

# Chapter 35

## Officers and Offices

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### Research References

U.S. Const. art. I, § 2  
1 Hinds §§ 235-283  
6 Cannon §§ 25-34  
Deschler Ch 6 §§ 15-22  
*Manual* §§ 640-670

### § 1. House Officers

#### In General

The Constitution directs that the House choose its Speaker and other officers. U.S. Const. art. I, § 2. The “other officers” not specified by title in the Constitution have carried various titles. Currently they are the Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Chaplain. *Manual* § 640. Traditionally only the Speaker, and not these other officers, has been chosen from the sitting membership of the House. *Manual* § 26; see OFFICE OF THE SPEAKER. The Speaker’s term of office thus expires at the end of such individual’s term of office as a Member, whereas the other House officers continue in office until their successors are chosen and qualified. Clause 1 of rule II; 1 Hinds § 187.

In the 102d Congress the position of the Postmaster, for many years an elected officer of the House, was eliminated. *Manual* § 668. The Door-keeper of the House, formerly an elected officer of the House, was not reestablished beginning in the 104th Congress. The responsibilities of that position were transferred to the Sergeant-at-Arms. *Manual* § 663.

Other offices established in the rules of the House or by statute are occupied by appointed officials. Rule II contains authority for an Office of General Counsel (clause 8), Historian (clause 7), and Inspector General (clause 6). The duties and appointing authority for the positions of Legislative Counsel, Law Revision Counsel, and Parliamentarian are carried in law. See *Manual* §§ 1118, 1120, 1122.

### **The Clerk**

The Clerk has specific responsibilities spelled out in House rules, in statute, or as delegated by the House. The Clerk presides when a new Congress convenes. Clause 2 of rule II; *Manual* §§ 641-645. The Clerk has duties related to the conduct of House business. For example, the Clerk is responsible for processing bills, preparing the Journal, taking and tallying votes, and receiving messages from the President and the Senate when the House is not in session. *Manual* §§ 642, 647, 648, 652. To assist the House in its consideration of measures, the Clerk reads bills and motions (*Manual* §§ 428, 904), reads names alphabetically during the taking of certain votes and elections (*Manual* § 1015), notes all questions of order and decisions thereon and places them in the Journal (*Manual* § 647), reports disorderly words of a Member who has been called to order (*Manual* § 960), certifies to the passage of all bills and resolutions (*Manual* § 648), makes corrections during engrossment (*Manual* § 479), presents enrolled bills to the Speaker for signature and transmittal to the Senate (*Manual* § 575), and presents enrolled bills to the President (*Manual* § 648).

The Clerk also calls various calendars at the direction of the Speaker (*Manual* § 895), receives petitions and private bills (*Manual* § 818), disseminates copies of amendments offered in the Committee of the Whole (*Manual* § 978), and provides a place where Members may sign discharge petitions (*Manual* § 892). The Clerk also supervises the official reporters of the House, subject to the direction and control of the Speaker. *Manual* § 685.

In one instance, the Clerk carried out the duties of his own office as well as those of the Sergeant-at-Arms, having been elected to serve concurrently as Sergeant-at-Arms following the death of the incumbent. Deschler Ch 6 § 16.3.

The Clerk may designate and authorize one or more employees to perform the duties of the Office during an absence, except for such duties as are imposed on the Clerk by statute. *Manual* § 651. The designation may provide that such authorization is to remain in effect until revoked. 91-1, Oct. 29, 1969, p 32076. The designation is laid before the House by the Speaker. Deschler Ch 6 § 18.18.

**Sergeant-at-Arms**

The duties of the Sergeant-at-Arms on the floor are prescribed by House rules and by statute. Clause 3 of rule II; 2 USC § 78; *Manual* §§ 656-660. Under these provisions the Sergeant-at-Arms maintains order and executes arrest warrants for persons cited for contempt of the House or of a committee. In addition the Sergeant-at-Arms enforces the prohibition against Members walking across or out of the Hall of the House while the Speaker is addressing the House (*Manual* § 962), appoints officers to send for and arrest absent Members when so ordered by the Speaker or the House under clause 5 or 6 of rule XX (*Manual* §§ 1021-1025), and brings absent Members before the House (*Manual* § 1026). Pursuant to clause 12(c) of rule I, the Sergeant-at-Arms notifies the Speaker of an imminent impairment of the place of reconvening in order to allow alternate arrangements for convening the House. *Manual* § 639. The Sergeant-at-Arms is also responsible for the production of a “catastrophic quorum failure report” under clause 5(c) of rule XX. See QUORUMS.

