

105TH CONGRESS }  
*1st Session*

COMMITTEE PRINT }

REPORT  
OF  
THE ETHICS REFORM TASK FORCE  
ON  
H. RES. 168

---

RECOMMENDING REVISIONS TO THE RULES OF THE HOUSE AND  
THE RULES OF THE COMMITTEE ON STANDARDS OF OFFICIAL  
CONDUCT

WITH ADDITIONAL VIEWS



JUNE 17, 1997.—Printed for the use of the Committee on Rules

105TH CONGRESS }  
*1st Session* }

COMMITTEE PRINT {

REPORT  
OF  
THE ETHICS REFORM TASK FORCE  
ON  
H. RES. 168

---

RECOMMENDING REVISIONS TO THE RULES OF THE HOUSE AND  
THE RULES OF THE COMMITTEE ON STANDARDS OF OFFICIAL  
CONDUCT

WITH ADDITIONAL VIEWS



JUNE 17, 1997.—Printed for the use of the Committee on Rules

---

U.S. GOVERNMENT PRINTING OFFICE

41-488

WASHINGTON : 1997

UNITED STATES HOUSE OF REPRESENTATIVES  
ETHICS REFORM TASK FORCE

ROBERT L. LIVINGSTON, Louisiana, *Co-Chairman*

BENJAMIN L. CARDIN, Maryland, *Co-Chairman*

GERALD B.H. SOLOMON, New York

WILLIAM M. THOMAS, California

PORTER J. GOSS, Florida

MICHAEL N. CASTLE, Delaware

LOUIS STOKES, Ohio

JOHN JOSEPH MOAKLEY, Massachusetts

MARTIN FROST, Texas

NANCY PELOSI, California

-----  
JAMES V. HANSEN, Utah, *Ex Officio*

-----  
HOWARD L. BERMAN, California, *Ex Officio*

RICHARD J. LEON, *Special Counsel*

DAVID H. LAUFMAN, *Assistant to the Special Counsel*

## CONTENTS

---

	Page
I. Introduction .....	1
II. Method of Operation .....	2
III. Summary of Recommendations .....	3
IV. Section-by-Section Analysis .....	6
Section 1. Use of Non-Committee Members .....	6
Section 2. Duration of Service on the Committee on Standards of Official Conduct .....	7
Section 3. Committee Agendas .....	8
Section 4. Committee Staff .....	8
Section 5. Meetings and Hearings .....	10
Section 6. Confidentiality Oaths .....	10
Section 7. Public Disclosure .....	11
Section 8. Confidentiality of Committee Votes .....	12
Section 9. Filings By Non-Members of Information Offered as a Com- plaint .....	12
Section 10. Requirements to Constitute a Complaint .....	13
Section 11. Duties of Chairman and Ranking Minority Member Re- garding Properly Filed Complaints .....	15
Section 12. Duties of Chairman and Ranking Minority Member Re- garding Information Not Constituting a Complaint .....	19
Section 13. Investigative and Adjudicatory Subcommittees .....	20
Section 14. Standard of Proof for Adoption of Statement of Alleged Violation .....	21
Section 15. Subcommittee Powers .....	22
Section 16. Due Process Rights of Respondents .....	24
Section 17. Committee Reporting Requirements .....	27
Section 18. Referrals to Federal or State Authorities .....	29
Section 19. Frivolous Filings .....	29
Section 20. Technical Amendments .....	30
V. Conclusion .....	30
VI. Additional Views .....	31
VII. Appendix .....	52
Resolution .....	52
Relevant House Rules .....	78
Rules of the Committee on Standards of Official Conduct .....	87

**Congress of the United States**  
Washington, DC 20515

June 19, 1997

The Honorable Newt Gingrich  
Speaker of the House  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Richard K. Armey  
Majority Leader  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Richard A. Gephardt  
Minority Leader  
U.S. House of Representatives  
Washington, D.C. 20515

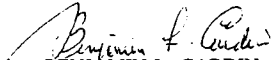
Dear Messrs. Gingrich, Armey, and Gephardt:


The Ethics Reform Task Force has completed its work, and we, the undersigned, do hereby transmit both the proposed Resolution and the Report to you for your consideration.

We anticipate appearing before the media and holding a public hearing on Friday, June 20, 1997, so that the general public may be apprised of the content of our work product.

It has been a privilege to serve the House of Representatives in this endeavor.

Sincerely,

  
BENJAMIN L. CARDIN  
Co-Chairman  
House Ethics Reform Task Force

  
ROBERT L. LIVINGSTON  
Co-Chairman  
House Ethics Reform Task Force

**TASK FORCE STAFF**

Richard J. Leon, Special Counsel  
David H. Laufman, Assistant to the Special Counsel

Stanley M. Skocki, III, Legislative Assistant to Co-Chairman Livingston                      Michelle Ash, Legislative Assistant to Co-Chairman Cardin

Robert F. Weinhagen, Senior Counsel, Office of Legislative Counsel

**ASSOCIATE STAFF**

Gerald B. H. Solomon:                      William D. Crosby, Jr. Chief Counsel to Committee on Rules  
Daniel J. Keniry, Staff Director, Committee on Rules  
Erin N. Fleming, Legislative Assistant, Committee on Rules

William M. Thomas:                      Stacy Carlson, Staff Director, Committee on House Oversight

Porter J. Goss:                      Maggie Knutson, Office Manager

Michael N. Castle:                      Angela C. Goodhart, Senior Legislative Assistant

---

Louis Stokes:                      Mark Lindsay, Legislative Assistant

John Joseph Moakley:                      George C. Crawford, Minority Staff Director, Committee on Rules  
John A. Daniel, Professional Staff, Committee on Rules  
Sophie Hayford, Professional Staff, Committee on Rules

Martin Frost:                      Kristi E. Walseth, Minority Staff Director, Subcommittee on Legislative and Budget Process

Nancy Pelosi:                      Judith Lemons, Chief of Staff

---

James V. Hansen:                      Theodore J. Van Der Meid, Chief Counsel, Committee on Standards of Official Conduct  
(Ex Officio)                      Bari Schwartz, Counsel to the Ranking Minority Member  
Virginia H. Johnson, Counsel to Committee on Standards of Official Conduct

Howard L. Berman:                      John Vargo, Counsel to Committee on Standards of Official Conduct  
(Ex Officio)                      Charles J. Willoughby, Counsel to Committee on Standards of Official Conduct

## I. INTRODUCTION

Under the U.S. Constitution, the House of Representatives is responsible for establishing rules to govern the conduct of its Members, as well as judging Members alleged to have violated those rules.<sup>1</sup> The perceived success with which the House administers this system of peer review plays an important part in influencing both internal and public confidence in the work of the Committee on Standards of Official Conduct (“Standards Committee” or “the Committee”).

While House Members generally regarded the existing standards process<sup>2</sup> as fundamentally sound, no reassessment of the standards process in its entirety had occurred since 1989, and by the end of the 104th Congress, a consensus had developed within the House that such a reassessment was appropriate. In particular, interest had grown in reexamining ways to better ensure that the standards process in the House functions in a manner that is non-partisan, efficient, and fair.

On February 12, 1997, the House established, by unanimous consent, a bipartisan Task Force to review the existing House standards process and recommend reforms of that process. The House also approved, by unanimous consent, a 65-day moratorium on the filing of new ethics complaints to enable the Task Force to conduct its work “in a climate free from specific questions of ethical propriety.”<sup>3</sup>

Representatives Robert L. Livingston and Benjamin L. Cardin were appointed by House Majority Leader Richard Armey and House Minority Leader Richard Gephardt, respectively, to co-chair the Task Force. Representative Livingston had served as a member of the Bipartisan Task Force on Ethics which reviewed the House standards process in 1989. Representative Cardin had recently completed six years as a member of the Standards Committee. Other Republican members of the Task Force were Representatives Gerald B.H. Solomon, William M. Thomas, Porter J. Goss, Michael N. Castle, and James V. Hansen (ex officio). Other Democratic members of the Task Force were Representatives Louis Stokes, John Joseph Moakley, Martin Frost, Nancy Pelosi, and Howard L. Berman (ex officio).

---

<sup>1</sup> Article I, Section 5, Clause 2 of the U.S. Constitution states that “[e]ach House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.”

<sup>2</sup> Hereafter, the term “standards process” shall at all times throughout this report relate to the process by which Members, officers, and employees of the House of Representatives are investigated and adjudged following the receipt of information questioning whether such Member, officer, or employee violated the ethical standards of the House.

<sup>3</sup> 143 Cong. Rec. H456 (daily ed. Feb. 12, 1997) (statement of Rep. Armey).

## II. METHOD OF OPERATION

The Task Force began its work by holding hearings to solicit the views and ideas of House Members and interested members of the public regarding possible reforms of the House standards process. Most of the hearings occurred in executive session in order to encourage candor on the part of witnesses and members of the Task Force.

On February 27, 1997, the Task Force received testimony in executive session from Representatives James V. Hansen, Nancy L. Johnson, Steven Schiff, Lee Hamilton, David Dreier, Curt Weldon, and Sue Myrick.

On March 4, 1997, the Task Force held a public hearing at which it received testimony from Jack Maskell, a Legislative Attorney at the Congressional Research Service; Norman Ornstein, Resident Scholar at the American Enterprise Institute for Public Policy Research; Gary Ruskin, Director of the Congressional Accountability Project; Meredith McGehee, Vice President of Legislative Policy at Common Cause; and David Mason, Senior Fellow at the Heritage Foundation.

On March 5, 1997, the Task Force reconvened in executive session to receive testimony from Representatives Julian Dixon, Jim Bunning, Stephen Buyer, Lamar Smith, Christopher Shays, and Paul McHale. The Task Force also heard testimony from Jonathan S. Feld, a Washington, D.C. attorney who represented a respondent before the Committee during the 104th Congress.

On March 6, 1997, the Task Force held its final hearing, at which it received testimony in executive session from James M. Cole, Special Counsel to the Standards Committee during the 104th Congress; J. Randolph Evans, counsel to a respondent before the Committee during the 104th Congress; and Edward Bethune, a former House Member who served as co-counsel with Mr. Evans to the same respondent.

Following the completion of the hearings, the co-chairmen presented to the Task Force an outline of issues relating to the existing standards process to serve as a guide to the Task Force's deliberations.<sup>4</sup> Task Force members supplemented the outline with additional issues throughout the deliberative process.

Between March 12 and March 21, 1997, the Task Force met five times to discuss the various issues set forth in the outline presented to them by the co-chairmen. In order to facilitate a more candid exchange of views and proposals, the Task Force's deliberations occurred in executive session and were not recorded or transcribed.

On April 8, 1997, the co-chairmen presented the Task Force with a draft Resolution for discussion. Based on the consensus reached during the Task Force's deliberations, the draft Resolution recommended several changes to the House rules regarding the existing House standards process, as well as significant changes to the rules of the Standards Committee. During the period of April 8 to

---

<sup>4</sup>The outline was organized into six topics: (1) structural reform; (2) access to the ethics process and the disposition of complaints; (3) grounds for initiating investigations and charging members with violations; (4) conduct of the investigation; (5) due process for respondents; and (6) the final disposition of ethics cases.



April 23, 1997, the Task Force met seven times to consider and debate the draft Resolution.<sup>5</sup> Task Force members offered numerous amendments to the draft Resolution.

On May 7, 1997, the co-chairmen presented Task Force members with a revised draft Resolution for their review. After further discussion, the Task Force voted unanimously to close the amendment process and schedule a final vote on the draft Resolution and its accompanying Report. The Task Force also agreed that any further amendment to the draft Resolution could occur only by a joint amendment offered by both co-chairmen.

Thereafter, a draft Report to the House explaining the recommendations contained in the Resolution was prepared under the direction of the co-chairmen. On the evening of June 12, 1997, the staff began distributing the draft Report to Task Force members for their review. On June 17, 1997, the Task Force reconvened in executive session and voted to adopt the Resolution and accompanying Report.

### III. SUMMARY OF RECOMMENDATIONS

The Task Force recommends the following changes to the Rules of the House and the Rules of the Standards Committee. It has grouped the description of these recommended changes under various objectives, the accomplishment of which it believes will ultimately improve the trust and confidence that the Members, and the American people, have in the House standards process.

#### NONPARTISAN OPERATION OF THE STANDARDS COMMITTEE

- The Standards Committee staff shall be nonpartisan, professional, and available as a resource to all Members of the Committee (Section 4).
- The ranking minority member shall have an equal opportunity to place matters on the Committee's agenda (Section 3).

#### CONFIDENTIALITY OF THE STANDARDS COMMITTEE'S WORKINGS

- All Standards Committee meetings and proceedings (except adjudicatory and sanction hearings) shall occur in closed session, unless otherwise voted open by a majority of the Committee (Section 5).
- Members, as well as staff, shall take a confidentiality oath regarding matters learned while serving on the Standards Committee (Section 6).
- Roll call votes of the Standards Committee, or any subcommittee thereof, may be released only by a majority vote of the full Committee (Section 8).

<sup>5</sup>On April 11, 1997, the original moratorium on the filing of ethics complaints was extended by unanimous consent of the House until April 14, 1997. On April 14, 1997, the House again extended the moratorium by unanimous consent to May 2, 1997. These extensions were followed by further extensions to enable the Task Force to complete its debate of the draft Resolution and prepare a report to the House.

- Respondent, and his counsel, shall execute a non-disclosure agreement regarding the content of any discovery material provided to them prior to the vote to adopt a Statement of Alleged Violation (“SAV”) (Section 16).

- The Standards Committee, by a two-thirds vote, may directly report any substantial evidence of a violation of the law to the appropriate state or federal authorities (Section 18).

IMPROVED SYSTEM FOR FILING INFORMATION OFFERED AS A COMPLAINT

The three-Member refusal rule shall be abolished as a prerequisite to “direct” filing by non-Members (Section 9).

- Non-Members shall be able to directly file information offered as a complaint upon the satisfaction of a “personal knowledge” requirement (Section 10).

- Non-Member filers who base information offered as a complaint exclusively upon newspaper articles shall not have the requisite “personal knowledge” (Section 10).

- Members who sponsor a non-Member’s filing of information offered as a complaint shall certify that the complainant is acting in “good faith” and that the matter described in the filing warrants the attention of the Committee (Section 9).

EFFICIENT ADMINISTRATION OF THE STANDARDS COMMITTEE

- Only the chairman and ranking minority member may conduct initial fact-gathering (Section 11).

- Subpoenas issued by an investigative subcommittee may be authorized and issued only by a majority vote of the members of the subcommittee (Section 15).

- The scope of a subcommittee’s investigation may be expanded by a majority vote of the members of that subcommittee (Section 15).

- An investigative subcommittee may amend its SAV anytime prior to transmitting the SAV to the full Committee (Section 15).

- When an adjudicatory hearing is waived, the members of the Committee shall have at least 72 hours to review an SAV and the related subcommittee report, prior to voting to adopt sanctions or to adopt the subcommittee’s report (Section 17).

DUE PROCESS FOR MEMBERS, OFFICERS, AND EMPLOYEES

- Respondents shall be provided a draft of the SAV, and all of the evidence the investigative subcommittee intends to introduce to prove it, prior to the subcommittee’s vote to adopt the SAV (Section 16).

- Written notice shall be provided to the respondent of an unsuccessful vote to establish an investigative subcommittee (Section 16).
- Written notice shall be provided to the respondent that an investigative subcommittee has voted to authorize its first subpoena or take testimony under oath, whichever occurs first (Section 16).
- Statements or information derived solely from a respondent or his counsel during settlement discussions shall be treated as confidential, unless waived by the respondent (Section 16).
- Settlement agreements shall be in writing, unless the respondent requests otherwise (Section 16).
- The investigative subcommittee shall provide the respondent a draft of its report at least 15 days prior to its adoption and the opportunity to submit views for attachment or inclusion therewith to the full Committee (Section 17).
- Written notice shall be given to the respondent of any expansion of the scope of the investigation by an investigative subcommittee (Section 16).
- The evidentiary standard to vote an SAV against a respondent shall be increased from “reason to believe” to a “substantial reason to believe” a violation has occurred (Section 16).

#### GREATER INVOLVEMENT BY MEMBERS IN THE PROCESS

- A twenty-person “pool” of members (ten Republicans and ten Democrats) shall be created to supplement the Standards Committee membership as potential appointees to investigative subcommittees (Section 1).
- The maximum service on the Committee shall be decreased from six years to four years during any period of three successive Congresses (Section 2).
- No fewer than four members shall be rotated off of the Committee at the end of each Congress (Section 2).

#### TIMELY RESOLUTION OF MATTERS BEFORE THE STANDARDS COMMITTEE

- The chairman and ranking minority member shall determine whether information offered as a complaint constitutes a complaint within 14 calendar days or 5 legislative days (Section 11).
- The time for informal fact-gathering by the chairman and ranking minority member shall be limited (Section 11).
- The chairman and ranking minority member may recommend the resolution of a matter to the full Committee in any manner that does not require action by the House (Section 11).

## IV. SECTION-BY-SECTION ANALYSIS

## SECTION 1. USE OF NON-COMMITTEE MEMBERS

The first issue the Task Force considered was whether the current standards process should be restructured by utilizing persons other than members of the Standards Committee to comprise investigative and adjudicatory subcommittees. The Task Force heard testimony from several witnesses who proposed that distinguished private citizens—such as retired judges and former House members—should supplement or replace House Members in the fact-finding and other functions currently performed only by members of the Standards Committee. Alternatively, the Task Force considered proposals to augment the limited resources of Committee members with non-Committee Members of the House.

Witnesses favoring the inclusion of private citizens to investigate and judge ethics cases commented that the participation of such “outsiders” would enhance public trust and confidence in the standards process by mitigating the perception that House Members face an inherent conflict of interest when they judge their fellow Members. Others maintained that reliance on private citizens would minimize the possibility that political partisanship might affect the disposition of ethics cases.

The Task Force opted to forego the recommendations that non-House Members participate in disposing of misconduct allegations. Task Force Members were concerned with the explicit Constitutional responsibility of the House. They expressed the view that House Members better understand the rules, customs, and practices of the House, and they expressed the strong preference that House Members accused of misconduct be judged by their peers. However, the Task Force recognized the need to broaden the group of potential investigators beyond the Standards Committee membership. Therefore, the Task Force adopted the recommendation that a bipartisan reserve “pool” of House Members be established to serve on investigative subcommittees as designated.

Section 1 of the Task Force Resolution amends current House Rules to establish procedures for the designation of non-Committee House Members to perform investigative functions currently performed only by Committee members. At the beginning of each Congress, the Speaker and minority leader (or their designees) each will designate 10 members from their respective parties, who are not currently members of the Standards Committee for potential service on an investigative subcommittee. Whether such non-Committee Members actually will be designated to serve will depend on the investigative demands confronting the Committee and the workload of Committee members. Whenever the Committee chairman and ranking minority member jointly determine that designated “pool” Members should be assigned to serve on an investigative subcommittee of the Committee, an equal number of members from the respective political parties will be designated from the “pool” to serve on the subcommittee. Service on the subcommittee by “pool” Members will not count against the limitation on subcommittee service contained in clause 6(b)(2)(A) of House Rule X, which prohibits Members from serving simultaneously on more than four subcommittees of the standing committees of the House.

Under this new process, an investigative subcommittee could consist exclusively of designated non-Committee Members. Because Committee members may be expected to have greater familiarity with applicable rules and precedent, however, the Task Force recommends that subcommittees to which non-Committee Members are appointed be divided evenly between Committee members and designated non-Committee Members. Preserving this balance will help to ensure consistency and predictability in the application of House and Committee rules and precedent.

Designated House Members selected for service in the “pool” will serve only on one investigative subcommittee during each Congress, and that assignment may continue into a successive Congress. In order to ensure consistency between and within Congresses as to Standards Committee rulings and judgements, adjudicatory proceedings and sanction hearings will continue to be conducted solely by Committee members.

The Task Force believes that establishing a reserve pool of Members to assist in ethics investigations will improve the current system in two ways. First, the onerous time burdens shouldered by Committee members will be alleviated, particularly in the event that several investigations are occurring simultaneously. Second, the inclusion of non-Committee Members in the investigative process may help to educate Members at large about applicable rules and laws governing the conduct of Members, and facilitate greater understanding within the House of the unique challenges confronted by members of the Standards Committee.

The Task Force reiterates its support for the continuation of the bifurcation system<sup>6</sup> based on the importance of avoiding prejudgment of information filed as a complaint. Bifurcation creates a “firewall” between the Committee functions of investigation and adjudication, ensuring that Committee members who charge a respondent with a violation do not also participate in a judgment of whether liability has been established. It also allocates responsibility within the Committee so that the review of information offered as a complaint is less time-consuming for members of the Committee and is consistent with the confidentiality imposed on the complaint process. For these reasons, the Task Force encourages Committee members to protect the integrity of the “firewall” to the greatest degree possible.

## SECTION 2. DURATION OF SERVICE ON THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The Task Force Resolution shortens the duration of service for members of the Standards Committee. Under current House Rules,<sup>7</sup> House Members may serve up to six years on the Committee in any period of five successive Congresses (i.e., during a ten-year period). In recent years, Committee members regularly served terms of six consecutive years. As time demands and other unique pressures confronting Committee members grew, service on the

<sup>6</sup>The Ethics Reform Act of 1989 established a “bifurcation” of the investigation and adjudication of ethics complaints before the Standards Committee.

<sup>7</sup>House Rule X, clause 6(a)(2).

Committee became more burdensome, often at the expense of Committee members' work on legislative matters.

Section 2 reduces from six to four years the maximum amount of service on the Committee during any period of three successive Congresses (i.e., during a six-year period). In order to take advantage of the experience gained by Committee members after service for four years, the Task Force concluded that Committee members who already have served four years may extend their service by a maximum of two additional years to serve as chairman or ranking minority member.

Section 2 also specifies that not less than four members of the Committee—two from each political party—must rotate off the Committee at the end of each Congress. Current House rules impose only a six-year limitation on Committee service, without requiring rotations off the Committee at the end of each Congress. The new rule will ensure the orderly, systematic turnover on the Committee, while ensuring that the Committee retains experienced Members.

#### SECTION 3. COMMITTEE AGENDAS

One of the principal goals of the Task Force was to identify ways to enhance the bipartisan nature of the Committee. One way to promote this goal is by ensuring that the majority and minority are provided with equal opportunity to place matters on the Committee's agenda.

Under current House and Committee rules, the authority of the chairman to set the agenda of the Committee is implicit in his authority to call meetings of the Committee. Although the administration of the Committee historically has been characterized by bipartisan collegiality, the rules have not assured the right of the ranking minority member to place items on the agenda.

Section 3 institutionalizes a bipartisan approach to setting the Committee's agenda. While it requires the Committee to establish rules providing that the chairman establish the agenda for Committee meetings, it allows the ranking minority member to place any item on the agenda.

#### SECTION 4. COMMITTEE STAFF

In order for the Standards Committee to function effectively, its professional staff must operate in a completely nonpartisan manner, and each member of the staff must have the trust and confidence of all Committee members. A nonpartisan staff is also essential to engendering confidence, both within and outside the House, in the impartiality of the Committee as a whole.

