

**OFFICE OF CONGRESSIONAL ETHICS**

**RULES FOR THE CONDUCT OF INVESTIGATIONS**

**AS ADOPTED ON DECEMBER 9, 2022**

**INTRODUCTION**

The Office of Congressional Ethics, established by the United States House of Representatives, is an independent, non-partisan entity charged with reviewing allegations of misconduct against Members, officers and staff of the House and, when appropriate, referring matters to the Committee on Ethics (commonly referred to as the Ethics Committee). These rules are adopted under the authority granted by H. Res. 895 of the 110<sup>th</sup> Congress Section 1(c)(F).

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## **DEFINITIONS**

- (1) **Board** – the Board of Directors of the Office of Congressional Ethics
- (2) **Ethics Committee** – the Committee on Ethics of the United States House of Representatives
- (3) **Employee** – any employee of the House
- (4) **Exculpatory Evidence** – evidence which disproves or tends to disprove an allegation that the Board refers to the Ethics Committee (Information that is merely favorable to the subject of an allegation does not constitute exculpatory evidence unless it is relevant to disproving the allegation)
- (5) **Member** - any Representative in, or Delegate or Resident Commissioner to, the Congress
- (6) **Office** or **OCE** – the Office of Congressional Ethics as described in H. Res. 895 of the 110<sup>th</sup> Congress; generally speaking, the Office consists of the Board of Directors and the Staff of the Office, including any detailees, consultants, contractors, special counsel or other personnel retained by the Board in any capacity
- (7) **Officer** – officers of the House are the Sergeant-at-Arms, Clerk, Chief Administrative Officer and Chaplain
- (8) **Referrals** – the report and any findings of the OCE in a matter transmitted to the Ethics Committee at the end of a second-phase review by the OCE
- (9) **Report** - the initial section of a referral that provides the Board recommendation that the Ethics Committee dismiss or further review the matter, or a statement that the matter was unresolved because of a tie vote; the nature of the allegation; the Board votes; and the identity of the individual who is the subject of the review

- (10) **Resolution** – H. Res. 895 of the 110<sup>th</sup> Congress, as amended
- (11) **Staff** – staff of the Office of Congressional Ethics
- (12) **Subject** – the Member, officer or employee against whom an allegation is made
- (13) **Witness** – a person, including the subject of a review, or an entity, that may have knowledge relating to a matter under review

## **RULE 1. JURISDICTION**

The Office has jurisdiction to investigate allegations that:

- (1) a Member, officer or employee of the House
- (2) on or after March 11, 2008
- (3) has violated a law, rule, regulation, or other standard of conduct in effect at the time the conduct occurred and applicable to the subject in the performance of his or her duties or the discharge of his or her responsibilities.

Resolution Section 1(c)(1)(A) and (e).

The Board shall only open a review into information related to allegations within the Office's jurisdiction.

When such information is obtained by the Office, the Staff shall determine whether the alleged conduct falls within the jurisdiction of the Board.

**Commentary:** In order to determine if jurisdiction exists, the Staff shall assume the facts alleged are true. This is the only time when the Staff shall make that assumption.

In the event a Member or officer leaves office, or a staff person ends his or her employment relationship with the House during an OCE preliminary review or second-phase review, then the Board's jurisdiction shall cease. If the employment relationship with the House ends after the second-phase review, then the OCE's process will be unaffected, and the Board may make appropriate reports to the Ethics Committee and ensure the timely release of referrals.

The OCE's jurisdiction includes misconduct relating to a successful campaign for election to the United States House of Representatives.

## **RULE 2. BOARD MEETINGS**

The Board shall meet at the call of the Chairman or two Board members. Resolution Section 1(b)(9). The Board shall set a regular monthly meeting day. A regularly scheduled meeting need not be held when the Chairman determines there is no business to be considered. Notice for any Board meeting shall be provided at least seven days in advance. The Chairman may waive such period for good cause.

Four members of the Board, excluding alternates, shall constitute a quorum. The Chairman shall establish the agenda for the meetings of the Board. Any member of the Board may place additional items on the agenda. The Chairman shall preside at all meetings of the Board. In the absence of the Chairman, the Co-Chairman shall preside. Resolution Section 1 (b)(8).

