while the individual was a Member, officer, or employee of the House.

As a general matter, 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 impanel an 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. 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.[16] Members of the Committee can, and do, attend and participate in voluntary interviews with witnesses 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

[14] House Rule XI, clause 3(a)(2).

[15] House Rule XI, clause 3(b)(3).

[16] The mechanism for issuing a subpoena by the Committee or an ISC does differ. Where an ISC has been impanelled, 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.

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 impanel 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 past 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.[17] Maintaining a confidential investigation also avoids unnecessarily tarnishing a Member's reputation before a determination of wrongdoing has been made.

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 recent Congresses, the Committee has issued public reports to the House and/or letters of reproval in a number of investigative matters that were initiated by the Committee and that had not previously been publicly disclosed by the Committee.[18]

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.[19] However, most Committee investigations begin when the Committee, on its own initiative, undertakes an investigation. In the 116th Congress, the Committee commenced or continued investigative fact-gathering regarding 50 separate investigative matters, most of which were begun at the Committee's initiative. Those matters also included referrals from the OCE. In the 116th Congress, the OCE referred 13 matters to the Committee, 7 with a recommendation for further review and 6 with a recommendation that all of the allegations be dismissed.

In the 116th Congress, the House issued a reprimand and a fine at the recommendation of the Committee and an investigative subcommittee in one matter. The Committee also issued a reproval in one matter. Including those two matters, since 2008, the Committee has recommended that the House issue a censure in one matter, recommended in two matters that the House issue a reprimand, and issued 15 reprovals. Nine of those resolutions followed investigations initiated by the Committee under its own authority,

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[17] *See, e.g.*, House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Laura Richardson*, H. Rept. 112–642, 112th Cong. 2d Sess. (2012).

[18] *See, e.g.*, House Comm. on Ethics, *In the Matter of Allegations Relating to Elizabeth Esty*, H. Rept 115–1093, 115th Cong. 2d Sess. (2018); 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).

[19] Specifically, 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).

while nine 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).[20] 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."[21] 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 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."[22] 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 116th Congress one investigation that spanned multiple Congresses required the Committee to review more than 200,000 pages of documents to resolve the matter.[23]

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

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[20] Special Task Force on Ethics Enforcement, *Report of the Democratic Members of the Special Task Force on Ethics Enforcement*, (H. Rept. 110–1, 110th Cong. 1st Sess. (Comm. Print 2007).

[21] *Id.* at 14. The 13 OCE referrals received by the Committee in the 116th Congress were transmitted an average of 135 days after the start of the preliminary review phase.

[22] Committee Rule 17A(a).

[23] House Comm. on Ethics, *In the Matter of Allegations Relating to Representative David Schweikert*, H. Rept. 116–46, 116th Cong. 2d Sess. (2020).

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.[24] 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 116th Congress, the Committee did opt to defer several investigations at the request of DOJ, as described further below.

The Committee publicly addressed 16 investigative matters during the 116th Congress. In addition to confidential matters, the Committee also carried over several public matters from the 115th Congress. In the 116th Congress, the Committee continued to address the matters concerning Representatives Chris Collins, Duncan Hunter, Cathy McMorris Rodgers, David Schweikert, and Michael Collins. A chronological overview of public statements made by the Committee in the 116th Congress regarding investigative matters follows.

On April 17, 2019, the Committee announced it was continuing to review allegations regarding Representative David Schweikert that were referred by the OCE on April 16, 2018 and were within the jurisdiction of an ISC, and, pursuant to Committee Rule 17A(f)(2), because the matter had not been resolved within one year of the referral from OCE, the Committee was required to make public OCE's Report in the matter.

On May 3, 2019, the Committee announced it had unanimously voted to re-authorize an ISC for the 116th Congress to review allegations involving Representative Chris Collins. The Committee, following precedent, unanimously recommended to the ISC that it defer action on those allegations in response to a request from DOJ.

On May 3, 2019, the Committee announced it had unanimously voted to re-authorize an ISC for the 116th Congress to review allegations involving Representative Duncan Hunter. The Committee, following precedent, unanimously recommended to the ISC that it defer action on those allegations in response to a request from DOJ.

On May 3, 2019, the Committee announced it had unanimously voted to re-authorize an ISC for the 116th Congress to review allegations involving Representative David Schweikert.

On June 28, 2019, the Committee announced that an ISC had been established and forwarded a Member complaint regarding allegations that Representative Matt Gaetz sought to threaten, intimidate, harass, or otherwise improperly influence the President's former attorney, Michael Cohen, in connection with Mr. Cohen's testimony before a congressional committee.

On September 5, 2019, the Committee announced it was continuing to review allegations regarding Representative David

[24] 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.

Schweikert that were referred by the OCE on September 5, 2018 and were within the jurisdiction of an ISC, and, pursuant to Committee Rule 17A(f)(2), because the matter had not been resolved within one year of the referral from OCE, the Committee was required to make public OCE's Report in the matter.

On October 1, 2019, the Committee released a statement noting that Representative Chris Collins had resigned from Congress and, as a consequence, the ISC and the Committee no longer had jurisdiction over him.

On October 23, 2019, the Committee announced that, pursuant to Committee Rule 18(a), it would review allegations that Representative Katie Hill may have engaged in a sexual relationship with an individual on her congressional staff.

On October 24, 2019, the Committee announced that, pursuant to Committee Rule 18(a), it would review allegations that Delegate Michael F.Q. San Nicolas may have engaged in a sexual relationship with an individual on his congressional staff, converted campaign funds to personal use, and/or accepted improper or excessive campaign contributions.

On November 14, 2019, the Committee announced that, pursuant to Committee Rule 18(a), it would review allegations that Representative Alcee Hastings may have engaged in a relationship with an individual in his congressional office and whether Representative Hastings had received any improper gifts, including any forbearance, from that employee.

On November 14, 2019, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE regarding Representative Bill Huizenga.

On November 14, 2019, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE regarding Representative Ross Spano and that, following precedent, the Committee unanimously voted to defer action on those allegations in response to a request from DOJ.

On November 14, 2019, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE regarding Representative Rashida Tlaib.

On December 5, 2019, the Committee announced that the Chairman and Ranking Member had issued a letter to Representative Duncan Hunter.

On December 9, 2019, the Committee announced that the DOJ had withdrawn its request that the Committee defer consideration in the matter of Representative Duncan Hunter and made public the OCE's findings in the matter.

On December 17, 2019, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE regarding Representative Lori Trahan.

On December 19, 2019, the Committee transmitted a Report to the House regarding allegations relating to Representative Cathy McMorris Rodgers.

On January 14, 2020, Committee released a statement noting that Representative Duncan Hunter had resigned from Congress and, as a consequence, the ISC and the Committee no longer had jurisdiction over him.

On March 11, 2020, the Committee unanimously voted to establish an ISC with regard to allegations that Delegate Michael F.Q.

San Nicolas may have: engaged in a sexual relationship with an individual on his congressional staff; converted campaign funds to personal use; accepted improper and/or excessive campaign contributions; reported campaign disbursements that may not be legitimate and verifiable campaign expenditures attributed to bona fide campaign or political purposes; omitted required information from or disclosed false information in reports filed with the Federal Election Commission; made false statements to government investigators or agencies; and/or improperly interfered or attempted to interfere in a government investigation of related allegations in violation of House Rules, law, regulations, or other standards of conduct.

On June 12, 2020, the Committee announced that, following its review, it determined to take no further action in the matter of Representative Alcee Hastings.

On July 16, 2020, the Committee transmitted a Report to the House regarding allegations relating to Representative Lori Trahan.

On July 30, 2020, the Committee transmitted a Report to the House regarding allegations relating to Representative David Schweikert and announced it would bring a privileged resolution for consideration and vote by the full House.

On July 31, 2020, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE regarding Representative Sanford Bishop.

On August 7, 2020, the Committee transmitted a Report to the House regarding allegations relating to Representative Rashida Tlaib.

On August 13, 2020, the Committee announced it had unanimously voted to establish an ISC with regard to allegations that Representative Steve Watkins falsely reported information to a law enforcement officer; voted in an election district without being lawfully registered to vote; knowingly marked or transmitted more than one advance voting ballot; and/or failed to notify the proper agency of a change of name or address.

On August 21, 2020, the Committee transmitted a Report to the House regarding allegations relating to Representative Matt Gaetz.

On November 16, 2020, the Committee announced that it continued to defer consideration of the matter regarding Representative Ross Spano in response to a request from DOJ.

On December 17, 2020, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE regarding Representative Steven Palazzo.

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 Relating to Representative Sanford Bishop, Jr.

On February 10, 2020, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of al-

legations that Representative Sanford Bishop, Jr.'s campaign committee reported disbursements that were not attributable to bona fide campaign or political purposes, and that Representative Bishop authorized expenditures from his Members' Representational Allowance (MRA) that were not for permissible official expenses, in violation of federal law, House rules and other standards of conduct.

On July 31, 2020, the Committee released the OCE Report and Findings, along with Representative Bishop's response, 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 116th Congress, the Committee had not completed its investigation into this matter. Representative Bishop was reelected to the House for the 117th Congress.

In the Matter of Allegations Relating to Representative Chris Collins

On July 14, 2017, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Chris Collins may have violated federal law, House rules and other standards of conduct by sharing material nonpublic information in the purchase of stock of a company for which he served on the board, and by taking official actions or requesting official actions that would assist a single entity in which he had a significant financial interest. The OCE also reviewed allegations that Representative Collins purchased discounted stock that was not available to the public and that was offered to him based on his status as a Member of the House, in violation of House rules, standards of conduct and federal law, but the OCE recommended the Committee dismiss that allegation. The Committee released the OCE Report and Findings, along with Representative Collins' response, on October 12, 2017, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

On August 8, 2018, the U.S. Attorney for the Southern District of New York filed an indictment against Representative Collins in federal district court, charging him with conspiracy, securities fraud, wire fraud, and making false statements. On September 6, 2018, the Committee unanimously voted to establish an ISC to determine whether Representative Collins 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: engaged in unlawful conspiracy, securities fraud, and wire fraud; purchased discount stock that was not available to the public; took official actions on behalf of a company in which he had a significant financial interest; and made false statements to, withheld information from, or otherwise misled federal investigators. The Committee, following precedent, unanimously recommended to the ISC that it defer action on its investigation in response to a request from DOJ.

On May 3, 2019, the Committee announced it had unanimously voted to reestablish the ISC in the 116th Congress. The DOJ had requested that the Committee continue to defer consideration of the matters in DOJ's jurisdiction. The Committee, again following precedent, unanimously recommended to the ISC that it defer ac-

tion as to those matters. On September 30, 2019, Representative Collins announced his resignation from the House, effective October 1, 2019, at which time the ISC and the Committee lost jurisdiction to continue its investigation.

In the Matter of Allegations Relating to Michael Collins

On May 11, 2017, the OCE forwarded to the Committee a Report and Findings regarding Michael Collins, former Chief of Staff to Representative John Lewis and former paid campaign consultant for the John Lewis for Congress campaign committee, in which it recommended further review of allegations that between 2015 and 2017, Mr. Collins may have violated House rules and other standards of conduct by receiving compensation for work involving fiduciary duties and/or serving for compensation as an officer of the campaign committee. OCE also recommended review of allegations that in 2015, Mr. Collins received income from the campaign committee that exceeded the outside earned income limit applicable to senior staff for that calendar year. The Committee released the OCE Report and Findings, along with Mr. Collins' response, on August 9, 2017, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

On September 1, 2020, Mr. Collins resigned from the office of the 5th Congressional District of Georgia, at which point the Committee lost jurisdiction to continue its investigation.

In the Matter of Allegations Relating to Representative Matt Gaetz

On March 13, 2019, the Committee received a Member complaint alleging that a social media post made by Representative Matt Gaetz regarding an individual, the day before that individual was scheduled to testify before a congressional committee, was an attempt to threaten, intimidate, harass, or otherwise improperly influence Mr. Cohen's testimony in violation of the federal laws prohibiting witness tampering and obstruction of Congress. Because Representative Gaetz initially declined to testify before the Committee, the Committee was unable to dispose of the complaint in a timely fashion and therefore was required to establish an ISC. On June 25, 2019, an ISC was formed, pursuant to House Rule XI, clause 3(b)(2), and Committee Rule 16(d).

The ISC reviewed Representative Gaetz's social media post, and his related conduct, and did not find that he had the requisite intent to violate the federal criminal statutes prohibiting witness tampering and/or obstruction of Congress. The ISC did find, however, that Representative Gaetz's conduct violated House Rule XXIII, clause 1, which requires Members to act at all times in a manner that reflects creditably in the House. On February 3, 2020, the ISC transmitted its findings to the full Committee and recommended that the full Committee admonish Representative Gaetz for his conduct.

On July 29, 2020, the Committee unanimously voted to adopt the ISC's Report and to admonish Representative Gaetz for his conduct. As a general matter, the Committee avoids making public statements regarding investigative matters within 60 days of an election in which the subject of the investigation is a candidate. Representative Gaetz was on the Florida primary election ballot on

August 18, 2020. Therefore, the Committee postponed until August 21, 2020, release of a Report describing the facts and its findings in the matter to the House, as well as its determination to take no further action in the matter.

In the Matter of Allegations Relating to Representative Alcee Hastings

On November 14, 2019, the Committee announced that it was investigating, pursuant to Committee Rule 18(a), allegations that Representative Alcee Hastings may have violated House Rules, laws or other standards of conduct by being in a personal relationship with an individual employed in his congressional office and by receiving improper gifts, including any forbearance, from that employee.

During its investigation, the Committee became aware that Representative Hastings had been married to the individual employed in his congressional office since January 2019. Based on this information, the Committee found that Representative Hastings was not in violation of the applicable House Rules. The Committee also considered whether Representative Hastings had complied with the laws and rules relating to nepotism. Following its review, the Committee determined to take no further action based on the particular facts of the matter, including that Representative Hastings' spouse's employment, which began prior to the 113th Congress, was not prohibited under the relevant House Rules. On June 12, 2020, the Committee announced that it had closed its investigation.

In the Matter of Allegations Relating to Representative Katie Hill

On October 23, 2019, the Committee announced that it was investigating, pursuant to Committee Rule 18(a), allegations that the Representative Katie Hill may have engaged in a sexual relationship with an individual on her congressional staff.

On October 27, 2019, Representative Hill announced her resignation from the House, effective November 3, 2019, at which time the Committee lost jurisdiction to continue its investigation.

In the Matter of Allegations Relating to Representative Bill Huizenga

On August 16, 2019, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Bill Huizenga's campaign committee reported campaign disbursements that may not be legitimate and verifiable campaign expenditures attributable to bona fide campaign or political purposes and accepted contributions from individuals employed in his congressional office, in violation of federal law, House rules and other standards of conduct. The OCE also reviewed an allegation that Representative Huizenga authorized expenditures from his Members' Representational Allowance (MRA) that were not for permissible official expenses, but the OCE recommended the Committee dismiss that allegation. The Committee released the OCE Report and Findings on November 14, 2019 and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

At the conclusion of the 116th Congress, the Committee had not completed its investigation into this matter. Representative Huizenga was reelected to the House for the 117th Congress.

In the Matter of Allegations Relating to Representative Duncan Hunter

On August 31, 2016, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Duncan Hunter may have violated federal law, House rules, and other standards of conduct by converting campaign funds to personal use. On March 23, 2017, the Committee announced that, following precedent, the Committee had voted unanimously to defer its review at the request of DOJ. The Committee made OCE's Report, but not its Findings, public at that time. On March 23, 2018, the Committee announced that it was continuing to defer its consideration of the matter at the request of DOJ.

On August 21, 2018, the U.S. Attorney for the Southern District of California filed an indictment against Representative Hunter in federal district court charging him with conspiracy, wire fraud, falsifying campaign finance records, prohibited use of campaign contributions, and false statements. On September 6, 2018, the Committee unanimously voted to establish an ISC with jurisdiction to investigate allegations that Representative Hunter engaged in unlawful conspiracy, fraud, falsification of campaign finance records, and prohibited use of campaign contributions. The Committee, following precedent, unanimously recommended to the ISC that it defer consideration of the matter in response to the request from DOJ.

On May 3, 2019, the Committee announced it had unanimously voted to reestablish the ISC in the 116th Congress. The Committee, again following precedent, unanimously recommended to the ISC that it defer action as to those matters.

Representative Hunter pled guilty to one count of conspiring to convert campaign funds to personal use on December 3, 2019. On December 5, 2019, the Committee released a letter it had issued Representative Hunter in which the Committee advised him that, pursuant to House Rule XXIII, clause10(a), he should refrain from voting in the House due to his guilty plea. DOJ also withdrew its request for deferral following Representative Hunter's guilty plea and on December 9, 2019, the Committee released OCE's Findings.

On January 7, 2020, Representative Hunter announced his resignation from the House, effective January 13, 2020, at which time, the ISC and the Committee lost jurisdiction to continue its investigation.

In the Matter of Allegations Relating to Representative Steven Palazzo

On September 2, 2020, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations involving Representative Steven Palazzo. 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 Palazzo was on the general election ballot on November

3, 2020. Therefore, the announcement that the Chairman and Ranking Member jointly decided to extend the matter of Representative Palazzo for a 45-day period, pursuant to Committee Rules 17A(b)(1)(A) and 17A(c)(1), was postponed until December 17, 2020.

As of the conclusion of the 116th Congress, the Committee had not completed its review of the OCE's referral. Representative Palazzo was reelected to the House for the 117th Congress.

In the Matter of Allegations Relating 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 federal law, House rules and standards of conduct by using House resources for campaign activity and combining campaign and House resources for her campaign for a House leadership position. The Committee released the OCE Report and Findings, along with Representative 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).

The Committee conducted a thorough and expansive investigation of alleged misconduct from 2008 through 2017.

On December 19, 2019, the Committee voted unanimously to submit a Report to the House which served as a reproval of Representative Rodgers for her conduct. In its Report, the Committee found that Representative Rogers provided inappropriate compensation for consultant services from 2012 to 2017. Representative Rodgers defrayed the cost of official services she received from consultants with either political funds or the consultant's voluntary provision of services, in violation House Rule XXIV. She also used official funds appropriated for her House leadership office for consultant services in a manner that would have been contrary to relevant laws and rules restricting MRA expenditures. The Committee found that the restrictions in place to safeguard congressional funds from misuse are lacking with respect to leadership offices. To address those concerns, the Committee voted to refer certain allegations to the House Inspector General for further review.

In addition, the Committee found that the congressional offices of Representative Rodgers were governed by inconsistent policies and poor record keeping, which led to the misuse of official resources for campaign or other political purposes. The Committee found that while Representative Rodgers' staff was not compelled to assist with her campaign, her staff used official resources, including official staff time, congressional office space, and travel funds, for political activities in violation of federal law and House Rules. The Committee also found that Representative Rodgers improperly combined official and campaign resources during her 2012 leadership race.

The Committee found that Representative Rodgers was ultimately responsible for implementing adequate policies to prevent her staff from acting contrary to House Rules and laws and that she failed to do so, in violation of clauses 1 and 2 of House Rule XXIII. The Committee directed Representative Rodgers to reimburse the U.S. Treasury $7,575.95 for the misuse of official re-

sources. In December 2019, Representative Rodgers provided the U.S. Treasury with a check for the reimbursement amount.

In the Matter of Allegations Relating to Delegate Michael F.Q. San Nicolas

On October 24, 2019, the Committee announced that it was investigating, pursuant to Committee Rule 18(a), allegations that Delegate Michael F.Q. San Nicolas may have engaged in a sexual relationship with an individual on his congressional staff, converted campaign funds to personal use, and/or accepted improper or excessive campaign contributions.

On June 12, 2020, the Committee announced that it had unanimously voted on March 11, 2020, to establish an ISC with jurisdiction to investigate whether Delegate San Nicolas may have: engaged in a sexual relationship with an individual on his congressional staff; converted campaign funds to personal use; accepted improper and/or excessive campaign contributions; reported campaign disbursements that may not be legitimate and verifiable campaign expenditures attributable to bona fide campaign or political purposes; omitted required information from or disclosed false information in reports filed with the Federal Election Commission; made false statements to government investigators or agencies; and/or improperly interfered or attempted to interfere in a government investigation of related allegations. The Committee determined to take that action following the receipt of a referral from the OCE regarding this matter.

At the conclusion of the 116th Congress, the ISC had not completed its investigation into this matter. Delegate San Nicolas was reelected to the House for the 117th Congress.

In the Matter of Allegations Relating to Representative David Schweikert

On April 16, 2018, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative David Schweikert and his then-Chief of Staff, Richard Oliver Schwab, may have authorized the misuse of or misused Representative Schweikert's MRA, Representative Schweikert may have failed to ensure that his campaign committees complied with applicable rules regarding contributions from congressional employees, Mr. Schwab may have improperly made personal outlays on behalf of Representative Schweikert's principal campaign committees, and Mr. Schwab may have received income beyond the outside earned income limit for senior staff.

On June 14, 2018, the Committee unanimously voted to establish an ISC to determine whether Representative Schweikert or Mr. Schwab violated the Code of Official Conduct or any law, rule, regulation or other applicable standard of conduct in the performance of their duties or the discharge of their responsibilities, with respect to allegations forming the basis for the OCE's referral. On July 9, 2018, Mr. Schwab left House employment after resigning from his position as Representative Schweikert's Chief of Staff. On the date of Mr. Schwab's resignation, the ISC's and the Committee's jurisdiction over Mr. Schwab ended.

On December 20, 2018, the Committee unanimously voted to expand the ISC's jurisdiction to include allegations that (1) Rep-

resentative Schweikert may have used official resources to benefit his campaign or pressured congressional staff to perform political activity; (2) Representative Schweikert may have authorized compensation to an employee who did not perform duties commensurate with his House employment; (3) Representative Schweikert or his campaign committee may have received loans or gifts from a congressional employee; and (4) Representative Schweikert may have omitted required information from his annual House financial disclosure statements and Federal Election Commission candidate committee reports. The ISC did not complete its investigation into this matter by the conclusion of the 115th Congress.

On May 3, 2019, the Committee announced that it unanimously voted to re-authorize an ISC for the 116th Congress to review allegations involving Representative Schweikert.

At the completion of its investigation, the ISC unanimously concluded that there was substantial reason to believe that Representative Schweikert violated House Rules, the Code of Ethics for Government Service, federal laws and other applicable standards in connection with: campaign finance violations and reporting errors by his authorized campaign committees; the misuse of his MRA for unofficial purposes; pressuring official staff to perform campaign work; and his lack of candor and due diligence during the investigation.

On June 30, 2020, pursuant to a negotiated settlement with Representative Schweikert, the ISC unanimously voted to adopt a Statement of Alleged Violations (SAV) detailing 11 violations and the facts giving rise to those violations. On that date, the ISC submitted a Report to the full Committee unanimously recommending that the Committee submit a Report to the House. The ISC further recommended that the adoption of the Report by the House serve as a reprimand of Representative Schweikert for his misconduct. Additionally, the ISC recommended that the Committee recommend that the House impose a fine on Representative Schweikert in the amount of $50,000. As part of the negotiated resolution, Representative Schweikert agreed to waive all further procedural rights in the matter provided to him by House or Committee rules, and agreed to admit to all 11 counts in the SAV, pay a $50,000 fine, and accept a House reprimand.

On July 29, 2020, the Committee submitted to the House its Report regarding this matter, in which the Committee adopted the ISC's Report and all of its recommendations. Following discussion by members of the Committee and ISC before the full House, the House adopted the Committee's Report regarding Representative Schweikert by unanimous consent on July 30, 2020, and thus reprimanded him for his misconduct. By adopting the Committee's Report, the House of Representatives also imposed a $50,000 fine on Representative Schweikert, as recommended by the ISC and full Committee. Representative Schweikert's counsel informed the Committee that he has paid the fine.

In the Matter of Allegations Relating to Representative Ross Spano

On August 16, 2019, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations related to Representative Ross Spano. On November 14, 2019, the Committee announced that because DOJ had asked the

Committee to defer its consideration of the matter, the Committee had followed precedent and voted unanimously to defer its review. The Committee made OCE's Report, but not its Findings, public at that time. On November 14, 2020, the Committee announced that it was continuing to defer its consideration of the matter at the request of DOJ. Representative Spano lost his bid for reelection to the House and the Committee will no longer have jurisdiction to continue the investigation after January 3, 2021.

In the Matter of Allegations Relating to Representative Rashida Tlaib

On August 16, 2019, the OCE forwarded to the Committee a Report and Findings regarding Representative Rashida Tlaib in which it recommended further review of allegations that Representative Tlaib's campaign committee, Rashida Tlaib for Congress, may have violated House Rules and federal law by reporting campaign disbursements that may not be legitimate and verifiable campaign expenditures attributable to bona fide campaign or political purposes. Specifically, OCE considered whether the payments Representative Tlaib received after the 2018 general election, totaling $17,500, were prohibited under campaign finance laws and regulations governing the personal use of campaign funds. The Committee released the OCE Report and Findings, along with Representative Tlaib's response, on November 14, 2019, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

Following its investigation, the Committee concluded that there was sufficient evidence to support a determination that a portion of the payments that Representative Tlaib received after the 2018 general election was inconsistent with the requirements outlined in the Federal Election Campaign Act of 1971 (FECA) and its implementing regulations. The Committee also noted, however, that Representative Tlaib had engaged in good faith efforts to comply with the relevant FECA requirements and had not sought to unjustly enrich herself by receiving the excess campaign funds. Accordingly, the Committee unanimously voted that a sanction was not merited in this matter but directed Representative Tlaib to reimburse her campaign committee $10,800, which represented the excess funds that were inconsistent with FECA's requirements.

On August 7, 2020, 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.

In the Matter of Allegations Relating to Representative Lori Trahan

On September 18, 2019, the OCE forwarded to the Committee a Report and Findings recommending further review of allegations that Representative Lori Trahan's campaign committee accepted excessive contributions from her husband, that were disguised as personal loans, and that Representative Trahan omitted required information related to the personal loans from her congressional candidate Financial Disclosure Statements and Federal Election Commission (FEC) reports.

The Committee investigated the allegations and found that the funds used to source Representative Trahan's personal loans to the Campaign were marital property to which Representative Trahan

had a legal right of access and control, and therefore, were not excessive contributions from her husband. Furthermore, while the Committee found there may have been omissions and errors on Representative Trahan's Financial Disclosure Statements and FEC reports, the Committee found no evidence that the errors and omissions were knowing and willful. With respect to some of the FEC related errors and omissions, the Committee noted that there was no clear legal standard articulated by the FEC in its public guidance, and the Committee determined that the FEC was best qualified to determine whether Representative Trahan's campaign properly complied with those particular reporting requirements. The Committee, accordingly, did not find that Representative Trahan violated House Rules, laws, regulations or other standards of conduct, and dismissed the matter.

On July 16, 2020, the Committee released a Report describing the facts and its findings in the matter, as well as its determination to dismiss the matter and take no further action.

In the Matter of Allegations Relating to Representative Steve Watkins

On July 14, 2020, the Shawnee County District Attorney in Kansas filed a complaint against Representative Steve Watkins charging him with: interference with law enforcement; providing false information; voting without being qualified; unlawful advance voting; and failing to notify the DMV of change of address. On July 23, 2020, the Committee unanimously voted to impanel an ISC with jurisdiction to investigate allegations that Representative Watkins falsely reported information to a law enforcement officer; voted in an election district without being lawfully registered to vote; knowingly marked or transmitted more than one advance voting ballot; and/or failed to notify the proper agency of a change of name or address.

Representative Watkins lost his bid for reelection to the House, and the ISC and the Committee will not have jurisdiction to continue the investigation after January 3, 2021.

APPENDIX I

Rule II, clause 3(g)

(g)(1) The Sergeant-at-Arms is authorized and directed to impose a fine against a Member, Delegate, or the Resident Commissioner for the use of an electronic device for still photography or for audio or visual recording or broadcasting in contravention of clause 5 of rule XVII and any applicable Speaker's announced policy on electronic devices.

(2) A fine imposed pursuant to this paragraph shall be $500 for a first offense and $2,500 for any subsequent offense.

(3)(A) The Sergeant-at-Arms shall promptly notify the Member, Delegate, or the Resident Commissioner, the Speaker, the Chief Administrative Officer, and the Committee on Ethics of any such fine.

(B) Such Member, Delegate, or Resident Commissioner may appeal the fine in writing to the Committee on Ethics not later than 30 calendar days or five legislative days, whichever is later, after notification pursuant to subdivision (A).

(C) Upon receipt of an appeal pursuant to subdivision (B), the Committee on Ethics shall have 30 calendar days or five legislative days, whichever is later, to either dismiss the fine or allow it to proceed. Upon a determination regarding the appeal or if no appeal has been filed at the expiration of the period specified in subdivision (B), the chair of the Committee on Ethics shall promptly notify the Member, Delegate, or the Resident Commissioner, the Speaker and the Chief Administrative Officer. The Speaker shall promptly lay such notification before the House.

(4) The Sergeant-at-Arms and the Committee on Ethics are authorized to establish policies and procedures for the implementation of this paragraph.

Rule II, clause (4)(d)(1)

(d)(1) Upon notification from the chair of the Committee on Ethics pursuant to clause 3(g)(3)(C), the Chief Administrative Officer shall deduct the amount of any fine levied under clause 3(g) from the net salary otherwise due the Member, Delegate, or the Resident Commissioner.

Rule II, clause (6)(c)(5)

(c) Subject to the policy direction and oversight of the Committee on House Administration, the Inspector General shall only—

* * *

(5) report to the Committee on Ethics information involving possible violations by a Member, Delegate, Resident Commissioner, officer, or employee of the House of any rule of the House or of any law applicable to the performance of official duties or the discharge of official responsibilities that may require referral to the appropriate Federal or State authorities under clause 3(a)(3) of rule XI.

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

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

(3) The committee may report to the appropriate Federal or State authorities, either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee, any substantial evidence of a violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House, of a law applicable to the performance of the 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 Member, Delegate, Resident Commissioner, 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 Member, Delegate, Resident Commissioner, officer, and employee of the House shall file a certification with the committee that the Member, Delegate, Resident Commissioner, 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)(l) Notwithstanding clause 2(g)(l) 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)(l) 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 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 when 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;

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

(E) the committee or an investigative subcommittee determines to take into evidence the trial transcript or exhibits admitted into evidence at a criminal trial pursuant to subparagraph (9);

(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;

(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; and

(9) in any investigation permitted by House or committee rules, in addition to any other evidence which the committee or an investigative subcommittee may consider, if the respondent has been convicted by a court of record for a crime which is related to the subject of the investigation, the committee or investigative subcommittee may take into evidence the trial transcript and all exhibits admitted into evidence at the trial.

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.

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

February 08, 2019

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Reminder of Ethics Requirements for Financial Disclosure Filers

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All Members of the House and certain House employees are subject to financial disclosure filing requirements. In general, Members and staff who are subject to financial disclosure filing requirements must file two types of reports: 1) annual reports, which must be filed regardless of a filer's holdings or financial activity and that are due by May 15 of each year, as well as upon beginning and terminating House employment, and 2) periodic reports that a filer may be required to file throughout the year on an ongoing basis throughout the year, depending on their actual financial activity. The purpose of this memorandum is to summarize these requirements, including who must file, what types of reports they must file, when they must be filed, and how to file. This memorandum also discusses the penalties for noncompliance with the filing requirements and other restrictions on financial activity, including restrictions on participating in Initial Public Offerings (IPOs) and insider trading.

WHO MUST FILE FINANCIAL DISCLOSURE STATEMENTS

Title I of the Ethics in Government Act of 1978 (EIGA) requires Members, officers, and certain employees of the House to file annual Financial Disclosure Statements (FD Statements) with the Clerk of the House of Representatives.[1] The financial disclosure requirements apply to Members, officers, "senior staff," as defined by the EIGA, principal assistants, and shared employees. All Members and any employee who is required to file an FD Statement must do so, regardless of the level of reportable activity (e.g. amount of assets, transactions, etc.). ***It is each employee's responsibility to know if you are senior staff and to comply with the ethics requirements that attach to that designation.***

"**Senior staff**" are those 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

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[1] 5 U.S.C. app. §§ 101-111. Candidates for the House are also required to file FD Statements, but their filing obligations are not discussed here. For more information, see Comm. on Ethics, *Instruction*

of the General Schedule" for at least 60 days at any time during a calendar year.[2] For 2019, the annual threshold rate of pay is **$126,148**,[3] or a monthly salary at or above $10,512.[4] If your gross base salary was increased to more than the senior staff rate, $10,512, for any two months [5] in a calendar year, then you are senior staff for that calendar year for financial disclosure (FD) purposes. This often happens when House employees are awarded year-end bonuses in the form of a temporary increase in base rate of pay, where the bonus is paid out over two paychecks.

At least one employee in every Member's personal office must file an annual FD Statement.[6] Most offices will have at least one employee who is paid at or above the senior staff rate and therefore is required to file an FD Statement. If a Member does not have an employee paid at or above the senior staff rate, the Member must designate at least one current employee as a "**principal assistant**" to file an FD Statement. To designate a principal assistant, the Member must sign and transmit to the Clerk of the House a letter that identifies the designee. A form for this purpose is available on the Clerk's website, www.clerk.house.gov.

Except in the case of a new Member, an employee who has been designated as a principal assistant must have been employed in the Member's office for more than 60 days in the previous calendar year covered by the report and still be employed by the Member on the May 15, 2019, filing deadline. Neither an FD Statement filed by a new employee nor one filed by a terminated employee of the Member will satisfy the requirement that at least one person in each Member's office must file an annual FD Statement.

Some **shared employees** are also required to file financial disclosure statements pursuant to a Committee on House Administration Resolution. Each House employee who is employed simultaneously by three or more offices for more than 60 days in a calendar year is required to file an FD Statement on May 15 of the following year regardless of their rate of pay.