Unlike the rules of the Senate Select Committee on Ethics, current Standards Committee rules are silent on the subject of hiring Committee staff and the importance of a nonpartisan staff. Clause 6(a)(1) of House Rule XI provides only that each standing committee of the House may appoint professional staff members by a majority vote of the committee (i.e., a majority of a quorum). In addition, House and Committee rules are silent concerning the hiring of outside counsel.

Section 4 of the Task Force Resolution requires the Committee to adopt rules governing the hiring and conduct of professional

staff. Modeled on rules of the Senate Select Committee on Ethics, Section 4 requires that the Committee staff be assembled and retained as a professional, nonpartisan staff, and that all staff members must be appointed by an affirmative vote of a majority of the members of the Committee, thereby ensuring that each hiring decision has bipartisan support.

In what constitutes a grant of new authority, Section 4 of the Task Force Resolution permits the Committee chairman and ranking minority member to each appoint one individual as a shared staff member from his personal staff to perform service for the Committee. Such shared staff may work on an investigative subcommittee only if the chairman or ranking minority member for whom the shared staffer works has assigned himself to that subcommittee. To afford the Committee additional flexibility in circumstances where work demands may exceed current staff capacity, Section 4 also authorizes the Committee to retain staff members for the purpose of a particular investigation or other proceeding, provided that such staff is retained only for the duration of that particular investigation or other proceeding.

The rules to be adopted by the Committee must state explicitly that each member of the professional staff, including shared staff, shall perform all official duties in a nonpartisan manner. To enhance the appearance of impartiality, the rules also prohibit Committee staff (but not shared staff) from engaging in any partisan political activity that directly affects any congressional or presidential election. Thus, Committee staff (in contrast to other House employees) would be prohibited from working on a Federal election campaign, even on a volunteer basis. In addition, Committee staff (but not shared staff) would be prohibited from making financial contributions to campaign committees, political action committees, and national party organizations (i.e., "soft money" contributions).

Section 4 establishes a clear and flexible framework for the hiring of outside counsel. It provides that the Committee (subject to funding approval by the Committee on House Oversight) may retain counsel not employed by the House of Representatives whenever the Committee determines, by an affirmative vote of a majority of its members, that the retention of such counsel is "necessary and appropriate." Thus, the hiring of any outside counsel may occur only by means of a bipartisan vote of the Committee. Similarly, outside counsel may be dismissed only by an affirmative vote of a majority of the members of the Committee.

Section 4 also imposes new restrictions on professional Committee staff, shared staff, and outside counsel to enhance the confidentiality of the Committee's work. It provides that no member of the staff or outside counsel may accept public speaking engagements or write for any publication on any subject that is in any way related to his employment or duties with the Committee without specific prior approval from the chairman and ranking minority member. In addition, no member of the staff or outside counsel may make public, without Committee approval, any information, document, or other material that is confidential, derived from executive session, classified, or that is obtained during the course of employment with the Committee.

## SECTION 5. MEETINGS AND HEARINGS

Another important goal of the Task Force was to enhance the confidentiality of sensitive Committee operations and deliberations. One area where the Task Force was able to achieve this objective concerns Committee meetings and hearings.

Under clause 2(g)(1) of current House Rule XI, each Committee or subcommittee meeting to transact business must be open to the public unless the Committee or subcommittee, in open session, votes to close the meeting to the public. Under clause 2(g)(2) of House Rule XI, each hearing conducted by a House Committee or subcommittee must be open to the public unless the Committee or subcommittee, in open session and with a majority present, votes to close all or part of the hearing to the public. Consequently, under current House Rules, meetings of the Standards Committee at which sensitive matters may be discussed, as well as meetings of investigative subcommittees, are open unless voted closed. Motions to close an otherwise open meeting or hearing may prevail on the basis of a simple majority vote, a quorum being present.

The Task Force determined that existing rules should be changed to provide for greater confidentiality, while ensuring that the Standards Committee or a subcommittee thereof retains the necessary flexibility to close or open meetings or hearings. Section 5 of the Task Force Resolution amends clause 4(e)(3) of House Rule X to require that any meeting of the Standards Committee or any subcommittee thereof, must 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. Conversely, any hearing held by an adjudicatory subcommittee, or any sanction hearing conducted by the full Committee, must be open to the public unless the Committee, by an affirmative vote of a majority of its members, closes the hearing to the public. In both cases, the votes required under Section 5 of the Resolution are more demanding than under current rules, which require only a majority of a quorum to reverse the standard procedure.

## SECTION 6. CONFIDENTIALITY OATHS

Ensuring the confidentiality of Standards Committee deliberations and matters pending before the Committee is essential to protect the rights of individuals accused of misconduct, preserve the integrity of the investigative process, and cultivate collegiality among Committee members. Section 6 of the Task Force Resolution amends Clause 4(e) of House Rule X to require Committee members and staff—including shared staff and House Members designated as a “pool” of members—to execute a confidentiality oath before they have access to information that is confidential under Committee rules. The text of the proposed oath is as follows: “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.”

To underscore the seriousness with which the Task Force views this confidentiality oath, Section 6 of the Resolution states that the



requirement of the oath “establishes a standard of conduct” within the meaning of clause 4(e)(1)(B) of House Rule X. Section 6 also provides that breaches of confidentiality shall be investigated by the Standards Committee, and that appropriate action shall be taken. Thus, a proven violation of the confidentiality oath by a member or employee of the Committee would be a violation of House rules.

#### SECTION 7. PUBLIC DISCLOSURE

Circumstances may develop when it is necessary and appropriate for the chairman or ranking minority member of the Standards Committee to comment publicly on matters before the Committee. It may be appropriate, for example, to respond to misinformation about actions taken by the Committee, the status of matters before the Committee, or unauthorized press accounts of investigations.

Current Standards Committee rules prohibit the chairman and ranking minority member from making public statements about matters before the Committee, unless authorized by the Committee. Committee Rule 10(b) states that

Members and staff of the Committee *shall not disclose* to any person or organization outside the Committee, *unless authorized by the Committee*, any information regarding the Committee’s or a subcommittee’s investigative, adjudicatory or other proceedings, including, but not limited to: (i) the fact or nature of any complaints; (ii) executive session proceedings; (iii) information pertaining to or copies of any Committee or subcommittee report, study, or other document which purports to express the views, findings, conclusions, or recommendations of the Committee or subcommittee in connection with any of its activities or proceedings; or (iv) the conduct of a Member, officer, or employee. (Emphasis added.)

Similarly, Committee Rule 9 prohibits Committee members and staff from disclosing “any evidence relating to an investigation to any person or organization outside the Committee unless authorized by the Committee \* \* \*.”

Section 7 of the Task Force Resolution requires the Standards Committee to modify its rules to accord discretion to the chairman and ranking minority member to make public statements, while preserving the authority of the full Committee to limit or prohibit such statements. Under the rule change required by this section, either the Committee chairman or ranking minority member may make public statements regarding matters before the Committee or any subcommittee thereof, provided that the chairman or ranking minority member seeking to make a public statement first consults the other.

The recommended rule change does not require prior agreement between the Committee chairman and ranking minority member before one or the other makes a public statement. Rather, the proposed rule requires only prior consultation. In addition, joint public statements or appearances are not required, although they are strongly encouraged. Either the chairman or ranking minority member is free to issue his own public statement, provided the re-

quirement of prior consultation has been satisfied. The Task Force stresses that the chairman and ranking minority member, in exercising this authority, shall use caution so as not to compromise the confidentiality of matters pending before the Committee.

The Task Force recognizes that an investigative subcommittee may desire to issue a public statement concerning a matter under investigation. In that event, the subcommittee may not issue a public statement unilaterally. Rather, it must transmit a proposed public statement in writing to the full Committee chairman and ranking minority member, who, in their discretion, may release the statement under the procedures discussed above. However, in that circumstance, the Task Force recommends that such statements only be made jointly by the chairman and ranking minority member.

#### SECTION 8. CONFIDENTIALITY OF COMMITTEE VOTES

The Task Force concluded that the confidentiality of Committee proceedings also could be enhanced by amendments to House rules governing public access to information concerning roll call votes of standing committees. Under clause 2(e)(1) of House Rule XI, each committee must make available for public inspection the records of any roll call vote. Information available for public inspection pursuant to clause 2(e)(1) must include "a description of the amendment, motion, order, other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order or proposition, and the names of those Members present but not voting." Similarly, clause 2(l)(2)(B) of House Rule XI provides that "with respect to each roll call vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the Committee report on the measure or matter." Neither clause of House Rule XI contains any exemption for votes occurring in executive session.

Section 8 of the Task Force Resolution exempts the Committee on Standards of Official Conduct from the reporting requirement contained in clause 2(l)(2)(B) of House Rule XI. It also prohibits the Committee from providing public access to the results of roll call votes, as otherwise required by clause 2(e)(1) of House Rule XI, without an affirmative vote of a majority of the members of the Committee.

#### SECTION 9. FILINGS BY NON-MEMBERS OF INFORMATION OFFERED AS A COMPLAINT

Among the issues most extensively debated by the Task Force were possible amendments to the current House Rules regarding the filing by non-Members of information offered as a complaint with the Standards Committee. The current House rule provides two methods by which a non-Member can file information offered as a complaint. Under clause 4(e)(2)(B) of House Rule X, an individual who is not a Member of the House may submit information offered as a complaint "directly" with the Standards Committee only if at least three House Members previously have refused in writing to transmit the complaint to the Committee. A non-Member

may also file information offered as a complaint indirectly if a Member of the House transmits information from the non-Member to the Committee. The rules regarding such a transmittal, however, do not presently require the Member to certify either the “good faith” of the complainant or the Member’s assessment that the allegations warrant the Committee’s attention.

The Task Force concluded that the two present methods for non-Member filing needed modification in order to enhance public confidence in the House standards process and increase Member accountability in the situation where a Member sponsors a non-Member’s information offered as a complaint. With regard to “direct” filing by non-Members, the Task Force recommends the elimination of the “three-refusal” rule as a precondition to “direct” filing. The Task Force found that conditioning access by non-Members to the complaint procedures of the Standards Committee on the refusal of Members to transmit a complaint to the Committee has not worked as intended. The refusal of three Members to transmit to the Committee information offered as a complaint by a non-Member should indicate that the information does *not* merit serious examination by the Committee. The Task Force also concluded that, in recent years, the “three-refusal” rule has been used increasingly by Members as a device to support complaints originated by non-Members.

The Task Force accordingly recommends that the “three-refusal” rule be abolished. In its place, the Task Force recommends a system of *actual* direct filing by non-Members who can satisfy requirements (the “personal knowledge test”) which are specified in Section 10 of the Resolution, as well as those requirements presently required for filing a complaint under current rules. By “opening up” the procedures for submitting information offered as a complaint to the Committee, the Task Force believes it will engender greater public confidence in the standards process and ameliorate the perception that the standards process is designed to insulate House Members from legitimate allegations of misconduct by outsiders.

With regard to *indirect* filing, the Task Force recommends strengthening the current transmittal method by proposing a new “sponsorship” system, whereby the Member certifies to the Standards Committee his belief that the complainant is acting in “good faith” and that the allegations the non-Member is transmitting warrant the review and consideration of the Committee. In this situation, however, the information offered as a complaint by the non-Member need not meet the new “personal knowledge” test for non-Members seeking to file directly with the Standards Committee.<sup>8</sup>

#### SECTION 10. REQUIREMENTS TO CONSTITUTE A COMPLAINT

In recommending the elimination of the “three-refusal” rule, the Task Force recognizes the need to set different standards to protect the system against potential abuse by those over whom the Standards Committee has no jurisdiction. Section 10 of the Task Force Resolution sets forth new requirements that non-Members filing directly with the Committee must satisfy in order for information offered as a complaint to be accorded the status of a properly filed

<sup>8</sup>In order to constitute a properly filed complaint, the information transmitted must be under oath and meet other threshold requirements specified in Committee rules.

complaint. These requirements, representing the Task Force's best effort to achieve a consensus with regard to direct non-Member filing, are embodied in a "personal knowledge" requirement which excludes filings based exclusively on newspaper stories.

A non-Member directly filing information offered as a complaint with the Standards Committee must satisfy one of two requirements in order to meet the requirements of a properly filed complaint. The individual must *either* have "personal knowledge" of the conduct which is the basis of the violation alleged in the information, *or* base the information offered as a complaint upon information received from another individual whom the complainant has "a good faith reason to believe has personal knowledge of such conduct." Alternatively, the complainant may base the information offered as a complaint on his personal review of documents, photographs, films, videotapes, or recordings that contain information regarding the conduct which is the basis of a violation alleged in the information offered as a complaint. Any documents relied on by the complainant must be documents kept in the ordinary course of business, government, or personal affairs. Such documents may include documents obtained from Federal, State, or local governments, records kept in the course of a regularly conducted business activity,<sup>9</sup> or regularly maintained personal records such as a checkbook or diary.

As defined by the Task Force, the "personal knowledge" test will impose a significant, but reasonable, threshold requirement upon non-Member complainants. Under Section 10 of the Resolution, a complainant or an individual from whom the complainant obtains information will be found to have personal knowledge of conduct which is the basis of the alleged violation if the complainant or that individual "witnessed or was a participant in such conduct \* \* \*." Thus, the non-Member filer may base information offered as a complaint either upon his own personal knowledge or upon first-degree hearsay, provided that the filer has a good faith reason to believe that the source of his information actually witnessed or was a participant in the conduct which is the basis of the alleged violation. Second-degree hearsay—where the complainant's source received the information in question from a third party—would not suffice.

Moreover, Section 10 specifically provides that a non-Member lacks the requisite "personal knowledge" if the information he offers as a complaint consists solely of information contained in a news or opinion source or publication, even if the filer believes it to be true. Such information, however, can still be an exclusive

<sup>9</sup>The Task Force intends that the type of business records referred to in the Resolution be similar to the type admissible as hearsay pursuant to Rule 803(6) of the Federal Rules of Evidence. Items admissible under Rule 803(6) consist of "[a] memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation \* \* \*. The term 'business' as used in this [rule] includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit." For purposes of determining whether the information offered as complaint meets the requirements of Committee rules for what constitutes a complaint, the Committee would not be required to authenticate business records on which the allegations were based by means of testimony of the record custodian or other qualified witness, as would be required of the party offering such evidence in a Federal judicial proceeding.

basis for information offered as a complaint by a non-Member if it is sponsored by a Member who certifies in writing that he believes the information is submitted in good faith and warrants the review and consideration of the Standards Committee. As under current rules, a Member may personally file information offered as a complaint based exclusively upon a newspaper article, and the Committee may self-initiate an investigation based on news reports or similar matter.

Finally, one of the leading concerns about the standards process expressed by Task Force members, and others, is the length of time used to resolve allegations of misconduct. There is a perception, both within and outside of the House, that the Standards Committee is sometimes faced with endless delays or periods of unexplained, noninvestigatory, inaction. To minimize such delay and inactivity in assessing whether there is initial compliance with the requirements for constituting a complaint, the Task Force recommends the establishment of a deadline for that determination. Subsection (b) of Section 10 of the Task Force Resolution directs the Standards Committee to 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 what constitutes a complaint under the Committee's rules.

The Task Force intends that the determination of whether information submitted to the Standards Committee constitutes a properly filed complaint will be made jointly by the chairman and ranking minority member. If the chairman and ranking minority member agree that it does not meet the requirements for a complaint, they are not obligated to take any further action on the matter except to notify the appropriate parties pursuant to current Committee rules.<sup>10</sup> If they disagree over whether information offered as a complaint meets the requirements to constitute a complaint, either may submit the matter to the full Committee for resolution. In that situation, if the Committee, by an affirmative vote by a majority of its members, finds that the information submitted to the Committee meets the requirements of a properly filed complaint, the Committee may proceed to exercise any of the options available for the disposition of a complaint. If the Committee is deadlocked on the threshold procedural issue, the information submitted to the Committee as a complaint may not be accorded the status of a complaint.

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

Task Force members agreed that information deemed to constitute a proper complaint, whether by the chairman and ranking member, acting jointly, or by a majority vote of the full Standards Committee, should not remain pending before the full Standards Committee for an indeterminate period of time. For reasons similar

<sup>10</sup>The process which occurs when the chairman and ranking minority member agree that the information submitted does constitute a complaint is described in Section 11 below.

to those explained above regarding the establishment of a deadline in which to determine whether information offered as a complaint meets the procedural requirements under the rules, the Task Force decided it would be appropriate to assign a deadline either for disposing of a properly filed complaint or submitting it to an investigative subcommittee. Task Force members also agreed that the chairman and ranking minority member, but not the full Committee, should have the discretion to engage in informal fact-gathering in order to make an informed judgment about how to dispose of a complaint.

Under current Standards Committee rules, the scope of informal fact-gathering is limited. The chairman and ranking minority member may direct staff only to “request information from the respondent prior to the consideration of a Resolution of Preliminary Inquiry.”<sup>11</sup> Despite this limitation, the full Committee often has conducted fact-gathering. The Task Force decided to codify rules regarding fact gathering at the full Committee level to ensure that the chairman and ranking minority member have sufficient information to make a recommendation. In addition, the Task Force believes that such clarification will help to ensure that the bifurcation system is not compromised.

As discussed earlier in Section 1, the bifurcation system was created to ensure that the investigatory phase and the adjudicatory phase of the standards process are kept completely separate, much like a grand jury is kept separate from the trial jury. Therefore, it is imperative that those Committee members sitting on an adjudicatory subcommittee not participate in the investigation of a complaint, including initial fact-gathering. Although the chairman and the ranking minority member may sit on an adjudicatory subcommittee, by limiting the initial fact-gathering to only those two Members and by limiting the initial fact gathering only to information that is necessary to determine how to initially dispose of the complaint, the Task Force believes that the bifurcation system can be preserved.

Therefore, under Section 11, whenever the chairman and ranking minority member of the Standards Committee jointly determine that information offered as a complaint meets the requirements of the Committee’s rules for what constitutes a complaint, they must take action regarding the complaint within 45 calendar days or 5 legislative days, whichever is later. During that period, the chairman and ranking minority member may jointly gather additional information concerning the alleged conduct which is the basis of the complaint. Fact-gathering by the chairman and ranking minority member would be informal and limited during this preliminary period to information necessary for them to ascertain whether to make a recommendation to the Committee that the complaint be disposed of in a manner that does not require action by the House, or that an investigative subcommittee be established to investigate counts within the complaint. The Task Force intends that the chairman and ranking minority member will not seek to issue subpoenas, and that any fact-gathering will be limited to unsworn witness interviews and requests for the voluntary production of docu-

---

<sup>11</sup> See Standards Committee Rule 15(d).

ments. The Task Force also intends that such fact-gathering will be carried out only by the chairman and ranking minority member and such Committee staff as they may assign to the matter, rather than by the full Committee.

By the end of the requisite time period, the chairman and ranking minority member must take one of three actions, unless the Committee, by an affirmative vote of a majority of its members, votes otherwise. First, the chairman and ranking minority member may 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. For example, they may recommend that the Committee dismiss the complaint or resolve it by means of a letter to the respondent. The ultimate decision regarding how to dispose of the complaint would remain vested in the full Committee.

Second, if the chairman and ranking minority member agree that the complaint (or any portion thereof) should be forwarded to an investigative subcommittee, they may jointly establish an investigative subcommittee without submitting that question to a vote by the full Committee. In that regard, the Task Force recommends the elimination of the current threshold for the establishment of an investigative subcommittee, whereby the full Committee, by an affirmative vote of a majority of its members, must first determine that allegations "merit further inquiry." In addition, the full Committee no longer would be required to adopt a "Resolution of Preliminary Inquiry," as presently required by Committee rules,<sup>12</sup> to specify the scope of an investigative subcommittee's investigation. By eliminating the standard of "merits further inquiry" and the need to adopt a Resolution of Preliminary Inquiry, the Task Force intends that no undue inference be drawn from the establishment of an investigative subcommittee. The Task Force intends, additionally, that the chairman and ranking minority member specify in writing to the chairman and ranking minority member of the investigative subcommittee those counts or allegations within the complaint that should be investigated.

Third, because the Task Force recognizes that it may prove difficult in some cases to complete informal fact-gathering within the specified period of 45 calendar days or 5 legislative days, particularly if the chairman and ranking minority member are awaiting the production of documents, Section 11 also authorizes the chairman and ranking minority member to request that the Committee extend the original time period by one additional period of 45 calendar days if the chairman and ranking minority member determine that more time is necessary in order to make a recommendation to the Committee about how to dispose of the complaint. To minimize delay, only one such extension is permitted under the proposed rules.

Subsections (c) and (d) of Section 11 address the circumstance in which the chairman and ranking minority member have jointly determined that information submitted to the Standards Committee meets the requirements for what constitutes a complaint, but the complaint is not disposed of within the requisite period of 45 calendar days or 5 legislative days (or an extension of that period) and

---

<sup>12</sup>See Standards Committee Rule 15(f).

an investigative subcommittee has not been established. In that event, the chairman and ranking minority member must establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration.<sup>13</sup> As indicated above, neither the chairman and ranking minority member, nor the full Committee, would be required to make a threshold determination that the complaint “merits further inquiry,” or adopt a Resolution of Preliminary Inquiry.

Automatic transmittal of the complaint to a subcommittee could not occur, however, if either the chairman or ranking minority member, at any time during the above-specified time period, placed on the Committee’s agenda the issue of whether to establish an investigative subcommittee concerning the complaint. Such action would be taken if, for example, the chairman or ranking minority member disagreed about whether a given complaint should be forwarded to an investigative subcommittee and one of them desired a vote on that question by the full Committee. Once that issue is placed on the Committee’s agenda, the “45-day period” stops, and an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the Committee. In addition, any fact-finding by the chairman and ranking minority member also must cease upon the placing of that issue on the agenda, and no further fact-gathering may occur, unless the Committee, by an affirmative vote of a majority of its members, establishes an investigative subcommittee.<sup>14</sup>

The Task Force stresses that merely placing the complaint on the Committee’s agenda for the purpose of general discussion or debate will not impede the transmittal of the complaint to an investigative subcommittee. For example, a complaint may be placed on the agenda to dismiss one of the counts contained in the complaint. Rather, the chairman or ranking minority member will have to place on the agenda the specific issue of whether to establish an investigative subcommittee regarding the complaint in order to stop the progression of the “45-day period.”

The Task Force expects that in the vast majority of cases, the chairman and ranking minority member will agree on how to dispose of a complaint, and will make a joint recommendation to the full Committee. Because of the procedural consequences that result from placement on the Committee agenda of the issue of whether to establish an investigative subcommittee, the Task Force expects that such action by the chairman or ranking minority member will be viewed as the option of last resort. The Task Force includes this provision in the Resolution to avoid the possibility that a complaint against a House Member may be sent to an investigative subcommittee in the absence of a consensus between the chairman and

---

<sup>13</sup>The Task Force notes that this procedure and its related timetables apply only in the situation where a properly filed complaint is before the Committee. Neither the chairman nor ranking minority member, nor the Committee, would be required to take any particular action, or be prohibited from taking any particular action, in the situation where the Committee was determining whether to self-initiate an investigation. Even in that instance, however, the Task Force recommends that any preliminary fact-gathering be conducted by the chairman and ranking minority member (rather than by the full Committee), and that more formal investigative activity (e.g., subpoenas, depositions, and affidavits) be undertaken only by an investigative subcommittee.

