

GAO

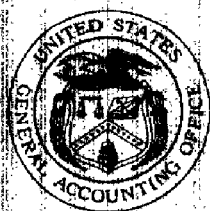
United States General Accounting Office

**Report to the Committee on Standards
of Official Conduct, House of
Representatives**

March 1994

**FINANCIAL
DISCLOSURE**

**Implementation of
Statute Governing
House and Legislative
Agency Personnel**



General Government Division

B-254224

March 16, 1994

The Honorable Jim McDermott, Chairman
The Honorable Fred Grandy
Ranking Minority Member
Committee on Standards of
Official Conduct
House of Representatives

The Ethics in Government Act of 1978, as amended, requires us to conduct studies regularly to determine whether the provisions of title I governing financial disclosure of federal personnel are being carried out. This report, which focuses on the House of Representatives, recognizes the progress that has been made in implementing title I and points out certain issues that, in our opinion, require further action or consideration by your Committee, which is the supervising ethics office for the House.

We are also issuing a companion report¹ to the Senate Select Committee on Ethics, which focuses on the Committee's review of financial disclosure reports in the Senate. In 1993, we issued a report on the judicial branch² addressing its procedures for implementing the title I provisions of the act.

Results in Brief

Since the passage of the Ethics Reform Act of 1989, which amended the Ethics in Government Act of 1978, the House Committee on Standards of Official Conduct has modified and improved its financial disclosure report review system. Actions taken included using state election offices to identify candidates who must file reports, reviewing reports within 60 days of receipt, notifying filers when additional information is needed, ensuring that filers' reporting errors are corrected, and assessing late filing fees. The actions that have been taken are positive steps; however, some procedures can be further improved. For example, financial disclosure reports reviewed by the Committee do not contain a reviewer's signature or a certification statement that the report appears to be in compliance with the applicable laws and regulations. The reviewer's signature and statement of compliance are required by title II of the Ethics Reform Act of 1989.

¹Financial Disclosure: Implementation of Statute Governing Senate and Legislative Agency Personnel (GAO/GGD-94-77, Mar. 16, 1994).

²Financial Disclosure: Implementation of Statute Governing Judicial Branch Personnel (GAO/GGD-93-85, Apr. 27, 1993).

More than 2,000 House Members, House employees, and employees of 6 legislative agencies³ file financial disclosure statements with the Committee on Standards of Official Conduct. Although the Committee can compare the reported information to statutory limitations, the Committee staff is not likely to have in-depth knowledge of the types of work that each filer performs and thus may not be in the best position to identify all potential conflicts between the filer's duties and the reported financial interests. The Senate and the executive branch supplement their respective versions of the House Committee's review by providing for a review by someone in the filer's supervisory chain—someone with more direct knowledge of the filer's duties and responsibilities.

Background

Financial disclosure reports are designed to provide a system for senior government officials to disclose, in a form open to public scrutiny, their financial interests. This procedure is done to identify conflicts between the officials' financial interests and the interests of the public they serve. The law requires that filers disclose income, financial transactions, assets, liabilities, and certain other financial information.

In 1991, 2,192 House Members, officers, employees, principal assistants, candidates, and employees of certain legislative agencies filed financial disclosure reports with the House of Representatives. Generally, financial disclosure reports were required from persons who made \$72,298 or more annually in 1990. Table 1 presents the number of filers by category.

Table 1: Number of Individuals Filing Financial Disclosure Reports for Each Category of Filer in 1991

Category of filer	Number of filers
Members and Delegates of the House of Representatives	434
Officers and employees of the House	728
Principal assistants in the House	278
Terminating Members, officers, and employees of the House and legislative agencies	153
Candidates for the House	205
Legislative agencies' employees	394
Total	2,192

Source: GAO's analysis of the U.S. House of Representatives' financial disclosure system's Registrant Reports By Category.

³The six legislative agencies that report to the House are Architect of the Capitol, United States Botanic Garden, Congressional Budget Office, Government Printing Office, Library of Congress, and Copyright Royalty Tribunal.

Within the House of Representatives, the House Committee on Standards of Official Conduct is responsible for reviewing financial disclosure reports to ensure that the reports comply with applicable laws and regulations. The Committee's staff reviews the reports to ensure that (1) the reported information is in the proper format; (2) sufficient information is provided to allow the public, media, and others viewing the reports to determine the nature and extent of the filer's financial interests; and (3) the reports are in compliance with certain restrictions, such as those dealing with receiving honoraria, gifts, and outside employment and income that could represent personal financial conflicts of interest. (The laws and regulations having relevance to financial disclosure reports filed in the House of Representatives are presented in app. I.)