Alternates shall participate in all board meetings and conferences but may not vote. If (1) a vacancy occurs, (2) a Board member disqualifies him or herself because of a financial conflict of interest, (3) a Board member recuses him or herself because of a lack of impartiality in a particular matter, or (4) if a voting Board member is otherwise unable to participate in Board business for good cause, as determined by the Chairman, the alternate Board member nominated by the same individual who nominated the unavailable Board member shall fill the voting Board member's seat until the voting Board member is again available or until a permanent replacement is selected.

**Commentary:** Board meetings may occur telephonically, virtually, in person, or in a hybrid manner. The Board will prioritize meeting in person, however, due to safety concerns or other emergencies the Board may turn to alternative measures in order to carry out the ordinary business of the OCE.

### **RULE 3. INFORMATION FOR BOARD CONSIDERATION**

#### **(A) SUBMISSIONS**

The Office will accept and review information concerning allegations within the Office's jurisdiction. While the Office will request the name and contact information of anyone submitting information, information may be submitted anonymously or confidentially.

When making any submission, the Office suggests including the following information:

- (1) the name, address, telephone number and e-mail address, if any, of the person submitting the information, and the organization s/he is affiliated with, if any;
- (2) the full name of the subject of the allegation;
- (3) the date(s) the alleged conduct occurred;
- (4) a concise statement of facts (or, the source of the information in the event that the person submitting the information does not have first-hand knowledge of the facts);
- (5) the law, regulation or rule allegedly violated, if known;
- (6) if applicable, name(s) and contact information for any potential witness(es);
- (7) if applicable, copies of any documents related to the allegation; and
- (8) a signed declaration that the person submitting the information acknowledges that section 1001 of title 18 United States Code (popularly known as the False Statements Act) applies to the information s/he is providing. A copy of the False Statements Act is attached as an appendix to these rules.

If the Staff finds that the information sufficiently alleges a violation within the jurisdiction of the Board, it may spend a reasonable amount of time gathering additional information with the authorization of the Chairman and Co-Chairman. If the Staff determines it is necessary to seek

such information from sources other than public ones, including from potential witnesses, it shall notify the subject of the allegations that it has received the allegations and is seeking information related to the Board's consideration of a preliminary review. The Staff shall keep the Board apprised at all times of information the Office has received.

**Commentary:** Anonymous submissions to the OCE will be reviewed under a higher degree of scrutiny for accuracy and credibility, taking into account potentially corroborating evidence, prior to any official action.

**(B) SUBMISSION FROM A BOARD OR STAFF MEMBER**

Staff or any Board member may submit information regarding an alleged violation for consideration by the Board. The Staff may submit information to the Board that it has received from the public, in a form other than the one described above, or that it has derived from other sources including the press, third-party sources and other sources. Resolution Section 1(c)(2)(F). The Staff or Board member submitting information shall include the facts outlined in subsection (A) above, to the best of his or her ability.

**(C) ALLEGATIONS AGAINST A BOARD MEMBER OR STAFF PERSON**

In the event a submission alleging misconduct establishes a reasonable basis to believe that a member of the Board of Directors of the OCE has violated any law, rule, regulation, or other standard of conduct, applicable to the Board member in the performance of his or her duties or the discharge of his or her responsibilities, the Board shall immediately forward such information to the Speaker of the House and the Minority Leader.

In the event a submission alleges that a staff person in the OCE has violated any law, rule or regulation, or other standard of conduct applicable to the staff person in the performance of

his or her duties or the discharge of his or her responsibilities, the Staff Director shall notify the Chairman and Co-Chairman who shall take appropriate action.

**Commentary:** Allegations against a Board member shall be forwarded to the Speaker and Minority Leader because, as appointing authorities, the Speaker and Minority Leader are empowered to remove members of the Board for cause.

**(D) CONSOLIDATING SUBMISSIONS**

The Board may consolidate two or more submissions which involve the same Member or staff person as a subject or that involve substantially the same issues.

