



House Rules Changes: Sunlight's Proposals for the 112th Congress

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The rules of the House and Senate have extraordinary influence. The Constitution, in granting each chamber the ability to “determine the rules of its proceedings,” has allowed Congress to create the evolving set of processes, norms and standards by which it functions. The rules define legislative order, construct a leadership power structure, lay out the committee system and establish rules for conduct and disclosure.

The Rules of the House are routinely changed every two years at the beginning of each new Congress. While recent reforms have created more disclosure than ever before, congressional transparency reforms must be considered an imperative for congressional leadership. And the robust use of technology can make disclosure into a better ethics enforcer, a more effective educator and a strong arbiter of public policy. The House must redouble its commitment to transparency, and deepen the relationship between constituents and representatives.

The 112th Congress can be the most open and accountable Congress ever, and online transparency can help Congress reach that goal. Sunlight has pored through the Rules of the House [<http://www.rules.house.gov/ruleprec/111th.pdf>] and identified a series of reforms. While this list applies specifically to the House, they can apply largely to the Senate as well. To learn more about our other solutions for a more open government beyond rules reform, such as greater campaign finance disclosure, lobbying reform and executive branch transparency, see our Policy agenda [<http://sunlightfoundation.com/policy/documents/agenda/>]. Citations in brackets below refer to the 111th House Rules.

Post Ethics Documents Online

Disclosure lies at the heart of congressional ethics rules. Yet most ethics-related disclosures are still available only on paper, and only available if an individual physically visits an office on Capitol Hill. All congressional ethics documents that are publicly available should also be made available online. This includes personal financial disclosures, travel reports, recusals, filings regarding negotiations for future employment, etc. They should be made available online, at no cost, in a structured data format. Members of the public should not have to register in order to access ethics filings, so all of Sec 105, (b)(2) should be struck [p. 50]. Ethics reports should also be available at no cost to the public. The new rules should insert “and make publicly accessible online at no cost” and strike “or at a reduced charge” [p. 50, Sec 105, (b)(1)]. The processes by which Members and congressional staff file ethics forms should also be digitized, to enable better public disclosure. See additional research at

Create an Earmarks Database

Earmark information should be posted online in a centralized database. This includes earmarks, earmark requests and related documentation. Leadership policies in both chambers have moved in this direction in the last few years, and President Obama called for such a database in the 2010 State of the Union address. Additionally, legislation to enact such a reform has been introduced in the House and Senate (Earmark Transparency Act, HR 5258, S 3335). See http://www.opencongress.org/wiki/Earmark_Reform_Bills for extensive background or the House Rules [p. 26, Rule XIII, 3(a)(2)(f)(1), p. 35, Rule XXI, 9(a)(1), p. 39, Rule XXIII, 17(a)].

Require 72 Hours Online for Bills

Bills should be posted online for 72 hours before final consideration on the floor. In the last two years, this has become routine practice in the House and should now be codified in the House Rules. Rushing legislation to the floor before it can be read or examined by Congress or constituents is unacceptable. The 72 hour “Read-the-Bill” provisions should be incorporated in House Rules. See http://www.opencongress.org/wiki/72_Hour_Rule and ReadTheBill.org. By the same token, all Conference Reports should be made available online for 72 hours [p. 37, Rule XXII, 8(a)(1)(A)].

Strengthen Ethics Committee and Office of Congressional Ethics

Legislatures have difficulty in policing themselves effectively. Idiosyncrasies in American campaign finance laws, combined with a patchwork of ethics laws and guidelines have left congressional ethics in an uncertain transitional state. The reforms from the 2007 Honest Leadership and Open Government Act should be expanded and strengthened, and the role of public oversight and transparency needs to be put back to the center of congressional ethics. In particular, the Office of Congressional Ethics (OCE) should have its budget doubled, at a minimum [<http://blog.sunlightfoundation.com/2010/09/13/dont-kill-the-office-of-congressional-ethics/>].

Also, the public ethics filings on which the OCE relies on should be affirmatively posted online without restrictions.

