



April 22, 2022

The Honorable James P. McGovern
Chairman
Committee on Rules
House of Representatives
H-312 The Capitol
Washington, DC 20515

The Honorable Tom Cole
Ranking Member
Committee on Rules
House of Representatives
H-152 The Capitol
Washington, DC 20515

The Honorable Zoe Lofgren
Chairperson
Committee on House Administration
House of Representatives
1309 Longworth House Office Building
Washington, DC 20515

The Honorable Rodney Davis
Ranking Member
Committee on House Administration
House of Representatives
1309 Longworth House Office Building
Washington, DC 20515

Dear Chairman McGovern and Ranking Member Cole; Chairperson Lofgren and Ranking Member Davis:

Based on years-long work to strengthen the ability of congressional committees to conduct effective oversight, the Levin Center at Wayne Law and the Project On Government Oversight respectfully submit for your respective committees' consideration recommendations that could be accomplished through changes to the resolution establishing the Rules of the House or through revisions to existing House human resources or management policies.

The Levin Center, which is part of Wayne State University in Detroit, Michigan, works to strengthen the integrity, transparency, and accountability of public and private institutions through the promotion and support of bipartisan, fact-based legislative oversight; to advance good governance, particularly with respect to the legislative process; and to promote civil discourse on current issues of public policy.

The Project On Government Oversight (POGO) is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. POGO champions reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

Since 2015, the Levin Center and POGO, along with the Lugar Center, have offered “Oversight Boot Camps” twice a year for House and Senate staff from both political parties and from both committees and personal offices to produce a bipartisan, bicameral experience. To date, over 300 congressional staff have completed our boot camp instruction on how to do fact-based, bipartisan, in-depth investigations. The Levin Center and POGO have also worked on a range of other efforts to strengthen congressional oversight, including developing recommendations that have met with the approval of the House Select Committee on the Modernization of Congress.

To further enhance Congress’ ability to conduct effective oversight, we would like to suggest the following modest reforms, all of which could be effected through changes to House Rules or to House human resources or management policies:

1. Allow only bipartisan committee websites.
2. Encourage the use of bipartisan committee reports when possible.
3. Require bipartisan administrative personnel in oversight committees.
4. Improve questioning of witnesses during oversight hearings.
5. Add bipartisan oversight workshops to the Congressional Staff Academy and Congressional Leadership Academy.
6. Include a bipartisan oversight session in the New Member Orientation.
7. Support creation of a process to issue congressional legal opinions.

All of these suggestions are further described in the attachment to this letter.

Thank you for your consideration of these modest reforms to strengthen congressional oversight. For more information, please have your staff contact Elise Bean at the Levin Center at elise.bean@wayne.edu and Tim Stretton at POGO at tim.stretton@pogo.org.

Sincerely,



Jim Townsend
Director,
Levin Center at Wayne Law



Danielle Brian
Executive Director,
Project On Government Oversight

Enclosure: 1

Levin Center-POGO Oversight Recommendations

To further strengthen Congress's ability to conduct fact based, bipartisan oversight, the Levin Center at Wayne Law and the Project On Government Oversight recommend the following modest reforms, all of which could be effected through changes to House Rules or House human resources or management policies. The oversight functions of Congress are essential to creating an accountable federal government and upholding our democracy's system of checks and balances.

Allow Only Bipartisan Committee Websites

The Problem: The House now permits committees to create partisan websites that post information prepared exclusively by the majority or minority. This practice contributes to partisanship at the committee level, impedes bipartisan oversight, makes it more difficult for the public to follow committee activities, and increases taxpayer costs by requiring the upkeep of two websites instead of one. The use of partisan websites also risk losing online committee records after changes in the majority party or committee leadership. On December 8, 2021, the House Select Committee on the Modernization of Congress issued Civility Recommendation 11 endorsing bipartisan committee websites. Senate committees already typically use bipartisan websites.

Proposed Change: Amend House Rule X, clause (4), or issue a new management policy requiring committees to merge any existing, partisan websites into a single website for each committee and require each committee website to identify all committee and subcommittee members, present nonpartisan information about the committee and its activities (including all oversight activities), and include a section allowing the majority and minority to each post joint, majority, or minority committee-related news releases. Committee websites that combine information from the majority and minority will encourage bipartisan committee operations and oversight efforts, aid the public in following committee activities, better safeguard committee records, and reduce taxpayer costs by maintaining one website instead of two.

