

Select Recommendations for Updating the House Rules 117th Congress

Introduction

Demand Progress released 129 recommended updates to the Rules of the House of Representatives and separate orders the House should adopt for the 117th Congress as part of an August 20, 2020 report.¹ The report is the culmination of months of work, reflects significant engagement with experts on Congress, and addresses ten major thematic areas.

We recognize the volume of recommendations in the full report can be overwhelming, so the following document highlights 13 reforms that the House should consider. We chose these particular reform recommendations based on how feasible they are to implement, the extent to which they would strengthen the House of Representatives, their political viability, and their overall significance to Congressional operations.

1. Improve staff benefits

The House of Representatives should be a more inclusive and welcoming workplace that retains expert staff. Accordingly, we recommend the House adopt a baseline of benefits for all staff, which are to be centrally administered and paid out of a dedicated fund.² Those benefits should include 12 weeks of paid family and medical leave at 2/3s the regular pay rate, educational loan repayments up to \$80,000 to all staff after 1 year of service,³ 60 calendar days of paid health care for any staffer after their Member leaves office, a housing stipend with a locality adjustment for staff and Members living in Washington, D.C., and additional child care space or subsidies for staff and Members with children under the age of 2. In addition, maximum staff pay should be set on the same maximum scale as executive branch staff. We also recommend a comprehensive overhaul and expansion of the House's Human Resources Office, which among its many duties would include the creation of broad pay bands, promotion schedules, and COLA rates for personal and committee offices.⁴

2. Centralize Agency Reports to the House

The House should modernize how agency reports to the House are tracked and stored, which would facilitate Congressional understanding of Executive branch activities and reduce duplicative reports. The Clerk of the House already maintains a publicly-available list of reports *mandated* to be provided by Executive Branch agencies to the Congress, but includes only

¹ See Recommendation for Updating the House Rules 117th Congress, Demand Progress (August 20, 2020), https://s3.amazonaws.com/demandprogress/reports/Recommendation_for_Updating_the_House_Rules_117th_Congress.pdf.

² Section 4, items 1-7. See pages 16 and 17 of the full report.

³ The House FY21 Legislative Branch Appropriations report, page 22 https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/FY21LB_38861.pdf#page=22

⁴ The House FY21 Legislative Branch Appropriations report requested the CAO to produce a report with recommendations on how to improve retention and bring staff salaries in line with executive agency equivalents. See page 11 https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/FY21LB_38861.pdf#page=11

reports due to the House and Senate, not its committees and subcommittees. House Rule II, clause 2 should be amended to require the list of mandatory reports include all mandated reports to either chamber or committees thereof.⁵ In addition, the Clerk should compile a publicly-available list of reports *requested* in committee report language, and after an appropriate time period and in the absence of a committee objection, should release those reports to the public.⁶

3. Improve Member Collaboration with Legislative Service Organizations

Legislative Service Organizations are the predecessors to Congressional Member Organizations (i.e. caucuses), and historically provided a forum for Members of Congress to collaborate on issues of interest. The most famous of the LSOs was the Democratic Study Group. These organizations provided research, staff support, coordination, and produced a variety of legislative products that helped Members engage in the legislative process. Unlike modern CMOs, LSOs received significant financial support and played a far greater role than CMOs do today. We recommend creating modern LSOs that can hire staff, receive separate office space, maintain an online presence, and are subject to appropriate oversight mechanisms.⁷ Unlike CMOs, which are funded by Members from their MRAs, each Member would be able to designate up to a maximum of \$10,000 from a separate (centrally administered) fund to go towards the LSOs of their choice.

4. Empower the House as a Litigator

The House of Representatives is at a serious disadvantage when it comes to enforcing its subpoenas, holding witnesses in contempt, and advancing its legal theories in the courts.⁸ We recommend the House General Counsel study and report on legislative recommendations to strengthen the House's statutory contempt powers, including improving the processes by which claims are resolved. In addition, just as the Department of Justice's Office of Legal Counsel has shaped the court's views by publishing its opinions online, the House General Counsel should also routinely publish its views about legal matters on its website, accompanied by the filings in the cases where it intervenes. The group that oversees that office, the Bipartisan Legal Advisory Group, should publish basic information about its operations and when it determines the House should intervene in litigation.

5. Empower Subcommittee Chairs

Each subcommittee chair should be provided committee funds for a designee who serves on the full committee in support of the subcommittee but is hired and removed by the

⁵ Section 6, item 1. See page 24 of the full report.

⁶ Section 2, item 4. See page 7 of the full report.

⁷ Section 3, item 2. See page 12 of the full report.

⁸ Section 6, items 9-11. See pages 25 and 26 of the full report.

subcommittee chair.⁹ This is a historical practice of the House that would empower subcommittee chairs to be more active and be guaranteed the support they need to operate effectively.

6. Ethics Fixes: House Ethics and OCE

Several changes to House Ethics proceedings would have a significant salutary effect.¹⁰ First, the House Ethics Committee should have the option of releasing a substantially completed report under circumstances where a Member departs from Congress. This will allow Members under investigation to clear their names (when appropriate) and encourage Members who have committed significant transgressions to depart once an investigation has started. Second, the appointment process of Board Members to the Office of Congressional Ethics should be restored to prior practices where the nomination of a Board Member by one party must receive the agreement of the other party, which would avoid the appointment of polarizing Members. Finally, OCE should be granted subpoena authority over non-Congressional entities and individuals so that it can obtain records from non-Congressional entities in the course of its fact-finding. Currently, many non-Congressional entities as a matter of policy will not provide records to OCE without a court order.

