

Guide to the Office of Congressional Ethics



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Introduction

Government ethics rules exist to promote and enforce the proper conduct of public officials and to maintain public confidence in government. All three branches of the federal government have offices that oversee the ethical conduct of elected officials, officers, and employees. The U.S. Office of Government Ethics covers the executive branch; the Judicial Conference's Code of Conduct and its Committee on Codes of Conduct cover the judicial branch.

In Congress, the U.S. Senate and House of Representatives have separate ethics rules and enforcement mechanisms. The Senate Select Committee on Ethics deals with ethics matters there. In the House, the Committee on Ethics (<http://ethics.house.gov/>) and the Office of Congressional Ethics (OCE) have responsibility regarding alleged ethical violations by House Members, officers, and employees. The OCE is a non-partisan, independent entity established by the House in 2008 to conduct initial reviews of allegations of misconduct and, when warranted, refer matters to the Committee on Ethics, which has exclusive jurisdiction to find violations and impose punishment. The Committee on Ethics can also initiate its own investigation without a referral from OCE.

This Citizens Guide explains how the OCE works and where it fits in the structure of government ethics enforcement.

House Committee on Ethics

The House Committee on Ethics is a standing committee of the House and has authority over the interpretation, administration, and enforcement of the Code of Official Conduct for the House of Representatives. The Committee educates Members, officers, and congressional staff on House ethics rules and has the responsibility to investigate and sanction violations of these rules. The Committee accepts complaints about Members only from other Members. The membership of the Committee on Ethics is divided evenly by party, with five Republicans, including the Chair, and five Democrats. The rules and procedures governing the work of the Committee are public.

The following sources contain additional relevant information.

- *Highlights of the House Ethics Rules:*
<http://ethics.house.gov/sites/ethics.house.gov/files/documents/Ethics%20Rules%20Highlights%202011.pdf>
- *House Ethics Manual:*
http://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf
- *Rules of the House of Representatives:*
<https://rules.house.gov/sites/democrats.rules.house.gov/files/117-House-Rules-Clerk.pdf>

Office of Congressional Ethics

The OCE is an independent, non-partisan entity charged with reviewing allegations of misconduct against Members, officers, and employees of the House of Representatives, and referring matters to the House Committee on Ethics when the OCE Board determines such review is warranted. Members of the OCE's eight-person Board of Directors must authorize each stage of the OCE investigative process and ultimately decide whether to recommend that the House Committee on Ethics review a matter or dismiss it. Board members are private citizens, cannot work as lobbyists or be employed by the federal government and must agree not to run for federal office.

The Board includes six voting members and two alternates. The Speaker of the House appoints three members and an alternate, designating one Board member as chairman. The minority leader appoints three members and an alternate, and designates one Board member as Co-chairman.

The OCE staff consists primarily of lawyers and other professionals with expertise in ethics law and investigations. The OCE staff is impartial in its investigations and collects all relevant evidence, whether it proves or disproves an allegation of misconduct. OCE's professional staff and Board are governed by a strict code of conduct to ensure confidentiality, integrity, and ethical standards. Those rules can be found at: oce.house.gov/pdf/OCE_Code_of_Conduct.pdf.