Encourage Use of Bipartisan Committee Reports When Possible

The Problem: Committees conducting oversight often issue reports summarizing their factual findings and recommendations, but on occasion the majority and minority issue separate reports on the same investigation. Separate reports encourage partisan analysis, make it more difficult for the public to understand the committee's oversight work and any areas of disagreement among committee members, and increase taxpayer costs by producing two reports instead of one. Committees also risk losing copies of minority reports that are posted solely on minority committee websites. A better practice is for committees to issue a single report which includes any additional or dissenting views of committee members. As POGO pointed out in a 2017 report, *Necessary and Proper: Best Practices for Congressional Investigations*, Senate committees often produce bipartisan reports that include lengthy additional or dissenting views, demonstrating the practicality of that approach for House committees.

Proposed Change: Amend House Rule X, clause (2), or issue a new management policy encouraging House committees conducting oversight investigations, if a decision is made to issue a report on one or more aspects of an inquiry, to produce a single oversight report combining majority and minority views whenever possible, rather than separate majority and minority reports, and to include within the joint report any additional or dissenting views by committee members. Committee reports that incorporate additional or dissenting views will encourage bipartisan committee operations, aid the public in understanding the committee’s work and any areas of disagreement among committee members, better safeguard committee records, and reduce taxpayer costs by producing one report instead of two.

Require Bipartisan Administrative Clerks in Oversight Committees

The Problem: Some House committees and subcommittees employ separate administrative personnel for the majority and minority. As a result of being employed by one group of members rather than the full committee, administrative personnel may perceive their duty to lie not with the overall committee but with one side of the aisle. A committee’s administrative tasks should be executed in a nonpartisan manner, including such oversight-related tasks as preparing and issuing subpoenas, logging in documents, releasing deposition transcripts, preparing reports, announcing hearings, compiling hearing records, and archiving investigative materials. In addition, administrative committee staff answering to both sides of the aisle may remain with the committee longer, building institutional knowledge including on oversight matters. In the 116th Congress, the Modernization Committee issued Recommendation 74 calling for committees to “hire bipartisan staff approved by both the Chair and Ranking Member to promote strong institutional knowledge, evidence-based policy making, and a less partisan oversight agenda.” Senate committees already follow this practice.

Proposed Change: Amend House Rule X, clause 9, or issue a new human resources and management policy requiring House committees and subcommittees to hire administrative personnel on a bipartisan basis and allocate employee compensation between the majority and minority on a roughly 50-50 basis. Joint administrative personnel will eliminate duplication by employing fewer administrative staffers, encourage bipartisan administration of committee oversight tasks, and free up limited resources for other oversight professionals.

Improve Questioning of Witnesses During Oversight Hearings

The Problem: Currently, House rules encourage committees to place a five-minute limit on questions asked by House members during hearings. Short-duration questioning too often diminishes the gravity and coherence of oversight hearings, leaves members struggling to get answers to their questions, and gives the impression that members are insensitive to witnesses. Five-minute question limits also produce abrupt topic changes that can make an oversight hearing difficult to follow and produce exchanges that are not conducive to a useful hearing record. In the 116th Congress, the House Select Committee on the Modernization of Congress issued Recommendation 73 calling for committees to “experiment with alternative hearing

formats to encourage more bipartisan participation.” During the 117th Congress, the Modernization Committee modeled the use of relaxed time limits during its oversight hearings. In the Senate, some committees and subcommittees have long used alternative time limits for questions during oversight hearings.

Proposed Change: Amend House Rule XI, clause 2(j)(2), or issue a new management policy eliminating the one-hour aggregate limit on extended time periods for questioning witnesses, allowing the chair and ranking member of a committee or subcommittee to reach agreement on questioning one or more witnesses for equal time periods without first having to obtain a motion or rule to do so, and encouraging committee members to delegate their allotted time periods to other committee members when it would facilitate a hearing. Longer time periods for questioning witnesses will encourage more respectful, coherent, and productive oversight hearings.

Add Bipartisan, Fact-based Oversight Workshop to the Congressional Staff Academy and Congressional Leadership Academy

The Problem: To deter members of Congress, their staffs, and committee staff from treating oversight investigations as a partisan exercise, and to demonstrate how oversight inquiries can bridge political divides and provide effective reviews of government programs and private sector activities, more oversight training and workshops are needed. Currently, the Congressional Staff Academy offers no training on using fact-based, bipartisan oversight to strengthen rather than weaken committee and member relationships, civility, and collaboration. In addition, limited or no consideration has been given to providing a bipartisan, fact-based oversight workshop for members in the upcoming Congressional Leadership Academy.