Guide, Financial Disclosure Statements and Periodic Transaction Reports (Calendar Year 2017) at 3, available at https://ethics.house.gov/forms/information-and-forms.

[2] 5 U.S.C. app. §§ 109(13) & 101(d).

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

[4] This amount is subject to change based on changes to the General Schedule. In the event that it does change, the Committee will announce the new amount. Comm. on Ethics, *The 2019 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Offiers and Employees*, Feb. 08, 2019, available at https://ethics.house.gov/reports/financial-disclosure-pink-sheets.

[5] 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 financial disclosure filing requirements. This is true even if the pay change affects only part of a month.

[6] 5 U.S.C. app. §§ 101(d), 101(f)(10), and 109(13).

WHO MUST FILE PERIODIC TRANSACTION REPORTS (PTRs)

The Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act) amended the EIGA to add a requirement for Members, officers, and certain employees of the House to report certain securities transactions over $1,000 within 30 days of notice of the transaction, but in no case later than 45 days after the transaction.[7] These STOCK Act filings are known as Periodic Transaction Reports (PTRs). Members and employees who are subject to PTR filing requirements must file PTRs if they have reportable activity as described below, but unlike an annual FD Statement, do not need to file if they have no reportable activity.

In general, filers must report on their annual FD Statement each purchase, sale, or exchange transaction involving real property held for investment, stocks, bonds, commodities futures, or other securities (including cryptocurrencies[8] and options) made by the filer, their spouse, or dependent child when the amount of the transaction exceeds $1,000. For sales transactions, the $1,000 threshold is based on the total dollar value of the transaction, not the gain or loss made on the sale.

Additionally, the STOCK Act requires Members, officers, and senior staff to also file a PTR for the purchase, sale, or exchange of stocks, bonds, and other securities.[9] PTRs are not required for widely held investment funds such as mutual funds and exchange traded funds.[10] A PTR must be filed within 30 days of receiving notice that a reportable transaction has been made, but no later than 45 days after the transaction has occurred. Principal assistants and shared employees (who are not also senior staff) are not required to file PTRs.

For all Members and staff who are subject to PTR filing requirements, securities transactions must be reported twice: for the first time on a PTR no later than 45 days from the transaction, and then a second time on the annual FD Statement covering that calendar year.[11] Transactions in certain types of widely held investment funds (e.g. mutual funds, exchange traded funds, bond funds, and similar assets) only have to be reported on the

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[7] STOCK Act (Pub. L. 112-105, as amended by Pub. L. 112-173, Pub. L. 112-178 & Pub. L. 113-7).

[8] Comm. on Ethics, *Cryptocurrencies: Financial Disclosure Requirements and Other Ethics Ramifications*, June 18, 2018, available at https://ethics.house.gov/reports/financial-disclosure-pink-sheets.

[9] 5 U.S.C. app. §§ 101(c), 109(f) and 103(l).

[10] *See* the chart on page 45 of this document for more information concerning transactions in assets that will, will not, or may trigger the requirement to file a PTR.

[11] Also note that purchase, sales, and exchange transactions involving stocks, bonds, commodities futures, and other securities held within retirement accounts such as 401(k) plans and IRAs must be disclosed on both a PTR and your annual FD Statement if they exceed $1,000 in value or generate more than $200 in income for any one asset. Further, a reinvestment of a dividend generated by one of these assets, whether in a retirement account or otherwise, where the value of the reinvestment exceeds $1,000 must be reported on both a PTR and your annual FD Statement.

annual FD Statement.[12] Any filer who has a question about whether a particular assets is considered widely diversified for this purpose should contact the Committee for guidance.

DEADLINES FOR FILING AND REQUESTS FOR EXTENSIONS

Annual FD Statements are due on May 15th of each calendar year. Members must file a FD Statement Form A (Schedules A-I) on or before May 15th of each calendar year. New Members sworn in between November 6, 2018, and April 15, 2019, must file FD Statement Form B (Schedules A, C, D, E, F, and J) on or before May 15, 2019. In addition, all Members must file a termination FD Statement Form A within 30 days of leaving the House.[13]

For new employees hired at the senior staff rate, an FD statement must be filed within 30 days of beginning employment. Terminating employees subject to financial disclosure requirements must also file a termination FD statement within 30 days of leaving House payroll.[14] The Clerk of the House will send notice of filing deadlines to both new and terminating employees.

The EIGA permits the Committee to grant an extension of time (up to 90 days) for the filing of an FD Statement.[15] However, the extension request must be received by the Committee no later than the original deadline for the FD Statement. An extension can be requested in the electronic filing system at https://fd.house.gov or by filing a paper extension request form found on the Committee's website at https://www.ethics.house.gov. The Committee will submit all granted extension requests to the Clerk for public filing.

PTRs must be filed within 30 days of notice of a relevant transaction, but no later than 45 days after the transaction. No extensions are permitted for PTRs.

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[12] Comm. on Ethics, *Periodic Reporting of Personal Financial Transactions Pursuant to the STOCK Act, as amended*, Aug. 17, 2012, available at https://ethics.house.gov/reports/financial-disclosure-pink-sheets; Comm. on Ethics, *Instruction Guide, Financial Disclosure Statements and Periodic Transaction Reports (Calendar Year 2017)* at 42, available at https://ethics.house.gov/forms/information-and-forms.

[13] *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 FD statement. Departing Members or staff who are exempt from filing under these circumstances must notify the Clerk of the House of that fact in writing, by sending a letter, completing a form available for that purpose, or filing a notice through the electronic financial disclosure filing system.

[14] *Id.*

[15] 5 U.S.C. app. § 101(g).

HOW AND WHERE TO SUBMIT FINANCIAL DISCLOSURE FILINGS

There are two ways to complete both an FD Statement and a PTR: (1) by using the electronic filing system, or (2) by hand, using a preprinted form. The electronic filing system can be accessed by visiting https://fd.house.gov. Copies of the paper forms can be obtained by visiting the Committee's website at https://www.ethics.house.gov. The forms must be submitted to the Clerk of the House, via the Legislative Resource Center, located in B-81, Cannon House Office Building.

The Committee strongly encourages filers to use the electronic filing system for completing both FD Statements and PTRs. Utilizing the electronic filing system can significantly increase accuracy and reduce some of the most common errors. In addition, filers using the electronic filing system can import PTR transactions into annual FD Statements, and import certain prior year annual FD Statement schedules into current filings.

FEES FOR LATE FILINGS

An individual who files an FD Statement or PTR more than 30 days after the later of (1) the date the filing is required to be filed, or (2) the last day of any filing extension period that has been granted, must pay a late filing fee of $200. For late PTRs, there is a $200 late fee for the 1st late PTR filing no matter how many missed transactions are included. For other late PTR filings, the late fee can increase to a maximum of $200 per late transaction. Late filing fees must be submitted to the Clerk of the House at the Legislative Resource Center, checks payable to the United States Treasury. Late filing fees must be submitted with the late report(s).

Any FD Statement or PTR that is submitted more than 30 days after the due date without the required late filing fee shall be deemed procedurally deficient and not properly filed. In addition, payment of the fee does not preclude the Committee from taking other disciplinary action authorized by law or the rules of the House of Representatives.

FAILURE TO FILE OR FALSIFYING DISCLOSURE STATEMENTS

Each individual must file their own report, certify its accuracy, and is responsible for the completeness and accuracy of the information contained in the individual's FD Statement or PTR, even if someone else prepared, or assisted in preparing, all or part of it. The EIGA provides that the Attorney General may pursue either civil or criminal penalties against an individual who knowingly and willfully falsifies a Statement or fails to file a Statement required by the EIGA. The maximum civil penalty is $59,028. The maximum criminal penalty is up to one year in prison and a fine of up to $59,028.

In addition, 18 U.S.C. § 1001, as amended by the False Statements Accountability Act of 1996, is applicable to FD Statements and PTRs. That criminal statute provides for a fine of up to $250,000 and/or imprisonment for up to five years for knowingly and willfully making any materially false, fictitious, or fraudulent statement or representation, or falsifying, concealing, or covering up a material fact, in a filing under the EIGA.

House Rule 26 provides that Title I of the EIGA shall be deemed to be a rule of the House with regard to House Members, officers, and employees. As such, in addition to the penalties noted above, a Member, officer, or employee who violates these provisions is subject to additional action by the Committee and/or the House.

BAN ON PARTICIAPATION IN INITIAL PUBLIC OFFERINGS

The STOCK Act bans Members, officers, and employees who file FD statements from participating in Initial Public Offerings[16] (IPO) in a manner "other than is available to members of the public generally."[17] IPO participation, however, is often unavailable to the general public at all. This limitation took effect immediately upon enactment of the STOCK Act on April 4, 2012.

As a result of the ban, filers will be required to indicate whether they purchased any shares that were allocated as part of an IPO on the PTR form. If you answer "yes" to the question because you received an IPO allocation, or if you would like to participate in an IPO, please contact Committee staff to discuss the matter.[18] Shared employees and principal assistants are not subject to the IPO restriction.

PROHIBITION AGAINST INSIDER TRADING

The STOCK Act explicitly affirmed that Members, officers, and **all** employees are subject to the insider trading prohibitions arising under the securities laws, which include Section 10(b) of the Securities Exchange Act of 1934 and 17 C.F.R. § 240.10b-5 (popularly known as Rule 10b-5). The prohibition applies to information learned both in an official capacity and in a personal capacity.

Members, officers, and employees may obtain material nonpublic information about a public company or economic sector (*e.g.*, energy, telecommunications, or healthcare) during the course of their official duties or in their personal capacity from family, friends, acquaintances, or from their own involvement with a company. If the Member, officer, or employee chooses to trade on this information, they may have engaged in insider trading.

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[16] Please be advised that it is currently unclear if the Securities and Exchange Commission (SEC) will treat Initial Coin Offerings as IPOs for purposes of the STOCK Act. Comm. on Ethics, *Cryptocurrencies: Financial Disclosure Requirements and Other Ethics Ramifications*, June 18, 2018, available at https://ethics.house.gov/reports/financial-disclosure-pink-sheets. See *infra* note 18.

[17] 15 U.S.C. § 78u-l(i).

[18] While interpretation and enforcement of the STOCK Act regarding participation in IPOs is chiefly within the jurisdiction of the SEC and Department of Justice, the opinion of the Committee is that, as drafted, the STOCK Act prohibits only the filer from participating in IPOs, but not the filer's spouse or dependent child, assuming the assets used for the purchase and the securities purchased are wholly owned by the spouse or dependent child, separate and independent of the filer. *See* STOCK Act § 13.

Material nonpublic information is any information concerning a company, security, industry or economic sector, or real or personal property that is not available to the general public **and** which an investor would likely consider important in making an investment decision. A good rule of thumb to determine whether information may be material nonpublic information is whether or not the release of that information to the public would have an effect on the price of the security or property.

For example, a House employee learns in a meeting with Food and Drug Administration (FDA) staff that a new miracle weight loss drug is going to be approved by the FDA. The staffer is informed at the meeting that this information is confidential. The House employee then buys shares in the company that manufactures the drug. Once the news of the drug approval is made public, the company share price increases and the employee sells at a profit. As the STOCK Act explains, the employee would be subject to liability for violation of federal civil and criminal insider trading statutes. However, if the House employee waits to purchase the shares until the information regarding the FDA decision becomes public, the employee would not be subject to liability. Committee staff is available to discuss these matters.

FREQUENTLY ASKED QUESTIONS

1. **Who must file FD Statements?**

   Members, officers, senior staff, principal assistants, and shared employees of three or more offices must file FD Statements.

2. **Who must file PTRs?**

   Only Members, officers, and senior staff are subject to PTR filing requirements.

3. **A Member owns $5,000 of stock in Company A. Company B purchases Company A. Thereafter, the Member receives notice in a monthly statement that he no longer owns Company A stock, but as of January 15, 2019, owns $5,000 in Company B stock. Does the Member have a financial disclosure reporting requirement?**

   Yes. The Member must file a PTR to disclose an exchange transaction of Company A stock for Company B stock. The PTR must be filed no later than March 1, 2019, which is 45 days from January 15, 2019, the date of the transaction. In addition, the Member must report the exchange transaction on the calendar year 2019 FD Statement, which will be due on May 15, 2020.

4. **A senior staff employee holds a $100,000 mortgage on her primary residence. Her primary residence is not rented out and does not generate**

income in any other manner. Is she required to disclose the mortgage on her primary residence on her financial disclosure statement?

No. Only Members are required to disclose a mortgage on a primary residence. Staff filers must report a mortgage on a residence that is either held for investment purposes or rented out in whole or part for rental income. In that case,ownership of the home would be required to be reported on Schedule A (both the value of the home and the amount of rental income received), and the employee would need to disclose the mortgage on Schedule D.

5. **Do I need to report my spouse's retirement account (*e.g.*, 401(k), 403(b), SEP, etc.)?**

   Yes. You are required to report any retirement plan of your spouse. You should report the underlying assets in the account as separate line items on Schedule A. For funds held in the account; you should determine whether they meet the definition of the "Excepted Investment Fund" (EIF), so you can report them correctly.

6. **May I use my Members Representational Allowance (MRA) to pay my accountant to prepare my FD Statement or PTRs?**

   Yes. Members may use their MRA to pay for the preparation of their own FD Statement or PTRs. They may also use their MRA to pay for the preparation of FD Statements or PTRs of an employee in their personal offices. Committee staff may use committee funds to pay for the preparation of a FD Statement for a committee employee if approved by that committee.

AVAILABLE ASSISTANCE

The Committee will offer a series of Financial Disclosure Training sessions before the May 15, 2019, filing deadline. A list of upcoming ethics training sessions is available at https://ethics.house.gov/events and is regularly updated. The training sessions will cover general information about the requirement to file FD Statements and PTRs. They are an hour long and will satisfy either the annual ethics training requirement for 2019 or the additional hour of training required for senior staff for the 116th Congress (staff must choose one or the other). In order to receive credit for these trainings, staff are ***required to pre-register***. To register: (1) Visit https://registerme.house.gov; (2) Click on "Ethics," then "All Staff"; (3) Add desired Financial Disclosure Training; (4) Select "Register" on the left of the page; and (5) Login and Submit. More information, including a list of upcoming training dates, is available on the Committee's website, https://ethics.house.gov.

In addition, filers are encouraged to carefully read the instructions on each form and the "Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports, Calendar Year 2017" found on the Committee's website at https://www.ethics.house.gov. Any filer who has questions concerning financial

disclosure requirements should call the Committee at (202) 225–7103. Committee staff is available to review FD Statements and PTRs before filing (pre-screen). To have your filings pre-screened, please email your request to financial.disclosure@mail.house.gov.

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U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

February 8, 2019

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Theodore E. Deutch, Chairman
Kenny E. Marchant, Ranking Member

SUBJECT: The 2019 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees

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All Members of the House are subject to certain public disclosure requirements and employment restrictions both during and after their service in the House, including:

1. Financial disclosure filing requirements, including both annual financial disclosure (FD) statements and Periodic Transaction Reports (PTRs);
2. Restrictions on outside employment;
3. Notification requirements for disclosure of negotiations for private employment and related recusals; and
4. Post-employment restrictions.

House employees may also be subject to these requirements and restrictions, depending on their salary level. This memorandum provides details on the current triggering salary figures for Calendar Year (CY) 2019 for each of the categories noted above, and summarizes them in a table on page 5 of this Memorandum. It is each individual employee's responsibility to know whether their salary level subjects them to these standards of conduct and, if so, to comply with them. Please note that this memorandum is not a comprehensive list of every rule or standard of conduct that applies to House staff, but an overview of key standards that are triggered by salary level. Any Member, officer, or employee who has questions about whether their rate of pay triggers these requirements or restrictions or about the various rules is encouraged to contact the Committee's Office of Advice and Education at extension 5-7103.

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 subject to financial disclosure filing requirements, provided that the officer or employee "performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year."[1] The GS-15, step 1, basic pay rate for CY 2019 is $105,123.[2] The applicable 120% calculation for that rate is therefore **$126,148**, or a monthly salary above $10,512. 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 ($126,148) for at least **60 days**[3] during **2019** must file an FD statement on or before May 15, 2020.[4] (Temporary increases in an employee's basic rate of pay – such as to pay out a bonus – count toward this threshold, but "lump sum" payments do not.[5]) In addition, any new employee paid at or above the senior staff rate must file a "new employee" FD statement within 30 days of assuming employment with the House.[6] A new employee may request an extension of the new employee FD filing deadline of up to 90 days, but the request must be received by the Committee or on before the original filing deadline.[7] Finally, any staff who are paid at or above the senior staff rate on January 3, 2019 (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.[8] PTRs are not annual filings, but must be filed within 30 days of a purchase, sale, or exchange of more than $1,000 in stocks, bonds, and other securities.[9]

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[1] 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 subject to financial disclosure filing requirements. 5 U.S.C. app. §§ 101(d) and (f).

[2] Exec. Order No. 13,856, 84 Fed. Reg. 67 (Jan. 8, 2019). This amount is unchanged from 2018. In the event that this amount changes during 2019, the Committee will update its written guidance.

[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 an FD. This is true even if the pay change affects only part of a month.

[4] 5 U.S.C. app. §§ 101(d) and (f).

[5] *See* Comm. on Ethics *2008 Ethics Manual* at 283-84, *available at* https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf; Comm. on Ethics, *Instruction Guide, Financial Disclosure Statements and Periodic Transaction Reports*, at p. 2 (Calendar Year 2017), *available at* https://ethics.house.gov/forms/information-and-forms.

[6] *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 FD 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 FD statements.

[7] A request for an extension must be made using either a form available on the Committee's web site or through the electronic financial disclosure filing system.

[8] 5 U.S.C. app. § 103(*l*).

[9] 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 website (https://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

Please note that the requirement to file an FD statement covering calendar year 2018 applies to officers and employees whose basic rate of pay for at least 60 days in **2018** was **$126,148** or more (a monthly salary at or above $10,512). Annual FD statements covering CY 2018 are due on Wednesday, May 15, 2019, for those individuals who continue to be Members, officers, or employees of the House on that date.[10] A filer may request an extension of the annual FD filing deadline of up to 90 days, but the request must be received by the Committee or on before the original filing deadline.[11]

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.[12] A filer may request an extension of the termination FD filing deadline of up to 90 days, but the request must be received by the Committee or on before the original filing deadline.[13]

THE OUTSIDE EARNED INCOME LIMIT AND OUTSIDE EMPLOYMENT RESTRICTIONS

House officers and employees whose rate of basic pay is equal to or greater than the senior staff rate for **more than 90 days** are subject to limits on the amount of outside earned income[14] attributable to each calendar year.[15] As noted above, the senior staff rate for CY 2019 is **$126,148**, or a monthly salary above $10,512. 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, 2019, the rate of basic pay for Executive Level II was $189,600.[16]

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paid at the senior staff rate on the first day of the 2019 pay cycle (January 3, 2019). Staff who are paid at or above the senior staff rate for more than 60 days later in 2019 – even if on a temporary basis – will also be subject to the PTR requirement for the remainder of the calendar year and will be required to file an annual FD in 2020.

[10] FD statements are due May 15 annually. In the event that May 15 or another filing deadline under the EIGA falls on a weekend or a holiday, the filing deadline shall be on the next business day.

[11] *See supra* note 7.

[12] *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 FD statement. Departing employees who are exempt from filing under these circumstances must notify the Clerk of the House of that fact in writing, by sending a letter, completing a form available for that purpose, or filing a notice through the electronic financial disclosure filing system.

[13] *See supra* note 7.

[14] 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).

[15] 5 U.S.C. app. § 501(a)(1); House Rule 25, cls. 1(a)(1) and 4(a)(1).

[16] Exec. Order No. 13,856, 84 Fed. Reg. 70 (Jan. 8, 2019).

Accordingly, the outside earned income limit for House Members, officers, and employees paid at or above the senior staff rate for CY 2019 is **$28,440**.[17]

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 substantive types of outside employment for which they may receive compensation and must receive prior approval to receive certain types of compensation.[18] These include prohibitions on receiving any compensation for practicing a profession that involves a fiduciary relationship, receiving any compensation for affiliating with a firm that provides professional services involving a fiduciary relationship, or permitting such a firm to use one's name.[19] Receipt of compensation for service as an officer or member of a board of directors is also prohibited.[20] Prior written approval from the Committee on Ethics is required to accept compensation for teaching and to receive copyright royalties.[21] 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 website (https://ethics.house.gov).

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.[22] 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.[23] As noted above, the senior staff rate for CY 2019 is **$126,148**, or a monthly salary above $10,512.

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 January 2, 2019, are available on the Committee's website (https://ethics.house.gov) under "Reports/General Advisories," and forms for making the notifications regarding job negotiations or recusal are available under "Forms/Post-Employment."

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[17] 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 $14,025. The outside earned income limit for 2019 will not change even if the General Schedule changes later in 2019 because it is based on the amount as of January 1, 2019. *See* 5 U.S.C. app. § 501(a)(2); House Rule 25, cl. 1(b).

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

[19] *Id.*

[20] *Id.*

[21] *Id.*

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

[23] House Rule 27, cl. 4; STOCK Act § 17.

POST-EMPLOYMENT RESTRICTIONS

House Members and officers, as well as certain other House employees, are subject to post-employment restrictions on lobbying.[24] In general, 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 2019 will remain $174,000.[25] Therefore, the post-employment threshold for employees who depart from a job in a Member, committee, or leadership office in CY 2019 remains **$130,500**, or a monthly salary of $10,875 or more. However, the triggering salary for employees of other House offices (such as the Chaplain, Chief Administrative Officer, Clerk, General Counsel, Historian, Inspector General, Law Revision Counsel, Legislative Counsel, Office of Congressional Ethics, Parliamentarian, and Sergeant of Arms) is Executive Schedule Level IV.[26] For 2019, that salary is **$164,200**, or a monthly salary above $13,683.

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.[27]

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[24] 18 U.S.C. § 207.

[25] *See* Section 212 of Title II of the Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019, Pub. L. No. 115-244 Sep. 21, 2018), prohibiting a scheduled cost-of-living pay raise for Members. As a result, Member pay will remain at $174,000 for 2019.

[26] "[O]ther legislative offices" also includes employees of the Architect of the Capitol, United States Botanic Garden, Government Accountability Office, Government Publishing Office, Library of Congress, Congressional Budget Office, and Capitol Police. *See* 18 U.S.C. § 207(e)(9)(G).

[27] Most of the post-employment restrictions apply to very senior staff. As discussed in the general advisory memorandum for former staff, however, one provision applies to <u>all</u> former House staff – regardless of rate of pay – and restricts use of confidential information obtained during personal and substantial participation in ongoing trade or treaty agreements.

CALENDAR YEAR 2019

Item	2019 Amount
Outside earned income & outside employment threshold - Outside employment fiduciary restrictions if paid at rate for more than 90 days during 2019	**$126,148** ($10,512/mo)
Outside earned income limit	**$28,440**
Financial Disclosure/PTR threshold - Annual FD required in May 2020 if paid at rate for 60 days or more in CY 2019 - PTRs required during CY 2019 if: - Paid at rate on first day of calendar year or first day of House employment (if later); ***or*** - Paid at rate for any two pay periods during CY 2019 (*e.g.*, if get bonus or pay raise during calendar year), subject to PTR requirement for remainder of year	**$126,148** ($10,512/mo)
Written disclosure of job negotiations and recusals required	**$126,148** ($10,512/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)	**$164,200** ($13,683/mo)

Theodore E. Deutch, Florida
Chairman
Kenny Marchant, Texas
Ranking Member

Grace Meng, New York
Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

John Ratcliffe, Texas
George Holding, North Carolina
Jackie Walorski, Indiana
Michael Guest, Mississippi

ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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April 10, 2019

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, 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, 2019, due date for the filing of all annual Financial Disclosure Statements (FD Statements). In addition, the Committee will hold two Senior Staff Financial Disclosure Trainings before the May 15th deadline.

As a reminder, all Members are subject to financial disclosure filing requirements. House staff may be subject to financial disclosure filing requirements for a number of reasons, including 1) they are paid at or above the senior staff rate for 60 days or more during the calendar year, even if on a temporary basis; 2) they are designated a "principal assistant" for financial disclosure filing purposes by their employing Member; or 3) they are a shared employee of three or more offices, regardless of their rate of pay.[1]

In addition to the Clinics and Training sessions, 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 Wednesday, May 1, 2019, to ensure that the prescreening is completed by the filing deadline. You may email your prescreen request 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 online 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

[1] House officers and employees who were paid at the rate of $126,148 ($10,512 monthly salary) for at least 60 days during 2018 will be required to file a Statement by May 15, 2019. For 2019, senior staff are House officers and employees whose basic rate of pay is equal to or greater than $127,914 for at least 60 days during 2019.

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, 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 website at https://ethics.house.gov.

Clinics		
Date	**Time**	**Location**
Tuesday, April 16	10:30am – 11:30am	B249 Longworth HOB, Rooms B-C
Wednesday, April 24	10:30am – 11:30am	B249 Longworth HOB, Rooms B-C
Tuesday, April 30	2:00pm – 3:00pm	216 Ford HOB

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 116th 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:

Trainings		
Date	**Time**	**Location**
Wednesday, April 17	11:00am – 12:00pm	224 Ford HOB
Monday, April 29	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.

Financial Disclosure Clinics and Training sessions are offered as an additional service to the House. The Committee's nonpartisan staff is also available to provide one-on-one assistance. This includes meeting with a filer's spouse, accountant, or attorney to answer any filing questions. For assistance with financial disclosure questions or to schedule a meeting, please call the Committee at (202) 225-7103.

The Committee strongly recommends that filers use the online filing system to make all filings, but will provide assistance to both paper filers and online 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 website 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.

Theodore E. Deutch, Florida
Chairman
Kenny Marchant, Texas
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April 10, 2019

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Non-Commercial Aircraft Travel

The Committee has received numerous inquiries regarding travel on non-commercial aircraft. The Committee, by this memorandum, reminds Members and staff of the House rules and Committee guidance regarding the acceptance and use of non-commercial or private aircraft travel.

A Member may accept travel on non-commercial aircraft by paying or reimbursing the donor for such travel pursuant to House Rule 23, clause 15 or as a gift if permissible under House Rule 25, the House gift rule. The Honest Leadership and Open Government Act of 2007 (HLOGA),[1] however, places significant restrictions on the ability of candidates for the U.S. House of Representatives, and people who travel on behalf of those candidates, to accept travel on non-commercial aircraft. Therefore, the circumstances under which Members and staff are permitted to accept a flight on a non-commercial aircraft are very fact specific, and you are encouraged to contact the Committee to discuss your particular circumstance.

REIMBURSEMENT FOR NON-COMMERCIAL TRAVEL

House Rule 23, clause 15, governs the payment for use of non-commercial aircraft by House Members. Members are prohibited from using personal, official, and campaign funds for a flight on a non-commercial aircraft unless one of the rule's exceptions applies. A Member may use personal, official, or campaign funds to pay for or reimburse the cost of a flight on a non-commercial aircraft when the flight is provided under one of the following circumstances:

1) the aircraft is operated by an air carrier or commercial operator with a proper license from a government (*e.g.*, travel on a commercial or chartered airline);[2]

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[1] Pub. L. 110-81 (2007).

[2] House Rule 23, cl. 15(b)(1).

2) the flight is offered to the Member, in the Member's personal capacity, by a personal friend or another Member;[3]

3) the aircraft is operated by the federal, state, or local government;[4]

4) the aircraft is owned or leased by a Member or a family member[5] of a Member (including an aircraft owned by an entity that is not a public corporation in which the Member or the family member has an ownership interest, provided that the Member does not use the aircraft any more than the Member or family member's proportionate share of ownership allows);[6] or

5) the owner or operator of the aircraft is paid a pro rata share of the fair market value of the normal and usual charter fare or rental charge for a comparable plane of comparable size as determined by dividing such cost by the number of Members, Delegates, or the Resident Commissioner, officers, or employees of Congress on the flight.[7] For example, if a non-commercial aircraft flight cost $25,000 and only one Member is on the flight, the Member's pro rata share of the flight is $25,000, regardless of the number of non-congressional participants.

Although this rule allows a Member to reimburse for travel on non-commercial aircraft, if the Member would like to use official or campaign funds for that travel, the Member should consult the Committee on House Administration or the Federal Election Commission (FEC), as discussed below.

Use of Official Resources for Non-Commercial Aircraft Travel. The rules and regulations governing official travel paid for with funds from the Members' Representational Allowance, or with committee funds, are established by the Committee on House Administration. Members wishing to use official funds for non-commercial travel should consult the Committee on House Administration at (202) 225-2061 (majority) or (202) 225-8281 (minority).

Use of Campaign funds for Non-Commercial Aircraft Travel. There are certain activities that Members may, at their discretion, designate as either official or political. When Members designate an activity as political, they may not use campaign funds to pay for travel on a non-commercial aircraft. HLOGA generally prohibits candidates for the House from using campaign funds to pay for campaign-related travel on non-commercial aircraft.[8] Therefore, Members generally may not use campaign funds to pay for travel on a non-commercial aircraft if the travel is for campaign

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[3] *Id.* at (b)(3).

[4] *Id.* at (b)(4).

[5] "Family member" for purposes of this rule is defined as the Member's spouse, parents, children, siblings, and parents-in-law. House Rule 23, cl. 15(d)(2).

[6] House Rule 23, cl. 15(b)(2).

[7] *Id.* at (b)(5).

[8] 52 U.S.C. § 30114(c).

purposes.[9] However, Members may use campaign funds for officially-connected travel in connection with their duties as officeholders.[10]

Please contact the congressional liaisons at the FEC at (202) 694-1006 for further guidance on campaign-related travel.[11]

NON-COMMERCIAL AIRCRAFT TRAVEL WITHOUT REIMBURSEMENT

Members, officers, and employees of the House are prohibited from knowingly accepting any gifts, except as specifically provided in the House gift rule.[12] The term "gift," as used in the gift rule, means "a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value," and includes gifts of transportation.[13] There are limited circumstances under which a Member or staff may be permitted to accept travel on a non-commercial aircraft as a gift; that is, without having to reimburse the donor the cost of the travel.

Acceptance of Travel Paid for by Federal, State, or Local Governments. Members, officers, and employees may accept a flight on a non-commercial aircraft that is paid for by a federal, state, or local governmental entity.[14]

Acceptance of Travel Provided by a Relative. Members, officers, and employees are permitted to accept gifts from relatives.[15]

Acceptance of Travel Provided on the Basis of Personal Friendship. Members, officers, and employees may be offered a flight on an aircraft that is personally-owned by an individual whom the official knows. If the requirements of the personal friendship provision of the gift rule are satisfied, the offer of a flight to the Member, officer, or staff person may be accepted as a gift. Several points to bear in mind regarding this type of travel are as follows:

- As a general matter, the personal friendship provision can apply only if the aircraft is owned by the individual, and cannot apply to a flight on an aircraft owned by a corporation or other entity, where the individual does not have access to the aircraft for personal purposes.
- When the value of a gift proposed to be accepted under the personal friendship provision exceeds $250, written approval of the Committee on Ethics is required before the gift can be

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[9] Candidates for the House of Representatives may use their campaign funds to pay for travel on private aircraft owned by the candidate or the candidate's immediate family members. *See id.* at (c)(3). Please note this is a very narrow exception and you are encouraged to contact the FEC for further guidance.

[10] House Rule 23, cl. 15.

[11] HLOGA provisions govern travel for federal candidates. If a Member, officer, or employee is running for state-elected office, that Member, officer, or employee should contact the state's election authority to determine whether state campaign funds may be used for travel on non-commercial aircraft.

[12] House Rule 25, cl. 5.

[13] House Rule 25, cl. 5(a)(2)(A).

[14] House Rule 25, cl. 5(a)(3)(O).

[15] House Rule 25, cl. 5(a)(3)(C). Candidates for the House, traveling as candidates, may only accept travel on non-commercial aircraft if that aircraft is owned by the candidate or the candidate's immediate family, including a spouse, parents, children, siblings, and parents-in-law. 52 U.S.C. § 30114(c)(3)(B).

accepted. Practically any flight on a non-commercial aircraft will exceed $250 in value and hence will require Committee approval.[16]

- A flight may not be accepted on the basis of personal friendship when the primary purpose of the trip is either to conduct House business or engage in campaign activity.

Acceptance of Travel Provided by Another Member or Employee. Members, officers, or employees may accept a flight on a non-commercial aircraft from another Member, officer, or employee of the U.S. House of Representatives or U.S. Senate that is not related to travel for, or on behalf of, a candidate for the House. However, federal law prohibits a federal employee from giving gifts to a superior and superiors may not accept gift from their employees.[17] The Committee, however, has given permission for subordinates to give gifts to superiors, when such gifts are given voluntarily on special occasions where gifts are traditionally given, such as marriage, retirement, birth of a child, birthdays, anniversaries, or holidays.[18]

Acceptance of Travel from Point A to Point A. Members, officers, or employees may accept a flight on a non-commercial aircraft if the travel is from Point A to Point A. The Committee has determined that travel from Point A to Point A, without stops, does not have monetary value. This limited exception only applies to travel for an official purpose that departs and returns to the same location, without any intermediary stops.

Acceptance of Travel Resulting From Outside Business, Employment, or Other Activities. While participating in travel resulting from outside business, employment, or other activities, Members, officers, and employees may accept a flight on a non-commercial aircraft provided by the business or other entity, if two conditions are satisfied: (1) the non-commercial aircraft was not provided or enhanced because of the individual's official position, and (2) such travel is customarily provided to others in similar circumstances.