**(E) ADDITIONAL INFORMATION**

The Board may address any additional potential violations within its jurisdiction that are discovered during the same review. The Board may also approve a new review.

**(F) INFORMATION FROM A SUBJECT**

A subject may provide information to the Office at any time during the preliminary review or second-phase of the investigation. Any information from a subject should be directed to the Staff Director and Chief Counsel, not to individual Board members. See Rule 9B

#### **RULE 4. EVIDENCE**

The Office may solicit testimony from witnesses and collect relevant evidence as may be necessary to carry out its duties. Resolution Section 1(c)(2)(D).

##### **(A) FALSE STATEMENTS WARNING AND CERTIFICATION**

- (1) All witnesses that provide information must sign a statement acknowledging their understanding that section 1001 of title 18 United States Code (popularly known as the False Statements Act) applies to their testimony, documents, or other evidence they provide. Resolution Section 1(c)(F)(ii).
- (2) Each witness who provides documents or other evidence in response to a written request for information must sign a statement certifying that (1) the witness has provided all documents in the witness's possession that are responsive to the request; and, (2) if the witness has not provided a requested document or other evidence, that the witness has identified the document or evidence that is not available or withheld and explained why it is not available or withheld. This certification is subject to section 1001 of title 18, United States Code. Resolution Section 1(c)(F)(ii).
- (3) Pursuant to Rule 6, the Board may deem non-compliance with this rule as a refusal to cooperate.

##### **(B) WITNESSES**

The Office may pay witnesses appearing before the Office in the same manner as prescribed by clause 5 of Rule XI of the Rules of the House of Representatives.

##### **(C) IMPROPERLY OBTAINED EVIDENCE**

The Office shall not rely upon any document, recording, or other evidence that was obtained in violation of any law, rule or regulation. When an individual submits evidence to the

Office, s/he shall be asked to affirm to the best of their ability that the evidence was not obtained in violation of any law, rule or regulation.

**(D) INTERROGATORIES**

The Office may, in unusual circumstances, at the Staff Director's discretion, submit written interrogatories to a witness or subject and ask that they be answered within a reasonable amount of time.

**Commentary:** Interrogatories will not serve as a substitute for witness interviews.

**(E) PRIVILEGES**

The Office shall not consider evidence that is privileged under the precedents of the House of Representatives unless there is effective waiver.

**Commentary:** The House of Representatives establishes its own privileges, separate and distinct from privileges established under the judicial system's rules of evidence or any professional code of conduct.

**(F) EXCULPATORY EVIDENCE**

Staff shall promptly provide to a subject any exculpatory evidence received that is not already known by or in the possession of the subject or the subject's counsel.

**(G) INTERVIEWS**

Interviews may be conducted in person or virtually at the Staff Director's discretion. A designated counsel for the subject may be present during the interview.

**(H) WITNESS CONFIDENTIALITY**

The OCE will request that witnesses keep each matter confidential to respect the legal interests of the parties associated with this review.

## **RULE 5. INVESTIGATOR IS IMPARTIAL**

Office staff shall be impartial and unbiased in the conduct of an investigation and shall collect all evidence related to the allegations, whether such evidence tends to prove or disprove the allegations. In the event that a staff person has a personal or professional relationship with a subject, a subject's opponent in any election or a witness involved in an investigation, staff shall disclose that fact to the Staff Director who shall disclose it to the Board. Office staff shall notify the Staff Director and shall immediately discontinue working on an investigation in the event s/he feels s/he cannot be impartial and unbiased. If the Board believes that a staff person cannot be unbiased and impartial, the Board shall terminate that person's involvement in the matter.

## **RULE 6. COOPERATION WITH THE OFFICE**

The Office may request information from any source. In the event that the Office requests cooperation and it is not forthcoming, the Board may draw a negative inference from any refusal to cooperate and may include a statement to that effect in any referral to the Ethics Committee. Resolution Section 1(c)(2)(C)(i)(II)(bb).

Partial compliance with the OCE's requests for documents, testimony, other evidence, or failure to complete a certification pursuant to 18 U.S.C. § 1001, may not be considered cooperation. *See* Rule 4(A)(1).

