

Five Proposals to Amend House Rules

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The Levin Center for Oversight and Democracy proposes the following five changes to House rules for the 118th Congress to encourage civility, bipartisanship, higher quality oversight, and cost savings.

(1) Amend House rules to improve questioning of witnesses at oversight hearings.

Problem: Right now, the five-minute limit routinely placed on Member questions during oversight hearings too often diminishes the gravity and coherence of the sessions, leaves Members struggling to get answers to their questions, and gives the impression that legislators are rude or insensitive to witnesses. Short-duration questioning also produces abrupt topic changes that can make an oversight hearing seem confusing or even chaotic. The resulting exchanges are not conducive to producing a useful hearing record or promoting public understanding of issues or respect for the institution.

Solution: House rules should be amended to enable committees conducting an oversight hearing to extend question periods beyond the five-minute segments typical of most House hearings. The rule should enable the committee chair and ranking member to agree to allow each side to question a witness or a panel for an equal time period longer than five minutes. The rules could also explicitly enable committee members to delegate their time to another committee member. These changes would align with 116th SCMC Recommendations 73 and 76 which call for “committees to experiment with alternative hearing formats to encourage more bipartisan participation,” and “to pilot rules changes that could have a positive effect committee-wide.”

Implementation: Amend House Rule XI, clause 2(j)(2) as follows:

(2)(A) Subject to subdivisions (B) and (C), each committee shall apply the five-minute rule during the questioning of witnesses in a hearing until such time as each member of the committee who so desires has had an opportunity to question each witness. **Any committee member may, at any time, delegate their five minutes to another committee member to extend the time available for that member’s questioning of a witness.**

(B) A committee may adopt a rule or motion permitting a specified number of its members to question a witness for longer than five minutes. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and the minority party ~~and may not exceed one hour in the aggregate.~~ **In an oversight hearing, the committee chair and ranking minority member may agree to question witnesses or witness panels for longer than five minutes, and any such agreement shall require that the time for extended questioning of a witness or witness panel shall be equal for the majority party and the minority party.**

(C) A committee may adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness for equal specified periods. The time for

extended questioning of a witness under this subdivision shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

(2) Amend House rules to require bipartisan committee websites.

Problem: Today House committees create partisan websites in which majority and minority committee staffs post information wholly disconnected from their colleagues across the aisle. Partisan websites make it more difficult for viewers to learn about and compare the activities of both parties, encourage more extreme rhetoric, and have led to some minority oversight reports, press releases, or entire websites disappearing when committee leadership or majorities change.

Solution: House rules requiring bipartisan committee websites would ensure that both parties have input to the same committee platform, and viewers can see and compare materials from both parties at the same time. Bipartisan websites might also help tamp down partisan rhetoric and miscommunications between the parties. In addition, they would help ensure that materials from both parties are preserved as House records and save money by enabling committees to pay for one instead of two websites. Most Senate committees already use bipartisan websites. These changes would align with 117th Congress SCMC Recommendation 128 stating that “Committees should have a bipartisan, public-facing website with basic, nonpartisan information about the committee and its operations.”

Implementation: Amend House Rule X, clause (4)(d)(1) as follows:

(d)(1) The Committee on House Administration shall—

...

(E) establish and maintain standards for making documents publicly available in electronic form by the House and its committees; **and**

(F) establish and maintain standards for committee websites, requiring them to be bipartisan, public-facing platforms with basic, nonpartisan information about the committee and its operations, and barring creation of any partisan committee website.

(3) Amend House rules to require committees to post all majority and minority reports on the committee website in a section designated for committee reports.

Problem: An important part of the oversight work by the House is the issuance of reports on oversight inquiries by its committees, but in recent years, some committee reports have become difficult to locate, are inaccessible due to broken electronic links, or have disappeared entirely due to deletion of the hosting website.¹ In addition, while some House committees archive their reports in designated sections of their websites, other committees do not. As a consequence,

¹ See “A New Database for Congressional Oversight Reports,” Grace Moore, 68 Wayne Law Review 213 (2022), <http://waynelawreview.org/a-new-database-for-congressional-oversight-reports/>.