<sup>14</sup>When voting to establish an investigative subcommittee the Committee will not have to determine whether the complaint (or any portion thereof) “merits further inquiry” or adopt a Resolution of Preliminary Inquiry.



ranking minority member, or a majority of the members of the full Committee, that such an investigation is necessary and appropriate.

The Committee has never been faced with a situation in which a complaint was sent to an investigative subcommittee and the subcommittee was unable to dispose of the complaint because of any deadlock. Subcommittees, by virtue of their size, tend to find collegial methods to resolve any differences. Nevertheless, the Task Force reviewed the deadlock issue because of its desire to avoid such an occurrence.

The Task Force considered a number of proposals to address a potential subcommittee deadlock, including: time limits, hiring special counsel, and full Committee review. The Task Force rejected placing time limits on the subcommittee, believing that they could encourage deadlock. In addition, the Task Force determined that automatically triggering the hiring of special counsel would encourage deadlock. Furthermore, the Task Force rejected full Committee review of the complaint for fear that such a review would compromise the bifurcated process.

The Task Force has a strong desire to have all complaints dealt with fairly yet expeditiously. The Task Force stresses that the subcommittee should make all possible efforts to resolve any differences and move the complaint towards disposal. However, if an investigative subcommittee determines that it is unable to dispose of a complaint referred to it, the Task Force recommends that the subcommittee report its inability to do so to the full Committee. The Task Force further recommends that the Committee take whatever action it deems appropriate in that circumstance, including the establishment of a new investigative subcommittee or the appointment of a special counsel. Should the Committee appoint a new subcommittee to consider the complaint, those members of the original subcommittee would be prohibited from serving on an adjudicatory committee for that same complaint.

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

Although the Task Force focused predominantly on how the Committee should dispose of information deemed to meet the requirements of a complaint, it also addressed what steps should be taken if such information is determined not to constitute a complaint. The Task Force reviewed the issue of submissions of information either offered as a complaint or offered merely for informational purposes. Section 12 states that if the chairman and ranking minority member jointly determine that information offered as a complaint does not meet the requirements of what constitutes a complaint, as set forth in the Committee's rules, they may return the information to the complainant with a statement that it fails to meet the requirements of what constitutes a complaint. Although not mandatory, the Task Force expects that most filings offered as a complaint which are procedurally deficient will result in letters from the Committee to the complainant advising the complainant that the filing did not meet the requirements of a complaint con-

sistent with current Standards Committee rules.<sup>15</sup> Alternatively, the chairman and ranking minority member may recommend to the Committee that it authorize the establishment of an investigative subcommittee, consistent with the Committee's long-standing discretionary authority to self-initiate investigations.

Any determination by the chairman and ranking minority member that information offered to the Committee as a complaint did not meet the requirements for what constitutes a complaint would be without prejudice to whether the information later could be re-submitted to the Committee for consideration as a complaint.

With regard to submissions of information offered merely for informational purposes, the Task Force intends for the Committee to accept such information even though the Committee is not obligated to act on that information. The Task Force understands that there are situations where a Member or non-Member purposely forwards information to the Committee in a less formal manner than those required in the House and Committee rules. The Task Force recognizes the desire of some individuals to forward information to the Committee without imposing requirements on the Committee to act, and recommends that the Committee consider such information on its merits. The Task Force acknowledges that the Committee will retain discretion as to whether investigative action is warranted.

#### SECTION 13. INVESTIGATIVE AND ADJUDICATORY SUBCOMMITTEES

There was consensus among Task Force members that the Standards Committee functions more effectively and efficiently with fewer members. The Task Force therefore recommends that the Committee henceforth be comprised of ten Members, rather than the fourteen Members as required by Section 803(b) of the Ethics Reform Act of 1989.<sup>16</sup> The Task Force concluded that a smaller Committee will help to facilitate consensus and decision-making within the Committee.

Based on the conclusion that the full Committee will consist of ten members, Section 13 of the Task Force Resolution directs the Committee to amend its rules concerning the size of investigative and adjudicatory subcommittees. Under current Committee rules, an investigative subcommittee may consist of four or six members. Consistent with the objective of creating smaller working groups, and of reducing the workload of Members, Section 13 specifically limits investigative subcommittees to four Members (with equal representation from the majority and minority parties). Investigative subcommittees may consist of four full Committee members, four non-Committee House Members selected from the "pool" provided for in Section 1 of the Task Force Resolution, or they may contain a combination of two full Committee members and two "pool" Members. Section 13 also provides that adjudicatory subcommittees shall consist of the remaining members of the Commit-

<sup>15</sup> Under Standards Committee Rule 15(b), if a complaint filed with the Standards Committee is deemed to be procedurally deficient, the Committee must return the complaint to the complainant with a copy of House and Committee rules "and a statement specifying why the complaint is not in compliance. *The respondent shall be notified when a complaint is returned and provided the reasons therefor.*" (Emphasis added.)

<sup>16</sup> Pub. L. No. 101-194, Nov. 30, 1989.

tee who did not serve on the investigative subcommittee (i.e., six to ten members).

In order to promote greater flexibility, and to accommodate any unexpected assignment issues arising out of the newly created Member “pool” system, the Task Force recommends that Committee rules be amended regarding the selection of a chairman and ranking minority member appointed to investigative and adjudicatory subcommittees. Under current Committee rules,<sup>17</sup> the senior majority and minority members of an investigative subcommittee must serve as the chairman and ranking minority member of the subcommittee. Committee rules also currently provide that the chairman and ranking minority member of the full Committee must serve as the chairman and ranking minority member of an adjudicatory subcommittee.<sup>18</sup>

Section 13 vests discretion in the full Committee chairman and ranking minority member regarding the designation of a chairman and ranking minority member for investigative and adjudicatory subcommittees. It provides that at the time of appointment, the chairman of the full Committee must designate one member of the subcommittee to serve as chairman, and the ranking minority member of the full Committee must designate one member of the subcommittee to serve as the ranking minority member, of investigative and adjudicatory subcommittees. Thus, the appointment of a subcommittee chairman and ranking minority member no longer would be based on seniority.

To preserve the integrity of the bifurcation system, the Task Force also recommends changes to the Standards Committee rules regarding the role of the full Committee chairman and ranking minority member when they serve on investigative subcommittees. Under current Committee Rule 6(a), the full Committee chairman and ranking minority member may serve on an investigative subcommittee as non-voting, ex officio, members. The Task Force believes that the adjudicatory phase of the bifurcation system might be compromised in that situation, as the full Committee chairman and ranking minority member could learn information during the investigation that could affect their ability to render an impartial judgment during the subsequent adjudication. Thus, in Section 13, the Task Force recommends that the current Committee rule be amended to authorize the full Committee chairman and ranking minority member to appoint themselves to an investigative subcommittee, but not as non-voting, ex officio members of the subcommittee.

#### SECTION 14. STANDARD OF PROOF FOR ADOPTION OF STATEMENT OF ALLEGED VIOLATION

Throughout its deliberations, the Task Force was mindful of the adverse consequences of an ethics investigation for a House Member accused of misconduct, particularly if an investigative subcommittee adopts an SAV. Under current Standards Committee rules, an investigative subcommittee may adopt an SAV if it determines that there is “reason to believe” that a violation occurred. It

<sup>17</sup> See Standards Committee Rule 6(a).

<sup>18</sup> See Standards Committee Rule 19(a).

was the Task Force's belief that past subcommittees frequently adopted an SAV upon belief that the evidence of a violation was substantial in nature.

Therefore, in Section 14 of the Resolution, the Task Force directs the Standards Committee to amend its rules regarding the standard of proof for adopting an SAV. Under the Task Force's recommendation, an investigative subcommittee may adopt an SAV 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 has occurred.

#### SECTION 15. SUBCOMMITTEE POWERS

The Task Force examined the powers of investigative and adjudicatory subcommittees of the Standards Committee with the goal of more clearly defining certain powers and ensuring that the exercise of those powers is accompanied by appropriate and adequate due process for respondents.

The Task Force determined that current Committee rules concerning the expansion of the scope of an investigation by an investigative subcommittee are unclear. Those rules provide only that "[a] Statement of Alleged Violation may include offenses beyond those referenced in the Resolution of Preliminary Inquiry."<sup>19</sup> The rules do not expressly authorize the subcommittee to expand the scope of an investigation, impose any procedural requirements for expanding the scope of an investigation, or expressly address whether the subcommittee should first consult with, or obtain the approval of, the full Committee. In Section 15 of the Resolution, the Task Force, in order to maximize the discretion of the subcommittee and to avoid compromising the bifurcation system, recommends that the Committee adopt rules specifically authorizing an investigative subcommittee to expand the scope of an investigation upon an affirmative vote of a majority of its members. The subcommittee would not be required to obtain the approval of the full Committee prior to expanding the scope of an investigation.

Section 15 also addresses the subject of amendments to an SAV, which current Committee rules do not address. Under the Task Force proposal, an investigative subcommittee may, upon an affirmative vote of a majority of its members, amend an SAV anytime before it is transmitted to the full Committee. For example, if the subcommittee obtains new evidence warranting an additional charge not contained in the original SAV, it may amend the SAV. In the event of such an amendment, however, the respondent must be notified in writing and must be given 30 calendar days from the date of notification to file an answer to the amended SAV. In addition, as set forth in Section 16 of the Resolution, the subcommittee must provide the respondent the amended SAV and any new evidence it intends to introduce against the respondent to prove the additional counts prior to adopting the amended SAV.

The Task Force recommends tightening the requirements for the issuance of subpoenas by the full Committee and by investigative and adjudicatory subcommittees. With regard to subpoenas issued by the full Committee, clause 2(m)(2)(A) of House Rule XI provides

<sup>19</sup>Standards Committee Rule 17(d).

that the members of the Committee, by a majority vote, may authorize and issue subpoenas, but may delegate that authority to the chairman of the Committee. Authorized subpoenas must be signed by the chairman of the Committee or any member designated by the Committee. The Task Force Resolution amends that House rule by providing an exception for the Standards Committee. That exception eliminates the delegation authority in the House rule and provides that subpoenas may be issued by the full Committee only when authorized by a majority of the members voting, a majority being present. The Task Force, however, discourages the use of subpoenas by the full Committee and recommends that the use of this formal investigative tool be reserved, except in unusual circumstances, for investigative subcommittees.

With regard to subpoenas issued by investigative and adjudicatory subcommittees, current Committee rules provide that a subcommittee may, by a simple majority of its members, vote to issue a subpoena,<sup>20</sup> and that, in the case of an investigative subcommittee, the issuance of a subpoena requires the prior approval of the full Committee chairman and ranking minority member.<sup>21</sup> Thus, in an investigative subcommittee of four members, for example, a subpoena could be issued upon the affirmative vote of only two members of the same political party, if only three subcommittee members were present. In addition, the full Committee chairman and ranking minority member must review and sign each subpoena sought by an investigative subcommittee, thereby learning the identity of the person being subpoenaed.

The Task Force sought to ensure that there is bipartisan support for each subpoena issued, and that the bifurcation system be preserved. Accordingly, the Task Force Resolution provides that subcommittee subpoenas may now be issued only by an affirmative vote of a majority of subcommittee members. In addition, investigative subcommittees no longer must obtain the approval of the full Committee to issue a subpoena. This change further ensures the preservation of the bifurcation system, which is intended to segregate the investigative subcommittee members from the Committee members not serving on that subcommittee. If the subcommittee were required to approach the full Committee chairman and ranking minority member for authorization and issuance of a subpoena, even the identification of the names of the parties subpoenaed would constitute a partial breach of the bifurcation that is intended to exist for the duration of the subcommittee's investigation. That breach could be widened if the full Committee chairman and ranking minority member sought justification for the issuance of the subpoena. Therefore, granting the subcommittee the ability to issue subpoenas independently, but only by a vote of the majority of its members, will keep the subcommittee process confidential and maintain the integrity of the bifurcation system.

<sup>20</sup> Standards Committee Rules 8(b) and 17(a)(5).

<sup>21</sup> Standards Committee Rule 17(a)(5) states: "Unless the Committee otherwise provides, the [investigative] subcommittee subpoena power shall rest in the Chairman and Ranking Minority Member of the Committee \* \* \*"

## SECTION 16. DUE PROCESS RIGHTS OF RESPONDENTS

The Task Force reevaluated the balance between the need to preserve the integrity and confidentiality of the investigative and adjudicatory processes and the need to enhance the respondent's ability to work with the Committee to resolve the complaint in a way which would reflect creditably on the House. Section 16 sets forth a package of due process rights for future respondents which the Task Force believes maintains a balance between preserving the integrity of the process and the rights of the respondent to defend himself and, when appropriate, enter into a fair resolution of the matter.

Under existing Committee rules, a respondent is not entitled to review any evidence in support of allegations against him prior to the issuance of an SAV. In carrying out current Standards Committee rules,<sup>22</sup> past investigative subcommittees have made information available to respondents in order for them to be able to present their views to the subcommittees. However, under current Committee rules, not until fifteen days before the beginning of an adjudicatory proceeding is a respondent entitled to see any evidence intended to be used against him, and even then his right to evidence is extremely limited.<sup>23</sup> Therefore, Subsection 1 of Section 16 establishes a respondent's right to review both the SAV which the subcommittee intends to adopt (at least 10 days prior to the subcommittee vote on the SAV), together with all evidence the subcommittee intends to introduce against him regarding the charges contained in the SAV.<sup>24</sup> By providing this information to the respondent and his counsel, the respondent will have a more comprehensive knowledge of the evidence the subcommittee intends to use to prove the SAV, and a clear indication that there are at least three Members of the subcommittee prepared to vote in favor of the SAV.

Since there have not been any adjudicatory hearings to date under the current rules, there is no precedent with regard to respondents receiving this evidence in such circumstances. The Task Force determined that the Standards Committee must provide this evidence to respondents regardless of whether there is an adjudicatory hearing. Furthermore, the Task Force anticipates that providing such information will strongly encourage realistic and productive settlement negotiations between the parties.

---

<sup>22</sup> Standards Committee Rule 17(a)(3) states that an "[investigative] subcommittee shall provide the respondent an opportunity to present, orally or in writing, a statement, which must be under oath or affirmation, regarding the allegations and any other relevant questions arising out of the Preliminary Inquiry."

<sup>23</sup> Under Standards Committee Rule 19(f)(1), a respondent and his counsel are entitled only "to inspect, review, copy or photograph books, papers, documents, photographs, or other tangible objects that the adjudicatory subcommittee counsel intends to use as evidence against the respondent in a Disciplinary Hearing." The respondent is also entitled only to receive the names of witnesses the subcommittee intends to call, and a "summary of their expected testimony" (rather than transcripts of depositions or memoranda of witness interviews).

<sup>24</sup> An amendment to an intended SAV, either agreed to during settlement discussions or which does not add counts or materially change the substantive count(s), which were previously provided to the respondent, should not require an additional 10-day review period prior to its adoption. However, an amendment to an SAV, either prior to or after its adoption, which either adds count(s) or materially changes existing count(s), should require an additional 10-day review period and the immediate presentation to the respondent of whatever new evidence the subcommittee intends to introduce to prove the amended count(s).

The Task Force is mindful that circumstances could arise where the subcommittee would be compelled to protect the identity of a witness prior to publicly disclosing the SAV. Consequently, the Task Force specifically recommends that the subcommittee be empowered, by a majority vote of its members, to withhold certain evidence to protect the identity of a witness. In that event, however, the subcommittee must inform the respondent that evidence is being withheld for that reason and inform him of the charge(s) to which such evidence relates.

Subsection 2 of Section 16 additionally provides that neither the respondent, nor his counsel, shall directly or indirectly, contact the members of the investigative subcommittee during the disclosure period prior to the SAV vote, except for the sole purpose of settlement discussions where counsels for the respondent and the subcommittee are present. The Task Force believes this is necessary to avoid any ex parte communications with subcommittee members by the respondent or his counsel. While the Task Force wants to encourage candid settlement discussions, it does not want the ten-day period to become a strategic device by which the respondent, or his counsel, try to engage in either legal (e.g. motions) or nonlegal tactics (e.g., lobbying, unauthorized press accounts, etc.) calculated to prolong, influence, impede or frustrate the SAV vote.

Subsection 4 of Section 16 was added to guard against any premature leaks of the evidence provided to the respondent and his counsel. Under Subsection 4, both the respondent and his counsel would be required to agree, in writing, that no document, information, or other materials received from the subcommittee would be revealed publicly until the SAV is made public (if the respondent has waived his adjudicatory hearing), or at the commencement of an adjudicatory hearing (if the respondent does not waive such a hearing). The Task Force has further provided that a failure of the respondent or his counsel to so agree in writing, and therefore not receive the evidence, shall not preclude the issuance of the SAV at the end of the ten-day period.

As a corollary to these new rights, the Task Force recommends in Subsection 3 of Section 16 that the respondent be immediately provided, after an SAV has been adopted, with any evidence the Standards Committee or a subcommittee thereof later decides it intends to use in support of its case. The Task Force added this provision to accommodate two particular situations: (1) the situation where new evidence comes to the attention of the subcommittee after its adoption of an SAV; and (2) the situation where evidence possessed prior to the adoption of an SAV assumes a new significance after the SAV is voted and thereby warrants introduction at the hearing. The existence of this remedial provision to deal with a possible change of status regarding preexisting evidence is not intended to encourage or permit the Committee, subcommittee, or their respective counsel to take an overly conservative view of the evidence that should be provided to the respondent in the discovery period prior to the investigative subcommittee's adoption of an SAV.

Subsections 5 and 8 of Section 16 institute requirements for the Standards Committee or an investigative subcommittee to notify the respondent of certain developments in the investigative process

or the Committee's consideration of a complaint. Under Subsection 5, the respondent must be provided written notice whenever: (1) the chairman and ranking member determine that information the Committee has received constitutes a complaint; (2) a complaint or allegation is transmitted to an investigative subcommittee; (3) an investigative subcommittee votes to issue its first subpoena or take testimony under oath, whichever occurs first; and (4) an investigative subcommittee votes to expand the scope of its investigation. Each of these events represents a new development in the investigative process that a respondent should be advised of immediately, so that he can consult with, or retain, counsel.

Subsection 8 of Section 16 requires that notice be given to a respondent when a motion to establish an investigative subcommittee does not prevail at the full Committee level. As described previously with respect to Section 11 of the Task Force Resolution, the placing of this issue on the agenda of the full Committee would automatically conclude the time period established in that section for disposition of complaints by the full Committee. The Task Force anticipates that placing on the agenda of the full Committee the issue of whether to proceed to an investigative subcommittee will be rare, and that deadlock votes will be even less frequent. Recognizing the possibility that such deadlocks could occur, however, particularly in a situation where a complaint is viewed as partisan, the Task Force seeks to ensure that the respondent will receive immediate notice of an unsuccessful vote to establish an investigative subcommittee. While such notice would not constitute a dismissal, however, no further fact-gathering would occur without a majority vote of the members of the full Committee. The Task Force agreed that the respondent receive such notice in the form of the following letter:

DEAR RESPONDENT: Pursuant to Committee Rule \_\_\_\_, we are writing to advise you of a Committee vote taken concerning a complaint filed against you on \_\_\_\_\_, 199\_\_.

On \_\_\_\_\_, 199\_\_, a motion to establish an investigative subcommittee concerning that complaint was placed on the agenda of the Committee for a vote of the full Committee.

On \_\_\_\_\_, 199\_\_, the motion referred to above was voted on by the full Committee and did not prevail.

Sincerely,

Chairman

Ranking Minority Member

Subsections 6 and 7 of Section 16 concern settlement discussions and agreements. In Subsection 7, the Task Force recognized that settlement discussions between a respondent and an investigative subcommittee should be confidential. Accordingly, statements or information derived solely from a respondent or his counsel during settlement discussions shall not be included without the respondent's permission in any report of the Committee or a subcommittee thereof, or otherwise publicly disclosed (e.g., at an adjudicatory or



sanction hearing) without the consent of the respondent. Thus, to the extent the subcommittee, or the full Committee, wishes to disclose any statement made, or information provided, by a respondent or his counsel during a settlement discussion, it must have obtained that statement or information from a source independent of the settlement discussion prior to, or after, that settlement discussion. In addition, without the consent of the respondent, the Committee or subcommittee cannot acknowledge that the statement or information which it obtained from an independent source was also made during, or derived from, a settlement discussion. The Task Force recommends that respondents receive this due process right so that they possess similar protection that litigants have in a civil or criminal case. The Task Force believes that ensuring the confidentiality of settlement discussions could promote successful settlement negotiations.

In Subsection 6 of Section 16, the Task Force recommends that all future settlement agreements between investigative subcommittees and respondents be in writing and signed by both sides and their respective counsels, unless the respondent requests otherwise. This provision is viewed as a mutual form of protection against misunderstandings or mischaracterizations of the agreement by either party to the settlement agreement. The Task Force appreciates that in most cases a respondent's counsel would want this protection, and includes this requirement to ensure the respondent's ability to obtain a written agreement whenever requested.

#### SECTION 17. COMMITTEE REPORTING REQUIREMENTS

The Task Force reevaluated current Standards Committee rules regarding reports adopted by the full Committee or an investigative subcommittee. Section 17 proposes changes to the rules designed to: (1) enhance the flexibility of the full Committee regarding its reporting to the House; (2) ensure that sufficient information is reported to the full Committee before the full Committee recommends a sanction in a situation where the adjudicatory hearing was waived; (3) provide the respondent with an adequate opportunity to present his views for inclusion in any full Committee or subcommittee report; and (4) provide Committee members with a sufficient amount of time to review such a report prior to either a sanction hearing or a vote to adopt a subcommittee report.

Under current Standards Committee rules, an investigative subcommittee must submit a report to the full Committee if it does not adopt an SAV, and the full Committee is required to transmit that report to the House thereby making it public. The Task Force is mindful that such reports could contain certain sensitive investigative material. Accordingly, Subsection 1 of Section 17 changes this requirement by giving the full Committee discretion, by a majority vote of its members, to refrain from sending to the House the subcommittee report issued to the full Committee in the situation where no SAV was ultimately brought.

Under current Standards Committee rules, an investigative subcommittee is not required to prepare a report when it adopts an SAV. The Task Force Resolution addresses this omission by requiring that when the respondent has waived an adjudicatory hear-

ing<sup>25</sup> the subcommittee is required to prepare a report and transmit it to the full Committee.

Further, Subsection 2(A) of Section 17 provides each respondent who has admitted to alleged violations and has waived his right to an adjudicatory hearing, a right to review the final draft of the subcommittee's report not less than 15 days prior to a subcommittee vote on whether to adopt the report. Thereafter, within seven days of receiving the draft, the respondent has a right to submit written views regarding the subcommittee's draft report for attachment to, or inclusion in, the final subcommittee report. The subcommittee must submit those views together with its report to the full Committee, and the Committee must make its views and the respondent's views available to the public prior to any sanction hearing.<sup>26</sup>

The subcommittee is not required to issue a report in the circumstance where it adopts an SAV but the respondent does not waive his right to an adjudicatory hearing. In that situation, the Task Force believes that the full Committee would possess sufficient information to make a sanction determination in light of the complete record of the adjudicatory hearing.