Acceptance of Travel for Campaign Activity. House candidates and those traveling on behalf of a House candidate are generally prohibited from flying on private aircraft, whether reimbursed or not.[19] Members, officers, and employees who are not acting in their capacities as candidates for the House, or in support of a House candidate, may accept travel on a non-commercial aircraft if offered by a political organization in connection with a fundraiser or campaign event

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[16] The value of a flight on a non-commercial aircraft is to be determined as follows. *When the travel is via a previously or regularly-scheduled flight by the owner or operator of the aircraft*, and the airports between which the Member or staff person is flying have regularly-scheduled air service (regardless of whether such service is direct), the value of the use of the aircraft is the cost of *a first-class ticket* from the airport of departure to the airport of destination. If only the coach rates are provided between those points, the value is the coach rate. If more than one first-class rate is available, the lowest fare may be used. However, no discount fares may be used for valuation purposes.

When the flight is scheduled specifically for Member or staff person use, or when either the airport of origin or destination does not have regularly-scheduled air service, the value of the use of the aircraft is the full cost of *chartering* the same or similar aircraft for that flight, divided by the number of Members, Delegates, or the Resident Commissioner, officers, or employees of Congress on the flight.

[17] 5 U.S.C. § 7351.

[18] House Rule 25, cl. 5(a)(3)(F).

[19] *See* 52 U.S.C. §30114(c); 11 C.F.R. § 100.93.

sponsored by that political organization.[20] The question of travel on non-commercial aircraft for a campaign purpose is very fact specific and you are highly encouraged to consult with the Committee and the FEC before accepting travel.[21]

Acceptance of Travel Paid for by a Foreign Government. A flight on a non-commercial aircraft that is paid for by a foreign government may be accepted, provided that the flight complies with the requirements of either the Foreign Gifts of Decorations Act (FGDA) or the Mutual Educational and Cultural Exchange Act (MECEA). The requirements of those statutes, including that travel paid for under the FGDA must take place totally outside the United States and be related to an official purpose, must be met for the travel to be permissible.

Privately-Sponsored Travel. Members, officers, and employees participating in privately-sponsored, officially-connected travel may not accept travel on a non-commercial, private, or chartered flight unless exceptional circumstances are demonstrated in writing by the private sponsor. All privately-sponsored, officially-connected travel is governed by the Committee's Travel Regulations.[22]

Acceptance of Travel under Committee's Waiver Authority. In special circumstances, a Member, officer, or employee may ask the Committee to exercise its waiver authority to allow travel on private aircraft.[23] The Member, officer, or employee must seek and receive permission before traveling on the private aircraft.[24]

FINANCIAL DISCLOSURE REQUIREMENTS

Members, officers, and certain staff[25] are required to file an annual financial disclosure (FD) statement.[26] Financial disclosure filers must report the value of all gifts received in the calendar year worth a total of more than $390 from a single source on Schedule G ("Gifts") on the FD statement, including Member-to-Member gifts. Gifts worth less than $156 need not be counted toward the $390 amount that triggers the disclosure requirement.[27] In addition, financial disclosure filers are required to report travel expenses more than $390 on Schedule H ("Travel Payments and Reimbursements"), including MECEA travel and travel paid for by political organizations that do not file reports with the

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[20] House Rule 25, cl. 5(a)(G)(iii). Although allowed by the gift rule, HLOGA prohibits Members, officers, and employees from accepting travel on a non-commercial aircraft paid for by a House candidate's principal campaign committee or leadership PAC. *See* 11 C.F.R. § 100.93.

[21] *See supra* note 11. .

[22] *See* Comm. on Ethics, *Travel Guidelines and Regulations* § 305.1 (Dec. 27, 2012).

[23] House Rule 23, cl. 15(c).

[24] *Id.*

[25] 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 ($127,914 for 2019, 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.

[26] *See* 5 U.S.C. app. § 102(a)(2)(A).

[27] FD Statement reporting thresholds for gifts and travel are based on the valuation of "minimal value" under FGDA and are subject to change every three years. *Id.* at (a)(2). The next re-calculation will be in 2020.

FEC.[28] Finally, gifts from relatives and expenses properly reported to the FEC do not need to be reported on annual FD statements.

Members, officers, and employees are encouraged to contact the Committee to seek assistance on properly reporting non-commercial aircraft travel on the annual FD statement.

FREQUENTLY ASKED QUESTIONS

Question 1. The governor would like to fly the state's congressional delegation to the state to view an area impacted by a natural disaster. The governor would provide transportation on a state-owned plane for the Members. May the Members accept that travel?

Answer. Yes, Members may accept travel on a non-commercial aircraft owned by a federal, state, or local government. Financial disclosure filers are not required to report on their FD statements travel provided by a federal, state, or local government.

Question 2. Congressman Albert owns a private plane and would like to invite other Members or staff to fly on that plane in order to attend an official meeting. May the invited Members or staff accept the gift of flight on the private aircraft?

Answer. Yes, Members and staff may accept gifts from other Members, including travel on non-commercial aircraft owned by the other Member for official purposes. Financial disclosure filers are not required to report on their FD statements travel provided by another Member or staff for official business.

Question 3. What if the travel is for personal purposes?

Answer. Yes, Members and staff may also accept gifts from other Members for purely personal purposes, including travel on non-commercial aircraft. Financial disclosure filers must report gifts they receive from non-relatives with a value of more than $390 on their annual FD statements, including Member-to-Member, Member-to-staff, and staff-to-staff gifts.

Question 4. A personal friend of Congresswoman Patel owns a private plane and asks Congresswoman Patel to accompany her on vacation. The travel will occur between two airports that have regularly-scheduled commercial service. May Congresswoman Patel accept the flight on the private aircraft to go on vacation with her personal friend?

Answer. Yes, if the Ethics Committee approves, Members and staff may accept gifts on the basis of personal friendship. Because the travel will occur between two airports with regularly-scheduled air service, the value of that flight will be the cost of the first-class ticket between those two airports. If the value of that first-class ticket is more than $250, the Member must receive written

[28] FGDA travel expenses must be disclosed within 30 days after leaving the host country. Copies of the FGDA disclosure form are available on the Committee's website, https://ethics.house.gov. FGDA travel is not disclosed on Schedule H ("Travel Payments and Reimbursements") of the annual FD Statement.

permission from the Ethics Committee. If the value of the first-class ticket exceeds the reporting threshold of $390, Congresswoman Patel will need to report that value as a gift on Schedule G ("Gifts") of her annual FD Statement.

Question 5. A personal friend of Congressman Myers owns a private plane and asks Congressman Myers to accompany him on vacation. Although Congressman Myers could get to the general location of the vacation on regularly-scheduled air service, the particular airport where the Congressman's friend will depart does not have regularly-scheduled air service to the destination airport, even through connecting flights. May Congressman Myers accept the flight on the private aircraft to go on vacation with his personal friend?

Answer. Yes, if the Ethics Committee approves the request. Unlike the example above, the value of this flight will be the full cost of chartering the same or similar aircraft for the flight. This is because the two airports do not have regularly-scheduled air service. If the full cost of chartering the same or similar aircraft exceeds the reporting threshold of $390, Congressman Myers will need to report that value on Schedule G ("Gifts") of his annual FD Statement.

Practically speaking, most flights on non-commercial aircraft will be valued above $250. Therefore, please contact the Ethics Committee as soon as you receive the invitation to ensure you receive timely guidance from the Committee.

Question 6. Congresswoman Colvin owns a private plane and offers it to Senator Dale to go on vacation, as long as Senator Dale pays for the costs associated with the flight. May Senator Dale pay for that flight?

Answer. If Senator Dale would like to accept Congressman Colvin's offer, Senator Dale should contact the Senate Ethics Committee for further guidance. Conversely, if a Member would like to accept travel on a Senator's private plane, please contact the Committee for further guidance.

Question 7. Congressman Ellie's father owns a private plane and offers the use of that plane for commuting back and forth to the district. May Congressman Ellie accept the flights on that private aircraft?

Answer. Yes, Members, and staff, may accept gifts from their relatives. Gifts from relatives do not need to be reported on annual FD Statements.

Question 8. Congresswoman Johns is invited to an aircraft test facility in her district. The test facility offers to let Congresswoman Johns ride in the cockpit during a test flight, which will take off and return to the same location. May she accept travel on the private aircraft during the test flight?

Answer. Yes, Members, officers, and employees may accept travel that is Point A to Point A. Because the test flight will take off and land in the same location, the Committee does not consider the travel to have any value. Therefore, participating in the test flight does not implicate the gift rule.

Question 9. Congresswoman Anthony is traveling to a fundraiser for her re-election campaign. May she accept travel on a private aircraft owned by one of her supporters?

Answer. No, generally candidates for the House may not accept travel on private aircraft for campaign purposes. Please contact the FEC congressional liaisons for additional information concerning travel on private aircraft for campaign-related purposes.

Question 10. A natural disaster ravaged Congressman Bradford's district. Due to the extent of the damage, commercial and chartered flights are not available. Congressman Bradford is invited to travel on a private aircraft, for free, to survey the damaged areas of his district. After consultation with the Ethics Committee, it does not appear that any exception to the House gift rule would apply. What may Congressman Bradford do?

Answer. Congressman Bradford may write in to the Ethics Committee and request a waiver. Both House Rule 23, clause 15(c) and House Rule 25, clause 5(a)(3)(T) allow the Ethics Committee to grant a waiver to these rules in unusual circumstances. The Committee will make every attempt to review these requests timely.

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

* * * * *

Theodore E. Deutch, Florida
Chairman
Kenny Marchant, Texas
Ranking Member

Grace Meng, New York
Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

John Ratcliffe, Texas
George Holding, North Carolina
Jackie Walorski, Indiana
Michael Guest, Mississippi

ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

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May 2, 2019

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Member, Officer, and Employee Participation in Fundraising Activities

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The purpose of this memorandum is to remind Members, officers, and employees of the federal statutes, House rules, and Committee guidance on fundraising activities. This memorandum also introduces a simplified form for requesting permission to assist with fundraising activities when written pre-approval from the Committee is required. Frequently asked questions are also provided at the end of this memorandum. Please note, the circumstances under which Members, officers, and employees may engage in fundraising activities are very fact specific, and we encourage you to contact the Committee to discuss your particular circumstance.

LIMITS ON SOLICITATION

The Anti-Solicitation Statute (5 U.S.C. § 7353) generally prohibits Members, officers, and employees from soliciting for anything of value from a person seeking official action from the House, doing business with the House, or having interests that may be substantially affected by the performance or nonperformance of that Member or employee's official duties. The statute covers solicitation regardless of whether the Member, officer, or employee personally benefits from it, and regardless of whether the solicitation is on behalf of other individuals or organizations.[1]

However, Members, officers, and employees may assist with fundraising activities under the circumstances discussed below.

WHAT ARE "FUNDRAISING ACTIVITIES"?

"Fundraising activities" is a broad term that means soliciting directly or indirectly for something of value from another individual or organization. Fundraising activities include asking for money; asking for in-kind contributions or memberships; using a Member, officer, or employee's name for a fundraising event on an invitation, on social media, on letterhead, or in a

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[1] 5 U.S.C. § 7353(a); Comm. on Standards of Official Conduct, *Solicitation Under the Ethics Reform Act of 1989* (Oct. 9, 1990) [hereinafter 1990 Committee Solicitation Memo].

letter; and making phone calls or in-person appearances asking for donations. Fundraising activities also include donating an item like a flag, lunch with the Member, or a Capitol tour to a silent auction; raising funds to participate in a charitable walk or run; participating in an annual gala; or even helping raise funds for an individual in need.

POLITICAL FUNDRAISING ACTIVITIES

The Committee has determined that the Anti-Solicitation Statute does not apply to solicitations on behalf of campaigns and other political entities.[2] Therefore, Members, officers, and employees may fundraise, without written Committee approval, for some political organizations including Members' campaign committees, political action committees (PACs), political parties, and all other organizations registered under section 527 of the Internal Revenue Code (IRC).[3] Members, officers, and employees may also fundraise for state or local candidates under this carve-out. Additionally, Members, officers, and employees may fundraise directly for state level ballot measure committees that are qualified under state law.[4] Please contact the Committee in advance if you have questions on whether an individual or organization qualifies under this exception.

The Committee understands that the Federal Election Campaign Act (FECA) imposes certain limitations on the ability of federal officeholders, including Members, to assist with fundraising activities on behalf of outside organizations, whether political or charitable. Therefore, the Committee recommends that any Member wishing to assist with political or charitable fundraising consult with the Federal Election Commission (FEC) congressional liaison office at (202) 694-1006 to ensure that the solicitations are not problematic under the FECA.

CHARITABLE FUNDRAISING ACTIVITIES

The Committee has established a general exception to the Anti-Solicitation Statute to permit Members, officers, and employees to solicit on behalf of organizations recognized under IRC § 170(c).[5] IRC § 170(c) includes organizations recognized under IRC § 501(c)(3), as well as state or local governmental entities, including public schools, and certain veterans organizations.[6]

The general exception granted by the Committee does not extend to fundraising activities on behalf of an organization, regardless of tax status, that was established or is controlled by current Members, officers, or employees. In such circumstances, the Member, officer, or

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[2] *See* 136 CONG. REC. H1647 (daily ed. Apr. 24, 1990) (regarding technical corrections to the Ethics Reform Act of 1989); 1990 Committee Solicitation Memo.

[3] *Id.*

[4] This exception applies only to soliciting directly for state ballot measure or referendum committees that are qualified under state law, registered with the appropriate state authority, and authorized to accept political contributions, regardless of the federal tax status of the committees. Please note, fundraising to benefit an organization that intends to donate some or all of the money raised to a ballot measure committee would not qualify for this exception.

[5] *See* 1990 Committee Solicitation Memo; *2008 House Ethics Manual* at 348.

[6] *See* 26 U.S.C. § 170(c).

employee must receive written approval from the Committee before making any solicitations on the organization's behalf. Permission will be granted for organizations that exist for the primary purpose of conducting activities that are unrelated to the individual's official duties.[7]

This general exception also does not apply to fundraising for individuals or organizations other than those recognized under IRC § 170(c). Common examples include organizations qualified under IRC §§ 501(c)(4) or (c)(6), as well as fundraising for more personal purposes. Any Member, officer, or employee seeking to engage in fundraising activities for an individual or organization that falls outside the general exception must request written approval from the Committee before assisting with those fundraising efforts. Please note, and as discussed below, the Committee will not approve requests for fundraising activities that provide a direct personal or financial benefit to the requestor or the requestor's immediate family.

FUNDRAISING GENERAL GUIDELINES

All permissible fundraising must comply with the following rules.

- No official resources may be used. Official resources include House staff while working on official time, telephones, office equipment and supplies, official social media, official mailing lists, and official photos.[8]

- Members may only use their personal titles, including "Member of Congress," "Representative," "Congressman or Congresswoman," and "the Honorable," or by using a leadership title. No official endorsement by the House of Representatives may be expressed or implied. This means no official titles, letterhead, or envelope used in a solicitation may bear the words "Congress of the United States," "House of Representatives," or "Official Business," nor may the letterhead or envelope bear the Great Seal of the United States, the Congress, or the House.[9]

- No direct personal or financial benefits may result to the soliciting official.

- No fundraising activities may occur in facilities of the House of Representatives.[10]

- No suggestion may be made either that donors will be assisting with the performance of official duties or that they will receive favorable consideration in official matters. For example, a House Member, officer, or employee who

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[7] *See* 1990 Committee Solicitation Memo; *2008 House Ethics Manual* at 348.

[8] *See* 31 U.S.C. § 1301(a); *see generally* Comm. on House Admin., *Members' Congressional Handbook*.

[9] *See* House Rule 23, clause. 11; 18 U.S.C. § 713. In contrast, official titles are "U.S. Congressman," "U.S. Congresswoman," or "U.S. Representative." Additionally, a Member's district number is part of the Member's official title.

[10] House Building Comm'n, *Rules and Regulations Governing the House Office Buildings, House Garages and Capitol Power Plant* (Feb. 1999).

solicits for a program that places interns in their own office generally may not accept an intern from that program for one year from the date of the last solicitation.[11]

- House Members, officers, and employees may not directly target registered federal lobbyists or agents of foreign principals with a solicitation.[12] Therefore, *no* employee of a lobbying firm should be targeted in a solicitation. However, a company, association, or other entity that employs registered lobbyists to lobby only for itself or its members may be targeted if the solicitation is sent to an officer or employee who is not a lobbyist.

When the Member, officer, or employee engaging in charitable activities fully complies with these requirements, any donations made to the benefitting organization will not be considered a gift to the soliciting Member, officer, or employee.[13] Violations of the Anti-Solicitation Statute are punishable by "appropriate disciplinary and other remedial action in accordance with any applicable laws, . . . and rules or regulations."[14]

SIMPLIFIED PROCESS FOR FUNDRAISING REQUESTS

The Committee is introducing a new "Solicitation Waiver Request" form to request permission to assist with fundraising activities for individuals and organizations not recognized under IRC § 170(c), or those that were established or are controlled by current Members, officers, or employees. A copy of the new "Solicitation Waiver Request" form is attached to this memorandum. Instructions are as follows.

1. Any Member, officer, or employee who seeks Committee approval to assist with fundraising efforts for an individual or organization not recognized under IRC § 170(c), or for an organization established or controlled by current Members, officers, or employees, should fill out the new "Solicitation Waiver Request" form (available on the Committee's website at https://ethics.house.gov/forms) and attach any additional relevant information.

2. The Committee will review the request and all supplemental information and, if appropriate, approve the request.

3. If approved, the Committee will provide the Member, officer, or employee with a letter signed by the Committee's Chairman and Ranking Member.

4. The "Solicitation Waiver Request," and any Committee response, will remain confidential.

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[11] *See 2008 House Ethics Manual* at 286; Comm. on Standards of Official Conduct, *Guidance on Intern, Volunteer, and Fellow Programs* (June 29, 1990), *reprinted in 2008 House Ethics Manual* at 402-404.

[12] A charitable contribution made by a federal registered lobbyist or foreign agent on the basis of a designation, recommendation, or specification of a Member or House employee is a prohibited gift to that Member or House employee. *See* House Rule 25, clause. 5(e)(2).

[13] 5 U.S.C. § 7353(b)(1).

[14] *Id.* at (c).

As discussed above, Members, officers, and employees wishing to engage in political fundraising activities do not need formal permission from the Committee.

FREQUENTLY ASKED QUESTIONS

Question 1. A local organization asks a Member to donate a flag flown over the Capitol for its upcoming silent auction. The entry for the silent auction would state that the flag was donated by the Member. The organization is recognized under IRC § 501(c)(3); was not founded or controlled by any current Member, officer, or employee; nor would the Member receive any personal or financial benefit from the silent auction. May the Member donate that flag without written Committee approval?

Answer. Yes. Members, officers, and employees may allow their names to be used for fundraising activities for organizations recognized under IRC § 170(c), which includes organizations recognized under IRC § 501(c)(3), so long as the fundraising does not provide a personal or financial benefit to the person named, and the benefitting organization was not founded or controlled by current Members, officers, or employees. The Member does not need written approval from the Committee prior to assisting with the fundraising efforts and allowing her name to be used.

Question 2. May a Member use official funds to purchase items to be donated for fundraising activities?

Answer. No. Donations for fundraising activities may not use official resources, including not using the Member's Representational Allowance to purchase a flag, official staff to assist with the logistics, nor using the Member, officer, or employee's official title. The Member may use personal funds to purchase the flag. If the Member would like to use their principal campaign committee funds, the Member should consult with the FEC.

Question 3. A Member is asked to donate a Capitol tour and a White House tour for a local public school's fundraiser. May the Member donate both of those tours?

Answer. Yes for the Capitol tour and no for the White House tour. The Member may donate a tour of the Capitol for a fundraiser, but the Member must give the Capitol tour him or herself. The Member may not ask official staff to assist with any logistical efforts for the Capitol tour, including giving a Dome tour. The Member may not donate a White House tour because requests for White House tours must occur through official channels.

Question 4. An organization that is recognized under IRC § 501(c)(7), but not IRC § 527 or § 170(c), and engages in political grassroots lobbying invites a Member to be a keynote speaker at its upcoming fundraiser. The organization would like to list the Member's name on the invitations

to the fundraiser. May the Member be the keynote speaker and be listed on the invitation without written Committee approval?

Answer. No. The Member must write in to the Committee for permission to assist with the organization's fundraising efforts. Although the organization is engaged in political activity, it is not recognized under IRC § 527, and therefore is not considered a political organization for the purposes of fundraising. Additionally, the organization is not recognized under IRC § 170(c), and therefore does not fall under the Committee's general exception to the Anti-Solicitation Statute. The Member should complete the new Solicitation Waiver Request form and send it to the Committee, with additional documentation as necessary, for review.

Question 5. A person seeking election to be the Chairman of a Member's state political party asked the Member for the Member's endorsement and for assistance with fundraising calls and letters. The person does not have a formal campaign committee. May the Member assist with those fundraising efforts?

Answer. Yes. The Member may fundraise for this candidate for the Chairman position because it is a state level political office. Even though the candidate does not have a formal campaign committee, fundraising for this purpose fits within the exception for political solicitations. The Member does not need formal permission from the Committee.

Question 6. A personal friend of an employee was recently diagnosed with a serious illness. The employee would like to set up a GoFundMe page and ask friends and family on social media to help offset the costs of the treatment that are not covered by her friend's health insurance. May the employee help raise funds for the friend's care without written Committee approval?

Answer. No. If the funds raised would go directly to the friend, and not an organization qualified under IRC § 170(c), the employee must write in to the Committee for permission to help raise funds for her friend's care. The employee should complete the new Solicitation Waiver Request form and send it to the Committee, with additional documentation as necessary, for review.

Question 7. A Member would like to be the honorary chairperson for a fundraiser benefitting an organization recognized under IRC § 501(c)(4). The Member understands that Committee approval is needed to assist with the fundraising activities, but the organization needs to send out the invitations as soon as possible. May the organization send out invitations while the Committee reviews the Member's request?

Answer. No. The organization may not use the Member's name on the invitations, or to advertise the event in general, until the Committee approves the Member's request to assist with the organization's fundraising efforts. The Committee recommends that all requests to assist with fundraising activities be sent to the Committee well in advance of any deadlines.

Question 8. A local chapter of a national organization asks a Member to be the keynote speaker at their upcoming fundraiser. The national organization is recognized under IRC § 501(c)(3), but the local chapter is recognized under IRC § 501(c)(4). May the Member be the keynote speaker and be listed on the invitation without written Committee approval?

Answer. No. The Member must write in to the Committee for permission to assist with the local chapter's fundraising efforts. Although fundraising on behalf of the national organization would comply with the Committee's general exception to the Anti-Solicitation Statute, the local chapter that will benefit from these fundraising efforts does not fall under the general exception.

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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Enclosure: Solicitation Waiver Request

SOLICITATION WAIVER REQUEST

This form should be submitted by House Members, officers, and employees seeking permission to fundraise on behalf of organizations or individuals not qualified under section 170(c) of the Internal Revenue Code (IRC), such as an IRC § 501(c)(3) organization, or organizations that are founded or controlled by current Members, officers, or employees. Please complete this form and submit it along with additional supporting documents to the Committee at 1015 Longworth House Office Building, or e-mailed to ethicscommittee@mail.house.gov.

1. Name: _____

2. Official Title: _____

3. (For Staff) Name of employing Member or Committee: _____

4. Contact information (e-mail address, office address, telephone number, point-of-contact):
_____

5. Name of organization or individual that will benefit from your fundraising:
_____

6. Contact person and phone number of the individual or organization:
_____

7. Tax status of organization (*e.g.*, IRC § 501(c)(4)): _____

8. Yes ☐ No ☐ Do you or your family have any connection to the individual or organization?
If yes, please explain: _____
_____

9. Please describe how the individual or organization would like to use your name:
_____

10. Date(s) of the event/when would you assist with fundraising: _____

11. Please describe how you will participate in the fundraising efforts:
_____

12. Yes ☐ No ☐ Did the individual or organization offer to cover any travel expenses in connection with the fundraising?

13. Yes ☐ No ☐ Do you have a sample invitation or sample language you would like to use?
If yes, please provide a copy.

14. Yes ☐ No ☐ Is the organization founded or controlled by current Members, officers, or employees?
If yes, what is the purpose of the organization?
_____

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

SIGNATURE OF REQUESTOR: _____ **DATE:** _____

Theodore E. Deutch, Florida
Chairman
Kenny Marchant, Texas
Ranking Member

Grace Meng, New York
Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

John Ratcliffe, Texas
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U.S. House of Representatives

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June 13, 2019

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: The 2019 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees

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This memorandum supersedes the Committee's February 8, 2019 Memorandum to include updated information based on Public Law 116-6 and guidance on how to calculate outside earned income. All Members of the House are subject to certain public disclosure requirements and employment restrictions both during and after their service in the House, including:

1. Financial disclosure filing requirements, including both annual financial disclosure (FD) statements and Periodic Transaction Reports (PTRs);
2. Restrictions on outside employment;
3. Notification requirements for disclosure of negotiations for private employment and related recusals; and
4. Post-employment restrictions.

House employees may also be subject to these requirements and restrictions, depending on their salary level. This memorandum provides details on the current triggering salary figures for Calendar Year (CY) 2019 for each of the categories noted above, and summarizes them in a table on page 8 of this Memorandum. It is each individual employee's responsibility to know whether their salary level subjects them to these standards of conduct and, if so, to comply with them. Please note that this memorandum is not a comprehensive list of every rule or standard of conduct that applies to House staff, but an overview of key standards that are triggered by salary level. Any Member, officer, or employee who has questions about whether their rate of pay triggers these requirements or restrictions or about the various rules is encouraged to contact the Committee's Office of Advice and Education at extension 5-7103.

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 subject to financial disclosure filing requirements, provided that the officer or employee "performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year."[1] The GS-15, step 1, basic pay rate for CY 2019 is $106,595.[2] The applicable 120% calculation for that rate is therefore **$127,914**, or a monthly salary above $10,659. 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 ($127,914) for at least **60 days**[3] during **2019** must file an FD statement on or before May 15, 2020.[4] (Temporary increases in an employee's basic rate of pay – such as to pay out a bonus – count toward this threshold, but "lump sum" payments do not.[5]) In addition, any new employee paid at or above the senior staff rate must file a "new employee" FD statement within 30 days of assuming employment with the House.[6] A new employee may request an extension of the new employee FD filing deadline of up to 90 days, but the request must be received by the Committee or on before the original filing deadline.[7] Finally, any staff who are paid at or above the senior staff rate on January 3, 2019 (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.[8] PTRs are not annual filings, but must be filed within 30 days of a purchase, sale, or exchange of more than $1,000 in stocks, bonds, and other securities.[9]

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[1] 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 subject to financial disclosure filing requirements. 5 U.S.C. app. §§ 101(d) and (f).

[2] Exec. Order No. 13,866, 84 Fed. Reg. 12853 (March 28, 2019). The new senior staff rate is retroactive to January 1, 2019.

[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 an FD. This is true even if the pay change affects only part of a month.

[4] 5 U.S.C. app. §§ 101(d) and (f).

[5] *See* Comm. on Ethics *2008 House Ethics Manual* at 283-84, *available at* https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf; Comm. on Ethics, *Instruction Guide, Financial Disclosure Statements and Periodic Transaction Reports*, at 2 (Calendar Year 2017), https://ethics.house.gov/forms/information-and-forms.

[6] *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 FD 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 FD statements.

[7] A request for an extension must be made using either a form available on the Committee's web site or through the electronic financial disclosure filing system.

[8] 5 U.S.C. app. § 103(*l*).

[9] 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 website (https://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 2019 pay cycle (January 3, 2019). Staff who are paid at or above

Please note that the requirement to file an FD statement covering calendar year 2018 applies to officers and employees whose basic rate of pay for at least 60 days in **2018** was **$126,148** or more (a monthly salary at or above $10,512). Annual FD statements covering CY 2018 were due on Wednesday, May 15, 2019, for those individuals who continued to be Members, officers, or employees of the House on that date.[10] A filer may request an extension of the annual FD filing deadline of up to 90 days, but the request must be received by the Committee or on before the original filing deadline.[11]

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.[12] A filer may request an extension of the termination FD filing deadline of up to 90 days, but the request must be received by the Committee or on before the original filing deadline.[13]

THE OUTSIDE EARNED INCOME LIMIT AND OUTSIDE EMPLOYMENT RESTRICTIONS

House officers and employees whose rate of basic pay is equal to or greater than the senior staff rate for **more than 90 days** are subject to limits on the amount of outside earned income[14] attributable to each calendar year.[15] As noted above, the senior staff rate for CY 2019 is **$127,914**, or a monthly salary above $10,659. 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, 2019, the rate of basic pay for Executive Level II was $189,600.[16]

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the senior staff rate for more than 60 days later in 2019 – even if on a temporary basis – will also be subject to the PTR requirement for the remainder of the calendar year and will be required to file an annual FD in 2020.

[10] FD statements are due May 15 annually. In the event that May 15 or another filing deadline under the EIGA falls on a weekend or a holiday, the filing deadline shall be on the next business day.

[11] *See supra* note 7.

[12] *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 FD statement. Departing employees who are exempt from filing under these circumstances must notify the Clerk of the House of that fact in writing, by sending a letter, completing a form available for that purpose, or filing a notice through the electronic financial disclosure filing system.

[13] *See supra* note 7.

[14] 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).

[15] 5 U.S.C. app. § 501(a)(1); House Rule 25, cls. 1(a)(1) and 4(a)(1).

[16] Exec. Order No. 13,856, 84 Fed. Reg. 70 (Jan. 8, 2019).

Accordingly, the outside earned income limit for House Members, officers, and employees paid at or above the senior staff rate for CY 2019 is **$28,440**.[17]

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 substantive types of outside employment for which they may receive compensation and must receive prior approval to receive certain types of compensation.[18] These include prohibitions on receiving any compensation for practicing a profession that involves a fiduciary relationship, receiving any compensation for affiliating with a firm that provides professional services involving a fiduciary relationship, or permitting such a firm to use one's name.[19] Receipt of compensation for service as an officer or member of a board of directors is also prohibited.[20] Prior written approval from the Committee on Ethics is required to accept compensation for teaching and to receive copyright royalties.[21] 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 website (https://ethics.house.gov).

In addition, the Committee would like to take this opportunity to clarify what income is subject to the annual outside earned income limitation. "Earned" income is compensation for personal services, unlike "unearned" income, which is a return on capital.[22] According to long-standing Committee policy, payment for personal services, where the personal services are the only material income-producing factor, is considered "earned" income for the purposes of financial disclosure reporting and the outside earned income limit.[23] Although a Member, officer, or employee paid at the senior staff rate may choose to establish a business entity for liability purposes, any income attributable to the personal services performed by that Member, officer, or employee, whether or not it passes through the business entity, is still considered earned income.[24]

As a general matter, gross income earned from performing personal services is subject to the outside earned income limit. Thus most expenses, whether reimbursed or unreimbursed, may not be deducted to determine what earned income is subject to the outside earned income limit.[25]

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[17] 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 $14,220. The outside earned income limit for 2019 will not change even if the General Schedule changes later in 2019 because it is based on the amount as of January 1, 2019. *See* 5 U.S.C. app. § 501(a)(2); House Rule 25, cl. 1(b).

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

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *See 2008 House Ethics Manual* at 212. "Unearned" income generally consists of dividends, rents, interest, and capital gains. *See* Ethics in Government Act, 5 U.S.C. § 102(a)(1)(B).

[23] *See* House Select Comm. On Ethics, Advisory Opinion No. 13 (October 1978), reprinted in *2008 House Ethics Manual* at 366.

[24] *Id.* at 368-369. Regardless of how payment may be characterized, the real facts control. *Id.* at 365.

[25] The Committee may consider written agreements addressing reimbursements for expenses entered into before personal services are provided as an exception to this guidance. Any request to consider something other than gross income for the purposes of the outside earned income limit must be submitted in writing. If, however, the reimbursements are for expenses paid for a campaign, the candidate and the employee should seek guidance from the Federal Election Commission's congressional liaisons at (202) 694-1006.

However, expenses for a Member, officer, or employee's own travel are not considered compensation.[26] Therefore expenses for a Member, officer, or employee's own travel, whether reimbursed or unreimbursed, are not included in the calculation of earned income.

Nothing in this guidance changes the Committee's guidance concerning family businesses. In general, if a Member, officer, or employee engages in the "general oversight and management or protection of his or her investment [in a business], such services would not be deemed to generate significant income."[27] However, if the Member, officer, or employee performs services for the business that "actually generate any significant income for the business," then some part of the payments the Member, officer, or employee receives from the business may be deemed earned income.[28] As a reminder, participation in advertising is not "general oversight and management," and it is not "protection of his or her investment."[29] Advertising, by definition, is a driver of revenue for a company.[30]

Finally, federal statutes and regulations prohibit staff from making campaign contributions to their employing Members.[31] Outlays are contributions, even if reimbursed.[32] Reimbursements for an employee's own personal travel expenses are permitted.[33] For further questions regarding reimbursements for personal campaign travel, please contact the Federal Election Commission (FEC) congressional liaisons at (202) 694-1006.

EXAMPLES

1. A senior staffer is an employee of a Member's campaign and receives a W-2 at the end of the year listing the staffer's salary. All of the salary listed on the W-2 is reportable on Schedule C ("Earned Income") on the staffer's financial disclosure statement for that year and subject to the outside earned income limit. The staffer must also report the position on Schedule E ("Positions")

2. A senior staffer establishes a single-member LLC through which to run salary earned from a Member's campaign. Even though a business entity was formed, LLCs and S-Corporations are pass-through entities. Therefore, all income the staffer earned from providing personal services to the Member's campaign is reportable on Schedule C

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[26] *See, e.g.*, House Rule 25, cl. 5(a)(3)(G)(i) (gifts of travel resulting from outside employment are permissible so long as not offered or enhanced because of the Member, officer, or employee's House position); *2008 House Ethics Manual* at 222 (reimbursement of travel expenses for a Member or senior staffer's board service is permitted, although compensation for that board service is not permitted). Travel related to outside activities that exceeds the reporting threshold must be disclosed on Schedule H ("Travel Payments and Reimbursements") of the annual financial disclosure statement. 5 U.S.C. § 102(a)(2)(B).

