

The resolution creating the Select Committee directed the committee to make a study with respect to intelligence and intelligence-related activities of the U.S. and to report thereon, together with appropriate recommendations, not later than the close of the 95th Congress (sec. 3, H. Res. 658; see H. Rept. 95-1795, Oct. 14, 1978), and transferred to the Select Committee all records, files, documents, and other materials of the Select Committee on Intelligence of the 94th Congress in the possession, custody, or control of the Clerk of the House.

The Select Committee has concurrent jurisdiction with the Committee on the Judiciary over bills concerning electronic surveillance of foreign intelligence (Nov. 4, 1977, p. 37070); concurrent jurisdiction with the Committees on Science, Space, and Technology (now Science) and Foreign Affairs (now International Relations) over a bill establishing a satellite monitoring commission (Mar. 15, 1988, p. 3847); and sole jurisdiction over a resolution of inquiry directing the Secretary of Defense to furnish to the House documents and information on Cuban or other foreign military or paramilitary presence in Panama or the Canal Zone (Apr. 6, 1978, p. 9105).

Paragraph (g)(2) places restrictions on the Select Committee only with respect to the public disclosure of classified information in the possession of that committee, and does not prevent the House from determining to release any matter properly presented to it in secret session pursuant to clause 9 of rule XVII (formerly rule XXIX) (Feb. 25, 1980, p. 3618).

For a discussion of the role of the Permanent Select Committee on Intelligence in regulating access to the classified records of the former Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China, House Practice, ch. 11, §§ 12, 13.

In the 107th Congress the Select Committee was given oversight authority described in clause 3(m) of rule X (sec. 2(f), H. Res. 5, Jan. 3, 2001, p. 25).

RULE XI

PROCEDURES OF COMMITTEES AND UNFINISHED BUSINESS

In general

1. (a)(1)(A) The Rules of the House are the rules of its committees and subcommittees so far as applicable.

§ 787. Committee procedure.

(B) Each subcommittee is a part of its committee and is subject to the authority and direc-

tion of that committee and to its rules, so far as applicable.

(2)(A) In a committee or subcommittee—

(i) a motion to recess from day to day, or to recess subject to the call of the Chair (within 24 hours), shall be privileged; and

(ii) a motion to dispense with the first reading (in full) of a bill or resolution shall be privileged if printed copies are available.

(B) A motion accorded privilege under this subparagraph shall be decided without debate.

This paragraph was first adopted December 8, 1931, to provide that the Rules of the House are the rules of the standing committees (without reference to subcommittees) and to provide for a privileged motion to recess from day to day (VIII, 2215). The paragraph was amended March 23, 1955, when the House adopted rules governing committee investigations that are now embodied in clause 2 (pp. 3569–3585). In the 92d Congress paragraph (a) was amended in the form contained in the Legislative Reorganization Act of 1970 (84 Stat. 1140) to specifically address subcommittees (H. Res. 5, Jan. 22, 1971, p. 144). It was amended again in the 99th Congress to allow a privileged motion to dispense with the first reading of a measure where printed copies are available (H. Res. 7, Jan. 3, 1985, p. 393). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). In the 109th Congress paragraph (a) was reorganized and amended to provide for a privileged motion to recess subject to the call of the chair (within 24 hours) (sec. 2(d), H. Res. 5, Jan. 4, 2005, p. —). For the requirement in Jefferson's Manual that a bill or resolution be read in full upon demand, before being read by paragraphs or sections for amendment, see § 412, *supra*.

Each committee may appoint subcommittees (VI, 532), which should include majority and minority representation (IV, 4551), and confer on them powers delegated to the committee itself (VI, 532) except such powers as are reserved to the full committee by the Rules of the House; but express authority also has been given subcommittees by the House (III, 1754–1759, 1801, 2499, 2504, 2508, 2517; IV, 4548).

As indicated in § 369, *supra*, clause 1(a)(1)(A) enables standing and select committees to enforce in committee applicable House rules of decorum, such as clause 2 of rule I and rule XVII.

(b)(1) Each committee may conduct at any time such investigations and studies as it considers necessary or appropriate in the exercise of its responsibilities under rule X. Subject to the adoption of expense resolutions as required by clause 6 of rule X, each committee may incur expenses, including travel expenses, in connection with such investigations and studies.

§ 788. Investigative authority.

(2) A proposed investigative or oversight report shall be considered as read in committee if it has been available to the members for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day).

(3) A report of an investigation or study conducted jointly by more than one committee may be filed jointly, provided that each of the committees complies independently with all requirements for approval and filing of the report.

(4) After an adjournment sine die of the last regular session of a Congress, an investigative or oversight report may be filed with the Clerk at any time, provided that a member who gives timely notice of intention to file supplemental, minority, or additional views shall be entitled to not less than seven calendar days in which to submit such views for inclusion in the report.

Paragraph (b)(1) was incorporated into the rules under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), and, together with clauses 2(m) and 2(n) of rule XI, eliminated the necessity that each committee obtain such authority each Congress by a separate resolution reported from the Committee on Rules. Paragraphs (b)(2), (b)(3), and (b)(4) were added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic

changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

(c) Each committee may have printed and bound such testimony and other data as may be presented at hearings held by the committee or its subcommittees. All costs of stenographic services and transcripts in connection with a meeting or hearing of a committee shall be paid from the applicable accounts of the House described in clause 1(j)(1) of rule X.

§ 789. Printing and binding.

Paragraph (c) was made part of the rules by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In the 105th and 106th Congresses, it was amended to update a reference to the “contingent fund” (H. Res. 5, Jan. 7, 1997, p. 121; H. Res. 5, Jan. 6, 1999, p. 47), and a conforming change was effected in the 109th Congress (sec. 2(a), H. Res. 5, Jan. 4, 2005, p. —). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year a report on the activities of that committee under this rule and rule X during the Congress ending at noon on January 3 of such year.

§ 790. Activity reports.

(2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee under clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, a summary of any additional oversight activities undertaken by that committee, and any

recommendations made or actions taken thereon.

(4) After an adjournment sine die of the last regular session of a Congress, the chairman of a committee may file an activities report under subparagraph (1) with the Clerk at any time and without approval of the committee, provided that—

(A) a copy of the report has been available to each member of the committee for at least seven calendar days; and

(B) the report includes any supplemental, minority, or additional views submitted by a member of the committee.

The provisions of paragraph (d)(1) were first made requirements of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144, incorporating the provisions of sec. 118(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140)), and effective on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470) exemptions from the reporting requirements for the Committees on Appropriations, the Budget, House Administration, Rules, and Standards of Official Conduct were removed, so the paragraph from that point applied to all committees. The 104th Congress added paragraphs (d)(2) and (d)(3) to require that activity reports include separate sections on legislative and oversight activities, including a summary comparison of oversight plans and eventual recommendations and actions (sec. 203(b), H. Res. 6, Jan. 4, 1995, p. 467). Paragraph (d)(4) was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

Under the Unfunded Mandates Reform Act of 1995, the Committee on Rules is required to include in its activity report a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and subject matter (sec. 107(b), P.L. 104-4; 109 Stat. 63).

Adoption of written rules

2. (a)(1) Each standing committee shall adopt written rules governing its procedure. Such rules—

§ 791. Committee rules.

(A) shall be adopted in a meeting that is open to the public unless the committee, in open session and with a quorum present, determines by record vote that all or part of the meeting on that day shall be closed to the public;

(B) may not be inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(C) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

(2) Each committee shall submit its rules for publication in the Congressional Record not later than 30 days after the committee is elected in each odd-numbered year.

(3) A committee may adopt a rule providing that the chairman be directed to offer a motion under clause 1 of rule XXII whenever the chairman considers it appropriate.

The requirement that standing committees adopt written rules was first incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144), having been included in the Legislative Reorganization Act of 1970 (84 Stat. 1140). Under the Committee Reform Amendments of 1974, clause 2(a) became effective in essentially its present form on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In the 94th Congress it was amended to permit a record vote to close the committee meeting at which committee rules are adopted only on the day of the meeting (H. Res. 5, Jan. 14, 1975, p. 20). In the 102d Congress it was amended to allow a committee 30 days after the election of its members, rather than after the convening of the Congress, to publish its rules in the Congressional Record (H. Res. 5, Jan. 3, 1991, p. 39). The provision requiring publication of committee rules in the Congressional Record derived from statute (2 U.S.C. 190a-2 (repealed 1979)). A court interpreted that statute to be mandatory in a case where a Senate committee failed to publish in the Record a rule regarding a quorum for the purpose of taking sworn testi-

mony. In overturning a perjury conviction, the court held that the unpublished committee rule was not valid. *United States v. Reinecke*, 524 F.2d 435 (D.C. Cir. 1975). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). Subparagraph (3) was added in the 109th Congress (sec. 2(d), H. Res. 5, Jan. 4, 2005, p. —).

