

gresses (H. Res. 10, Jan. 15, 1979, p. 19) when general authority was granted to respond to subpoenas and a procedure was established for automatic compliance without the necessity of a House vote. This standing authority was clarified and revised later in the 96th Congress by H. Res. 722 (Sept. 17, 1980, pp. 25777–90) and forms the basis for the present rule.

In the 102d Congress, the House considered as questions of the privileges of the House resolutions: responding to a subpoena for records of the “bank” in the Office of the Sergeant-at-Arms (Apr. 29, 1992, p. —); responding to a contemporaneous “request” for such records from a Special Counsel (Apr. 29, 1992, p. —); and authorizing an officer of the House to release certain documents in response to another such request from the Special Counsel (May 28, 1992, p. —).

Under clause 2 of rule L, the Speaker promptly lays before the House a communication notifying him of the receipt of a subpoena, but the rule does not require that the text of a subpoena be printed in the Record (July 31, 1992, p. —).

RULE LI.

EMPLOYMENT PRACTICES.

1. The Committee on House Oversight shall have authority to issue rules and regulations applying the rights and protections of the Fair Labor Standards Act in the House, including, but not limited to, determination of exemption categories, permitting the use of compensatory time as compensation under the maximum work week provisions of the Act, describing the recordkeeping requirements and providing that such recordkeeping provisions do not apply with respect to employees exempted pursuant to the Committee’s Rules and Regulations.

§ 946a. Employment Practices.

Nondiscrimination in employment

2. (a) Personnel actions affecting employment positions in the House of Representatives shall be made free from discrimination based on race,

color, national origin, religion, sex (including marital or parental status), disability, or age.

(b) Interpretations under paragraph (a) shall reflect the principles of current law, as generally applicable to employment.

(c) Paragraph (a) does not prohibit the taking into consideration of—

(1) the domicile of an individual with respect to a position under the clerk-hire allowance; or

(2) the political affiliation of an individual with respect to a position under the clerk-hire allowance or a position on the staff of a committee or a position under all support offices, except as otherwise stated in the Rules of the House of Representatives.

Procedure

3. The procedure for consideration of alleged violations of clause 2 consists of three steps as follows:

(a) step I, Counseling and Mediation, as set forth in clause 5;

(b) step II, Formal Complaint, Hearing, and Review by the Office of Fair Employment Practices, as set forth in clause 6; and

(c) step III, Final Review by Review Panel, as set forth in clause 7.

Office of fair employment practices

4. There is established an Office of Fair Employment Practices (hereafter in this rule referred to as the “Office”), which shall carry out functions assigned under this rule. Employees

and Hearing Officers of the Office shall be appointed by, and serve at the pleasure of, the Chairman and the ranking minority party member of the Committee on House Oversight, acting jointly, and shall be under the administrative direction of the Clerk of the House of Representatives. The Office shall be located in the District of Columbia.

Step i: counseling and mediation

5. (a) An individual aggrieved by an alleged violation of clause 2 may request counseling by counselors in the Office, who shall provide information with respect to rights and related matters under that clause. A request for counseling shall be made not later than one hundred and eighty days after the alleged violation and may be oral or written, at the option of the individual. The period for counseling is thirty days, unless the employee and the Office agree to reduce the time period. The Office may not notify the employing authority of the counseling before the beginning of mediation or the filing of a formal complaint, whichever occurs first.

(b) If, after counseling, the individual desires to proceed, the Office shall attempt to resolve the alleged violation through mediation between the individual and the employing authority.

Step ii: formal complaint, hearing, and review by the office of fair employment practices

6. (a) Not later than thirty days after the end of the counseling period, the individual may file

a formal complaint with the Office. Not later than ten days after filing the formal complaint, the individual may file with the Office a written request for a hearing on the complaint.

(b) The hearing shall be conducted—

(1) not later than forty days after filing of the written request under paragraph (a);

(2) on the record by a Hearing Officer of the Office appointed under the procedures set forth in clause 4; and

(3) to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 555 and 556 of title 5, United States Code.

(c) Not later than thirty days after the hearing, the Office shall issue a written decision to the parties. The decision shall clearly state the issues raised by the complaint, and shall contain a determination as to whether a violation of clause 2 has occurred.

Step iii: final review by review panel

7. (a) In General. Not later than twenty days after issuance of the decision under clause 6, any party may seek formal review of the decision by filing a written request with the Office. The formal review shall be conducted by a panel constituted at the beginning of each Congress and composed of—

(1) two elected officers or employees of the House of Representatives, appointed by the Speaker;

(2) two employees of the House of Representatives appointed by the minority leader of the House of Representatives;

(3) two members of the Committee on House Oversight (one of whom shall be appointed as chairman of the panel), appointed by the Chairman of that Committee; and

(4) two members of the Committee on House Oversight, appointed by the ranking minority party member of that Committee.

