

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515

March 14, 2007

MEMORANDUM TO ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman *STJ*
Doc Hastings, Ranking Republican Member *DH*

SUBJECT: New Travel Rules for Officially-Connected Travel Paid for
by a Private Source

The new travel rules that were adopted at the beginning of the 110th Congress impose new restrictions and requirements on officially-connected travel paid for by a private source. Specifically, the revised rules –

- prohibit certain sources of travel expenses and ban lobbyist accompaniment or involvement in planning, organizing, requesting, or arranging most trips;
- require approval of *all* privately-funded travel by the Committee following pre-travel certification by the trip sponsor, and impose new post-travel reporting requirements; and
- limit the acceptance of travel expenses to those that are reasonable under guidelines and regulations issued by the Standards Committee.

Attached to this advisory memorandum is a chart that summarizes the new travel rules. There are certain trips that are not affected by the new rules, including travel paid for by the Members' Representational Allowance or House committee funds; travel provided by federal, state, or local governmental entities; and certain travel unrelated to official duties that is paid for by a private source. Committee-approved guidelines and regulations implementing the new requirements were issued on February 20, 2007.¹ The Committee has also issued two new forms, one for *sponsors* ("Private Sponsor Travel Certification Form") and one for *travelers* ("Privately Sponsored Travel Approval Form"). New post-

¹ See House Rule 25, cls. 5(b)(1)(C), 5(i).

travel disclosure forms have also been issued. All of these materials are available on the Committee's website (www.house.gov/ethics).

The new travel rules impose a number of entirely new restrictions and requirements that *supersede* the previous travel rules and the Committee's policies that existed in the previous Congress. The new rules took effect on March 1, 2007. Before accepting travel from a private source, Members and staff should closely review this memorandum and the travel guidelines and regulations, and should contact the Committee's Office of Advice and Education, at (202) 225-7103, with any questions.

I. Prohibited Sources of Travel Expenses and Lobbyist Participation Ban

A. Prohibited Sources of Expenses for Officially-Connected Travel. Except as discussed below, the new travel rules **ban the acceptance of travel or travel expenses from a private entity that retains or employs a lobbyist.** The existing ban on accepting travel paid by a lobbyist remains in place.² Thus, other than under the two exceptions discussed below, companies, firms, non-profit organizations (including charities), and other private entities that retain or employ a lobbyist may no longer provide officially-connected travel to Members and staff.

Conversely, private entities that *do not* retain or employ a lobbyist generally may continue to provide officially-connected travel to Members and staff. There is no change in the durational limits on travel provided by a private source that does not retain or employ a lobbyist (*i.e.*, four days for a trip taking place within the continental United States, and seven days (exclusive of travel time) for travel outside the continental United States). As discussed below, however, such travel is subject to the new requirements for pre-travel certification, Committee approval, and post-travel disclosure.

B. Ban on Lobbyist Accompaniment and other Involvement. In addition to prohibiting Members and staff from accepting officially-connected travel from a private entity that retains or employs a lobbyist, the new rules **prohibit** Members and staff from accepting travel from a private source if the official will be accompanied by a lobbyist on "any segment" of the trip.³ The Committee views the term "segment" to mean any parts of the travel to and from the event, rather than the event itself or the location being visited. Furthermore, except as discussed below, Members and staff are **prohibited** from participating in any trip that was planned, organized, requested, or arranged by a lobbyist.

² House Rule 25, cl. 5(b)(1)(A). The new travel rules also restrict travel expenses from an agent of a foreign principal or a private entity that retains or employs such an individual. For brevity's sake, references in this memorandum to a lobbyist also include an agent of a foreign principal.

³ *Id.*, cl. 5(c)(1)(A).

