

# U.S. House of Representatives

COMMITTEE ON STANDARDS OF  
OFFICIAL CONDUCT

Washington, DC 20515

November 20, 2008

## MEMORANDUM FOR DEPARTING MEMBERS

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

**SUBJECT:** Ethics Laws and Rules for Departing Members and Staff

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

### Financial Disclosure Statement for Calendar Year 2008

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

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

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

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

## New Employment

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

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

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

## Travel of Departing Members and Staff

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

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

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

#### **Use of Campaign Funds to Pay Member Moving Expenses**

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

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