House members, experts, scholars, the media, and the public face multiple hurdles to locate House records documenting majority and minority oversight efforts.

Solution: House rules should be amended to require committees to post all of their majority and minority oversight reports on their websites to ensure those reports are preserved and accessible for all committee members as well as experts, scholars, the media, and the public. Routine posting of committee reports on committee websites would also help ensure that both majority and minority reports are archived, thereby preserving important House records that today too often go missing. This change would align with 117th Congress SCMC Recommendation 188 calling for the “maintenance and development of House digital infrastructure” and with 116th Congress SCMC Recommendation 76 which calls for committees to pilot “rules changes that could have a positive effect committee-wide.”

Implementation: Amend House rule X, clause (4)(d)(1)(E) as follows:

(d)(1) The Committee on House Administration shall—

...

(E) establish and maintain standards for making documents publicly available in electronic form by the House and its committees, **including by requiring committees to post all majority and minority reports on the committee website in a section designated for committee reports.**

(4) Amend House rules to require bipartisan administrative personnel in oversight committees.

Problem: Currently, in some House committees and subcommittees, the majority and minority staffs each hire their own administrative personnel, paying for staffers handling similar duties. Employees hired on a partisan basis may feel they answer to only one party and may insert partisan considerations into what should be nonpartisan tasks such as preparing and issuing subpoenas, logging in documents, releasing deposition transcripts, preparing reports, announcing hearings, compiling hearing records, and archiving investigative materials.

Solution: Amending House rules to require committee and subcommittee majority and minority staffs to hire administrative personnel jointly and share their compensation costs would help ensure that committee personnel operate in a nonpartisan manner. It would also save money by enabling committees to hire fewer administrative staffers. This approach is already used in the Senate and has encouraged more bipartisan, even-handed administration of oversight activities. This change would also align with 116th Congress SCMC Recommendation 74 which calls 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.”

Implementation: Amend House Rule X, clause (9)(i) as follows:

(i) Notwithstanding paragraph (a)(2), a committee may employ nonpartisan staff, in lieu of or in addition to committee staff designated exclusively for the majority or minority party, by an affirmative vote of a majority of the members of the majority party and of a majority of the members of the minority party. **Committees shall jointly hire nonpartisan staff to perform administrative functions in connection with oversight inquiries by the majority party or minority party and shall share compensation costs for those administrative staff.**

(5) Amend House rules to establish a system to issue legal opinions on oversight matters.

Problem: For decades, the Department of Justice (DOJ) [Office of Legal Counsel](#) (OLC) has issued legal opinions that provide guidance to Executive Branch agencies on how to respond to congressional information requests and instruct courts on how to adjudicate interbranch conflicts. Those OLC opinions invariably favor the Executive Branch over the Legislative Branch, one stark example being OLC opinions that claim senior presidential advisors are [immune](#) to congressional subpoenas,² the exact opposite of court decisions on the issue. To date, however, Congress has allowed those OLC opinions to remain unanswered. Neither the House nor Senate has a process to issue official legal opinions on behalf of the institution providing guidance to congressional committees, federal agencies, and the courts on matters related to oversight. The result is a weakened and disadvantaged Congress compared to the Executive Branch.

Solution: House rules should be amended to establish a bipartisan task force to propose a process for issuing on behalf of the House thoughtful, well-supported, bipartisan legal opinions on oversight matters. Those legal opinions would help the House establish its own oversight norms, educate members and staff, improve committee oversight practices, inform the Executive Branch of Congress' oversight expectations, and advance oversight effectiveness. The legal opinions would also strengthen the hand of Congress in court. This change would align with 116th Congress SCMC Recommendations 81 and 82 calling for identifying how increased “legal resources could help strengthen the role of the legislative branch” and facilitating “a true system of checks and balances by ensuring the legislative branch is sufficiently represented in the courts.”

Implementation: Amend House rule X, clause (2), by creating a new subsection at the end as follows:

(f) The Speaker and Minority Leader shall together form a bipartisan task force with an equal number of members from the majority party and minority party and the House General Counsel to propose a process to develop, issue, and make publicly available legal opinions representing the House as an institution on matters related to oversight.

² <https://www.justice.gov/olc/file/1183271/download>