Objectives, Scope, and Methodology

Section 108 of the Ethics in Government Act, as amended, requires the Comptroller General to regularly perform studies of whether the financial disclosure provisions contained in title I are being carried out effectively by the executive, legislative, and judicial branches. We focused this review primarily on the House's system for implementing new filing and reviewing provisions established by the act.

To determine how the statutory provisions addressing the review of public disclosure reports in section 106 of the Ethics in Government Act were being carried out by the supervisory ethics office for the House of Representatives, we determined what policies, regulations, and procedures had been established for implementing the provisions. To identify these policies, regulations, and procedures, we interviewed the counsel and other staff members of the Committee on Standards of Official Conduct. The Committee is to establish the procedures and its staff is to perform the reviews of financial disclosure reports and recommend penalties. We also met with the staff of the Office of Records and Registration—the office that receives the reports and makes them available to the public—and legal and personnel officials who handle financial disclosure reports in the three legislative agencies that have the most employees filing with the House. We also reviewed the House filing form and reporting instructions, the House Rules, and the House Ethics Manual.

To observe the internal controls for implementing the act's filing and review provisions, we reviewed a random sample of 20 of the 2,192 financial disclosure reports filed in 1991. We limited the sample size

because of corrective actions taken by the Committee in response to a GAO report on the legislative branch's financial disclosure systems.⁴

Our review of the reports in our sample was aimed at (1) testing whether established procedures for reviewing the reports were being followed and (2) observing the Committee's actual practices in administering applicable statutory controls for reviewing reports. In reviewing the reports, we completed a standard data collection instrument to record data on implementation of various sections of the act related to reviewing public reports. Specifically, we gathered data on the type of procedures used in reviewing reports, the extent to which review was done on actions that could have resulted in conflicts of interest, actions taken by the filers to correct errors or omissions in reporting, and applicable laws and regulations. We did not attempt to second guess the reviewers' judgments of the disclosure reports.

Our review was done from April 1992 through June 1993 in accordance with generally accepted government auditing standards.

The House Committee on Standards of Official Conduct Has Improved Its Financial Disclosure Filing and Review System

Since the passage of the Ethics Reform Act of 1989, the Committee on Standards of Official Conduct has modified its financial disclosure review system in an effort to implement newly established provisions of the Ethics in Government Act. We found that the Committee complied with the following new provisions added by the Ethics Reform Act of 1989. The Committee

- reviewed disclosure reports within 60 days of receipt, as required by section 106 (a)(2) of the act;
- determined when additional information was required and notified the filers of the information needed to complete their report, as required by section 106 (b)(2)(A) of the act;
- assessed \$200 filing fee penalties for reports filed over 30 days late, as required by section 104 (d) of the act; and
- issued reporting instructions that incorporated all of the filing requirements imposed by the Ethics Reform Act of 1989 that had not been required by the previous legislation.

The Committee also implemented several recommendations from our September 1989 report, which dealt with the Committee's report filing and

⁴Financial Disclosure: Legislative Branch Systems Improved But Can Be Further Strengthened (GAO/GGD-89-103, Sept. 8, 1989).

review systems. For example, our review showed that information submitted by filers to correct reporting deficiencies was not reviewed by the Committee to see whether the information corrected the deficiencies. In response, the Committee implemented procedures so that timely and correct amendments were made to financial disclosure reports that the Committee had found to be in error. In addition, we found that the Committee experienced difficulty in identifying certain individuals who were required to file reports. The Committee took action to correct this problem by requesting that the election offices of each state and the various legislative agencies notify the Committee of all the candidates and employees who meet the criteria requiring them to file financial disclosure reports.

Financial Disclosure Reports Need to Be Signed and Certified

The report form used by the Committee on Standards of Official Conduct in 1991 did not contain a statement certifying that, in the opinion of the reviewer, the financial information in the report was in compliance with applicable laws and regulations. The report form also did not include a space for the reviewer's signature. Section 106 (b)(1) of the act requires the reviewer to state on the report whether in his/her opinion, the individual is in compliance with applicable laws and regulations and to sign the report. This certification, which has been a long-standing requirement applicable to reports filed by executive branch personnel, became effective January 1, 1991, for legislative branch reports and is being implemented for disclosure reports filed in the Senate.

Under the House's procedures for report filing, filers are to send the original and one copy of their report (two copies for Members) to the Office of Records and Registration (ORR) in the Office of the Clerk of the House of Representatives. ORR is to forward the original report to the Office of Advice and Education and make a computerized copy of the remaining report. The Committee is to then decide within 30 days when copies of the reports are to be made available to the public.