## **RULE 7. PRELIMINARY REVIEW**

### **(A) STANDARD OF PROOF**

The Board shall authorize a preliminary review of any allegation(s) when it determines there is a *reasonable basis* to believe the allegation(s) based on all the information then known to the Board. Resolution Section 1(c)(2)(F).

**Commentary:** A *reasonable basis* to believe the allegation(s) exists when there is a reasonable and articulable basis for believing the allegation(s). Such a determination does not constitute a finding that a violation has occurred.

### **(B) INITIAL STAFF REVIEW**

The Staff shall advise the Board when it has done a reasonable initial investigation, with the authorization of the Chair and Co-Chair, either after receiving a submission or on its own initiative, and then recommend that the Board either authorize a preliminary review or take no action. Resolution Section 1(c)(2)(F). The Board may direct Staff to do additional investigation prior to reaching a decision as to whether to initiate a preliminary review.

### **(C) INITIATION**

A preliminary review shall commence within seven calendar days of the receipt of a written request, made or delivered by hand, electronically or otherwise, of two members of the Board, one of whom was appointed by the Speaker and one by the Minority Leader, stating the specific matter that is to be the subject of the preliminary review. Prior to submitting a request, Board members should notify the Chairman and Co-Chairman of their intention to do so. Notwithstanding the minimum requirement for two concurring Board members, whenever possible the full Board shall in conference consider the Board members' request to initiate a preliminary review and attempt to reach consensus on the matter. The Staff shall record the date

of receipt of any request for purposes of calculating applicable deadlines. Resolution Section 1(c)(1)(A) and (2)(F).

**Commentary:** As a preliminary review may be triggered by a *written request* of two members of the Board, such action does not require a vote by the Board and therefore, a quorum need not be present.

**(D) DURATION**

The Office shall complete all preliminary reviews within 30 calendar days (hereafter referred to as the “preliminary review time period.”)

**(E) PRELIMINARY REVIEW REPORT**

Before the preliminary review time period expires, the Staff shall submit a written or oral preliminary review report to the Board. The report shall recommend either that the Board take no action or that the Board initiate a second-phase review.

**(F) PRELIMINARY REVIEW TERMINATION**

Four members of the Board may vote to terminate a preliminary review at any time before the end of the preliminary review time period. Resolution Section 1(c)(1)(C). The Board may do so for any reason, including that the matter under review is de minimis in nature. Resolution Section 1(c)(2)(F)(i)(I). If the Board takes no further action on a matter by the end of the preliminary review time period, the preliminary review terminates. Resolution Section 1(c)(1)(C). In that event, the Board may send a report and any findings to the Ethics Committee.

## **RULE 8. SECOND-PHASE REVIEW**

### **(A) STANDARD OF PROOF**

The Board shall authorize a second-phase review of any allegation(s) if it determines, based on all the information then known to the Board, *probable cause* to believe the allegation(s) occurred. In the event the Office is unable to obtain information reasonably believed to exist and necessary to reach a determination of probable cause, the Board may authorize a second-phase review if it determines there is a *reasonable basis* to believe the allegation(s).

**Commentary:** *Probable cause* exists if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that the allegation(s) are true. A finding of probable cause does not constitute a finding the violation has actually occurred.

### **(B) INITIATION**

Three members of the Board convened with a quorum may vote to initiate a second-phase review. Resolution Section 1(c)(1)(C).

### **(C) DURATION**

The Office shall complete a second-phase review within 45 calendar days after the Board commences such review. Resolution Section 1(c)(2)(A)(i). The Board may extend the second-phase review by an additional 14 calendar days upon an affirmative vote of a majority of its members. Resolution Section 1(c)(2)(A)(ii). (Hereafter referred to as “second-phase review time period”).

**(D) SECOND-PHASE REVIEW REPORT**

After the conclusion of the second-phase review period, the Staff shall submit to the Board a written or oral second-phase report recommending that the Board forward the matter to the Ethics Committee either for further action or for dismissal.

**(E) SECOND-PHASE TERMINATION**

In unusual circumstances, four members of the Board may vote to terminate a review during the second-phase review period. Following second-phase review termination, the Board retains the right to investigate the matter at a later time pursuant to a new preliminary review.