OCE Investigative Process

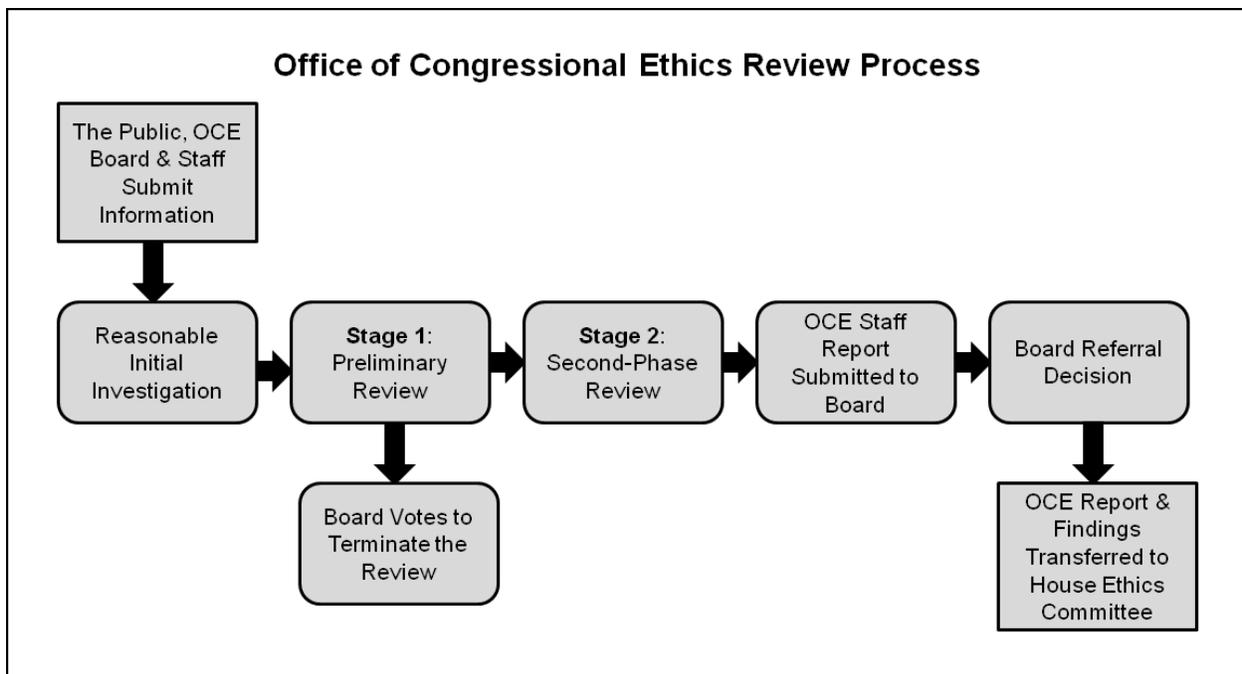
The OCE has jurisdiction to investigate any alleged violation of a "law, rule, regulation, or other standard of conduct" committed by a "Member, officer, or employee of the House" on or after March 11, 2008. Information about alleged violations comes to the Board from a range of sources, including the public. After completing the time allowed for its investigation, the OCE Board decides what to recommend to the Committee on Ethics: further review or dismissal. The Committee on Ethics then decides whether to conduct further investigation, impose sanctions, or dismiss the matter. Except when the OCE board recommends dismissal, the Committee must eventually release the OCE's report and findings.

Two-Stage Review

There are two stages in the investigative review process: a preliminary review, and a second-phase review; the Board must authorize each stage of the OCE investigative review process. At the end of each stage, the Board must vote to decide whether to proceed to the next phase of review or dismiss the matter. The preliminary review is limited to 30 days, during which the OCE staff investigates whether a violation may have occurred. A second-phase review is initially limited to 45 days, with the option for the Board to extend it by an additional 14 days. At any point during the preliminary and second-phase review, four members of the Board may vote to terminate a review.

The OCE's non-partisan staff obtains evidence and testimony through interviews and document requests. All evidence received and interviews conducted by the OCE staff are subject to the *False Statements Act*, which provides for criminal penalties when witnesses falsify evidence or make false statements during a federal government investigation.

The OCE provides notice to the subject of a review at each stage of the review process. If the Board authorizes a preliminary review, the subject of the review is notified and provided with a statement of the nature of the review. The OCE also gives notice to the subject if the Board decides to initiate a second-phase review. At each stage, the subject is notified of their right to be represented by counsel, and that invoking that right will not be held negatively against them. Once the Board votes on its referral to the Committee on Ethics, the subject of the review receives notice of the Board's recommendation. If the Board votes to terminate an active preliminary or second-phase review, the subject of the review is notified of this decision.