Subsection 2(D) of Section 17 addresses the requirements relating to a full Committee report to the House *after* a sanction hearing has been held. The Task Force provides for the respondent to file views and have them attached to the full Committee's final report. The Task Force, however, does not provide the respondent an additional 15 day pre-review period. The Task Force concludes that at this stage of the proceedings, the respondent is sufficiently likely to anticipate the contents of the final report, having attended the sanction hearing and having already extensively commented on the subcommittee report. Under Subsection 2(D), the respondent is provided an opportunity to submit additional views for attachment to the final report. The Task Force expects that the respondent will be given reasonable notice prior to the submission of the Committee's final report to the House to be able to prepare and transmit those additional views for their attachment.

Finally, in Subsection 3 of Section 17, the Task Force recommends, when an adjudicatory hearing is waived, a minimum period of not less than 72 hours to be provided for members of the full Committee to review an investigative subcommittee's report prior to either a sanction hearing, or a vote to adopt a report. The Task Force believes that full Committee members who did not serve on the investigative subcommittee need a minimum amount of time to become familiar with the facts of an investigation and have an adequate opportunity to raise questions about the report.

---

<sup>25</sup> Rule 22(b) of the rules of the Standards Committee states: "A respondent may seek to waive any procedural rights or steps in the disciplinary process. A request for [a] waiver must be in writing, signed by the respondent, and must detail what procedural steps respondent seeks to waive. Any such request shall be subject to the acceptance of the Committee or subcommittee, as appropriate."

<sup>26</sup> See Standards Committee Rule 17(e). The Task Force does not intend for this provision to require an additional seven days for further review by the respondent if the subcommittee alters its report after the submission of the respondent's views. But the respondent should receive notice of any and all changes within a reasonable amount of time prior to the release of the report.

## SECTION 18. REFERRALS TO FEDERAL OR STATE AUTHORITIES

The Task Force considered whether the Standards Committee should have greater flexibility to disclose information to Federal or State authorities that may be evidence of a violation of law applicable to the performance of a Member's duties or to the discharge of his responsibilities. Under current House Rules,<sup>27</sup> the Committee may report "substantial evidence" of such a violation to Federal or State authorities only with the approval of the House.

The Task Force determined that there may be situations when the Committee would prefer to transmit information confidentially to Federal or State authorities, rather than transmit such information to the House, where it would be publicly disclosed.<sup>28</sup> Consequently, the Task Force recommends that House Rules be revised to permit the Committee to report substantial evidence of a violation either with the approval of the House or by a two-thirds vote of the members of the Committee. The "supermajority" vote of the Committee would, in effect, prevent the Committee from making direct referrals except in cases where there was strong bipartisan support on the Committee for a referral.

The Task Force wishes to make it clear that the rules and recommendation discussed above relate only to referrals where the Committee, in essence, is accusing a Member, officer, or employee of the House of a violation of law. The Committee would retain its current discretion to make information and records available to Federal or State authorities in response to a specific request by such authorities, subject to the necessary Committee approval.

## SECTION 19. FRIVOLOUS FILINGS

Although the Standards Committee always has possessed the discretion to self-initiate action against filers subject to its jurisdiction, the Task Force wishes to underscore its concern about the potential filing of frivolous complaints, as well as its desire to deter such filings. The Task Force, therefore, recommends that House rules be amended to clarify that 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 vote of its members, deems appropriate. Two votes would be required under the Task Force's recommendation: the first, a majority vote to determine whether a filing is frivolous; and second, a subsequent vote to determine what, if any, sanction should be recommended. Complaints filed before the One Hundred and Fifth Congress, however, may not be deemed frivolous by the Standards Committee.

The Task Force refrained from defining the term "frivolous" in order to afford maximum flexibility to the Standards Committee. The Task Force also wishes to emphasize that in the event the Committee determines that a filer over whom the Committee has jurisdiction has submitted a frivolous filing, and that sanctions are appropriate, the Committee still must afford all appropriate due process to the Member, officer, or employee of the House whose fil-

<sup>27</sup> House Rule X, Clause 4(e)(1)(B).

<sup>28</sup> According to the House Parliamentarian, the Committee has never utilized the "substantial evidence" standard for referrals since the provision was added to House Rules in 1978.

ing is in question, including the rights to an adjudicatory and sanction hearing.

#### SECTION 20. TECHNICAL AMENDMENTS

The Task Force Resolution requires the Standards Committee to make three additional changes to its rules of a minor or technical nature.

First, the Committee is required to clarify its rules to provide that whenever the Committee votes to authorize an investigation on its own initiative, the chairman and ranking minority member must establish an investigative subcommittee to undertake the investigation. Current Committee rules do not explicitly require the establishment of an investigative subcommittee when an investigation is self-initiated.

Second, the Committee must revise its rules to refer to hearings held by an adjudicatory subcommittee as “adjudicatory” hearings. Current Committee rules refer to such hearings as “disciplinary” hearings. The Task Force believes that the term “disciplinary” suggests that the Committee already has found the respondent liable for the alleged violation, and thus the term is unfairly prejudicial to the respondent.

Finally, the Resolution requires the Committee to make whatever additional changes to its rules are necessary in order to conform Committee rules to the Task Force Resolution.

#### V. CONCLUSION

Reform of the standards process in the House has always been conducted in a bipartisan manner. After four months of extensive review and effort, the Task Force has concluded that the recommendations in the Resolution constitute the most comprehensive reform of the process upon which it can reach a bipartisan consensus. The Task Force believes that the evolving standards process will be improved by the adoption of these changes, which were designed to: enhance the nonpartisan operation of the Committee; increase the confidentiality of the Committee’s workings; improve the system for filing information offered as a complaint; promote the efficient administration of the Committee; improve the due process rights of Members, officers and employees; foster greater involvement by Members in the process; and ensure a more timely resolution of matters before the Committee. The Task Force hopes that the Members and public will view each of these changes, not in microscopic isolation, but as a part of a new system to accomplish the above-stated objectives. Regardless of these changes, however, the Task Force believes that ultimately the success of the standards process will be determined by the willingness of Members to serve in judgment of their colleagues in a fair and impartial manner. Only then can the House achieve its ultimate goal: a nonpartisan peer review system which has the trust and confidence of both the Members and the American people.

## VI. ADDITIONAL VIEWS

Additional Views of  
Rep. Bill Thomas  
to the  
Report of The Ethics Reform Task Force  
June 19, 1997

The laudable intent of the Task Force's Resolution is, as summarized in the report's conclusion, to:

- Enhance the nonpartisan operation of the Committee;
- Increase the confidentiality of the Committee's workings;
- Improve the system for filing information offered as a complaint;
- Promote the efficient administration of the Committee;
- Improve the due process rights of Members, officers and employees;
- Foster greater involvement by the Members in the process;
- Ensure a more timely resolution of matters before the Committee.

Regrettably, in the most important areas, the Task Force Resolution falls short of its goals. This Task Force was formed by bipartisan leadership to address what was viewed as structural deficiencies in the Committee's operations. The Task Force Chair and co-Chair, and the Task Force members, have spent many months in thoughtful deliberation and discussion that have yielded this final product. However, in my view, the Resolution is insufficient and therefore does not warrant support. One conclusion stated in the Task Force Report is indisputable—that the ultimate success of the Committee on Standards of Official Conduct “will be determined by the willingness of Members to serve in judgment of their colleagues in a fair and impartial manner.”

### OFFICIAL CONDUCT NOT ETHICS

One of the first and most important issues addressed by the Task Force was the label, the name, of this committee. Several persons argued strongly that we should change the name to reflect common jargon, i.e. that the name should be changed to the Committee on Ethics. The Task Force eventually rejected that proposal, and in so doing reaffirmed that this is a Committee on *Standards of Official Conduct*. It is a committee established to provide advice and education on these standards to members, to investigate and sanction violations of standards of official conduct, to fulfill our constitutional responsibility to punish disorderly behavior, and to preserve the trust placed in this institution responsible for making law. It is not a committee intended to judge the “ethic” of our members, their morality or rightness, their core beliefs or value systems and how they may or may not measure up to other's beliefs. Its purpose is to ensure that the standards of conduct which are necessary for us to maintain the public's faith, which is essential to the functioning of a democracy, are enforced.

### STANDARDS OF CONDUCT

The “standards system” is a system comprised of Members of the House charged with the responsibility to sit in judgment of their colleagues. If that responsibility is shirked, or twisted to accomplish partisan goals, it is not possible to design a system that has integrity and credibility.

Ethics Reform Task Force Views  
 June 19, 1997  
 Page 2

However, it is necessary and prudent to review rules periodically, and that is the matter immediately before us; in that matter, the Task Force Resolution has three fundamental weaknesses.

#### **THE HEARSAY RULE**

The 1989 Bipartisan Task Force on Ethics wrote in its report,

“A person’s personal character and professional reputation may never recover from the media attention given to a preliminary finding that a violation may have occurred, even if the Member is later exonerated.”

A major flaw in this Resolution is the validity accorded to hearsay. Whether it is “first” or “second” degree hearsay is irrelevant—*hearsay is not personal knowledge; it is second-hand information*. This Resolution, as drafted, will allow hearsay to be the valid basis for a complaint. It is true that the current rules require no greater standard, but the very purpose of this reform process is to buttress the institution against a future that mirrors the most recent past. Removing the ruse of the “three member refusal” rule is an achievement, since that rule has been used by some to pervert the very original meaning it was meant to enforce, i.e. that a member *refuses* to file a complaint because it is without merit, and writes a letter stating that very fact.

However, to allow the filing of a complaint, or information offered as a complaint, based upon what could be little more than idle gossip relayed by a co-conspirator will further denigrate the standards process. For it is rarely the ordinary citizen who engages directly in the intricacies of this committee. Rather, it is more often political insiders who seek to use the standards process to regain through inside-the-beltway tactics what they could not win at the ballot box. The committee and the standards process were not constructed for this purpose. It is a process authorized by the Constitution for peer review and for the maintenance of institutional order.

If someone has engaged in conduct which violates the standards to which we all strive, to which we all must rightfully adhere, then evidence and facts must be gathered and judgment of the majority rendered. But it is often a far distance between a juicy tale and the truth. This provision makes a mockery of rules of evidence.

#### **TYRANNY OF A MINORITY**

The Resolution fails to require that a charge of violation can only be affirmed by a majority of the committee’s members. If any charge is not so affirmed, then it must be dismissed, not left to dangle from a rope of indecision or partisanship as this Resolution would allow. In Section 10 of the Resolution, if a majority cannot agree that information offered as a complaint does not meet the standards of a complaint, then it is not “accorded” that status. But then, what status does it have? If a majority of a bipartisan committee, acting in good faith according to clearly established standards, cannot agree that those standards have been met then what rationale is there for continued uncertainty? The failure of a majority to agree should mean that a “charge” is dismissed and the respondent of such charge notified that a majority cannot and will not move the matter forward.

Ethics Reform Task Force Views  
 June 19, 1997  
 Page 3

As currently drafted, the Resolution offers no such relief; a failure to achieve a majority means a sentence of purgatory, a state of limbo which is neither dismissal nor resolution. No one should be placed in this indefinite position indefinitely.

Similarly, in Section 11 of the Resolution when, after preliminary fact-finding, after the Chair and Ranking Member have debated, after the committee has discussed and voted on the creation of an investigative subcommittee, and a majority fails to reach consensus, the respondent is still denied relief. If the intent of a system to judge the standards of conduct of its members is, as stated by a House select committee in 1873 "for the protection and character of the House," then only by a majority should such judgment be rendered. Under this Task Force resolution, a tie vote does nothing but ensure the continued drip-drip of poison which, without verification or confirmation, infects a person's reputation and may forever alter his or her career.

The Task Force Resolution will allow the tyranny of a minority to decide a person's fate. This was not, in my view, the intent of the framers of the Constitution when they vested the responsibility and authority to "determine the Rules of its Proceedings, punish its Members for disorderly behavior" to each legislative house. Indeed, under the Rules of the House of Representatives, rules developed by Thomas Jefferson, issues are dismissed by a tie vote. The Task Force Resolution establishes an unprecedented parliamentary procedural tool, call it limbo or deadlock, which could easily be used, or abused, for less than admirable purposes.

#### **SUBCOMMITTEE POWERS**

In its 1989 report, the Bipartisan Task Force on Ethics considered and rejected the approach of a "pool" of members to conduct investigations. The report outlined concerns about "... the consistency of opinions and rulings, and additional delays in constituting new subcommittees, and familiarizing them with committee procedures." This Resolution reverses that decision, and endorses using a "pool" of members for investigations. Given the ever-increasing time demands upon Members, and the inordinate time required by committee members in the most recent congress, drawing from a pool is a notion whose time has come.

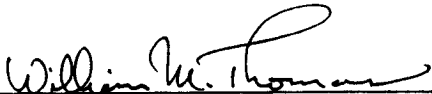
However, in establishing such a structure this Resolution not only disregards the legitimate concerns expressed by the 1989 Task Force, it ventures into the reckless territory of giving subcommittees powers originally vested only to the full committee. Under the Resolution, a subcommittee, acting independently, can issue subpoenas and expand the scope of investigation. A subcommittee can act unilaterally, unfettered by precedent, procedure or the will of the full committee. Consistency of opinions, due regard to previous or similar cases and control of expenses cannot be assured, indeed do not appear to be desirable under this Resolution. The discretion and power afforded to four subcommittee members, all of whom may be entirely unfamiliar with the standards process and its precedents, is a perilous proposal which should be abandoned.

A subcommittee is, and should operate only as, a subunit of the full committee. Preservation of the bifurcation process can be accomplished through prudent and careful sharing of information that ensures consistency and professionalism.

Ethics Reform Task Force Views  
June 19, 1997  
Page 4

**CONCLUSION**

These are three core weaknesses in the Resolution, building blocks that do not create a foundation of strength, especially if combined with members unwilling to act in good faith or unable to set aside partisan motivations. Increased confidentiality and increased due process rights are important, yet come too late in a process that allows specious, unsubstantiated initial charges that can be held hostage by a minority. The trust and confidence of the American people cannot be presumed to rest upon such flimsy pilings as these. Would the Resolution be improved, would it be acceptable, if these key issues are rectified? Perhaps, if the men and women who serve on this committee will also maintain the principles of integrity and honesty. It is unlikely, however, that any amount of good will and good intentions can overcome structural deficiencies which create or even invite misuse of the structure. In its current form, the Task Force Resolution contains these fundamental flaws and inherent defects.

  
Bill Thomas



Supplemental Views  
Ethics Task Force Committee Report

Porter Goss

Remembering that the purpose of the Ethics Committee is in part to bring credibility to the Congress, the procedure used by the committee should, therefore, to the greatest degree possible be insulated from misuse that might bring discredit to Congress.

We have seen that present procedures are clearly vulnerable to abuse. From my personal experience serving five years on the Ethics Committee, I have concluded that the current process is broken. For more than two years I have advocated reforms to improve the credibility and accountability of the system. I am supporting the task force's consensus product because I believe it has more pluses than minuses. However, if it is true ethics complaints have become the weapon of choice for partisan politics, I fear the task force may have sharpened the blade. Despite the modest improvements envisioned by the reforms, I am concerned that the proposed process still has two major flaws that invite calculated partisan abuse.

First, this proposal elevates non-member access to the system, something that I believe will entice mischief-makers to capitalize on the system for their own benefit at the expense of the institution and/or individual members. Non-members will be able to do this without accountability or fear of punishment, because the Ethics Committee has no jurisdiction over non-members. In addition, I fear the higher threshold test of "personal knowledge" to access the complaint system is so broad that in fact it may prove not to be much of a threshold at all. Sadly, I predict an increase in the number of non-member frivolous complaints motivated by self-gain, partisan goals and other inappropriate purposes.

I would prefer instead a procedure where non-members bring their information directly to the attention of the Ethics Committee, which already has the authority to open an investigation on its own based on this information. The committee has an address, telephone number, fax number and identifiable staff. Additionally, any non-member is always welcome to seek any member (or members) to sponsor a bonafide complaint (at the lower threshold, I would note).

Secondly, this proposal flies in the face of the well-established principle that the "tie goes to the runner." By allowing complaints to remain "alive" in the event of a tie vote in the committee, the language in the task force proposal is likely to mean a respondent will be left hanging, while opening up committee members to partisan charges of foot dragging from the prosecuting party. My preference would be to reverse the emphasis and follow the traditional jury model, where a tie vote means no guilt is found and the case is over. Of course, this scenario would not preclude

the filing of a new complaint if additional information comes to light or new circumstances arise.

I am convinced that political zealots, special interest crusaders and Congress-bashers will find this approach will be an easy means for scoring points. I have no doubt that Members of Congress will be subjected to unfair attacks because they are involved in a case "still before the Ethics Committee."

Because of the serious problems that could arise, implementation of this proposal must be done with great care and bipartisan vigilance. Members, the media and the public must take the time to understand the complexities of the new rules and procedures and refrain from politicizing the process. We have a responsibility to this institution and to the American people to prove that we are capable of discharging our constitutional duty to police ourselves. I certainly hope that the problems I foresee do not materialize -- but I caution Members that this consensus package is no "magic bullet."

The procedural improvements in the resolution, especially the enhanced protection of respondent rights, offer a marginal gain. In addition, I believe that the availability of the "pool" process could help spread the workload and help non-committee members understand the ethics process. I would like to thank the task force members for the extraordinary effort given to this very difficult project. We worked very hard over long hours and I do believe our final product reflects a good faith effort.

ADDITIONAL VIEWS TO THE REPORT OF  
THE ETHICS REFORM TASK FORCE  
June 19, 1997

It is our view that, while the Task Force was generally effective in its mission, there were two areas where we believe the Task Force should have taken stronger action. The public record should reflect our interest to (1) ensure that the full Committee could never be deadlocked on the issue of whether an investigative subcommittee should be created and (2) require the hiring of special counsel if an investigative subcommittee is deadlocked.

**POTENTIAL FULL COMMITTEE DEADLOCK**

There was agreement by the Task Force members that the mere vote to adopt a Preliminary Inquiry suggested a "pre-judgement" by the Committee regarding the merits of allegations set forth in the complaint. During Task Force discussions, the subject of how to reduce or eliminate that stigma associated with the onset of a Preliminary Inquiry was explored extensively.

The Task Force determined that an automatic mechanism should be provided to advance the complaint to an investigative subcommittee and thus, the Committee would not have to determine that a complaint "merits further inquiry" or adopt a Resolution of Preliminary Inquiry. In its place, the Task Force has created a time period in which the chairman and ranking minority member must take action regarding a complaint, either by establishing an investigative subcommittee or by recommending to the full Committee that the full Committee dispose of the complaint in any manner that does not require action by the House. Further, if the complaint has not been disposed of within that requisite period of time and an investigative subcommittee has not been established, the chairman and ranking minority member must establish an investigative subcommittee.

As the Report correctly states, "[b]y eliminating the standard of "merits further inquiry" and the need to adopt a Resolution of Preliminary Inquiry, the Task Force intends that no undue inference be drawn from the establishment of an investigative subcommittee."

While these provisions emphasize the timely resolution of a complaint, the potential for deadlock remains because the Task Force also adopted a provision to the resolution which, in effect, could prevent the automatic creation of an investigative subcommittee. Section 11(C) states, in part, that during that time period, if "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."

We believe that the Task Force should have ensured that there could never be a full committee deadlock on whether an investigative subcommittee be established. Two of the Task Force's goals were to (1) improve the efficiency of the Committee and (2) ensure that matters pending before the Committee are handled in a timely manner. Thus, we supported the creation of a standard mechanism by which an investigative subcommittee would be created, with no intervening actions by the full Committee. Complaints should be forwarded to investigative subcommittees quickly. Investigative subcommittees are effective because they are small, bipartisan, and confidential groups of Members working together.

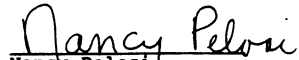
The addition of the above stated provision in section 11(c) prevents the Task Force from addressing one of the underlying problems in the ethics process, the difficulties associated with potential stalemate and deadlock at the full Committee level. While the time periods imposed send the message that there should be timely resolution of complaints, there remains the potential for dilatory tactics which could run counter to the intended goal of the Task Force.

#### **POTENTIAL FOR SUBCOMMITTEE DEADLOCK**

In the Resolution, the Task Force did not address the issue of what should occur if an investigative subcommittee is deadlocked. However, in the Report, the Task Force states that "if an investigative subcommittee determines that it is unable to dispose of a complaint referred to it, . . . the subcommittee [should] report its inability to do so to the full Committee." In addition, the Report explains that, in such cases, "the Committee [should] take whatever action it deems appropriate in that circumstance, including the establishment of a new investigative subcommittee or the appointment of a special counsel."

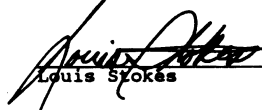
Because of our concern over the potential for deadlock and the need to maintain the integrity of the ethics process, we preferred stronger language be included in the resolution and report requiring specific actions to guarantee an unbroken course of steps by the subcommittee. While it may be inadvisable to retain special counsel as a matter of routine, there should be an appropriate means for acquiring technical, legal, and investigative expertise by special counsel as necessary. Therefore, we supported the appointment of a special counsel routinely in cases when an investigative subcommittee is unable to agree on a recommendation to be sent to the full Committee.

We continue to view the ethics process as an evolving process that naturally lends itself to continuing revision and improvement. We will continue to offer our recommendations to improve the system and to preserve the integrity of the House of Representatives.

  
Nancy Pelosi

The following members concur in these views:

  
John Joseph Moakley

  
Louis Stokes

  
Martin Frost

  
Benjamin L. Cardin

**ADDITIONAL VIEWS OF REPRESENTATIVE JAMES V. HANSEN**Introduction

Let me begin by complimenting the Co-Chairs of the Task Force. This package is testament to their convictions, patience, and willingness to pursue a bipartisan consensus.

There are many good things in this package, including additional protections for respondents, requiring confidentiality oaths for Committee members and staff, increasing the "reason to believe" standard for voting a Statement of Alleged Violation to "substantial reason to believe" and formalizing the traditional bipartisan management of the Committee.

For twelve years, I served on the Committee on Standards of Official Conduct, and for two of those years, I served as the Ranking Member. During my tenure on the Committee, we conducted several sensitive investigations of Members, including the investigation of the House Bank. No matter how sensitive the matter or who the respondent was, the Committee always was able to avoid partisanship and perform its responsibilities in a nonpartisan, professional manner. The institution was well served.

In recent years, however, the Committee's ability to function in a nonpartisan manner, and in a way that promotes public confidence in the ethics process has eroded considerably. This decline was most evident in the recent investigation of Speaker Newt Gingrich, which featured leaks, public attacks upon members of the Committee, and the political targeting of Committee members by outside groups.

