

RULE XXXV.

PAY OF WITNESSES.

The rule for paying witnesses to appear before the House or any of its committees shall be as follows: For each day a witness shall attend, the same per diem rate as established, authorized, and regulated by the Committee on House Oversight for Members and employees of the House, and actual expenses of travel in coming to or going from the place of examination; but no per diem shall be paid when a witness has been summoned at the place of examination.

§ 931. Fees of witnesses before the House or committees.

This rule was adopted in 1872, with amendments in 1880 (III, 1825), 1930 (VI, 393), April 19, 1955, p. 4722, August 12, 1969, p. 23355 (H. Res. 495, 91st Cong.), and July 28, 1975, p. 25258 (H. Res. 517, 94th Cong.). The last amendment eliminated the specific per diem and travel rate of reimbursement and allowed actual travel costs and per diem for witnesses requested or subpoenaed to appear at the same rate as established by the Committee on House Oversight for Members and employees. In the 104th Congress it was amended to reflect the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. —). For further provisions relating to witnesses, see clauses 2(j) and (k) of rule XI (§§ 711 and 712, *supra*).

RULE XXXVI.

PRESERVATION AND AVAILABILITY OF  
NONCURRENT RECORDS OF THE HOUSE.

1. (a) At the end of each Congress, the chairman of each committee of the House shall transfer to the Clerk any noncurrent records of such committee, including the subcommittees thereof.

§ 932. Duties of Clerk and committees as to custody of papers before committees.

(b) At the end of each Congress, each officer of the House elected pursuant to rule II shall transfer to the Clerk any noncurrent records made or acquired in the course of the duties of such officer.

2. The Clerk shall deliver the records transferred pursuant to clause 1 of the rule, together with any other noncurrent records of the House, to the Archivist of the United States for preservation at the National Archives and Records Administration. Records so delivered are the permanent property of the House and remain subject to this rule and the orders of the House.

3. (a) Subject to paragraph (b) of the clause, clause 4 of this rule, and orders of the House, the Clerk shall authorize the Archivist of the United States to make available for public use the records delivered to the Archivist under clause 2 of this rule.

(b)(1) Any record that the House or a committee of the House (or a subcommittee thereof) makes available for public use before such record is delivered to the Archivist under clause 2 of this rule shall be made available immediately.

(2) Any investigative record that contains personal data relating to a specific living individual (the disclosure of which would be an unwarranted invasion of personal privacy), any administrative record with respect to personnel, and any record with respect to a hearing closed pursuant to clause 2(g)(2) of rule XI shall be avail-

able if such record has been in existence for 50 years.

(3) Any record for which a time, schedule, or condition for availability is specified by order of the House shall be made available in accordance with that order. Except as otherwise provided by order of the House, any record of a committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.

(4) Any record (other than a record referred to in subparagraph (1), (2), or (3) of this paragraph) shall be made available if such record has been in existence for 30 years.

4. (a) A record shall not be made available for public use under clause 3 of this rule if the Clerk determines that such availability would be detrimental to the public interest or inconsistent with the rights and privileges of the House. The Clerk shall notify in writing the chairman and the ranking minority party member of the Committee on House Oversight of any determination under the preceding sentence.

(b) A determination of the Clerk under paragraph (a) is subject to later order of the House and, in the case of a record of a committee, later order of the committee.

5. (a) This rule does not supersede rule XLVIII or rule L and does not authorize the public dis-

closure of any record if such disclosure is prohibited by law or executive order of the President.

(b) The Committee on House Oversight may prescribe guidelines and regulations governing the applicability and implementation of this rule.

(c) A committee may withdraw from the National Archives and Records Administration any record of the committee delivered to the Archivist of the United States under this rule. Such withdrawal shall be on a temporary basis and for official use of the committee.

6. As used in the rule the term “record” means any official, permanent record of the House, including—

(a) with respect to a committee of the House, an official, permanent record of the committee (including any record of a legislative, oversight, or other activity of such committee or subcommittee thereof); and

(b) with respect to an officer of the House elected pursuant to rule II, an official, permanent record made or acquired in the course of the duties of such officer. Such term does not include a record of an individual Member of the House.

The predecessor to this provision was adopted in 1880 (V, 7260). The rule was renumbered in the 83d Congress (H. Res. 5, Jan. 3, 1953, p. 24), and was rewritten entirely in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 73) to incorporate the provisions of H. Res. 419 as reported from the Committee on Rules in the 100th Congress (H. Rept. 100–1054). In the 104th Congress it was amended to reflect the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. —).

Clause 2 of the former provision stemmed from section 140(a) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was made a part

of the standing rules January 3, 1953 (p. 24) and amended January 22, 1971 (p. 144). The Clerk of the House has historically been authorized to permit the Administrator of General Services to make available for use certain records of the House transferred to the National Archives (H. Res. 288, June 16, 1953, p. 6641). In the 99th Congress the reference was changed from the General Services Administration to the National Archives and Records Administration (H. Res. 114, Oct. 14, 1986, p. 30821).

Under rule XXXVI, an order of the House is required for the release of noncurrent records of the House (Mar. 22, 1991, p. 7549).

## RULE XXXVII.

### WITHDRAWAL OF PAPERS.

No memorial or other paper presented to the House shall be withdrawn from its files without its leave, and if withdrawn therefrom certified copies thereof shall be left in the office of the Clerk; but when an act may pass for the settlement of a claim, the Clerk is authorized to transmit to the officer in charge with the settlement thereof the papers on file in his office relating to such claim, or may loan temporarily to an officer or bureau of the executive departments any papers on file in his office relating to any matter pending before such officer or bureau, taking proper receipt therefor.

§ 933. Custody of papers in the files of the House.

This rule was adopted in 1873 and amended in 1880 (V, 7256). It was renumbered January 3, 1953, p. 24.

The House usually allows the withdrawal of papers only in cases where there has been no adverse report. As the rules for the order of business give no place to the motion to withdraw, it is made by unanimous consent (V, 7259). The House formerly adopted a privileged resolution at the beginning of each Congress authorizing the Clerk to furnish certified copies of certain types of House papers subpoenaed by courts upon determination of relevancy by the court, but not permitting production of executive session papers or transfer of original papers (Jan. 3, 1973, pp. 30–31).

See rule L, *infra* for current procedure for response to subpoenas for papers of the House.