Committees have historically adopted rules under which they function (I, 707; III, 1841, 1842; VIII, 2214). Committee rules are compiled by the Committee on Rules each Congress as a committee print. It is the responsibility of the committees, and not the House, to construe and enforce additional committee rules on the calling of committee meetings (Speaker Albert, July 22, 1974, pp. 24436–47). This provision requires a select committee to publish its adopted rules in the Record (June 25, 1998, p. 14014).

Failure to follow certain procedural requirements imposed on committees by this rule may invalidate committee actions. Violation of the requirements as to open meetings and hearings and other hearing irregularities improperly overruled (see clause 2(g)(5) of rule XI) or the prescribed committee procedures for reporting bills and resolutions (clause 2(h) of rule XI) may in some instances be the basis for a point of order in the House, resulting in the recommitment of the bill. However, a point of order does not ordinarily lie in the House against consideration of a bill by reason of defective committee procedures occurring before the time the bill is ordered reported to the House (Procedure, ch. 17, § 11.1).

Many of the procedures applicable to committees derive from Jefferson's Manual, which governs the House and its committees in all cases to which it is applicable (clause 1 of rule XXVIII). A committee may act only when together, and not by separate consultation and consent, nothing being the report (or recommendation) of the committee except what has been agreed to in committee actually assembled (see Jefferson's Manual at § 407, *supra*). A measure before a committee for consideration must be read for amendment by section as in the House (see Jefferson's Manual at §§ 412–414, *supra*), and reading of the measure and of amendments thereto must be in full. The procedures applicable in the House as in the Committee of the Whole (see §§ 424, 427, *supra*) generally apply to proceedings in committees of the House of Representatives, except that since a measure considered in committee must be read for amendment, a motion to limit debate under the five-minute rule in committee must be confined to the portion of the bill then pending. The previous question may only be moved on the measure in committee if the entire measure has been read, or considered as read, for amendment.

Committees generally conduct their business under the five-minute rule but may employ the ordinary motions which are in order in the House, such as under clause 4 of rule XVI, and may also employ the motion to limit debate under the five-minute rule on a proposition which has been read.

Regular meeting days

(b) Each standing committee shall establish regular meeting days for the conduct of its business, which shall be not less frequent than monthly. Each such committee shall meet for the consideration of a bill or resolution pending before the committee or the transaction of other committee business on all regular meeting days fixed by the committee unless otherwise provided by written rule adopted by the committee.

Additional and special meetings

(c)(1) The chairman of each standing committee may call and convene, as he considers necessary, additional and special meetings of the committee for the consideration of a bill or resolution pending before the committee or for the conduct of other committee business, subject to such rules as the committee may adopt. The committee shall meet for such purpose under that call of the chairman.

(2) Three or more members of a standing committee may file in the offices of the committee a written request that the chairman call a special meeting of the committee. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If the chairman does not call the requested special meeting within three calendar days after the filing of the request (to be held within seven calendar days

after the filing of the request) a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held. The written notice shall specify the date and hour of the special meeting and the measure or matter to be considered. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered. Only the measure or matter specified in that notice may be considered at that special meeting.

Temporary absence of chairman

(d) A member of the majority party on each standing committee or subcommittee thereof shall be designated by the chairman of the full committee as the vice chairman of the committee or subcommittee, as the case may be, and shall preside during the absence of the chairman from any meeting. If the chairman and vice chairman of a committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking majority member who is present shall preside at that meeting.

Paragraphs (b), (c), and (d) were first adopted on December 8, 1931 (VIII, 2208), were amended on January 3, 1953 (p. 24), and were revised both by the Legislative Reorganization Act of 1970 (84 Stat. 1140) and in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). In the 102d Congress paragraph (d) was amended to provide that the ranking majority Member of each committee and subcommittee be designated as its vice chairman (H. Res. 5, Jan. 3, 1991, p. 39). In the 104th Congress paragraph (d) was amended to permit the chairman of a full committee to designate vice chair-

men of the committee and its subcommittees (sec. 223(c), H. Res. 6, Jan. 4, 1995, p. 477). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

A committee scheduled to meet on stated days, when convened on such day with a quorum present may proceed to the transaction of business regardless of the absence of the chairman (VIII, 2213, 2214). A committee meeting being adjourned for lack of a quorum, a majority of the members of the committee may not, without the consent of the chairman, call a meeting of the committee on the same day (VIII, 2213).

Committee records

(e)(1)(A) Each committee shall keep a complete record of all committee action which shall include—

§ 794. Required records.

(i) in the case of a meeting or hearing transcript, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and

(ii) a record of the votes on any question on which a record vote is demanded.

(B)(i) Except as provided in subdivision (B)(ii) and subject to paragraph (k)(7), the result of each such record vote shall be made available by the committee for inspection by the public at reasonable times in its offices. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition, the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members of the committee present but not voting.

§ 795. Public availability.

(ii) The result of any record vote taken in executive session in the Committee on Standards of Official Conduct may not be made available for inspection by the public without an affirmative vote of a majority of the members of the committee.

(2)(A) Except as provided in subdivision (B),
§ 796. Committee files. all committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as its chairman. Such records shall be the property of the House, and each Member, Delegate, and the Resident Commissioner shall have access thereto.

(B) A Member, Delegate, or Resident Commissioner, other than members of the Committee on Standards of Official Conduct, may not have access to the records of that committee respecting the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House without the specific prior permission of that committee.

(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule VII. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule VII, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.

(4) Each committee shall make its publications available in electronic form to the maximum extent feasible.

The first sentence of paragraph (e)(1) was rewritten entirely in the 104th Congress (sec. 206, H. Res. 6, Jan. 4, 1995, p. 475). Its predecessor, requiring a complete record of all committee actions, including votes on any question on which a roll call was demanded, was enacted as section 133(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and made part of the standing rules on January 3, 1953 (p. 24). The requirement that committee roll calls be subject to public inspection was added by section 104(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and made a part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). The qualified exception for the Committee on Standards of Official Conduct from the requirement of public availability of record votes was added in the 105th Congress (sec. 8, H. Res. 168, Sept. 18, 1997, p. 19336). Effective on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the requirement that proxy votes in committee be made available for public inspection was eliminated from this paragraph since proxies were prohibited as of that date, but in the 94th Congress clause 2(f) of rule XI was amended to permit proxies in committee, and this paragraph was likewise amended to reinsert the requirement of availability for public inspection (H. Res. 5, Jan. 14, 1975, p. 20). When proxy voting was again eliminated in the 104th Congress, the reference thereto in the third sentence of paragraph (e)(1) was deleted (sec. 104(b), H. Res. 6, Jan. 4, 1995, p. 463). Paragraph (e)(2) derives from section 202(d) of the Legislative Reorganization Act of 1946 (60 Stat. 812), was made a part of the rules in the 83d Congress (H. Res. 5, Jan. 3, 1953, p. 24), and was amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) to restrict the access of Members to certain records of the Committee on Standards of Official Conduct. Paragraph (e)(3) was added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72). Paragraph (e)(4) was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

Although all Members have access to committee records under this clause, it is not without qualification. For example, this clause: (1) does not give a Member the right to make photostatic copies of such records (Speaker Rayburn, Aug. 14, 1957, pp. 14737–39), and such records may not be brought into the well of the House if the committee has not authorized such action (Speaker Rayburn, June 3, 1960, p. 11820); (2) does not necessarily apply to records within the possession of the executive branch which the members of the committee have been allowed to examine under limited conditions at the discretion of the executive agency in possession of such materials (Speaker O'Neill, July 31, 1980, p. 20765); (3) does not apply to records (an executive communication not yet referred to com-

mittee) in the possession of the House (Sept. 9, 1998, p. 19769). In the 105th Congress the House adopted a resolution restricting Members' access to documents received from an independent counsel (said to relate to possible grounds for impeachment of the President) and referred to the Committee on the Judiciary (H. Res. 525, Sept. 11, 1998, p. 20020).

Testimony or evidence taken in executive sessions of a committee is under the control and subject to the regulation of the committee and, under clause 2(k)(7) of rule XI (§ 803, *infra*), cannot be released without the consent of the committee (June 26, 1961, p. 11233; see also Deschler, ch. 17, § 18). Furthermore, such access allows a Member to examine executive session materials only in committee rooms and does not permit a Member to copy or to take personal notes from such materials, to keep such notes or copies in his personal office files, or to release such materials to the public without the consent of the committee or subcommittee under clause 2(k)(7) of rule XI (Speaker O'Neill, Dec. 6, 1977, pp. 38470–73). Compare this clause with clause 11(g)(3) of rule X, which only permits access of nonmembers of the Select Committee on Intelligence to classified information in the possession of that committee when authorized by that committee. A resolution directing a standing committee to release executive-session material referred to it by special rule of the House was held to propose a change in the rules and, therefore, not to constitute a question of the privileges of the House under rule IX (Sept. 23, 1998, p. 21562).

In implementing clause 2(e), committees may prescribe regulations to govern the manner of access to their records, such as requiring examination only in committee rooms. See, for example, the rules of the Committees on the Budget, International Relations, and Armed Services, as compiled by the Committee on Rules.