Having agreed to serve the Committee again as its Chairman, I am determined to find ways to prevent a repetition of the problems that have recently plagued the ethics process. I have done a lot of thinking about how to improve the process and presented these proposals

to the Task Force.

#### Who May File a Complaint

I believe only Members of the House should be able to file ethics complaints, and the current "three refusal" language should therefore be eliminated. In this way, the House would adhere more rigorously to the Constitutional provisions calling on the House to regulate the conduct of its Members, and curtail the ability of politically partisan outside groups to influence the investigative agenda of the Committee. At least seven of the complaints filed during the 104th Congress were either filed or prepared by outside groups.

Such groups, of course, still could prepare ethics complaints for Members to file, but the Members themselves would have to sign their name to the complaint, and therefore, be held accountable for the charges. In addition, outside groups could bring information to the attention of the Committee, and the Committee would retain the discretion to self-initiate an investigation as it did in two of the three investigations voted by the Committee in the last Congress.

In the alternative, I could support the Senate model whereby the Committee accepts only "information", but then is mandated to do a certain level of inquiry before deciding whether to investigate. With this model, the Committee has the ability to decide what is worthy of investigation rather than outside groups setting the agenda by dint of submitting a "complaint."

#### New Trigger for Initiating Formal Investigation

The current threshold for initiating a formal investigation -- whether a given matter

"merits further inquiry" -- is too ambiguous. Almost any allegation can be said to "merit further inquiry." This makes it difficult for the Committee to decline formal investigations of allegation that do not warrant formal action.

While I do not want to establish a trigger mechanism so demanding that necessary investigations are not undertaken, we need a new standard commensurate with the seriousness of initiating a formal investigation of a Member of Congress and the substantial resources consumed by such an investigation.

Under my proposal, the current standard of "merits further inquiry" would be replaced by a more rigorous trigger mechanism. Specifically, a formal investigation would be commenced only if the Standards Committee found that a complaint alleging a violation was "based on specific information from a credible source," and if initiating such an investigation was "consistent with applicable precedents."

Under this standard, the Committee would have to make three determinations before initiating a formal ethics investigation,

First, it would have to determine that the allegations are based on "specific information." That means that an investigation could not be initiated on the basis only of a generalized allegation of wrongdoing that contained no specific factual support, or on inferences unsupported by concrete facts.

The second determination that the Committee must make is that the allegations are from a "credible source." In making that determination, the Committee could informally interview the person making the allegation, and come to a preliminary conclusion regarding the credibility of that person. The Committee also could examine the relevance or authenticity of any documents provided in support of the allegation.



The Committee must also decide that initiating an investigation based on the specific alleged violations at issue would be "consistent with applicable precedents." Thus, if someone alleged that a Member had violated a Federal law within the principal jurisdiction of a law enforcement or regulatory agency, and the Committee either traditionally did not investigate such allegations or deferred to the relevant Federal agency, it would not be appropriate for the Committee to undertake a formal ethics investigation.

The Committee could examine whether a violation of House rules, rather than Federal law, had occurred, but such investigations would be discouraged where the alleged violation of House rules was predicated on a violation of the Federal law at issue.

By adhering to the precedent, the Committee would avoid acting in an arbitrary and capricious manner and promote consistency and predictability in its dispensation of justice.

#### House Ethics Council

If the Committee voted to initiate an investigation, it would refer the investigation to a newly created outside group, known as the "House Ethics Council," rather than conduct the investigation itself.

I offered this proposal after many years of resistance to such a concept, and after much reflection about the institution of the House of Representatives.

But after observing the abuse heaped on members of the Standards Committee during the last two years, and after consulting with former members of the Committee, I have reluctantly come to the conclusion that it is time to entrust this important responsibility to persons who are not as subject to the partisanship that has torn this House and this Committee asunder.

Nothing short of this reform, in my judgment, will restore public confidence in the integrity of the ethics process.

The "House Ethics Council" would be comprised of no fewer than ten non-House members who are former Members of the House and other private distinguished citizens. Council members would be appointed jointly by the Chairman and Ranking Minority Member of the Standards Committee, and they would serve a term of one Congress.

To provide institutional experience and continuity in the application of House rules and ethics precedents, investigations conducted by the Council would be staffed by investigative counsel already on the staff of the Standards Committee.

#### Conduct of the Investigation

The investigation itself, as well as any subsequent adjudicatory proceeding, would be conducted by a "subcouncil" of six members of the Council, thereby eliminating the current bifurcated system where separate panels conduct the investigative and adjudicatory functions. This would avoid the manifold problems presented by the current "bifurcated" process. In particular, substantial delays would be avoided because there would be no need for a second group, uninvolved with the investigation, to become familiar with the case.

My proposal encouraged, but did not require, the subcouncil to complete its investigations within six months.

#### Charging a Member with Misconduct

Upon completing its investigation, the subcouncil could adopt a Statement of Alleged

Violation if it determined, by a *preponderance of the evidence*, that a violation had occurred. Under the preponderance standard, the subcouncil could charge a member with a violation if it determined that it was more likely than not that the member committed a violation. The preponderance standard would replace the current "reason to believe" standard.

The higher evidentiary standard is necessary because a Statement of Alleged Violation is perceived by the media and the general public as an indictment of a Member of Congress, with all the attendant harm to the Member's reputation. The Member may confront many months of an investigation that saps his or her ability to concentrate on legislation, as well as staggering legal fees.

The "reason to believe" standard is simply too low a standard on which to base an "ethics indictment."

#### Rights of Respondents

Under current Committee rule 17(a)(3), the Committee is required to "provide the respondent an opportunity to present, orally or in writing, a statement, which must be under oath or affirmation, regarding the allegations and any other relevant questions arising out of the Preliminary Inquiry."

But Rule 17(a)(3) does not impose any affirmative obligation on the Committee to notify the respondent of the potential charges and evidence against the respondent prior to charging the respondent with violations of House rules or laws. This strikes me as inconsistent with fundamental notions of due process, particularly in a peer review process.

Under my proposal, before formally determining whether a preponderance of the evidence indicates that a violation occurred, the subcouncil must provide the respondent with

a statement of all potential charges, and a summary of evidence in support of those charges, that are sufficient to put the respondent on notice of the charges and evidence against the respondent. The respondent could then respond to this information. The result of this procedure is that the subcouncil would have the opportunity to make a more informed judgment in determining whether to charge the respondent, and the respondent would have the opportunity to head off charges that might not be appropriate.

#### Sanctions

It should be noted that a subcouncil would not have the authority to recommend proposed disciplinary sanctions in the event that it conducted an adjudicatory proceeding and found that the counts in the Statement of Alleged Violation had been proved. In that event, the subcouncil would simply report its evidentiary findings in writing to the Standards Committee.

The Standards Committee alone would consider the issue of sanctions and make whatever recommendations were appropriate to the House, consistent with current rules. This restriction recognizes that there must be a limit to the authority granted to outsiders in the conduct of an internal House ethics process.

Those are the highlights of my proposal which I presented in testimony before the Task Force on February 27, 1997.

#### Observations on the Task Force Recommendation

There are several different approaches to the ethics process. I have outlined mine

above.

Some on the Task Force believed that there is an inherent stigma in voting a Resolution of Inquiry and to lessen that stigma any qualified complaint against a Member should automatically be referred to an investigative subcommittee without any vote of the full Committee. Since a referral to an investigative subcommittee is automatic, the current threshold requirement that a complaint "merits further inquiry" was eliminated. Furthermore, the authority of the investigative subcommittees should be enhanced and made more independent from the full Committee, so there would be no need to continue the Chairman and Ranking Member as ex-officio members of an investigative subcommittee nor should subpoenas have to go through them for signature.

Others argued that the initial decision whether to investigate was a critical decision and protects an innocent Member from a frivolous complaint or a politically motivated complaint without merit and that the current threshold of "merits further inquiry" for launching an investigation was too low. Furthermore, Members should be protected from frivolous complaints and should not be held hostage to a divided Committee in case of a deadlock.

The Task Force endorsed a modified version of the first alternative.

What follows are my own thoughts on the changes recommended by the Task Force.

The ethics process is a peer review process and Members of Congress deserve, indeed have the right, to be viewed as innocent until proven guilty. The Task Force turns this presumption on its head and has decided that Members should be investigated until proven innocent. This will mean that Members will incur tremendous legal costs and be exposed to critical press simply because someone has filed a complaint with the Committee.

Who Can File Complaints

The Task Force recommends that Members as well as outsiders be able to file ethics complaints. The Task Force thus abandons the peer review concept. Instead, Members will be subject to complaints filed by their political and ideological enemies who cannot be sanctioned for filing frivolous complaints since they are outside our jurisdiction. When we turn over the Committee agenda to these forces we should invite Members to create legal expense funds and at the same time request additional funding for the upcoming investigations.

Trigger for Investigation/Automatic Slide

Instead of a clear system by which a complaint is filed and the Committee decides whether the complaint "merits further inquiry" and votes a Resolution of Inquiry outlining the investigation, the Task Force creates many different systems with no standard for starting an investigation and potentially not even requiring a vote to start an investigation.

The Task Force abandons the "merits further inquiry" standard (the one I thought was too low in the first place) for no standard at all. No one has yet defined for me what standard we are to use if the full Committee has to decide whether to investigate or what standard an investigative subcommittee is to use when they decide whether to move forward with an investigation.

The Task Force adopted a modified version of the automatic slide approach. There could be an automatic slide to an investigation (with no vote necessary) as long as nothing happened to the complaint within 45 days of its being filed. If however, the Chair or the

Ranking Member place the complaint on the Committee's agenda sometime within the 45 days, a vote would be necessary before referring the complaint to an investigative subcommittee.

This hybrid creates a system which potentially treats Members differently, assuming not all complaints are automatically referred to an investigative subcommittee or not all complaints are put before the full Committee for a vote. One tenet of any ethics process should be to treat all Members the same; this system treats them differently almost from day one.

The Task Force recommends that if there is no action on a complaint within 45 days, the matter is automatically referred to an investigative subcommittee, notwithstanding the current Committee rule allowing a Member 30 days to file a response to a complaint and the ability of the full Committee to gather additional information necessary to reach a decision on whether to investigate.

Instead of 45 days to an automatic investigation, a better alternative would be to dismiss a complaint without prejudice if the Committee has not voted an investigation within 45 days of the complaint being filed, thus continuing the presumption of innocence argument. The presumption of innocence did not carry the day.

#### Use of Non-House Members

I was not the only one to advocate such a position. Representatives Hamilton, Dreier, Weldon and McHale testified to this as did witnesses from outside groups.

This position did not have support in the Task Force, however, and was quickly jettisoned from the agenda. Although I respect the will of the majority I nonetheless think

the Task Force was shortsighted in its rejection. The next time we have an Ethics Task Force, use of non-House Members will be a fait accompli.

#### Conduct of the Investigation

The Task Force adopted the position that the Chairman and Ranking Member should no longer be ex-officios of any subcommittee and that they should not have subpoena authority for any subcommittee. They have essentially taken the Chair and Ranking Member out of an oversight role and have opened up the possibility that subcommittees will treat Members differently depending upon various factors. I think this is a reaction to the last Congress when names on subpoenas were routinely leaked to the press. I am not a believer in changing a process because an individual involved was the problem.

Likewise, they endorse subcommittees entering into plea negotiations including recommendations on sanctions. No one should have any role in a sanctions recommendation except for the full Committee. A recommendation from a subcommittee effectively binds the full Committee to that recommendation, and therefore, takes the right away from the full Committee.

#### Management of the Committee

During our deliberations I cautioned members not to micro-manage the Committee but to provide a maximum of flexibility to the Chair and Ranking Member in how they ran the Committee. That had been my experience over twelve years on the Committee, including two years as the Ranking Minority Member. It allowed the Chair and Ranking Member to work together and usually provide a consensus opinion on Committee business to the rest of



the Committee.

In my tenure on the Committee we never had a vote that ended in a deadlock nor did we ever have partisanship within the Committee. We had chairmen and ranking minority members who worked together, respected and trusted each other. Those are the ingredients for a successful committee.

In my opinion, the recommendations of the Task Force do indeed seek to micro-manage the Committee and provide little flexibility to the leadership of the Committee.

No amount of rules changes will guarantee a better or less partisan result.

#### Charging a Member with Misconduct

I endorse the Task Force recommendation that changes the "reason to believe" standard necessary for a Statement of Alleged Violation to a "substantial reason to believe".

#### Rights of Respondents

I endorse the Task Force recommendations on the rights of respondents. My only concern is that they come so late in the process, instead of at the beginning.

#### Conclusion

As Chairman of the Standards Committee it will be my duty to implement any changes to the ethics process adopted by the House. I will do that to the best of my ability in a nonpartisan manner. Such is the history and tradition of the Standards Committee as I know it and I intend to continue it.

VII. APPENDIX

IV

105TH CONGRESS  
1ST SESSION

# H. RES. 168

To implement the recommendations of the bipartisan House Ethics Reform  
Task Force.

---

IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 1997

Mr. LIVINGSTON (for himself and Mr. CARDIN) submitted the following  
resolution; which was referred to the Committee on Rules

---

## RESOLUTION

To implement the recommendations of the bipartisan House  
Ethics Reform Task Force.

1 *Resolved,*

2 **SECTION 1. USE OF NON-COMMITTEE MEMBERS.**

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

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

7 (i) the Speaker (or his designee) shall des-  
8 ignate a list of 10 Members from the majority party;

9 and

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

4       who are not members of the Committee on Standards of  
5       Official Conduct and who may be assigned to serve as a  
6       member of an investigative subcommittee of that commit-  
7       tee during that Congress. Members so chosen shall be an-  
8       nounced to the House.

9       “(B) Whenever the chairman and ranking minority  
10      member of the Committee on Standards of Official Con-  
11      duct jointly determine that Members designated under  
12      subdivision (A) should be assigned to serve on an inves-  
13      tigative subcommittee of that committee, they shall each  
14      select the same number of Members of his respective party  
15      from the list to serve on that subcommittee.”.

16      (b) CONFORMING RULES AMENDMENT.—Clause  
17      6(b)(2)(A) of rule X of the Rules of the House of Rep-  
18      resentatives is amended by inserting after the first sen-  
19      tence the following new sentence: “Service on an investiga-  
20      tive subcommittee of the Committee on Standards of Offi-  
21      cial Conduct pursuant to paragraph (a)(3) shall not be  
22      counted against the limitation on subcommittee service.”.

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

3 The second sentence of clause 6(a)(2) of rule X of  
4 the Rules of the House of Representatives is amended to  
5 read as follows: "No Member shall serve as a member of  
6 the Committee on Standards of Official Conduct for more  
7 than two Congresses in any period of three successive Con-  
8 gresses (disregarding for this purpose any service per-  
9 formed as a member of such committee for less than a  
10 full session in any Congress), except that a Member hav-  
11 ing served on the committee for two Congresses shall be  
12 eligible for election to the committee as chairman or rank-  
13 ing minority member for one additional Congress. Not less  
14 than two Members from each party shall rotate off the  
15 committee at the end of each Congress."

16 **SEC. 3. COMMITTEE AGENDAS.**

17 The Committee on Standards of Official Conduct  
18 shall adopt rules providing that the chairman shall estab-  
19 lish the agenda for meetings of the committee, but shall  
20 not preclude the ranking minority member from placing  
21 any item on the agenda.

22 **SEC. 4. COMMITTEE STAFF.**

23 (a) **COMMITTEE RULES.**—The Committee on Stand-  
24 ards of Official Conduct shall adopt rules providing that:

25 (1)(A) The staff is to be assembled and re-  
26 tained as a professional, nonpartisan staff.

1           (B) Each member of the staff shall be profes-  
2           sional and demonstrably qualified for the position  
3           for which he is hired.

4           (C) The staff as a whole and each member of  
5           the staff shall perform all official duties in a non-  
6           partisan manner.

7           (D) No member of the staff shall engage in any  
8           partisan political activity directly affecting any con-  
9           gressional or presidential election.

10          (E) No member of the staff or outside counsel  
11          may accept public speaking engagements or write for  
12          publication on any subject that is in any way related  
13          to his or her employment or duties with the commit-  
14          tee without specific prior approval from the chair-  
15          man and ranking minority member.

16          (F) No member of the staff or outside counsel  
17          may make public, unless approved by an affirmative  
18          vote of a majority of the members of the committee,  
19          any information, document, or other material that is  
20          confidential, derived from executive session, or clas-  
21          sified and that is obtained during the course of em-  
22          ployment with the committee.

23          (2)(A) All staff members shall be appointed by  
24          an affirmative vote of a majority of the members of  
25          the committee. Such vote shall occur at the first

1 meeting of the membership of the committee during  
2 each Congress and as necessary during the Con-  
3 gress.

4 (B) Subject to the approval of Committee on  
5 House Oversight, the committee may retain counsel  
6 not employed by the House of Representatives when-  
7 ever the committee determines, by an affirmative  
8 vote of a majority of the members of the committee,  
9 that the retention of outside counsel is necessary  
10 and appropriate.

11 (C) If the committee determines that it is nec-  
12 essary to retain staff members for the purpose of a  
13 particular investigation or other proceeding, then  
14 such staff shall be retained only for the duration of  
15 that particular investigation or proceeding.

16 (3) Outside counsel may be dismissed prior to  
17 the end of a contract between the committee and  
18 such counsel only by an affirmative vote of a major-  
19 ity of the members of the committee.

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

22 (b) ADDITIONAL COMMITTEE STAFF.—In addition to  
23 any other staff provided for by law, rule, or other author-  
24 ity, with respect to the Committee on Standards of Official  
25 Conduct, the chairman and ranking minority member each

1 may appoint one individual as a shared staff member from  
2 his or her personal staff to perform service for the commit-  
3 tee. Such shared staff may assist the chairman or ranking  
4 minority member on any subcommittee on which he serves.

5 **SEC. 5. MEETINGS AND HEARINGS.**

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

9 “(3)(A) Notwithstanding clause 2(g)(1) of rule XI,  
10 each meeting of the Committee on Standards of Official  
11 Conduct or any subcommittee thereof shall occur in execu-  
12 tive session, unless the committee or subcommittee by an  
13 affirmative vote of a majority of its members opens the  
14 meeting to the public.

15 “(B) Notwithstanding clause 2(g)(2) of rule XI, hear-  
16 ings of an adjudicatory subcommittee or sanction hearings  
17 held by the Committee on Standards of Official Conduct  
18 shall be held in open session unless the subcommittee or  
19 committee, in open session by an affirmative vote of a ma-  
20 jority of its members, closes all or part of the remainder  
21 of the hearing on that day to the public.”

22 (2)(A) The first sentence of clause 2(g)(1) of rule XI  
23 of the Rules of the House of Representatives is amended  
24 by inserting “(except the Committee on Standards of Offi-  
25 cial Conduct)” after “thereof”.

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

5 (b) COMMITTEE RULES.—The Committee on Stand-  
6 ards of Official Conduct shall adopt rules providing that—

7 (1) all meetings of the committee or any sub-  
8 committee thereof shall occur in executive session  
9 unless the committee or subcommittee by an affirm-  
10 ative vote of a majority of its members opens the  
11 meeting or hearing to the public; and

12 (2) any hearing held by an adjudicatory sub-  
13 committee or any sanction hearing held by the com-  
14 mittee shall be open to the public unless the commit-  
15 tee or subcommittee by an affirmative vote of a ma-  
16 jority of its members closes the hearing to the pub-  
17 lic.

18 **SEC. 6. CONFIDENTIALITY OATHS.**

19 Clause 4(e) of rule X of the Rules of the House of  
20 Representatives is amended by adding at the end the fol-  
21 lowing:

22 “(4) Before any member, officer, or employee of the  
23 Committee on Standards of Official Conduct, including  
24 members of any subcommittee of the committee selected  
25 pursuant to clause 6(a)(3) and shared staff, may have ac-



1 cess to information that is confidential under the rules of  
2 the committee, the following oath (or affirmation) shall  
3 be executed:

4 'I do solemnly swear (or affirm) that I will not dis-  
5 close, to any person or entity outside the Committee  
6 on Standards of Official Conduct, any information  
7 received in the course of my service with the com-  
8 mittee, except as authorized by the committee or in  
9 accordance with its rules.'

10 Copies of the executed oath shall be retained by the Clerk  
11 of the House as part of the records of the House. This  
12 subparagraph establishes a standard of conduct within the  
13 meaning of subparagraph (1)(B). Breaches of confiden-  
14 tiality shall be investigated by the Committee on Stand-  
15 ards of Official Conduct and appropriate action shall be  
16 taken.".

17 **SEC. 7. PUBLIC DISCLOSURE**

18 The Committee on Standards of Official Conduct  
19 shall adopt rules providing that, unless otherwise deter-  
20 mined by a vote of the committee, only the chairman or  
21 ranking minority member, after consultation with each  
22 other, may make public statements regarding matters be-  
23 fore the committee or any subcommittee thereof.

1 **SEC. 8. CONFIDENTIALITY OF COMMITTEE VOTES.**

2 (a) **RECORDS.**—The last sentence in clause 2(e)(1)  
3 of rule XI of the Rules of the House of Representatives  
4 is amended by adding before the period at the end the  
5 following: “, except that in the case of rollcall votes in  
6 the Committee on Standards of Official Conduct taken in  
7 executive session, the result of any such vote shall not be  
8 made available for inspection by the public without an af-  
9 firmative vote of a majority of the members of the commit-  
10 tee”.

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

16 **SEC. 9. FILINGS BY NON-MEMBERS OF INFORMATION OF-**  
17 **FERED AS A COMPLAINT.**

18 (a) **FILINGS SPONSORED BY MEMBERS.**—Clause  
19 4(e)(2)(B) of rule X of the Rules of the House of Rep-  
20 resentatives is amended by striking “or submitted to”, by  
21 inserting “(I)” after “(i)”, by striking “a complaint” and  
22 inserting “information offered as a complaint”, and by  
23 adding after subdivision (I) the following new subdivision:

24 “(II) upon receipt of information offered as a  
25 complaint, in writing and under oath, from an indi-  
26 vidual not a Member of the House provided that a

1 Member of the House certifies in writing to the com-  
2 mittee that he or she believes the information is sub-  
3 mitted in good faith and warrants the review and  
4 consideration of the committee, or”.

5 (b) DIRECT FILING.—Clause 4(e)(2)(B)(ii) of rule X  
6 of the Rules of the House of Representatives is amended  
7 to read as follows:

8 “(ii) upon receipt of information offered as a  
9 complaint, in writing and under oath, directly from  
10 an individual not a Member of the House.”.

