

Conduct or Discipline of Members, Officers, or Employees

A. INTRODUCTORY; PARTICULAR KINDS OF MISCONDUCT

§ 1. In General; Codes of Conduct

Prior to the 90th Congress,⁽¹⁾ there was no rule setting forth a formal code of conduct for Congressmen. However, in 1967 and 1968 the rules of the House were amended to (1) make the Committee on Standards of Official Conduct a standing committee of the House; (2) establish, as a new Rule XLIII, a Code of Official Conduct for Members, officers, and employees of the House; (3) require Members, officers, and certain key aides to disclose financial interests pursuant to procedures outlined in new Rule XLIV.⁽²⁾

1. Pre-1936 precedents on the punishment and expulsion of Members may be found at 2 Hinds' Precedents §§ 1236–1289 and 6 Cannon's Precedents §§ 236–239.

This chapter includes precedents through the 94th Congress, 2d Session.

2. 114 CONG. REC. 8802, 90th Cong. 2d Sess., Apr. 1, 1968 [H. Res. 1099, amending H. Res. 418]; Rule XLIII, Rule XLIV, *House Rules and Manual* §§ 939, 940 (1973).

The Code of Official Conduct requires that each Member, officer, or employee conduct himself so as to reflect creditably on the House and to adhere to the spirit and letter of the rules of the House and the rules of its committees. The code also contains provisions governing the receipt of compensation, gifts, and honorariums, as well as the use of campaign funds.⁽³⁾

The 85th Congress adopted by concurrent resolution a Code of Ethics to be adhered to by all government employees, including officeholders.⁽⁴⁾

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

3. As used in the Code of Official Conduct, the term "Member" includes the Resident Commissioner from Puerto Rico and each Delegate to the House; and the term "officer or employee of the House of Representatives" means any individual whose compensation is disbursed by the Clerk of the House of Representatives. Rule XLIII, *House Rules and Manual* § 939 (1973).
4. 72 Stat. Pt. 2, B12, July 11, 1958. This Code of Ethics is a guideline for those in government.

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration, or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding on the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that a public office is a public trust.

In House Report No. 94-1364, 94th Congress second session,

House Committee on Standards of Official Conduct, "In the matter of a Complaint against Representative Robert L. F. Sikes," July 23, 1976, the committee indicated that the Code of Ethics was an expression of traditional standards of conduct which continued to be applicable even though the code was enacted in the form of a concurrent resolution in 1958 (pp. 7-8):

The Committee believes that these standards of conduct traditionally applicable to Members of the House are perhaps best expressed in the Code of Ethics for Government Service embodied in House Concurrent Resolution 175, which was approved on July 11, 1958. Although the Code was adopted as a concurrent resolution, and, as such, may have no legally binding effect, the Committee believes the Code of Ethics for Government Service nonetheless remains an expression of the traditional standards of conduct applicable to Members of the House prior both to its adoption and the adoption of the Code of Official Conduct in 1968. As is explained in House Report No. 1208, 85th Congress, 1st Session, August 21, 1957:

House Concurrent Resolution 175 is essentially a declaration of fundamental principles of conduct that should be observed by all persons in the public service. It spells out in clear and straight forward language *long-recognized* concepts of the high obligations and responsibilities, as well as the rights and privileges, attendant upon services for our Government. It reaffirms the *traditional standard*—that those holding public

office are not owners of authority but agents of public purpose—concerning which there can be no disagreement and to which all Federal employees unquestionably should adhere. It is not a mandate. It creates no new crime or penalty. Nor does it impose any positive legal requirement for specific acts or omissions. (Emphasis added.)

Thus, even assuming that House Concurrent Resolution 175 may have “died” with the adjournment of the particular Congress in which it was adopted, as one commentator seems to suggest, the traditional standards of ethical conduct which were expressed therein did not.

§ 2. Committee Functions

Prior to the 90th Congress, there was no standing or permanent committee in the House to investigate and report on improper conduct of Members, officers, and employees. Prior to that time, select temporary committees were ordinarily created to consider allegations of improper conduct against Members, although in some instances such questions were considered by standing committees.⁽⁵⁾

5. For example, House Committee on Military Affairs, 2 Hinds' Precedents §1274, 41st Cong. (1870); House Committee on the Judiciary, 3 Hinds' Precedents §2652, 37th Cong. I (1861); House Committee on Elections, 3 Hinds' Precedents §2653,

The rules of the House were amended in the 90th Congress to make the Committee on Standards of Official Conduct a standing committee of the House.⁽⁶⁾ In that Congress, the House adopted a resolution⁽⁷⁾ which provided that measures relating to the Code of Official Conduct or to financial disclosure be referred to the committee. It also authorized the committee to recommend to the House appropriate legislative and administrative actions to establish or enforce standards of official conduct for Members, officers, and employees; to investigate alleged violations of the Code of Official Conduct, or of any applicable law, rule, regulation, or

39th Cong. (1865); Committee on House Administration (misuse of contingency funds), 112 CONG. REC. 27711, 89th Cong. 2d Sess., Oct. 19, 1966 [H. Res. 1047], and (congressional conflict of interest), 109 CONG. REC. 4940, 88th Cong. 1st Sess., Mar. 28, 1963.

6. The House Committee on Standards of Official Conduct was created in the 90th Congress, 113 CONG. REC. 9448, 90th Cong. 1st Sess., Apr. 13, 1967 [H. Res. 418]; jurisdiction redefined, 114 CONG. REC. 8802, 90th Cong. 2d Sess., Apr. 3, 1968 [H. Res. 1099, amending H. Res. 418]. Rule X clause 1(s) and Rule XI clause 19, *House Rules and Manual* (1973).

7. 114 CONG. REC. 8777 et seq., 90th Cong. 2d Sess., Apr. 3, 1968 [H. Res. 1099, amending H. Res. 418].