Prohibition against proxy voting

(f) A vote by a member of a committee or subcommittee with respect to any measure or matter may not be cast by proxy.

§ 797. Ban on proxies.

The 104th Congress adopted paragraph (f) in this form (sec. 104, H. Res. 6, Jan. 4, 1995, p. 463). An earlier form of the provision was enacted as section 106(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and made part of the standing rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

The original form of this paragraph permitted committees to adopt written rules permitting proxies in writing, designating the persons to execute them and specifying the measures or matters to which they applied. Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470),

proxies in committee were prohibited, but in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20), the rule was amended to permit proxies in committees with additional restrictions requiring an assertion that the grantor was absent on official business or otherwise unable to attend, requiring the Member to sign and date the proxy, and permitting general proxies for procedural matters.

Open meetings and hearings

(g)(1) Each meeting for the transaction of business, including the markup of legislation, by a standing committee or subcommittee thereof (other than the Committee on Standards of Official Conduct or its subcommittees) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of the meeting on that day shall be in executive session because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade, or incriminate any person, or otherwise would violate a law or rule of the House. Persons, other than members of the committee and such noncommittee Members, Delegates, Resident Commissioner, congressional staff, or departmental representatives as the committee may authorize, may not be present at a business or markup session that is held in executive session. This subparagraph does not apply to open committee hearings, which are governed by clause 4(a)(1) of rule X or by subparagraph (2).

§ 798. Open meetings and hearings.

(2)(A) Each hearing conducted by a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would violate a law or rule of the House.

(B) Notwithstanding the requirements of subdivision (A), in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, a majority of those present may—

(i) agree to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger national security, would compromise sensitive law enforcement information, or would violate clause 2(k)(5); or

(ii) agree to close the hearing as provided in clause 2(k)(5).

(C) A Member, Delegate, or Resident Commissioner may not be excluded from non-participatory attendance at a hearing of a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) unless the House by majority

vote authorizes a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members, Delegates, and the Resident Commissioner by the same procedures specified in this subparagraph for closing hearings to the public.

(D) The committee or subcommittee may vote by the same procedure described in this subparagraph to close one subsequent day of hearing, except that the Committee on Appropriations, the Committee on Armed Services, and the Permanent Select Committee on Intelligence, and the subcommittees thereof, may vote by the same procedure to close up to five additional, consecutive days of hearings.

(3) The chairman of each committee (other than the Committee on Rules) shall make public announcement of the date, place, and subject matter of a committee hearing at least one week before the commencement of the hearing. If the chairman of the committee, with the concurrence of the ranking minority member, determines that there is good cause to begin a hearing sooner, or if the committee so determines by majority vote in the presence of the number of members required under the rules of the committee for the transaction of business, the chairman shall make the announcement at the earliest possible date. An announcement made under this subparagraph shall be published promptly in the

Daily Digest and made available in electronic form.

(4) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.

(5)(A) Except as provided in subdivision (B), a point of order does not lie with respect to a measure reported by a committee on the ground that hearings on such measure were not conducted in accordance with this clause.

(B) A point of order on the ground described in subdivision (A) may be made by a member of the committee that reported the measure if such point of order was timely made and improperly disposed of in the committee.

(6) This paragraph does not apply to hearings of the Committee on Appropriations under clause 4(a)(1) of rule X.

Subparagraphs (1) and (2) relating to open committee meetings and hearings, were first made part of the rules on March 7, 1973 (H. Res. 259, 93d Cong., pp. 6713–20). They were amended in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20), to limit to one day (in case of a committee

meeting) or to one day plus one subsequent day (in the case of a hearing) the period during which a committee may close its session. They were again amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), to require that a majority (rather than a quorum) be present when a committee or subcommittee votes to close a meeting or hearing and to provide that a noncommittee Member cannot be excluded from a hearing except by a vote of the House. However, subparagraph (2) was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 8) to permit a majority of those present under the rules of the committee for the purpose of taking testimony (not less than two members as provided in clause 2(h)(2) of rule XI) to vote to close a hearing either to discuss whether the testimony would endanger national security or would violate clause 2(k)(5) of this rule, or to proceed to close the hearing as provided by clause 2(k)(5). In the 98th Congress subparagraph (2) was amended further to permit the Committees on Appropriations and Armed Services, and the Permanent Select Committee on Intelligence, and their subcommittees, when voting in open session with a quorum present, to close a hearing on that particular day and for up to five additional days, for a total of not to exceed six days (H. Res. 5, Jan. 3, 1983, p. 34). In the 104th Congress the paragraph was amended to require that meetings and hearings open to the public also be open to broadcast and photographic media; subparagraph (2) was further amended to permit closed meetings only on specified conditions and to delete an exception for meetings relating to internal budget or personnel matters and to specify a new condition (sensitive law enforcement information) for closing hearings (sec. 105, H. Res. 6, Jan. 4, 1995, p. 463). The paragraph was also amended to conform references to renamed committees (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 467; H. Res. 5, Jan. 6, 1999, p. 47). In the 105th Congress subparagraphs (1) and (2) were again amended to reflect an amendment to former clause 4(e)(3) of rule X (currently clause 3 of rule XI) requiring meetings of the Committee on Standards of Official Conduct to occur in executive session (except for adjudicatory subcommittee meetings or full committee sanction hearings) unless opened by an affirmative vote of a majority of members (sec. 5, H. Res. 168, Sept. 18, 1997, p. 19336). Subparagraphs (3)–(6) derive from sections 111(b), 113(b), 115(b), and 242(c) respectively of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), these provisions were inadvertently omitted from the rules, and were therefore reinserted in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). Subparagraph (3) was amended in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to add the requirement of prompt entering of public notice of committee meetings into the committee scheduling service of the House Information Resources. Subparagraph (3) was again amended in the 104th Congress to permit the calling of a hearing on less than seven days' notice upon a determination of good cause either by vote of the committee or subcommittee or by its chairman

with the concurrence of its ranking minority member (H. Res. 43, Jan. 31, 1995, p. 3028). In the 105th and 106th Congresses subparagraphs (3) and (2) (respectively) were amended to effect a technical correction (H. Res. 5, Jan. 7, 1997, p. 121; H. Res. 5, Jan. 6, 1999, p. 47). Subparagraph (4) was rewritten in the 105th Congress to encourage committees to elicit curricula vitae and disclosures of certain interests from nongovernmental witnesses (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

In the 105th Congress the House adopted a resolution restricting access to meetings and hearings held by the Committee on the Judiciary on a communication received from an independent counsel relating to possible grounds for impeachment of the President (H. Res. 525, Sept. 11, 1998, p. 20020).

Quorum requirements

(h)(1) A measure or recommendation may not
 § 799. Requirement of quorum. be reported by a committee unless a majority of the committee is actually present.

This subparagraph is from section 133(d) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was made a part of the rules on January 3, 1953 (p. 24). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(1)(2)(A) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47). The point of order that a bill was reported from a committee without a formal meeting and a quorum present comes too late if debate has started on a bill in the House (VIII, 2223; Feb. 24, 1947, p. 1374). No committee report is valid unless authorized with a quorum of the committee actually present at the time the vote is taken (IV, 4584; VIII, 2211, 2212, 2221, 2222), and while Speakers have indicated that committee members may come and go during the course of the vote if the roll call indicates that a quorum was present (VIII, 2222), where it is admitted that a quorum was not in the room at any time during the vote and the committee transcript does not show a quorum acting as a quorum, the Chair will sustain the point of order (VIII, 2212). In the 103d Congress, this provision was amended to provide that responses to roll calls in committee be deemed contemporaneous and to require that a point of no quorum with respect to a committee report be timely asserted in committee or considered waived (H. Res. 5, Jan. 5, 1993, p. 49), but in the 104th Congress both of those features were deleted from the rule (sec. 207, H. Res. 6, Jan. 4, 1995, p. 467).

Where the committee transcript was not conclusive and the manager of the bill gave absolute assurance that a majority of the full committee was actually present when the bill was ordered reported the Speaker over-

ruled a point of order made under this provision (Oct. 22, 1987, p. 28807). A point of no quorum pending a committee vote on ordering a measure reported may provoke a quorum call requiring a majority of the committee to be present in the committee room. A committee may act only when together, nothing being the report of the committee except what has been agreed to in committee actually assembled (see Jefferson's Manual at § 407, *supra*).

(2) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which may not be less than two.

§ 800. Reduced quorum.

(3) Each committee (other than the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than one for which the presence of a majority of the committee is otherwise required, which may not be less than one-third of the members.

Subparagraphs (2) and (3) (formerly subparagraphs (1) and (2)) were adopted in the 84th Congress and only related to the authority of a committee to fix a quorum of not less than two for taking testimony (H. Res. 151, Mar. 23, 1955, pp. 3569, 3585). In the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) subparagraph (3) (formerly subparagraph (2)) was added to authorize committees to fix a quorum less than a majority for certain other action. Before the House recodified its rules in the 106th Congress, paragraph (h) consisted only of subparagraphs (2) and (3) (H. Res. 5, Jan. 6, 1999, p. 47). Subparagraph (3) was amended in the 107th Congress to preserve all requirements for a majority quorum found in House rules (sec. 2(i), H. Res. 5, Jan. 3, 2001, p. 25).