Additionally, there are several other changes in how these bodies should function:

- Meetings of the House Ethics Committee should be open to the public unless it pertains to specific allegations against an individual member [p. 17, Rule XI, 2(g)(1)]. This recommendation would not change the requirement that investigatory subcommittee hearings be open to the public.
- The OCE should make written reports available online when they are made public [p. 20, Rule XI, 3(b)(8)(A)].
- The Ethics Committee should publish the “written report and findings” of the OCE regardless of whether the committee vote is consistent with the recommendations of the OCE board [p. 20, Rule XI, 3(b)(8)(B)(i)].
- Notice of the establishment of an investigative subcommittee should be more timely, and the subcommittee should make its findings public sooner than within one year of beginning its review of a report [p. 20, Rule XI, 3(b)(8)(B)].
- Members should be required to publicly justify travel outside of his or her congressional district or committee/subcommittee field hearings [p. 13]. (These justifications can be

retroactive.)

Open Congressional Committees

Congressional committees, where so much of the work of Congress is done, have started putting more information online than ever before. Even so, the committee system largely operates through informal email exchanges that leave public disclosure an afterthought. House Rules should require far better disclosure from committees

[\[http://www.opencongress.org/wiki/Sunlight's_Suggestions_for_Committee_Website_Content\]](http://www.opencongress.org/wiki/Sunlight's_Suggestions_for_Committee_Website_Content).

In particular:

- Recorded committee and subcommittee votes should be posted online in XML.
- House committees should post official transcripts of their meetings online, within 21 days of the hearing (just as the Senate requires). Also, committees should post unofficial transcripts immediately following a hearing.
- Committees should post full committee and subcommittees hearing schedules online and in a structured format, as far in advance of the hearing as possible.
- Hearing notices for committees and subcommittees should be published in a centralized location on the main House.gov website.
- All committee reports should be posted online [p. 25, Rule XIII, 2(a)(1) ... 2(b)(2)]. Committee reports should also identify relevant CRS reports [p. 26, Rule XIII, 3(c)(4)]. Reports given to the committee by other entities, for example the GAO or executive agencies, should be posted online [\[http://blog.sunlightfoundation.com/2010/09/01/bill-would-place-agency-reports-to-congress-online/\]](http://blog.sunlightfoundation.com/2010/09/01/bill-would-place-agency-reports-to-congress-online/).
- Financial or other disclosures required of hearing witnesses should be available online, after appropriate redaction.
- Committees should be required to post their rules online.
- The Appropriations Committee and its subcommittees should have to notify the public of their meetings just like any other committee. The hearing notice exemption for the Appropriations Committee should be removed [p. 18, top center].
- The Appropriations Committee should disclose its expenses. The exception they now enjoy should be revoked [p. 12, middle column].
- Committee oversight plans should be required to include oversight of transparency relating to the committee's jurisdiction [p. 9, Rule 2(b)1].

Broaden Access to Congressional Video

All publicly accessible congressional activities—whether taking place on the floor of the House, or in committee or subcommittee hearings—should be recorded and available to the public online in real time.

- All hearings should be archived and available online for later retrieval, both as a video stream and to download.
- Restrictions on how the public can use House videos should be lifted.
- All hearing rooms should be wired for videotaping/live streaming, and all committees should videotape and broadcast all open proceedings.
- In addition to making House-generated video available at no cost, requests from outside entities to record events should be routinely granted.

Open Legislative Data

Even as websites such as GovTrack.us and OpenCongress.org have grown to provide public access to legislation, the Library of Congress has been reticent to fulfill its new role as a data provider. To empower public analysis and reuse of information, rules should require the Library of Congress to:

- Create bulk access to THOMAS data—in XML format when available. See extensive background at http://www.opencongress.org/wiki/THOMAS_bulk_data_access.
- Sort votes by legislator in the THOMAS system (H.Res. 287).
- Post all bills online in a machine-readable format; most are now, but not all.
- Expand the available information to ultimately include all previous Congresses. Currently, information on THOMAS only goes back to the 95th Congress. For each new Congress, the Library of Congress could digitize and post data from one earlier Congress.