Each report received by the Committee is assigned to and reviewed by an auditor and an attorney, but neither places any comments on the report. Instead, the reviewers use a separate checklist. The auditor reviews the report first and initials and dates the checklist when the review of the report is complete. A Committee attorney then reviews each report and checklist to decide whether any other deficiencies exist and whether the deficiencies identified by the auditor warrant further action, such as obtaining additional information from the filer. When the attorney makes a

final determination that the report is in compliance, the attorney initials the checklist and places an upward arrow on the checklist. Although the Director of the Office of Advice and Education⁵ said that these initials signified that the report was in compliance with title I of the Ethics in Government Act, we do not believe this procedure meets the level of formal record that the statute requires for report approval.

Financial Conflict-Of-Interest Reviews Could Be Made More Comprehensive

The Committee on Standards of Official Conduct reviews personal financial conflict-of-interest situations that can be assessed solely on the basis of information contained in the reports. Limitations on the amounts of gifts and outside employment income a filer can receive annually are examples of the types of situations that can be assessed in this manner.

Report reviewers in the House Committee on Standards of Official Conduct are far removed from most filers and thus are not likely to have in-depth knowledge of the types of work each report filer performs. Reviewers are able to use information contained in the reports to evaluate some activities that relate to financial conflicts of interest. For example, the reviewers can and do evaluate financial restrictions on (1) gift amounts, (2) donations to charities in lieu of honorarium, and (3) outside employment and income. These restrictions, such as whether the value of gifts received exceeds the \$250 annual limitation, can be assessed from the information presented in the report. The Director of the Office of Advice and Education has said that the staff in this office does not have sufficient knowledge of the work performed by most of the employees in the House and the six legislative agencies to compare the type of work being performed to the filer's reported interests to identify and resolve any other conflicts. Officials also told us that they do not believe it is the role of the Committee to review for potential conflicts that are not solely discernable from the information on the report.

Historically, the House of Representatives has viewed the public, rather than internal government reviewers, as the monitor for such personal financial conflict-of-interest situations. For example, the House Bipartisan Task Force of Ethics described the objectives of financial disclosure as follows:

"The principal objectives of financial disclosure are to inform the public about the financial interests of government officials in order to deter potential conflicts of interest and to

⁵The Office of Advice and Education is an office in the Committee on Standards of Official Conduct, which was established in 1990 to provide confidential advice to Members, officers, and employees of the House of Representatives.

increase public confidence in the integrity of government officials. Public disclosure of the financial interests and outside business activities of Members of Congress enables their constituents to monitor any potential conflicts of interest and to evaluate their performance of official duties in light of those private interests and activities."

"The task force believes, in light of the ten year history of the disclosure law under the Ethics in Government Act, that public financial disclosure, coupled with the discipline of the electoral process, remains the best safeguard and the most appropriate method to deter and monitor potential conflicts of interest in the legislative branch."

We agree that the public can and should be a monitor with respect to Members; however, we also note that the executive branch and the Senate use the employee forms more extensively. In the executive branch, designated ethics officials in each filer's agency normally serve as the reviewing officials for the agency's disclosure reports. Regulations issued in April 1992 require these officials to consider whether a supplemental review by the filer's supervisor should be obtained before making determinations that no interest or position disclosed on the form violates, or appears to violate, federal conflict-of-interest statutes and other applicable criteria. This consideration allows for a review by a supervisor who has more direct knowledge of the filer's duties and responsibilities than the designated ethics official. Also, Senate resolution 236 requires the Senate Ethics Committee to return copies of the financial disclosure reports to the filers' respective Senator or legislative agency. There are no similar requirements in the House.

The Committee's Chief Counsel said that the Committee is considering delegating responsibility to each legislative agency for reviewing agency financial disclosure reports. The Committee staff recognizes that because agency officials are more familiar with the duties of the filers and their agency's rules and regulations, they would be in a better position to review the reports to identify potential conflict-of-interest situations.

Conclusions

Although the House Committee on Standards of Official Conduct has modified and improved its financial disclosure report review system, additional actions could be taken to strengthen the system. More specifically, the procedure of initialing on a separate form, rather than signing the report, and not providing any further statement of opinion by the reviewing official that the report is in compliance with applicable laws and regulations, does not meet the requirements of section 106 (b)(1) of

the act. Also, opportunities exist to make more extensive use of the forms if the Committee wishes to do so.

Recommendations

We recommend that the House Committee on Standards of Official Conduct revise the Committee's procedures and disclosure report form to comply with statutory provisions requiring final reviewing officials to sign the reports and provide a positive assurance opinion.

