

110TH CONGRESS
1ST SESSION

H. RES. 895

Establishing within the House of Representatives an Office of Congressional Ethics, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 19, 2007

Mr. CAPUANO submitted the following resolution; which was referred to the Committee on House Administration, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Establishing within the House of Representatives an Office of Congressional Ethics, and for other purposes.

1 *Resolved,*

2 **SECTION 1. ESTABLISHMENT OF THE OFFICE OF CONGRES-**
3 **SIONAL ETHICS.**

4 (a) ESTABLISHMENT.—For the purpose of assisting
5 the House in carrying out its responsibilities under article
6 I, section 5, clause 2 of the Constitution (commonly re-
7 ferred to as the “Discipline Clause”), there is established
8 in the House an independent office to be known as the

1 Office of Congressional Ethics (hereinafter in this section
2 referred to as the “Office”).

3 (b) BOARD.—(1) The Office shall be governed by a
4 board consisting of six individuals of whom three shall be
5 designated as appointees of the Speaker and three as ap-
6 pointees of the minority leader. Each position shall be ap-
7 pointed jointly by the Speaker and the minority leader
8 within 90 days after the date of adoption of this resolution
9 or within 90 days after the expiration of their terms, as
10 applicable, except as otherwise provided herein. If any po-
11 sitions on the board remain vacant at the end of such time
12 period, then the appointments shall be made by the Speak-
13 er or minority leader, as applicable.

14 (2) The Speaker and the minority leader each shall
15 appoint individuals of exceptional public standing who are
16 specifically qualified to serve on the board by virtue of
17 their education, training, or experience in one or more of
18 the following fields: legislative, judicial, regulatory, profes-
19 sional ethics, business, legal, and academic.

20 (3) The Speaker shall designate one member of the
21 board as chairman. The minority leader shall designate
22 one member of the board as cochairman. The cochairman
23 shall act as chairman in the absence of the chairman.

1 (4)(A) Selection and appointment of members of the
2 board shall be without regard to political affiliation and
3 solely on the basis of fitness to perform their duties.

4 (B)(i) No individual shall be eligible for appointment
5 to, or service on, the board who—

6 (I) is a lobbyist registered under the Lobbying
7 Disclosure Act of 1995;

8 (II) has been so registered at any time during
9 the year before the date of appointment;

10 (III) engages in, or is otherwise employed in,
11 lobbying of the Congress;

12 (IV) is an agent of a foreign principal reg-
13 istered under the Foreign Agents Registration Act;

14 (V) is a Member; or

15 (VI) is an officer or employee of the Federal
16 Government.

17 (ii) No individual who has been a Member, officer,
18 or employee of the House may be appointed to the board
19 sooner than one year after ceasing to be a Member, officer,
20 or employee of the House.

21 (5) A vacancy on the board shall be filled for the un-
22 expired portion of the term, utilizing the process set forth
23 in paragraph (1).

24 (6)(A) Except as provided by subparagraph (B),
25 terms on the board shall be for two Congresses. A member

1 of the board may not serve during more than four consecu-
2 tive Congresses.

3 (B) Of the individuals appointed in the 110th Con-
4 gress to serve on the board, 4 shall be designated at the
5 time of appointment to serve only for the remainder of
6 that Congress. Any such individual may be reappointed
7 for an additional term of two Congresses.

8 (C) Any member of the board may be removed from
9 office for cause by the Speaker and the minority leader,
10 acting jointly, but not by either, acting alone.

11 (7) A member of the board shall not be considered
12 to be an officer or employee of the House, but shall receive
13 a per diem equal to the daily equivalent of the minimum
14 rate of basic pay payable for GS-15 of the General Sched-
15 ule for each day (including travel time) during which such
16 member is engaged in the performance of the duties of
17 the board.

18 (8) A majority of the members of the board shall con-
19 stitute a quorum.

20 (9) The board shall meet at the call of the chairman
21 or a majority of its members pursuant to its rules.

