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House Ethics Rules Changes in the 109th Congress

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Abstract. On February 1, 2006, the House of Representatives adopted H.Res. 648 revoking floor and gymnasium privileges for former Members and officers who are lobbyists. On January 4, 2005, the House adopted H.Res. 5, its rules for the 109th Congress that included amendments to the chamber's rules of conduct and the procedures of the Committee on Standards of Official Conduct. Subsequently, on April 27, 2005, the House amended the rules adopted in January 2005 that affected the ethics process. The H.Res. 5 ethics changes that remain provide for limited use of campaign funds for official expenses, an increase in the time limit for sending franked mass mailings before elections, and an expansion of the rule governing companions on officially connected travel. In addition, prior to the opening of the 109th Congress, the House Democratic Caucus and the Republican Conference changed their ethics rules governing party leaders.

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House Ethics Rules Changes in the 109th Congress

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Summary

On February 1, 2006, the House of Representatives adopted H.Res. 648 revoking floor and gymnasium privileges for former Members and officers who are lobbyists. On January 4, 2005, the House adopted H.Res. 5, its rules for the 109th Congress that included amendments to the chamber's rules of conduct and the procedures of the Committee on Standards of Official Conduct.¹ Subsequently, on April 27, 2005, the House amended the rules adopted in January 2005 that affected the ethics process.² The H.Res. 5 ethics changes that remain provide for limited use of campaign funds for official expenses, an increase in the time limit for sending franked mass mailings before elections, and an expansion of the rule governing companions on officially connected travel. In addition, prior to the opening of the 109th Congress, the House Democratic Caucus and the Republican Conference changed their ethics rules governing party leaders. This report will be updated as needed.

Following a well-established practice, the House, when it convened on January 4, 2005, adopted its rules for the 109th Congress.³ H.Res. 5 provided for the rules of the

¹ "Rules of the House," *Congressional Record*, daily edition, vol. 151, Jan. 4, 2005, pp. H7-H31.

² "Amending the Rules of the House of Representatives to Reinstate Certain Provisions of the Rules Relating to Procedures of the Committee on Standards of Official Conduct to the Form In Which Those Provisions Existed at the Close of the 108th Congress," *Congressional Record*, daily edition, vol. 151, Apr. 27, 2005, pp. H26216-H26226.

³ H.Res. 5 also changed the rules affecting floor proceedings and the committee system in the House. These changes, which include making the Committee on Homeland Security a standing committee, eliminating the Corrections Calendar process, and provisions for the continuity of legislative operations in the event of a catastrophic occurrence, are described in CRS Report RS22021, *House Rules Changes Affecting the Congressional Budget Process in the 109th Congress* (H.Res. 5), by Bill Heniff Jr.; CRS Report RL32772, *House Rules Changes Affecting Floor Procedures in the 109th Congress*, by Thomas Carr and Elizabeth Rybicki; and CRS Report RS22018, *Committee System Rules Changes in the House, 109th. Congress*, by Judy Schneider.

(continued...)

House in the previous Congress to be the rules of the new Congress, with amendments. In addition, on February 1, 2006, the House adopted a resolution banning former Members and officers, who become lobbyists, from the House floor and gymnasium facilities.

This report briefly discusses the changes involving lobbyists as well as the substantive changes in the rules governing unofficial office accounts and the use of excess campaign funds, franked mass mailings prior to an election in which a Member is a candidate, and individuals allowed to accompany a Member, officer, or employee on officially connected travel. Procedural changes in the Committee on Standards of Official Conduct (Ethics Committee) and changes in the rules of the Democratic Caucus and the Republican Conference are also described in this report.

Privileges of Former Members and Officers Who Become Lobbyists.

As part of an overall effort to examine the rules governing the relationship of lobbyists to Members of Congress, the House adopted H.Res. 648 on February 1, 2006.⁴ The measure expanded Rule IV, clause 4, to ban from the floor of the House and the rooms leading to it *all* former Members and officers who are registered lobbyists or the agent of a foreign principal.⁵ Previously banned were those former Members and officers who had a direct personal or pecuniary interest in pending legislation or who represented any party with such an interest in pending legislation. H.Res. 648 also banned from the House exercise facilities all former Members and officers, as well as their spouses, who are registered lobbyists or the agent of a foreign principal.

Limited Use of Excess Campaign Funds. With the adoption of H.Res. 5, Representatives, like Senators, may use excess campaign funds to purchase “hand held communication devices” such as BlackBerry® wireless devices and cell phones. Since 1977, House Rule XXIV has prohibited Members of the House from maintaining an unofficial office account or using leftover campaign funds to help defray the expenses of office.⁶ This rule was codified into law in 1991 in the FY1992 Legislative Branch Appropriations Act (2 USC, Sec. 59e(d)). Subsequently, the FY2004 Legislative Branch Appropriations Act (Section 105, P.L. 108-83), amended the 1991 Act to permit the Members to defray certain official expenses with funds from their principal campaign committee. H.Res. 5 now conforms the House rule to current law (P.L. 108-83), which provides that funds may not be used for mail or other communications, compensation for services, office space, furniture or equipment, and information technology services (excluding hand held communication devices).