**Commentary:**

An unusual circumstance includes a public health emergency or a national security incident.

## **RULE 9. REFERRALS TO THE ETHICS COMMITTEE**

### **(A) STANDARD OF PROOF**

The Board shall refer a matter to the Ethics Committee for further review if it determines there is a *substantial reason* to believe the allegation(s) based on all the information then known to the Board. However, in the event the Office is unable to obtain information necessary to reach that determination, but the Board does determine there is *probable cause* to believe the allegations, the Board may refer the matter to the Ethics Committee for further review.

**Commentary.** A *substantial reason* to believe exists where there is such relevant evidence a reasonable mind might accept as adequate to support a conclusion. A finding that there is a substantial reason to believe the allegations does not constitute a finding that a violation has actually occurred.

### **(B) STATEMENT FROM SUBJECT**

Before the Board votes on a recommendation or statement to be transmitted to the Ethics Committee at the end of a second-phase review, it shall provide the individual, Member, officer or employee the opportunity to present a statement to the Board. Resolution Section 1(f)(3).

Such a statement by a subject should not be used as an opportunity to present new evidence to the Office and is not an alternative to cooperation pursuant to Rule 6.

**Commentary:** Statements by a subject to the Board can be made orally or in writing. Counsel for the subject may be present during the subject's statement, but the statement must be made by the subject. Any legal arguments from counsel may be submitted in writing to the Staff Director and Chief Counsel prior to the Board Meeting.

### **(C) SECOND-PHASE REVIEW REPORT**

After the end of a second-phase review, the Board shall adopt, by a vote of no less than four members, a report to the Ethics Committee recommending either that the Ethics Committee give the matter further review or that it dismiss the matter. In the event that four Board members do not support either further review or dismissal, the Board shall report to the Ethics Committee that the matter is unresolved. The report shall state the votes in the affirmative and in the negative, the nature of the alleged violation and the individual who is the subject. The report may also include findings and supporting documentation as described below. Resolution Section 1(c)(2)(C)(i)(I).

**Commentary:** The Board's vote and adoption of a report shall occur, as soon as practicable, after the end of the second-phase review period.

### **(D) FINDINGS**

The Board's referral may include findings composed solely of the following:

- (1) Any findings of fact;
- (2) A description of any relevant information that it was unable to obtain or witnesses whom it was unable to interview, and the reasons therefor;
- (3) A recommendation for issuance of subpoenas where appropriate; and
- (4) A citation of any relevant law, rule, regulation, or standard of conduct.

Resolution Section 1(c)(2)(C)(i)(II).

### **(E) SUPPORTING DOCUMENTATION**

The Board may submit to the Ethics Committee any supporting documentation.

Resolution Section 1(c)(2)(C)(i)(III).

**(F) PRESENTATION OF REPORTS TO ETHICS COMMITTEE**

In transmitting any report to the Ethics Committee, the Board shall designate a member of the Board or staff to present the report if the Ethics Committee requests.

## **RULE 10. PERIOD OF SUSPENSION OF REFERRALS**

The Board shall not transmit any referrals to the Ethics Committee within 60 days before a Federal, State, or local election in which the subject of the referral is a candidate. If the end of the second-phase review occurs within this suspension period, the Board shall complete its work on the referral and transmit it to the Ethics Committee as soon as practicable, but not more than 30 days, following the election. Clause 3(b)(8)(D) of Rule XI of the Rules of the House.

## **RULE 11. NOTICE**

### **(A) INITIATION OF A PRELIMINARY REVIEW**

The Office shall notify the Ethics Committee and the subject of any preliminary review initiated by the Board and shall provide the subject with a statement of the nature of the review. Resolution Section 1(c)(1)(A)(i)-(ii). After multiple attempts, if direct contact cannot be made with the subject, the OCE staff will hand-deliver the notice directly to the Member's official office.

### **(B) TERMINATION OF A PRELIMINARY REVIEW**

The Office shall notify the Ethics Committee and the subject of any decision by the Board to terminate a preliminary review or if a review terminates because the Board takes no further action. Resolution Section 1(c)(1)(C).