[27] *See* House Select Comm. On Ethics, Advisory Opinion No. 13 (October 1978), reprinted in *2008 House Ethics Manual* at 364.

[28] *Id.*

[29] Comm. on Ethics, *Guidance on Personal Endorsement or Promotion by Members of the House of Representatives* at 2 (Aug. 24, 2018).

[30] *Id.*

[31] *See* 18 U.S.C. § 603.

[32] *See* 52 U.S.C. § 30101(8)(A)(i).

[33] *See id.* at (8)(B)(iv).

("Earned Income") on the staffer's financial disclosure statement for that year and subject to the outside earned income limit. If the LLC has a value over $1,000 or generates income over $200, the staffer must also report the LLC on Schedule A ("Assets and Unearned Income").

3. A Member has a side business, where the Member repairs computers and technology equipment. To further the Member's business, the Member purchased a laptop using the income from the business. Although the Member may be able to deduct the laptop for the Member's annual taxes, only personal travel expenses may be excluded for the purposes of the outside earned income limit. Therefore, all the income earned is reportable on Schedule C ("Earned Income") on the financial disclosure statement for that year, and the income is subject to the outside earned income limit. If the side business has a value over $1,000 or generates income over $200, the Member must report the business on Schedule A ("Assets and Unearned Income").

4. A Member is a stockholder in a C-corporation. The Member receives $201 in dividends from that C-corporation in a calendar year. The dividends the Member receives are unearned income and should be reported on Schedule A ("Assets and Unearned Income") of the Member's financial disclosure statement. If the value of the Member's shares in the C-corporation exceeds $1,000 on the last day of the reporting period, the value must also be reported on Schedule A.

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.[34] 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.[35] As noted above, the senior staff rate for CY 2019 is **$127,914**, or a monthly salary above $10,659.

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 January 2, 2019, are available on the Committee's website (https://ethics.house.gov) under "Reports/General Advisories," and forms for making the notifications regarding job negotiations or recusal are available under "Forms/Post-Employment."

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

[35] House Rule 27, cl. 4; STOCK Act § 17.

POST-EMPLOYMENT RESTRICTIONS

House Members and officers, as well as certain other House employees, are subject to post-employment restrictions on lobbying.[36] In general, 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 2019 will remain $174,000.[37] Therefore, the post-employment threshold for employees who depart from a job in a Member, committee, or leadership office in CY 2019 remains **$130,500**, or a monthly salary of $10,875 or more. However, the triggering salary for employees of other House offices (such as the Chaplain, Chief Administrative Officer, Clerk, General Counsel, Historian, Inspector General, Law Revision Counsel, Legislative Counsel, Office of Congressional Ethics, Parliamentarian, and Sergeant of Arms) is Executive Schedule Level IV.[38] For 2019, that salary is **$166,500**, or a monthly salary above $13,875.

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.[39]

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[36] 18 U.S.C. § 207.

[37] *See* Section 212 of Title II of the Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019, Pub. L. No. 115-244 Sep. 21, 2018), prohibiting a scheduled cost-of-living pay raise for Members. As a result, Member pay will remain at $174,000 for 2019.

[38] "[O]ther legislative offices" also includes employees of the Architect of the Capitol, United States Botanic Garden, Government Accountability Office, Government Publishing Office, Library of Congress, Congressional Budget Office, and Capitol Police. *See* 18 U.S.C. § 207(e)(9)(G).

[39] Most of the post-employment restrictions apply to very senior staff. As discussed in the general advisory memorandum for former staff, however, one provision applies to all former House staff – regardless of rate of pay – and restricts use of confidential information obtained during personal and substantial participation in ongoing trade or treaty agreements.

CALENDAR YEAR 2019

Item	2019 Amount
Outside earned income & outside employment threshold - Outside employment fiduciary restrictions if paid at rate for more than 90 days during 2019	**$127,914** ($10,659/mo)
Outside earned income limit	**$28,440**
Financial Disclosure/PTR threshold - Annual FD required in May 2020 if paid at rate for 60 days or more in CY 2019 - PTRs required during CY 2019 if: - Paid at rate on first day of calendar year or first day of House employment (if later); ***or*** - Paid at rate for any two pay periods during CY 2019 (*e.g.*, if get bonus or pay raise during calendar year), subject to PTR requirement for remainder of year	**$127,914** ($10,659/mo)
Written disclosure of job negotiations and recusals required	**$127,914** ($10,659/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. 7)	**$166,500** ($13,875/mo)

Important Information Relating to Hurricane Dorian

Sending Office: Committee on House Administration
Sent By: Daniel.Taylor@mail.house.gov

August 30, 2019

Important Information Relating to Hurricane Dorian

Dear Colleague:

Several offices have contacted the Committee on House Administration, the Commission on Congressional Mailing Standards (Franking Commission), and the Committee on Ethics to inquire about the extent to which official resources may be used to help those impacted by Hurricane Dorian. We would like to take this opportunity to provide a review of the applicable rules, regulations, and procedures.

When a state of emergency is declared, Members whose districts are directly affected may provide constituents with information to assist those impacted. This information may include addresses and telephone numbers of entities involved in relief efforts being coordinated by the federal government. In the past, Members have provided contact information for blood drives conducted by the American Red Cross in conjunction with the Federal Emergency Management Agency (FEMA). However, referrals to organizations or links to sites whose primary purpose is the solicitation of goods, funds, or services on behalf of individuals or organizations are not permitted under the rules of the House. **To summarize, for Members directly affected, contact information for government entities, as well as private entities directly involved in relief efforts organized by the federal government, may be sent as a mass communication (emails, advertisements, flyers for handout, and posters) and posted on your official website and social media accounts. However, any such unsolicited mass communications must be reviewed by the Franking Commission prior to distribution.**

The Committee on House Administration recommends use of these government established websites for information on the relief efforts:

www.usa.gov/disasters-and-emergencies

www.fema.gov/
www.ready.gov/
www.nhc.noaa.gov/
www.nws.noaa.gov/om/hurricane/index.shtml
https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/hurricane-guidance/

Members have asked to what extent they may use their official resources to solicit or collect donations of goods, funds, or services on behalf of charities and other private organizations involved in such efforts. We understand the good intentions of those making such inquiries, but the rules of the House preclude Members from using official resources for any purpose other than in support of the conduct of the Member's official and representational duties on behalf of the district the Member currently represents. This rule has been interpreted to mean that charitable solicitations using official resources are not permitted. Please contact the Committee on Ethics with any questions surrounding this rule. **To summarize, Members and staff may not use official resources to solicit anything for charities.**

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

If you have any questions regarding the use of your:

1. Official resources in general, please contact the Committee on House Administration at (202) 225-2061 (majority) or (202) 225-8281 (minority);

2. Communications resources, please contact the Franking Commission at (202) 225-9337 (majority) or (202) 226-0647 (minority); or

3. Personal or campaign resources, or the loan of your name and personal title to private solicitations or initiatives in support of the relief efforts, please contact the Committee on Ethics at (202) 225-7103.

Sincerely,

Chairperson Zoe Lofgren
Committee on House Administration

Ranking Member Rodney Davis
Committee on House Administration

Chairman Ted Deutch
Committee on Ethics

Ranking Member Kenny Marchant
Committee on Ethics

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Anthony Brown, Maryland

John Ratcliffe, Texas
George Holding, North Carolina
Jackie Walorski, Indiana
Michael Guest, Mississippi

ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

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November 14, 2019

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Access to Classified Information and Controlled Areas

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This memorandum serves as a reminder to all House Members, officers, and employees about the ongoing obligation to safeguard classified information and areas.

House rules require that all House Members and staff, before accessing classified information, shall execute an oath stating that he or she will not disclose any classified information received in the course of their service with the House of Representatives, except as authorized by the House of Representatives or in accordance with its rules.[1] When a Member should be aware of or is uncertain about the classification of sensitive information in their possession, they must make a good faith effort to ascertain its classification with the appropriate executive branch agency before disclosing it to the public.

To facilitate its work, the House has multiple sensitive compartmented information facilities (SCIFs) or controlled areas. Each controlled area is governed by the appropriate committee of jurisdiction or the Sergeant at Arms. However, there are basic tenets regarding access to classified information and controlled areas that all House Members and employees should adhere to.

Access to classified information and areas, even for cleared personnel, is granted on a "need to know" basis. As such, House personnel should not attempt to gain access to classified information or controlled areas unless they have a need to access the area or information. Multiple overlapping safeguards exist to protect against different types of intrusion. However, the protections rely on the cooperation of those entering a SCIF to ensure countermeasures are not compromised. Thus, portable electronic devices (PEDs) should generally not be taken into any controlled area. PEDs include, but are not limited to, cell phones, laptops, smartwatches, tablets, or any other devices capable of transmitting or receiving an electronic signal.

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[1] House Rule 23, clause 13.

House controlled areas are accredited for operation by the intelligence community and are subject to periodic inspections to recertify their accreditation. Breaches of security protocols or unauthorized disclosures could result in the decertification of these facilities. This would significantly impair the House's ability to conduct its business.

Inadvertent breaches of security protocols or unauthorized disclosures may be handled as a matter of security by the committees of jurisdiction over the relevant classified information or controlled areas. However, attempts to gain unauthorized access to classified areas or purposeful breaches of basic security protocols may cause classified information to be improperly disclosed, and may reflect discreditably on the House as a legislative body. The Committee has jurisdiction to investigate violations of House rules, regulations, laws, or other standards of conduct, including violations of House rules regarding disclosure of classified information and other potential violations of the Code of Official Conduct.[2]

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.

* * * * *

[2] House Rule 23.

Theodore E. Deutch, Florida
Chairman
Kenny Marchant, Texas
Ranking Member

Grace Meng, New York
Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

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November 26, 2019

MEMORANDUM FOR ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Reminder about Annual Ethics Training Requirements for 2019

This memorandum is a reminder to all offices about ethics training requirements. The Committee on Ethics is required to provide annual ethics training to each Member, Delegate, Resident Commissioner, officer, and employee of the House.[1] The Committee offers ethics training both through online video courses and in-person training sessions. For the 116th Congress to date, the Committee has held 80 in-person ethics training sessions and provided in-person ethics training to more than 3,200 Members[2], officers, and employees. Additional in-person ethics training sessions for 2019 are included later in this memorandum.

New House Members and employees must complete a specifically designated ethics training session within 60 days of joining the House.[3] Existing House Members, officers, and employees are required to take one hour of general ethics training each calendar year. In addition, the Committee requires all senior staff[4] – whether new or existing employees – to complete an additional hour of specialized training at least once per Congress.

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[1] House Rule 11, clause 3(a)(6)(A). The Committee defines an "officer or employee" as an individual appointed to a 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] For all purposes in this memorandum, "Member" is defined to include any current Member, Delegate, or Resident Commissioner of the House of Representatives.

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

[4] "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 2019, the senior staff annual salary rate is $127,914, or a monthly pay rate at or above $10,512. Please note that the senior staff annual salary rate is subject to change in 2019.

By January 31 of each year, all House Members and 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 the Congressional Staff Academy will have made their necessary certification to the Committee. The following are the ethics training requirements for 2019 for Members, officers, and employees of the House, as well as the details of how to complete the registration and/or certification process for both live and online ethics training programs.

2019 ETHICS TRAINING REQUIREMENTS

Members

New House Members must complete a training session specifically designated for new Members within 60 days of joining the House. A "new" Member for the purposes of the 2019 training requirement is an individual who was *first* sworn in on or after January 3, 2019. Before each Congress, the Committee on Ethics provides ethics training for incoming new Members at the New Member Orientation organized by the Committee on House Administration. The Committee on Ethics also provides this training for new Members elected through a special election within the new Members' first 60 days.

Existing Members are required to take annual ethics training, either by completing the training online, attending a live ethics training session, or requesting a briefing for their office. For 2019, this means all existing House Members must complete one hour of training by **December 31, 2019**. If Members would like to complete ethics training online, please have a staff member contact the Committee for a password.

"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 2019 training requirement is an individual who first began employment with the House on or after January 3, 2019. Any former House employee who returns to House employment after a gap of more than 90 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 website: https://ethics.house.gov.

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

[6] Detailees, fellows, unpaid interns, and any individuals who are employed by the House and paid for fewer than 60 days are not required to attend ethics training in 2019. 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.

- New employees who do not work in Capitol Hill offices may either attend a live training session *or* watch the "2019 New District Staff" training video online through the Congressional Staff Academy website under the Annual Training tab. No other video satisfies the training requirement for new employees.

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 2019, this means all existing House employees must complete one hour of training by **December 31, 2019**. **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 Congressional Staff Academy website. 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"[7] 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 116th Congress, this means all senior staff must complete one hour of training by **January 3, 2021**. 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 Congressional Staff Academy website.

Briefings that satisfy the senior staff training requirement include 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 annual general ethics training requirement.

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[7] *See supra note* 3.

ONLINE REGISTRATION & CERTIFICATION PROCESS

For live ethics training

Employees who plan to attend any live training session ***must*** preregister at https://house.csod.com/samldefault.aspx (found under "annual trainings") ***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 confirmations, which they should preserve for their own records. Employees can download training certificates on the Congressional Staff Academy website under the "learning" tab and by clicking "view my transcript." On this page, click the "active" drop-down box and select "completed." The 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 2019 is listed below and also available on the Ethics Committee website: https://ethics.house.gov. All staff scheduled training sessions – whether for new, existing, or senior staff – will be listed on the Committee calendar on an ongoing basis.

Name of Training	Location	Date and Time
Senior Staff	HVC 201 A&B	December 2, 2019 at 10:30 AM
New Employee	HVC 201 A&B	December 2, 2019 at 2:00 PM
Members-Only	**HVC 201 A&B**	**December 3, 2019 at 4:00 PM**
Senior Staff	HVC 201 A&B	December 9, 2019 at 10:30 AM
New Employee	HVC 201 A&B	December 9, 2019 at 2:00 PM
Members-Only	**HVC 201 A&B**	**December 9, 2019 at 4:00 PM**
Senior Staff	HVC 201 A&B	December 16, 2019 at 10:30 AM
New Employee	HVC 201 A&B	December 16, 2019 at 2:00 PM

For online ethics training

Employees who want to complete ethics training online can access the training through the Congressional Staff Academy website: https:/house.csod.com/samldefault.aspx. Ethics training can be found under the "annual training" tab. Employees must complete the entire online training program to receive credit. Employees must use a House computer to access the Congressional Staff Academy website. 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 their Congressional Staff Academy transcript at any time to verify the completion of their own annual ethics training requirement.

Each individual House employee is responsible for completing their ethics training requirement and certifying completion. Employees can view past training history on the Congressional Staff Academy website under the "learning" tab and by clicking "view my transcript."

A chief of staff (or staff director or other supervisors) can confirm employee ethics training completion by requesting each staff person to provide either the email they received after attending an in-person training or a print out their Training Completion Certificate from the Congressional Staff Academy website: https:/house.csod.com/samldefault.aspx.

FAILURE TO COMPLY WITH THE TRAINING REQUIREMENTS

Failure to satisfy the annual training requirement is a violation of House rules[8] and may result in any of the specified disciplinary sanctions for House Members and employees, including the publication of noncompliant House Members and employees' names, additional ethics training, or other actions the Committee deems appropriate. 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.

* * * * *

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

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Chairman
Kenny Marchant, Texas
Ranking Member

Grace Meng, New York
Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

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ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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December 11, 2019

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Outside Position Regulations

House Resolution 6 (H. Res. 6), created a new clause in the Code of Official Conduct effective January 1, 2020. H. Res. 6 also requires that, "Not later than December 31, 2019, the Committee on Ethics shall develop regulations addressing other types of prohibited service or positions that could lead to conflicts of interest." To assist the Committee on Ethics (Committee) in fulfilling this mandate, the Committee established a working group, consisting of Representative Susan Wild and Representative Van Taylor. After extensive research, a public session, and solicitation of input from Members[1] of the House of Representatives, the Committee voted to adopt the Outside Position Regulations (OPR) issued today by unanimous vote.

Sections VIII and X of the OPR restate existing restrictions from the Ethics in Government Act, 5 U.S.C. app. §§ 102 and 502(a); House Rule 25, clauses 1 and 2; and House Rule 26. **As such, those prohibitions and reporting requirements have been and remain in effect pursuant to the underlying authorities and previous Committee guidance. However, the remainder of the OPR *will be effective* on January 1, 2020.** Forms related to the OPR will be issued prior to the effective date. The Committee will incorporate the OPR standards into its annual training starting in 2020 and is available to provide guidance concerning compliance through the Office of Advice and Education, at (202) 225-7103.

While the OPR are extensive, they are not exclusive. Members, officers, and employees of the House are reminded that Constitutional provisions and federal statutes may place additional restrictions on outside employment, positions, and activities.[2] Members, officers, and employees of the House are further reminded that House Rule 23, clause 1 requires that they "shall behave at all times in a manner that shall reflect creditably on the House;" and House Rule 23, clause 2 requires that they "shall adhere to the spirit and the letter of the Rules of the House."

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[1] For all purposes in this memorandum, "Member" is defined to include any current Member, Delegate, or Resident Commissioner of the House of Representatives.

[2] Some of these additional restrictions on outside activities and positions include the Emoluments Clause and Incompatibility Clause of the Constitution, the Dual Compensation statute, the statute prohibiting Members from contracting with the federal government, and federal criminal conflict of interest statutes. Members and staff with questions about any of these additional restrictions are encouraged to contact the Committee and/or the Office of General Counsel for guidance.

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ETHICS

OUTSIDE POSITION REGULATIONS

December 2019

Effective January 1, 2020

I. Authority

The Committee on Ethics is authorized to issue regulations on this subject pursuant to H. Res. 6, 116th Congress.

II. Effective Date

These regulations are effective January 1, 2020. To the extent that these regulations restate an existing standard, for example, Sections VIII and X, those standards have been and remain in effect pursuant to the underlying authorities and related Committee guidance.

III. Construction

In construing these regulations, Members, Delegates, Resident Commissioners, officers, and employees of the U.S. House of Representatives are instructed to take into consideration their obligations under House Rule XXIII, clause 1, that they "shall behave at all times in a manner that shall reflect creditably on the House," and House Rule XXIII, clause 2, that they "shall adhere to the spirit and the letter of the Rules of the House."

IV. General Rules:

a. A Member, Delegate, Resident Commissioner, officer, or employee of the U.S. House of Representatives may not serve as an officer or director of an entity in circumstances described in section VII of these regulations.
b. A Member, Delegate, Resident Commissioner, officer, or employee paid at or above the senior staff rate of the U.S. House of Representatives is subject to additional restrictions, described in section VIII of these regulations.
c. A Member, Delegate, or Resident Commissioner of the U.S. House of Representatives may not serve as an officer or director of an entity in circumstances described in section IX of these regulations.

V. Scope

a. Nothing in these regulations should be interpreted to supersede statutory restrictions pursuant to 5 U.S.C. app. § 502(a).
b. These regulations do not address positions with political organizations.
c. These regulations do not address positions that are advisory or honorary in nature.

VI. Definitions

a. **Advisory or honorary position.** The term 'advisory or honorary position' means a position in name only, with no decision-making responsibilities, no fiduciary responsibilities, and no requirement to fulfill prerequisites to be bestowed the advisory or honorary title.

b. **Charitable trust.** The term 'charitable trust' means a trust pursuant to 26 U.S.C. § 4947(a), and includes split-interest trusts.
c. **Committee.** The term 'Committee' means the Committee on Ethics of the U.S. House of Representatives.
d. **Company traded on a foreign market.** The term 'company traded on a foreign market' means a security that *only* trades on a foreign publicly traded exchange; e.g. the Tokyo Stock Exchange or Paris Stock Exchange.
e. **Entity that receives funding from a federal agency.** The term 'entity that receives funding from a federal agency' means an entity that seeks, spends, or administers appropriated funds provided by a federal agency, jurisdiction of which falls within the committee on which a Member, Delegate, or Resident Commissioner sits.
f. **Entity that is regulated by a federal agency.** The term 'entity that is regulated by a federal agency' means an entity that is subject to regulations promulgated by a federal agency, which falls within the jurisdiction of the committee on which a Member, Delegate, or Resident Commissioner sits.
g. **Family business.** The term 'family business' means a partnership, corporation, limited liability company; or other similar commercial organization, in which members of the family, as defined by 26 U.S.C. § 2704(c)(2), exercise control, as defined by 26 U.S.C. § 2701(b)(2), over the business entity. 'Family business' does not include sole proprietorships.
h. **Family trust.** The term 'family trust' means a trust established for the benefit of persons in the same family, as defined by state law.
i. **Political organization.** The term 'political organization' means an organization qualified under § 527(e) of the Internal Revenue Code.
j. **Public company.** The term 'public company' means an issuer as defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. § 78c)—(1) the securities of which are required to be registered under section 12 of such Act (15 U.S.C. § 78l); or (2) that is required to file reports under section 15(d) of such Act (15 U.S.C. § 78o(d)).
k. **Senior staff rate.** The term 'senior staff rate' means a basic rate of pay equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule. Employees who receive the senior staff rate for 60 days in a calendar year must file financial disclosure statements and periodic transaction reports pursuant to 5 U.S.C. app. § 101 *et seq*. Employees who receive the senior staff rate for 90 days in a calendar year are subject to additional restrictions, pursuant to 5 U.S.C. app. § 502(a).

VII. Prohibitions for Members, Delegates, the Resident Commissioner, Officers, and Employees

a. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not serve as an officer or director of any:
    i. Public company; or
    ii. Company traded on a foreign market.

VIII. Prohibitions for Members, Delegates, the Resident Commissioner, Officers and Employees Who Receive the Senior Staff Rate for 90 Days or More in A Calendar Year

a. A Member, Delegate, Resident Commissioner, officer or employee paid at or above the senior staff rate for 90 days or more in a calendar year may not:
   i. Receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity that provides professional services including a fiduciary relationship, except for the practice of medicine;
   ii. Permit his name to be used by such a firm, partnership, association, corporation or other entity;
   iii. Receive compensation for practicing a profession that involves a fiduciary relationship, except for the practice of medicine;
   iv. Serve for compensation as an officer or member of the board of an association, corporation, or other entity; or
   v. Receive compensation for teaching without the prior approval of the Committee.

IX. Prohibitions for Members, Delegates, and the Resident Commissioner only

a. A Member, Delegate, or Resident Commissioner may not serve as an officer or director of any
   i. Entity that receives funding from a federal agency, jurisdiction of which falls within a committee on which the Member, Delegate, or Resident Commissioner sits, or
   ii. Entity that is regulated by a federal agency, jurisdiction of which falls within a committee on which the Member, Delegate, or Resident Commissioner sits.
b. Exceptions:
   i. Section IX(a) shall not apply if:
      1. The Member, Delegate, or Resident Commissioner had served continuously as an officer or director for at least two years prior to their initial election to the House of Representatives, and the amount of time required to perform such service is minimal;
      2. The entity is a family business, family trust, or charitable trust;
      3. The entity is qualified under § 170(c) of the Internal Revenue Code;
      4. The entity maintains an active registration; however, it is for all purposes dormant, and does not engage in any trade or business;
      5. The position is conferred solely by virtue of an ownership interest in the entity, and involves no active participation in the entity's operations; e.g., to become an investor in an LLC that owns restaurant franchises, the Member must become a member of the LLC;
      6. Service as an officer or director is specifically authorized by statute; or
      7. The entity is primarily available to Members, Delegates, the Resident Commissioner, officers, and employees of the House of Representatives, or their families; e.g., the House Childcare Center or Congressional Federal Credit Union.

c. Waiver or Suspension: *Available only for prohibitions in this section*
   i. The Committee may issue a waiver or a suspension for a period of time (not to exceed 120 days) of the prohibitions contained in this section upon written request, in exceptional circumstances only.
   ii. The presumption when reviewing requests is that exceptional circumstances rarely exist. When reviewing requests, the Committee may consider the following as evidence of an exceptional circumstance:
      1. The entity faces demonstrable and specific imminent, emergent, or dire consequences if the requester steps down from the position;
      2. (suspension only) The entity has made a diligent search, but has been unable to appoint a successor before the Member, Delegate, or Resident Commissioner is scheduled to take a position with a committee; or
      3. The articles of incorporation or similar document establishing the entity specify that the requester is the only party who is legally able to serve in the position, and the organizing document cannot be modified by law.
   iii. Waivers granted by the Committee shall be made available to the public in the same manner as waivers of financial disclosure statement reporting requirements.

X. Reporting Requirements

a. A Member, Delegate, Resident Commissioner; or officer or employee who receives the senior staff rate for 60 days or more in a calendar year, must file financial disclosure statements and periodic transaction reports pursuant to 5 U.S.C. app. § 101 *et seq*. Among the items that must be disclosed are:
   i. Outside earned income on Schedule C, "Earned Income", and
   ii. Certain positions on Schedule E, "Positions".

EXAMPLES

Example 1. A Member serves as an uncompensated Board Member for a bank that is traded on the New York Stock Exchange. Prior to his election, his position had been compensated, but he moved to an uncompensated position upon swearing in pursuant to the Ethics in Government Act (EIGA), restated in section VIII(a)(iv) of the OPR. Pursuant to House Resolution 6 and Section VII(a)(i) of the OPR, the Member ***must*** cease to serve as a Board Member for the bank, effective January 1, 2020.

Example 2. A staff person commences working for the House of Representatives on February 10, 2020. The staff person serves as President of a corporation that is publicly traded on the Bombay Stock Exchange; the corporation's stock is not publicly traded on any other country's stock exchange. As President, the staff person has a fiduciary duty to the corporation and has voting rights concerning the company's operations. Pursuant to Section VII(a)(ii) of the OPR, the staff person ***must*** step down from his position as President of the corporation upon commencing work with the House of Representatives.

Example 3. A senior staff person began working as an administrative assistant for a small candle-making business owned by a family friend in January of 2019. He received $25,000 in compensation in 2019. The senior staff person may continue to work for the small business as its administrative assistant for compensation because (1) his compensation is below the outside earned income limit for 2019 of $28,440, and (2) he does not serve as a fiduciary for the candle-making business.

Example 4. A senior staff person who is an attorney began working for the House of Representatives in 2011. In 2018, she was asked to re-join her former law firm as an ex officio Board Member. In that role, she would be compensated at $18,000 per year. Although the amount proposed is less than the outside earned income limit for 2018 of $28,050, the senior staff person may not accept any compensation for her service as an ex officio Board Member due to the restrictions on her affiliating with a firm that provides professional services including a fiduciary relationship, pursuant to the EIGA, and restated in section VIII(a)(i) of the OPR. The law firm also may not use her name on its website or on firm letterhead.

Example 5. A Member who was sworn into the House of Representatives in a special election in 2019 is a medical doctor. She would like to continue to practice medicine now that she is a sitting Member of Congress. The Member may receive compensation for practicing medicine only up to the amount necessary to cover the costs of her licensure fees, continuing education units, medical office expenses, and medical malpractice insurance premiums. The Member must file the appropriate form for practicing medical doctors with the Committee on Ethics, no later than May 15 of each calendar year, detailing her costs and compensation for the prior calendar year. She may not accept compensation in excess of her actual costs.

Example 6. A Member who was first sworn into office in 2011 sits on the Committee on Natural Resources in the 116th Congress. Since 2015, he has been serving as an uncompensated Secretary for a private oil and gas corporation in his state. The Committee on Natural Resources has jurisdiction over federal agencies that regulate the oil and gas industry. As a result, effective January 1, 2020, the Member ***must*** step down as Secretary for the private oil and gas corporation.

Example 7. A Member who sits on the Committee on Energy and Commerce began an uncompensated position as Director for a private medical research corporation after she became a Member of Congress. The private medical research corporation receives grant funding from a federal agency, jurisdiction of which falls within the Committee on Energy and Commerce. The Member ***must*** cease to serve as Director for the private medical research corporation, effective January 1, 2020.

Example 8. A Member was President of a private tool and dye S-Corporation before he was elected. He currently serves on the Committee on Small Business, which has jurisdiction over, among other industries, manufacturing companies, generally. Upon his election, he ceased the company's operations to focus on his constituents. The Member maintains the company's registration as a business entity with the state, but it does not engage in any business or trade and instead remains dormant. Although the company was previously regulated by a federal agency that falls within the jurisdiction of the Committee on which the Member sits, he may continue to serve as the company's President, because the company is not engaged in business.

Example 9. A Member who serves on the Committee on Foreign Affairs has been actively serving as an uncompensated Board Member for the International Relations Council since one year before he was sworn into the House of Representatives. The International Relations Council is qualified as 501(c)(3) nonprofit under § 170(c) of the Internal Revenue Code, is engaged in international relations, and receives federal funding from USAID, over which the Committee on Foreign Affairs has jurisdiction. Although the nonprofit receives federal funding from a federal agency over which the Committee on Foreign Affairs has jurisdiction, the Member may continue to serve as an uncompensated Board Member, since the entity is a 501(c)(3) nonprofit organization.

Example 10. A Member was first sworn into the Congress in 2015, and she currently serves on the Committee on Financial Services. Since 2001, she has been an uncompensated Vice President for a private micro-lending corporation, which is regulated by a federal agency, jurisdiction of which falls within the Committee on Financial Services. The amount of time required to perform services as Vice President of the micro-lending corporation is minimal; the Member spends at most two calendar days per year performing work for the corporation, does it on her own time, without using House resources, and performs all work for the corporation off House grounds. Because the position is uncompensated, the Member held the position at least two years prior to her first election to the House, and the time to perform the duties of Vice President are minimal, she may continue to serve as the private micro-lending corporation's uncompensated Vice President.

Example 11. A Member was recently selected to serve on the Committee on Agriculture. He is the uncompensated President of two family farms that produce hops and wheat, respectively. The Committee on Agriculture has jurisdiction over a federal agency that regulates the farms' operations, and the wheat farm receives federal subsidies administered by a federal agency within the Committee on Agriculture's jurisdiction. The Member may continue to serve as President of the two family farms, since they are family businesses.

Example 12. A Member has been an uncompensated Chief Executive Officer (CEO) of a private charter aircraft company since 2016, one year after being sworn into the House of Representatives. She also serves on a subcommittee of the Committee on Transportation and Infrastructure. The aircraft company is regulated by a federal agency, jurisdiction of which falls within the Committee on Transportation and Infrastructure. Despite a diligent search for a replacement CEO, the company has been unable to find a successor prior to January 1, 2020. Although her service as

CEO is prohibited by the OPR, the Member may seek a *suspension* of the prohibitions from the Committee on Ethics by submitting the appropriate form, available on the Committee's website. If approved, the suspension would be limited to no more than 120 days. This suspension will enable the company more time to replace the Member as CEO. As an alternative, if it is evident that the company would face demonstrable and dire consequences should the Member cease to perform the duties of the company's CEO, she may instead choose to request a *waiver* of the prohibitions from the Committee on Ethics by submitting the appropriate form. If approved, the waiver will be made publicly available, pursuant to Section IX(c)(iii) of the OPR.

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December 12, 2019

MEMORANDUM FOR ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Holiday Guidance on the Gift Rule

The House gift rule applies to all Members,[1] officers, and employees (Members and staff) at all times, even during the holiday season.[2] 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.

Holiday Cards for Servicemembers or Veterans

A Member may use official resources to invite constituents to prepare holiday cards for military servicemembers and veterans, and the Member or the official office may collect and hand-deliver the cards. Please contact the Committee on House Administration for questions regarding the appropriate use of official resources at (202) 225-2061 (majority) or (202) 225-8281 (minority).

Overview of the Gift Rule and Other Gift Statutes

Members and staff may not accept any gift, except as provided in the gift rule.[3] The rule defines the term "gift" broadly to include "a gratuity, favor, discount, entertainment, hospitality,

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[1] For all purposes in this memorandum, "Member" is defined to include any current Member, Delegate, or Resident Commissioner of the House of Representatives.

[2] 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.

[3] House Rule 23, cl. 4 and House Rule 25, cl. 5.

loan, forbearance, or other item having monetary value."[4] The gift rule contains numerous exceptions permitting Members and staff to accept gifts. There are certain gifts that staff may accept without limitation. For example, there are no restrictions on accepting gifts, including cash or cash equivalents, of any dollar value, from relatives.[5] There are also no restrictions on accepting personal holiday gifts from House co-workers and supervisors.

Generally, Members and supervisors may not accept gifts from their subordinates, and employees may not give gifts to their superiors.[6] However, the Committee has provided for a common-sense exception for voluntary gifts extended on special occasions such as holidays.[7] 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 (*i.e.*, gifts from personal friends over $250). 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.[8] 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:

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[4] House Rule 25, cl. 5(a)(2)(A).

[5] 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).

[6] 5 U.S.C. § 7351.

[7] *See 2008 House Ethics Manual* at 70.

[8] 5 U.S.C. § 7353.

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 their 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 or recreational in nature and not related to one's official duties.**

- An event paid for by a **foreign government** valued at less than $390 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.

- A holiday party for staff hosted by a Member of Congress using personal funds or **principal campaign committee funds**. For further guidance, please contact the congressional liaisons at the Federal Election Commission (FEC) at (202) 694-1006.

[9] 5 U.S.C. § 7342.

Example: A Chairwoman and Ranking Member would like to host [10] a holiday party for their committee staff. The Chairwoman and Ranking Member may use their principal campaign committee funds or personal funds to pay for the holiday party. Members and staff may attend the holiday party.

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.

  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

[10] *See 2008 House Ethics Manual* at pages 161-162.

value is $250 or less.[11] 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.

- **Gifts from a foreign government** under the FGDA. As noted above, gifts valued at less than $390 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

At times, a gift may not be acceptable under the gift rule. For example, Members and staff may never accept a "thank you" gift. If Members or staff receive gifts that they may not accept under the gift rule, they may:

- Pay the donor the "fair market value"[12] and keep the gift;
- Return the gift to the donor; or

[11] 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.