7. Legislative Branch Data Coordination Office

Technology in the legislative branch should be developed and supported in a more coordinated and collaborative fashion. Accordingly, the House should create a Legislative Branch Coordination Office, directed by a House Data Coordination Officer and, should the Senate establish a corresponding position, be coordinated in conjunction with the Senate.¹¹ The office should have the responsibilities of supporting efforts to coordinate the Bulk Data Task Force; tracking datasets released by the legislative branch; providing advice, guidance, and encouragement to offices regarding the publication of legislative branch information as data; supporting the annual Legislative Data and Transparency Conference; and supporting and providing assistance to the public with finding and obtaining legislative data.

8. Tracking Staff Diversity

The House of Representatives should improve its tracking of staff diversity. All new staff should provide demographic and other information upon their hiring to the Office of Diversity and Inclusion, as should all current staff.¹² Data about individuals should not be made publicly available, but aggregate information should be released semi-annually in a structured data format. In addition, select researchers should be allowed access to the data under circumstances that protects anonymity.

⁹ Section 2, item 18. See page 10 of the full report.

¹⁰ Section 5, item 1. See page 20 of the full report.

¹¹ Section 7, item 1. See page 27 of the full report. For a detailed discussion of how this could work, please see our testimony before the Senate Legislative Branch Appropriations Subcommittee (April 30, 2020), https://s3.amazonaws.com/demandprogress/testimony/Demand_Progress_Testimony_S_Leq_Br_Approps_FY_2021.pdf.

¹² Section 4, items 15 and 16. See page 19 of the full report.

9. Tracking the House's Vital Information

The House should track and publish basic information about its personnel and operations so that it can better understand and manage its activities.¹³ This data should be published in a dashboard providing crucial information about trends inside the House. Our recommendation is inspired by the *Vital Statistics on Congress* report published by the Brookings Institution. These vital statistics should contain: Demographics of Members of Congress; Demographics of personal, committee, leadership, and support office staff; Congressional Committee data, such as funding levels and number of staff; Congressional staff and operating expenses; historical reporting on spending by line items for the legislative branch; and so on. This information should be published in a structured data format, and could be overseen or produced in coordination with the Office of Diversity and Inclusion.

10. Classified Information and Clearances

Any committee with jurisdiction over information the Executive branch has deemed classified should be able to prompt a House floor vote on the release of that information — currently, this process is only available to the House Intelligence Committee.¹⁴ In addition, each Member of a committee that oversees classified matters (e.g. HPSCI, Armed Services, Appropriations, Foreign Affairs, Homeland Security, and Judiciary) should be afforded one personal office staffer with TS/SCI clearance to support the Member on relevant matters before that committee.

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11. Modernized House Calendar

The House should adopt a 3 week on 2 week off calendar, with appropriate exceptions as determined by the Majority Leader.¹⁶ This would reduce the number of Member travel days, increase the number of days the House is in session, and provide a regularity to the proceedings that allow Members and staff to better manage their time and have a better work-life balance.

12. Staff Unionization

Congressional staff should have a greater say regarding their pay, benefits, and the environment in which they work, and an appropriate mechanism to provide this balance is voluntary unionization of individual offices.¹⁷ Legislation to allow unionization was enacted in 1995, and the Office of Compliance promulgated regulations that govern this process. Many offices inside Congress were unionized at that time, including at the Library of Congress and the

¹³ Section 9, item 4. See page 33 of the full report.

¹⁴ Section 3, item 4. See page 13 of the full report.

¹⁵ Section 3, item 5. See page 13 of the full report. For more on clearances in the Congress, see “A Primer on Congressional Staff Clearances,” Daniel Schuman and Mandy Smithberger, February 5, 2020 https://s3.amazonaws.com/demandprogress/reports/A_Primer_on_Congressional_Staff_Clearances_2020-02-05.pdf

¹⁶ Section 3, items 6, 7, and 8. See pages 13 and 14 of the full report.

¹⁷ Section 4, item 13. See page 18 of the full report.

U.S. Capitol Police, but a provision held back unionization of personal, committee, leadership, and some support office staff pending the passage of a House resolution putting the regulation into effect. Accordingly, within 1 year, the House should put the regulation into effect after review to make sure the regulations would still work as intended.

13. Modernizing Congress

The House Select Committee on the Modernization of Congress was a success and its work should continue after its expiration.¹⁸ We recommend the creation of a formal collaborative working group between the Legislative Branch Appropriations Subcommittee and the Committee on House Administration, with full-time staff support and dedicated Members, to continue and expand upon that work with the sole focus of identifying and recommending ways to improve the operations of the House of Representatives.

In addition, the House of Representatives is in dire need of technology policy support and expert advice, a role formerly provided by the Office of Technology Assessment. We recommend that the House rules package endorse the concept of creating a modern OTA.

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¹⁸ Section 10, item 2. See page 35 of the full report.