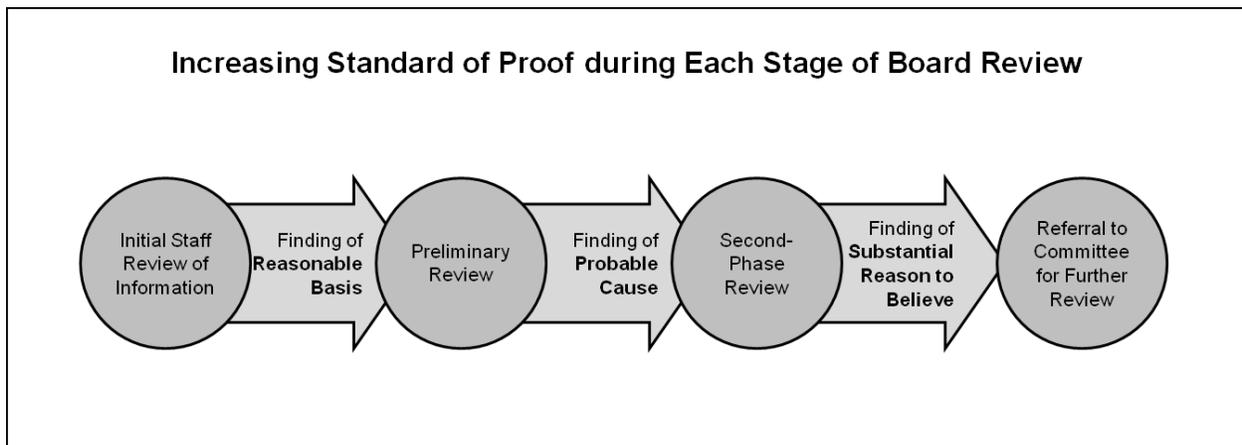


1st Stage: Preliminary Review

To begin a preliminary review, at least two members of the Board, including one appointed by each of the two appointing authorities, must make a request in writing based on a “reasonable basis” to believe a violation may have occurred. According to the OCE’s Rules, “a *reasonable basis* to believe an allegation exists when there is a reasonable and articulable basis for believing the allegation. Such a determination does not constitute a finding that a violation has actually occurred.”

2nd Stage: Second-Phase Review

After the preliminary review stage, the evidence that has been developed is again presented to the Board. For the review to continue to the second-phase, three members of the Board must find that there is “probable cause” to believe that a violation may have occurred. According to the OCE’s Rules, probable cause means that “the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a Member, officer or employee committed a violation.”



Referral to the Committee on Ethics for Review or Dismissal

At the end of the second-phase review, the Board considers a staff report presenting all the evidence and determines if there is a “substantial reason to believe” that the violation may have occurred. According to the OCE’s Rules, a substantial reason to believe exists when “there is such relevant evidence a reasonable mind might accept as adequate to support a conclusion.” If four members agree, the Board may adopt a report that refers the matter to the Committee on Ethics for further review or, alternatively, recommends that the Committee dismiss the matter. In the case of a tie vote, the Board may send the final report to the Committee with the matter unresolved. The Board may also decide that information about the allegations should be referred to another government commission, office, or authority for appropriate action.