[12] 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.

- 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 by a friend of a friend. 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.)

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, using the form on the Committee's website for this purpose.

- 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 financial disclosure filers[14] must disclose certain gifts valued over $390 from a single source in a calendar year on Schedule G ("Gifts") of their annual Financial Disclosure Statements.[15] 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 $156 need not be counted towards the $390 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 $390 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.

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[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)(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 ($127,914 for 2019, 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.

[15] 5 U.S.C. app. § 102(a)(2).

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ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

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January 10, 2020

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Theodore E. Deutch, Chairman
Kenny E. Marchant, Ranking Member

SUBJECT: The 2020 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees

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All Members of the House are subject to certain public disclosure requirements and employment restrictions both during and after their service in the House. Specifically:

1. Financial disclosure filing requirements, including both annual financial disclosure (FD) statements and Periodic Transaction Reports (PTRs);
2. Restrictions on outside employment;
3. Notification requirements for disclosure of negotiations for private employment and related recusals; and
4. Post-employment restrictions.

House employees may also be subject to these requirements and restrictions, depending on their salary level. This memorandum provides details on the current triggering salary figures for Calendar Year (CY) 2020 for each of the categories noted above, and summarizes them in a table on page 5. It is each individual employee's responsibility to know whether their salary level subjects them to these standards of conduct and, if so, to comply with them. Please note that this memorandum is not a comprehensive list of every rule or standard of conduct that applies to House staff, but an overview of key standards that are triggered by salary level. Any Member, officer, or employee who has questions about these requirements and restrictions; or about the various rules is encouraged to contact the Committee's Office of Advice and Education at extension 5-7103.

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 subject to financial disclosure filing requirements, provided that the officer or employee "performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year."[1] The GS-15, step 1, basic pay rate for CY 2020 is $109,366.[2] The applicable 120% calculation for that rate is therefore **$131,239**, or a monthly salary of more than $10,936. 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 ($131,239) for at least **60 days**[3] during **2020** must file an FD statement on or before May 15, 2021.[4] (Temporary increases in an employee's basic rate of pay – such as to pay out a bonus – count toward this threshold, but "lump sum" payments do not.[5]) In addition, any new employee paid at or above the senior staff rate must file a "new employee" FD statement within 30 days of assuming employment with the House.[6] A new employee may request an extension of the new employee FD filing deadline of up to 90 days, but the request must be received by the Committee or on before the original filing deadline.[7] Finally, any staff who are paid at or above the senior staff rate on January 3, 2020 (or their first day of employment, if later in the year) must file reports (PTRs) on an ongoing basis throughout the year regarding certain

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[1] 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 subject to financial disclosure filing requirements. 5 U.S.C. app. §§ 101(d) and (f).

[2] Exec. Order No.13,901, 84 Fed. Reg. 72,215 (Dec. 30, 2019).

[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 an FD. This is true even if the pay change affects only part of a month.

[4] 5 U.S.C. app. §§ 101(d) and (f). With regard to House employees who are federal civil service or military annuitants, it is the view of the Ethics Committee that financial disclosure obligations do not apply to those whose combined House salary and annuity are at or above the threshold rate for the specified time period (*but see* note 26, below).

[5] *See* Comm. on Ethics *2008 Ethics Manual* at 283-84, *available at* https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf; Comm. on Ethics. *Instruction Guide, Financial Disclosure Statements and Periodic Transaction Reports*, at p. 2 (Calendar Year 2018), *available at* https://ethics.house.gov/forms/information-and-forms.

[6] *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 FD 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 FD statements.

[7] A request for an extension must be made using either a form available on the Committee's website or through the electronic financial disclosure filing system.

financial transactions.[8] PTRs are not annual filings, but must be filed within 30 days of a purchase, sale, or exchange of more than $1,000 in stocks, bonds, and other securities.[9]

Please note that the requirement to file an FD statement covering calendar year 2019 applies to officers and employees whose basic rate of pay for at least 60 days in **2019** was **$127,914** or more (a monthly salary at or above $10,659). Annual FD statements covering CY 2019 are due on Friday, May 15, 2020, for those individuals who continue to be Members, officers, or employees of the House on that date.[10] A filer may request an extension of the annual FD filing deadline of up to 90 days, but the request must be received by the Committee or on before the original filing deadline.[11]

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.[12] A filer may request an extension of the termination FD filing deadline of up to 90 days, but the request must be received by the Committee or on before the original filing deadline.[13]

THE OUTSIDE EARNED INCOME LIMIT AND OUTSIDE EMPLOYMENT RESTRICTIONS[14]

House officers and employees whose rate of basic pay is equal to or greater than the senior staff rate for **more than 90 days** are subject to limits on the amount of outside earned income[15]

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[8] 5 U.S.C. app. § 103(*l*).

[9] 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 website (https://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 2020 pay cycle (January 3, 2020). Staff who are paid at or above the senior staff rate for more than 60 days later in 2020 – even if on a temporary basis – will also be subject to the PTR requirement for the remainder of the calendar year and will be required to file an annual FD in 2021.

[10] FD statements are due May 15 annually. In the event that May 15 or another filing deadline under the EIGA falls on a weekend or a holiday, the filing deadline shall be on the next business day.

[11] *See supra* note 7.

[12] *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 FD statement. Departing employees who are exempt from filing under these circumstances must notify the Clerk of the House of that fact in writing, by sending a letter, completing a form available for that purpose, or filing a notice through the electronic financial disclosure filing system.

[13] *See supra* note 7.

[14] For detailed information concerning limitations and prohibitions for *uncompensated outside positions*, see the Committee's December 11, 2019 advisory memorandum "Outside Position Regulations," which is available on the Committee's website (https://ethics.house.gov), under the links for Reports/General Advisories.

[15] 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).

attributable to each calendar year.[16] As noted above, the senior staff rate for CY 2020 is **$131,239**, or a monthly salary of more than $10,936. 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 that year. As of January 1, 2020, the rate of basic pay for Executive Level II was $192,300.[17] Accordingly, the outside earned income limit for House Members, officers, and employees paid at or above the senior staff rate for CY 2020 is **$ 28,845.**[18]

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 substantive types of outside employment for which they may receive compensation and must receive prior approval to receive certain types of compensation.[19] These include prohibitions on receiving any compensation for practicing a profession that involves a fiduciary relationship, receiving any compensation for affiliating with a firm that provides professional services involving a fiduciary relationship, or permitting such a firm to use one's name.[20] Receipt of compensation for service as an officer or member of a board of directors is also prohibited.[21] Prior written approval from the Committee on Ethics is required to accept compensation for teaching and to receive copyright royalties.[22] 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 website (https://ethics.house.gov).

DISCLOSURE OF EMPLOYMENT NEGOTIATIONS AND RECUSALS

House Members, officers, and certain House employees 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.[23] House employees subject to this disclosure requirement are those employees who are paid greater than 75% of the basic rate of pay for Members (employees earning more than **$130,500 or 10,875 monthly**).[24] This amount is referred to as the post-employment rate.

In addition, House Members, officers, and employees paid more than the post-employment rate must recuse themselves from "any matter in which there is a conflict of interest or an

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[16] 5 U.S.C. app. § 501(a)(1); House Rule 25, cls. 1(a)(1) and 4(a)(1).

[17] Exec. Order No., 13,901, 84 Fed. Reg. 72,218 (December 30, 2019).

[18] 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 $14,422. *See* 5 U.S.C. app. § 501(a)(2); House Rule 25, cl. 1(b).

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

[20] *Id.*

[21] *Id.*

[22] *Id.*

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

[24] *See id.*; *see also* Section 7 of the Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94 Dec. 20, 2019), prohibiting a scheduled cost-of-living pay raise for Members. As a result, Member pay will remain at $174,000 for 2020.

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.[25]

Information on the disclosure and recusal requirements related to seeking private employment applicable to Members, officers, and employees paid at or above the post-employment rate is available in two Committee advisory memoranda, one for Members and officers and one for staff. Copies of both memoranda, which are dated January 2, 2019, are available on the Committee's website (https://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, and employees paid at or above the post-employment rate, are subject to post-employment restrictions.[26] In general, a former employee of a Member, committee, or leadership office is subject to the restrictions if, for at least **60 days** during the twelve month 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. As noted above, the post-employment rate is $130,500, or a monthly salary of $10,875 or more.

Additionally, the triggering salary for employees of other House offices (such as the Chaplain, Chief Administrative Officer, Clerk, General Counsel, Historian, Inspector General, Law Revision Counsel, Legislative Counsel, Office of Congressional Ethics, Parliamentarian, and Sergeant of Arms) is Executive Schedule Level IV.[27] For 2020, that salary is **$170,800**, or a monthly salary more than $14,233.

Information on the post-employment restrictions applicable to Members, officers, and employees paid at or above the post-employment rate is available in the two Committee advisory memoranda referenced in the previous section. [28]

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[25] House Rule 27, cl. 4; STOCK Act § 17.

[26] 18 U.S.C. § 207. 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 (*but see* note 4, above).

[27] "[O]ther legislative offices" also includes employees of the Architect of the Capitol, United States Botanic Garden, Government Accountability Office, Government Publishing Office, Library of Congress, Congressional Budget Office, and Capitol Police. *See* 18 U.S.C. § 207(e)(9)(G).

[28] Most of the post-employment restrictions apply to employees paid at or above $130,500. As discussed in the general advisory memorandum for former staff, however, one provision applies to all former House staff – regardless of rate of pay – and restricts use of confidential information obtained during personal and substantial participation in ongoing trade or treaty agreements.

CALENDAR YEAR 2020

Item	2020 Amount
Outside earned income & outside employment threshold - Outside employment fiduciary restrictions if paid at rate for more than 90 days during 2020	**$131,239** ($10,936/mo)
Outside earned income limit	**$28,845**
Financial Disclosure/PTR threshold - Annual FD required in May 2021 if paid at rate for 60 days or more in CY 2020 - PTRs required during CY 2020 if: - Paid at rate on first day of calendar year or first day of House employment (if later); ***or*** - Paid at rate for any two pay periods during CY 2020 (*e.g.*, if get bonus or pay raise during calendar year), subject to PTR requirement for remainder of year	**$131,239** ($10,936/mo)
Written disclosure of job negotiations and recusals required if paid *more than* the post-employment rate	**$130,500** ($10,875/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. 5)	**$170,800** (14,233/mo)

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January 28, 2020

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Intentional Use of Audio-Visual Distortions & Deep Fakes

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This memorandum serves as a reminder that Members[1] must exercise care in communicating, especially when using electronic communication, such as email, websites, Facebook, Twitter, Instagram, or YouTube.

All House Members, officers, and employees must conduct themselves at all times in a manner that reflects creditably on the House.[2] As Members of the House of Representatives, we are widely recognizable public servants. Communicating with our constituents and the public is one of our most important duties.

Electronic communication has drastically improved our ability to communicate directly and in real-time with our constituents at a minimal cost. The fast pace and wide dissemination of electronic communication can lead to mistaken transmissions; for example, emailing the wrong person, posting a private message publicly, or sharing the wrong video. All of these examples of mistakes may be embarrassing and have unintended consequences.

However, intentional distortions of audio and/or visual representations can be far more damaging. Members have a duty, and a First Amendment right, to contribute to the public discourse, including through parody and satire. However, manipulation of images and videos that are intended to mislead the public can harm that discourse and reflect discreditably on the House. Moreover, Members or their staff posting deep fakes[3] "could erode public trust, affect public

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[1] For all purposes in this memorandum, "Member" is defined to include any current Member, Delegate, or Resident Commissioner of the House of Representatives.

[2] House Rule 23, cl. 1.

[3] For purposes of this memorandum, the term "deep fakes" is defined as realistic photo, audio, video, and other forgeries generated with artificial intelligence (AI) technologies. *See* Kelly M. Sayler & Laurie A. Harris, CRS In Focus IF11333, *Deep Fakes and National Security* (Oct. 14, 2019) [hereinafter *Deep Fakes and National*

discourse, or sway an election."[4] Accordingly, Members, officers, and employees posting deep fakes or other audio-visual distortions intended to mislead the public may be in violation of the Code of Official Conduct.[5] Prior to disseminating any image, video, or audio file by electronic means, including social media, Members and staff are expected to take reasonable efforts to consider whether such representations are deep fakes or are intentionally distorted to mislead the public.

The Committee has long held that Members are responsible for the actions of their staff.[6] Further, Members must take reasonable steps to ensure that any outside organization over which the Member exercises control—including a campaign entity—operates in compliance with applicable law.[7] Accordingly, Members should ensure their official and campaign staff are familiar with the rules and regulations regarding electronic communications that those staff are involved in preparing or disseminating.[8]

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.

Security]; *see also* House Comm'n on Congressional Mailing Standards, *The House of Representatives Communications Standards Manual* at 3 [hereinafter *Communications Standards Manual*].

[4] *See Deep Fakes and National Security.*

[5] House Rule 23, cl. 1.

[6] *See 2008 House Ethics Manual* at 124.

[7] *Id.* at 123.

[8] *See Communications Standards Manual; see also* Comm. on Ethics, *Campaign Activity Guidance* (Jun. 7, 2018).

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March 10, 2020

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Campaign-related Media Appearances on Congressional Grounds

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This memorandum serves as a reminder to all House Members,[1] officers, and employees about the restrictions on using official resources for campaign-related interviews or media appearances.

House rules and federal statutes require that official and campaign-related activity be kept separate.[2] Generally, campaign-related activity may not be conducted using any official resources, including the use of House staff on official time and on congressional grounds. Congressional grounds include all House and Senate office buildings, the Capitol, the grounds around the Capitol, and district offices. Spaces such as the Cannon Rotunda, Statuary Hall, and Members' offices are on congressional grounds. The Committee considers "campaign-related activity" to be activity related to any federal, state, or local government election, not just the Members' own re-election campaigns. The rules requiring separation between official and campaign-related activity apply at all times, in election years and non-election years, and regardless of the type of campaign. For example, these rules apply to Members seeking to engage in, or even merely commenting on, Presidential or Senate campaigns.

Accordingly, while on congressional grounds, Members or staff should not give an interview that is substantially devoted to a campaign, or initiate any communication, such as a press call or email, that is campaign-related. However, **Members and official staff may answer incidental campaign-related questions during an official interview or media appearance. For this exception to apply, the primary purpose of the interview or appearance must be official.** A primarily campaign-related interview or appearance cannot be "cured" by including a few

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[1] For all purposes in this memorandum, "Member" is defined to include any current Member, Delegate, or Resident Commissioner of the House of Representatives.

[2] *See* House Rule 24, cl. 1; 31 U.S.C. § 1301(a).

responses to officially related questions. The Committee considers incidental campaign-related questions to be one or two during the course of the entire official interview or appearance.

As a best practice, the Committee recommends advance preparation before any media appearance or interview. Clarify with the media outlet or reporter in advance about the topics of conversation to ensure that the primary purpose of any interview occurring on congressional grounds is official. Both the resources used in advance and the content of the message determine whether an appearance or interview is official or campaign-related. If an interview will be official, official staff, using official resources, should help prepare for the interview. If an interview will be campaign-related, campaign staff, using campaign resources, should help prepare for the interview. Also, ensure that the campaign interview will not take place on congressional grounds.

When on congressional grounds, Members and staff should strive to return an official interview to its official purpose if the number of campaign-related questions becomes more than incidental.

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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COMMITTEE ON ETHICS

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Update about the Coronavirus: Joint House Administration-Ethics Committees Guidance

Mar 16, 2020 | Gift Pink Sheet

Several offices have contacted the Committee on House Administration (CHA), the House Commission on Congressional Mailing Standards (Commission), and the Committee on Ethics to inquire about the use of official resources to provide information to constituents about the coronavirus (COVID-19) and implementing continuity of operations plans. We would like to take this opportunity to provide a review of the applicable rules, regulations, and procedures. We understand the uniquely challenging circumstances arising out of this public health emergency, and we hope that this guidance helps Members and staff continue to mobilize the various resources at their disposal for keeping our communities safe during this difficult time.

Official Communications

In general, all content in official communications must be related to official business. Official business includes, among other things, federal issues of public concern. The coronavirus is a federal issue of public concern, so it is generally an appropriate topic to address in official communications. As part of these communications, Members may inform their constituents about resources available from non-profits, private entities, and hospitals with respect to public health and safety and the ongoing pandemic (e.g., testing, health care, and other community services for those impacted by the virus). These resources must be specific to coronavirus information.

Members' official communications may always include resources provided by federal, state, and local government entities, including public health agencies. For example, CHA recommends use of these government established websites as primary sources for information on the pandemic:

https://www.cdc.gov/coronavirus/2019-ncov/index.html (https://www.cdc.gov/coronavirus/2019-ncov/index.html)

https://www.usa.gov/coronavirus (https://www.usa.gov/coronavirus)

https://www.nih.gov/health-information/coronavirus (https://www.nih.gov/health-information/coronavirus)

Members are generally limited from sending mass mailings and mass communications in the "blackout period," the 90 days prior to any primary or general election or caucus for any federal, state, or local election in which the Member is a candidate. However, Commission regulations expressly permit Members to send communications regarding threats to life safety. The coronavirus qualifies as a threat to life safety, so mass communications limited to information about the coronavirus will generally be exempt from the blackout rule. Note that communications mailed via USPS do not fall under this exemption and are still prohibited. A Member who is otherwise in a blackout period is strongly advised to get prior approval from the Commission for a communication about the coronavirus.

For additional information about official communications in general, please see the recently updated Communications Standards Manual, which is available online at **https://cha.house.gov/sites/democrats.cha.house.gov/files/documents/Communications%20Standards%20Manual_19-2019%20ONLINE.pdf**

(https://cha.house.gov/sites/democrats.cha.house.gov/files/documents/Communications%20Standards%20Manual_119-2019%20ONLINE.pdf). For specific questions about particular communications your office may wish to send, please contact the Commission directly, at (202) 225-9337 (majority) or (202) 226-0647 (minority). You can also submit a request for an Advisory Opinion online, at **https://frankingrequests.house.gov (https://frankingrequests.house.gov/)**.

Solicitations

In times of emergency, Members and staff may want to solicit or collect goods for their constituents or charitable organizations. For example, a Member may wish to solicit donations to help pay for food, medical supplies, or expenses. As public servants, we understand the desire to help, but we remind you official resources may not be used to solicit anything of value.

While official resources may not be used to solicit contributions or to imply that such organizations or purposes have been endorsed by the House of Representatives, Members and staff may solicit in their personal capacities on behalf of organizations that are qualified under § 170(c) of the Internal Revenue Code – including, for example, § 501(c)(3) charitable organizations such as the Red Cross or Habitat for Humanity – without first obtaining Committee on Ethics approval. These personal efforts may not use official resources (including official staff time; office telephones, e-mail, and equipment; and official mailing lists). Members may not use official resources or communications to refer constituents to organizations or resources whose primary purpose is the solicitation of goods, funds, or services on behalf of individuals or organizations that are not permitted under the rules of the House.

Solicitations on behalf of non-qualified entities or individuals are considered and decided on a case-by-case basis through a written request for permission to the Committee on Ethics. Members and staff may use the "Solicitation Waiver Request" form to request permission to assist with fundraising activities for individuals and organizations not recognized under IRC § 170(c), which is on the Committee on Ethics' website at **https://ethics.house.gov (/)**.

Continuity of Operations Plans

The Sergeant at Arms (SAA) has provided more information about continuity of operations plans (COOP). In general, COOP arrangements allow offices to consider the actions and resources needed to operate in the event of an emergency, including a pandemic. Additional information, including sample plans, is available on HouseNet. For more specific information about establishing such a plan, please contact the SAA Emergency Division, at (202) 226-0950 or by email at **SAAEMD@mail.house.gov (mailto:SAAEMD@mail.house.gov)**.

Telework

In prior communications, CHA has announced that employees of an office that implements a previously established COOP or emergency plan may telework during the period that the plan is in effect. CHA has developed a model policy that offices may choose to adopt to permit telework on a temporary basis in response to an emergency or implementation of the office's COOP plan. CHA has also developed a model employee agreement for use by staff. (Please note that an office may opt to permit telework on a temporary basis in these circumstances while choosing not to permit telecommuting as part of its regular operations. However, the equipment an office purchases to provide for telework in an emergency scenario may also be used for telecommuting in the ordinary course of business.) The Centers for Disease and Control and Prevention have recommended that people at higher risk – including older adults and people who have serious chronic medical conditions, like heart disease, diabetes, and lung disease – take extra precautions to keep space between themselves and others and avoid crowds. We recommend that telework be implemented for any such employees.

In light of the unique and unusual circumstances presented by the coronavirus, as well as to promote House office emergency preparedness in general, CHA reminds offices of its previously announced determination that it is appropriate for both Member and committee

offices to be able to access any remaining unspent LY 2019 funds to purchase teleworking equipment and supplies (e.g. laptop and tablet computers, cell phones, etc.). Both Member and committee offices may continue to use LY 2020 funds for this purpose, as well. (CHA has also determined that remaining unspent LY 2019 funds may be used in connection with previously unscheduled tele-townhalls, if they are conducted for the specific purpose of relaying information regarding the coronavirus.)

Employment Policies

Members are always responsible for ensuring that each of his or her employees performs official duties that are commensurate with the compensation that the employee receives from the House. The Code of Ethics for Government Service further instructs every employee to "[g]ive a full day's labor for a full day's pay." Code of Ethics for Government Service ¶ 3. These provisions prohibit fraud and misuse of government resources. Notwithstanding these restrictions, we understand that if offices or committees are utilizing COOP plans, Members and staff may be unable to work at their full capacities. Accordingly, absent any indication that government resources are being misused, the Committee on Ethics will not take any action regarding Members or staff who may be working at less-than-full capacity under an established COOP plan.

Further, we recommend Members review their employment policies (e.g., leave, telework, office hours) so that work may continue, while always prioritizing the health and safety of themselves and staff. Please note employment policies should be applied consistently among all employees without any preferential treatment. For questions regarding employment policies, please contact the Office of House Employment Counsel at (202) 225-7075.

For questions on:

- Official resources in general, please contact CHA at **(202) 225-2061 (tel:(202)%20225-2061)** (majority) or **(202) 225-8281 (tel:(202)%20225-8281)** (minority).
- Communications resources, please contact the Commission at **(202) 225-9337 (tel:(202)%20225-9337)** (majority) or **(202) 226-0647 (tel:(202)%20226-0647)** (minority).
- Personal or campaign resources, solicitations, outside employment, or financial disclosure requirements, please contact the Committee on Ethics at **(202) 225-7103 (tel:(202)%20225-7103)**.

Sincerely,

Chairperson Zoe Lofgren
Committee on House Administration

Ranking Member Rodney Davis
Committee on House Administration

Chairman Ted Deutch
Committee on Ethics

Ranking Member Kenny Marchant
Committee on Ethics

COMMITTEE ON ETHICS

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(/)

Update About the Coronavirus and Solicitation: Joint House Administration-Ethics Guidance

Apr 3, 2020 | Solicitation Pink Sheet

Dear Colleague:

We all recognize we are in unprecedented times. We must come together as a nation to address the coronavirus pandemic. Helping our constituents meet and overcome this challenge is inherently an appropriate -- and necessary -- aspect of our official and representational duties. One immediate and pressing issue of national concern is ensuring that frontline healthcare workers have the critical supplies they need to continue their vital work.

Accordingly, we wish to take this opportunity to announce a new, temporary exception to longstanding guidance regarding solicitation activity. Effective immediately, Members are permitted to use official communications for some solicitation activities during the COVID-19 pandemic.* **This guidance only applies during the COVID-19 pandemic.**

During this crisis, Members are ***temporarily*** permitted to use official communications to solicit for blood donations and in-kind resources -- such as volunteer services, food, hand sanitizer, disinfecting materials, and personal protective equipment (PPE) including, but not limited to, gloves, masks, and gowns -- on behalf of organizations defined as charitable under Internal Revenue Code (IRC) § 170(c). Qualified organizations under IRC § 170(c) include those charitable organizations recognized under IRC § 501(c)(3), as well as state or local governmental entities, including public schools, and certain veterans' organizations. **Please note the use of official communications to solicit for such organizations only applies to blood donations and in-kind resources, and does not allow for the solicitation of money for any individual or organization.**

If Members wish to solicit on behalf of an organization not recognized under IRC § 170(c), they must seek approval from the Committee on Ethics, which considers and decides on solicitation requests on behalf of non-qualified entities on a case-by-case basis. The Committee on Ethics is currently reviewing and processing all requests relating to COVID-19 response efforts on an expedited basis. Members may use the **"Solicitation Waiver Request" form (/sites/ethics.house.gov/files/Solicitation%20Waiver.pdf)** to request permission to assist with solicitations for individuals and organizations not recognized under IRC § 170(c), which is on the Committee on Ethics' website at **https://ethics.house.gov (/)**.

Please note that all unsolicited mass communications still require an advisory opinion from the House Commission on Congressional Mailing Standards (Commission), except for emails sent at no cost to the office, which need to be disclosed to the Commission within two days of sending. Members are generally limited from sending mass mailings and mass communications in the "blackout period," the 90 days prior to any primary or general election or caucus for any federal, state, or local election in which the Member is a candidate. However, Commission regulations expressly permit Members to send communications regarding threats to life safety. The coronavirus qualifies as a threat to life safety, so mass communications and Franked mail limited to information about the

coronavirus will generally be exempt from the blackout rule. A Member who is otherwise in a blackout period is strongly advised to get prior approval from the Commission for a communication about the coronavirus. All regulations and the standard advisory opinion requirements still apply to communications sent during the blackout. Please contact the Commission with any questions.

For questions regarding:

- official resources in general, please contact the Committee on House Administration at **(202) 225-2061 (tel:(202)%20225-8281)** (majority) or **(202) 225-8281 (tel:(202)%20225-2061)** (minority)
- official communications, please contact the Commission at **(202) (tel:(202)%20226-0647)** 225-9337 (majority) or **(202) 226-0647 (tel:(202)%20226-0647)** (minority)
- personal or campaign resources and solicitations, please contact the Committee on Ethics at **(202) 225-7103 (tel:(202)%20225-7103)**.

Sincerely,

Chairperson Zoe Lofgren	Ranking Member Rodney Davis
Committee on House Administration	Committee on House Administration
Chairman Ted Deutch	Ranking Member Kenny Marchant
Committee on Ethics	Committee on Ethics

*The Committee on Ethics is issuing this solicitation waiver under its authority in 5 U.S.C. § 7353.

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Chairman
Kenny Marchant, Texas
Ranking Member

Grace Meng, New York
Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

John Ratcliffe, Texas
George Holding, North Carolina
Jackie Walorski, Indiana
Michael Guest, Mississippi

ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

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April 7, 2020

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Upcoming Financial Disclosure Filing Deadline & Pandemic-Related Relief

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The Ethics in Government Act (EIGA) subjects all Members of the House and certain House employees to financial disclosure (FD) filing requirements. In general, Members and staff who are subject to FD filing requirements must file two types of reports: 1) annual FD Statements, which must be filed regardless of a filer's holdings or financial activity and that are due by May 15 of each year, as well as upon beginning and terminating House employment, and 2) periodic transaction reports (PTRs) that a filer may be required to file throughout the year on an ongoing basis, depending on their actual financial activity. The purpose of this memorandum is to remind filers of the filing requirement and to detail what steps the Committee is taking to address the difficulties of complying, at this time, with the May 15th annual FD deadline.

Pandemic-Related Relief

The Committee recognizes that the annual FD deadline comes at a time when our country is fighting the COVID-19 pandemic. To address the difficulties of complying with the statutory filing deadline at this time, the Committee has taken the following steps.

First, the Committee has automatically granted all House Members and employees who are required to file an annual FD Statement the full 90-day extension permitted by EIGA. Therefore, the deadline for all annual filers is now August 13, 2020. Annual filers are welcome to submit FD Statements as soon as practicable, or anytime before August 13, 2020. There is no need to request the extension or take any other action. As the Committee is granting an extension to the maximum extent allowed by law, Committee is not authorized to grant any additional extensions. This automatic extension does not apply to Members or staffers filing new employee reports or termination reports. Additionally, this automatic extension does not apply to candidates for the U.S. House of Representatives.[1]

[1] EIGA also does not permit the Committee to grant extensions for PTRs.

Second, the Committee recognizes that the pandemic presents an extraordinary circumstance. Although we encourage filers to put forth every effort to fulfill the FD filing requirements, we also recognize that timely filing, even at the extended deadline, may not be possible for some individuals. EIGA permits the Committee to waive late filing fees in extraordinary circumstances. Therefore, all late filing fees reasonably related to pandemic-related issues will be waived by the Committee. To request a late fee waiver, filers must submit a request to the Committee. A form for this purpose is available on the Committee's website, ethics.house.gov.

Third, Committee staff are available by phone and by email to provide FD guidance. While our physical offices are temporarily closed due to the Coronavirus outbreak and the need for social distancing, our staff continue to be available to assist you from 9am to 6pm Eastern Standard Time. Simply call the Committee at (202) 225-7103, select option "4," and leave a brief message. A member of the Financial Disclosure team will return your call promptly. You may also email your inquiries to **financial.disclosure@mail.house.gov** for assistance. Although the temporary closure of our physical offices prohibits the Committee from prescreening draft filings, this service will resume immediately after our offices reopen.

Additional information about financial disclosure requirements may be found on the Committee's website at **https://ethics.house.gov** under the "Financial Disclosure" tab.

Which Staff Must File Financial Disclosure Statements

House staff may be subject to financial disclosure filing requirements for a number of reasons, including 1) they are paid at or above the senior staff rate for 60 days or more during the calendar year, even if on a temporary basis; 2) they are designated a "principal assistant" for financial disclosure filing purposes by their employing Member; or 3) they are a shared employee of three or more offices, regardless of their rate of pay.

"Senior Staff" are those House 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. Therefore, House employees who were paid at the rate of $127,914 ($10,659 monthly salary) for at least 60 days during 2019 will be required to file a Statement by August 13, 2020.[2] It is each employee's responsibility to know if you are senior staff and to comply with the ethics requirements that attach to that designation.

At least one employee in every Member's personal office must file an annual FD Statement. Most offices will have at least one employee who is paid at or above the senior staff rate and therefore is required to file an annual FD Statement. If a Member does not have an employee paid at or above the senior staff rate, the Member must designate at least one current employee as a "principal assistant" to file an annual FD Statement. To designate a principal assistant, the Member must sign and transmit to the Clerk of the House a letter that identifies the designee. A form for this purpose is available on the Clerk's website, clerk.house.gov.

[2] For 2020, senior staff are House officers and employees whose basic rate of pay is equal to or greater than $131,239 for at least 60 days during 2020.

Some shared employees are also required to file an annual FD Statement pursuant to a Committee on House Administration Resolution. Each House employee who is employed simultaneously by three or more offices for more than 60 days in a calendar year is required to file an annual FD Statement the following year regardless of their rate of pay.

How to File Financial Disclosure Statements

Annual FD Statements may be filed with the Legislative Resource Center (LRC) by 1) using the online filing system available at **https://fd.house.gov** or by 2) mailing in pre-printed forms. These forms may not be filed by email, scan, or fax.

The Committee strongly encourages all filers to use the online filing system for submission. We are striving to make the system available for submission of the annual filing no later than April 15, 2020. The system can be used from any place where internet access is available and does not require any physical contact with the LRC in this time of crisis. The login and password for the system remain the same from year to year. If you need to have your login or password reset, please call the LRC at (202) 226-5200 for assistance.

Financial disclosure forms may also be filed by mailing hard copies of the pre-printed forms to the LRC. In-person delivery to the LRC is not available at this time. Members must submit the original, signed form with 2 photocopies. Staff must submit the original, signed form with 1 photocopy. All forms must be sent to the following mailing address:

The Clerk, U.S. House of Representatives
Legislative Resource Center
B-81 Cannon House Office Building
Washington, DC 20515-6612.

* * *

If you have any questions regarding financial disclosure, please contact the Committee at (202) 225-7103 or financial.disclosure@mail.house.gov.

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Ranking Member

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ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

April 13, 2020

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MEMORANDUM FOR ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Ethics Guidance – Coronavirus Aid, Relief, and Economic Security (CARES) Act

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This memorandum serves as a reminder of the conflicts of interest rules, laws, and regulations that apply to Members.[1]

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, enacted on March 27, 2020, contains several provisions providing emergency relief for individuals and businesses.[2] One of those provisions is § 4003 of the CARES Act, which allocates $500 billion in emergency relief and authorizes the Secretary of U.S. Department of Treasury to provide liquidity to eligible businesses, states, and municipalities related to losses incurred as a result of the COVID-19 pandemic. Members, their families, or businesses in which Members or certain parts of their immediate family have an ownership interest may be interested in applying for or receiving relief through the CARES Act. The Committee recommends caution before applying for or receiving relief under the CARES Act.

In particular, the CARES Act has a conflict of interest provision applicable to businesses in which senior government officials or their immediate family have an ownership interest.[3] Specifically, § 4019 of the CARES Act prohibits companies in which Members (***or their spouse, child, daughter-in-law, or son-in-law***) own 20 percent or more equity interest from receiving any loans, loan guarantees, or other investments described in § 4003 of the Act.[4] Further, for ***any*** company that receives emergency funds described in § 4003, the principal executive officer and

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[1] For all purposes in this memorandum, "Member" is defined to include any current Member, Delegate, or Resident Commissioner of the House of Representatives.

[2] Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136.

[3] *Id.* at § 4019.