Since 2006, POGO’s Congressional Oversight Initiative has worked to help Congress perform one of its most important constitutional responsibilities: overseeing the executive branch. Over the past 15 years we have trained thousands of congressional staff—Democrats and Republicans, House and Senate, and from nearly every committee office and many personal offices—on the best investigative and oversight practices through our monthly oversight trainings. Additionally, since 2015, POGO, the Levin Center, and the Lugar Center have held twice yearly bipartisan training sessions for congressional staff, called “[Oversight Boot Camps](#),” to hone the skills needed to conduct fact-based, bipartisan, in-depth inquiries. Our two-day boot camps combine staff from the House and Senate, and from both parties, in investigative exercises that, to date, have trained over 300 staffers. In recent years, we’ve received over 100 applications for the 25 spots available in each boot camp, demonstrating the strong demand for civil, effective, bipartisan oversight training. Bootcamp participants are put into bipartisan groups, often with their committee counterparts on the other side of the aisle or on the other side of the Capitol, helping to create invaluable working relationships.

In the 116th Congress, the Modernization Committee issued Recommendations 32 and 63 calling for increasing “bipartisan learning opportunities for staff” and “staff certifications” in congressional skills. On December 8, 2021, the Modernization Committee also recommended

that the proposed Congressional Leadership Academy and Congressional Staff Academy offer voluntary training to members and staff to promote civility, leadership, and collaboration skills.

Proposed Change: Encourage the Chief Administrative Officer (CAO) to ask the Congressional Staff Academy and the Congressional Leadership Academy to work with outside organizations that provide effective oversight workshops to offer educational and professional development opportunities on conducting high-quality, fact-based, bipartisan oversight investigations. Also encourage the CAO to prioritize offering a staff certification for Oversight Investigators through the Congressional Staff Academy.

Include Bipartisan Oversight Session in the New Member Orientation

The Problem: To prevent newly-elected House members from treating oversight investigations as a partisan exercise and to provide them with basic information about Congress' oversight responsibilities and capabilities, the 2022 New Member Orientation should include a bipartisan session on oversight. In December 2020, at the invitation of this Committee, the first ever New Member Orientation oversight workshop was held, and featured four panelists: the Government Accountability Office, House Office of the Whistleblower Ombuds, Levin Center, and POGO. Although it was offered to all new members, because a Democratic leadership session was held at the same time, only Republican members attended. During the 116th Congress, the Modernization Committee issued Recommendations 12-14 calling for "offering new-Member orientation in a nonpartisan way," providing "opportunities for members to collaborate in small groups," "making new-Member orientation more comprehensive," and "promoting civility during new-Member orientation." On December 8, 2021, the Modernization Committee also recommended that New Member Orientation sessions be held separately from party leadership events so that all members may attend and include material to promote bipartisan collaboration.

Proposed Change: Sponsor another bipartisan workshop on congressional oversight during the 2022 New Member Orientation, schedule the workshop at a time when members from both parties may attend, and if possible, include interactive oversight exercises. A bipartisan New Member Orientation oversight workshop will help foster relationships between new members, improve civility, and build trust among new members.

Support Process to Issue Congressional Legal Opinions

The Problem: The Executive branch derives great value from the opinions issued by the Justice Department's Office of Legal Counsel (OLC) which shape public and judicial views of the law. However, these opinions overwhelmingly favor executive branch interests at the expense of Congress, and contribute to the overreach of executive power. It is crucial that Congress develop its own process for issuing respected, persuasive legal opinions on its legislative and oversight authorities. Congress has previously considered establishing a bicameral legal office to articulate and defend its institutional interests and authorities, including during the drafting of the Ethics in Government Act of 1978. Although the OLC objected to a 1975 bill seeking to establish such an office, then called the Office of the Congressional Legal Counsel, the Department later agreed to

an iteration of that office included in the Senate version of the Ethics in Government Act after negotiations with lawmakers. Proposals to strengthen the House Office of General Counsel and the Office of Senate Legal Counsel have also been considered from time to time. In October 2022, the House Committee on the Modernization of Congress sent a letter to the Government Accountability Office (GAO) asking it to study the feasibility and possible functions of a Congressional Office of Legal Counsel.

Proposed Change: Join the Select Committee on the Modernization of Congress in encouraging the Government Accountability Office to study the feasibility and possible functions of a Congressional Office of Legal Counsel, and issue a management policy in favor of establishing a process to issue bipartisan, bicameral, congressional legal opinions on the legislative and oversight powers of Congress. Congress has a strong interest in protecting and asserting its constitutional prerogatives so it can obtain the information it needs to effectively conduct oversight and its legislative duties. To develop an effective process, this Committee should encourage GAO to examine how a congressional counterpart to the executive branch's OLC should be structured, what functions and authorities that office should have, and how the office should interact or intersect with the functions and powers of existing legal support offices in Congress.