**Chief Administrative Officer**

The Chief Administrative Officer (CAO) of the House has the operational and financial responsibility for functions assigned by the Committee on House Administration. The CAO is subject to the oversight of that committee and reports to it semiannually on the financial and operational status of each function under the jurisdiction of the CAO. Clause 4 of rule II.

**The Chaplain**

The Chaplain offers a prayer at commencement of each day’s sitting of the House. Clause 5 of rule II. The prayer, which does not require a quorum, is offered daily after the House is called to order by the Speaker or a Speaker pro tempore is appointed. Deschler Ch 6 §§ 21.1, 21.2.

The daily prayer has been offered by visiting clergy of various denominations and nationalities. Deschler Ch 6 § 21.9. In the unexpected absence of the Chaplain, the prayer has been offered by a Member who was an ordained minister. 93-1, May 31, 1973, p 17441.

**§ 2. Election and Oath****Election**

The Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Chaplain are elected for each Congress by resolution. Deschler Ch 6 § 16 (with forms). Before the House recodified its rules in the 106th Congress, the House was required under former rule II to elect its Speaker and other offi-

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cers by a *viva voce* vote following nominations. 1 Hinds §§ 204, 208. However, even then, the officers mentioned in the rule, other than Speaker, were usually chosen by resolution, which is not a *viva voce* election. 1 Hinds §§ 193, 194. Officers have been elected prospectively. 110-1, Feb. 6, 2007, p 3156.

At the commencement of a Congress, each party's caucus selects one nominee for each such office. The majority submits its slate of nominees, and the minority usually submits a substitute amendment containing its slate. The House then votes on these slates (often disposing of them by voice vote), which may be offered by the caucus chairs. Deschler Ch 6 § 16. Such a resolution is offered from the floor as privileged and may be divided for a separate vote for the Chaplain, customarily an uncontested office. *Manual* § 640; Deschler Ch 6 § 16.2.

#### **Oath**

Each elected officer of the House takes the oath prescribed by law, which is administered by the Speaker. 5 USC § 3331 (with form); Deschler Ch 6 § 17. An officer elected to hold an additional office concurrently takes a separate oath for the additional office. Deschler Ch 6 § 17.1. The oath has been administered to an officer-elect before the effective date of such individual's election. 92-2, June 26, 1972, p 22387; see generally OATHS.

### **§ 3. Removal From Office**

Both the Speaker and the House have the authority to remove the Clerk, Sergeant-at-Arms, or Chief Administrative Officer. Clause 1 of rule II; *Manual* § 640. An officer of the House may be removed from office pursuant to the adoption of a simple resolution, which may be offered as a matter of privilege. 1 Hinds §§ 284, 288-290; 6 Cannon § 35. For removal of the Speaker, see OFFICE OF THE SPEAKER. As a basis for removal of an officer, the House has considered allegations as follows:

- That the Clerk altered and falsified a House document. 1 Hinds § 284.
- That the Clerk was negligent in the administration of the contingent fund or misappropriated House funds. 1 Hinds §§ 283, 287.
- That the Doorkeeper was guilty of misconduct or corruption in office. 1 Hinds §§ 288, 289.

### **§ 4. Vacancies**

The Speaker may make temporary appointments to fill vacancies in the Offices of the Clerk, the Sergeant-at-Arms, the Chief Administrative Officer, and the Chaplain. 2 USC § 75a-1. Pursuant to this authority, the Speaker has

temporarily filled vacancies caused by the death or resignation of an officer. See, *e.g.*, Deschler Ch 6 § 6.25. Such appointments are effective until such time as the House acts by the adoption of a resolution to fill the vacancy on a permanent basis. Such a resolution is presented as a question of privilege. *Manual* § 701. The resignation of an elected officer of the House is subject to acceptance by the House. *Manual* § 640; Deschler-Brown-Johnson Ch 37 § 9.

## **§ 5. Other Offices Established by Rule II**

### **Office of Inspector General**

Under clause 6 of rule II, the Inspector General conducts audits of the financial and administrative functions of the House. The Inspector General is appointed by the Speaker, the Majority Leader, and the Minority Leader, acting jointly, and is subject to the policy direction and oversight of the Committee on House Administration. *Manual* § 667.

### **Office of General Counsel**

Under clause 8 of rule II the General Counsel provides legal assistance and representation to the House. The General Counsel is appointed by the Speaker and functions under the direction of the Speaker. *Manual* § 670.