[4] *Id.*

financial officer, or individuals performing similar functions, are required to certify that the entity is eligible under § 4003, including that the conflict of interest provision does not apply.[5]

The prohibition in § 4019 of the CARES Act is limited to the emergency relief funds described in § 4003. Thus, Members or businesses in which Members or certain individuals in their immediate family have an ownership interest may be able to apply for assistance under other parts of the CARES Act, such as the Paycheck Protection Program.[6] However, other conflicts of interest rules and regulations (*e.g.*, criminal conflicts of interest, see below) may limit a Member's participation in those other provisions of the CARES Act. For example, Members may be prohibited from entering into contracts (including loans and loan guarantees) with federal agencies to secure emergency relief. Accordingly, Members are encouraged to review their financial holdings and familiarize themselves with the conflicts of interest rules and laws summarized below before availing themselves of any provision of the CARES Act or any future related legislation.

Criminal Conflicts of Interest[7]

A criminal prohibition at 18 U.S.C. § 431 provides a penalty for any Member of Congress who "undertakes, executes, holds or enjoys" a contract or agreement entered into with the United States.[8] Government loans and loan guarantees may be contracts with the United States for purposes of § 431, but contracts made, entered into, or accepted on behalf of an incorporated company for the general benefit of the corporation are excluded from the prohibition.[9] This is true even where a Member of Congress has a substantial interest in the corporation.[10] However, this exception does not apply to partnerships, limited liability companies (LLC), or to corporations designed specifically to allow Members of Congress to avoid such restrictions.[11]

In addition, 41 U.S.C. § 6306 requires that every government contract include an express condition that no Member of Congress "be admitted to any share or part of such contract or agreement, or any benefit to arise thereunder." Finally, under 18 U.S.C. § 203, House Members, officers, and employees are prohibited from asking for or receiving compensation for "representational services" rendered in relation to a matter or proceeding in which the United States is a party or has a direct and substantial interest. Included in this provision are proceedings before any federal government agency, department, or bureau.

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[5] *Id.*

[6] *Id.* at § 1102.

[7] Please be advised federal criminal law is enforced by the U.S. Department of Justice, and the Committee's guidance is advisory only.

[8] 18 U.S.C. § 431. The statute specifically exempts some government contracts, such as certain farm loan programs and crop insurance. *See e.g.*, 18 U.S.C. § 433.

[9] 33 Op. Att'y Gen. 44 (1921) (applying § 431 to loan from War Finance Corporation to company in which Member was a stockholder, but concluding loan was permissible because loan was to corporation not Member individually).

[10] *See* 33 Op. Atty. Gen. 44 (Oct. 29, 1921).

[11] *See* 22 Op. Off. Legal Counsel 33, 38 (Feb. 17, 1998).

Example 1: Member A owns Buffet Restaurant, LLC (Buffet), a small family-owned business. She receives annual compensation based on profits from the restaurant. She is considering applying for a disaster loan on behalf of Buffet through the U.S. Small Business Administration (SBA). Buffet is not incorporated, and thus, the prohibition on Members contracting with the federal government may still apply. Member A should contact the SBA and outside counsel to ensure she is not prohibited from receiving such a loan under 18 U.S.C. § 431.

Example 2: Member B works part-time at Moonlight Bakers, Inc. (Bakers) and receives a salary. The manager of Bakers asks Member B to contact U.S. Department of Treasury about the loan program under § 4003. Member B should not do so because this may be considered a prohibited representation under 18 U.S.C. § 203.

Avoiding Potential Conflicts of Interest

All House Members, officers, and employees must conduct themselves at all times in a manner that reflects creditably on the House.[12] General ethical standards and rules restrict a Member's ability to engage in undertakings inconsistent with congressional responsibilities. Because even the appearance of a conflict of interest may adversely affect public perceptions and confidence, a close examination should be made into the circumstances and possible relation to official acts of any proposed activity. To start, a Member may neither receive compensation nor allow a benefit to accrue, "by virtue of influence improperly exerted from the position of such individual in the Congress."[13] Similarly, paragraph 5 of the Code of Ethics for Government Service calls on government officials never to dispense special favors or privileges, nor to accept any favors or benefits "under circumstances which might be construed by reasonable persons as influencing the performance" of official duties. These standards of ethical conduct prohibit the use of official position for personal gain or providing a special advantage to an outside organization with which a Member is affiliated.

Example 3: Member C's fiancée is employed by an agricultural trade association. The fiancée asks Member C to schedule a meeting for her and U.S. Department of Agriculture officials to request financial assistance for farmers under the CARES Act. Member C should not schedule such a meeting to avoid the appearance of a conflict of interest.

Voting on Legislation

The rule governing voting on legislation on the House floor provides that a Member has a duty to "vote on each question put, unless having a *direct personal or pecuniary interest* in the event of such question."[14] Longstanding House precedents provide that "where legislation affected a class as distinct from individuals, a Member might vote."[15] This provision has been interpreted to require a Member to abstain from voting only on a matter that would impact the Member in a direct and

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[12] House Rule 23, cl. 1.

[13] House Rule 23, cl. 3.

[14] House Rule 3, cl. 1 (emphasis added).

[15] *2008 House Ethics Manual* at 234 (quoting *5 Hinds' Precedents of the House of Representatives* § 5952, at 504 (1907)).

distinct manner, rather than merely as a member of a class.[16] For example, when the issue of Prohibition was before the House, it was found that Members who owned breweries or distilleries could vote on the issue because it affected a class of businesses.[17] However, with respect to sponsoring legislation or taking other official action that may affect your financial interests, the Committee's guidance is that such actions are subject to stricter standards than those governing voting on legislation on the House floor.[18]

Example 4: Member D has a financial interest in a vodka distillery. Member D has decided to use the distillery to produce hand sanitizer instead. Member D should not introduce or sponsor legislation to provide tax incentives to such businesses that have transitioned to hand sanitizer production. Still, Member D may vote on the tax incentives.

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Committee staff are available to provide advice to Members and employees. Please direct questions to the Committee's Advice and Education staff at (202) 225-7103. It may also be necessary to consult with specific agencies of jurisdiction or with outside counsel.

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[16] *See id.* at 234-235.

[17] *Id.* at 235 (citing *8 Clarence Cannon, Cannon's Precedents of the House of Representatives* § 3071, at 620 (1936)).

[18] *See id.* at 237.

Theodore E. Deutch, Florida
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U.S. House of Representatives

COMMITTEE ON ETHICS

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April 29, 2020

MEMORANDUM FOR ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Webinar Ethics Training for New Employees and Paid Interns

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The purpose of this memorandum is to announce that the Committee will conduct ethics training webinars for new employees and interns paid by the House that do not have access to a House computer.

All new employees must complete ethics training within 60 days of beginning House employment. A "new" House employee for purposes of the 2020 training requirement is an individual who first began employment with the House on or after January 3, 2020. Any former House employee who returns to House employment after a gap of more than 90 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.[1]

New employees or paid interns interested in completing the webinar, please email the Committee at ethics.training@mail.house.gov to receive the link and password. Each webinar session will be limited to 30 participants. After completing the webinar, employees will receive a certificate of completion via email.

The list of upcoming webinars is listed below and also available on the Ethics Committee website: https://ethics.house.gov. All staff scheduled training sessions – whether for new, existing, or senior staff – will be listed on the Committee calendar on an ongoing basis.

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[1] Detailees, fellows, unpaid interns, and any individuals who are employed by the House and paid for fewer than 60 days are not required to attend ethics training in 2020. 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.

Name of Training	Date and Time
New Employee Ethics Webinar	May 1, 2020 at 11:00 AM
New Employee Ethics Webinar	May 21, 2020 at 1:00 PM
New Employee Ethics Webinar	June 8, 2020 at 11:00 AM

If you have any questions regarding this guidance, please feel free to contact the Committee's Office of Advice and Education at ethics.training@mail.house.gov.

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June 11, 2020

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Reminder of STOCK Act Requirements, Prohibition Against Insider Trading & New Certification Requirement

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The Stop Trading on Congressional Knowledge of 2012 (STOCK) Act instituted several new ethics requirements. The purpose of this memorandum is to remind all House Members, officers, and employees of two of those requirements as well as introduce a **new certification on Periodic Transaction Reports (PTRs)**. First, the memorandum will discuss the requirement that all Members, officers, and certain House employees periodically disclose certain securities transactions on PTRs.[1] Second, the memorandum will discuss the provision of the STOCK Act that explicitly affirms that Members, officers, and all House employees are subject to the insider trading prohibitions arising under the securities laws. The Committee expects the House community to promptly and diligently comply with all applicable STOCK Act requirements.

PTR FILING REQUIREMENT

All Members, officers, and employees paid at the senior staff[2] rate must disclose certain securities transactions over $1,000[3] on a PTR within 30 days of notice of the transaction, but in no case later than 45 days after the transaction. Reportable transactions include purchases, sales, or exchanges by the filer, the filer's spouse, and or dependent children. Filers must disclose transactions involving stocks, bonds, commodities futures, options, private equity, cryptocurrencies and other

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[1] STOCK Act (Pub. L. 112-105, as amended by Pub. L. 112-173, Pub. L. 112-178 & Pub. L. 113-7).

[2] 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 considered to be paid at the senior staff rate. The applicable 120% calculation for that rate is $131,239 (or a monthly salary of more than $10,936) for calendar year 2020. Principal assistants and shared employees (who are not also paid at the senior staff rate) are not required to file PTRs.

[3] The $1,000 threshold is based on the total dollar value of the transaction. It is not based on the loss or gain generated from the transaction.

securities on a PTR. However, PTRs are not required for widely held investment funds such as mutual funds, exchange-traded funds, and index funds. No PTR is required to be filed if there is no reportable securities activity.

For all Members, officers, and senior staff who are subject to PTR filing requirements, securities transactions must be reported twice: for the first time on a PTR no later than 45 days from the transaction, and then a second time on the annual FD Statement covering that calendar year. Transactions in certain types of widely held investment funds (e.g. mutual funds, exchange-traded funds, index funds, bond funds, and similar assets) only have to be reported on the annual FD statement.

PTRs may be filed with the Legislative Resource Center (LRC) by 1) using the online filing system available at **https://fd.house.gov** or by 2) mailing in a pre-printed PTR form available at https://ethics.house.gov/financial-disclosure/financial-disclosure-forms-and-filing to The Clerk, U.S. House of Representatives, Legislative Resource Center (LRC), B-81 Cannon House Office Building, Washington, DC 20515-6612. Members must submit the original, signed form with 2 photocopies. Officers and staff must submit the original, signed form with 1 photocopy. These forms may not be filed by email, scan, or fax.

The STOCK does not allow for extensions for PTRs. Transactions must be reported no later than 45 days after the transaction occurs. All late PTR filings are subject to a late filing fee of $200, up to as much as $200 per late transaction. However, there is a 30-day grace period before late fees are imposed. Late filing fees should be mailed to the LRC by check or money order made payable to the U.S. Treasury.

Any PTR submitted more than 30 days after the due date without the required late filing fee shall be deemed procedurally deficient and not properly filed.

NEW CERTIFICATION REQUIREMENT

Each PTR submission has always required a certification that the information provided is true, complete, and correct to the best of the reporting individual's knowledge. The form has now been revised to expand the required certification statement to include an affirmation that the reporting individual has disclosed all securities transactions reportable pursuant to the STOCK Act.

Image of New Certification Statement

UNITED STATES HOUSE OF REPRESENTATIVES

ETHICS IN GOVERNMENT ACT

PERIODIC TRANSACTION REPORT

Please provide the following information. Your address and signature WILL NOT be made available to the public.

(Print Full Name) (Daytime Telephone)

(Complete Address - Office or House)

Filer Status: ☐ **Member** ☐ **Officer or Employee**

CERTIFICATION - THIS DOCUMENT MUST BE SIGNED BY THE REPORTING INDIVIDUAL AND DATED

The attached Periodic Transaction Report (PTR) is required by the Ethics in Government Act of 1978, as amended by the Representative Louise McIntosh Slaughter Stop Trading on Congressional Knowledge (STOCK) Act. The PTR will be available to the public and will be reviewed by the Committee on Ethics or its designee. Any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file the attached report may be subject to civil penalties and criminal sanctions. See Section 104 of the Ethics in Government Act (5 U.S.C. app. §§ 101-111) and 18 U.S.C. § 1001.

Certification	Signature of Reporting Individual	Date
I CERTIFY that the statements I have made on the attached Periodic Transaction Report are true, complete, and correct to the best of my knowledge and belief. Further, I CERTIFY that I have disclosed all transactions as required by the STOCK Act.		

Members must file a signed original and two photocopies thereof.
Officers and employees must file a signed original and one photocopy thereof.

*****FOR OFFICIAL USE ONLY - DO NOT WRITE BELOW*****

Certification	Signature of Certifying Official	Date
It is my opinion, based on the information contained in this Periodic Transaction Report, that the reporting individual is in compliance with title I of the Ethics in Government Act (5 U.S.C. app. §§ 101-111).		

FAILURE TO FILE OR FALSIFYING PTRs

Each Member, officer, and senior staffer is responsible for the completeness and accuracy of the information contained in the individual's PTR, even if someone else prepared, or assisted in preparing, all or part of it. The EIGA provides that the Attorney General may pursue either civil or criminal penalties against an individual who knowingly and willfully falsifies a statement or fails to file a statement required by the EIGA. The maximum civil penalty is $61,585. The maximum criminal penalty is up to one year in prison and a fine of up to $61,585.[4]

In addition, 18 U.S.C. § 1001, as amended by the False Statements Accountability Act of 1996, is applicable PTRs. That criminal statute provides for a fine of up to $250,000 and/or imprisonment for up to five years for knowingly and willfully making any materially false, fictitious, or fraudulent statement or representation, or falsifying, concealing, or covering up a material fact, in a filing under the EIGA.

[4] 2020 Civil Monetary Penalties Inflation Adjustments for Ethics in Government Act Violations, 85 Fed. Reg. 2279 (Jan.15, 2020).

PROHIBITION AGAINST INSIDER TRADING

The STOCK Act explicitly affirmed that Members, officers, and **all** employees are subject to the insider trading prohibitions arising under the securities laws, which include Section 10(b) of the Securities Exchange Act of 1934 and 17 C.F.R. § 240.10b-5 (popularly known as Rule 10b-5). The prohibition applies to information learned both in an official capacity and in a personal capacity.

Members, officers, and employees may obtain material nonpublic information about a public company or economic sector (*e.g.*, energy, telecommunications, or healthcare) during the course of their official duties or in their personal capacity from family, friends, acquaintances, or from their own involvement with a company. If the Member, officer, or employee chooses to trade on this information, they may have engaged in insider trading.

Material nonpublic information is any information concerning a company, security, industry or economic sector, or real or personal property that is not available to the general public **and** which an investor would likely consider important in making an investment decision. A good rule of thumb to determine whether information may be material nonpublic information is whether or not the release of that information to the public would have an effect on the price of the security or property.

> **Example**: A House employee learns in a meeting with Food and Drug Administration (FDA) staff that a new Coronavirus vaccine is going to be approved by the FDA. The staffer is informed at the meeting that this information is confidential. The House employee then buys shares in the company that manufactures the vaccine. Once the news of the drug approval is made public, the company's share price increases and the employee sells at a profit. As the STOCK Act explains, the employee would be subject to liability for violation of federal civil and criminal insider trading statutes. However, if the House employee waits to purchase the shares until the information regarding the FDA decision becomes public, the employee would not be subject to liability.

* * *

If you have any questions regarding financial disclosure or wish to discuss any of the STOCK Act's requirements, please contact the Committee at (202) 225-7103 or financial.disclosure@mail.house.gov.

Theodore E. Deutch, Florida
Chairman
Kenny Marchant, Texas
Ranking Member

Grace Meng, New York
Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

George Holding, North Carolina
Jackie Walorski, Indiana
Michael Guest, Mississippi

ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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Staff Director and Chief Counsel

David W. Arrojo
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July 13, 2020

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Reminder of Financial Disclosure Filing Deadline & Assistance Available

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The Committee has automatically granted all House Members and employees who are required to file an annual financial disclosure (FD) statement the full 90-day extension of the May 15th filing deadline as permitted by the Ethics in Government Act (EIGA). **Please be reminded that the deadline is August 13, 2020, exactly one month away. By law, no further extension is allowed beyond August 13, 2020.** This automatic extension does not apply to Members or staffers filing new employee reports or termination reports. Additionally, this automatic extension does not apply to candidates for the U.S. House of Representatives.

Assistance Available with Financial Disclosure

Committee staff are available by phone and by email to provide FD guidance. While our physical offices are temporarily closed due to the Coronavirus outbreak and the need for social distancing, our staff continue to be available to assist you during normal business hours. Simply call the Committee at (202) 225-7103, select option "4," and leave a brief message. A member of the Financial Disclosure team will return your call promptly. You may also email your inquiries to financial.disclosure@mail.house.gov for assistance. Although the temporary closure of our physical offices prohibits the Committee from prescreening draft filings for staff, prescreening is available for Members.[1]

In addition, the Committee will offer virtual senior staff trainings that ***will*** satisfy either the annual ethics training requirement or the additional hour of training required for senior staff for the 116th Congress. These trainings will cover general information about the requirement to file FD statements and Periodic Transaction Reports. These trainings will take place on the following dates, at the listed times, and via the WebEx audio platform:

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[1] Due to the Committee's limited ability to prescreen filings prior to submission, a larger number of amendment requests are anticipated for annual financial disclosure statements.

Senior Staff Financial Disclosure Trainings		
Date	**Time**	**Virtual Audio Platform**
Wednesday, July 29	1:00 p.m. – 2:00 p.m.	WebEx
Thursday, August 6	11:00 a.m. – 12:00 p.m.	WebEx

All attendees are ***required to pre-register*** for each training with the Congressional Staff Academy Website at **https://house.csod.com/samldefault.aspx**.

How to File Financial Disclosure Statements

Annual FD Statements may be filed with the Legislative Resource Center (LRC) by 1) using the online filing system available at **https://fd.house.gov** or by 2) mailing/delivering pre-printed forms. These forms may not be filed by email, scan, or fax.

The Committee strongly encourages all filers to use the online filing system for submission. The system can be used from any place where internet access is available and does not require any physical contact with the LRC. The login and password for the system remain the same from year to year. If you need to have your login or password reset, please call the LRC at (202) 226-5200 for assistance.

Financial disclosure forms may also be filed by mailing or hand-delivering hard copies of the pre-printed forms to the LRC. In-person delivery to the LRC is available Monday through Friday from 10 a.m. to 3 p.m. Eastern Standard Time. Members must submit the original, signed form with 2 photocopies. Staff must submit the original, signed form with 1 photocopy. Forms may be sent to the following mailing address:

The Clerk, U.S. House of Representatives
Legislative Resource Center
B-81 Cannon House Office Building
Washington, DC 20515-6612.

* * *

If you have any questions regarding financial disclosure, please contact the Committee at (202) 225-7103 or financial.disclosure@mail.house.gov.

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July 21, 2020

MEMORANDUM FOR ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Campaign Activity Webinar Training

The purpose of the memorandum is to announce that the Committee will conduct campaign activity webinars. The webinars will cover the rules and regulations for campaign activity. In addition, the webinars will satisfy the annual ethics training requirement, but not the additional hour of training required for senior staff for the 116th Congress.

The list of upcoming webinars is listed below and also available on the Ethics Committee website: https://ethics.house.gov.

Campaign Activity Webinar	
Date	**Time**
July 24, 2020	10:00 AM
August 10, 2020	10:00 AM
August 27, 2020	10:00 AM

All attendees are ***required to pre-register*** for each training with the Congressional Staff Academy Website at **https://house.csod.com/samldefault.aspx**.

If you have any questions regarding this guidance, please feel free to contact the Committee's Office of Advice and Education at ethics.training@mail.house.gov.

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November 24, 2020

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Guidance on House Staff Assisting in the Presidential Transition[1]

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Consistent with past practice, the Committee is issuing this guidance after the conclusion of Election Day, and independent of any formal resolution. The Committee explicitly takes no position as to the outcome of any Presidential election. 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 employing authorities may wish to consult with the Office of House Employment Counsel to ensure that any arrangements with the Transition Team comply with the statutes and regulations within their respective jurisdictions.

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Consistent with guidance offered by the Committee relating to past transitions of new and re-elected Administrations, there are three alternatives under which House employees may assist the transition of the new or re-elected 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."[2] 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

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[1] Note that for purposes of this memorandum, the term "transition" refers to the period immediately following a Presidential election.

[2] House Rule 23, clause 8.

than one pertaining to committee business."[3] Moreover, appropriated funds may be used only for the purposes for which they were appropriated.[4] Congressional funds, therefore, may not be used to pay any personal, political, or campaign-related expenses.[5] The Ethics Committee has construed post-election transition work (*i.e.*, work performed after the new or re-elected 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 or re-elected 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 or re-elected Administration. The Presidential Transition Act of 1963, as amended, provides in pertinent part:

> [A]ny employee of any agency of any branch of the Government, or an employee of a committee of either House of Congress, a joint committee of the Congress, or an individual Member of Congress, may be detailed to such [transition] staffs on a reimbursable basis with the consent of the head of the agency, or in the case an employee in a position in the legislative branch, with the consent of the supervising Member of Congress; 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

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[3] House Rule 10, clause 9(b)(1).

[4] 31 U.S.C. § 1301(a).

[5] *See Comm. on House Admin., Members' Congressional Handbook*, https://cha.house.gov/member-services/handbooks/members-congressional-handbook#Members-Handbook-MRA-General, (last accessed August 27, 2020).

> provided pursuant to law for his regular employment, and shall retain the rights and privileges of such employment without interruption.[6]

The legislative history of the 1976 amendments to the Presidential Transition Act indicates that "on a reimbursable basis" means that reimbursement of the employees' salaries by the transition is required. One purpose of the amendments, according to the Senate report accompanying the amendments, was to "require that when personnel is detailed to the office staffs of the incoming and outgoing Presidents and Vice Presidents from a federal department or agency, *reimbursements must be made* to the appropriate agency for such services."[7]

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.[8] 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 $38,061 during calendar year 2020.[9] 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 $38,061 for the calendar year.[10]

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[6] 3 U.S.C. § 102 note (as amended by Pub. L. No. 116-121, 2019).

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

[8] 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.

[9] 5 U.S.C. § 5533(c)(1).

[10] Please note, the Act, as amended, allows eligible candidates to solicit for and collect private funds to supplement funds Congress appropriates for Presidential transition activities. For those former House employees who are subject to the one-year post-employment restrictions and serve on the transition team within that one year period, it is unclear how the provisions at 18 U.S.C. § 207 apply. *See* 12 U.S. Op. Off. Legal Counsel 264, 1988 WL 391020 (O.L.C.). Whether and how 18 U.S.C. §207 applies may depend on whether a former House employee subject to the one-year post-employment restrictions is compensated from the private funds solicited under the Act, or funds appropriated by the Congress to support transition activities.

In addition, House employees who are considered "senior staff"[11] 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 $28,845. 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.

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 President-elect. Moreover, the Presidential Transitions Enhancement Act of 2019[12] requires all Transition employees and volunteers to sign an ethical code of conduct. Employees with questions concerning the effect of the Transition ethical code of conduct as it relates to House rules are encouraged to seek guidance from the Committee.

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

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[11] Senior staff are subject to the outside earned income limit are those employees whose rate of basic pay is equal to or greater than $131,239 annually, or $10,936 per month for any 90-day period in 2020.

[12] 3 U.S.C. § 102 note, Pub. L. No. 116-121, 2019.

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COMMITTEE ON ETHICS

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December 1, 2020

MEMORANDUM FOR ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Reminder about Annual Ethics Training Requirements for 2020

This memorandum is a reminder to all offices about ethics training requirements. The Committee on Ethics is required to provide annual ethics training to each Member, Delegate, Resident Commissioner, officer, and employee of the House.[1] The Committee offers ethics training both through online video courses and in-person training sessions. For the 116th Congress to date, the Committee has held 70 in-person ethics training sessions and provided in-person ethics training to more than 3,400 Members[2], officers, and employees.

New House Members and employees must complete a specifically designated ethics training session within 60 days of joining the House.[3] Existing House Members, officers, and employees are required to take one hour of general ethics training each calendar year. In addition, the Committee requires all senior staff[4] – whether new or existing employees – to complete an additional hour of specialized training at least once per Congress.

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[1] House Rule 11, clause 3(a)(6)(A). The Committee defines an "officer or employee" as an individual appointed to a 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. This definition includes fellows and interns paid by the House.

[2] For all purposes in this memorandum, "Member" is defined to include any current Member, Delegate, or Resident Commissioner of the House of Representatives.

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

[4] "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 2020, the senior staff annual salary rate is $131,239, or a monthly pay rate at or above $10,936. Please note that the senior staff annual salary rate is subject to change in 2021.

By January 31 of each year, all House Members and employees must certify to the Ethics Committee that they have completed ethics training during the preceding calendar year.[5] Employees who pre-registered for and signed the attendance sheet at a live training *or* fully completed one of the online training options available through the Congressional Staff Academy will have made their necessary certification to the Committee. The following are the ethics training requirements for 2020 for Members, officers, and employees of the House, as well as the details of how to complete the registration and/or certification process for both live and online ethics training programs.

2020 ETHICS TRAINING REQUIREMENTS

Members

New House Members must complete a training session specifically designated for new Members within 60 days of joining the House. A "new" Member for the purposes of the 2020 training requirement is an individual who was *first* sworn in on or after January 3, 2020. Before each Congress, the Committee on Ethics provides ethics training for incoming new Members at the New Member Orientation organized by the Committee on House Administration. The Committee on Ethics also provides this training for new Members elected through a special election within the new Members' first 60 days.

Existing Members must complete one hour of training by **December 31, 2020**. Please have a staff member contact the Committee for a password to complete online ethics training.

The Committee records Members who have completed ethics training. Members may have their staff email the Committee at ethics.training@mail.house.gov to request confirmation that they have completed the required ethics training.

"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 2020 training requirement is an individual who first began employment with the House on or after January 3, 2020. Any former House employee who returns to House employment after a gap of more than 90 consecutive calendar days is considered to be a "new" employee. Fellows and interns paid by the House for more than 60 days also must comply with this requirement.[6]

On March 11, 2020, the Committee waived the *live* training requirement for new employees who work in Capitol Hill offices until further notice. New employees who work in Capitol Hill offices may watch the "116th Congress: 2020 District New Employee Ethics Training"

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

[6] Detailees, fellows not paid by the House, unpaid interns, and any individuals who are employed by the House and paid for fewer than 60 days are not required to attend ethics training in 2020. 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.

video online through the Congressional Staff Academy website at HouseNet.house.gov/StaffAcademy. No other video satisfies the training requirement for new employees.

Existing House Employees

"Existing" (*i.e.*, not new) House employees must complete one hour of training before the end of the calendar year. For 2020, this means all existing House employees must complete one hour of training by **December 31, 2020**. **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 determining 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 Congressional Staff Academy website.

Senior Staff Training

All employees who are "senior staff"[7] 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 116th Congress, this means all senior staff must complete one hour of training by **January 3, 2021**. 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 completing an online senior staff training session through the Congressional Staff Academy website or having attended a live training session.

Briefings that satisfy the senior staff training requirement include 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 annual general ethics training requirement.

ONLINE REGISTRATION & CERTIFICATION PROCESS

Members

Members may have their staff email the Committee at ethics.training@mail.house.gov for a password to complete online ethics training and/or to request confirmation that they have completed the required ethics training.

Employees

Employees who pre-registered for and signed the attendance sheet at a live training will have made their necessary certification to the Committee that they have completed the required ethics training.

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[7] *See supra note* 3.

Employees can complete ethics training online by accessing the training through the Congressional Staff Academy website: https:/house.csod.com/samldefault.aspx. Ethics training can be found under the "annual training" tab. Employees must complete the entire online training program to receive credit and use a House computer to access the Congressional Staff Academy website to complete the training online. Employees who do not have access to a House computer or do not have a House email account should email the Ethics Committee at ethics.training@mail.house.gov 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 their Congressional Staff Academy transcript at any time to verify the completion of their own annual ethics training requirement.

Each House employee is responsible for completing their ethics training requirement and certifying completion. Employees can view past training history on the Congressional Staff Academy website under the "learning" tab and by clicking "view my transcript."

A chief of staff (or staff director or other supervisors) can confirm employee ethics training completion by requesting each staff person to provide either the email they received after attending an in-person training or a print out their Training Completion Certificate from the Congressional Staff Academy website: https:/house.csod.com/samldefault.aspx.

FAILURE TO COMPLY WITH THE TRAINING REQUIREMENTS

Failure to satisfy the annual training requirement is a violation of House rules[8] and may result in any of the specified disciplinary sanctions for House Members and employees, including the publication of noncompliant House Members and employees' names, additional ethics training, or other actions the Committee deems appropriate. If you have any questions regarding this guidance, please feel free to contact the Committee's Office of Advice and Education at ethics.training@mail.house.gov.

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

Theodore E. Deutch, Florida
Chairman
Kenny Marchant, Texas
Ranking Member

Grace Meng, New York
Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

George Holding, North Carolina
Jackie Walorski, Indiana
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ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

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December 11, 2020

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

SUBJECT: Reminder: Prohibition Concerning Campaign Contributions and Outlays

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The purpose of this memorandum is to remind House Members[1] and employees of the federal criminal statute prohibiting campaign contributions to an employing Member, including making outlays on behalf of that Member's authorized campaign committee. The memorandum includes illustrative examples of how the federal prohibition applies, as well as best practices to help House employees avoid violating the criminal statute.

In general, and as discussed in depth below:

- **House employees may not make a contribution to any campaign committee authorized by their employing Member;**
- **An "outlay," or the use of personal funds (or personal credit) to make a purchase on behalf of a campaign committee, is a type of campaign contribution;**
- **Non-travel outlays by House employees on behalf of their employing Member's campaign are prohibited even in cases where the monetary value of the outlay is minor and/or the employee is fully reimbursed;**
- **Employee outlays for ordinary and necessary expenses related to the duties of an officeholder are permissible, with some exceptions; and**
- **Members are liable for outlays made to an authorized campaign committee by their employees.**

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[1] For all purposes in this memorandum, "Member" is defined to include any current Member, Delegate, or Resident Commissioner of the House of Representatives.

I. Overview of Employee Contribution Prohibition

A federal criminal statute prohibits a House employee from making a political contribution to their employing Member of Congress or a campaign committee authorized by their employing Member.[2] The prohibition extends to any campaign committees *authorized* by an employing Member and not merely the Member's *principal* campaign committee.[3] Further, the statutory definition of "contribution" includes more than just financial donations.

Generally, a contribution includes any gift, loan, advance, or anything of value, for the purpose of influencing any election for Federal office.[4] A loan or advance is commonly called an "outlay." Similar to other types of contributions, an outlay is impermissible, except in certain instances.[5] As discussed in Committee training, guidance, and recent investigative reports, when a House employee makes an outlay, or pays for a campaign expense from their own funds, that expenditure is a contribution even if the employee later gets reimbursed for the expense.

There are three main principles to keep in mind concerning a contribution in the form of a loan or advance. First, there is no method for reversing or undoing an impermissible loan or advance. Once a House employee uses his or her funds for a campaign expense, the outlay has already occurred. Reimbursement, while appropriate, does not fully cure the infraction because the funds have already been loaned or advanced to the campaign. Second, the prohibition is straightforward; there is no way to circumvent the prohibition. Using a personal credit card or single-member LLC funds does not avoid the prohibition. Finally, although it is each House employee's responsibility to know and understand the law, ultimately, Members are responsible for ensuring their authorized campaign committees operate in compliance with the law and may be liable for outlay violations by their staff that they fail to prevent.

- *Best Practice*: Each Member should provide a copy of this memorandum to their House employees and campaign treasurer or Federal Election Commission (FEC) compliance team to ensure everyone is aware of the prohibition.

- *Best Practice*: Members should never, under any circumstance, solicit or request a campaign contribution from their congressional employees.

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[2] 18 U.S.C. § 603.

[3] Authorized campaign committees include any political committees authorized by a candidate under 11 C.F.R. § 102.13 to receive contributions or make expenditures on behalf of such a candidate. As explained below, this does not include, for example, a joint fundraising committee.

[4] 52 U.S.C. § 30101(8)(A).

[5] There are *limited* instances in which a House employee may pay personally for campaign travel expenses, discussed later in this memorandum.

I. What Is A Contribution?[6]

A contribution is "any gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."[7]

Perhaps one of the first things that may come to mind in the context of the prohibition is a financial contribution, in the form of a check written or an online contribution. However, contributions may also take the form of in-kind goods or services. Additionally, financial contributions made by people with whom you commingle funds can, in some instances, be imputed to you. Simply volunteering for your employing Member is *not* considered a contribution to his or her campaign.[8]

Example 1: Employee Ross works for Congressman Portal. The re-election campaign for Congressman Portal sends Employee Ross' spouse a solicitation. Employee Ross may not write a check to Congressman Portal's campaign. However, Employee Ross' spouse may send a check from her personal account. Alternatively, Employee Ross' spouse may send a check from a jointly-held account with Employee Ross. She should indicate in the memorandum line on the check that the funds being used are her own funds, rather than commingled funds.

Example 2: Employee Foster wants to attend her employing Member's upcoming campaign fundraiser. The tickets cost $100 per person. Employee Foster may not pay to attend her employing Member's campaign fundraiser. If offered, Employee Foster could accept an unsolicited offer of free attendance at the fundraiser from the political organization sponsoring the event.

- *Best Practice*: If someone is on a joint account with you, and wishes to make a financial contribution to your employing Member, he or she should take an affirmative step to indicate that he or she is using their own funds, rather than commingled funds.

II. What Is An "Outlay?"

The use of personal funds (or personal credit) to make a purchase on behalf of a campaign committee, sometimes referred to as an "outlay," is similarly a contribution, and in most circumstances, is prohibited by the statute. Once the outlay is made, reimbursement, while appropriate to make an employee whole, does not "cure" the infraction caused by the loan or advance. In addition, the value of an outlay is immaterial for purposes of the criminal statute. An outlay, whether $2.60 or $2,600, equally falls within the prohibition. Perhaps most important to remember is that there is simply no way to circumvent the prohibition. Paying for campaign

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[6] The statutory definition of a contribution also includes the use of personal funds (or personal credit) to make a purchase on behalf of a campaign committee. However, to further clarify the extent of the prohibition, this section will focus solely on monetary and in-kind contributions. So-called "outlays" will be addressed specifically in the next section of the memorandum.