C. Limited Exceptions for Certain Trips. It is permissible for Members and staff to accept officially-connected travel from private entities that retain or employ a lobbyist in two limited circumstances:

- for a trip paid for directly by “an institution of higher education,”⁴ or
- for a trip involving attendance at or participation in a “one-day event (exclusive of travel time and an overnight stay).”⁵

For trips sponsored by an institution of higher education, lobbyist accompaniment is permissible, and a lobbyist may be involved with planning, organizing, requesting, or arranging the trip.

With regard to one-day event trips, it is permissible for a Member or staff person to accept from a private source that retains or employs a lobbyist *a single night’s lodging and meals*, if offered by the trip sponsor. Members and staff must limit their involvement in connection with the event to *a single calendar day*. It would therefore be permissible for a Member or staff person to attend a single day of a multiple-day conference, forum, or other event that is being hosted primarily for individuals other than congressional invitees.

However, under the new travel guidelines and regulations, the Committee may permit *a second night’s stay* when it determines, *on a case-by-case basis*, that the additional expenses are *practically required* for the individual to participate in the one-day event.⁶ Some circumstances in which the Committee may permit a second night’s stay are for certain long-distance trips, or when a Member or staff person is participating in a full day’s worth of officially-connected activities such that a second night’s stay is necessary to accomplish the purpose of the trip. However, Members and staff would be personally responsible for any expenses incurred beyond those allowed by the Committee in connection with the second-night’s stay if they chose to extend the trip. Members and staff wishing to extend a trip at their own personal expense should consult the Committee’s *Gifts and Travel* booklet, at p. 79, or contact the Committee’s Office of Advice and Education for guidance in particular circumstances.

Lobbyist accompaniment is *prohibited* on a one-day event trip. In addition, under the new travel guidelines and regulations no more than *de minimis* lobbyist involvement is permitted in terms of planning, organizing, requesting, or arranging a one-day event trip.⁷ Under the guidelines and regulations, the involvement of a lobbyist in connection

⁴ As used in the rule, “an institution of higher education” is one within the meaning of section 101 of the Higher Education Act of 1965, that is, an accredited, degree-granting postsecondary institution.

⁵ House Rule 25, cl. 5(b)(1)(C).

⁶ *Id.* In addition, the second night’s stay must have been offered by the trip sponsor (*i.e.*, it may not be solicited by the Member or staff person), and the traveler must request the Committee’s approval for the second night’s stay.

⁷ *Id.*, cl. 5(c)(2).

with the trip must be *negligible or otherwise inconsequential to the overall planning and purpose of the trip*. In the Committee's view, it would be permissible for a lobbyist to respond to a trip sponsor's request that the lobbyist identify Members or staff with a possible interest in a particular issue relevant to a planned trip, *provided that the request was not initiated by the lobbyist, and that the lobbyist does not determine which Members or staff are actually invited on the trip*. In other words, it would *not* be permissible for a lobbyist to initiate contact with trip sponsors or planners for purposes of suggesting possible House invitees, *nor* would it be permissible for a lobbyist to have any other role in planning, organizing, requesting, or arranging the trip, other than possibly providing the names of possible invitees as described above. Thus, in order for a Member or staff person to receive Committee approval for a trip, a lobbyist should not be involved in selecting the destination of the trip, drafting the trip agenda, or accompanying Members and staff on the trip, except as otherwise permitted under the rules, regulations, and guidelines.

II. Pre-Travel Certification, Committee Approval, and Post-Travel Disclosure

Under the new rules, both certification by the sponsor of a variety of travel-related facts and approval of the travel by the Committee are required before Members and staff may accept officially-connected travel from a private source for *all* officially-connected trips (*i.e.*, regardless of whether the private source retains or employs a lobbyist). To receive Committee approval, Members and staff must provide the Committee with written certification from the private source as to the following:

- the trip will not be financed in any part by a lobbyist;
- that (1) the source does not retain or employ a lobbyist, (2) the source is a institution of higher education, or (3) the trip meets the requirements for travel to a one-day event and the source describes the *de minimis* involvement of a lobbyist in planning, organizing, requesting, or arranging the trip;
- no earmarked funds from another source for any aspect of the trip were accepted;
- the traveler will not be accompanied by a lobbyist (except for a trip sponsored by an institution of higher education); and
- the trip, except as otherwise permitted in the rules for one-day event trips and trips sponsored by an institution of higher education, will not be planned, organized, requested, or arranged by a lobbyist.⁸

⁸ *Id.*, cl. 5(d)(1).

