

H. Res. 168

In the House of Representatives, U.S.,

September 18, 1997.

Resolved,

SECTION 1. USE OF NON-COMMITTEE MEMBERS.

(a) RULES AMENDMENT.—Clause 6(a) of rule X of the Rules of the House of Representatives is amended by adding at the end the following new subparagraph:

“(3)(A) At the beginning of each Congress—

“(i) the Speaker (or his designee) shall designate a list of 10 Members from the majority party; and

“(ii) the minority leader (or his designee) shall designate a list of 10 Members from the minority party;

who are not members of the Committee on Standards of Official Conduct and who may be assigned to serve as a member of an investigative subcommittee of that committee during that Congress. Members so chosen shall be announced to the House.

“(B) Whenever the chairman and ranking minority member of the Committee on Standards of Official Conduct jointly determine that Members designated under subdivision

(A) should be assigned to serve on an investigative subcommittee of that committee, they shall each select the same number of Members of his respective party from the list to serve on that subcommittee.”.

(b) CONFORMING RULES AMENDMENT.—Clause 6(b)(2)(A) of rule X of the Rules of the House of Representatives is amended by inserting after the first sentence the following new sentence: “Service on an investigative subcommittee of the Committee on Standards of Official Conduct pursuant to paragraph (a)(3) shall not be counted against the limitation on subcommittee service.”.

SEC. 2. DURATION OF SERVICE ON THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.

The second sentence of clause 6(a)(2) of rule X of the Rules of the House of Representatives is amended to read as follows: “No Member shall serve as a member of the Committee on Standards of Official Conduct for more than two Congresses in any period of three successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that a Member having served on the committee for two Congresses shall be eligible for election to the committee as chairman or ranking minority member for one additional Congress. Not less than two Members from each party shall rotate off the committee at the end of each Congress.”.

SEC. 3. COMMITTEE AGENDAS.

The Committee on Standards of Official Conduct shall adopt rules providing that the chairman shall establish the agenda for meetings of the committee, but shall not preclude the ranking minority member from placing any item on the agenda.

SEC. 4. COMMITTEE STAFF.

(a) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that:

(1)(A) The staff is to be assembled and retained as a professional, nonpartisan staff.

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

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

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

(E) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the committee without specific prior approval from the chairman and ranking minority member.

(F) 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)(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 Committee on House Oversight, 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.

(3) Outside counsel may be dismissed prior to the end of a contract between the committee and such coun-

sel only by an affirmative vote of a majority of the members of the committee.

(4) Only subparagraphs (C), (E), and (F) of paragraph (1) shall apply to shared staff.

(b) **ADDITIONAL COMMITTEE STAFF.**—In addition to any other staff provided for by law, rule, or other authority, with respect to the Committee on Standards of Official Conduct, the chairman and ranking minority member each may appoint one individual as a shared staff member from his or her personal staff to perform service for the committee. Such shared staff may assist the chairman or ranking minority member on any subcommittee on which he serves.

SEC. 5. MEETINGS AND HEARINGS.

(a) **HOUSE RULES.**—(1) Clause 4(e)(3) of rule X of the Rules of the House of Representatives is amended to read as follows:

“(3)(A) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Standards of Official Conduct or any 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.

“(B) Notwithstanding clause 2(g)(2) of rule XI, hearings of an adjudicatory subcommittee or sanction hearings held by the Committee on Standards of Official Conduct shall be held in open session unless the subcommittee or commit-

tee, 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.”.

(2)(A) The first sentence of clause 2(g)(1) of rule XI of the Rules of the House of Representatives is amended by inserting “(except the Committee on Standards of Official Conduct)” after “thereof”.

(B) The first sentence of clause 2(g)(2) of rule XI of the Rules of the House of Representatives is amended by inserting “(except the Committee on Standards of Official Conduct)” after “thereof”.

(b) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that—

(1) all meetings of the committee or any 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 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.

SEC. 6. CONFIDENTIALITY OATHS.