11 **SEC. 10. REQUIREMENTS TO CONSTITUTE A COMPLAINT.**

12 (a) PROCEDURAL REQUIREMENTS.—The Committee  
13 on Standards of Official Conduct shall amend its rules re-  
14 garding procedural requirements governing information  
15 submitted as a complaint pursuant to clause 4(e)(2)(B)(ii)  
16 of rule X of the Rules of the House of Representatives  
17 to provide that—

18 (1) an individual who submits information to  
19 the committee offered as a complaint must either  
20 have personal knowledge of conduct which is the  
21 basis of the violation alleged in the information, or  
22 base the information offered as a complaint upon—

23 (A) information received from another in-  
24 dividual who the complainant has a good faith

1 reason to believe has personal knowledge of  
2 such conduct; or

3 (B) his personal review of—

4 (i) documents kept in the ordinary  
5 course of business, government, or per-  
6 sonal affairs; or

7 (ii) photographs, films, videotapes, or  
8 recordings;

9 that contain information regarding conduct  
10 which is the basis of a violation alleged in the  
11 information offered as a complaint;

12 (2) a complainant or an individual from whom  
13 the complainant obtains information will be found to  
14 have personal knowledge of conduct which is the  
15 basis of the violation alleged in the information of-  
16 fered as a complaint if the complainant or that indi-  
17 vidual witnessed or was a participant in such con-  
18 duct; and

19 (3) an individual who submits information of-  
20 fered as a complaint consisting solely of information  
21 contained in a news or opinion source or publication  
22 that he believes to be true does not have the req-  
23 uisite personal knowledge.

24 (b) TIME FOR DETERMINATION.—The Committee on  
25 Standards of Official Conduct shall amend its rules re-

1 garding complaints to provide that whenever information  
2 offered as a complaint is submitted to the committee, the  
3 chairman and ranking minority member shall have 14 cal-  
4 endar days or 5 legislative days, whichever occurs first,  
5 to determine whether the information meets the require-  
6 ments of the committee's rules for what constitutes a com-  
7 plaint.

8 **SEC. 11. DUTIES OF CHAIRMAN AND RANKING MINORITY**  
9 **MEMBER REGARDING PROPERLY FILED COM-**  
10 **PLAINTS.**

11 (a) **COMMITTEE RULES.**—The Committee on Stand-  
12 ards of Official Conduct shall adopt rules providing that  
13 whenever the chairman and ranking minority member  
14 jointly determine that information submitted to the com-  
15 mittee meets the requirements of the committee's rules for  
16 what constitutes a complaint, they shall have 45 calendar  
17 days or 5 legislative days, whichever is later, after the date  
18 that the chairman and ranking minority member deter-  
19 mine that information filed meets the requirements of the  
20 committee's rules for what constitutes a complaint, unless  
21 the committee by an affirmative vote of a majority of its  
22 members votes otherwise, to—

23 (1) recommend to the committee that it dispose  
24 of the complaint, or any portion thereof, in any  
25 manner that does not require action by the House,

1 which may include dismissal of the complaint or res-  
2 olution of the complaint by a letter to the Member,  
3 officer, or employee of the House against whom the  
4 complaint is made;

5 (2) establish an investigative subcommittee; or

6 (3) request that the committee extend the appli-  
7 cable 45-calendar day or 5-legislative day period by  
8 one additional 45-calendar day period when they de-  
9 termine more time is necessary in order to make a  
10 recommendation under paragraph (1).

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

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

21 “(II) The chairman and ranking minority member of  
22 the committee may jointly gather additional information  
23 concerning alleged conduct which is the basis of a com-  
24 plaint or of information offered as a complaint until they  
25 have established an investigative subcommittee or the

1 chairman or ranking minority member has placed on the  
2 committee agenda the issue of whether to establish an in-  
3 vestigative subcommittee.”.

4 (c) DISPOSITION OF PROPERLY FILED COMPLAINTS  
5 BY CHAIRMAN AND RANKING MINORITY MEMBER IF NO  
6 ACTION TAKEN BY THEM WITHIN PRESCRIBED TIME  
7 LIMIT.—The Committee on Standards of Official Conduct  
8 shall adopt rules providing that if the chairman and rank-  
9 ing minority member jointly determine that information  
10 submitted to the committee meets the requirements of the  
11 committee rules for what constitutes a complaint, and the  
12 complaint is not disposed of within the applicable time pe-  
13 riods under subsection (a), then they shall establish an  
14 investigative subcommittee and forward the complaint, or  
15 any portion thereof, to that subcommittee for its consider-  
16 ation. However, if, at any time during those periods, either  
17 the chairman or ranking minority member places on the  
18 agenda the issue of whether to establish an investigative  
19 subcommittee, then an investigative subcommittee may be  
20 established only by an affirmative vote of a majority of  
21 the members of the committee.

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

1 “If a complaint is not disposed of within the applicable  
2 time periods set forth in the rules of the Committee on  
3 Standards of Official Conduct, then the chairman and  
4 ranking minority member shall jointly establish an inves-  
5 tigative subcommittee and forward the complaint, or any  
6 portion thereof, to that subcommittee for its consideration.  
7 However, if, at any time during those periods, either the  
8 chairman or ranking minority member places on the agen-  
9 da the issue of whether to establish an investigative sub-  
10 committee, then an investigative subcommittee may be es-  
11 tablished only by an affirmative vote of a majority of the  
12 members of the committee.”.

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

16 The Committee on Standards of Official Conduct  
17 shall adopt rules providing that whenever the chairman  
18 and ranking minority member jointly determine that infor-  
19 mation submitted to the committee does not meet the re-  
20 quirements for what constitutes a complaint set forth in  
21 the committee rules, they may—

22 (1) return the information to the complainant  
23 with a statement that it fails to meet the require-  
24 ments for what constitutes a complaint set forth in  
25 the committee’s rules; or



1           (2) recommend to the committee that it author-  
2       ize the establishment of an investigative subcommit-  
3       tee.

4 **SEC. 13. INVESTIGATIVE AND ADJUDICATORY SUBCOMMIT-**  
5 **TEES.**

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

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

13          (B) adjudicatory subcommittees shall be com-  
14      prised of the members of the committee who did not  
15      serve on the investigative subcommittee (with equal  
16      representation from the majority and minority par-  
17      ties) whenever such subcommittee is established pur-  
18      suant to the rules of the committee;

19          (2) at the time of appointment, the chairman  
20      shall designate one member of the subcommittee to  
21      serve as chairman and the ranking minority member  
22      shall designate one member of the subcommittee to  
23      serve as the ranking minority member of the inves-  
24      tigative subcommittee or adjudicatory subcommittee;  
25      and

1 (3) the chairman and ranking minority member  
2 of the committee may serve as members of an inves-  
3 tigative subcommittee, but may not serve as non-vot-  
4 ing, ex officio members.

5 **SEC. 14. STANDARD OF PROOF FOR ADOPTION OF STATE-**  
6 **MENT OF ALLEGED VIOLATION.**

7 The Committee on Standards of Official Conduct  
8 shall amend its rules to provide that an investigative sub-  
9 committee may adopt a statement of alleged violation only  
10 if it determines by an affirmative vote of a majority of  
11 the members of the committee that there is substantial  
12 reason to believe that a violation of the Code of Official  
13 Conduct, or of a law, rule, regulation, or other standard  
14 of conduct applicable to the performance of official duties  
15 or the discharge of official responsibilities by a Member,  
16 officer, or employee of the House of Representatives has  
17 occurred.

18 **SEC. 15. SUBCOMMITTEE POWERS.**

19 (a) SUBPOENA POWER.—

20 (1) HOUSE RULES.—Clause 2(m)(2)(A) of rule  
21 XI of the Rules of the House of Representatives is  
22 amended—

23 (A) in the second sentence by striking  
24 “The” and inserting “Except as provided by  
25 the next sentence, the”; and

1 (B) by inserting after the second sentence  
2 the following new sentence: "In the case of the  
3 Committee on Standards of Official Conduct or  
4 any subcommittee thereof, a subpoena may be  
5 authorized and issued by the committee only  
6 when authorized by a majority of the members  
7 voting (a majority being present) or by a sub-  
8 committee only when authorized by an affirma-  
9 tive vote of a majority of its members."

10 (2) COMMITTEE RULES.—The Committee on  
11 Standards of Official Conduct shall adopt rules pro-  
12 viding that an investigative subcommittee or an ad-  
13 judicatory subcommittee may authorize and issue  
14 subpoenas only when authorized by an affirmative  
15 vote of a majority of the members of the subcommit-  
16 tee.

17 (b) EXPANSION OF SCOPE OF INVESTIGATIONS.—  
18 The Committee on Standards of Official Conduct shall  
19 adopt rules providing that an investigative subcommittee  
20 may, upon an affirmative vote of a majority of its mem-  
21 bers, expand the scope of its investigation without the ap-  
22 proval of the committee.

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

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

6           (2) if an investigative subcommittee amends its  
7 statement of alleged violation, the respondent shall  
8 be notified in writing and shall have 30 calendar  
9 days from the date of that notification to file an an-  
10 swer to the amended statement of alleged violation.

11 **SEC. 16. DUE PROCESS RIGHTS OF RESPONDENTS.**

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

14           (1) not less than 10 calendar days before a  
15 scheduled vote by an investigative subcommittee on  
16 a statement of alleged violation, the subcommittee  
17 shall provide the respondent with a copy of the  
18 statement of alleged violation it intends to adopt to-  
19 gether with all evidence it intends to use to prove  
20 those charges which it intends to adopt, including  
21 documentary evidence, witness testimony, memo-  
22 randa of witness interviews, and physical evidence,  
23 unless the subcommittee by an affirmative vote of a  
24 majority of its members decides to withhold certain  
25 evidence in order to protect a witness, but if such

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

4 (2) neither the respondent nor his counsel shall,  
5 directly or indirectly, contact the subcommittee or  
6 any member thereof during the period of time set  
7 forth in paragraph (1) except for the sole purpose of  
8 settlement discussions where counsels for the re-  
9 spondent and the subcommittee are present;

10 (3) if, at any time after the issuance of a state-  
11 ment of alleged violation, the committee or any sub-  
12 committee thereof determines that it intends to use  
13 evidence not provided to a respondent under para-  
14 graph (1) to prove the charges contained in the  
15 statement of alleged violation (or any amendment  
16 thereof), such evidence shall be made immediately  
17 available to the respondent, and it may be used in  
18 any further proceeding under the committee's rules;

19 (4) evidence provided pursuant to paragraph  
20 (1) or (3) shall be made available to the respondent  
21 and his or her counsel only after each agrees, in  
22 writing, that no document, information, or other ma-  
23 terials obtained pursuant to that paragraph shall be  
24 made public until—

1 (A) such time as a statement of alleged  
2 violation is made public by the committee if the  
3 respondent has waived the adjudicatory hear-  
4 ing; or

5 (B) the commencement of an adjudicatory  
6 hearing if the respondent has not waived an ad-  
7 judicatory hearing;

8 but the failure of respondent and his counsel to so  
9 agree in writing, and therefore not receive the evi-  
10 dence, shall not preclude the issuance of a statement  
11 of alleged violation at the end of the period referred  
12 to in paragraph (1);

13 (5) a respondent shall receive written notice  
14 whenever—

15 (A) the chairman and ranking minority  
16 member determine that information the com-  
17 mittee has received constitutes a complaint;

18 (B) a complaint or allegation is transmit-  
19 ted to an investigative subcommittee;

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

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

1           (6) whenever an investigative subcommittee  
2           adopts a statement of alleged violation and a re-  
3           spondent enters into an agreement with that sub-  
4           committee to settle a complaint on which that state-  
5           ment is based, that agreement, unless the respond-  
6           ent requests otherwise, shall be in writing and  
7           signed by the respondent and respondent's counsel,  
8           the chairman and ranking minority member of the  
9           subcommittee, and the outside counsel, if any;

10          (7) statements or information derived solely  
11          from a respondent or his counsel during any settle-  
12          ment discussions between the committee or a sub-  
13          committee thereof and the respondent shall not be  
14          included in any report of the subcommittee or the  
15          committee or otherwise publicly disclosed without  
16          the consent of the respondent; and

17          (8) whenever a motion to establish an investiga-  
18          tive subcommittee does not prevail, the committee  
19          shall promptly send a letter to the respondent in-  
20          forming him of such vote.

21 **SEC. 17. COMMITTEE REPORTING REQUIREMENTS.**

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

24                (1) whenever an investigative subcommittee  
25                does not adopt a statement of alleged violation and

1 transmits a report to that effect to the committee,  
2 the committee may by an affirmative vote of a ma-  
3 jority of its members transmit such report to the  
4 House of Representatives; and

5 (2) whenever an investigative subcommittee  
6 adopts a statement of alleged violation, the respond-  
7 ent admits to the violations set forth in such state-  
8 ment, the respondent waives his or her right to an  
9 adjudicatory hearing, and the respondent's waiver is  
10 approved by the committee—

11 (A) the subcommittee shall prepare a re-  
12 port for transmittal to the committee, a final  
13 draft of which shall be provided to the respond-  
14 ent not less than 15 calendar days before the  
15 subcommittee votes on whether to adopt the re-  
16 port;

17 (B) the respondent may submit views in  
18 writing regarding the final draft to the sub-  
19 committee within 7 calendar days of receipt of  
20 that draft;

21 (C) the subcommittee shall transmit a re-  
22 port to the committee regarding the statement  
23 of alleged violation together with any views sub-  
24 mitted by the respondent pursuant to subpara-  
25 graph (B), and the committee shall make the



1 report together with the respondent's views  
2 available to the public before the commence-  
3 ment of any sanction hearing; and

4 (D) the committee shall by an affirmative  
5 vote of a majority of its members issue a report  
6 and transmit such report to the House of Rep-  
7 resentatives, together with the respondent's  
8 views previously submitted pursuant to sub-  
9 paragraph (B) and any additional views re-  
10 spondent may submit for attachment to the  
11 final report; and

12 (3) members of the committee shall have not  
13 less than 72 hours to review any report transmitted  
14 to the committee by an investigative subcommittee  
15 before both the commencement of a sanction hearing  
16 and the committee vote on whether to adopt the re-  
17 port.

18 **SEC. 18. REFERRALS TO FEDERAL OR STATE AUTHORITIES.**

19 Clause 4(e)(1)(C) of rule X of the Rules of the House  
20 of Representatives is amended by striking "with the ap-  
21 proval of the House" and inserting "either with the ap-  
22 proval of the House or by an affirmative vote of two-thirds  
23 of the members of the committee".

**1 SEC. 19. FRIVOLOUS FILINGS.**

2 Clause 4(e) of rule X of the Rules of the House of  
3 Representatives is amended by adding at the end the fol-  
4 lowing:

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

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

**14 SEC. 20. TECHNICAL AMENDMENTS.**

15 The Committee on Standards of Official Conduct  
16 shall—

17 (1) clarify its rules to provide that whenever the  
18 committee votes to authorize an investigation on its  
19 own initiative, the chairman and ranking minority  
20 member shall establish an investigative subcommit-  
21 tee to undertake such investigation;

22 (2) revise its rules to refer to hearings held by  
23 an adjudicatory subcommittee as adjudicatory hear-  
24 ings; and

77

26

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

78

RULES

*of the*

HOUSE OF REPRESENTATIVES

---

EFFECTIVE FOR  
ONE HUNDRED FIFTH CONGRESS

---



PREPARED BY  
ROBIN H. CARLE  
Clerk of the House of Representatives  
JANUARY 7, 1997

## HOUSE OF REPRESENTATIVES

3

audits of financial records and administrative operations.

## RULE IV

## DUTIES OF THE SERGEANT-AT-ARMS

1. It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings, to maintain order under the direction of the Speaker or Chairman, and, pending the election of a Speaker or Speaker pro tempore, under the direction of the Clerk, execute the commands of the House, and all processes issued by authority thereof, directed to him by the Speaker.

2. The symbol of his office shall be the mace, which shall be borne by him while enforcing order on the floor.

3. He shall enforce strictly the rules relating to the privileges of the Hall and be responsible to the House for the official conduct of his employees.

4. He shall allow no person to enter the room over the Hall of the House during its sittings, and fifteen minutes before the hour of the meeting of the House each day he shall see that the floor is cleared of all persons except those privileged to remain, and kept so until ten minutes after adjournment.

5. In addition to any other reports required by the Speaker or the Committee on House Oversight, the Sergeant-at-Arms shall report to the Committee on House Oversight not later than 45 days following the close of each semi-annual period ending June 30 or on December 31 on the financial and operational status of each function under the jurisdiction of the Sergeant-at-Arms. Each report shall include financial statements, a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

6. The Sergeant-at-Arms shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

## RULE V

## CHIEF ADMINISTRATIVE OFFICER

1. The Chief Administrative Officer of the House shall have operational and financial responsibility for functions assigned by the Committee on House Oversight, and shall be subject to the policy direction and oversight of the Committee on House Oversight.

2. In addition to any other reports required by the Committee on House Oversight, the Chief shall report to the Committee on House Oversight not later than 45 days following the close of each semi-annual period ending on June 30 or December 31 on the financial and operational status of each function under the jurisdiction of the Chief. Each report shall include financial statements, a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

3. The Chief shall fully cooperate with the appropriate offices and per-

sons in the performance of reviews and audits of financial records and administrative operations.

## RULE VI

## OFFICE OF INSPECTOR GENERAL

1. There is established an Office of Inspector General.

2. The Inspector General shall be appointed for a Congress by the Speaker, the Majority Leader, and the Minority Leader, acting jointly.

3. Subject to the policy direction and oversight of the Committee on House Oversight, the Inspector General shall be responsible only for—

(a) conducting periodic audits of the financial and administrative functions of the House and joint entities;

(b) informing the Officers or other officials who are the subject of an audit of the results of that audit and suggesting appropriate curative actions;

(c) simultaneously notifying the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority party member of the Committee on House Oversight in the case of any financial irregularity discovered in the course of carrying out responsibilities under this rule;

(d) simultaneously submitting to the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority party member of the Committee on House Oversight a report of each audit conducted under this rule; and

(e) reporting to the Committee on Standards of Official Conduct information involving possible violations by any Member, 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 which may require referral to the appropriate Federal or State authorities pursuant to clause 4(e)(1)(C) of rule X.

## RULE VII

## DUTIES OF THE CHAPLAIN

The Chaplain shall attend at the commencement of each day's sitting of the House and open the same with prayer.

## RULE VIII

## DUTIES OF THE MEMBERS

1. Every Member shall be present within the Hall of the House during its sittings, unless excused or necessarily prevented; and shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question.

2. Pairs shall be announced by the Clerk immediately before the announcement by the Chair of the result of the vote, by the House or Committee of the Whole from a written list furnished him, and signed by the Member making the statement to the Clerk, which list shall be published in the

Record as a part of the proceedings, immediately following the names of those not voting. However, pairs shall be announced but once during the same legislative day.

3. (a) A Member may not authorize any other individual to cast his vote or record his presence in the House or Committee of the Whole.

(b) No individual other than a Member may cast a vote or record a Member's presence in the House or Committee of the Whole.

(c) A Member may not cast a vote for any other Member or record another Member's presence in the House or Committee of the Whole.

## RULE IX

## QUESTIONS OF PRIVILEGE

1. Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; and second, those affecting the rights, reputation, and conduct of Members, individually, in their representative capacity only.

2. (a)(1) A resolution reported as a question of the privileges of the House, or offered from the floor by the Majority Leader or the Minority Leader as a question of the privileges of the House, or offered as privileged under clause 1, section 7, article I of the Constitution, shall have precedence of all other questions except motions to adjourn. A resolution offered from the floor by a Member other than the Majority Leader or the Minority Leader as a question of the privileges of the House shall have precedence of all other questions except motions to adjourn only at a time or place, designated by the Speaker, in the legislative schedule within two legislative days after the day on which the proponent announces to the House his intention to offer the resolution and the form of the resolution.

(2) The time allotted for debate on a resolution offered from the floor as a question of the privileges of the House shall be equally divided between (A) the proponent of the resolution, and (B) the Majority Leader the Minority Leader or a designee, as determined by the Speaker.

(b) A question of personal privilege shall have precedence of all other questions except motions to adjourn.

## RULE X

## ESTABLISHMENT AND JURISDICTION OF STANDING COMMITTEES

## The Committees and Their Jurisdiction

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) be referred to such committees, as follows:

## RULES OF THE

and Oversight shall report to the House the oversight plans submitted by each committee together with any recommendations that it, or the House leadership group referred to above, may make to ensure the most effective coordination of such plans and otherwise achieve the objectives of this clause.

(e) The Speaker, with the approval of the House, may appoint special ad hoc oversight committees for the purpose of reviewing specific matters within the jurisdiction of two or more standing committees.

#### Special Oversight Functions

3. (a) The Committee on National Security shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving international arms control and disarmament and the education of military dependents in schools.

(b) The Committee on the Budget shall have the function of—

(1) making continuing studies of the effect on budget outlays of relevant existing and proposed legislation, and reporting the results of such studies to the House on a recurring basis; and

(2) requesting and evaluating continuing studies of tax expenditures, devising methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and reporting the results of such studies to the House on a recurring basis.

(c) The Committee on Education and the Workforce shall have the function of reviewing, studying, and coordinating, on a continuing basis, all laws, programs, and Government activities dealing with or involving domestic educational programs and institutions, and programs of student assistance, which are within the jurisdiction of other committees.

(d) The Committee on International Relations shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.

(e) The Committee on Resources shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with Indians.

(f) The Committee on Science shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving non-military research and development.

(g) The Committee on Small Business shall have the function of studying and investigating, on a continuing basis, the problems of all types of small business.

(h) The Committee on Commerce shall have the function of reviewing

and studying on a continuing basis, all laws, programs and government activities relating to nuclear and other energy, and nonmilitary nuclear energy and research and development including the disposal of nuclear waste.

(i) The Committee on Rules shall have the function of reviewing and studying, on a continuing basis, the congressional budget process, and the committee shall, from time to time, report its findings and recommendations to the House.

#### Additional Functions of Committees

4. (a)(1)(A) The Committee on Appropriations shall, within thirty days after the transmittal of the Budget to the Congress each year, hold hearings on the Budget as a whole with particular reference to—

(i) the basic recommendations and budgetary policies of the President in the presentation of the Budget; and

(ii) the fiscal, financial, and economic assumptions used as bases in arriving at total estimated expenditures and receipts.

(B) In holding hearings pursuant to subdivision (A), the committee shall receive testimony from the Secretary of the Treasury, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and such other persons as the committee may desire.

(C) Hearings pursuant to subdivision (A), or any part thereof, shall be held in open session, except when the committee, in open session and with a quorum present, determines by roll call vote that the testimony to be taken at that hearing on that day may be related to a matter of national security. Provided, however, That the committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy thereof furnished to each Member, Delegate, and the Resident Commissioner from Puerto Rico.

(D) Hearings pursuant to subdivision (A), or any part thereof, may be held before joint meetings of the committee and the Committee on Appropriations of the Senate in accordance with such procedures as the two committees jointly may determine.

(2) Whenever any bill or resolution which provides new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 is reported by a committee of the House and the amount of new budget authority which will be required for the fiscal year involved if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported as described in clause 4(h) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations with instructions to report it, with the committee's recommendations and (if the committee deems it desirable) with an amendment limiting

the total amount of new spending authority provided in the bill or resolution, within 15 calendar days (not counting any day on which the House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations fails to report the bill or resolution within such 15-day period, the committee shall be automatically discharged from further consideration of the bill or resolution and the bill or resolution shall be placed on the appropriate calendar.