### **(C) INITIATION OF A SECOND-PHASE REVIEW**

The Office shall notify the Ethics Committee and the subject of any second-phase review initiated by the Board. Resolution Section 1(c)(1)(C).

### **(D) TERMINATION OF A SECOND-PHASE REVIEW**

When the Board votes to terminate a review during the second-phase review, the subject of the review and the Ethics Committee will be provided with notice that the review terminated due to an unusual circumstance, and that the Board reserves the right to investigate the same subject matter at a later time by voting to initiate a preliminary review.

### **(E) REFERRAL TO THE ETHICS COMMITTEE**

The Office shall provide to the subject a copy of the report it transmits to the Ethics Committee recommending further review, dismissal or reporting that the matter is unresolved. Resolution Section 1(c)(2)(C)(ii).

## **RULE 12. REQUESTS FROM THE ETHICS COMMITTEE**

### **(A) REQUESTS FROM ETHICS COMMITTEE**

Upon receipt of a written request from the Ethics Committee that the Board cease its review and refer the matter to the Committee because of an ongoing investigation of such matter by an investigatory subcommittee of the Ethics Committee, the Board shall refer such matter to the Committee and cease its preliminary or second-phase review, as applicable, and so notify the subject. The Board shall send a written report to the Committee containing a statement that, upon the request of the Committee, the matter is referred for its consideration, but shall not include any findings. Resolution Section 1(d)(1).

### **(B) MATTERS UNRESOLVED BY THE ETHICS COMMITTEE**

If the Ethics Committee notifies the Board in writing that it is unable to resolve any matter it had previously asked the Board to stop reviewing, the Board shall immediately begin or resume, as the case may be, a second-phase review of the matter. Resolution Section 1(d)(2).

**Commentary:** If the matter was in a second-phase review when the Ethics Committee asked the Board to cease the review then, for purposes of calculating the second-phase review time period, the number of calendar days remaining when the Ethics Committee asked the Board to cease its review shall be available to the Board when the second-phase review resumes.

### **(C) BOARD DUE DILIGENCE**

In a case when the Ethics Committee asks the Board to cease review of a matter under this Rule, the Board shall inquire at regular intervals to determine if the Ethics Committee has been [un]able to resolve the matter.

## **RULE 13. REFERRALS TO OTHER ENTITIES**

### **(A) REFERRALS TO THE OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS**

The Board may refer allegations related to the following laws to the Office of Congressional Workplace Rights:

- (1) The Age Discrimination in Employment Act of 1967
- (2) The Americans with Disabilities Act of 1990
- (3) Title VII of the Civil Rights Act of 1964
- (4) The Employee Polygraph Protection Act of 1988
- (5) The Fair Labor Standards Act of 1938
- (6) The Family and Medical Leave Act of 1993
- (7) The Federal Service Labor-Management Relations Statute
- (8) Occupational Safety and Health Act of 1970
- (9) The Rehabilitation Act of 1973
- (10) The Veterans Employment Opportunities Act of 1998 (VEOA)
- (11) The Worker Adjustment and Retraining Notification Act
- (12) The Genetic Information Nondiscrimination Act (GINA) of 2008
- (13) House Resolution 1096 - Collective Bargaining and Unionization
- (14) Fair Chance to Compete for Jobs Act of 2019 (FCA)

### **(B) REFERRALS TO THE HOUSE OFFICE OF INSPECTOR GENERAL**

The Board may refer allegations of fraud, waste and abuse in the operations of the House or joint entities of Congress to the House Office of Inspector General for investigation under clause 6(c)(1) of Rule II of the House.

**(C) REFERRALS TO THE HOUSE COMMISSION ON CONGRESSIONAL MAILING  
STANDARDS**

The Board may refer allegations relating to the proper use of the franking privilege to the House Commission on Congressional Mailing Standards.

**(D) STATE AND FEDERAL AUTHORITIES**

The Staff, in consultation with the Chairman and Co-Chairman, may refer information to state and federal authorities in the event that information indicates a crime has occurred or is about to occur.