Clause 4(e) of rule X of the Rules of the House of Representatives is amended by adding at the end the following:

“(4) Before any member, officer, or employee of the Committee on Standards of Official Conduct, including members of any subcommittee of the committee selected pursuant to clause 6(a)(3) and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed:

‘I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Standards of Official Conduct, any information received in the course of my service with the committee, except as authorized by the committee or in accordance with its rules.’

Copies of the executed oath shall be retained by the Clerk of the House as part of the records of the House. This subparagraph establishes a standard of conduct within the meaning of subparagraph (1)(B). Breaches of confidentiality shall be investigated by the Committee on Standards of Official Conduct and appropriate action shall be taken.”.

SEC. 7. PUBLIC DISCLOSURE.

The Committee on Standards of Official Conduct shall adopt rules providing that, unless otherwise determined by a vote of the committee, only the chairman or ranking minority member, after consultation with each other, may make public

statements regarding matters before the committee or any subcommittee thereof.

SEC. 8. CONFIDENTIALITY OF COMMITTEE VOTES.

(a) RECORDS.—The last sentence in clause 2(e)(1) of rule XI of the Rules of the House of Representatives is amended by adding before the period at the end the following: “, except that in the case of rollcall votes in the Committee on Standards of Official Conduct taken in executive session, the result of any such vote shall not be made available for inspection by the public without an affirmative vote of a majority of the members of the committee”.

(b) REPORTS.—Clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to votes taken in executive session by the Committee on Standards of Official Conduct.”.

**SEC. 9. FILINGS BY NON-MEMBERS OF INFORMATION OFFERED
AS A COMPLAINT.**

(a) FILINGS SPONSORED BY MEMBERS.—Clause 4(e)(2)(B) of rule X of the Rules of the House of Representatives is amended by striking “or submitted to”, by striking “a complaint” and inserting “information offered as a complaint”, and by amending clause (ii) to read as follows:

“(ii) upon receipt of information offered as a complaint, in writing and under oath, from an individual not

a Member of the House provided that a Member of the House certifies in writing to the committee that he or she believes the information is submitted in good faith and warrants the review and consideration of the committee.

SEC. 10. REQUIREMENTS TO CONSTITUTE A COMPLAINT.

The Committee on Standards of Official Conduct shall amend its rules regarding complaints to provide that whenever information offered as a complaint is submitted to the committee, the chairman and ranking minority member shall have 14 calendar days or 5 legislative days, whichever occurs first, to determine whether the information meets the requirements of the committee's rules for what constitutes a complaint.

SEC. 11. DUTIES OF CHAIRMAN AND RANKING MINORITY MEMBER REGARDING PROPERLY FILED COMPLAINTS.

(a) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the committee's rules for what constitutes a complaint, they shall have 45 calendar days or 5 legislative days, whichever is later, after the date that the chairman and ranking minority member determine that information filed meets the requirements of the committee's rules for what

constitutes a complaint, unless the committee by an affirmative vote of a majority of its members votes otherwise, to—

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

(2) establish an investigative subcommittee; or

(3) request that the committee extend the applicable 45-calendar day or 5-legislative day period by one additional 45-calendar day period when they determine more time is necessary in order to make a recommendation under paragraph (1).

(b) HOUSE RULES.—Clause 4(e)(2)(A) of rule X of the Rules of the House of Representatives is amended by inserting “(i)” after “(A)”, by striking “and no” and inserting “and, except as provided by subdivision (ii), no”, and by adding at the end the following:

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

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

(c) DISPOSITION OF PROPERLY FILED COMPLAINTS BY CHAIRMAN AND RANKING MINORITY MEMBER IF NO ACTION TAKEN BY THEM WITHIN PRESCRIBED TIME LIMIT.—The Committee on Standards of Official Conduct shall adopt rules providing that if the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the committee rules for what constitutes a complaint, and the complaint is not disposed of within the applicable time periods under subsection (a), then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

(d) HOUSE RULES.—Clause 4(e)(2)(B) of rule X of the Rules of the House of Representatives is amended by adding at the end the following new sentences:

“If a complaint is not disposed of within the applicable time periods set forth in the rules of the Committee on Standards of Official Conduct, then the chairman and ranking minority member shall jointly establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.”.

