

House Approves Changes to Ethics Rules

On January 4, 2007, the opening day of the 110th Congress, Democrats in the House of Representatives introduced proposed changes to the House Ethics Rules. The Rules package was adopted by a 430-1 vote before the House recessed. Most of the new requirements will take effect on March 1, 2007. The Senate is expected to take up ethics reform next week. Below is a summary of the proposed changes to the House Ethics Rules.

Summary

The amendments to the Rules ban gifts from lobbyists to Members, while current rules allow gifts that do not exceed \$50 in value. The Rules also tighten restrictions on reimbursement of Members' and their employees' travel, and they ban Members' use of private jets. Additionally, in an attempt to rein in and bring more transparency to special-interest and pet projects, the House adopted new requirements with respect to the disclosure of earmarking requests. The Rules also modify the Conference Committee process as part of the Democrats' pledge to allow more minority-party participation in the legislative process.

Lobbyist Gifts

By prohibiting Members and their employees from accepting gifts from registered lobbyists, agents of foreign principals, or entities that retain or employ these lobbyists or agents, the new Rules reinstitute in theory a "zero tolerance" gift policy for House Members and staff. (Under the existing rules, Members may accept gifts valued at less than \$50, with a \$100 limit per calendar year.) These gift restrictions do not apply in the context of campaign fundraisers, as the campaign-finance laws are distinct from House Rules.

The many exemptions from the gift ban under Rule XXV(5)(a)(3) remain in place. These include, for example, lawful political contributions, gifts from relatives, and gifts made on the basis of a personal friendship. Due to the flat prohibition on lobbyists' gifts to Members in the absence of an exemption, it will become more important for lobbyists to understand fully the nuances of the exemption. For example, one factor in determining whether a gift is given on the basis of "personal friendship" remains "whether the donor sought a tax deduction or business reimbursement for it."

A minor modification clarifies the method for determining the value of a sporting or entertainment event ticket. The ticket ordinarily will be valued at its face value. If the ticket does not have a face value, its value will be equivalent to the highest cost of a ticket with a face value for the event. The price printed on the ticket will be considered its face value only if the ticket is offered to the public at that printed price.

Travel Pre-Authorization and Public Disclosure Requirements

Before accepting reimbursed travel, Members and their employees must obtain from the entity financing the trip a certification that lobbyists did not plan, organize, request, arrange or finance the travel. (This requirement does not apply to travel reimbursed by colleges and universities and to certain one-day trips.) Before taking a reimbursed trip, Members and employees must submit this certification to and receive approval from the House Ethics Committee. The Rules shorten

the time in which travel information must be provided to the Clerk of the House from 30 days to 15 days after the reimbursed travel is completed. The Clerk will then make this information available to the public.

The Rules prohibit Members from accepting travel reimbursements from registered lobbyists, agents of foreign principals, and entities that retain or employ those lobbyists or agents. The current rules already prohibit lobbyists and agents from reimbursing Member travel. These rules do not apply to colleges and universities.

In addition, entities that employ lobbyists may reimburse Members and their employees for travel to one-day events (which may include up to a two-night stay, with Ethics Committee approval). Lobbyists may play only a *de minimis* role in Member travel to these reimbursed one-day trips.

Corporate Jets

Under the new Rules, use of corporate jets is out: Members may no longer use official, personal, or campaign funds to pay for the use of privately owned airplanes. Members may continue to charter commercially available airplanes.

Ethics Training

Beginning in the 110th Congress, Members, officers and employees of the House must participate in annual ethics training. New officers and employees must receive the training within 60 days of beginning work in the House. Each officer and employee must certify annually that the officer or employee attended ethics training.

'K-Street Project'

The Rules also end the so-called "K-Street Project," an effort associated with former Republican leader Tom DeLay, by prohibiting Members from threatening political retaliation against private firms that hire employees who do not belong to the Member's political party.

Earmark Reform

House Committees and Conference Committees now must publish lists of earmarks and special tax or tariff provisions that benefit fewer than 10 people contained in bills, amendments, and reports that come to the House floor. These lists will be made available to the public.

Moreover, the Rules explicitly prohibit Members from trading earmarks for votes and require that Members disclose their earmark requests. Members making earmark requests must certify that they and their spouse have no financial interest in a requested earmark.

Voting and Conference Procedure

As part of the Democrats' promise to allow more minority-party participation in the legislative process, the new House Rules prohibit the Speaker from holding votes open for longer than the scheduled time for the sole purpose of changing the outcome of a vote. The proposal encourages conferees to work together in an "open and fair manner" and requires that House conferees sign conference papers at one time and in one place. The Rules prohibit the consideration of a Conference Report that is altered after it has been signed.

Finally, the House Rules Committee will be authorized to publish recorded votes taken during Committee hearings in committee reports or through other means.

Lobbyist Use of House Exercise Facilities

The proposal renews the 109th Congress' order prohibiting registered lobbyists from using Members' exercise facilities.

Resources and Further Reading

Details regarding these changes can be readily accessed on House Rules Committee websites:

House of Representatives, Committee on Rules Website:

<http://www.rules.house.gov/>

Official Summary of the Proposed Changes to the House Rules:

http://www.rules.house.gov/110/text/110_Hres6_secbysec.pdf

Current Rules of the House of Representatives of the 109th Congress (not reflecting proposed changes):

<http://www.rules.house.gov/ruleprec/109th.pdf>

House Ethics Committee Guidance on Gifts and Travel:

http://www.house.gov/ethics/Gifts_and_Travel_Chapter.htm

Contact Information

Please contact Thomas B. Susman of Ropes & Gray if you have any questions or would like further guidance regarding these Rules. You can reach Tom, a partner and expert on lobbying matters, at 202-508-4620.