Release CRS Reports

The Congressional Research Service provides nonpartisan expert research on legislative issues to Congress. However, CRS refuses to release its reports directly to the public, even though Members routinely share them with constituents, and other similar bodies, such as the GAO or CBO, publicly share their reports. The Clerk of the House should be directed to make CRS reports available online to the public for free. For background, see http://www.opencongress.org/wiki/Congressional_Research_Service_Reports.

Release the Constitution Annotated

The expertly researched and prepared Constitution Annotated (CONAN) should be shared as broadly as possible and give proper public recognition to this ongoing illumination of our country's founding document. CONAN structured data should be available online for free public access and updated to reflect Supreme Court decisions as they are made. See http://www.opencongress.org/wiki/U.S._Constitution_Annotated.

Modernize Franking

The House's oversight of Web use and franked (free) mail would be strengthened by better disclosure online.

- Copies of all franked materials and decisions about franked materials should be posted online, on either the House Clerk's website or the Franking Commission site.
- Clear public guidelines that govern how Members and staff use the Internet should be available online, from the Franking Commission.

Publish Dear Colleagues

Congressional offices often share their priorities within Congress through an email-based "Dear Colleague" system. Even though these messages are shared throughout Congress, there is no publicly accessible way to search their content. The House should create a centralized, publicly-available online database of all "Dear Colleague" letters.

Put House Documents Online: The House receives an enormous variety of reports and documents, many of which are essential descriptions of government activities. The Clerk should make all House

documents (H.doc) including appropriations reports and authorization reports, among others, available online.

See <http://blog.sunlightfoundation.com/2010/09/01/bill-would-place-agency-reports-to-congress-online/> for more background.

- Messages received from the Senate or President should be made available online [p. 24, Rule XII, 1].
- Reports commissioned by congressional offices or support agencies should be made publicly available online, by default.

Publish Statutes at Large

Congress has an unfulfilled role as an authoritative source of the Statutes at Large, the official collection of laws that have passed, which is published in chronological order. The Statutes at Large should be published online in a single location.

Archive Member and Committee Sites

When congressional websites disappear, we lose a chance to hold Members and committees accountable for their consistency and history. Member and committee websites should be archived from Congress to Congress, and made available in a way that enables committees to link to an archived history of their sites. The National Archives and Records Administration should have the funding, expertise and mandate to reliably archive all official sites.

Other Changes

There are opportunities to increase transparency throughout the Rules of the House. By changing wording or requirements even slightly, congressional procedures can become more open, inclusive and ethical. The changes tighten ethics requirements, add digital or structured data requirements or expand existing disclosures. Other specific changes are included below:

Archival Information

The blanket prohibition on the disclosing of sensitive personal information in historical congressional records should be revised from current lengthy requirements to a shorter time period [p. 5, Rule 7, 3(b)3].

Access to Events

- The Rules about covering committee proceedings should read “audio, visual, *and electronic means via the Internet*” [p. 23, p. 24].
- Committee proceedings should be open to coverage by audio and visual means “and broadcast online by the committee and archived” [p. 24].
- The allocation of cameras for media coverage of committees shouldn’t be limited to radio and television coverage [p. 24].
- Television media “and other interested parties” may install additional lighting [p. 24, Rule XI, 4(f)(6)(B)].
- Bloggers should have a way to become accredited to cover the House [p. 24, Rule XI, 4(f)(10)].
- Conference committee proceedings should be public and streamed online. The rules should include the following: “and live-streamed video of the proceedings should be made available online and be archived,” and any decision by the conference committee to

close the meeting to the public should be decided “with” debate and decided “by a roll call vote” of the yeas and nays [p. 38, Rule XXII, 12(a)(2)].