A private sponsor offering officially-connected travel to a Member or staff person must complete and sign a Private Sponsor Certification Form, and provide a copy of that form to each House invitee (not directly to the Committee).

A Member or staff person seeking approval for a trip must submit to the Committee a completed and signed Privately Sponsored Travel Approval Form that attaches or includes the Private Sponsor Certification Form and, for staff travel, the Advance Authorization of Employee Travel Form signed by the supervising Member. *Each* Member or staff person participating on a trip is required to seek individual approval from the Committee in advance of accepting the travel.

Under the new post-travel disclosure requirements, Members and staff are required to file with the Clerk "all advance authorizations, certifications, and disclosures," and the Clerk is required to make all of that information available for public inspection as soon as possible after receipt.⁹ Post-travel disclosure of expenses is required within *15 days* after the traveler returns.¹⁰ ***It is a violation of House rules not to file the necessary disclosure within that time period.*** In addition, on their post-travel disclosure forms, Members and staff are now required to provide a description of the "meetings and events attended," in addition to other information required to be disclosed under the previous rules.¹¹

III. Guidelines for Reasonable and Necessary Expenses

The travel rules concern not only the amount of expenses Members and staff may receive, but also the fundamental requirement that attendance on a trip must be related to the official duties of the participating Member or staff person and would not create the appearance that the individual is using public office for private gain.¹² These are not entirely new requirements, and the Committee's *Gifts and Travel* booklet, at pp. 71-73 and 75-76, contains guidance on this latter point as well as the requirements concerning the proper sources of expenses for officially-connected travel.

The Committee has now issued detailed guidelines and regulations that concern the types and amounts of travel, lodging, food, and other travel-related expenses that may be accepted under the new rules. The guidelines also address the requirements concerning the relationship between an event (and its location) and the officially-connected purpose of the trip, and the appropriate sponsorship requirements. Because this is a major change in the rules under which Members and staff may accept travel expenses from a private source, Members and staff are urged to review closely the new travel guidelines and regulations and seek guidance from the Committee as necessary.

⁹ *Id.*, cl. 5(b)(5).

¹⁰ Under the rules in the 109th Congress, disclosures were required be filed within 30 days after the traveler returned from the officially-connected trip.

¹¹ House Rule 25, cl. 5(b)(3)(F).

¹² *See id.*, cls. 5(b)(2)(D), 5(b)(3)(G).

With regard to the guidelines for reasonable and necessary expenses, there are some major points worth noting, as follows.

A. Connection between Trip and Official Duties. Under the new rules, Members and staff requesting approval for travel paid for by a private source must demonstrate that the travel is connected to the individual's official duties, and would not create the appearance that the individual is using public office for private gain. Pursuant to the guidelines, a number of factors will be considered by the Committee in determining whether to approve a Member or staff person's travel request, including –

- the official's responsibilities,
- whether the trip relates to matters within the legislative or policy interests of Congress, and
- the amount of officially-connected activities scheduled to take place during the trip.

Member or staff participation will be evaluated on a case-by-case basis, and travelers are required to explain to the Committee (through the completion of the Privately Sponsored Travel Approval Form) how attendance on a given trip relates to their official and representational duties. That explanation, together with the rest of the information on that form, is part of what will be made publicly available.