³ (...continued)

H.Res. 5 also made other technical, conforming, and grammatical changes to the House Rules.

⁴ “Eliminating Floor Privileges of Former Members and Officers,” *Congressional Record*, daily edition, vol. 151, Feb. 1, 2006, pp. H29-H37, H67-H68.

⁵ See also CRS Report RL33237, *Congressional Gifts and Travel Proposals in the 109th Congress*, by Mildred Amer; CRS Report RL33326, *Lobbying, Ethics, and Related Procedural Reform: Comparison of Current Provisions of S. 2359 and H.R. 4975*, by Eric Peterson.

⁶ House Rule XXIV defines an unofficial office account as an account or repository in which funds are received for the purpose of defraying otherwise unreimbursed expenses for the operation of a congressional office.

Franked Mass Mailings Before An Election. H.Res. 5 amends House Rule XXIV, clause 8, to prohibit franked mass mailings postmarked less than 90 days before a primary or general election in which a Member is a candidate.⁷ This change makes the rule compatible with the provisions of 39 U.S.C., Sec. 3210 by replacing the current 60-day pre-election moratorium.

Companions on Officially Connected Travel. H.Res. 5 amends House Rule XXV, clause 5(b)(4)(D) to allow any one relative, at the sponsor's expense, to accompany Members, officers, and employees, on privately funded, officially connected trips. Previously, the rule allowed only a spouse or child to accompany a Member or staffer on such a trip.

Caucus Rules on Indicted Leaders. In November 2004, the House Republican Conference voted to abolish its rule requiring the removal of a leader indicted on felony charges for which a sentence of two or more years may be imposed. Under the revised, November 2004 Conference rule, an indicted House leader could keep his or her post while the Republican Steering Committee decided whether to recommend action by all members of the conference.⁸ Subsequently, on January 3, 2005, the Republican Conference reinstated the original rule (which existed prior to November 2004) requiring the automatic removal of a leader indicted for a felony for which a sentence of two or more years may be imposed.⁹ In addition to the provision requiring the removal of an indicted leader, Republican Conference rules also provide for the temporary replacement of the chair of any committee or subcommittee who is indicted for a felony for which a sentence of two or more years may be imposed and their removal if convicted of a felony or censured by the House.

On January 3, 2005, the House Democratic Caucus voted to remove party leaders indicted or convicted on felony charges for which a sentence of two or more years may be imposed.¹⁰ This action supplements Democratic Caucus rules for the temporary replacement of a committee or subcommittee chair or ranking member indicted for a felony for which a sentence of two or more years may be imposed and the removal of committee or subcommittee chair or ranking member convicted of a felony or censured by the House.

⁷ Mass mailings are newsletters or other pieces of substantially identical mail totaling more than 500 pieces in a particular session of Congress, other than mail in response to communications from someone to whom the mail is sent, mailings to government officials, or new releases to the media.

⁸ *Washington Post*, Nov. 18, 2004, p. A4, and *New York Times*, Nov. 18, 2004, pp. A1, A20.

⁹ Susan Ferrechio, "House Reverses Course on Ethics Standards," *CQ Today*, Jan. 4, 2005, pp. 1, 4, and *New York Times*, Jan. 5, 2005, pp. A1, A21.

¹⁰ "House Democrats Plan to Change Rule on Leadership Indictments," *National Journal's Congress Daily*, Dec. 10, 2004, p. 3, and conversation with the staff of Rep. Robert Menendez, chair of the House Democratic Caucus, Jan. 10, 2005.

House Committee on Standards of Official Conduct Operating Procedures. The House Committee on Standards of Official Conduct was established in 1967 to enforce the House rules of conduct.¹¹ H.Res. 168 (105th Congress) amended the internal operations of the committee in 1997.¹² Included in the rules for the 109th Congress (H.Res. 5) adopted on January 4, 2005, were further amendments to the committee's rules of procedure, including a rule relating to the conduct of a Member, officer, or employee whose conduct might be referenced in a committee investigation of someone else. However, this change was dropped on April 27, 2005, when the House deleted all the other changes to the rules of procedure of the Committee on Standards of Official Conduct that had been adopted in January 2005 as part of H.Res. 5¹³.

The April 2005 amendments also restored the Ethics Committee rule that inaction by the chairman or ranking member on a properly filed complaint within 45 days automatically sent the complaint to an investigative subcommittee.

¹¹ See CRS Report 98-15, *House Committee on Standards of Official Conduct: A Brief History of Its Evolution and Jurisdiction*, by Mildred Amer.

¹² "Implementing the Recommendations of the Bipartisan House Ethics Task Force," *Congressional Record*, daily edition, vol. 143, Sept. 18, 1997, pp. H7544-H7573.

¹³ "Amending the Rules of the House," *Congressional Record*, daily edition, vol. 151, Apr. 27, 2005, pp. H2616-H2626; and Carl Hulse, "House Overturns New Ethics Rule as G.O.P. Relents," *New York Times*, Apr. 28, 2005, pp. A1, A21.