22 (c) POWERS.—The board is authorized and directed
23 to:

24 (1)(A) Within 7 calendar days (excluding Sat-
25 urdays, Sundays, and public holidays) after receipt

1 of a joint written request from any 2 members of
2 the board to all board members to undertake a pre-
3 liminary review of any alleged violation by a Mem-
4 ber, officer, or employee of the House of any law,
5 rule, regulation, or other standard of conduct appli-
6 cable to the conduct of such Member, officer, or em-
7 ployee in the performance of his duties or the dis-
8 charge of his responsibilities, along with a brief de-
9 scription of the specific matter, notify in writing—

10 (i) the Committee on Standards of Official
11 Conduct of that preliminary review and provide
12 a statement of the nature of the review; and

13 (ii) any individual who is the subject of the
14 preliminary review and provide such individual
15 with a statement of the nature of the review.

16 (B) Within 30 calendar days or 5 legislative
17 days, whichever is later, after receipt of a request
18 under subparagraph (A), complete a preliminary re-
19 view.

20 (C) Before the end of the applicable time pe-
21 riod, vote on whether to terminate the preliminary
22 review of the matter under consideration. If the
23 board does not vote affirmatively to terminate the
24 preliminary review before the end of the applicable
25 time period (with not less than 4 members voting to

1 terminate), the board shall commence a second-
2 phase review of the matter under consideration. The
3 board shall notify, in writing, the individual who was
4 the subject of the preliminary review and the Com-
5 mittee on Standards of Official Conduct of its deci-
6 sion to either terminate the preliminary review or
7 commence a second-phase review of the matter. If
8 the board votes to terminate the preliminary review,
9 then it may send a report and any findings to such
10 committee.

11 (2)(A)(i) Except as provided by item (ii), com-
12 plete a second-phase review within 45 calendar days
13 or 5 legislative days, whichever is later, after the
14 board commences such review.

15 (ii) Extend the period described in subpara-
16 graph (A) for one additional period of 14 calendar
17 days upon the affirmative vote of a majority of its
18 members, a quorum being present.

19 (B) Transmit to the Committee on Standards
20 of Official Conduct a recommendation that a matter
21 requires further review only upon the affirmative
22 vote of not less than 4 members of the board.

23 (C) Upon the completion of any second-phase
24 review undertaken—

1 (i) transmit to the Committee on Stand-
2 ards of Official Conduct the following—

3 (I) a written report composed solely
4 of—

5 (aa) a recommendation that the
6 committee should dismiss the matter
7 that was the subject of such review;

8 (bb) a statement that the matter
9 requires further review; or

10 (cc) a statement that the matter
11 is unresolved because of a tie vote;
12 and

13 the number of members voting in the af-
14 firmative and in the negative and a state-
15 ment of the nature of the review and the
16 individual who is the subject of the review;

17 (II) its findings, if any, composed
18 solely of—

19 (aa) any findings of fact;

20 (bb) a description of any relevant
21 information that it was unable to ob-
22 tain or witnesses whom it was unable
23 to interview, and the reasons therefor;

1 (cc) a recommendation for the
2 issuance of subpoenas where appro-
3 priate, if any; and

4 (dd) a citation of any relevant
5 law, rule, regulation, or standard of
6 conduct;

7 but not the names of any cooperative wit-
8 nesses or any conclusions regarding the va-
9 lidity of the allegations upon which it is
10 based or the guilt or innocence of the indi-
11 vidual who is the subject of the review; and

12 (III) any supporting documentation;
13 and

14 (ii) transmit to the individual who is the
15 subject of the second-phase review the written
16 report of the board described in clause (i).

17 (D) Hold such hearings as are necessary and
18 sit and act only in executive session at such times
19 and places and solicit such testimony and receive
20 such relevant evidence as may be necessary to carry
21 out its duties.

22 (E) Pay witnesses appearing before the Office
23 in the same manner as prescribed by clause 5 of rule
24 XI of the Rules of the House of Representatives.

1 (F) Adopt rules to carry out its duties, which
2 shall include each of the following:

3 (i) A rule requiring each member of the
4 board and of the staff of the Office, before un-
5 dertaking any work on behalf of the Office, to
6 execute the following oath (or affirmation) in
7 writing: “I do solemnly swear (or affirm) that
8 I will not disclose to any person or entity out-
9 side the Office of Congressional Ethics any in-
10 formation received in the course of my service
11 with the Office except as authorized by the Of-
12 fice or in accordance with its rules.” Copies of
13 the executed oath shall be provided to the Clerk
14 as part of the records of the House.