SEC. 12. DUTIES OF CHAIRMAN AND RANKING MINORITY MEMBER REGARDING INFORMATION NOT CONSTITUTING A COMPLAINT.

The Committee on Standards of Official Conduct shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee does not meet the requirements 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.

SEC. 13. INVESTIGATIVE AND ADJUDICATORY SUBCOMMITTEES.

The Committee on Standards of Official Conduct shall adopt rules providing that—

(1)(A) investigative subcommittees shall be comprised of 4 Members (with equal representation from the majority and minority parties) whenever such subcommittee is established pursuant to the rules of the committee; and

(B) adjudicatory subcommittees shall be comprised of the members of the committee who did not serve on the investigative subcommittee (with equal representation from the majority and minority parties) whenever such subcommittee is established pursuant to the rules of the committee;

(2) at the time of appointment, the chairman shall designate one member of the subcommittee to serve as chairman and the ranking minority member shall designate one member of the subcommittee to serve as the ranking minority member of the investigative subcommittee or adjudicatory subcommittee; and

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

**SEC. 14. STANDARD OF PROOF FOR ADOPTION OF STATEMENT
OF ALLEGED VIOLATION.**

The Committee on Standards of Official Conduct shall amend its 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 committee 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.

SEC. 15. SUBCOMMITTEE POWERS.

(a) SUBPOENA POWER.—

(1) HOUSE RULES.—Clause 2(m)(2)(A) of rule XI of the Rules of the House of Representatives is amended in the first sentence by inserting before the period the following: “, except in the case of a subcommittee of the Committee on Standards of Official Conduct, a subpoena may be authorized and issued only when authorized by an affirmative vote of a majority of its members”.

(2) COMMITTEE RULES.—The Committee on Standards of Official Conduct 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.

(b) EXPANSION OF SCOPE OF INVESTIGATIONS.—The Committee on Standards of Official Conduct 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.

(c) AMENDMENTS OF STATEMENTS OF ALLEGED VIOLATION.—The Committee on Standards of Official Conduct shall adopt rules to provide that—

(1) 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

(2) 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.

SEC. 16. DUE PROCESS RIGHTS OF RESPONDENTS.

The Committee on Standards of Official Conduct shall amend its rules to provide that—

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

(2) neither the respondent nor his counsel shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (1) except for the sole purpose of settlement discussions where counsels 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 committee's rules;

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

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

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

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

(5) a respondent shall receive written notice whenever—

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

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

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

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

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

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

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

SEC. 17. COMMITTEE REPORTING REQUIREMENTS.

The Committee on Standards of Official Conduct shall amend its 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; and

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

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

(B) the respondent may submit views in writing regarding the final draft to the subcommittee within 7 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 subparagraph (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 subparagraph (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.

SEC. 18. REFERRALS TO FEDERAL OR STATE AUTHORITIES.

Clause 4(e)(1)(C) of rule X of the Rules of the House of Representatives is amended by striking “with the approval

of the House” and inserting “either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee”.

SEC. 19. FRIVOLOUS FILINGS.

Clause 4(e) of rule X of the Rules of the House of Representatives is amended by adding at the end the following:

“(5)(A) If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee on Standards of Official Conduct, the committee may take such action as it, by an affirmative vote of a majority of its members, deems appropriate in the circumstances.

“(B) Complaints filed before the One Hundred Fifth Congress may not be deemed frivolous by the Committee on Standards of Official Conduct.”.

SEC. 20. TECHNICAL AMENDMENTS.

The Committee on Standards of Official Conduct shall—

(1) clarify its rules to provide that whenever the committee votes to authorize an investigation on its own initiative, the chairman and ranking minority member shall establish an investigative subcommittee to undertake such investigation;

(2) revise its rules to refer to hearings held by an adjudicatory subcommittee as adjudicatory hearings; and

(3) make such other amendments to its rules as necessary to conform such rules to this resolution.

SEC. 21. EFFECTIVE DATE.

This resolution and the amendments made by it apply with respect to any complaint or information offered as a complaint that is or has been filed during this Congress.

Attest:

Clerk.