By unanimous consent the Committee on Standards of Official Conduct was authorized to receive evidence and take testimony before a quorum of one of its members for the remainder of the second session of the 100th Congress (Oct. 13, 1988, p. 30467). Authority for a committee to conduct depositions or interrogatories before one member or staff of the committee must be specifically conferred by the House (see, *e.g.*, H. Res. 167, 105th Cong., June 20, 1997, p. 11677).

(4)(A) Each committee may adopt a rule authorizing the chairman of a committee or subcommittee—
§ 800a. Postponing votes in committee.

(i) to postpone further proceedings when a record vote is ordered on the question of approving a measure or matter or on adopting an amendment; and

(ii) to resume proceedings on a postponed question at any time after reasonable notice.

(B) A rule adopted pursuant to this subparagraph shall provide that when proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

This subparagraph was added in the 108th Congress (sec. 2(g), H. Res. 5, Jan. 7, 2003, p. —).

Limitation on committee sittings

(i) A committee may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.
§ 801. Committees not to sit.

A clause regulating when committees could sit had its origin in 1794. It was omitted from rule XI in the adoption of rules for the 80th Congress but remained effective as part of the Legislative Reorganization Act of 1946, the applicable provisions of which were continued as a part of the rules of the House. While the rule formerly prohibited committees from sitting at any time when the House was in session, it was narrowed to proscribe sittings during the five-minute rule by the Legislative Reorganization Act of 1970 (sec. 117(b); 84 Stat. 1140) and this revision was made part of the standing rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the Committees on Appropriations, the Budget, and Rules were exempted from this clause; and in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), the Committee on Standards of Official Conduct was also exempted. The Committee on Ways and Means was traditionally per-

mitted to sit during proceedings under the five-minute rule by unanimous consent granted each Congress (Jan. 29, 1975, p. 1677) until it was exempted from the rule in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113). A provision that special leave to sit be granted if ten Members did not object was added to the clause in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70). An exemption for the Committee on House Administration and the prohibition against committee meetings during joint meetings or joint sessions were added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72). In the 103d Congress the prohibition against sitting during proceedings under the five-minute rule was stricken altogether (H. Res. 5, Jan. 5, 1993, p. 49), but in the 104th Congress the former rule was reinstated with exemptions for the Committees on Appropriations, the Budget, Rules, Standards of Official Conduct, and Ways and Means, and also with the provision for a privileged motion by the Majority Leader (sec. 208, H. Res. 6, Jan. 4, 1995, p. 467), on which he controlled one hour of debate (Jan. 23, 1995, p. 2209). In the 105th Congress so much of paragraph (i) as related to proceedings under the five-minute rule was again stricken (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

Calling and questioning of witnesses

(j)(1) Whenever a hearing is conducted by a committee on a measure or matter, the minority members of the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(2)(A) Subject to subdivisions (B) and (C), each committee shall apply the five-minute rule during the questioning of witnesses in a hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

(B) A committee may adopt a rule or motion permitting a specified number of its members to

question a witness for longer than five minutes. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

(C) A committee may adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness for equal specified periods. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

Paragraph (j)(1) was contained in section 114(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was made a part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Paragraph (j)(2) was added to the rules on that latter date. While a majority of the minority members of a committee are entitled to call witnesses selected by the minority for at least one day of hearings, no rule of the House requires the calling of witnesses on opposing sides of an issue (Oct. 14, 1987, p. 27921). In the 105th Congress paragraph (j)(2) was redesignated as (2)(A) and two new subparagraphs were added as (2)(B) and (2)(C) to enable committees to permit extended examinations of witnesses (for 30 additional minutes) by designated members or by staff (H. Res. 5, Jan. 7, 1997, p. 121). A technical correction was effected in the 106th Congress to clarify the procedure to extend questioning, and clerical and stylistic changes were effected when the House recodified its rules in the same Congress (H. Res. 5, Jan. 6, 1999, p. 47).

Hearing procedures

(k)(1) The chairman at a hearing shall announce in an opening statement the subject of the hearing.

§ 803. Hearing procedure.

(2) A copy of the committee rules and of this clause shall be made available to each witness on request.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted by a member of the committee that the evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, or it is asserted by a witness that the evidence or testimony that the witness would give at a hearing may tend to defame, degrade, or incriminate the witness—

(A) notwithstanding paragraph (g)(2), such testimony or evidence shall be presented in executive session if, in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, the committee determines by vote of a majority of those present that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if the committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests

from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) Evidence or testimony taken in executive session, and proceedings conducted in executive session, may be released or used in public sessions only when authorized by the committee, a majority being present.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinence of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

The provisions of paragraph (k) were first incorporated into the rules in the 84th Congress (H. Res. 151, Mar. 23, 1955, pp. 3569, 3585). The requirement of paragraph (k)(2) that a copy of committee rules be furnished to each witness was added in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144) and was amended in the 107th Congress to require the committee to furnish such rules only when the witness so requests (sec. 2(j), H. Res. 5, Jan. 3, 2001, p. 25). The former requirement of paragraph (k)(9) that a witness must pay the cost of a transcript copy of his testimony was eliminated under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Paragraph (k)(5) was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) to permit a committee or subcommittee to hear testimony asserted to be defamatory in executive session upon a determination by a majority of those present that such testimony is indeed defamatory, degrading, or incriminating. It was amended in the 107th Congress to permit such an assertion to be made by the witness (with respect to himself) or a member

of the Committee (with respect to any person) (sec. 2(j), H. Res. 5, Jan. 3, 2001, p. 25). In the 105th Congress subparagraph (5) was amended to clarify a majority of those voting (a full quorum being present) may decide to proceed in open session (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). “Investigative” was removed from the heading and subparagraphs (1), (3), and (5) of paragraph (k) in the 107th Congress to conform the rule to House practice, which is to apply this paragraph to all committee investigative, oversight, or legislative hearings (sec. 2(j), H. Res. 5, Jan. 3, 2001, p. 25).

The requirements of clause 2(g)(1) and (2), and of 2(m)(2)(A), of this rule that a majority of the committee or subcommittee shall constitute a quorum for the purposes of closing meetings or hearings or issuing subpoenas have been construed to require, under clause 2(k)(7) of this rule, that a majority shall likewise constitute a quorum to release or make public any evidence or testimony received in any closed meeting or hearing and any other executive session record of the committee or subcommittee. See also clauses 11(c) and 11(g) of rule X, which provide that executive session material transmitted by the Permanent Select Committee on Intelligence to another committee of the House becomes the executive session material of the recipient committee by virtue of the nature of the material and the injunction of clause 11(g) of rule X, which prohibits disclosure of information provided to committees or Members of the House except in a secret session. For a discussion of questions of the privileges of the House addressing committee hearing procedure, see § 704, *supra*.

Supplemental, minority, or additional views

(1) If at the time of approval of a measure or matter by a committee (other than the Committee on Rules) a member of the committee gives notice of intention to file supplemental, minority, or additional views for inclusion in the report to the House thereon, that member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) to file such views, in writing and signed by that member, with the clerk of the committee.

§ 804. Minority views.

This provision was originally included in section 107 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). In the 104th Congress it was amended to count as a “calendar day” any day on which the House is in session (H. Res. 254, Nov. 30, 1995, p. 35077). In the 105th Congress it was further amended to reduce the guaranteed time for composing separate views from three full days to two full days after the day of notice (H. Res. 5, Jan. 7, 1997, p. 121). Before the House recodified its rules in the 106th Congress, paragraph (1) consisted of this paragraph and current clause 2(c) of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47).

Power to sit and act; subpoena power

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and rule X (including any matters referred to it under clause 2 of rule XII), a committee or subcommittee is authorized (subject to subparagraph (3)(A))—

§ 805. Power to sit and to issue subpoenas; oaths.

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it considers necessary; and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it considers necessary.

(2) The chairman of the committee, or a member designated by the chairman, may administer oaths to witnesses.

(3)(A)(i) Except as provided in subdivision (A)(ii), a subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of an investigation or series of investigations or activities only when

authorized by the committee or subcommittee, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee under such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by a member designated by the committee.

(ii) In the case of a subcommittee of the Committee on Standards of Official Conduct, a subpoena may be authorized and issued only by an affirmative vote of a majority of its members.

(B) A subpoena *duces tecum* may specify terms of return other than at a meeting or hearing of the committee or subcommittee authorizing the subpoena.