## **RULE 14. COUNSEL**

### **(A) REPRESENTATION**

If a subject or witness is known to be represented by a lawyer, all communication to the subject or witness shall be made through the subject's or witness's lawyer. The subject or witness must notify the Office if they are represented.

### **(B) MULTIPLE REPRESENTATIONS**

The Board may limit or prohibit a lawyer or law firm from representing multiple witnesses or subjects if the Board finds a substantial risk that a conflict of interest may prejudice the review, without regard to whether the represented parties waive the possible conflict. If a subject or witness refuses to resolve the conflict of interest, the Board may determine pursuant to Rule 6 that the represented subject or witness refused to cooperate with the review.

**Commentary:** Multiple representation of witnesses by the same lawyer prejudices a review when the representation threatens the integrity of the investigation or risks obstructing the fact-finding process.

If a lawyer or law firm refuses to resolve a conflict of interest arising from multiple representation, the Board may identify in its findings which witnesses were represented by the same counsel and that their multiple representation may have prejudiced the review.

## **RULE 15. NO EX PARTE COMMUNICATIONS**

There shall be no ex parte communication between any member of the Board and any subject or between any member of the Board and any interested party. No Member, officer or employee of the House may communicate with any member of the Board regarding any matter under review by the Board except as authorized by the Board. Resolution Section 1(c)(2)(F)(iii). In the event a Board member inadvertently receives ex parte communications or after a communication is made becomes aware that they have received ex parte communications, they shall notify the Chair and Co-Chair who in turn shall inform the Board.

## **RULE 16. ALTERNATIVE PROCEDURES**

Upon a finding by the Board that the just and expeditious determination of a matter requires simplification, alteration, or non-application of any or all of these rules, or the adoption of supplemental procedures, four members of the Board may vote to utilize such alternative procedures as are reasonable and necessary and consistent with the relevant law and which do not jeopardize the rights of a subject. In the event the Board adopts alternative procedures, the subject and other relevant persons, as determined by the Board, shall be furnished with copies of these procedures.

**Commentary:** For example, in a matter involving classified information alternate procedures would need to be adopted to ensure proper handling of such information.

## APPENDIX A

### **PUBLIC RELEASE OF BOARD REFERRALS**

[excerpted from H. Res. 895 of the 110<sup>th</sup> Congress, as amended]

[Beginning in the 112th Congress, the name of the Committee on Standards of Official Conduct was changed to the Committee on Ethics. In the excerpts below, references to the Committee on Standards of Official Conduct or “SOOC” remain unchanged since they reflect the original text]

#### **(A) General Timeframe for Release and Delayed Release**

Except as provided by clause 3 (b) of Rule XI of the U.S. House of Representatives subdivisions (B), (C), and (D), not later than 45 calendar days or 5 legislative days, whichever is later, after receipt of a written report and any findings and supporting documentation regarding a referral from the board of the Office of Congressional Ethics, the chairman of the Committee on Standards of Official Conduct shall make public the written report and findings of the board unless the chairman and ranking member, acting jointly, decide or the committee votes to withhold such information for not more than one additional period of the same duration, in which case the chairman shall--

(i) upon the termination of such additional period, make public the written report and findings; and

(ii) upon the day of such decision or vote, make a public statement that the committee has voted to extend the matter relating to the referral made by the board of the Office of

Congressional Ethics regarding the Member, officer, or employee of the House who is the subject of the applicable referral.

At least one calendar day before the committee makes public any written report and findings of the board, the chairman shall notify such board and the applicable Member, officer, or employee of that fact and transmit to such individual a copy of the statement on the committee's disposition of, and any committee report on, the matter.

**(B) Timeframe for Release When Committee on Standards of Official Conduct Votes to Dismiss a Board Referral**

(i) Notwithstanding clause 3 (b) of Rule XI of the U. S. House of Representatives subdivision (A)(i), if the committee votes to dismiss a matter which is the subject of a referral from the board of the Office of Congressional Ethics, the committee is not required to make public the written report and findings described in such subdivision unless the committee's vote is inconsistent with the recommendation of the board. For purposes of the previous sentence, a vote by the committee to dismiss a matter is not inconsistent with a report from the board respecting the matter as unresolved due to a tie vote.

