



**citizens for responsibility
and ethics in washington**

February 10, 2011

Omar Ashmawy
Acting Staff Director
Office of Congressional Ethics
1017 Longworth HOB
Washington, DC 20515

Re: Request for Investigation into Conduct of Members who Sleep in their Offices

Dear Mr. Ashmawy:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that the Office of Congressional Ethics begin an investigation into the conduct of members of Congress who lodge in their House offices when in Washington, D.C.

Numerous press reports indicate that rather than seeking housing in Washington, D.C., many members of Congress have been sleeping in their Capitol Hill offices. The list of members appears to include, but likely is not limited to: Reps. Dan Boren (D-OK), John Carney (D-DE), Steve Chabot (R-OH), Jason Chaffetz (R-UT), Hansen Clarke (D-MI), Sean Duffy (R-WI), Stephen Fincher (R-TN), Jeff Flake (R-AZ), Chris Gibson (R-NY), Tim Griffin (R-AR), Paul Gosar (R-AZ), Trey Gowdy (R-SC), Morgan Griffith (R-VA), Luis Guittierrez (D-IL), Richard Hanna (R-NY), Joe Heck (R-NV), Bill Huizenga (R-MI), Bill Johnson (R-OH), James Lankford (R-OK), Dan Lipinski (D-IL), Kevin McCarthy (R-CA), Patrick Meehan (R-PA), Ben Quayle (R-AZ), Mike Quigley (D-IL), Todd Rokita (R-IN), Bobby Rush (D-IL), Paul Ryan (R-WI), David Schweikert (R-AZ), Steve Stivers (R-OH), John Sullivan (R-OK), Joe Walsh (R-IL), Todd Young (R-IN), and Tim Walberg (R-MI).¹ According to reports, these members sleep in their offices and use the House gym to shower.² One member estimated he will save \$20,000 a year by not paying for rent or parking;³ another indicated he would save \$2,000 a month.⁴

¹ Phil Hirschorn and Wyatt Andrews, One-Fifth of House Freshmen Sleep in Offices, *CBS News*, January 22, 2011; Chris Casteel, Boren Joins Ranks of Oklahoma Congressional Delegates Sleeping in their Offices at Night, *NewsOK*, January 8, 2011; Ashley Parker, For House Members Looking to Save Money, a Day at the Office Never Ends, *New York Times*, January 6, 2011; Erin Kelly, 3 Arizona Lawmakers Taking First Steps on Capitol Hill, *AZCentral.com*, November 20, 2010; Carol Felsenthal, All the Comforts of the House (of Representatives), *Chicago Mag.com*, May 18, 2010; Shawn Tully, Broke! Fixing America’s Fiscal Crisis, *Fortune*, March 4, 2010; Sarah Abruzzese, New Member Comes Packing a Cot, *Politico*, Nov. 19, 2008.

² Hirschorn & Andrews, *CBS News*, Jan. 22, 2011; Parker, *New York Times*, Jan. 6, 2011.

³ Hirschorn & Andrews, *CBS News*, Jan. 22, 2011.

⁴ Parker, *New York Times*, Jan. 6, 2011.

Superintendent of House office buildings Bill Weidemeyer reported that members sleeping in their offices adds some burden to the housekeeping staff. Further some of these members have complained about the noise of construction done after hours.⁵ Some critics of the practice have charged that it makes the House feel like a macho boys' club and promotes anti-Washington sentiment.⁶

Misuse of Official Resources

Members who sleep in House office buildings appear to violate House rules. The House Ethics Manual ("Ethics Manual") states "official resources of the House must, as a general rule, be used for the performance of official business of the House. This prohibition is derived from regulations of the House Administration Committee, contained in the Member's Handbook, providing official resources may be used to pay for "[o]nly expenses the primary purpose of which are official and representational."⁷ The Member Representational Allowance may only be used for official and representational expenses, it may not be used for personal expenses.⁸

Unless specifically authorized by an applicable provision of federal law, House rules, or committee regulations, no Member may benefit directly from the expenditure of the Member Representational Allowance.⁹ Further, "incidental personal use of equipment and supplies owned or leased by, or the cost of which is reimbursed by, the House of Representatives is permitted only when such use is negligible in nature, frequency, time consumed, and expense."¹⁰ The Member's handbook points out that "limited use of government resources to access the Internet, to send or receive personal e-mail, or to make personal phone calls is permissible . . ."