(3) In addition, the Committee on Appropriations shall study on a continuing basis those provisions of law which (on the first day of the first fiscal year for which the congressional budget process is effective) provide spending authority of permanent budget authority, and shall report to the House from time to time its recommendations for terminating or modifying such provisions.

(b) The Committee on the Budget shall have the duty—

(1) to review on a continuing basis the conduct by the Congressional Budget Office of its functions and duties;

(2) to hold hearings, and receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as it deems desirable, in developing the concurrent resolutions on the budget for each fiscal year;

(3) to make all reports required of it by the Congressional Budget Act of 1974, including the reporting of reconciliation bills and resolutions when so required;

(4) to study on a continuing basis those provisions of law which exempt Federal agencies or any of their activities or outlays from inclusion in the Budget of the United States Government, and to report to the House from time to time its recommendations for terminating or modifying such provisions; and

(5) to study on a continuing basis proposals designed to improve and facilitate methods of congressional budget-making, and to report to the House from time to time the results of such study together with its recommendations.

(c)(1) The Committee on Government Reform and Oversight shall have the general function of—

(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the House as it deems necessary or desirable in connection with the subject matter of such reports;

(B) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(C) studying intergovernmental relationships between the United States and the States and municipalities, and between the United

## HOUSE OF REPRESENTATIVES

States and international organizations of which the United States is a member.

(2) In addition to its duties under subparagraph (1), the Committee on Government Reform and Oversight may at any time conduct investigations of any matter without regard to the provisions of clause 1, 2, or 3 (or this clause) conferring jurisdiction over such matter upon another standing committee. The committee's findings and recommendations in any such investigation shall be made available to the other standing committee or committees having jurisdiction over the matter involved (and included in the report of any such other committee when required by clause 2(1)(3) of rule XI).

(d)(1) The Committee on House Oversight shall have the function of—

(A) examining all bills, amendments, and joint resolutions after passage by the House and, in cooperation with the Senate, examining all bills and joint resolutions which shall have passed both Houses to see that they are correctly enrolled, forthwith presenting those which originated in the House to the President of the United States in person after their signature by the Speaker of the House and the President of the Senate and reporting the fact and date of such presentation to the House;

(B) providing policy direction for, and oversight of, the Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Inspector General; and

(C) accepting a gift, other than as otherwise provided by law, if the gift does not involve any duty, burden, or condition, or is not made dependent upon some future performance by the House of Representatives and promulgating regulations to carry out this paragraph.

(2) An employing office of the House of Representatives may enter a settlement of a complaint under the Congressional Accountability Act of 1996 that provides for the payment of funds only after receiving the joint approval of the chairman and the ranking minority party member of the Committee on House Oversight concerning the amount of such payment.

(e)(1) The Committee on Standards of Official Conduct is authorized: (A) to recommend to the House from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House, and any letter of reproof or other administrative action of the committee pursuant to an investigation under subdivision (B) shall only be issued or implemented as a part of a report required by such subdivision; (B) to investigate, subject to subparagraph (2) of this paragraph, any alleged violation, by a Member, officer, or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable

to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities, and after notice and hearing (unless the right to a hearing is waived by the Member, officer, or employee), shall report to the House its findings of fact and recommendations, if any, upon the final disposition of any such investigation, and such action as the committee may deem appropriate in the circumstances; (C) to report to the appropriate Federal or State authorities, with the approval of the House, any substantial evidence of a violation, by a Member, officer, or employee of the House, of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation; (D) to give consideration to the request of any Member, 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, officer, or employee and, with appropriate deletions to assure the privacy of the individual concerned, to publish such opinion for the guidance of other Members, officers, and employees of the House; and (E) to give consideration to the request of any Member, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XLIII.

(2)(A) No resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, officer, or employee of the House shall be made by the Committee on Standards of Official Conduct, and no investigation of such conduct shall be undertaken by such committee, unless approved by the affirmative vote of a majority of the members of the committee.

(B) 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, officer, or employee of the House of Representatives only—

(i) upon receipt of a complaint, in writing and under oath, made by or submitted to a Member of the House and transmitted to the committee by such Member, or

(ii) upon receipt of a complaint, in writing and under oath, directly from an individual not a Member of the House if the committee finds that such complaint has been submitted by such individual to not less than three Members of the House who have refused, in writing, to transmit such complaint to the committee.

(C) No investigation shall be undertaken by the committee of any alleged violation of a law, rule, regulation, or standard of conduct not in effect at the time of the alleged violation; 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 any alleged violation which occurred in a more recent Congress.

(D) A member of the committee shall be ineligible to participate, as a member of the committee, in any committee proceeding relating to his or her official conduct. In any case in which a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker of the House shall designate a Member of the House from the same political party as the ineligible member of the committee to act as a member of the committee in any committee proceeding relating to the official conduct of such ineligible member.

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

(F) No information or testimony received, or the contents of a complaint or the fact of its filing, shall be publicly disclosed by any committee or staff member unless specifically authorized in each instance by a vote of the full committee.

(3) Effective as of noon on January 3, 1997, there is hereby established in the One Hundred Fifth Congress a Select Committee on Ethics. Effective as of noon on January 3, 1997, each Member who served as a member of the standing Committee on Standards of Official Conduct at the expiration of the One Hundred Fourth Congress is hereby appointed as a member of the select committee. A resignation from the select committee shall be deemed effective upon notice to the House. A vacancy on the select committee shall be filled by appointment by the Leader of the party concerned. The select committee shall have jurisdiction only to resolve the Statement issued by the Investigative Subcommittee of the standing Committee on Standards of Official Conduct in the One Hundred Fourth Congress relating to the official conduct of Representative Gingrich of Georgia and otherwise report to the House on the activities of that investigative subcommittee. In the exercise of that jurisdiction, the select committee shall possess the same authority as, and shall conduct its proceedings under the same rules, terms, and conditions (including extension of the service and authority of the staff and of the outside counsel commissioned by the investigative subcommittee under the

same terms and conditions as in the One Hundred Fourth Congress and effective as of noon on January 3, 1987) as those applicable to the standing Committee on Standards of Official Conduct in the One Hundred Fourth Congress, except that the select committee may file reports in separate volumes with the Clerk when the House is not in session and the time otherwise guaranteed by clause 2(1)(5) of rule XI for submission of separate views shall be computed as two calendar days after the day on which the report is ordered. Expenses of the select committee may be paid from applicable accounts of the House. The select committee shall cease to exist upon final disposition by the House of a report designated by the select committee as its final report on the matter, or at the expiration of January 21, 1987, whichever is earlier.

(f)(1) Each standing committee of the House shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, insure that appropriations for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved. For the purposes of this paragraph a Government agency includes the organizational units of government listed in clause 7(c) of rule XIII.

(2) Each standing committee of the House shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

(g) Each standing committee of the House shall, on or before February 25 of each year, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year. The views and estimates submitted by the Committee on Ways and Means under the preceding sentence shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt which should be set forth in the concurrent resolution on the budget referred to in such sentence and serve as the basis for an increase or decrease in the statutory limit on such debt under the procedures provided by rule XLIX.

(h) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, each standing committee of the House (after consulting with the appropriate commit-

tees or committees of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 or section 502 (in the case of fiscal years 1991 through 1995) of the Congressional Budget Act of 1974.

(i) Each standing committee of the House which is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

#### Referral of Bills, Resolutions, and Other Matters to Committees

5. (a) Each bill, resolution, or other matter which relates to a subject listed under any standing committee named in clause 1 shall be referred by the Speaker in accordance with the provisions of this clause.

(b) Every referral of any matter under paragraph (a) shall be made in such manner as to assure to the maximum extent feasible that each committee which has jurisdiction under clause 1 over the subject matter of any provision thereof will have responsibility for considering such provision and reporting to the House with respect thereto. Any precedents, rulings, and procedures in effect prior to the Ninety-Fourth Congress shall be applied with respect to referrals under this clause only to the extent that they will contribute to the achievement of the objectives of this clause.

(c) In carrying out paragraphs (a) and (b) with respect to any matter, the Speaker shall designate a committee of primary jurisdiction; but also may refer the matter to one or more additional committees, for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the committee of primary jurisdiction; or may refer portions of the matter to one or more additional committees (reflecting different subjects and jurisdictions) for the consideration only of designated portions; or may refer the matter to a special ad hoc committee appointed by the Speaker with the approval of the House (with members from the committees having jurisdiction) for the specific purpose of considering that matter and reporting to the House thereon; or may make such other provisions as may be considered appropriate.

#### Election and Membership of Committees; Chairmen; Vacancies; Select and Conference Committees

6. (a)(1) The standing committees specified in clause 1 shall be elected by the House within the seventh calendar day beginning after the commence-

ment of each Congress, from nominations submitted by the respective party caucuses. It shall always be in order to consider resolutions recommended by the respective party caucuses to change the composition of standing committees.

(2) One-half of the members of the Committee on Standards of Official Conduct shall be from the majority party and one-half shall be from the minority party. No Member shall serve as a member of the Committee on Standards of Official Conduct during more than 3 Congresses in any period of 5 successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress).

(b)(1) Membership on standing committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference that nominated Members for election to such committees. Should a Member cease to be a member of a particular party caucus or conference, said Member shall automatically cease to be a member of a standing committee to which he was elected on the basis of nomination by that caucus or conference. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member ceases to be a member of the party caucus or conference and the Speaker shall notify the chairman of each standing committee on which said Member serves, that in accord with this rule, the Member's election to such committee is automatically vacated.

(2)(A) No Member, Delegate, or Resident Commissioner may serve simultaneously as a member of more than two standing committees or four subcommittees of the standing committees of the House, except that ex officio service by a chairman and ranking minority member of a committee on each of its subcommittees by committee rule shall not be counted against the limitation on subcommittee service. Any other exception to these limitations must be approved by the House upon the recommendation of the respective party caucus or conference.

(B) For the purposes of this subparagraph, the term "subcommittee" includes any panel (other than a special oversight panel of the Committee on National Security), task force, special subcommittee, or any subunit of a standing committee that is established for a cumulative period longer than six months in any Congress.

(c) One of the members of each standing committee shall be elected by the House, from nominations submitted by the majority party caucus, at the commencement of each Congress, as chairman thereof. No Member may serve as the chairman of the same standing committee, or as the chairman of the same subcommittee thereof, for more than three consecutive Congresses, beginning with the One Hundred Fourth



## HOUSE OF REPRESENTATIVES

11

Congress (disregarding for this purpose any service for less than a full session in any Congress). In the temporary absence of the chairman, the member next in rank in the order named in the election of the committee, and so on, as often as the case shall happen, shall act as chairman; and in case of a permanent vacancy in the chairmanship of any such committee the House shall elect another chairman.

(d) No committee of the House shall have more than five subcommittees (except the Committee on Appropriations, which shall have no more than 15, the Committee on Government Reform and Oversight, which shall have no more than seven; and the Committee on Transportation and Infrastructure, which shall have no more than six).

(e) All vacancies in standing committees shall be filled by election by the House from nominations submitted by the respective party caucus or conference.

(f) The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time. At any time after an original appointment, the Speaker may remove Members or appoint additional Members to select and conference committees. In appointing members to conference committees the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker. The Speaker shall name Members who are primarily responsible for the legislation and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill as it passed the House.

(g) Membership on select and joint committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference the Member was a member of at the time of his appointment to a select or joint committee. Should a Member cease to be a member of that caucus or conference, said Member shall automatically cease to be a member of any select or joint committee to which he is assigned. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member ceases to be a member of a party caucus or conference and the Speaker shall notify the chairman of each select or joint committee on which said Member serves, that in accord with this rule, the Member's appointment to such committee is automatically vacated.

(h) The Speaker may appoint the Resident Commissioner from Puerto Rico and Delegates to the House to any select committee and to any conference committee.

RULE XI  
RULES OF PROCEDURE FOR COMMITTEES  
In General

1. (a)(1) The Rules of the House are the rules of its committees and sub-

committees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in committees and subcommittees.

(2) Each subcommittee of a committee is a part of that committee, and is subject to the authority and direction of that committee and to its rules so far as applicable.

(b)(1) Each committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under rule X, and (subject to the adoption of expense resolutions as required by clause 5) to incur expenses (including travel expenses) in connection therewith.

(2) A proposed investigative or oversight report shall be considered as read in committee if it has been available to the members for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day).

(3) A report of an investigation or study conducted jointly by more than one committee may be filed jointly, provided that each of the committees complies independently with all requirements for approval and filing of the report.

(4) After an adjournment of the last regular session of a Congress sine die, an investigative or oversight report may be filed with the Clerk at any time, provided that if a member gives timely notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than seven calendar days in which to submit such views for inclusion with the report.

(c) Each committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee. All costs of stenographic services and transcripts in connection with any meeting or hearing of a committee shall be paid from the applicable accounts of the House described in clause 1(h)(1) of rule X.

(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year, a report on the activities of that committee under this rule and rule X during the Congress ending on January 3 of such year.

(2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee pursuant to clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.

(4) After an adjournment of the last regular session of a Congress sine die,

the chairman of a committee may file a report pursuant to subparagraph (1) with the Clerk at any time and without approval of the committee, provided that a copy of the report has been available to each member of the committee for at least seven calendar days and includes any supplemental, minority, or additional views submitted by a member of the committee.

Committee Rules

**Adoption of written rules**  
2. (a) Each standing committee of the House shall adopt written rules governing its procedure. Such rules—

(1) shall be adopted in a meeting which is open to the public unless the committee, in open session and with a quorum present, determined by roll call vote that all or part of the meeting on that day is to be closed to the public;

(2) shall be not inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(3) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

Each committee's rules specifying its regular meeting days, and any other rules of a committee which are in addition to the provisions in the Congressional Record not later than thirty days after the committee is elected in each odd-numbered year. Each select or joint committee shall comply with the provisions of this paragraph unless specifically prohibited by law.

Regular meeting days

(b) Each standing committee of the House shall adopt regular meeting days, which shall be not less frequent than monthly, for the conduct of its business. Each such committee shall meet, for the consideration of any bill or resolution pending before the committee or for the transaction of other committee business, on all regular meeting days fixed by the committee, unless otherwise provided by written rule adopted by the committee.

Additional and special meetings

(c)(1) The Chairman of each standing committee may call and convene, as he or she considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purpose pursuant to that call of the chairman.

(2) If at least three members of any standing committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If,

## RULES OF THE

within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of, and the measure or matter to be considered at, that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered; and only the measure or matter specified in that notice may be considered at that special meeting.

*Vice chairman or ranking majority member to preside in absence of chairman*

(d) A member of the majority party on any standing committee or subcommittee thereof designated by the chairman of the full committee shall be vice chairman of the committee or subcommittee, as the case may be, and shall preside at any meeting during the temporary absence of the chairman. If the chairman and vice chairman of the committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking member of the majority party who is present shall preside at that meeting.

*Committee records*

(e)(1) Each committee shall keep a complete record of all committee action which shall include—

(A) in the case of any meeting or hearing transcript, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and

(B) a record of the votes on any question on which a rollcall vote is demanded. The result of each such roll call vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members present but not voting.

(2) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access thereto, except that in the case of records in the Committee on Standards of Official Con-

duct respecting the conduct of any Member, officer, or employee of the House, no Member of the House (other than a member of such committee) shall have access thereto without the specific, prior approval of the committee.

(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule XXXVI. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule XXXVI, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.

(4) Each committee shall, to the maximum extent feasible, make its publications available in electronic form.

*Prohibition against proxy voting*

(f) No vote by any member of any committee or subcommittee with respect to any measure or matter may be cast by proxy.

*Open meetings and hearings*

(g)(1) Each meeting for the transaction of business, including the marking of legislation, of each standing committee or subcommittee thereof shall be open to the public, including to radio, television, and still photography coverage, except as provided by clause 3(f)(2), except when the committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House: *Provided, however*, That no person other than members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to open committee hearings which are provided for by clause 4(a)(1) of rule X or by subparagraph (2) of this paragraph.

(2) Each hearing conducted by each committee or subcommittee thereof shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security, would compromise sensitive law enforcement information, or would violate any law or rule of the House of Representatives. Notwithstanding the

requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony,

(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, would compromise sensitive law enforcement information, or violate clause 2(k)(5) of rule XI; or

(B) may vote to close the hearing, as provided in clause 2(k)(5) of rule XI.

No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, with the exception of the Committee on Standards of Official Conduct, unless the House of Representatives shall by majority vote authorize a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subparagraph for closing hearings to the public: *Provided, however*, That the committee or subcommittee may by the same procedure vote to close one subsequent day of hearing except that the Committee on Appropriations, the Committee on National Security, and the Permanent Select Committee on Intelligence and the subcommittees therein may, by the same procedure, vote to close up to five additional consecutive days of hearings.

(3) The chairman of each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any committee hearing at least one week before the commencement of the hearing. If the chairman of the committee, with the concurrence of the ranking minority member, determines there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the chairman shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of House Information Resources.

(4) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial oral presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received dur-

## HOUSE OF REPRESENTATIVES

ing the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.

(5) No point of order shall lie with respect to any measure reported by any committee on the ground that hearings on such measure were not conducted in accordance with the provisions of this clause; except that a point of order on that ground may be made by any member of the committee which reported the measure if, in the committee, such point of order was (A) timely made and (B) improperly overruled or not properly considered.

(6) The preceding provisions of this paragraph do not apply to the committee hearings which are provided for by clause 4(a)(1) of rule X.

**Quorum for taking testimony and certain other action**

(h)(1) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence which shall be not less than two.

(2) Each committee (except the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than the reporting of a measure or recommendation which shall be not less than one-third of the members.

**Limitation on committees' sittings**

(i) No committee of the House may sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

**Calling and interrogation of witnesses**

(j)(1) Whenever any hearing is conducted by any committee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(2)(A) Subject to subdivisions (B) and (C), each committee shall apply the five-minute rule in the interrogation of witnesses in any hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

(B) A committee may adopt a rule or motion permitting an equal number of its majority and minority party members each to question a witness for a specified period not longer than 30 minutes.

(C) A committee may adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness for equal specified periods.

**Investigative hearing procedures**

(k)(1) The chairman at an investigative hearing shall announce in an open-

ing statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics and the rules of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person,

(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of clause 2(g)(2) of this rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony, the committee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if the committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

**Committee procedures for reporting bills and resolutions**

(l)(1)(A) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken necessary steps to bring a matter to a vote.

(B) In any event, the report of any committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This subdivision does not apply to a report of the Committee on Rules with respect to the rules, joint rules, or order of business of the House or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(2)(A) No measure or recommendation shall be reported from any committee unless a majority of the committee was actually present.

(B) With respect to each rollcall vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the committee report on the measure or matter.

(3) The report of any committee on a measure which has been approved by the committee shall include (A) the oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X separately set out and clearly identified; (B) the statement required by section 306(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures, except that the estimates with respect to new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law; (C) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and (D) a summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight under clause 4(c)(2) of rule X separately set out and clearly identified whenever such findings and recommendations have been submitted to the legislative committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

## RULES OF THE

(4) Each report of a committee on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution.

(5) If, at the time of approval of any measure or matter by any committee, other than the Committee on Rules, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. When time guaranteed by this subparagraph has expired (or, if sooner, when all separate views have been received), the committee may arrange to file its report with the Clerk not later than one hour after the expiration of such time. The report of the committee upon that measure or matter shall be printed in a single volume which—

(A) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(B) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subdivisions (C) and (D) of subparagraph (3)) are included as part of the report.

This subparagraph does not preclude—

(i) the immediate filing or printing of a committee print unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this subparagraph; or

(ii) the filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

(6) A measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business), shall not be considered in the House until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which the report of that committee upon that measure or matter has been available to the Members of the House, or as provided by section 305(a)(1) of the Congressional Budget Act of 1974 in the case of a concurrent resolution on the budget (except that a Saturday, Sunday, or legal holiday on which the House is in session shall not be ex-

cluded under such section): *Provided, however*, that it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b) of rule XI, a report from the Committee on Rules specifically providing for the consideration of a reported measure or matter notwithstanding this restriction, if hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the House prior to the consideration of such measure or matter in the House. This subparagraph shall not apply to—

(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress; or

(B) any decision, determination, or action by a Government agency which would become or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

For the purposes of the preceding sentence, a Government agency includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

(7) If, within seven calendar days after a measure has, by resolution, been made in order for consideration by the House, no motion has been offered that the House consider that measure, any member of the committee which reported that measure may be recognized in the discretion of the Speaker to offer a motion that the House shall consider that measure, if that committee has duly authorized that member to offer that motion.

*Power to sit and act; subpoena power*

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and rule X (including any matters referred to it under clause 5 of rule X), any committee, or any subcommittee thereof, is authorized (subject to subparagraph (2)(A) of this paragraph)—

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings, and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary.

The chairman of the committee, or any member designated by such chairman, may administer oaths to any witness.

(2)(A) A subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being

present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(B) Compliance with any subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

*Use of committee funds for travel*

(n)(1) Funds authorized for a committee under clause 5 are for expenses incurred in the committee's activities; however, local currencies owned by the United States shall be made available to the committee and its employees engaged in carrying out their official duties outside the United States, its territories or possessions. No appropriated funds, including those authorized under clause 5, shall be expended for the purpose of defraying expenses of members of the committee or its employees in any country where local currencies are available for this purpose; and the following conditions shall apply with respect to travel outside the United States or its territories or possessions:

(A) No member or employee of the committee shall receive or expend local currencies for subsistence in any country for any day at a rate in excess of the maximum per diem set forth in applicable Federal law, or if the Member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred by the Member or employee during that day.

(B) Each member or employee of the committee shall make to the chairman of the committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, any funds expended for any other official purpose and shall summarize in these categories the total foreign currencies and/or appropriated funds expended. All such individual reports shall be filed no later than sixty days following the completion of travel with the chairman of the committee for use in complying with reporting requirements in applicable Federal law and shall be open for public inspection.

(2) In carrying out the committee's activities outside of the United States in any country where local currencies are unavailable, a member or employee of the committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law, or if the member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual unreimbursed expenses (other than for trans-

87

# Rules

## Committee on Standards of Official Conduct



Adopted February 9, 1995  
104th Congress

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

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington, DC 20402

RR-QR1

### Committee on Standards of Official Conduct

NANCY L. JOHNSON, Connecticut, *Chairman*

JIM BUNNING, Kentucky  
 PORTER J. GOSS, Florida  
 DAVID L. HOBSON, Ohio  
 STEVEN SCHIFF, New Mexico

JIM McDERMOTT, Washington  
 BENJAMIN L. CARDIN, Maryland  
 NANCY PELOSI, California  
 ROBERT A. BORSKI, Pennsylvania  
 THOMAS C. SAWYER, Ohio

(Adopted February 9, 1995)

#### 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) of Rule XI of the Rules of the House of Representatives, 104th 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.

##### RULE 2. DEFINITIONS

(a) "Adjudicatory Subcommittee" means a subcommittee of the Committee, comprised of those Committee members not on the investigative subcommittee, that holds a disciplinary hearing and determines whether the counts in a Statement of Alleged Violation are proved by clear and convincing evidence.