(ii) Notwithstanding clause 3 (b) of Rule XI of the U.S. House of Representatives subdivision (A)(ii), if the board transmits a report respecting any matter with a recommendation to dismiss or as unresolved due to a tie vote, and the committee votes to extend the matter for an

additional period as provided in subdivision (A), the SOOC is not required to make a public statement that the committee has voted to extend the matter.

(iii) Except as provided by clause 3 (b) of Rule XI of the U.S. House of Representatives subdivision (E), if the committee establishes an investigative subcommittee respecting any such matter, then the report and findings of the board shall not be made public until the conclusion of the investigative subcommittee process and the committee shall issue a public statement of the establishment of an investigative subcommittee, which statement shall include the name of the applicable Member, officer, or employee, and shall set forth the alleged violation. If any such investigative subcommittee does not conclude its review within one year after the board transmits a report respecting any matter, then the committee shall make public the report and upon the expiration of the Congress in which the report is made public, the committee shall make public any findings.

**(C) Timeframe for Release When Law Enforcement Requests Committee on Standards of Official Conduct Defer Action**

(i) If, after receipt of a written report and any findings and supporting documentation regarding a referral from the board of the Office of Congressional Ethics or of a referral of the matter from the board pursuant to a request under paragraph (r) of Clause 3 of Rule XI of the Rules of the U.S. House of Representatives, the SOOC agrees to a request from an appropriate law enforcement or regulatory authority to defer taking action on the matter--

(I) notwithstanding subdivision (A)(i), of clause 3 of Rule XI of the Rules of the U.S. House of Representatives the SOCC is not required to make public the written report and findings described in such subdivision, except that if the recommendation of the board with respect to the report is that the matter requires further review, the committee shall make public the written report but not the findings; and

(II) before the end of the first day (excluding Saturdays, Sundays, and public holidays) after the day that the committee agrees to the request, the committee shall make a public statement that it is deferring taking action on the matter at the request of such authority.

(ii) If, upon the expiration of the one-year period that begins on the date the committee makes the public statement described in Section 1.(c)(2)(C) (i)(II) of H. Res. 895 of the 110<sup>th</sup> Congress, the SOCC has not acted on the matter, the committee shall make a new public statement that it is still deferring taking action on the matter, and shall make a new statement upon the expiration of each succeeding one-year period during which the committee has not acted on the matter.

#### **(D) Receipt of Referrals During Campaigns**

The committee may not receive any referral from the board of the Office of Congressional Ethics within 60 days before a Federal, State, or local election in which the subject of the referral is a candidate. The committee may delay any reporting requirement under this subparagraph that

falls within that 60-day period until the end of such period and in that case, for purposes of subdivision (A), days within the 60-day period shall not be counted.

**(E) Release of Referrals When Committee on Standards of Official Conduct Ties**

If, at the close of any applicable period for a reporting requirement under this subparagraph with respect to a referral from the board of the Office of Congressional Ethics, the vote of the committee is a tie or the committee fails to act, the report and the findings of the board shall be made public by the committee, along with a public statement by the chairman explaining the status of the matter.

## **APPENDIX B**

### **FALSE STATEMENTS ACT**

From the U.S. Code Online via GPO Access

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[Laws in effect as of January 3, 2007]

[CITE: 18USC1001]

#### TITLE 18--CRIMES AND CRIMINAL PROCEDURE

##### PART I--CRIMES

#### CHAPTER 47--FRAUD AND FALSE STATEMENTS

##### Sec. 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully--

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any

materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves

international or domestic terrorism (as defined in section 2331), imprisoned not more than 8

years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to--

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 103-322, title XXXIII, Sec. 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-292, Sec. 2, Oct. 11, 1996, 110 Stat. 3459; Pub. L. 108-458, title VI, Sec. 6703(a), Dec. 17, 2004, 118 Stat. 3766; Pub. L. 109-248, title I, Sec. 141(c), July 27, 2006, 120 Stat. 603.)