B. Transportation Expenses. Under the guidelines, coach and business-class air or train fare may be accepted. However, first-class air or train fare, chartered flights, and private aircraft flights are permitted only under *limited* conditions, such as when the cost of such fare does not exceed business-class transportation (or when the traveler's frequent flyer or similar benefits are used to upgrade to first class), first-class travel is necessary due to a disability of the traveler, there are genuine security concerns such that first-class fare is required, or the flight is in excess of 14 hours. The Committee may also approve travel via first-class air or train fare, chartered flights, or private aircraft when *exceptional* circumstances are demonstrated in writing by the private sponsor.

C. Lodging and Food Expenses. Recognizing that Members and staff receive invitations to participate in various types of events, the guidelines distinguish between travel for –

- events organized *without regard* to congressional participation, including annual meetings, conferences, seminars, and symposiums of trade associations, professional societies, business associations, and other membership organizations, and
- those organized *specifically for* congressional participation, such as fact-finding trips, site visits, educational conferences, and other trips designed for congressional attendance.

For events falling into the former category, the Committee recognizes that flexibility is needed in authorizing lodging and food expenses in order for Members and staff to participate in or appear at events that are organized principally for the benefit of non-congressional attendees. The guidelines therefore permit Members and staff to accept lodging and food that is commensurate with what is customarily provided to or purchased by the non-congressional attendees in similar circumstances.

With regard to events designed specifically for congressional participation, the guidelines specify that "reasonable" lodging and food expenses may be accepted. In judging the reasonableness of food expenses, the Committee will consider the maximum *per diem* rates for meals for official government travel published by the General Services Administration or, for international travel, the maximum rate for meals published by the State Department. The pertinent *per diem* rate schedules are available on each agency's website.

D. The Relationship between the Event (including its Location) and the Officially-Connected Purpose of the Trip. The guidelines distinguish between travel to locations arranged or organized *without regard* to congressional participation, which is deemed to be presumptively reasonable, and trips that do that have such status. While a location may be deemed to be presumptively valid, Members and staff must still demonstrate that the purpose of the trip relates to their official and representational duties or that the purpose of the trip relates to matters within the legislative or policy interests of Congress, *and* there must be sufficient officially-connected activities for the House invitees during *each* day of the trip. Therefore, for many trips it may be necessary for the private sponsor to develop an agenda specifically for House participants that reflects a sufficient amount of officially-connected activities on each day of the trip.

Concerning the latter type of trip (*i.e.*, one designed specifically for Members and staff), the regulations require that the location to be visited must be necessary to the purpose of the trip, or if more than one possible location may be relevant to the purpose of the trip, the location selected must be reasonable in relation to the alternatives. Factors used to judge the reasonableness of a location include the nature of the event and its participants. For example, a fact-finding trip regarding a particular industry may be appropriate at one or more locations that have a connection to the industry, but the trip may not be appropriate if the destination is a resort location with no connection to the industry.

Please contact the Committee at (202) 225-7103 with any questions.

Summary of Travel Rules

	Permissible Sponsor	Lobbyist Involvement in Planning, Organizing, Requesting, or Arranging	Lobbyist and Foreign Agent Accompaniment	Certification, Committee Approval, and Post-travel Disclosure Required?	Notes
One-day Event Trip	Any sponsor <i>OTHER</i> than a lobbyist or foreign agent	<i>De minimis</i>	Not permitted	Yes	Travel may be extended to a two-night stay when determined by the Committee to be practically required for traveler to participate in the one-day event
Trip Sponsored by an Institution of Higher Education	Private universities and colleges	Permitted	Permitted	Yes	
Multiple-day Event Trip	Any sponsor <i>OTHER</i> than a lobbyist, foreign agent, or private entity that retains or employs such an individual	Not permitted	Not permitted	Yes	
Government-sponsored Travel	Federal, state, and local governments, including a public university or college	Permitted	Permitted	No	
Foreign Government-sponsored Travel	Foreign government with a MECEA-approved trip, or in-country foreign travel permitted under the FGDA	Permitted	Permitted	No	Special disclosure requirements for FGDA travel

Type of Trip