15 (ii) A rule providing that—

16 (I) the board may vote to terminate a
17 preliminary review on any ground, includ-
18 ing that the matter under review is de
19 minimis in nature; and

20 (II) the board may vote to recommend
21 to the Committee on Standards of Official
22 Conduct that the committee should dismiss
23 a matter that was the subject of a second-
24 phase review on any ground, including that

1 the matter under review is de minimis in
2 nature.

3 (iii) A rule requiring that all witnesses sign
4 a statement acknowledging their understanding
5 that the text of section 1001 of title 18, United
6 States Code (popularly known as the False
7 Statements Act) applies to their testimony and
8 to any documents they provide.

9 (iv) A rule requiring that there be no ex
10 parte communications between any member of
11 the board and any individual who is the subject
12 of any review by the board or between any
13 member and any interested party.

14 (v) A rule that establishes a code of con-
15 duct to govern the behavior of its members and
16 staff, which shall include the avoidance of con-
17 flicts of interest.

18 (d) REQUESTS FROM COMMITTEE ON STANDARDS OF
19 OFFICIAL CONDUCT.—(1) Notwithstanding any other pro-
20 vision of this section, upon receipt of a written request
21 from the Committee on Standards of Official Conduct that
22 the board cease its review of any matter and refer such
23 matter to the committee because of the ongoing investiga-
24 tion of such matter by the committee, the board shall refer
25 such matter to the committee and cease its preliminary

1 or second-phase review, as applicable, of that matter and
2 so notify any individual who is the subject of the review.
3 In any such case, the board shall send a written report
4 to the committee containing a statement that, upon the
5 request of that committee, the matter is referred to it for
6 its consideration, but not any findings.

7 (2) If the Committee on Standards of Official Con-
8 duct notifies the board in writing that it is unable to re-
9 solve any matter described in paragraph (1), the board
10 shall immediately begin or continue, as the case may be,
11 a second-phase review of the matter.

12 (e) LIMITATIONS ON REVIEW.—No review shall be
13 undertaken by the board of any alleged violation of law,
14 rule, regulation or standard of conduct not in effect at
15 the time of the alleged violation; nor shall any review be
16 undertaken by the board of any alleged violation that oc-
17 curred before the date of adoption of this resolution.

18 (f) PROHIBITION ON PUBLIC DISCLOSURE.—(1) No
19 information or testimony received shall be publicly dis-
20 closed by any member of the board or staff of the Office.
21 Any breaches of confidentiality shall be investigated by the
22 Office and appropriate action shall be taken.

23 (2) Paragraph (1) shall not preclude presenting its
24 report or findings or testifying before the Committee on
25 Standards of Official Conduct by any member of the board

1 or staff of the Office if requested by such committee pur-
2 suant to its rules.

3 (3) Before the board transmits any report to the
4 Committee on Standards of Official Conduct relating to
5 official conduct of any Member, officer, or employee of the
6 House, it shall provide that individual the opportunity to
7 present, orally or in writing (at the discretion of the
8 board), a statement to the board.

9 (g) PRESENTATION OF REPORTS TO COMMITTEE ON
10 STANDARDS OF OFFICIAL CONDUCT.—Whenever the
11 board transmits any report to the Committee on Stand-
12 ards of Official Conduct relating to official conduct of any
13 Member, officer, or employee of the House, it shall des-
14 ignate a member of the board or staff to present the report
15 to such committee if requested by such committee.

16 (h) COMPENSATION OF STAFF.—Upon the affirma-
17 tive vote of at least 4 of its members, the board may ap-
18 point and fix the compensation of such professional, non-
19 partisan staff as it considers necessary to perform its du-
20 ties.

21 (i) TERMINATION OF STAFF.—Members of the staff
22 may be terminated during a Congress solely by the affirm-
23 ative vote of at least 4 members of the board.

24 (j) REIMBURSEMENTS.—The board may reimburse
25 its members and staff for travel, subsistence, and other

1 necessary expenses incurred by them in the performance
2 of their duties in the same manner as is permissible for
3 such expenses of other employees of the House.

4 (k) AGREEMENTS; RETENTION OF DOCUMENTS BY
5 THE CLERK.—(1) Before any individual who is appointed
6 to serve on the board may do so, the individual shall exe-
7 cute a signed document containing the following state-
8 ment: “I agree not to seek any Federal public office until
9 at least 3 years after I am no longer a member of the
10 board of the Office of Congressional Ethics.”