(C) Compliance with a subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

Before the adoption of clause 2(m) under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), only the Committees on Appropriations, the Budget, Government Operations, Internal Security, and Standards of Official Conduct were permitted by the standing rules to perform the functions as specified in subparagraphs (1)(A) and (1)(B), and other standing and select committees were given those authorities by separate resolutions reported from the Committee on Rules each Congress. In the 94th Congress the paragraph was amended to require authorized subpoenas to be signed by the chairman of the full committee or any member designated by the committee (H. Res. 5, Jan. 14, 1975, p. 20). In the 95th Congress the paragraph was amended to permit a subcommittee, as well as a full committee, to authorize subpoenas and to allow a full committee to delegate such authority to the chairman of the full committee (H. Res. 5, Jan. 4, 1977, pp. 53–70). The special rule for authorizing and issuing a subpoena of a subcommittee of the Committee on Standards of Official Conduct was adopted

in the 105th Congress (sec. 15, H. Res. 168, Sept. 18, 1997, p. 19319). In the 106th Congress subparagraph (3)(B) was added, and clerical and stylistic changes were effected when the House recodified its rules in the same Congress (H. Res. 5, Jan. 6, 1999, p. 47). A clerical correction was effected to paragraph (m)(1) in the 107th Congress to correct a cross reference (sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 26).

A subpoena issued under this clause need only be signed by the chairman of the committee or by any member designated by the committee, whereas when the House issues an order or warrant the Speaker must under clause 4 of rule I issue the summons under his hand and seal, and it must be attested by the Clerk pursuant to clause 2(c) of rule II (formerly clause 3 of rule III) (III, 1668; see H. Rept. 96–1078, p. 22). Pursuant to 2 U.S.C. 191, the President of the Senate, the Speaker of the House of Representatives, or a chairman of any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or of a committee of the whole, or of any committee of either House of Congress, is empowered to administer oaths to witnesses in any case under their examination, and any Member of either House of Congress may administer oaths to witnesses in any matter depending in either House of Congress of which he is a Member, or any committee thereof.

While under this clause the Committee on Standards of Official Conduct may issue subpoenas in investigating the conduct of a Member, officer, or employee of the House (the extent of the committee’s jurisdiction under rule X and functions under clause 3 of rule XI), where the House mandates a possible investigation by that committee of other persons not directly associated with the House, the committee’s jurisdiction is thereby enlarged and a broader subpoena authority must be conferred on the committee (Mar. 3, 1976, p. 5165). Subparagraph (3)(B) (formerly subparagraph (2)(B)) has been interpreted to require authorization by the full House before a subcommittee chairman could intervene in a law suit in order to gain access to documents subpoenaed by the subcommittee. In *re Beef Industry Antitrust Litigation*, 589 F.2d 786 (5th Cir. 1979). The authority conferred in clause 2(m)(1)(B) to require information “by subpoena or otherwise” has not been interpreted to authorize depositions and interrogatories. That authority must be conferred by separate action of the House (see § 800, *supra*).

Committee on Standards of Official Conduct

3. (a) The Committee on Standards of Official Conduct has the following functions:

§ 806. Standards of Official Conduct; additional duties.

(1) The committee may recommend to the House from time to time such administrative actions as it may consider appropriate to establish or enforce standards of official conduct for Members, Delegates, the Resident Commissioner, officers, and employees of the House. A letter of reproof or other administrative action of the committee pursuant to an investigation under subparagraph (2) shall only be issued or implemented as a part of a report required by such subparagraph.

(2) The committee may investigate, subject to paragraph (b), an alleged violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House of the Code of Official Conduct or of a law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, Delegate, Resident Commissioner, officer, or employee in the performance of his duties or the discharge of his responsibilities. After notice and hearing (unless the right to a hearing is waived by the Member, Delegate, Resident Commissioner, officer, or employee), the committee shall report to the House its findings of fact and recommendations, if any, for the final disposition of any such investigation and such action as the committee may consider appropriate in the circumstances.

(3) The committee may report to the appropriate Federal or State authorities, either with the approval of the House or by an affirmative vote of two-thirds of the members of the com-

mittee, any substantial evidence of a violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House, of a law applicable to the performance of his duties or the discharge of his responsibilities that may have been disclosed in a committee investigation.

(4) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, Delegate, Resident Commissioner, officer, or employee. With appropriate deletions to ensure the privacy of the person concerned, the committee may publish such opinion for the guidance of other Members, Delegates, the Resident Commissioner, officers, and employees of the House.

(5) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XXIII.

(b)(1)(A) Unless approved by an affirmative vote of a majority of its members, the Committee on Standards of Official Conduct may not report a resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House, or, except as provided in subparagraph (2), undertake an investigation of such conduct.

(B)(i) Upon the receipt of information offered as a complaint that is in compliance with this rule and the rules of the committee, the chairman and ranking minority member jointly may appoint members to serve as an investigative subcommittee.

(ii) The chairman and ranking minority member of the committee jointly may gather additional information concerning alleged conduct that is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or either of them has placed on the agenda of the committee the issue of whether to establish an investigative subcommittee.

(2) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, Delegate, Resident Commissioner, officer, or employee of the House only—

(A) upon receipt of information offered as a complaint, in writing and under oath, from a Member, Delegate, or Resident Commissioner and transmitted to the committee by such Member, Delegate, or Resident Commissioner; or

(B) upon receipt of information offered as a complaint, in writing and under oath, from a person not a Member, Delegate, or Resident Commissioner provided that a Member, Delegate, or Resident Commissioner certifies in writing to the committee that he believes the

information is submitted in good faith and warrants the review and consideration of the committee.

If a complaint is not disposed of within the applicable periods set forth in the rules of the Committee on Standards of Official Conduct, the chairman and ranking minority member shall establish jointly an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if at any time during those periods either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

(3) The committee may not undertake an investigation of an alleged violation of a law, rule, regulation, or standard of conduct that was not in effect at the time of the alleged violation. The committee may not undertake an investigation of such an alleged violation that occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.

(4) A member of the committee shall be ineligible to participate as a member of the committee in a committee proceeding relating to the member's official conduct. Whenever a member of the committee is ineligible to act as a member of the committee under the preceding sentence,

the Speaker shall designate a Member, Delegate, or Resident Commissioner from the same political party as the ineligible member to act in any proceeding of the committee relating to that conduct.

(5) A member of the committee may disqualify himself from participating in an investigation of the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision in the case in which the member seeks to be disqualified. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member, Delegate, or Resident Commissioner from the same political party as the disqualifying member to act in any proceeding of the committee relating to that case.

(6) Information or testimony received, or the contents of a complaint or the fact of its filing, may not be publicly disclosed by any committee or staff member unless specifically authorized in each instance by a vote of the full committee.

(7) The committee shall have the functions designated in titles I and V of the Ethics in Government Act of 1978, in sections 7342, 7351, and 7353 of title 5, United States Code, and in clause 11(g)(4) of rule X.

(c)(1) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Standards

of Official Conduct or a subcommittee thereof shall occur in executive session unless the committee or subcommittee, by an affirmative vote of a majority of its members, opens the meeting to the public.

(2) Notwithstanding clause 2(g)(2) of rule XI, each hearing of an adjudicatory subcommittee or sanction hearing of the Committee on Standards of Official Conduct shall be held in open session unless the committee or subcommittee, in open session by an affirmative vote of a majority of its members, closes all or part of the remainder of the hearing on that day to the public.

(d) Before a member, officer, or employee of the Committee on Standards of Official Conduct, including members of a subcommittee of the committee selected under clause 5(a)(4) of rule X and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed:

“I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Standards of Official Conduct, any information received in the course of my service with the committee, except as authorized by the committee or in accordance with its rules.”

Copies of the executed oath shall be retained by the Clerk as part of the records of the House. This paragraph establishes a standard of conduct within the meaning of paragraph (a)(2). Breaches of confidentiality shall be investigated

by the Committee on Standards of Official Conduct and appropriate action shall be taken.

(e)(1) If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee on Standards of Official Conduct, the committee may take such action as it, by an affirmative vote of a majority of its members, considers appropriate in the circumstances.

(2) Complaints filed before the One Hundred Fifth Congress may not be deemed frivolous by the Committee on Standards of Official Conduct.

The investigative authority contained in this provision (formerly clause 4(e) of rule X) was first conferred upon the committee in the 90th Congress (H. Res. 1099, Apr. 3, 1968, p. 8802). Effective January 3, 1975, the former requirement in paragraph (b)(1)(A) (formerly clause 4(e)(2)(A) of rule X) that seven committee members must authorize an investigation was changed to permit a majority of the committee to provide that authorization (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). That provision was further amended in the 105th Congress to permit the chairman and ranking minority member, with respect to a properly filed complaint, to gather additional information or to establish an investigative subcommittee (sec. 11, H. Res. 168, Sept. 18, 1997, p. 19318). Paragraph (b)(5) (formerly clause 4(e)(2)(E) of rule X) was added in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), to provide a mechanism for a committee member to disqualify himself from participating in an investigation, and paragraph (b)(6) (formerly clause 4(e)(2)(F) of rule X) was added in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 8).