[7] 52 U.S.C. § 30101(8)(A).

[8] *Id.* at (B)(i). The statute provides that among the items that do **not** constitute a contribution for purposes of the Federal Election Campaign Act (FECA) are "the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee."

expenses through a single-member LLC, or paying for campaign expenses with a personal credit card, debit card, check, or cash, is similarly prohibited.

Example 3: Employee Appleman works for Congresswoman Donahue, and volunteers for her campaign. Employee Appleman has been asked to get pizza for campaign staff who are working late. The bill for the pizza is $42.36. Employee Appleman may not use personal funds of any kind to pay for the campaign expense. Employee Appleman also established a single-member LLC for certain business expenses. Employee Appleman may not pay for the pizza through her single-member LLC.

- *Best Practice*: If you intend to volunteer or work for your employing Member's campaign regularly, ask for a campaign-issued credit card to be issued in your name or to be added as an authorized user on a campaign-issued credit card. Alternatively, ask for a campaign credit card any time you are asked to run an errand.

III. What is Not an Outlay

There are certain limited exceptions in which outlays to benefit an employing Member's campaign are permitted, the most notable of which is that you *may* pay for travel related to your employing Member's campaign with personal funds, provided you are reimbursed appropriately, or your total transportation expenses do not exceed $1,000 with respect to a single election, whether reimbursed or not. Failure to be reimbursed timely or spending more than the $1,000 travel expenditure limit will result in the outlay becoming impermissible.

Outlays for one's own travel will not be deemed a contribution if either (1) the campaign provides reimbursement within 60 days after the expenses are incurred if payment was made by credit card, or within 30 days in all other cases,[9] or (2) the individual's outlays for transportation do not exceed $1,000 with respect to a single election, regardless of whether the campaign reimburses the outlays.[10]

Further, in some situations, campaign funds may be used to reimburse employees who make outlays for ordinary and necessary expenses incurred in connection with a Member's duties as a federal officeholder. In these instances, because the original outlay was not made for the purpose of influencing a federal election, the House employee may be reimbursed by their employing Member's campaign. Members should exercise caution when using campaign funds to reimburse staff who incur expenses in connection with the Member's duties as a federal officeholder. House Rule XXIV, with some limited exceptions, prohibits the use of outside funds towards the operation of a House office.[11]

Example 4: Employee Wambold works for Congresswoman Seo, and volunteers for her campaign. Employee Wambold has been asked to travel to staff a campaign fundraiser. The cost of transportation is $382. Employee Wambold has already spent $974 on campaign travel for his

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[9] 11 C.F.R. § 116.5(b)(1), (2).

[10] *Id.* § 100.79(a).

[11] *See* House Rule XXIV; *House Ethics Manual* at pp. 326-330.

employing Member during this election cycle. Employee Wambold may use his personal credit card to pay for the travel. However, *he must be reimbursed by the campaign within 60 days after he incurs the expenses or the $382 becomes an impermissible outlay*. If Employee Wambold instead uses his debit card to pay for the transportation, *he must be reimbursed by the campaign within 30 days after he incurs the expenses, or the $382 similarly becomes an impermissible outlay*.

Example 5: Employee Jansen works for Congressman Bedmarz, and volunteers for his campaign. Employee Jansen has been asked to travel to staff Congressman Bedmarz at a campaign event. The cost of transportation is estimated to be $825. Employee Jansen has not incurred any prior travel expenses while volunteering for the campaign and does not plan to travel for the campaign for the rest of this election cycle. Employee Jansen may use personal funds (check, debit card, credit card) to pay for the travel. If Employee Jansen does not travel for the rest of the election cycle, he is not required to be reimbursed.

Example 6: Congressman Korn intends to hold a meeting in his congressional office with constituents who have been negatively impacted by a recent policy change made by the Small Business Administration. Congressman Korn asks Employee Taylor to purchase coffee and donuts for the constituent meeting. Employee Taylor may purchase the refreshments using her own funds, and she may be reimbursed by the campaign for her expenditure. Employee Taylor's use of personal funds and reimbursement by the campaign is not a contribution, and thus not an impermissible outlay, since the expenses were related to the duties of an officeholder.

- *Best Practice*: If traveling for your employing Member's campaign and you have or are likely to personally incur travel expenses in excess of $1,000 during a single election cycle, set reminders for campaign reimbursement. The timing of your reminders should be at least a week before the appropriate deadline for reimbursement, depending on your method of payment (60 days for credit card purchases or 30 days for all other types of purchases).

- *Best Practice*: If you anticipate traveling for your employing Member's campaign often, ask the campaign to book or pay for your travel directly.

- *Best Practice*: If you are unsure whether a request to expend your personal funds is related to the duties of an officeholder, as opposed to being for the benefit of the campaign, confirm the purpose of the expenditure prior to using personal funds. Remember that you *may* make an outlay for ordinary and necessary expenses incurred in connection with a Member's duties as a federal officeholder.[12]

- *Best Practice*: If your campaign reimburses an employee in your Congressional office for an allowable expenditure the employee made related to your duties as a federal officeholder, the person responsible for reporting the purpose of the campaign reimbursement on FEC filings should consider making clear that the expenditure was not made for the purpose of influencing your election. Otherwise, the reporting of the

[12] *See* House Rule XXIV, cl. 1(b)(2) for a list of goods and services which may never be paid for with campaign funds, whether related to an outlay or not.

campaign reimbursement to a staffer of an employing Member's campaign could result in scrutiny by the Committee.

IV. Who Is An Employing Member?

To better understand to whom a House employee may not make a contribution or outlay, it is crucial for House employees to know who qualifies as their employing Member.[13] For staff serving solely in a personal office, your employing Member is the Member for whom you work. However, many House employees who work for Members of Congress have more than one employing Member.

House employees who work for both a personal office and for a committee may have two employing Members; their personal office Member, and the Chair or Ranking Member of their committee, if the officeholders are different people. In addition, shared employees, as defined by the Committee on House Administration (CHA), may be employed by several Members at the same time.[14] Finally, House employees who work for a caucus may rotate the Member of the caucus for which they work in order for the caucus to share expenses among the caucus Members; the employing Member will be determined by which office(s) payroll includes the caucus employee.

Example 7: Employee Opachan works for Congresswoman Giattino in her personal office. Employee Opachan's employing Member is Congresswoman Giattino. The prohibition applies only to Congresswoman Giattino.

Example 8: Same example as above; however, Employee Opachan also works for the Committee on Natural Resources, minority. The Ranking Member is Congressman Rowland. Employee Opachan's employing Members are Congresswoman Giattino and Congressman Rowland. The prohibition applies to both Congresswoman Giattino and Congressman Rowland.

Example 9: Employee Myers is a shared employee, pursuant to CHA's definition. She performs financial administrative work for seven Members in their personal offices and two committee Chairs in their committee offices. The prohibition applies to all nine Members.

Example 10: Employee Baker works for a caucus that has been officially-recognized by CHA. To share expenses, Employee Baker is paid by Congressman Walker for April and May, then Congresswoman Bethea for June and July. The prohibition applies to Congressman Walker during April and May; and to Congresswoman Bethea for June and July.

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[13] Staff who work for employing authorities other than Members of Congress—for example, employees of the Chief Administrative Officer, Office of the Clerk, etc.—do not have an employing Member. Similarly, officers of the House, such as the Chaplain, do not have an employing Member, as they are their own employing authority.

[14] *See Comm. on House Admin., Members' Congressional Handbook*, https://cha.house.gov/member-services/handbooks/members-congressional-handbook#Members-Handbook-Staff-Shared (last accessed on August 27, 2020).

- *Best Practice*: Ensure that you fully understand on whose payroll you appear from month-to-month by checking your pay disbursement statements.

V. What Is An Employing Member's Campaign?

While House employees may easily recognize their employing Member's principal campaign committee as off-limits, they may not be aware that the prohibition applies to any campaign committee *authorized by their employing Member*. House employees should bear in mind that Members may have more than one authorized campaign committee and each of those committees similarly fall within the prohibition. A joint fundraising committee may also be covered by this prohibition, but only if it has been designated by the employing Member as an authorized committee. Staff should contact the Committee for guidance prior to making a contribution to their employing Member's leadership political action committee (PAC).[15]

For House employees who are unsure whether a committee has been authorized by your employing Member, contact the Committee for assistance, ask your Member, or visit the FEC's website, where you can look-up your employing Member's Statement of Candidacy, which includes a list of the Member's authorized committees.[16]

Example 11: Congressman Mason's principal campaign committee is called Mason for Congress. Congressman Mason's employees may not make a contribution to Mason for Congress.

Example 12: Same example as above; however, Congressman Mason also utilizes the Mason Victory Committee, which is a joint fundraising committee authorized by Congressman Mason. Congressman Mason's employees may not make a contribution to Mason for Congress or to the Mason Victory Committee.

Example 13: Employee Szabo is contemplating a contribution to We, the Welders, a Super PAC that supports specific policies. Employee Szabo works for Congressman Etihad, who also supports the same policies. Employee Szabo may make a contribution to We, the Welders.

- *Best Practice*: House employees should check FEC filings, such as a candidate's Statement of Candidacy, and seek further information from their employing Member to determine which campaign committees were authorized by the employing Member before making a contribution to a campaign or PAC.

- *Best Practice*: Members should not suggest to or imply that staff make donations to other, allowable, political committees.

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Further explanation of this prohibition and advice on specific questions are available from the Committee's Office of Advice and Education at extension 5-7103.

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[15] The analysis concerning entities that qualify as leadership PACs and whether a contribution to one would be likely to violate 18 U.S.C. § 603 is highly technical and fact-specific.

[16] https://www.fec.gov/data/.

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Chairman
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December 18, 2020

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

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

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The purpose of this memorandum is to remind you about issues of concern to House Members[1] and officers[2] who are negotiating for future employment or departing from employment with the House of Representatives.[3] The matters discussed here include negotiations for future employment, post-employment restrictions, financial disclosure requirements (Termination Reports), and outside employment and earned income restrictions.[4] Although this memorandum will be of particular interest to departing Members, current Members should also familiarize themselves with these restrictions, 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.

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

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

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

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

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

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 "negotiations" connotes "a communication between two parties with a view toward reaching an agreement" and

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[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.

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 they participated personally and substantially during their time with the House.[18] In addition, as addressed in the next section

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[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.

[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

of this memorandum, Members must disclose employment negotiations in writing to the Ethics Committee.

Finally, as a reminder, Members should not be actively involved in personally selling or endorsing goods or services in which they or their family have a financial interest. Thus, as Members prepare to terminate their House service, they should refrain from allowing their name to be used in the selling or endorsing of a company, product, or service. The Committee strongly recommends that any Member with a question about how they may discuss work they may engage in after they leave the House contact the Committee for additional guidance about their specific situation.

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]

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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 website at https://www.oge.gov).

Please note that 18 U.S.C. § 203 is a federal criminal statute within the jurisdiction of the U.S. Department of Justice; therefore, Members may wish to seek guidance from outside counsel prior to accepting fees that may implicate 18 U.S.C. § 203.

[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.

The Committee has issued forms, available on the Committee website (https://www.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 completed form must be submitted to the Committee, but all filers should keep a copy of their submission, as explained below.

There is a separate form for notifying the Committee of recusal, 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 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.

Forms may be sent by email to EthicsCommittee@mail.house.gov.

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

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[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 . . . .").

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 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

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[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*).

[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.

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 $415 from any one source must be disclosed on Schedule H ("Travel Payments and Reimbursements") of the termination financial disclosure statement required of departing Members.[32] In addition, any agreement for future employment also must be disclosed on Schedule F ("Agreements") of that statement, if the agreement was entered into prior to the employee's last date on House payroll.[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. While the 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. Accordingly, a Member (or former Member) who has any concerns about the applicability of the post-

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

[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).

employment restrictions to his or her proposed conduct should contact the Ethics Committee for guidance.[39] The Committee also recommends Members seek guidance from outside counsel.

Prohibited Activity

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

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

[39] 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.

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

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

[42] 18 U.S.C. § 207(e)(1).

federal official (including any Member of Congress) with the intent to influence a decision of such official in carrying out his or her official duties.[43]

- ✕ Knowingly **aid or advise a foreign 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.[44]

- ✕ **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.[45]

As to the prohibition against making any "communication to or appearance before" anyone in the legislative branch, former Members should be aware of the broad manner in which the DOJ has defined those terms.[46] A DOJ opinion defines "communication" as "the act of imparting or transmitting information with the intent that the information be attributed to the former official."[47]

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[43] *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 website 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 website 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 website at 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 website at ww.justice.gov/sites/default/files/olc/opinions/2004/06/31/op-olc-v028-p0097_0.pdf).

[44] 18 U.S.C. § 207(f)(1)(B).

[45] *Id.* § 207(b).

[46] 18 U.S.C. § 207. The provisions of 18 U.S.C. § 207 should not be confused with those of the Lobbying Disclosure Act (2 U.S.C. §§ 1601 *et seq.*) (LDA). In other words, merely because a particular activity does not constitute "lobbying" for purposes of that Act does **not** mean that the activity is permissible under 18 U.S.C. § 207.

[47] OLC, *"Communications" under 18 U.S.C. § 207* at 3 (Jan. 19, 2001) (available on the OLC website 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

Further, an advisory memorandum issued by the U.S. Office of Government Ethics (OGE) for Executive Branch employees states, "[a]n 'appearance' extends to a former employee's mere physical presence at a proceeding when the circumstances make it clear that his attendance is intended to influence the United States."[48] The provision is broad enough that it precludes a former Member even from, for example, requesting or scheduling, for or on behalf of any other person, a meeting with any current Member, officer, or employee on official business.[49] While OGE guidance is merely persuasive, rather than binding, on Committee interpretations of the statute, this Committee endeavors when possible to interpret the statute in a manner consistent with OGE practice.

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

- ✗ Directly or indirectly **commencing or carrying on any correspondence or intercourse with any foreign government**, or any officer or agent thereof, with the intent to influence the measures or conduct of any foreign government or of any officer or agent thereof in relation to any disputes or controversies with the United States, or to defeat the measures of the United States.[50]

Permissible Activity

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

- ✓ **Aid or advise clients** (other than foreign 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.[51]

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official who is not introduced by name, but participates on a conference call with his former agency colleagues, almost certainly intends this his colleagues will recognize his voice." *Id.*

[48] *Introduction to the Primary Post-Government Employment Restrictions Applicable to Former Executive Branch Employees*, note 43 above, at 3.

[49] Committee interpretations of the statute contained in this memorandum are based on analysis of the statutory terms and purposes, and opinions and guidance, issued by 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 39, above).

[50] 18 U.S.C. § 953 (the Logan Act). An eighteenth century law, the Logan Act restricts private correspondence with foreign governments. This statute, which appears to have been a reaction to the attempts of one citizen to engage in private diplomacy, has never been the basis of a prosecution, and this Committee has publicly questioned its constitutionality. House Comm. on Standards of Official Conduct, *Manual of Offenses and Procedures, Korean Influence Investigation*, 95th Cong., 1st Sess. 18-19 (Comm. Print 1977). Members should be aware, however, that the law remains part of the criminal code.

[51] Former Members who are lawyers may have additional restrictions, as explained above in note 18.

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.[52]

- ✓ **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.[53]

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

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

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

  - The former Member is carrying out official duties on behalf of the **federal government** or the District of Columbia;[55]

  - The former Member is acting as an **elected official of a state or local government;** [56]

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[52] As noted above, the major restrictions set forth in 18 U.S.C. § 207(e) focus on communications and appearances. By contrast, if a former Member plays a background role, and does not appear in person or convey his or her name on any communications, the law does not appear to prohibit that person from advising those who seek official action from the Congress (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.

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

[54] No federal statute expressly permits such contacts, but so far as the Committee is aware, no federal statute prohibits such contacts. Thus, it appears that such contacts are permissible under federal law. Members who intend to undertake such activity, however, should carefully review the Foreign Agents Registration Act (22 U.S.C. §§ 611 *et seq.*) (FARA) to ensure compliance with its requirements. Briefly stated, FARA provides that anyone who acts within the United States under the direction or control of a foreign principal to influence official decisions, official policies, or public opinion on behalf of a foreign principal must register with DOJ. *See generally* 22 U.S.C. §§ 611 *et seq.*; U.S. Dep't of Justice (DOJ), "FARA FAQs" (available on the DOJ website, www.justice.gov/nsd-fara).

[55] 18 U.S.C. § 207(j)(1)(A).

[56] *Id.*

- The former Member is an **employee** (not a private consultant or other independent contractor) of a **state or local government**, or an agency or instrumentality thereof, acting on its behalf;[57]

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

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

✓ **Represent or give aid or advice to international organizations** of which the United States is a member **if** the Secretary of State certifies in advance that such activities are in the interest of the United States.[60] Otherwise, former Members must wait one year before engaging in such activities.

✓ Make statements or communications as an **employee of a candidate, authorized campaign committee, national or state party, or political committee**, if acting on behalf of that committee or party.[61] However, if the former Member is employed by a person or entity who represents, aids, or advises only such persons or entities, the communications would prohibited.[62]

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

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[57] *Id.* § 207(j)(2)(A).

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

[59] 18 U.S.C. § 207(j)(2)(B). For this exception to apply, the hospital or medical research organization must be exempted under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)). *Id.*

[60] *Id.* § 207(j)(3).

[61] *Id.* § 207(j)(7)(A).

[62] *Id.* § 207(j)(7)(B)(ii)(II).

[63] *Id.* § 207(j)(4). "Special knowledge" is not defined in the statute. The Federal Register, which provides rules on the application of the statute to employees in the Executive Branch, states that a "former employee has special knowledge concerning a subject area if he is familiar with the subject area as a result of education, interaction with experts, or other unique or particularized experience." 5 C.F.R. § 2641.301(d)(1). In addition, in the proposed rulemaking for this provision, the OGE emphasized that it regarded its interpretation of this exception

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

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

- ✓ **Make political contributions** to, and **sponsor or attend political fundraisers** for, current Members of Congress, *provided that* no appearances or communications are made with the intent to influence, on behalf of any other person, the official actions or decisions of current Members or staff.[66]

- ✓ **Interact socially with current Members of Congress and staff** *provided that* no appearances or communications are made with the intent to influence, on behalf of any other person, the official actions or decisions of current Members or staff.[67]

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

Example 2. Member *B* retires to become governor of his state. *B* may immediately 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.

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

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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.

[64] 18 U.S.C. § 207(j)(6).

[65] *Id.* § 207(e)(8).

[66] *See id.* § 207.

[67] *See id.*

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 $102,446 for each violation or the value of the compensation received for the act that violated the restrictions, whichever is greater.[68] The statute further authorizes the Attorney General to seek an injunction prohibiting a person from engaging in conduct that violates the act.[69]

By its terms, 18 U.S.C. § 207 governs the conduct of **former** Members, officers, and employees, and does not apply to the conduct of **current** Members, officers, and employees. However, the post-employment restrictions have been the subject of close attention by DOJ, as reflected in the guilty pleas by former House staff and others to criminal violations of the statute.[70] Therefore, current Members and staff who receive or otherwise participate in improper contacts by a covered former employee should be aware that, depending on the circumstances, they may be subject to criminal or House disciplinary action. The examples involving § 207 violations indicate that a Member who aids and abets a covered former employee in the violation may be prosecuted for conspiracy to violate the post-employment restrictions.[71]

> ***Example 9.*** Staff member *I* resigned as chief of staff for Member *J* last month to become a registered federal lobbyist for a local non-profit organization. *I* is a covered employee and subject to the post-employment ban for a year. *I* asks *J* to support increased funding for the non-profit and schedules a time for them to discuss the matter further. If *J* accepts the meeting with *I*, he could be considered aiding and abetting *I* to violate her post-employment restrictions.

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."[72] One of those violations was his engaging in a pattern and practice of knowingly allowing his former chief of staff to appear before and communicate with him in his official capacity during the one-year period following her resignation, "in a manner that created the appearance that his official decisions might have been improperly affected."[73]

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[68] *See* 18 U.S.C. § 216; *see also* 28 C.F.R 85.5 (2020).

[69] *See* 18 § 216(c).

[70] *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").

[71] *See, e.g., Abramoff* and *Ney* actions, note 67 above.

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

[73] House Comm. on Standards of Official Conduct, *Summary of Activities, One Hundred Sixth Congress*, H. Rep. 106-1044, 106th Cong., 2d Sess. at 10, 13, 16 (2000); *see also* Shuster Report, note 69 above, vol. I. *See*

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 116th 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 116th 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]

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,

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also, Senate Select Comm. on Ethics, *Report of the Preliminary Inquiry into the Matter of Senator John E. Ensign* (May 10, 2011) *available at* https://www.ethics.senate.gov/public/index.cfm/files/serve?File_id=676ADD17-2C7F-40F7-A4D9-B35526E4DA97.

[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. 6 § 3(d) (adopted Jan. 9, 2019). Although this restriction applies only during the 116th 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, *2019 Instruction Guide for Completing Financial Disclosure Statements and Periodic Transaction Reports (2019 FD and PTR Instructions)* at 7.

[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).

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 $415 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 10.*** Member *K* would like to keep the car owned by his campaign when he retires. If he pays the campaign the car's fair market value, *K* may do so.

As to excess campaign funds, among the permissible uses under statutory law are donation to charities described in § 170(c) of the Internal Revenue Code,[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

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[81] *See id.*; *see also 2019 FD and PTR Instructions* at 35.

[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 2019 FD and PTR Instructions* at 5. A form for this purpose is available on the Committee's website, at https://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(e).

[89] 11 C.F.R. § 113.1(g)(3).

[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).

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 2020, a Member may not receive outside earned income (including, for example, a signing bonus) in excess of $28,845, 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 11.*** Member *L* plans to join a law firm when she leaves office. Since this is a firm providing professional services of a fiduciary nature, *L* may not commence employment with the firm until the new Congress is sworn in, unless she resigns early.

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]

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[93] FEC Advisory Opinion 1996-14 (available on the FEC website, 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).

[98] House Rule 24, cl. 10.

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.

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

Theodore E. Deutch, Florida
Chairman
Kenny Marchant, Texas
Ranking Member

Grace Meng, New York
Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

George Holding, North Carolina
Jackie Walorski, Indiana
Michael Guest, Mississippi

ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

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December 18, 2020

MEMORANDUM TO ALL HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

FROM: **Committee on Ethics**
Theodore E. Deutch, Chairman
Kenny Marchant, Ranking Member

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

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The purpose of this memorandum is to remind you about issues of concern to staff members[1] who are negotiating for future employment or departing from employment with the House of Representatives or one of the legislative branch offices.[2] The matters discussed here include negotiations for future employment, post-employment restrictions, financial disclosure requirements (Termination Reports), and outside employment and earned income restrictions. Although this memorandum will be of particular interest to departing staff, current staff and their employing Members should also familiarize themselves with these restrictions, particularly the criminal restrictions on post-employment communications.[3] 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 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

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[1] The terms "staff" and "employee" are used interchangeably throughout this memorandum to refer to persons who are employed by a Member, committee, leadership office, or other legislative 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.

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 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.

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[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.

[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.

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, those employees subject to the post-employment restrictions must disclose employment negotiations in writing to the Ethics Committee.

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[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, covered 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 website at https://www.oge.gov).

Please note that 18 U.S.C. § 203 is a federal criminal statute within the jurisdiction of the U.S. Department of Justice; therefore, staff may wish to seek guidance from outside counsel prior to accepting fees that may implicate 18 U.S.C. § 203.

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 $130,500 ($10,875 per month) for any two months in a calendar year, including any federal civil service or military annuities.[19] This rate is referred to as the post-employment rate.

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, staff paid at or above the post-employment rate 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

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[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 2020, that rate is $130,500 per year for most House employees; *see also* Section 7 of the Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94 Dec. 20, 2019), prohibiting a scheduled cost-of-living pay raise for Members. As a result, Member pay will remain at $174,000 for 2020.

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

[21] House Rule 27, cl. 4.

judgment in conducting his public duties."[22] Employees should also avoid situations that 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 website (https://www.ethics.house.gov), to be used for these notification requirements. When notifying the Committee of negotiations or agreements for future employment or compensation, required staff should complete and sign an employment negotiation form, formally titled the "Notification of Negotiations or Agreement for Future Employment."[24] The 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." Staff subject to the post-employment restrictions who recuse themselves from official matters pursuant to House Rule 27 and/or the STOCK Act must complete and submit the recusal form to the Committee.[25]

Forms may be sent by email to EthicsCommittee@mail.house.gov.

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 $415 from any one source must be disclosed

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[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 (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).

on Schedule H ("Travel Payments and Reimbursements") of the Termination Report required of departing senior employees.[27] 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] In addition, any agreement for future employment also must be disclosed on Schedule F ("Agreements") of that statement, if the agreement was entered into prior to the employee's last date on House payroll.[29]

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.[30] 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.[31] The basic rate of pay for Members in calendar year 2020 is $174,000, and thus the post-employment threshold for individuals who terminate their employment with a Member, committee, or leadership office in 2020 is ***$130,500***. The threshold rate for other years is available from the Ethics Committee. For employees of "other legislative offices,"[32] the basic rate of pay triggering the restrictions is level IV of the Executive Schedule, which for 2020 is ***$170,800***.[33] Please note that this rate of pay is subject to change in 2021.

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.[34] 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.[35] Employees who are subject to the restrictions are referred to as "covered" individuals.

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[27] Please note that the requirement to file a Financial Disclosure Statement covering calendar year 2020 applies to officers and employees whose basic rate of pay for at least 60 days in 2020 was $131,239, or a monthly salary at or above $10,936. Staff paid at this rate are referred to as "senior staff."; *See* Ethics in Government Act (EIGA) §§ 109(13) and 101(d), 5 U.S.C. app. §§ 109(13) and 101(d).

[28] 5 U.S.C. app. § 102(a)(2)(B).

[29] *Id.* § 102(a)(7)(A).

[30] *See* 18 U.S.C. § 207(e), (f).

[31] *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.

[32] For the definition of "other legislative offices," see note 2, above.

[33] 18 U.S.C. § 207(e)(7)(B).

[34] *Id.* § 207(e)(7).

[35] 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.

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.[36] 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 activities of former staff 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. While the 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. Accordingly, an employee (or former employee) who has any concerns about the applicability of the post-employment restrictions to his or her proposed conduct should contact the Ethics Committee for guidance.[37] The Committee also recommends covered employees seek guidance from outside counsel.

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.[38] 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:

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[36] *Id.* § 207(e)(3)-(7).

[37] 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.

[38] *Id.*

- Covered former employees on the **personal staff**[39] of a Member may not seek official action, on behalf of other persons, from that Member or from any of the Member's employees.[40]

- Covered former **committee staff**[41] 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.[42] 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.[43]

- Covered former employees on the **leadership staff**[44] may not seek official action, on behalf of other persons, from current Members of the leadership[45] or any current staff of those Members.[46]

- Covered former employees of any **other legislative office**[47] may not seek official action, on behalf of other persons, from current officers and employees of that legislative office.[48]

✕ 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.[49]

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[39] *Id.* § 207(e)(9)(E).

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

[41] *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).

[42] *Id.* § 207(e)(4).

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

[44] *Id.* § 207(e)(9)(H).

[45] 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; assistant minority leader; chairman of the Democratic Steering and Policy 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).

[46] *See id.* §§ 207(e)(5)(B) and (e)(9)(H).

[47] "[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).

[48] 18 U.S.C. §§ 207(e)(6) and (e)(9)(G).

[49] 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

- ✕ 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.[50]

- ✕ **Use confidential information obtained by means of personal and substantial participation in ongoing trade or treaty negotiations** within one year preceding the employee's departure from the House payroll, in the course of representing, aiding, or advising anyone other than the United States regarding those ongoing negotiations.[51]

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.[52] 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."[53]

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."[54] 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

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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 website 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 website at 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 website at https://www.justice.gov/sites/default/files/olc/opinions/2004/06/31/op-olc-v028-p0097_0.pdf).

[50] 18 U.S.C. § 207(f)(1)(B).

[51] *Id.* § 207(b).

[52] 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.

[53] OLC, *"Communications" under 18 U.S.C. § 207* at 3 (Jan. 19, 2001) (available on the OLC website 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.*

[54] *Introduction to the Primary Post-Government Employment Restrictions Applicable to Former Executive Branch Employees*, note 49 above, at 3.

prohibited from contacting on official business.[55] 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.[56]

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.[57] However, any such participation must remain behind-the-

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[55] 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 37, above).

[56] 18 U.S.C. § 953 (the Logan Act). An eighteenth-century law, the Logan Act restricts private correspondence with foreign governments. This statute, which appears to have been a reaction to the attempts of one citizen to engage in private diplomacy, has never been the basis of a prosecution, and this Committee has publicly questioned its constitutionality. House Comm. on Standards of Official Conduct, *Manual of Offenses and Procedures, Korean Influence Investigation*, 95th Cong., 1st Sess. 18-19 (Comm. Print 1977). Members should be aware, however, that the law remains part of the criminal code.

[57] Former employees who are lawyers may have additional restrictions, as explained above in note 17 of this Memorandum.

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.[58]

- ✓ **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.[59]
- ✓ **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.[60]
- ✓ **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;[61]
    - The former employee is acting as an **elected official of a state or local government**;[62]

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[58] 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.

[59] 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).

[60] 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 FAQs" (available on the DOJ website, www.justice.gov/nsd-fara).

[61] 18 U.S.C. § 207(j)(1)(A).

[62] *Id.*

- 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;[63]

- The former employee is an **employee** of an accredited, degree-granting **institution of higher education** and is acting on behalf of such institution;[64] 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.[65]

✓ **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.[66] Otherwise, covered employees must wait one year before engaging in such activities.

✓ Make statements or communications as an **employee of a candidate, authorized campaign committee, national or state party, or political committee**, if acting on behalf of that committee or party.[67] 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.[68]

✓ **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.[69]

✓ **Give testimony under oath,** or make statements required to be made under penalty of perjury.[70]

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

[64] *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).

[65] 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.*

[66] *Id.* § 207(j)(3).

[67] *Id.* § 207(j)(7)(A).

[68] *Id.* § 207(j)(7)(B)(ii)(II).

[69] *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.

[70] 18 U.S.C. § 207(j)(6).

- ✓ **Contact staff of the Clerk of the House** regarding the individual's compliance with the disclosure requirements under the Lobbying Disclosure Act.[71]

- ✓ **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.[72]

- ✓ **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.[73]

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.

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.

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[71] *Id.* § 207(e)(8).

[72] *See id.* § 207.

[73] *See id.*

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 $102,446 for each violation or the value of the compensation received for the act which violated the restrictions, whichever is greater.[74] The statute further authorizes the Attorney General to seek an injunction prohibiting a person from engaging in conduct that violates the act.[75]

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.[76] 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.[77]

> ***Example 13.*** Staff member *Q* resigned as chief of staff for Member *R* last month to become a registered federal lobbyist for a local non-profit organization. *R* is a covered employee and subject to the post-employment ban for a year. *Q* asks several of *R*'s current employees to support increased funding for the non-profit and schedules a time for them to discuss the matter further. If *R*'s employees accept the meeting with *Q*, they could be considered aiding and abetting *Q* to violate her post-employment restrictions. 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."[78] 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

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[74] *See* 18 U.S.C. § 216; *see also* 28 C.F.R § 85.5 (2020).

[75] *See* 18 U.S.C. § 216(c).

[76] *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").

[77] *See, e.g., Abramoff* and *Ney* actions, note 71 above.

[78] 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").

resignation, "in a manner that created the appearance that his official decisions might have been improperly affected."[79]

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.[80] 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.[81] Extensions of up to 90 days are available upon written request to the Committee when made prior to the original due date.[82] Please note that the salary threshold for filing disclosure statements is higher than that which triggers the post-employment restrictions discussed above. For 2020, "senior staff" for financial disclosure purposes is anyone paid at annual salary rate of $131,239 (or a monthly salary of $10,936) for 60 days or more.[83]

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.[84] Schedule F ("Agreements") of the report requires disclosure of any agreement entered into by the filer, oral or written, with respect to future employment.[85] Thus, if a senior staff 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.[86] The employee will also have to disclose, on Schedule H ("Travel Payments and Reimbursements") of

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[79] 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* https://www.ethics.senate.gov/public/index.cfm/files/serve?File_id=676ADD17-2C7F-40F7-A4D9-B35526E4DA97.

[80] 5 U.S.C. app. § 101(e).

[81] *See* Comm. on Ethics, *2019 Instruction Guide for Completing Financial Disclosure Statements and Periodic Transaction Reports (2019 FD and PTR Instructions)* at 5.

[82] 5 U.S.C. app. § 101(g)(1); *see also 2019 FD and PTR Instructions at 7.*

[83] *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.

[84] *Id.* § 101(e).

[85] *Id.* § 102(a)(7).

[86] *See id.*; *see also 2019 FD and PTR Instructions at 35.*

the report, any travel reimbursements exceeding $415 received from any source in connection with job-search activity.[87]

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.[88] Any departing employee who is not required to file a Termination Report for this reason must notify the Clerk *in writing* of that fact.[89]

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,[90] 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.[91] In calendar year 2020, a senior staff employee may not receive outside earned income (including, for example, a signing bonus) in excess of $28,845, 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.[92] Regardless of whether compensation is received, a senior staff employee may not allow his or her name to be used by an organization that provides fiduciary services. In addition, a senior staff employee may not receive any honoraria (i.e., a payment for a speech, article, or appearance),[93] although he or she may receive compensation for teaching, if the employee first secures specific prior permission from this Committee.[94]

Example 14. Staff member *S*, who earns more than the qualifying senior staff rate of $131,239, plans to join a law firm when he leaves his official position. Since

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[87] 5 U.S.C. app. § 102(a)(2)(B).