11 (2) Copies of the signed and executed document shall
12 be retained by the Clerk as part of the records of the
13 House. The Clerk shall make the signatures a matter of
14 public record, causing the names of each individual who
15 has signed the document to be published in a portion of
16 the Congressional Record designed for that purpose, and
17 make cumulative lists of such names available on the web
18 site of the Clerk.

19 (l) FUNDING.—There shall be paid out of the applica-
20 ble accounts of the House such sums as may be necessary
21 for the expenses of the Office. Such payments shall be
22 made on vouchers signed by the chairman of the board
23 and approved in the manner directed by the Committee
24 on House Administration. Amounts made available under
25 this section shall be expended in accordance with regula-

1 tions prescribed by the Committee on House Administra-
2 tion.

3 (m) DEFINITION.—As used in this section, the term
4 “Member” means any Representative in, or Delegate or
5 Resident Commissioner to, the Congress.

6 **SEC. 2. FINANCIAL DISCLOSURE REPORTS.**

7 Rule XXVI of the Rules of the House of Representa-
8 tives is amended by adding at the end the following new
9 clause:

10 “3. Members of the board of the Office of Congres-
11 sional Ethics shall file annual financial disclosure reports
12 with the Clerk of the House on or before May 15 of each
13 calendar year after any year in which they perform the
14 duties of that position. Such reports shall be on a form
15 prepared by the Clerk that is substantially similar to form
16 450 of the Office of Government Ethics. The Clerk shall
17 send a copy of each such report filed with the Clerk within
18 the seven-day period beginning on the date on which the
19 report is filed to the Committee on Standards of Official
20 Conduct and shall have them printed as a House docu-
21 ment and made available to the public pursuant to clause
22 1.”.

1 **SEC. 3. CONFORMING AMENDMENTS TO THE RULES OF**
2 **THE HOUSE.**

3 Clause 3 of rule XI of the Rules of the House of Rep-
4 resentatives is amended as follows:

5 (1) In paragraph (b)(2), strike “or” at the end
6 of subparagraph (A), strike the period and insert “;
7 or” at the end of subparagraph (B), and add at the
8 end the following new subparagraph:

9 “(C) upon receipt of a report regarding a refer-
10 ral from the board of the Office of Congressional
11 Ethics.”

12 (2) At the end of paragraph (b), add the fol-
13 lowing new subparagraph:

14 “(8)(A) Except as provided by subdivisions (B), (C),
15 and (D), not later than 45 calendar days or 5 legislative
16 days, whichever is later, after receipt of a written report
17 and any findings and supporting documentation regarding
18 a referral from the board of the Office of Congressional
19 Ethics or of a referral of the matter from the board pursu-
20 ant to a request under paragraph (r), the chairman of the
21 Committee on Standards of Official Conduct shall make
22 public the written report and findings of the board unless
23 the chairman and ranking member, acting jointly, decide
24 or the committee votes to withhold such information for
25 not more than one additional period of the same duration,
26 in which case the chairman shall—

1 “(i) upon the termination of such additional pe-
2 riod, make public the written report and findings;
3 and

4 “(ii) upon the day of such decision or vote,
5 make a public statement that the committee has
6 voted to extend the matter relating to the referral
7 made by the board of the Office of Congressional
8 Ethics regarding the Member, officer, or employee of
9 the House who is the subject of the applicable refer-
10 ral.

11 At least one calendar day before the committee makes
12 public any written report and findings of the board, the
13 chairman shall notify such board and the applicable Mem-
14 ber, officer, or employee of that fact and transmit to such
15 individual a copy of the statement on the committee’s dis-
16 position of, and any committee report on, the matter.

17 “(B)(i) Notwithstanding subdivision (A)(i), if the
18 committee votes to dismiss a matter which is the subject
19 of a referral from the board of the Office of Congressional
20 Ethics, the committee is not required to make public the
21 written report and findings described in such subdivision
22 unless the committee’s vote is inconsistent with the rec-
23 ommendation of the board. For purposes of the previous
24 sentence, a vote by the committee to dismiss a matter is

1 not inconsistent with a report from the board respecting
2 the matter as unresolved due to a tie vote.