This provision was amended in several particulars by the Ethics Reform Act of 1989 (P.L. 101–194): (1) paragraph (a)(1) (formerly clause 4(e)(1)(A) of rule X) was amended to enable a letter of reproof or other administrative action of the committee to be implemented as part of a report to the House, with no action required of the House; (2) paragraph (a)(2) (formerly clause 4(e)(1)(B) of rule X) was amended to require the committee to report to the House its findings of fact and any recommendations respecting the final disposition of a matter in which it votes to undertake an investigation; (3) a new paragraph (a)(4) (formerly clause 4(e)(1)(E) of rule X) was added to empower the committee to consider requests that the rule restricting the acceptance of gifts be waived in exceptional circumstances; and (4) paragraph (b)(3) (formerly clause 4(e)(2)(C) of rule X) was amended to set

a general limitation on actions for committee consideration of ethics matters.

In the beginning of the 105th Congress a subparagraph (3) was added at the end of former clause 4(e) of rule X to establish a Select Committee on Ethics only to resolve a specific inquiry originally undertaken by the standing Committee on Standards of Official Conduct in the 104th Congress but not concluded (H. Res. 5, Jan. 7, 1997, p. 121). The select committee filed one report to the House (H. Rept. 105-1, H. Res. 31, Jan. 21, 1997, p. 393). The current form of paragraph (c) (formerly clause 4(e)(3) of rule X) was adopted later in the 105th Congress (sec. 5, H. Res. 168, Sept. 18, 1997, p. 19318).

Additional amendments to this provision were adopted in the 105th Congress as follows: (1) paragraphs (d) and (3) (formerly clauses 4(e)(4) and 4(e)(5)) were adopted (sec. 6 and sec. 19, H. Res. 168, Sept. 18, 1997, pp. 19318, 19320); (2) paragraph (b)(2) (formerly clause 4(e)(2)(B) of rule X) was amended to address the disposition of a complaint after expiration of periods set forth in the committee rules and to specify parameters for the filing of complaints by non-Members (sec. 11, H. Res. 168, Sept. 18, 1997, p. 19318); and (3) paragraph (a)(3) (formerly clause 4(e)(1)(C) of rule X) was amended to permit the committee to report to the appropriate authorities substantial evidence of a violation of law by an affirmative vote of two-thirds of the members of the committee without the approval of the House (sec. 18, H. Res. 168, Sept. 18, 1997, p. 19320). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 4(e) of rule X and paragraph (b)(7) was found in former clause 1(p) of rule X (H. Res. 5, Jan. 6, 1999, p. 47). Clause 3(a)(5) was amended in the 107th Congress to reflect the redesignation of a rule (sec. 2(s), H. Res. 5, Jan. 3, 2001, p. 24).

Committee agendas

(f) The committee shall adopt rules providing that the chairman shall establish the agenda for meetings of the committee, but shall not preclude the ranking minority member from placing any item on the agenda.

§ 806a. Standards of Official Conduct; committee rules.

Committee staff

(g)(1) The committee shall adopt rules providing that—

(A) the staff be assembled and retained as a professional, nonpartisan staff;

(B) each member of the staff shall be professional and demonstrably qualified for the position for which he is hired;

(C) the staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner;

(D) no member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election;

(E) no member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the committee without specific prior approval from the chairman and ranking minority member; and

(F) no member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the committee.

(2) Only subdivisions (C), (E), and (F) of subparagraph (1) shall apply to shared staff.

(3)(A) All staff members shall be appointed by an affirmative vote of a majority of the members of the committee. Such vote shall occur at the first meeting of the membership of the committee during each Congress and as necessary during the Congress.

(B) Subject to the approval of the Committee on House Administration, the committee may retain counsel not employed by the House of Representatives whenever the committee determines, by an affirmative vote of a majority of the members of the committee, that the retention of outside counsel is necessary and appropriate.

(C) If the committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(D) Outside counsel may be dismissed before the end of a contract between the committee and such counsel only by an affirmative vote of a majority of the members of the committee.

(4) In addition to any other staff provided for by law, rule, or other authority, with respect to the committee, the chairman and ranking minority member each may appoint one individual as a shared staff member from his or her personal staff to perform service for the committee. Such shared staff may assist the chairman or ranking minority member on any subcommittee on which he serves.

Meetings and hearings

(h)(1) The committee shall adopt rules providing that—

(A) all meetings or hearings of the committee or any subcommittee thereof, other

than any hearing held by an adjudicatory subcommittee or any sanction hearing held by the committee, shall occur in executive session unless the committee or subcommittee by an affirmative vote of a majority of its members opens the meeting or hearing to the public; and

(B) any hearing held by an adjudicatory subcommittee or any sanction hearing held by the committee shall be open to the public unless the committee or subcommittee by an affirmative vote of a majority of its members closes the hearing to the public.

Public disclosure

(i) The committee shall adopt rules providing that, unless otherwise determined by a vote of the committee, only the chairman or ranking minority member, after consultation with each other, may make public statements regarding matters before the committee or any subcommittee thereof.

Requirements to constitute a complaint

(j) The committee shall adopt rules regarding complaints to provide that whenever information offered as a complaint is submitted to the committee, the chairman and ranking minority member shall have 14 calendar days or five legislative days, whichever is sooner, to determine whether the information meets the requirements of the rules of the committee for what constitutes a complaint.

Duties of chairman and ranking minority member regarding properly filed complaints

(k)(1) The committee shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the rules of the committee for what constitutes a complaint, they shall have 45 calendar days or five legislative days, whichever is later, after that determination (unless the committee by an affirmative vote of a majority of its members votes otherwise) to—

(A) recommend to the committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(B) establish an investigative subcommittee; or

(C) request that the committee extend the applicable 45-calendar day or five-legislative day period by one additional 45-calendar day period when they determine more time is necessary in order to make a recommendation under subdivision (A).

(2) The committee shall adopt rules providing that if the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the

rules of the committee for what constitutes a complaint, and the complaint is not disposed of within the applicable time periods under subparagraph (1), then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

Duties of chairman and ranking minority member regarding information not constituting a complaint

(1) The committee shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee does not meet the requirements of the rules of the committee for what constitutes a complaint, they may—

(1) return the information to the complainant with a statement that it fails to meet the requirements of the rules of the committee for what constitutes a complaint; or

(2) recommend to the committee that it authorize the establishment of an investigative subcommittee.

Investigative and adjudicatory subcommittees

(m) The committee shall adopt rules providing that—

(1)(A) an investigative subcommittee shall be composed of four Members (with equal representation from the majority and minority parties) whenever such a subcommittee is established pursuant to the rules of the committee;

(B) an adjudicatory subcommittee shall be composed of the members of the committee who did not serve on the pertinent investigative subcommittee (with equal representation from the majority and minority parties) whenever such a subcommittee is established pursuant to the rules of the committee; and

(C) notwithstanding any other provision of this clause, the chairman and ranking minority member of the committee may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to information before a subcommittee with which they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee;

(2) at the time of appointment, the chairman shall designate one member of a subcommittee to serve as chairman and the ranking minority member shall designate one member of the subcommittee to serve as the ranking minority member; and

(3) the chairman and ranking minority member of the committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex officio members.

Standard of proof for adoption of statement of alleged violation

(n) The committee shall adopt rules to provide that an investigative subcommittee may adopt a statement of alleged violation only if it determines by an affirmative vote of a majority of the members of the subcommittee that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives, has occurred.

Subcommittee powers

(o)(1) The committee shall adopt rules providing that an investigative subcommittee or an adjudicatory subcommittee may authorize and issue subpoenas only when authorized by an affirmative vote of a majority of the members of the subcommittee.

(2) The committee shall adopt rules providing that an investigative subcommittee may, upon an affirmative vote of a majority of its members, expand the scope of its investigation approved by an affirmative vote of a majority of the members of the committee.

(3) The committee shall adopt rules to provide that—

(A) an investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its statement of alleged violation anytime before the statement of alleged violation is transmitted to the committee; and

(B) if an investigative subcommittee amends its statement of alleged violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended statement of alleged violation.

Due process rights of respondents

(p) The committee shall adopt rules to provide that—

(1) not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a statement of alleged violation, the subcommittee shall provide the respondent with a copy of the statement of alleged violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness; but if such evidence is withheld, the subcommittee shall inform the respondent

that evidence is being withheld and of the count to which such evidence relates;

(2) neither the respondent nor his counsel shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (1) except for the sole purpose of settlement discussions where counsel for the respondent and the subcommittee are present;

(3) if, at any time after the issuance of a statement of alleged violation, the committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (1) to prove the charges contained in the statement of alleged violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the rules of the committee;

(4) evidence provided pursuant to paragraph (1) or (3) shall be made available to the respondent and his or her counsel only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until—

(A) such time as a statement of alleged violation is made public by the committee if the respondent has waived the adjudicatory hearing; or

(B) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing;

but the failure of respondent and his counsel to so agree in writing, and their consequent failure to receive the evidence, shall not preclude the issuance of a statement of alleged violation at the end of the period referred to in paragraph (1);

(5) a respondent shall receive written notice whenever—

(A) the chairman and ranking minority member determine that information the committee has received constitutes a complaint;

(B) a complaint or allegation is transmitted to an investigative subcommittee;

(C) an investigative subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; or

(D) an investigative subcommittee votes to expand the scope of its investigation;

(6) whenever an investigative subcommittee adopts a statement of alleged violation and a respondent enters into an agreement with that subcommittee to settle a complaint on which that statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and respondent's counsel, the chairman and ranking minority member of the subcommittee, and the outside counsel, if any;

(7) statements or information derived solely from a respondent or his counsel during any settlement discussions between the committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the committee or otherwise publicly disclosed without the consent of the respondent; and

(8) whenever a motion to establish an investigative subcommittee does not prevail, the committee shall promptly send a letter to the respondent informing him of such vote.