(b) "Committee" means the Committee on Standards of Official Conduct.

(c) "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 a Preliminary Inquiry.

(d) "Disciplinary Hearing" means an adjudicatory subcommittee hearing held for the purposes of receiving evidence regarding conduct alleged in a Statement of Alleged Violation and determining whether the counts in the Statement of Alleged Violation have been proved by clear and convincing evidence.

(e) "Investigative Subcommittee" means a subcommittee designated pursuant to rule 6 to conduct a Preliminary Inquiry to determine if a Statement of Alleged Violation should be issued.

(f) "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.

(g) "Preliminary Inquiry" means an investigation by an investigative subcommittee into allegations against a Member, officer, or employee of the House of Representatives.

(h) "Respondent" means a Member, officer, or employee of the House of Representatives who is the subject of a complaint filed with the Committee or who is the subject of a Preliminary Inquiry or a Statement of Alleged Violation.

(i) "Sanction Hearing" means a Committee hearing to determine what sanction, if any, to recommend to the House of Representatives.

(j) "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.

#### RULE 3. ADVISORY OPINIONS AND WAIVERS

(a) There is established within the Committee an Office of Advice and Education. The Office shall handle inquiries; prepare written opinions providing specific advice; 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, or any other person specifically authorized by law, may request a written opinion with respect to the propriety of any current or proposed conduct of such Member, officer, employee, or person.

(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.

(e) Unless specifically authorized by law or resolution of the House of Representatives, written opinions may be provided only to Members, officers, and employees of the House of Representatives. Other individuals may be provided with general information regarding rules or laws, such as citations to relevant texts of publicly available documents.

(f) A written request for an opinion shall be addressed to the Chairman 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.

(g) A written opinion shall address the conduct only of the inquiring individual, or of persons for whom the inquiring individual is responsible as employing authority.

(h) The Office of Advice and Education shall prepare for the Committee a response to each written request for an opinion. Each response shall discuss all applicable laws, rules, regulations, or other standards.

(i) Where a request is unclear or incomplete, the Office of Advice and Education may seek additional information from the requester.

(j) The Chairman 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 Chairman or Ranking Minority Member requests a written opinion, or seeks a waiver, extension, or approval pursuant to rules 3(n), 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.

(k) The Committee shall keep confidential any request for advice, as well as any response thereto.

(l) 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.

(m) 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 4(e)(1)(B) of Rule X 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.

(n) A written request for a waiver of House Rule XLIII, clause 4 (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.

(o) A written request for a waiver of House Rule XLIII, clause 4 (the House gift rule), shall specify the nature of the waiver being sought and the specific circumstances justifying the waiver.

(p) An employee seeking a waiver of time limits applicable to fact-finding or substantial participation travel 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, Office of Records and Registration, to assure that appropriate individuals are notified of their obligation to file Financial Disclosure Statements 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 Office of Records and Registration to assure that information that the Ethics in Government Act requires to be placed on the public record is made public.

(c) The Chairman and Ranking Minority Member are authorized to grant on behalf of the Committee requests for reasonable exten-



sions of time for the filing of Financial Disclosure Statements. Any such request must be received by the Committee no later than the date on which the statement in question is due. A request received after such date may be granted by the Committee only in extraordinary circumstances. Such extensions for one individual in a calendar year shall not exceed a total of 90 days. No extension shall be granted authorizing a nonincumbent candidate to file a statement later than 30 days prior to a primary or general election in which the candidate is participating.

(d) 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.

(e) 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 Chairman and Ranking Minority Member are authorized to approve requests that the fee be waived based on extraordinary circumstances.

(f) Any late report that is submitted without a required filing fee shall be deemed procedurally deficient and not properly filed.

(g) The Chairman 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)(D) 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 Office of Records and Registration for placement on the public record.

(h) The Chairman 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 Office of Records and Registration for such purpose.

(i) The Committee shall designate staff counsel who shall review Financial Disclosure Statements 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.

(j) Each Financial Disclosure Statement shall be reviewed within 60 days after the date of filing.

(k) If the reviewing counsel believes that additional information is required because (1) the statement 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.

(l) Within the time specified, including any extension granted in accordance with clause (c), a reporting individual who concurs with the Committee's notification that the statement 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 Financial Disclosure Statement or an explanatory letter addressed to the Clerk of the House of Representatives.

(m) Any amendment shall be placed on the public record in the same manner as other statements. The individual designated by the Committee to review the original statement shall review any amendment thereto.

(n) Within the time specified, including any extension granted in accordance with clause (c), a reporting individual who does not agree with the Committee that the statement 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.

(o) The Committee shall be the final arbiter of whether any statement needs clarification or amendment.

(p) 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 statement 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 Wednesday of each month, except when the House of Representatives is not meeting on that day. When the Committee Chairman determines that there is sufficient reason, a meeting may be called on additional days. A regularly scheduled meeting need not be held when the Chairman determines there is no business to be considered.

(b) A subcommittee shall meet at the discretion of its chairman.

(c) Insofar as practicable, notice for any Committee or subcommittee meeting shall be provided at least 7 days in advance of the meeting. The Chairman of the Committee or subcommittee may waive such time period for good cause.

#### RULE 6. SUBCOMMITTEES—GENERAL POLICY AND STRUCTURE

(a) If the Committee determines by majority vote of its members that allegations of improper conduct (brought to its attention by a complaint or otherwise) by a Member, officer, or employee merit further inquiry, the Chairman and Ranking Minority Member of

the Committee shall designate four or six members (with equal representation from the majority and minority parties) to serve as an investigative subcommittee to undertake a Preliminary Inquiry. The senior majority and minority members of an investigative subcommittee shall serve as the chairman and ranking minority member of the subcommittee. The Chairman and Ranking Minority Member of the Committee may serve only as nonvoting, ex officio members of any investigative subcommittee.

(b) If an investigative subcommittee, by a majority vote of its members, adopts a Statement of Alleged Violation, the remaining members of the Committee shall comprise an adjudicatory subcommittee to hold a Disciplinary Hearing under Committee rule 19 on the violations alleged in the Statement.

(c) 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.

(d) The Chairman 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.

(e) 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 7. QUORUMS AND MEMBER DISQUALIFICATION

(a) The quorum for 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, and 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 that relates to the member's own conduct.

(e) A member of the Committee may disqualify himself or herself 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, or if a member is disqualified pursuant to rule 15(h) or rule 19(a), the Chairman 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 8. VOTE REQUIREMENTS**

(a) The following actions shall be taken only upon affirmative vote of a majority of the members of the Committee or subcommittee, as appropriate:

- (1) Adoption of a resolution to conduct a Preliminary Inquiry;
- (2) Adoption of a Statement of Alleged Violation;
- (3) Finding that a count in a Statement of Alleged Violation has been proved by clear and convincing evidence;
- (4) Sending of a letter of reproof;
- (5) Adoption of a recommendation to the House of Representatives that a sanction be imposed;
- (6) Adoption of a report relating to the conduct of a Member, officer, or employee;
- (7) Issuance of 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 9. COMMUNICATIONS BY COMMITTEE MEMBERS AND STAFF**

Committee members and staff shall not disclose any evidence relating to an investigation to any person or organization outside the Committee unless authorized by the Committee, nor shall any evidence in the possession of an investigative subcommittee be disclosed to Committee members who are not members of the subcommittee prior to the filing of a Statement of Alleged Violation with the Committee.

**RULE 10. COMMITTEE RECORDS**

(a) The Committee may establish procedures necessary to prevent the unauthorized disclosure of any testimony or other information received by the Committee or its staff.

(b) Members and staff of the Committee shall not disclose to any person or organization outside the Committee, unless authorized by the Committee, any information regarding the Committee's or a subcommittee's investigative, adjudicatory or other proceedings, including, but not limited to:

- (i) The fact of or nature of any complaints;
- (ii) Executive session proceedings;
- (iii) Information pertaining to or copies of any Committee or subcommittee report, study, or other document which purports to express the views, findings, conclusions, or recommendations of the Committee or subcommittee in connection with any of its activities or proceedings; or
- (iv) Any other information or allegation respecting the conduct of a Member, officer, or employee.

(c) The Committee shall not disclose to any person or organization outside the Committee any information concerning the conduct of a Member, officer, or employee of the House of Representatives until it has transmitted a Statement of Alleged Violation under

rule 17 of the Committee rules, to such Member, officer, or employee and the Member, officer, or employee has been given full opportunity to respond pursuant to rule 18. The Statement of Alleged Violation and any written response thereto shall be made public at the first meeting or hearing on the matter that is open to the public after such opportunity has been provided. Any other materials in the possession of the Committee regarding such statement may be made public as authorized by the Committee to the extent consistent with the Rules of the House of Representatives.

(d) If no public hearing or meeting is held on the matter, the statement and any written response thereto shall be included in the Committee's final report to the House of Representatives.

(e) 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.

(f) 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 XXXVI of the Rules of the House of Representatives.

**RULE 11. BROADCASTS OF COMMITTEE AND SUBCOMMITTEE  
PROCEEDINGS**

Whenever any hearing or meeting by the Committee or a subcommittee is open to the public, the Committee or subcommittee may, by a majority vote, permit coverage, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any such methods of coverage, under the following rules:

(a) If television or radio presents live coverage of the hearing or meeting to the public, it shall be without commercial sponsorship.

(b) No witness shall be required against his or her will to be photographed or otherwise to have a graphic reproduction of his or her image made at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any witness, all media microphones shall be turned off, all television and camera lenses shall be covered, and the making of a graphic reproduction at the hearing shall not be permitted. This paragraph supplements clause 2(k)(5) of Rule XI of the Rules of the House of Representatives relating to the protection of the rights of witnesses.

(c) 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.

(d) 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.

(e) 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 12. HOUSE RESOLUTION

Whenever the House of Representatives, by resolution, authorizes 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 13. COMMITTEE AUTHORITY TO INVESTIGATE—GENERAL POLICY

Pursuant to clause 4(e)(2)(B) of Rule X of the Rules of the House of Representatives, the Committee may exercise its investigative authority when—

- (a) a complaint by a Member of the House of Representatives is transmitted directly to the Committee;
- (b) a complaint by an individual not a Member of the House of Representatives is transmitted through a Member who agrees, in writing, to submit it for the purpose of requesting an investigation;
- (c) a complaint by an individual not a Member of the House of Representatives is submitted to the Committee after three Members of the House of Representatives have refused, in writing, to transmit the complaint to the Committee for the purpose of requesting an investigation;
- (d) the Committee, on its own initiative, determines that a matter warrants inquiry;
- (e) a Member, officer, or employee is convicted in a Federal, State, or local court of a criminal offense for which a sentence of one or more years' imprisonment may be imposed; or
- (f) the House of Representatives, by resolution, authorizes the Committee to undertake an investigation.

## RULE 14. COMPLAINTS

(a) A complaint submitted to the Committee shall be in writing, under oath and dated, setting forth in simple, concise, and direct statements—

- (1) the name and legal address of the party filing the complaint (hereinafter referred to as the "complainant");
  - (2) the name and position or title of the respondent;
  - (3) the nature of the alleged violation of the Code of Official Conduct or of other law, rule, regulation, or other standard of conduct applicable to the performance of duties or discharge of responsibilities; and
  - (4) the facts alleged to give rise to the violation. The complaint shall not contain innuendo, speculative assertions, or conclusory statements.
- (b) Any documents in the possession of the complainant that relate to the allegations may be submitted with the complaint.
- (c) A complaint by a Member of the House of Representatives may be transmitted directly to the Committee.
- (d) A complaint by an individual not a Member of the House of Representatives may be transmitted through a Member who states, in writing, that it is submitted for the purpose of initiating a Pre-

liminary Inquiry. A copy of the exact complaint submitted to and transmitted by the Member must be attached to the Member's letter to the Committee.

(e) If a complaint by an individual who is not a Member of the House of Representatives is submitted to three Members of the House of Representatives who refuse, in writing, to transmit the complaint to the Committee for the purpose of requesting an investigation, the complainant may transmit the complaint to the Committee. Legible copies of each refusal letter must accompany the complaint. Each letter must clearly state the Member's refusal to transmit the complaint and must contain the Member's acknowledgment that such refusal may cause the Committee to consider initiating a Preliminary inquiry. A legible copy of the exact complaint submitted to and considered by the Member must be attached to that Member's refusal letter.

(f) A complaint must be accompanied by a certification that the complainant has provided an exact copy of the filed complaint and all attachments to the respondent.

(g) The Committee may defer action on a complaint against a Member, officer, or employee of the House of Representatives when the Committee has reason to believe such conduct is being reviewed by appropriate law enforcement or regulatory authorities.

(h) 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.

(i) The Committee shall not accept, and shall return to the complainant, any complaint submitted within the 60 days prior to an election in which the subject of the complaint is a candidate.

(j) 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 15. PROCESSING OF COMPLAINTS

(a) Upon receipt of a complaint, the Committee shall determine if it complies with clause 4(e)(2)(B) of Rule X of the Rules of the House of Representatives and rule 14 of the Committee rules.

(b) If the complaint does not comply with such House and Committee rules, it shall be returned to the complainant with a copy of such rules and a statement specifying why the complaint is not in compliance. The respondent shall be notified when a complaint is returned and provided the reasons therefor.

(c) 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 with notice that the complaint conforms to the applicable rules and will be placed on the Committee's agenda.

(d) The respondent may provide to the Committee any information relevant to a complaint filed with the Committee. The Committee staff may request information from the respondent prior to

the consideration of a Resolution of Preliminary Inquiry only when so directed by the Chairman and Ranking Minority Member.

(e) At the first meeting of the Committee following the procedures or actions specified in clauses (c) and (d), the Committee shall consider the complaint.

(f) If the Committee, by a majority vote, determines that the complaint is within the Committee's jurisdiction and merits further inquiry, it shall adopt a Resolution of Preliminary Inquiry. After such resolution is adopted, the Chairman and Ranking Minority Member shall designate four or six members to serve as an investigative subcommittee to conduct a Preliminary Inquiry in accordance with rule 17.

(g) The respondent shall be notified, in writing, regarding the Committee's decision either to dismiss the complaint or to initiate a Preliminary Inquiry.

(h) 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 shall be on the grounds that the member cannot render an impartial and unbiased decision. The member against whom the objection is made shall be the sole judge of his or her disqualification.

#### RULE 16. COMMITTEE INITIATED PRELIMINARY INQUIRY

(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 his or her duties or the discharge of his or her responsibilities.

(b) If the Committee determines that the information merits further inquiry, the Committee shall proceed in accordance with rule 17.

(c) Any written request by a Member, officer, or employee of the House of Representatives that the Committee conduct an inquiry into such person's own conduct shall be processed in accordance with subsection (a) of this rule.

(d) An investigative or disciplinary hearing 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) Conviction of a Member, officer, or employee of the House of Representatives in a Federal, State, or local court of a criminal offense for which a sentence of one or more year's imprisonment may be imposed shall be a matter which merits further inquiry pursuant to rule 15 and, after sentencing, a preliminary inquiry shall be undertaken. Notwithstanding this provision, the Committee may exercise its investigative authority at any time prior to conviction or sentencing.



**RULE 17. PRELIMINARY INQUIRY**

**(a) In a Preliminary Inquiry undertaken by an investigative subcommittee—**

(1) All proceedings, including the taking of testimony, shall be conducted in Executive Session and all testimony taken by deposition or things produced pursuant to subpoena or otherwise shall be deemed to have been taken or produced in Executive Session.

(2) The chairman of the investigative subcommittee shall ask respondent and all witnesses whether they intend to be represented by counsel. If so, respondent or witnesses or their legal representatives shall provide written designation of counsel. A respondent or witness who is represented by counsel shall not be questioned in the absence of counsel unless an explicit waiver is obtained.

(3) The subcommittee shall provide the respondent an opportunity to present, orally or in writing, a statement, which must be under oath or affirmation, regarding the allegations and any other relevant questions arising out of the Preliminary 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 Chairman and Ranking Minority Member of the Committee and a subpoena shall be issued upon the request of the chairman and ranking minority member of the investigative subcommittee. A motion to quash a subpoena shall be decided by the Chairman of the Committee.

(6) The subcommittee shall require that testimony be given under oath or affirmation. The form of the oath or affirmation shall be:

“Do you solemnly swear (or affirm) that the testimony you will give before this subcommittee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?”

The oath or affirmation shall be administered by the chairman or subcommittee member designated by him to administer oaths.

**(b) During the Preliminary 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 chairman of the subcommittee or other presiding member at any investigative subcommittee proceeding shall rule upon any question of admissibility or pertinency of evi-

dence, 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 evidentiary rulings to the members present at that proceeding. The 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 person is deemed by a chairman or 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 respondent and/or respondent's counsel as to facts that are not in dispute.

(c) Upon completion of the investigation, the staff shall draft for the investigative subcommittee a report that shall contain a comprehensive summary of the information received and may include any recommendations for action by the subcommittee regarding the alleged violations.

(d) Upon completion of the Preliminary Inquiry, an investigative subcommittee, by majority vote of its members, may adopt a Statement of Alleged Violation if it determines that there is reason to believe that a violation has occurred. If more than one count is alleged, such statement shall be divided into counts. Each count shall relate to a separate violation and 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 Statement of Alleged Violation may include offenses beyond those referenced in the Resolution of Preliminary Inquiry. A copy of such statement shall be transmitted to the respondent and respondent's counsel.

(e) 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 therefor, and any appropriate recommendation. The Committee shall transmit such report to the House of Representatives.

#### RULE 18. 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 supportive evidence or other relevant information.

(b) The respondent may file a Motion for a Bill of Particulars within 15 days of the date of transmittal of the Statement of Al-

leged Violation. If a Motion for a Bill of Particulars is filed, the respondent shall not be required to file an answer until 15 days after the subcommittee has replied to such motion.

(c)(1) The respondent may file a Motion to Dismiss within 15 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 15 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 15 days after the subcommittee has replied to the Motion to Dismiss.

(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 chairman 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 chairman of the investigative subcommittee may direct the respondent to file an answer or motion prior to the day prescribed above.

(f) If the day on which any answer, motion, reply, or other pleading must be filed falls on a Saturday, Sunday or holiday, such filing shall be made on the first business day thereafter.

(g) As soon as practicable after an answer has been filed or the time for such filing has expired, the Statement of Alleged Violation and any answer, motion, reply or other pleading connected therewith shall be transmitted by the chairman of the investigative subcommittee to the Chairman and Ranking Minority Member of the Committee.

#### RULE 19. DISCIPLINARY HEARINGS

(a) If a Statement of Alleged Violation is transmitted to the Chairman and Ranking Minority Member pursuant to rule 18, and no waiver pursuant to rule 23(b) has occurred, the Chairman shall designate the members of the Committee who did not serve on the investigative subcommittee to serve on an adjudicatory subcommittee. The Chairman and Ranking Minority Member of the Committee shall be the chairman and ranking minority member of the adjudicatory 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 member against whom the objection is made shall be the sole judge of his or her disqualification.

(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 Disciplinary 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) At a Disciplinary Hearing the adjudicatory subcommittee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary. 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(k) of Rule XI of the Rules of the House of Representatives shall apply to Disciplinary 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 respondent and his or her counsel have the right to inspect, review, copy, or photograph books, papers, documents, photographs, or other tangible objects that the adjudicatory subcommittee counsel intends to use as evidence against the respondent in a Disciplinary Hearing. Respondent shall be given access to such evidence, and shall be provided the names of witnesses the subcommittee 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 a Disciplinary Hearing unless respondent has been afforded a prior opportunity to review such evidence or has been provided the name of the witness.

(2) After a witness called by subcommittee counsel has testified on direct examination at a Disciplinary 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 Disciplinary Hearing, 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) During the Disciplinary Hearing, 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 chairman of the subcommittee or other presiding member at an adjudicatory subcommittee hearing shall rule upon any question of admissibility or pertinency 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 evidentiary ruling to the members present at that proceeding. The 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 chairman 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 respondent and/or respondent's counsel as to facts that are not in dispute.

(j) Unless otherwise provided, the order of a Disciplinary Hearing shall be as follows:

(1) The chairman of the subcommittee shall open the hearing by stating the adjudicatory subcommittee's authority to conduct the hearing and the purpose of the hearing.

(2) The chairman shall then recognize Committee counsel and respondent's counsel, in turn, for the purpose of giving opening statements.

(3) Testimony from witnesses and other pertinent evidence shall be received in the following order whenever possible:

(i) Witnesses (deposition transcripts and affidavits obtained during the Preliminary Inquiry may be used in lieu of live witnesses) and other evidence offered by the Committee counsel,

(ii) Witnesses and other evidence offered by the respondent, and

(iii) Rebuttal witnesses, as permitted by the chairman.

(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 may be permitted at the chairman's discretion. Subcommittee members may then question witnesses. Unless otherwise directed by the chairman, such questions shall be conducted under the 5-minute rule.

(k) 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 chairman of the adjudicatory subcommittee, to prepare for the hearing and to employ counsel.

(l) Each witness appearing before the subcommittee shall be furnished a printed copy of the Committee rules, the pertinent provisions of the Rules of the House of Representatives applicable to the

rights of witnesses, and a copy of the Statement of Alleged Violation.

(m) 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 Chairman or Committee member designated by the Chairman to administer oaths.

(n) At a Disciplinary 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.

(o) 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 majority vote of its members whether each count has been proved. If a majority of the subcommittee does not vote that the 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.

(p) The findings of the adjudicatory subcommittee shall be reported to the Committee.

**RULE 20. 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 a Disciplinary Hearing pursuant to rule 19 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 Reprimand or take other appropriate Committee action.

(d) If the Committee determines a Letter of Reprimand 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 21. DISCLOSURE OF EXCULPATORY INFORMATION TO RESPONDENT

If the Committee, or any investigative or adjudicatory subcommittee at any time receives any exculpatory information respecting a Complaint or Statement of Alleged Violation concerning a Member, officer, or employee of the House of Representatives, it shall make such information immediately known and available to the Member, officer, or employee.

#### RULE 22. RIGHTS OF RESPONDENTS AND WITNESSES

(a) A respondent shall be informed of the right to be represented by counsel, to be provided at his 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 respondent seeks to waive. Any such request shall be subject to the acceptance of the Committee or subcommittee, as appropriate.

(c) Witnesses shall be afforded a reasonable period of time, as determined by the Committee or subcommittee, to prepare for the hearing and to obtain counsel.

(d) Except as otherwise specifically authorized by the Committee, no Committee member or staff member shall disclose to any person outside the Committee the name of any witness subpoenaed to testify or to produce evidence.

(e) Prior to their testimony, witnesses shall be furnished a printed copy of the Committee's Rules of Procedure and the provisions of the Rules of the House of Representatives applicable to the rights of witnesses.

(f) Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights. The Chairman 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.

(g) Each witness subpoenaed to provide testimony or other evidence shall be provided such travel expenses as the Chairman considers appropriate. No compensation shall be authorized for attorney's fees or for a witness' lost earnings.

(h) With the approval of the Committee, a witness, upon request, may be provided with a transcript of his or her deposition or other testimony taken in executive session, or, with the approval of the Chairman 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.



ISBN 0-16-055176-5