The General Counsel is authorized by law to appear in any proceeding before a State or Federal court (except the United States Supreme Court) without compliance with admission requirements of such court. 2 USC § 130f(a). Furthermore, the law requires the Attorney General to notify the General Counsel of a determination not to appeal a court decision affecting the constitutionality of an Act. 2 USC § 130f(b).

### **Office of the Historian**

Under clause 7 of rule II the Historian of the House of Representatives is appointed by the Speaker. *Manual* § 669.

## **§ 6. Offices Established by Law**

### **Government Accountability Office**

The preparation, utilization, and distribution (to committees and Members) of reports by the Government Accountability Office, and its authority to assign its employees to duty with congressional committees, are regulated by sections 231-236 of the Legislative Reorganization Act of 1970. 31 USC § 711-720. This office was formerly known as the General Accounting Office. 31 USC § 702 note.

**Office of Compliance**

The Office of Compliance was established by the Congressional Accountability Act of 1995. 2 USC § 1381. The office is composed of five individuals appointed jointly by the Speaker, the Majority Leader of the Senate, and the Minority Leaders of the House and the Senate. The office has regulatory, enforcement, and educational responsibilities under the Act. Section 1382 provides for a General Counsel to be appointed by the Chair of the Compliance Board to exercise the authorities of the Office of Compliance.

**Office of the Legislative Counsel**

The Office of the Legislative Counsel of the House of Representatives evolved from a single Legislative Drafting Service established for the Congress by the Act of February 24, 1919. 40 Stat. 1057, 1141. The currently applicable provisions of law setting forth the purpose and functions of the office and providing for its administration are contained in title V of the Legislative Reorganization Act of 1970. 2 USC §§ 281, 282. The purpose of the office is to advise and assist the House, its committees, and its Members in the achievement of a clear, faithful, and coherent expression of legislative policies.

**Congressional Budget Office**

The Congressional Budget Office was established by the Congressional Budget Act of 1974. 2 USC § 601. The office is headed by a director appointed by the Speaker and the President pro tempore. 2 USC § 601. The functions of the office include providing assistance to the House and Senate Committees on the Budget and Appropriations and the Senate Committee on Finance in the discharge of matters within their jurisdictions and to other committees to assist them in complying with the provisions of the Act. 2 USC § 602.

**The Office of the Law Revision Counsel**

The Office of the Law Revision Counsel was established by the Committee Reform Amendments of 1974 to develop a codification of the laws of the United States. 2 USC § 285.

**Office of the Parliamentarian**

A Parliamentarian has been appointed by the Speaker in every Congress since 1927. Before 1927 the “Clerk at the Speaker’s Table” performed the function of the Parliamentarian. In the 95th Congress the House formally and permanently established an Office of the Parliamentarian to be man-

aged, supervised, and administered by a nonpartisan Parliamentarian appointed by the Speaker. 2 USC § 287. The compilation and preparation of the precedents of the House of Representatives was authorized in the 93d Congress by the Committee Reform Amendments of 1974. 2 USC § 28a. The printing and distribution of the precedents was also authorized by law. 2 USC §§ 28, 28b-e, 29.

For a list of other House offices, commissions, and joint entities, see *Manual* §§ 1113-1125h.

### § 7. Service of Process

Rule VIII governs the procedure for House response to a judicial or administrative subpoena served on a Member, Delegate, Resident Commissioner, officer, or employee of the House. *Manual* § 697. Examples of service of process on officers include those on the Speaker, the Clerk, and the Sergeant-at-Arms. Deschler Ch 11 §§ 16.2-16.4, 16.7-16.9, 16.11. Examples of service of process on employees include those on current and former employees of a committee, an employee of the House Republican Conference, and a former employee of a former House select committee who was subpoenaed to give a deposition about his recollection of certain executive session transactions. 93-2, Sept. 30, 1974, p 33020; 94-1, Sept. 23, 1975, p 29824; 97-1, Jan. 22, 1981, pp 694, 695. For a discussion of how an officer must comply with service of process under rule VIII, see QUESTIONS OF PRIVILEGE.

Legal counsel, through the Department of Justice, is available to an officer of the House (but not its Members) to defend the officer against actions brought against such officer while discharging official duties or executing an order of the House. 2 USC § 118. For a discussion of this statutory procedure, as well as House authorization by resolution for the appointment of legal counsel to represent an officer, Member, or employee who has been served with process, see QUESTIONS OF PRIVILEGE. Legal counsel is also available through the Office of General Counsel under clause 8 of rule II, which provides legal assistance and representation to Members, committees, officers, and employees in complying with legal process under rule VIII. § 5, *supra*.