Committee reporting requirements

(q) The committee shall adopt rules to provide that—

(1) whenever an investigative subcommittee does not adopt a statement of alleged violation and transmits a report to that effect to the committee, the committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives;

(2) whenever an investigative subcommittee adopts a statement of alleged violation, the respondent admits to the violations set forth in such statement, the respondent waives his or her right to an adjudicatory hearing, and the respondent's waiver is approved by the committee—

(A) the subcommittee shall prepare a report for transmittal to the committee, a final draft of which shall be provided to the respondent not less than 15 calendar days be-

fore the subcommittee votes on whether to adopt the report;

(B) the respondent may submit views in writing regarding the final draft to the subcommittee within seven calendar days of receipt of that draft;

(C) the subcommittee shall transmit a report to the committee regarding the statement of alleged violation together with any views submitted by the respondent pursuant to subdivision (B), and the committee shall make the report together with the respondent's views available to the public before the commencement of any sanction hearing; and

(D) the committee shall by an affirmative vote of a majority of its members issue a report and transmit such report to the House of Representatives, together with the respondent's views previously submitted pursuant to subdivision (B) and any additional views respondent may submit for attachment to the final report; and

(3) members of the committee shall have not less than 72 hours to review any report transmitted to the committee by an investigative subcommittee before both the commencement of a sanction hearing and the committee vote on whether to adopt the report.

In the 105th Congress a 12-member bipartisan task force was informally appointed by the Majority and Minority Leaders to conduct a comprehensive review of the House ethics process. At the same time an order of the House was adopted imposing a moratorium on filing or processing ethics complaints and on raising certain questions of privilege under rule IX with respect to official conduct. The moratorium was imposed in the expectation that the recommendations of the task force would include changes

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relating to the Committee on Standards of Official Conduct and the process by which the House enforces standards of official conduct (Feb. 12, 1997, p. 2058). The moratorium was extended through September 10, 1997 (July 30, 1997, p. 16958). On September 18, 1997, the House adopted the recommendations of the task force with certain amendments (H. Res. 168, 105th Cong., p. 19340), which included not only changes to the standing Rules of the House but also free-standing directives to the Committee on Standards of Official Conduct, which were reaffirmed for the 106th Congress (sec. 2(c), H. Res. 5, Jan. 6, 1999, p. 47) and again in the 107th Congress with an exception to section 13 (sec. 3(a), H. Res. 5, Jan. 3, 2001, p. 24). In the 108th Congress the pertinent freestanding provisions were codified (including the exception to section 13 added in the 107th Congress) as new paragraphs (f) through (q) of clause 3 (sec. 2(h), H. Res. 5, Jan. 7, 2003, p. —). On the opening day of the 109th Congress, various changes were made to paragraphs (b), (k), (p), and (q) (sec. 2(k), H. Res. 5, Jan. 4, 2005, p. —). Later in the 109th Congress, those changes were redacted and the affected provisions as they existed at the close of the 108th Congress were reinstated (H. Res. 240, Apr. 27, 2005, p. —).

Section 803 of the Ethics Reform Act of 1989 (2 U.S.C. 29d) contains several free-standing provisions, which are carried in this annotation. The requirement that the respective party caucuses nominate seven majority and seven minority members should be read in light of clause 5 of rule X, setting the composition of the committee at 10, five from the majority and five from the minority. The requirement that the committee adopt rules establishing investigative and adjudicative subcommittees should be read in light of clause 3(m), which constitutes the same requirement. The references to clause 5(d) of rule XI applied to a former rule regarding minority staffing requirements, which was eliminated in the 104th Congress (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. 462).

“SEC. 803. REFORMS RESPECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.—

* * *

“(b) COMMITTEE COMPOSITION.—The respective party caucus or conference of the House of Representatives shall each nominate to the House of Representatives at the beginning of each Congress 7 members to serve on the Committee on Standards of Official Conduct.

“(c) INVESTIGATIVE SUBCOMMITTEES.—The Committee on Standards of Official Conduct shall adopt rules providing—

“(1) for the establishment of a 4 or 6-member investigative subcommittee (with equal representation from the majority and minority parties) whenever the committee votes to undertake any investigation;

“(2) that the senior majority and minority members on an investigative subcommittee shall serve as the chairman and ranking minority member of the subcommittee; and

“(3) that the chairman and ranking minority member of the full committee may only serve as non-voting, ex officio members on an investigative subcommittee.

“Clause 5(d) of rule XI of the Rules of the House of Representatives shall not apply to any investigative subcommittee.

“(d) ADJUDICATORY SUBCOMMITTEES.—The Committee on Standards of Official Conduct shall adopt rules providing—

“(1) that upon the completion of an investigation, an investigative subcommittee shall report its findings and recommendations to the committee;

“(2) that, if an investigative subcommittee by majority vote of its membership adopts a statement of alleged violation, the remaining members of the committee shall comprise an adjudicatory subcommittee to hold a disciplinary hearing on the violation alleged in the statement;

“(3) that any statement of alleged violation and any written response thereto shall be made public at the first meeting or hearing on the matter which is open to the public after the respondent has been given full opportunity to respond to the statement in accordance with committee rules, but, if no public hearing or meeting is held on the matter, the statement of alleged violation and any written response thereto shall be included in the committee’s final report to the House of Representatives as required by clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives;

“(4) that a quorum for an adjudicatory subcommittee for the purpose of taking testimony and conducting any business shall consist of a majority of the membership of the subcommittee plus one; and

“(5) that an adjudicatory subcommittee shall determine, after receiving evidence, whether the counts in the statement have been proved and shall report its findings to the committee.

“Clause 5(d) of rule XI of the Rules of the House of Representatives shall not apply to any adjudicatory subcommittee.

* * *

“(i) ADVICE AND EDUCATION.—(1) The Committee on Standards of Official Conduct shall establish within the Committee an Office on Advice and Education (hereinafter in this subsection referred to as the ‘Office’) under the supervision of the chairman.

“(2) The Office shall be headed by a director who shall be appointed by the chairman, in consultation with the ranking minority member, and shall be comprised of such staff as the chairman determines is necessary to carry out the responsibilities of the Office.

“(3) The primary responsibilities of the Office shall include:

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“(A) Providing information and guidance to Members, officers and employees of the House regarding any laws, rules, regulations, and other standards of conduct applicable to such individuals in their official capacities, and any interpretations and advisory opinions of the committee.

“(B) Submitting to the chairman and ranking minority member of the committee any written request from any such Member, officer or employee for an interpretation of applicable laws, rules, regulations, or other standards of conduct, together with any recommendations thereon.

“(C) Recommending to the committee for its consideration formal advisory opinions of general applicability.

“(D) Developing and carrying out, subject to the approval of the chairman, periodic educational briefings for Members, officers and employees of the House on those laws, rules, regulations, or other standards of conduct applicable to them.

“(4) No information provided to the Committee on Standards of Official Conduct by a Member, officer or employee of the House of Representatives when seeking advice regarding prospective conduct of such Member, officer or employee may be used as the basis for initiating an investigation under clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives, if such Member, officer or employee acts in accordance with the written advice of the committee.”.

On occasions where the House has directed the committee to conduct specific investigations by separate resolution, it has authorized the committee to take depositions with one Member present, notwithstanding clause 2(h) of rule XI, to serve subpoenas within or without the United States, and to participate by special counsel in relevant judicial proceedings (see H. Res. 252, 95th Cong., Feb. 9, 1977, pp. 3966–75; H. Res. 608, Mar. 27, 1980, pp. 6995–98; H. Res. 254, June 30, 1983, p. 18279), and to investigate persons other than Members, officers and employees with expanded subpoena authority (see H. Res. 1054, 94th Cong., Mar. 3, 1976, pp. 5165–68). By unanimous consent the committee was authorized to receive evidence and take testimony before a quorum of one of its Members for the remainder of the second session of the 100th Congress (Oct. 13, 1988, p. 30467). By resolutions considered as questions of the privileges of the House, the committee has been directed to investigate illegal solicitation of political contributions in the House Office Building by unnamed sitting Members (July 10, 1985, p. 18397); to review GAO audits of the operations of the “bank” in the Office of the Sergeant-at-Arms (Oct. 3, 1991, p. 25435), to disclose the names and pertinent account information of Members and former Members found to have abused the privileges of that entity (Mar. 12, 1992, p. 5519), and to disclose further account information respecting Members and former Members having checks held by that entity (Mar.