[88] *Id.* § 101(e).

[89] *See 2019 FD and PTR Instructions at 5*. A form for this purpose is available on the Committee's website, at https://ethics.house.gov/sites/ethics.house.gov/files/FD_TerminationExemption.pdf.

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

[91] 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 2020, the limit is $38,061. 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.*

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

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

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

this is a firm providing professional services of a fiduciary nature, *S* may not commence his new employment until he is off the congressional payroll.

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,[95] 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.

[95] *Id.*, cl. 5(b)(1)(A).

APPENDIX III

RULES

COMMITTEE ON ETHICS

Adopted February 27, 2019
116th Congress

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

COMMITTEE ON ETHICS

UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

THEODORE E. DEUTCH, Florida, *Chairman*
GRACE MENG, New York
SUSAN WILD, Pennsylvania
DEAN PHILLIPS, Minnesota
ANTHONY BROWN, Maryland

KENNY MARCHANT, Texas, *Ranking Member*
JOHN RATCLIFFE, Texas
GEORGE HOLDING, North Carolina
JACKIE WALORSKI, Indiana
MICHAEL GUEST, Mississippi

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, 116th 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 an investigation.

(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 Guidelines and 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 Guidelines and 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, any form required by the Committee's Travel Guidelines and

Regulations 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 per Statement, including any amendment required by the Committee in accordance with clause (m). 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 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 staff 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 or information relating to any investigation or proceeding of the Committee or a subcommittee to any person or organization outside the Committee, unless authorized by the Committee.

(d) 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) A 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 the respondent has been given full opportunity to respond pursuant to Rule 22. 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.

(f) 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.

(g) 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 a respondent.

(e) A member of the Committee may seek disqualification from participating in any investigation of the conduct of a Member, officer, or employee of the House of Representatives upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision. If the Committee approves and accepts such affidavit of disqualification, the Chair shall so notify the Speaker and ask the Speaker to designate a Member of the House of Representatives from the same political party as the disqualified member of the Committee to act as a member of the Committee in any Committee proceeding relating to such investigation.

Rule 10. Vote Requirements

(a) The following actions shall be taken only upon an affirmative vote of a majority of the members of the Committee or subcommittee, as appropriate:

(1) Issuing a subpoena.

(2) Adopting a full Committee motion to create an investigative subcommittee.

(3) Adopting or amending of a Statement of Alleged Violation.

(4) Finding that a count in a Statement of Alleged Violation has been proved by clear and convincing evidence.

(5) Sending a letter of reproval.

(6) Adopting a recommendation to the House of Representatives that a sanction be imposed.

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

(8) Issuing an advisory opinion of general applicability establishing new policy.

(b) Except as stated in clause (a), action may be taken by the Committee or any subcommittee thereof by a simple majority, a quorum being present.

(c) No motion made to take any of the actions enumerated in clause (a) of this Rule may be entertained by the Chair unless a quorum of the Committee is present when such motion is made.

Rule 11. Committee Records

(a) All communications and all pleadings pursuant to these rules shall be filed with the Committee at the Committee's office or such other place as designated by the Committee.

(b) All records of the Committee which have been delivered to the Archivist of the United States shall be made available to the public in accordance with Rule VII of the Rules of the House of Representatives.

Rule 12. Broadcasts of Committee and Subcommittee Proceedings

(a) Television or radio coverage of a Committee or subcommittee hearing or meeting shall be without commercial sponsorship.

(b) Not more than four television cameras, operating from fixed positions, shall be permitted in a hearing or meeting room. The Committee may allocate the positions of permitted television cameras among the television media in consultation with the Executive Committee of the Radio and Television Correspondents' Galleries.

(c) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the Committee, or the visibility of that witness and that member to each other.

(d) Television cameras shall not be placed in positions that unnecessarily obstruct the coverage of the hearing or meeting by the other media.

PART II—INVESTIGATIVE AUTHORITY

Rule 13. House Resolution

Whenever the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation, the provisions of the resolution, in conjunction with these Rules, shall govern. To the extent the provisions of the resolution differ from these Rules, the resolution shall control.

Rule 14. Committee Authority to Investigate—General Policy

(a) Pursuant to clause 3(b) of Rule XI of the Rules of the House of Representatives, the Committee may exercise its investigative authority when:

(1) information offered as a complaint, in writing and under oath, by a Member of the House of Representatives is transmitted directly to the Committee;

(2) information offered as a complaint, in writing and under oath, 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 indicted or otherwise formally charged with criminal conduct or is convicted of a felony in a Federal, State, or local court;

(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);

(2) reports received from the Office of the Inspector General pursuant to House Rule II, clause 6(c)(5);

(3) determinations regarding appeals from fines imposed by the Sergeant-at-Arms for the use of electronic devices in contravention of applicable House rules or policies, pursuant to House Rule II, clause 3(g); and

(4) information received from the Office of Congressional Workplace Rights, pursuant to the Congressional Accountability Act of 1995.

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(s);

(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(s).

(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 before a Federal, State, or local 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(s) within 5 days with notice that the complaint conforms to the applicable rules.

(b) A respondent may, within 30 days of the Committee's notification in clause (a), 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 a 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(s) shall be notified in writing regarding the Chair and Ranking Minority Member's determination under Rule 16(e) or 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 and the date of the 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 investigation 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 Chair and Ranking Minority Member have the discretion to gather information pursuant to subsection (a) of this Rule, and 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.

(3) In addition to any other evidence which the Committee or investigative subcommittee may consider, the Committee or investigative subcommittee may take into evidence any information related to the subject of an investigation contained in trial transcripts and all exhibits admitted into evidence at trial.

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) A 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 evidence or testimony produced pursuant to subpoena or otherwise shall be deemed to have been taken or produced in executive session.

(2) The investigative subcommittee, through any of its members or the staff, shall ask the respondent(s) 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(s) 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) Required testimony shall 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 any individual 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 a 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.

(h) An investigative subcommittee may transmit a single report regarding multiple respondents, but shall adopt a separate Statement of Alleged Violation for each respondent where applicable.

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 public 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 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 or electronic 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 respondent, it shall make such information known and available to the respondent 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) If the Committee issues a report with respect to a claim referred to the Committee by the Office of Congressional Workplace Rights pursuant to Section 416(e) of the Congressional Accountability Act of 1995, the Committee shall ensure that the report does not directly disclose the identity or position of the individual who filed the claim.

(h) 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;

(4) the Committee votes to expand the scope of the inquiry of an investigative subcommittee; and

(5) the Committee or an investigative subcommittee determines to take into evidence the trial transcript or exhibits admitted into evidence at a criminal trial pursuant to Rule 18(e)(3).

(i) Whenever an investigative subcommittee adopts a Statement of Alleged Violation and a respondent enters into an agreement with that subcommittee to settle an investigation, in whole or in part, 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.

(j) 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.

(k) Whenever a motion to establish an investigative subcommittee does not prevail, the Committee shall promptly send a letter to the respondent(s) informing the respondent(s) of such vote.

(l) 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.

(m) Prior to their testimony, witnesses shall be furnished a printed or electronic copy of the Committee's Rules and the provisions of the Rules of the House of Representatives applicable to the rights of witnesses.

(n) 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.

(o) 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.

(p) 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

Theodore E. Deutch, Florida
Chairman
Kenny Marchant, Texas
Ranking Member

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Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

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FOR RELEASE: Upon Receipt **April 17, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE DAVID SCHWEIKERT

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

On April 16, 2018, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative David Schweikert. The matter referred by OCE is currently within the jurisdiction of an Investigative Subcommittee (ISC).

Pursuant to House Rule XI, clause 3(b)(8)(B)(iii) and Committee Rule 17A(f)(2), if an ISC does not conclude its review within one year after receiving a referral from OCE, the Committee shall make public OCE's report no later than one year after the referral. Accordingly, the Committee is making public OCE's Report in the matter referred to the Committee on April 16, 2018.

The Committee notes that the mere fact of a continued investigation into these allegations does not itself indicate that any violation has occurred. No other public comment will be made on this matter except in accordance with Committee rules.

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FOR RELEASE: Upon Receipt **May 3, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE CHRIS COLLINS

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

In accordance with House Rule XI, clause 3, and Committee Rules 10(a)(2) and 18(e)(2), the Committee unanimously voted to re-authorize an investigative subcommittee (ISC) for the 116th Congress to review allegations involving Representative Chris Collins.

The Honorable Theodore E. Deutch will serve as the Chairman of the ISC, and the Honorable Jackie Walorski will serve as the Ranking Member. The other two members of the ISC are the Honorable William R. Keating and the Honorable Ben Cline.

The Department of Justice has requested that the Committee continue to defer consideration of the allegations involving Representative Collins that are currently pending prosecution in the U.S. District Court for the Southern District of New York. The Committee, following precedent, unanimously recommended to the ISC that it defer action on those allegations. No other public comment will be made on this matter except in accordance with Committee rules.

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FOR RELEASE: Upon Receipt **May 3, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE DUNCAN HUNTER

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

In accordance with House Rule XI, clause 3, and Committee Rules 10(a)(2) and 18(e)(2), the Committee unanimously voted to re-authorize an investigative subcommittee (ISC) for the 116th Congress to review allegations involving Representative Duncan Hunter.

The Honorable Grace Meng will serve as the Chairwoman of the ISC, and the Honorable John Ratcliffe will serve as the Ranking Member. The other two members of the ISC are the Honorable Brian Higgins and the Honorable David Rouzer.

The Department of Justice has requested that the Committee continue to defer consideration of the allegations involving Representative Hunter that are currently pending prosecution in the U.S. District Court for the Southern District of California. The Committee, following precedent, unanimously recommended to the ISC that it defer action on those allegations. No other public comment will be made on this matter except in accordance with Committee rules.

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FOR RELEASE: Upon Receipt **May 3, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE DAVID SCHWEIKERT

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

In accordance with House Rule XI, clause 3, and Committee Rule 10(a)(2), the Committee unanimously voted to re-authorize an investigative subcommittee (ISC) for the 116th Congress to review allegations involving Representative David Schweikert.

The Honorable Dean Phillips will serve as the Chairman of the ISC, and the Honorable Bill Flores will serve as the Ranking Member. The other two members of the ISC are the Honorable Jamie Raskin and the Honorable John Katko.

The Committee notes that the mere fact of an investigation into these allegations does not itself indicate that any violation has occurred. No other public comment will be made on this matter except in accordance with Committee rules.

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FOR RELEASE: Upon Receipt **June 28, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE MATT GAETZ

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

On March 13, 2019, the Committee received a Member complaint against Representative Matt Gaetz. The Committee then began a review, pursuant to Committee Rules 16(c) and 18(a), into allegations that Representative Gaetz sought to threaten, intimidate, harass, or otherwise improperly influence the President's former attorney, Michael Cohen, in connection with Mr. Cohen's testimony before a congressional committee.

As part of that review, on May 13, 2019, the Committee requested Representative Gaetz's appearance for an in-person interview. Representative Gaetz declined the Committee's interview request.

On May 16, 2019, the Committee informed Representative Gaetz that its ability to resolve the complaint would be hindered without his testimony and explained that if the Committee was unable to dispose of the complaint by June 24, 2019, House and Committee Rules would require the Committee to establish an Investigative Subcommittee to review the allegations against him.

Because Representative Gaetz did not provide the Committee with testimony, the Committee was unable to dispose of the complaint by the rule-based deadline. Accordingly, pursuant to House Rule XI, clause 3(b)(2), and Committee Rule 16(d), an Investigative Subcommittee has been established and the complaint against Representative Gaetz forwarded to it for consideration.

The Committee notes that the mere fact of establishing an Investigative Subcommittee does not itself indicate that any violation has occurred.

The Honorable Anthony G. Brown will serve as the Chairman of the Investigative Subcommittee, and the Honorable Michael Guest will serve as the Ranking Member. The other two members of the Investigative Subcommittee are the Honorable Raja Krishnamoorthi and the

Honorable John W. Rose. 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 5, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE DAVID SCHWEIKERT

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

On September 5, 2018, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative David Schweikert. The matter referred by OCE is currently within the jurisdiction of an Investigative Subcommittee (ISC).

Pursuant to House Rule XI, clause 3(b)(8)(B)(iii) and Committee Rule 17A(f)(2), if an ISC does not conclude its review within one year after receiving a referral from OCE, the Committee shall make public OCE's report no later than one year after the referral. Accordingly, the Committee is making public OCE's Report in the matter referred to the Committee on September 5, 2019.

The Committee notes that the mere fact of a continued investigation into these allegations does not itself indicate that any violation has occurred. 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 30, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE BILL HUIZENGA

Pursuant to House Rule XI, clause 3(b)(8)(A), and Committee Rules 17A(b)(1)(A), 17A(c)(1), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matter regarding Representative Bill Huizenga, which was transmitted to the Committee by the Office of Congressional Ethics on August 16, 2019.

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 on or before Thursday, November 14, 2019.

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FOR RELEASE: Upon Receipt **September 30, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE ROSS SPANO

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 of the Committee on Ethics have jointly decided to extend the matter regarding Representative Ross Spano, which was transmitted to the Committee by the Office of Congressional Ethics on August 16, 2019.

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 on or before Thursday, November 14, 2019.

###

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FOR RELEASE: Upon Receipt **September 30, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE RASHIDA TLAIB

Pursuant to House Rule XI, clause 3(b)(8)(A), and Committee Rules 17A(b)(1)(A), 17A(c)(1), the Chairman and Ranking Member of the Committee on Ethics have jointly decided to extend the matter regarding Representative Rashida Tlaib, which was transmitted to the Committee by the Office of Congressional Ethics on August 16, 2019.

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 on or before Thursday, November 14, 2019.

###

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FOR RELEASE: Upon Receipt **October 1, 2019**

STATEMENT REGARDING THE INVESTIGATIVE SUBCOMMITTEE IN THE MATTER OF REPRESENTATIVE CHRIS COLLINS

Pursuant to Committee Rule 7(f), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on October 1, 2019, to release the following statement regarding the Investigative Subcommittee in the Matter of Representative Chris Collins:

In the 115th Congress, on October 12, 2017, the Committee on Ethics (Committee) announced that it was reviewing allegations referred by the Office of Congressional Ethics (OCE) regarding Representative Chris Collins. The Committee published OCE's referral at that time. Subsequently, on August 8, 2018, Representative Collins was indicted on federal charges of conspiracy, securities fraud, wire fraud, and false statements stemming from allegations separate from those already under review by the Committee. On September 6, 2018, the Committee unanimously voted to establish an Investigative Subcommittee (ISC) to determine whether Representative Collins 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 engaged in unlawful conspiracy, securities fraud, and wire fraud; purchased discount stock that was not available to the public; took official actions on behalf of a company in which he had a significant financial interest; and made false statements to, withheld information from, or otherwise misled federal investigators. At that time, the Department of Justice (DOJ) had requested that the Committee defer consideration of the matters in DOJ's jurisdiction. The Committee unanimously recommended to the ISC that it defer action as to those matters.

On May 3, 2019, in accordance with House Rule XI, clause 3, and Committee Rules 10(a)(2) and 18(e)(2), and following Committee precedent, the Committee announced it had unanimously voted to reestablish the ISC in the 116th Congress. The DOJ had requested that the Committee continue to defer consideration of the matters in DOJ's jurisdiction. The Committee, again following precedent, unanimously recommended to the ISC that it defer action as to those matters.

The House received Representative Collins' resignation on October 1, 2019. As a consequence, the Investigative Subcommittee and the Committee no longer have jurisdiction over him. The Committee considers this matter closed.

No other public statement will be made on this matter except in accordance with Committee rules.

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FOR RELEASE: Upon Receipt **October 23, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE KATIE HILL

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

The Committee is aware of public allegations that Representative Katie Hill may have engaged in a sexual relationship with an individual on her congressional staff, in violation of House Rule XXIII, clause 18(a). The Committee, pursuant to Committee Rule 18(a), has begun an investigation and will gather additional information regarding the allegations.

The Committee notes that the mere fact that it is investigating these allegations, and publicly disclosing its review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee. No other public comment will be made on this matter except in accordance with Committee rules.

###

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FOR RELEASE: Upon Receipt **October 24, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING DELEGATE MICHAEL F. Q. SAN NICOLAS

Pursuant to Committee Rule 7(g), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

The Committee is aware of public allegations that Delegate Michael F. Q. San Nicolas may have engaged in a sexual relationship with an individual on his congressional staff, converted campaign funds to personal use, and/or accepted improper or excessive campaign contributions. The Committee, pursuant to Committee Rule 18(a), has begun an investigation and will gather additional information regarding the allegations.

The Committee notes that the mere fact that it is investigating these allegations, and publicly disclosing its review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee. No other public comment will be made on this matter except in accordance with Committee rules.

###

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FOR RELEASE: Upon Receipt **November 4, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE LORI TRAHAN

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 of the Committee on Ethics have jointly decided to extend the matter regarding Representative Lori Trahan, which was transmitted to the Committee by the Office of Congressional Ethics on September 18, 2019.

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 on or before Tuesday, December 17, 2019.

###

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FOR RELEASE: Upon Receipt **November 14, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE ALCEE HASTINGS

Pursuant to Committee Rule 7, the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

The Committee is aware of public allegations arising out of Representative Alcee Hastings' personal relationship with an individual employed in his congressional office. On May 14, 2019, the Committee, pursuant to Committee Rule 18(a), began an investigation regarding the allegations. The Committee is specifically considering whether Representative Hastings' relationship with the individual employed in his congressional office is in violation of House Rule XXIII, clause 18(a), and whether Representative Hastings has received any improper gifts, including any forbearance, from that employee. The Committee continues to gather additional information regarding the allegations.

The Committee notes that the mere fact that it is investigating these allegations, and publicly disclosing its review, does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee. No other public comment will be made on this matter except in accordance with Committee rules.

###

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FOR RELEASE: Upon Receipt **November 14, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE BILL HUIZENGA

Pursuant to Committee Rule 7, the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on November 14, 2019, to release the following statement:

On August 16, 2019, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Bill Huizenga. 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 September 30, 2019, 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 Huizenga.

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FOR RELEASE: Upon Receipt **November 14, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE ROSS SPANO

Pursuant to Committee Rule 7, the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on November 14, 2019, to release the following statement:

On August 16, 2019, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Ross Spano. 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 September 30, 2019, to extend the Committee's review of the matter.

The Department of Justice has asked the Committee to defer consideration of this matter and the Committee, following precedent, unanimously voted to defer consideration of this matter at this time. Pursuant to Committee Rule 17A(h)(1), the Committee is making OCE's Report in this matter public. Under that rule, when the Committee votes to defer in this manner, it must release the Report, but not the Findings, along with a public statement announcing its deferral. At least annually, the Committee will make a public statement if it continues to defer taking action on the matter. The Committee notes that the mere fact of its decision to defer action on this matter, and any mandatory disclosure of that decision and OCE's Report, does not itself indicate that any violation has occurred.

###

Theodore E. Deutch, Florida
Chairman
Kenny Marchant, Texas
Ranking Member

Grace Meng, New York
Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

John Ratcliffe, Texas
George Holding, North Carolina
Jackie Walorski, Indiana
Michael Guest, Mississippi

ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

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FOR RELEASE: Upon Receipt **November 14, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE RASHIDA TLAIB

Pursuant to Committee Rule 7, the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on November 14, 2019, to release the following statement:

On August 16, 2019, the Committee on Ethics received a referral from the Office of Congressional Ethics (OCE) regarding Representative Rashida Tlaib. 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 of the Committee on Ethics jointly decided on September 30, 2019, 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 Tlaib, and Representative Tlaib's response to OCE's Report and Findings.

###

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FOR RELEASE: Upon Receipt **December 5, 2019**

STATEMENT REGARDING
REPRESENTATIVE DUNCAN HUNTER

The Chairman and Ranking Member of the Committee on Ethics today issued the attached letter to Representative Duncan Hunter.

###

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FOR RELEASE: Upon Receipt **December 9, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE DUNCAN HUNTER

Pursuant to Committee Rule 7, the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on December 9, 2019, to release the following statement regarding the Investigative Subcommittee in the Matter of Representative Duncan Hunter:

In the 115th Congress, on March 23, 2017, the Committee announced that it was reviewing allegations referred by the Office of Congressional Ethics (OCE) regarding Representative Duncan Hunter. The Committee also announced that, following precedent, it had voted unanimously to defer its review at the request of the Department of Justice (DOJ). Accordingly, pursuant to Committee Rule 17A(h)(1), the Committee made OCE's Report but not its Findings public at that time. On March 23, 2018, the Committee announced that it was continuing to defer its consideration of the matter at the request of the DOJ.

On August 21, 2018, Representative Hunter was indicted on federal charges of conspiracy, wire fraud, falsifying campaign finance records, prohibited use of campaign contributions, and false statements. On September 6, 2018, the Committee unanimously voted to establish an Investigative Subcommittee (ISC) into the allegations raised in the indictment and recommended the ISC defer action on its investigation at the request of the DOJ. On May 3, 2019, the Committee announced the ISC had been re-authorized for the 116th Congress, and that it continued to recommend deferral at the request of the DOJ.

On December 3, 2019, Representative Hunter pleaded guilty to one count of conspiring to misuse campaign funds. The DOJ has now withdrawn its request that the Committee defer consideration of this matter. Pursuant to House Rule XI, clause 3(b)(8)(B)(iii) and Committee Rule 17A(f)(2), if an ISC 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, but the Committee is not required to make such a release when deferring action at the request of appropriate law enforcement. Because deferral is no longer requested and the last day of the Congress in which OCE's Report was made public has passed, the Committee is making public OCE's Findings in this matter.

###

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FOR RELEASE: Upon Receipt **December 17, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE LORI TRAHAN

Pursuant to Committee Rule 7, the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on December 17, 2019, to release the following statement:

On September 18, 2019, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Lori Trahan. 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 November 4, 2019, 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 Trahan and Representative Trahan's submission to the Committee.

###

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FOR RELEASE: Upon Receipt **December 19, 2019**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE CATHY MCMORRIS RODGERS

On December 19, 2019, the Committee released the attached Report regarding allegations relating to Representative Cathy McMorris Rodgers.

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FOR RELEASE: Upon Receipt **January 14, 2020**

STATEMENT REGARDING THE INVESTIGATIVE SUBCOMMITTEE IN THE MATTER OF REPRESENTATIVE DUNCAN HUNTER

Pursuant to Committee Rule 7, the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on January 14, 2020, to release the following statement regarding the Investigative Subcommittee in the Matter of Representative Duncan Hunter:

In the 115th Congress, on March 23, 2017, the Committee on Ethics (Committee) announced that it was reviewing allegations referred by the Office of Congressional Ethics (OCE) regarding Representative Duncan Hunter. The Committee also announced that because the Department of Justice (DOJ) had asked the Committee to defer its consideration of the matter, the Committee had followed precedent and voted unanimously to defer its review at that time. Accordingly, pursuant to Committee Rule 17A(h)(1), the Committee made OCE's Report, but not its Findings, public at that time. On March 23, 2018, the Committee announced that it was continuing to defer its consideration of the matter at the request of DOJ.

Subsequently, on August 21, 2018, Representative Hunter was indicted on federal charges of conspiracy, wire fraud, falsifying campaign finance records, prohibited use of campaign contributions, and false statements. On September 6, 2018, the Committee unanimously voted to establish an Investigative Subcommittee to determine whether Representative Hunter 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 engaged in unlawful conspiracy, fraud, falsification of campaign finance records, and prohibited use of campaign contributions. At that time, DOJ had requested that the Committee continue to defer consideration of the matters in DOJ's jurisdiction. The Committee unanimously recommended to the Investigative Subcommittee that it defer action as to those matters.

On May 3, 2019, in accordance with House Rule XI, clause 3, and Committee Rules 10(a)(2) and 18(e)(2), and following Committee precedent, the Committee announced it had unanimously voted to reestablish the Investigative Subcommittee in the 116th Congress. DOJ had requested that the Committee continue to defer consideration of the matters in DOJ's jurisdiction. The Committee, again following precedent, unanimously recommended to the Investigative Subcommittee that it defer action as to those matters.

Representative Hunter pled guilty to one count of conspiring to convert campaign funds to personal use on December 3, 2019. Following Representative Hunter's guilty plea, the Committee reminded Representative Hunter that, pursuant to House Rule XXIII, clause 10(a), he should refrain from voting in the House. DOJ also withdrew its request for deferral and the Committee released OCE's Findings.

The House received Representative Hunter's notice of resignation on January 7, 2020, effective at the close of business on January 13, 2020. As a consequence, the Investigative Subcommittee and the Committee no longer have jurisdiction over him. The Committee considers this matter closed.

No other public statement will be made on this matter except in accordance with Committee rules.

###

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FOR RELEASE: Upon Receipt **June 12, 2020**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING DELEGATE MICHAEL F.Q. SAN NICOLAS

Pursuant to Committee Rule 7, the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

In accordance with House Rule XI, clause 3, and Committee Rules 10(a)(2) and 18, the Committee unanimously voted on March 11, 2020, to establish an Investigative Subcommittee. Pursuant to the Committee's action, the Investigative Subcommittee shall have jurisdiction to determine whether Delegate Michael F.Q. San Nicolas may have: engaged in a sexual relationship with an individual on his congressional staff; converted campaign funds to personal use; accepted improper and/or excessive campaign contributions; reported campaign disbursements that may not be legitimate and verifiable campaign expenditures attributable to bona fide campaign or political purposes; omitted required information from or disclosed false information in reports filed with the Federal Election Commission; made false statements to government investigators or agencies; and/or improperly interfered or attempted to interfere in a government investigation of related allegations in violation of House Rules, law, regulations, or other standards of conduct.

The Honorable Grace Meng will serve as Chairwoman of the Investigative Subcommittee, and the Honorable Jackie Walorski will serve as the Ranking Member. The other two members of the Investigative Subcommittee are the Honorable Darren Soto and the Honorable Vicky Hartzler.

The Committee has determined to take this action following receipt of a referral from the Office of Congressional Ethics regarding this matter. The Committee notes that the mere fact of establishing an Investigative Subcommittee does not itself indicate that any violation has occurred.

No other public comment will be made on this matter except in accordance with Committee rules. Pursuant to House Rule XI, clause 3(b)(8)(B)(iii), and Committee Rule 17A(f)(1), no documents will be released at this time.

###

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FOR RELEASE: Upon Receipt **June 12, 2020**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE ALCEE HASTINGS

Pursuant to Committee Rule 7, the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

On May 14, 2019, the Committee, pursuant to Committee Rule 18(a), began investigating allegations arising out of Representative Alcee Hastings' personal relationship with an individual employed in his congressional office. Specifically, the Committee investigated whether Representative Hastings' relationship with the employed individual is in violation of House Rule XXIII, clause 18(a), and whether Representative Hastings has received any improper gifts, including any forbearance, from that employee. On November 14, 2019, the Committee announced it was aware of public allegations arising out of Representative Hastings' relationship, and that it was investigating and gathering more information regarding those allegations.

During its review, the Committee became aware that Representative Hastings has been married to the individual employed in his congressional office since January 2019. Accordingly, Representative Hastings is not in violation of House Rule XXIII, clause 18(a), as its terms do not apply to relationships between two people who are married to each other, nor is he in violation of the House Gift Rule, which permits Members to accept gifts from relatives. However, the Committee continued to review Representative Hastings' conduct prior to his marriage. The Committee also considered whether Representative Hastings had complied with the laws and rules relating to nepotism.

Following its review, the Committee determined to take no further action in this matter. The Committee's determination was based on the particular facts of the matter, including the fact that Representative Hastings' spouse's employment began prior to the 113th Congress and is therefore not prohibited under clause 8(c) of House Rule XXIII. The Committee considers this matter closed.

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FOR RELEASE: Upon Receipt **June 16, 2020**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE SANFORD D. BISHOP, JR.

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 Sanford Bishop, which was transmitted to the Committee by the Office of Congressional Ethics on February 10, 2020.

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.

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FOR RELEASE: Upon Receipt **July 16, 2020**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE LORI TRAHAN

On July 16, 2020, the Committee released the attached Report regarding allegations relating to Representative Lori Trahan.

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FOR RELEASE: Upon Receipt **July 30, 2020**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE DAVID SCHWEIKERT

Pursuant to House Rule XI Clause 3(q)(2)(D), today the Chairman of the Committee on Ethics, Representative Theodore E. Deutch, and the Ranking Member, Representative Kenny Marchant, submitted a report to the House of Representatives in the Matter of Allegations Relating to Representative David Schweikert. The full Committee report includes the report of the Investigative Subcommittee (ISC) in this matter, along with the responsive views of Representative Schweikert.

At the completion of its investigation, the ISC unanimously concluded that there was substantial reason to believe that Representative David Schweikert violated House Rules, the Code of Ethics for Government Service, federal laws and other applicable standards in connection with: campaign finance violations and reporting errors by his authorized campaign committees; the misuse of his Members' Representational Allowance for unofficial purposes; pressuring official staff to perform campaign work; and his lack of candor and due diligence during the investigation.

As part of a resolution Representative Schweikert negotiated with the ISC, he agreed to admit to all eleven counts in the Statement of Alleged Violations adopted by the ISC, accept a sanction of reprimand and a $50,000 fine, and waive all further procedural rights in this matter provided to him by House or Committee Rule. On July 29, 2020, the full Committee unanimously accepted the ISC's recommendations that the Committee submit a public report to the House, and that the adoption of that report by the House serve as a reprimand of Representative Schweikert for his misconduct and impose a fine in the amount of $50,000.

Therefore, the Committee on Ethics has unanimously recommended that the House of Representatives adopt the report, and with it, a reprimand of Representative Schweikert for the conduct described therein. The Committee intends to bring a privileged resolution for consideration and vote by the full House.

The Committee thanks the members of the Investigative Subcommittee for their hard work, dedication, and service to the Committee and to the House. Representative Dean Phillips served as Chair of the Investigative Subcommittee. Representative Bill Flores served as Ranking Republican Member. Representatives Jamie Raskin and John Katko also served on the

Subcommittee. Each of these members devoted substantial time and effort to the investigation, and the Committee thanks each of them for their service.

###

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FOR RELEASE: Upon Receipt **July 31, 2020**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE SANFORD BISHOP, JR.

Pursuant to Committee Rule 7, the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on July 31, 2020, to release the following statement:

On February 10, 2020, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding Representative Sanford Bishop. Pursuant to House Rule XI, clause 3(b)(8)(A), and Committee Rules 17A(b)(1)(A) and 17A(c)(1), and 17A(j) the Chairman and Ranking Member jointly decided on June 16, 2020, 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 Bishop and Representative Bishop's submission to the Committee.

###

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FOR RELEASE: Upon Receipt **August 7, 2020**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE RASHIDA TLAIB

On August 7, 2020, the Committee released the attached Report regarding allegations relating to Representative Rashida Tlaib.

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FOR RELEASE: Upon Receipt **August 13, 2020**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE STEVE WATKINS

Pursuant to Committee Rule 7, the Chairman and Ranking Member of the Committee on Ethics (Committee) determined to release the following statement:

On July 14, 2020, criminal charges against Representative Steve Watkins were filed in Shawnee County District Court in Kansas. Pursuant to Committee Rule 18(e)(2) and Section 103(k) of House Resolution 6 of the 116th Congress, within 30 days of a Member being indicted or otherwise formally charged with criminal conduct, the Committee shall either establish an Investigative Subcommittee or report to the House describing its reasons for not establishing an Investigative Subcommittee.

In accordance with House Rule XI, clause 3, and Committee Rules 10(a)(2) and 18(e), the Committee unanimously voted to establish an Investigative Subcommittee. Pursuant to the Committee's action, the Investigative Subcommittee shall have jurisdiction to determine whether Representative Watkins falsely reported information to a law enforcement officer; voted in an election district without being lawfully registered to vote; knowingly marked or transmitted more than one advance voting ballot; and/or failed to notify the proper agency of a change of name or address.

The Honorable Anthony Brown will serve as Chair of the Investigative Subcommittee, and the Honorable Pete Olson will serve as the Ranking Member. The other two members of the Investigative Subcommittee are the Honorable Theodore E. Deutch and the Honorable Ann Wagner.

No other public comment will be made on this matter except in accordance with Committee rules.

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FOR RELEASE: Upon Receipt **August 21, 2020**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE MATT GAETZ

On August 21, 2020, the Committee released the attached Report regarding allegations relating to Representative Matt Gaetz.

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FOR RELEASE: Upon Receipt **November 16, 2020**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE ROSS SPANO

Pursuant to House Rule XI, clause 3(b)(8)(C)(ii) and Committee Rule 17A(h)(2), the Chairman and Ranking Member of the Committee on Ethics (Committee) determined on November 16, 2020, to release the following statement:

On August 16, 2019, the Committee received a referral from the Office of Congressional Ethics (OCE) regarding whether Representative Ross Spano received loans to support his election to the House of Representatives that exceeded federal campaign contribution limits. In response to a request from the Department of Justice, the Committee unanimously voted to defer consideration of this matter, and announced that deferral in a public statement dated November 14, 2019.

The Committee continues to defer consideration of this matter at this time. The Committee notes that the mere fact of its decision to defer action on this matter, and any mandatory disclosure of that decision, does not itself indicate that any violation has occurred.

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Theodore E. Deutch, Florida
Chairman
Kenny Marchant, Texas
Ranking Member

Grace Meng, New York
Susan Wild, Pennsylvania
Dean Phillips, Minnesota
Anthony Brown, Maryland

George Holding, North Carolina
Jackie Walorski, Indiana
Michael Guest, Mississippi

ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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FOR RELEASE: Upon Receipt **December 17, 2020**

STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE STEVEN PALAZZO

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 Steven Palazzo, which was transmitted to the Committee by the Office of Congressional Ethics on September 2, 2020.

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.

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