Members who sleep in their Capitol Hill office several nights each week are directly benefitting from the Member Representational Allowance. In addition, routinely using House facilities in this manner can hardly be considered "incidental personal use." As a result, it appears that members of Congress who sleep in their offices are misusing official resources.

⁵ Hirschhorn & Andrews, *CBS News*, Jan. 22, 2011.

⁶ Parker, *New York Times*, Jan. 6, 2011.

⁷ Member's Handbook, pp. 6-7; see also Ethics Manual, p. 125.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

Violation of the Tax Code

Lodging in the House without reporting imputable taxable income violates the Internal Revenue Code. This contrasts markedly with the way parking is treated.

According to the House Committee on Administration, under the tax code and IRS regulations, members of Congress and their employees with reserved parking have imputed taxable income of \$75 per month, based on the fair market value of a parking space at the House of Representatives, which is \$290.00 per month.¹¹ If parking is a taxable fringe benefit, then surely, so is lodging. Therefore, at the very least members of Congress who sleep in House office buildings should have the fair market value of their housing – anywhere from \$1,500 to \$2,000 a month -- attributed to them as imputed taxable income.

In addition to House rules, the tax code makes clear that the sort of lodging of which members are taking advantage is not a fringe benefit that may be excluded from taxation. Under Internal Revenue Code § 119, lodging may be an excluded fringe benefit only if it is offered on the employer's business premises, is for the employer's convenience, and is required as a condition of employment.¹² As no member of Congress is obliged to live in a House office building as a condition of employment, such lodging constitutes a fringe benefit on which members of Congress must pay taxes.

Violation of House Rule 23

Finally, Rule 23 of the House Ethics Manual requires all members of the House to conduct themselves “at all times in a manner that reflects creditably on the House.”¹³ This ethics standard is considered to be “the most comprehensive provision” of the code.¹⁴ When this section was first adopted, the Select Committee on Standards of Official Conduct of the 90th Congress noted it was included within the Code to deal with “flagrant” violations of the law that reflect on “Congress as a whole,” and that might otherwise go unpunished.¹⁵

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http://cha.house.gov/index.php?option=com_content&view=article&id=163&Itemid=189.

¹² Internal Revenue Service, Taxable Fringe Benefit Guide, p. 41, January 2011.

¹³ Rule 23, cl. 1.

¹⁴ House Comm. on Standards of Official Conduct, House Ethics Manual, p. 12 (110th Cong. 2d sess.).

¹⁵ House Comm. on Standards of Official Conduct, Report Under the Authority of H. Res. 418, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

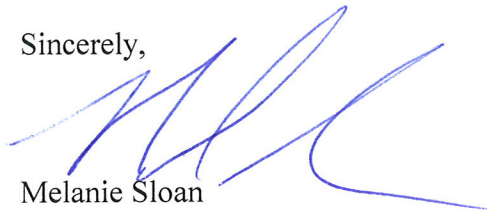
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It is unseemly for members of Congress to sleep in House offices, thereby increasing the work of housekeeping staff and interfering with necessary maintenance and construction. It is also distasteful for members who sleep in their offices to wander the halls in sweat clothes or robes in search of a shower. Such conduct undermines the decorum of the House of Representatives.

By using official resources for personal use, by failing to pay taxes on imputed income and by interfering with House upkeep, members of Congress who reside in their offices are not acting in a manner that reflects creditably on the House. The Office of Congressional Ethics should commence an immediate investigation into this conduct and forward this matter to the House Committee on Standards of Official Conduct for appropriate action.

I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,



Melanie Sloan
Executive Director
Citizens for Responsibility and
Ethics in Washington