12, 1992, p. 5534); and to investigate violations of confidentiality by staff engaged in the investigation of the operation and management of the Office of the Postmaster (July 22, 1992, p. 18786). In compliance with one such direction of the House, the acting chairman of the Committee on Standards of Official Conduct inserted in the Record names and pertinent account information of Members and former Members found to have abused the privileges of the “bank” in the Office of the Sergeant-at-Arms (H. Res. 393, Apr. 1, 1992, p. 7888). In the 106th Congress the chairman of the Committee on Standards of Official Conduct inserted in the Record an explanation of the committee’s amendment to committee rule 20(f) to reflect that the full committee retains discretion whether to report to the House that an investigative subcommittee has not adopted a statement of alleged violation (Apr. 13, 2000, p. 5631). In the 106th Congress the committee filed a report issuing a letter of reproof regarding the conduct of a Member (Oct. 16, 2000, p. 22834).

Under clause 3(b)(4) (formerly clause 4(e)(2)(D) of rule X), a member of the Committee on Standards of Official Conduct is ineligible to participate in a committee proceeding relating to that member’s official conduct. Upon notification to the Speaker of such ineligibility, the Speaker designates another Member of the same political party as the ineligible member to serve on the committee during proceedings relating to that conduct (Speaker O’Neill, Feb. 5, 1980, p. 1908; July 23, 1996, p. 18596). Under clause 3(b)(5) (formerly clause 4(e)(2)(E) of rule X), a member of the committee may be recused from serving on the committee during proceedings relating to a pending investigation by submitting an affidavit of disqualification to the committee stating that the member cannot render an impartial and unbiased decision relating to that investigation. If the committee accepts the affidavit, the chairman notifies the Speaker and requests the Speaker to designate another Member from the same political party as the disqualified member to serve on the committee during proceedings relating to that investigation (Speaker O’Neill, Mar. 18, 1980).

The committee has compiled statutory and rule-based ethical standards in the *House Ethics Manual* (102d Cong., 2d Sess.). In the *Manual*, the committee incorporates its advisory opinions issued under clause 3(a)(4) (formerly clause 4(e)(1)(D) of rule X), together with advisory opinions issued by the former Select Committee on Ethics, in its discussions of various ethical issues, including gifts, outside income, financial disclosure, staff rights and duties, official allowances and franking, casework considerations, campaign financing and practices, and involvement with official and unofficial organizations. The committee also has compiled a complete statement of the rules on gifts and travel, which supersedes Chapter 2 of the 1992 *House Ethics Manual (Gifts and Travel, 106th Cong., 2d Sess.)* and a complete statement of the rules on campaign funds, which supersedes chapter 8 of such *Manual (Campaign Activity, 107th Cong.)*.

Audio and visual coverage of committee proceedings

4. (a) The purpose of this clause is to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings or committee meetings that are open to the public may be covered by audio and visual means—

§ 807. Coverage of committee proceedings.

(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body, and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and

(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution as an institution of the Federal Government.

(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause may not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

(c) It is, further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise)

§ 808. Media coverage.

covered under authority of this clause by audio or visual means, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting, shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations, and may not be such as to—

(1) distort the objects and purposes of the hearing or other meeting or the activities of committee members in connection with that hearing or meeting or in connection with the general work of the committee or of the House; or

(2) cast discredit or dishonor on the House, the committee, or a Member, Delegate, or Resident Commissioner or bring the House, the committee, or a Member, Delegate, or Resident Commissioner into disrepute.

(d) The coverage of committee hearings and meetings by audio and visual means shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

(e) Whenever a hearing or meeting conducted § 809. When permitted. by a committee or subcommittee is open to the public, those proceedings shall be open to coverage by audio and visual means. A committee or subcommittee chairman may not limit the number of television

or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

(f) Each committee shall adopt written rules to govern its implementation of this clause. Such rules shall contain provisions to the following effect:

§ 810. Committee rules.

(1) If audio or visual coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) The allocation among the television media of the positions or the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(3) Television cameras shall be placed so as not to obstruct in any way the space between a witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(4) Television cameras shall operate from fixed positions but may not be placed in positions that obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(5) Equipment necessary for coverage by the television and radio media may not be in-

stalled in, or removed from, the hearing or meeting room while the committee is in session.

(6)(A) Except as provided in subdivision (B), floodlights, spotlights, strobelights, and flashguns may not be used in providing any method of coverage of the hearing or meeting.

(B) The television media may install additional lighting in a hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in a hearing or meeting room to the lowest level necessary to provide adequate television coverage of a hearing or meeting at the current state of the art of television coverage.

(7) In the allocation of the number of still photographers permitted by a committee or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of a hearing or meeting by still photography, that coverage shall be permitted on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(8) Photographers may not position themselves between the witness table and the members of the committee at any time during the course of a hearing or meeting.

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photographers.

(9) Photographers may not place themselves in positions that obstruct unnecessarily the coverage of the hearing by the other media.

(10) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(11) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery.

§ 812. Accreditation.

(12) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

The rule permitting broadcasting of committee hearings was contained in section 116(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). In the 93d Congress (H. Res. 1107, July 22, 1974, p. 24447), the rule was amended to permit committees to adopt rules allowing coverage of committee meetings as well as hearings. Paragraphs (e), (f)(3), (f)(5), and (f)(8) of this clause were amended in the 99th Congress to remove the limit on the number of television cameras (previously four) and press photographers (previously five) covering committee proceedings, and to provide the committee or subcommittee chairman with the discretion to determine the appropriate number (H. Res. 7, Jan. 3, 1985, p. 393). At the beginning of the 104th Congress paragraph (d) was amended to delete the former characterization of broadcast and photographic coverage of committee meetings and hearings as "a privilege made available by the House," and paragraph (e) was amended to eliminate the requirement that a committee vote to permit broadcast and photographic coverage of open hearings and meetings and to prohibit chairmen from limiting coverage to less than two representatives from each medium, except where space or safety considerations warrant pool coverage (sec. 105, H. Res. 6, Jan. 4, 1995, p. 463). Later in the 104th Congress this clause was again amended to make conforming changes in its heading and in paragraph (f) (H. Res. 254, Nov. 30, 1995, p. 35077). Former clause 4(f)(2), permitting a witness to terminate audio and visual (including photographic) coverage, was eliminated in the

105th Congress (H. Res. 301, Nov. 12, 1997, p. 26041). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

Pay of witnesses

5. Witnesses appearing before the House or any of its committees shall be paid the same per diem rate as established, authorized, and regulated by the Committee on House Administration for Members, Delegates, the Resident Commissioner, and employees of the House, plus actual expenses of travel to or from the place of examination. Such per diem may not be paid when a witness has been summoned at the place of examination.

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

This clause (formerly rule XXXV) was adopted in 1872, with amendments in 1880 (III, 1825), 1930 (VI, 393), April 19, 1955 (p. 4722), August 12, 1969 (H. Res. 495, 91st Cong., p. 23355), and July 28, 1975 (H. Res. 517, 94th Cong. p. 25258). 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 Administration for Members and employees. In the 104th and 106th Congresses it was amended to conform references to a renamed committee (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 467; H. Res. 5, Jan. 6, 1999, p. 47). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXXV (H. Res. 5, Jan. 6, 1999, p. 47). For further provisions relating to witnesses, see clauses 2(j) and (k) of rule XI (§§ 802–803, *supra*).

Regulations of the Committee on House Administration do not permit per diem reimbursement for witnesses. Regulations for reimbursement of actual travel costs may be found in the Committees' Congressional Handbook, Committee on House Administration, under the section entitled "Hearings and Meetings."

Unfinished business of the session

6. All business of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress in the same manner as if no adjournment had taken place.

§ 814. Resumption of business of a preceding session.

At first the Congress attempted to follow the rule of the English Parliament that business unfinished in one session should begin anew at the next; but in 1818, after an investigation of a joint committee in 1816, a rule was adopted that House bills remaining undetermined in the House should be continued at the next session after six days. This rule did not reach House bills sent to the Senate; but in 1848 the two Houses remedied this omission by a joint rule. Business referred to committees of the House was still subject to the old rule of Parliament; but in 1860 the present rule was adopted as a supplement to the rule of 1818. In 1890, desiring to do away with the limitation of the six days and apparently overlooking the main purpose of the rule of 1818, the House rescinded that portion of this provision which dated from 1818. Also, in 1876 the joint rules were abrogated, leaving no provision, except the headline of the rule, for the continuance of business not before committees. The practice, however, had become so well established that no question has ever been raised (V, 6727). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXVI (H. Res. 5, Jan. 6, 1999, p. 47).

The business of conferences between the two Houses is not interrupted by an adjournment of a session which does not terminate the Congress (V, 6260–6262), and even where one House asks a conference at one session the other may agree to it in the next session (V, 6286). Where bills were enrolled and signed by the presiding officers of the two Houses at the close of one session they were sent to the President and approved at the beginning of the next session (IV, 3486–3488).