3 “(ii) Notwithstanding subdivision (A)(ii), if the board
4 transmits a report respecting any matter with a rec-
5 ommendation to dismiss or as unresolved due to a tie vote,
6 and the committee votes to extend the matter for an addi-
7 tional period as provided in subdivision (A), the committee
8 is not required to make a public statement that the com-
9 mittee has voted to extend the matter.

10 “(iii) Except as provided by subdivision (E), if the
11 committee establishes an investigative subcommittee re-
12 specting any such matter, then the report and findings
13 of the board shall not be made public until the conclusion
14 of the investigative subcommittee process and the com-
15 mittee shall issue a public statement of the establishment
16 of an investigative subcommittee, which statement shall
17 include the name of the applicable Member, officer, or em-
18 ployee, and shall set forth the alleged violation. If any such
19 investigative subcommittee does not conclude its review
20 within one year after the board transmits a report respect-
21 ing any matter, then the committee shall make public the
22 report and upon the expiration of the Congress in which
23 the report is made public, the committee shall make public
24 any findings.

1 “(C)(i) If, after receipt of a written report and any
2 findings and supporting documentation regarding a refer-
3 ral from the board of the Office of Congressional Ethics
4 or of a referral of the matter from the board pursuant
5 to a request under paragraph (r), the committee agrees
6 to a request from an appropriate law enforcement or regu-
7 latory authority to defer taking action on the matter—

8 “(I) notwithstanding subdivision (A)(i), the
9 committee is not required to make public the written
10 report and findings described in such subdivision,
11 except that if the recommendation of the board with
12 respect to the report is that the matter requires fur-
13 ther review, the committee shall make public the
14 written report but not the findings; and

15 “(II) before the end of the first day (excluding
16 Saturdays, Sundays, and public holidays) after the
17 day that the committee agrees to the request, the
18 committee shall make a public statement that it is
19 deferring taking action on the matter at the request
20 of such authority.

21 “(ii) If, upon the expiration of the one-year period
22 that begins on the date the committee makes the public
23 statement described in item (i)(II), the committee has not
24 acted on the matter, the committee shall make a new pub-
25 lic statement that it is still deferring taking action on the

1 matter, and shall make a new statement upon the expira-
2 tion of each succeeding one-year period during which the
3 committee has not acted on the matter.

4 “(D) The committee may not receive any referral
5 from the board of the Office of Congressional Ethics with-
6 in 60 days before an election in which the subject of the
7 referral is a candidate. The committee may delay any re-
8 porting requirement under this subparagraph that falls
9 within that 60-day period until the end of such period and
10 in that case, for purposes of subdivision (A), days within
11 the 60-day period shall not be counted.

12 “(E) If, at the close of any applicable period for a
13 reporting requirement under this subparagraph with re-
14 spect to a referral from the board of the Office of Congres-
15 sional Ethics, the vote of the committee is a tie or the
16 committee fails to act, the report and the findings of the
17 board shall be made public by the committee, along with
18 a public statement by the chairman explaining the status
19 of the matter.”.

20 (3) At the end, add the following new para-
21 graph:

22 “(r) Upon receipt of any written notification from the
23 board of the Office of Congressional Ethics that the board
24 is undertaking a review of any alleged conduct of any
25 Member, officer, or employee of the House and if the com-

1 mittee is investigating such matter, the committee may at
2 any time so notify the board and request that the board
3 cease its review and refer the matter to the committee for
4 its consideration. If at the end of the applicable time pe-
5 riod (including any permissible extension) the committee
6 has not reached a final resolution of the matter or has
7 not referred the matter to the appropriate Federal or
8 State authorities, the committee shall so notify the board
9 of the Office of Congressional Ethics in writing. The com-
10 mittee may not request the same matter from the board
11 more than one time.”.

12 **SEC. 4. EFFECTIVE DATE.**

13 This resolution and the amendments made by it shall
14 take effect on the date of its adoption, except that the
15 Office of Congressional Ethics shall not undertake any re-
16 view of any alleged violation by a Member, officer, or em-
17 ployee of the House of any law, rule, regulation, or other
18 standard of conduct applicable to the conduct of such
19 Member, officer, or employee in the performance of his
20 duties or the discharge of his responsibilities before 120
21 days after the date of adoption of this resolution.

○