

Ethics Landscape in the 112th Congress: Rules Remain Tight and OCE Reauthorized

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In the 112th Congress, the House "Committee on Standards of Official Conduct" received a name change to the "Committee on Ethics."

Other than this change—which formally recognizes the name by which the Committee has always been known informally—the tough House ethics rules and procedural landscape in the 112th Congress remain essentially unchanged from the 111th Congress. Likewise in the Senate, where the chamber's rules carry over from one Congress to the next, going into the 112th Congress, there are no changes to Senate ethics rules and procedures.

But don't let maintenance of the ethics *status quo* in the House and Senate lead to complacency in organizational compliance efforts. Remember that the congressional gift rules still prohibit gifts from registered lobbyists or private entities that retain or employ lobbyists unless a specific exception applies. And, under the Lobbying Disclosure Act (LDA), registrants and lobbyists must still certify on their LD-203 forms on a semiannual basis that they have read and are familiar with the House and Senate rules on gifts and travel, and that they have not provided, requested or directed any gift, including travel, with knowledge that receipt of the gift would violate these rules. (Of course, all the other LD-203 contribution reporting requirements continue to apply as well.)

While, as noted, the House travel rules remain unchanged in the new Congress, these rules call on the Committee to revise "as necessary" on an annual basis certain of its regulations relating to privately funded travel expenses and approval. So, the House Ethics Committee may adjust its travel regulations in the 112th Congress. Along these lines, in January 2010, the Committee did empanel "a bipartisan working group to assess and make recommendations

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regarding its process for the review and approval of privately-funded, officially connected travel” Although the House Ethics Committee announced that this working group would seek public input during its review process, nothing more has yet been heard from this working group or about this group's process or review. Perhaps it will resurface in the 112th Congress. (The Senate Ethics Committee is also empowered to revise its travel regulations on a periodic basis.)

In the area of ethics enforcement in the House, the biggest news so far in the New Year, and new Congress, is that the Office of Congressional Ethics (the OCE) has been reauthorized for the 112th Congress, with its jurisdiction and powers neither increased nor diminished. This means that the OCE still lacks subpoena power, but it may still issue broad requests for voluntary production of information and documents to individuals and entities outside of Congress (and may still draw-and report-a “negative inference” from what it deems to be a “refusal to cooperate”).

So, the House and Senate ethics landscape may not have changed in the 112th Congress, but that means the same land mines and pitfalls are still in place for lobbyists and for corporations and associations that retain or employ them. Caution, care and compliance should still be the watchwords.