Matters for Consideration by the Committee on Standards of Official Conduct

The Committee may wish to consider ways in which financial disclosure reports could be used more extensively. For example, the Committee could consider supplementing its review of legislative agency employee statements by providing for a review by someone in the filer's supervisory chain.

Committee Comments and Our Evaluation

During an exit conference, we obtained the views of representatives of the Committee on Standards of Official Conduct. They suggested technical changes to the report, which we made where appropriate.

We are sending copies of this report to other interested parties, and will also make copies available to others upon request.

The major contributors to this report are listed in appendix II. If you have any questions about this report, please contact me on (202) 512-5074.



Nancy Kingsbury
Director
Federal Human Resource
Management Issues

Written Criteria Applicable to the Review of Legislative Branch Personnel Financial Disclosure Reports

Title	Description
Applicable laws	
Title I of the Ethics in Government Act of 1978, as amended	Contains financial disclosure requirements of federal personnel.
Titles III and VI of the Ethics Reform Act of 1989	Contains provisions concerning gifts, outside employment and income, and honoraria.
18 U.S.C. 201	Prohibits receiving anything of value for performing official acts other than as provided by law.
18 U.S.C. 203	Prohibits officer or employee from receiving compensation for services rendered personally or by another person before any government department, court, or agency on any matter in which the United States is a party or has a direct and substantial interest.
18 U.S.C. 204	Prohibits any Member of Congress from practicing in the United States Claims Court or Court of Appeals.
18 U.S.C. 205	Prohibits officer or employee from acting as agent or attorney for anyone in a claim against the United States or before any department, agency, or court in a matter in which the United States is a party or has a direct or substantial interest.
18 U.S.C. 207	Prohibits Members, officers, and employees (including committee staff, leadership staff, and legislative offices staff) for a period of 1 year after leaving office, from knowingly making any communication to specified federal officials with the intent to influence.
18 U.S.C. 208	Prohibits officers and employees of the executive branch and General Accounting Office (does not apply to other legislative agencies or Congress) from substantial participation in a matter in which the person has a financial interest. The section also makes violators subject to criminal penalties.
Regulations	
House Rule 8	Requires a Member to vote on each question, unless the Member has a direct personal or pecuniary interest in the event of question.
House Rule 43 (3)	Prohibits a Member, officer, or employee from receiving compensation to the official's beneficial interest from any source, the receipt of which occurs by influence improperly exerted from the official's position in Congress.
House Rule 43 (4)	Prohibits a Member, officer, or employee from accepting gifts aggregating more than \$250 from any person during the calendar year, except to the extent permitted by written waiver or if each individual gift is less than \$100.
House Rule 43 (5)	Prohibits a Member, officer, or employee from accepting honorarium for a speech, writing for publication, or other similar activity.
House Rule 43 (12)	Prohibits any employee required to file a financial disclosure report from participating personally as an employee of the House in contact with any agency of the executive or judicial branch with respect to nonlegislative financial matters affecting any nongovernmental person in which the employee has a significant interest.
House Rule 47 (1)	Member, officer, or employee may not have outside earned income that exceeds 15 percent of the specified annual basic pay.
House Rule 47 (2)	Discusses the limitations on outside income and outside employment for Members, officers, and employees.
House Rule 47 (3)	Prohibits a payment, in lieu of honorarium, to exceed \$2,000 or be made to a charitable organization from which such individual or parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit.

(continued)

Appendix I
Written Criteria Applicable to the Review of
Legislative Branch Personnel Financial
Disclosure Reports

Title	Description
Other written criteria	
Financial disclosure statement instructions for House	Describes the preparation, filing, and review of financial disclosure reports; public access to reports; and regulations governing reporting.
House Ethics Manual	Contains procedures and rules for implementing title I of the Ethics Reform Act.

Source: Director, House Office of Advice and Education.

Major Contributors to This Report

General Government Division, Washington, D.C.

Timothy P. Bowling, Associate Director, Federal Human Resource
Management Issues
Norman A. Stubenhofer, Assistant Director, Federal Human Resource
Management Issues
Thomas C Davies, Jr., Evaluator-in-Charge
John J. Tavares, Advisor
Jeffrey W. Dawson, Evaluator

Office of the General Counsel, Washington, D.C.

V. Bruce Goddard, Senior Attorney

Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are \$2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

**U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015**

or visit:

**Room 1000
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC**

**Orders may also be placed by calling (202) 512-6000
or by using fax number (301) 258-4066.**

United States
General Accounting Office
Washington, D.C. 20548-0001

Bulk Mail
Postage & Fees Paid
GAO
Permit No. G100

Official Business
Penalty for Private Use \$300

Address Correction Requested