Conflicts Identification and Reporting

- Replace “significant” with “substantial” in defining conditions in which House employees are prohibited from certain activities [p. 39, Rule XXIII, 12(a)]. Waivers of this prohibition should also be made available online [12(b)].
- Honoraria should be disclosed online when received by a Member [p. 40, Rule XXV, 1(a)(2)].
- If a Member of Congress serves as an uncompensated board member, the Member should publicly disclose that fact. The Rules should insert “(f)”: “serve as a non-compensated member of a board without disclosing the board membership publicly and to the ethics committee” [p. 41, Rule XXV, 2]. The Clerk will keep and make publicly available online a central registry of such affiliations.
- Under gifts because of official position, insert “in part because” of the official position of such individual [p. 42, Rule XXV, 5(a)(2)(B)(i)].
- All contributions to legal defense funds should be disclosed [p. 42, Rule XXV, 5(a)(3)(E)].
- All honorary degrees should be disclosed, along with any expenses associated with their bestowing [p. 42, Rule XXV, 5(a)(3)(K)].
- Regarding donations to charitable organizations, in lieu of an honorarium, disclosures of the name of or information about the charity should be made available online [p. 44, Rule XXV, 5(a)(6)(f)(2)(C)].
- Regarding disclosure of employment negotiations, strike “directly” and after “negotiate” insert: “directly or indirectly” and make documents of employment agreements available online [p. 53, Rule XXVI, 1].
- Regarding flights on private aircraft, flight logs should be maintained and disclosed along with the name/relationship of the personal friend of the Member [p. 39, Rule XXIII, 15(b)(2) - 15(b)(3)].

Lobbying Disclosure and Limitations

- Contractors hired by one committee should not be permitted to lobby another committee on a related issue. Regarding contractors lobbying other committees, under *18(b) of Rule XXIII* on p. 40: (1) “If a committee has contracted an employee, it must disclose the names of all contractors hired” and (2) “Contractors are prohibited from lobbying any other committees on matters associated with the work of the committee for which they have been hired.”
- The prohibition on giving gifts to Members should be expanded beyond registered lobbyists or agent of a foreign principal, to include “or person who has hired or directed such individuals” [p. 42, Rule XXV, 5(a)(3)(P)], so that the gift prohibition applies to those individuals as well.
- Regarding Member travel, after registered lobbyist or agent of a foreign principal, insert “or person who has hired or directed such individuals” [p. 44, Rule XXV, 5(a)(6)(c)(1)(A)... 5(a)(6)(c)(3)... 5(a)(6)(d)(1)(D)] and that prior approval for such trip is published online [Rule XXV, 5(a)(6)(d)(2)].
- Regarding reimbursements by educational institutions, insert: “and is related to the pedagogical purpose of the institution an not research or other noneducational work” [p.

Campaign-Related

- Use of campaign funds for official business should be disclosed (i.e. what the funds were spent for and why) [p. 40, Rule XXIV, 1(b)(2)].
- Regarding political campaign funds, strike “need not be included in any report filed pursuant to this title” and insert “must be filed, including expenditures for family members” [p. 49, Sec 102, middle column, (g)].
- The Clerk and Secretary should implement technical means to aid in determining whether candidate names filed with the FEC correlate with filings in the House [p. 50, Sec 103].

Online Publication of Documents or Records

- The Congressional Record should also be made available online in a structured data format [p. 30].
- All amendments in the committee of the whole should be posted online [p. 31, Rule XVIII, 5(b)].
- Recorded votes should be required to be posted online in a structured format, as is already customary [p. 32, Rule XX, 2(a)].
- Conference Reports should be printed as a report of the House “and made available online” [p. 37, Rule XXII, 7(e)].
- Resolutions waiving consideration requirements should be made available online before their consideration [p. 37, Rule XXII, 8(e)].
- Analysis of Conference Reports’ tax code effects should be printed in the Congressional Record “and made available online” [p. 38, Rule XXII, 11(b)]. (This refers to tax complexity analysis.)
- Advance authorizations, certifications and disclosures should be posted online, as soon as they are received or within 5 days [p. 44, Rule XXV, 5(a)(6)(b)(5)] with respect to transportation, lodging or related expenses on official business.
- To strengthen financial disclosures, insert “and online in machine readable format as soon as they are received” [p. 45, Rule XXVI, 1].

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