If any member of the panel withdraws from a particular review, the appointing authority for such member shall appoint another officer, employee, or Member of the House of Representatives, as the case may be, to be a temporary member of the panel for purposes of that review only.

(b) The review under this clause shall consist of a hearing (conducted in the manner described in clause 6(b)(3)), if such hearing is considered necessary by the panel, and an examination of the record, together with any statements or other documents the panel deems appropriate. A tie vote by the panel is an affirmation of the decision of the Office. The panel shall complete the review and submit a written decision to the parties and to the Committee on House Oversight not later than sixty days after filing of the request under paragraph (a), except that when the House has adjourned sine die, in which case an extension of up to sixty additional days is authorized.

Resolution by agreement

8. If, after a formal complaint is filed under clause 6, the parties resolve the issues involved, the parties shall enter into a written agreement, which shall be effective—

(1) in the case of a matter under review by the Office under clause 6, if approved by the Office; and

(2) in the case of a matter under review by a panel under clause 7, if approved by the panel.

Remedies

9. The Office or a review panel, as the case may be, may order one or more of the following remedies:

(a) monetary compensation, to be paid from the clerk-hire allowance of a Member, or from personnel funds of a committee of the House or other entity, as appropriate;

(b) monetary compensation, to be paid from the contingent fund of the House of Representatives;

(c) injunctive relief;

(d) costs and attorney fees; and

(e) employment, reinstatement to employment, or promotion (with or without back pay).

Costs of attending hearings

10. An individual with respect to whom a hearing is held under this rule shall be reimbursed for actual and reasonable costs of attending the hearing, if the individual resides outside

the location of the hearing. Witnesses required to attend the hearings by the Hearing Officer as necessary to a fair and justiciable hearing shall be reimbursed for actual and reasonable costs of attending the hearing if they reside outside the location of the hearing. Expenses are to be paid from the contingent fund of the House of Representatives.

Prohibition of intimidation

11. Any intimidation of, or reprisal against, any person by an employing authority because of the exercise of a right under this rule is a violation of clause 2.

Closed hearings and confidentiality

12. All hearings under this rule shall be closed. All information relating to any procedure under this rule is confidential, except that a decision of the Office under clause 6 or a decision of a review panel under clause 7 shall be published, if the decision constitutes a final disposition of the matter.

Exclusivity of procedures and remedies

13. The procedures and remedies under this rule are exclusive except to the extent that the Rules of the House of Representatives and the Rules of the House Committee on Standards of Official Conduct provide for additional procedures and remedies.

Requests for witnesses and information

14. The Office of Fair Employment Practices and the Fair Employment Practices Review

Panel may issue, and the addressees shall comply with, written requests for the production of documents and the attendance of witnesses, if such requests are necessary and relevant to the proper examination of the issues.

Internal procedures for resolution of possible violations

15. It is the policy of the House of Representatives to encourage each employing authority to establish internal procedures for examining and resolving possible violations of this rule. To the greatest extent practicable, the Office of Fair Employment Practices shall take such action (consistent with the rights of the parties) as may be necessary to encourage initial use of such procedures.

Definitions

16. As used in this rule—

(a) the term “employment position” means, with respect to the House of Representatives, a position the pay for which is disbursed by the Clerk of the House of Representatives, or other official designated by the House of Representatives, and any employment position in a legislative service organization or other entity that is paid through funds derived from the clerk-hire allowance;

(b) the term “employing authority” means, the Member of the House of Representatives or elected officer of the House of Representatives, or the Director of the Congressional

Budget Office, with the power to appoint the employee;

(c) the term “Member of the House of Representatives” means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(d) the term “elected officer of the House of Representatives” means an elected officer of the House of Representatives (other than the Speaker and the Chaplain).

This provision grew out of the Fair Employment Practices Resolution that was first adopted in the 100th Congress (H. Res. 558, Oct. 3, 1988, p. 27840) and renewed in the 101st Congress (H. Res. 15, Jan. 3, 1989, p. 85), and through which the provisions of the Americans with Disabilities Act of 1990 (P.L. 101–336, July 26, 1990) apply to the House. It was incorporated by reference in a standing rule LI in the 102d Congress (H. Res. 5, Jan. 3, 1991, p. —). Its full text, with certain amendments, was codified in rule LI in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. —). 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. —). The viability of this rule under the Congressional Accountability Act of 1995 is set forth in section 506 of that Act (2 U.S.C. 1435).

RULE LII.

APPLICATION OF CERTAIN LAWS.

1. There is established an Office of Compliance which shall have a Board of Directors consisting of 5 individuals appointed jointly by the Speaker and the minority leader. Appointments of the first 5 members of the Board of Directors shall be completed not later than 120 days after the beginning of the One Hundred Fourth Congress.

2. (a) The Office of Compliance shall carry out the duties and functions set forth in sections 2