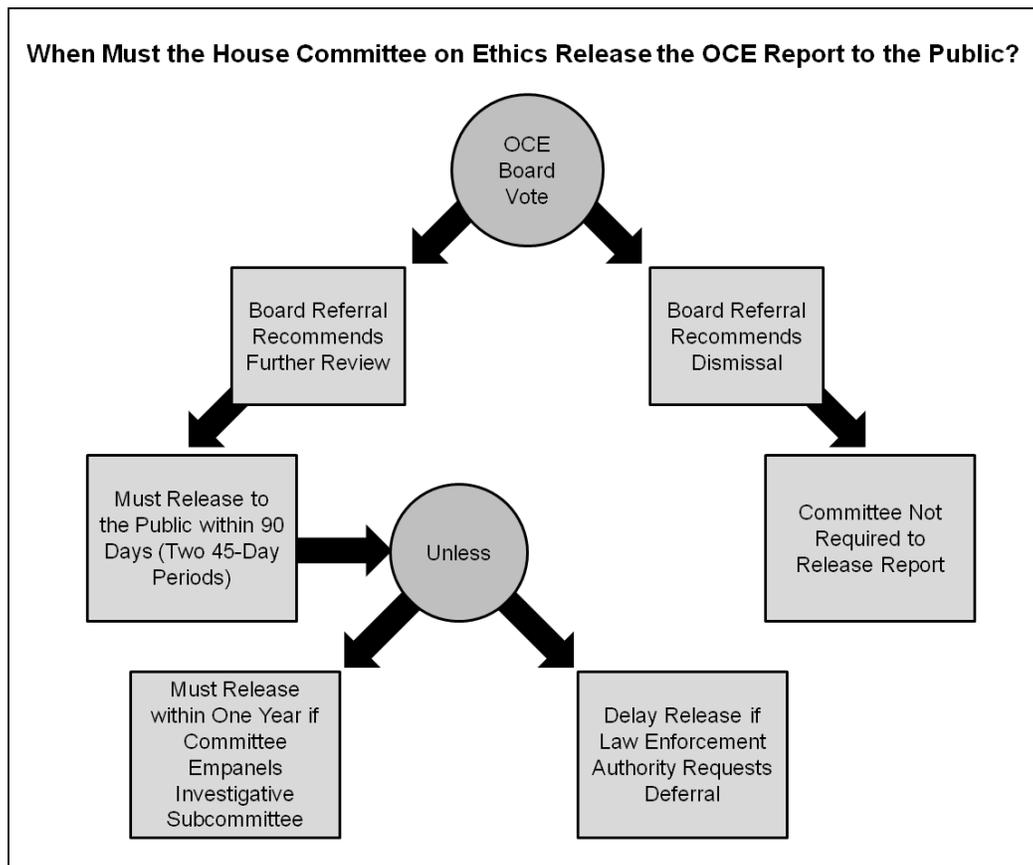
The report includes the identity of the subject, the nature of the allegation, and the number of votes in favor and opposed. Separate from the report, the Board may also include findings of fact, a description of information that the OCE could not obtain, a recommendation

for the use of subpoenas, and citations to relevant law, rules, regulations, or standards or conduct. A copy of the report is also provided to the subject of the review.

Confidentiality and Disclosure

The OCE operates under strict confidentiality rules. All information obtained during investigations is confidential unless and until the Committee on Ethics releases an OCE report to the public. The OCE does not make public statements identifying the subjects of its ongoing investigations. The OCE staff does not identify the subject of an investigation when contacting third-party witnesses.

Except in very limited circumstances, the Committee on Ethics must eventually release the OCE’s report and findings. Public release is required within 45 days, unless the Committee votes to extend this period by an additional 45 days. The release of the report and findings can also be delayed if the Committee decides to create an investigative subcommittee to investigate the matter. In that case, the OCE report must still be released within a year. If the Board recommends dismissal and the Committee also votes to dismiss the matter, the report does not have to be made public. Release of an OCE report may also be delayed when a law enforcement authority that is taking action in the matter requests that the Committee defer the public release. If a referral is released, it is posted on the OCE’s website at oce.house.gov.



Submissions to the OCE

The OCE accepts submissions from the public about alleged violations of ethics rules and laws by Members, officers, and employees of the House of Representatives. A submission only prompts a preliminary review if it describes a violation that is within the jurisdiction of OCE and the OCE Board determines if there is sufficient basis to authorize a preliminary review. Pursuant to House Rules, all investigations are confidential and the OCE does not comment regarding any pending investigation. Information on what should be included in a submission to the OCE is outlined at: oce.house.gov/public-input.html.