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ONE HUNDRED ELEVENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515-6328

January 25, 2010

MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Zoe Lofgren, Chair
Jo Bonner, Ranking Republican Member

SUBJECT: The 2010 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees

A House employee's salary level may trigger certain public disclosure requirements and employment restrictions, including the:

1. Requirement to file financial disclosure (FD) statements;
2. Restrictions on outside employment; and
3. Post-employment restrictions.

This memorandum provides the triggering salary figures for calendar year (CY) 2010 for each of the categories noted above.

FINANCIAL DISCLOSURE

House officers and employees whose "rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule" for at least 60 days at any time during a calendar year are required to file FD statements, provided that the officer or employee "performs the duties of his [or her] position or office for a period in excess of sixty days in that calendar year."¹ The GS-15, step 1, basic pay rate for CY 2010 is \$99,628. The applicable 120% calculation for that rate for CY 2010 is **\$119,553.60**.²

As a result, House officers and employees whose basic rate of pay is equal to or greater than the senior staff rate (\$119,553.60 for CY 2010) for at least **60 days**³ during **2010** must file

¹ Ethics in Government Act (EIGA) §§ 109(13) and 101(d), 5 U.S.C. app. 4 §§ 109(13) and 101(d) (hereinafter all citations to the EIGA will be to the appropriate federal code citation). In addition, all House Members are required to file FD statements. 5 U.S.C. app. 4 §§ 101(e) and (f). Congressional candidates are required to file FD statements in most circumstances. 5 U.S.C. app. 4 § 101(c). This memorandum addresses requirements and restrictions applicable to House officers and employees.

² This amount is referred to as the "senior staff rate."

³ The House payroll department operates on a 30-day payroll cycle, meaning that each monthly pay period, regardless of its actual length, is counted as 30 days. Thus, a change to an employee's base rate of pay in any two months during the calendar year (even non-consecutive months) may trigger the requirement to file a Financial Disclosure Statement.

an FD statement on or before May 16, 2011.⁴ In addition, any new employee paid at the senior-staff rate must file a “new employee” FD statement within 30 days of assuming employment with the House.⁵

Please note that the requirement to file an FD statement covering calendar year 2009 applies to officers and employees whose basic rate of pay for at least 60 days in 2009 was \$117,787. Annual FD statements for CY 2009 are due on Monday, May 17, 2010, for those individuals who continue to be officers or employees of the House on that date.

In addition, House officers and employees paid at or above the senior staff rate for 60 days or more in a calendar year and terminate their House employment during that calendar year are required to file an FD statement within 30 days of their termination.⁶

THE OUTSIDE EARNED INCOME LIMIT AND OUTSIDE EMPLOYMENT RESTRICTIONS

House officers and employees whose rate of basic pay is equal to or greater than the senior staff rate for **more than 90 days** are subject to limits on the amount of outside earned income⁷ attributable to each calendar year.⁸ As noted above, the senior staff rate for CY 2010 is \$119,553.60.

The limit on outside earned income attributable to a calendar year is 15% of the rate of basic pay for Executive Schedule Level II in effect on January 1 of the year. The rate of basic pay for Executive Level II on that date was \$177,000.⁹ Accordingly, the outside earned income limit for House officers and employees paid at or above the senior staff rate for CY 2010 is \$26,550.¹⁰

⁴ 5 U.S.C. app. 4 §§ 101(c) and 109(f). Because May 15 falls on a Sunday in 2011, the due date for FD statements is the next business day, May 16, 2011.

⁵ See 5 U.S.C. app. 4 § 101(a). The only exception to this filing requirement is for new employees who assume employment with the House within 30 days of leaving a position with the federal government in which they filed a publicly-available financial disclosure statement. Individuals who are exempt from filing under these circumstances must notify the Clerk of the House in writing of that fact.

⁶ See 5 U.S.C. app. 4 § 101(e). The only exception is for filers who, within 30 days of their termination from the House, accept a position with the federal government that requires the filing of a publicly-available financial disclosure statement. Departing employees who are exempt from filing under these circumstances must notify the Clerk of the House in writing of that fact.

⁷ The term “outside earned income” means any “wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered” by a House Member, officer, or employee. House Rule 25, cl. 4(d)(1). It does not include the individual’s salary from the House, nor does it include income for services rendered before the individual was employed by the House. *Id.* at cls. 4(d)(1)(A), (B).

⁸ 5 U.S.C. app. 4 § 501(a)(1); House Rule 25, cls. 1(a)(1) and 4(a)(1).

⁹ This rate is set as of January 1, before the pay adjustments for CY 2010 went into effect on January 3, 2010. Thus, the percentage amount for CY 2010 must be calculated based on the 2009 salary level. See 5 U.S.C. app. 4 § 501(a)(1).

¹⁰ The outside earned income limit amount applies to Members as well. This amount is proportionally reduced when an individual becomes a Member, officer, or senior employee during the calendar year. For example, an individual who is hired into a senior staff position on July 1 has an outside earned limit that is one-half of the full amount, or \$13,478. See 5 U.S.C. app. 4 § 501(a)(2); House Rule 25, cl. 1(b).

House officers and employees¹¹ paid at or above the senior staff rate for more than 90 days are also subject to a number of specific limitations on the types of outside employment.¹² Detailed information regarding these limitations may be found on pages 213 to 238 of the *2008 House Ethics Manual*, which is available on the Committee's Web site (ethics.house.gov). The Committee's Office of Advice and Education (extension 5-7103) is available to explain these limitations further.

POST-EMPLOYMENT RESTRICTIONS

House Members and officers, as well as certain other House employees, are subject to post-employment restrictions on lobbying.¹³ A former employee of a Member, committee, or leadership office is subject to the restrictions if, for at least **60 days** during the one-year period preceding termination of House employment, the employee was paid at a rate equal to or greater than 75% of the basic rate of pay for Members at the time of termination.¹⁴ The basic rate of pay for Members in 2010 is \$174,000. Therefore, the post-employment threshold for employees who depart from a job in a Member, committee, or leadership office during 2010 is **\$130,500**. The triggering salary for employees of other House or legislative branch offices (such as the CBO, GAO, GPO, Capitol Police, Library of Congress, Clerk, Parliamentarian, Office of Legal Counsel, and Chief Administrative Officer) is Executive Schedule Level IV, which for 2010 is \$155,500.

Information on the post-employment restrictions applicable to Members, officers, and very senior staff is available in two Committee advisory memoranda, one for Members and one for officers and staff. Copies of both memoranda are available on the Committee Web site (ethics.house.gov).

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CALENDAR YEAR 2010

**OUTSIDE EARNED INCOME AND
OUTSIDE EMPLOYMENT THRESHOLD**

(for more than 90 days).....\$119,553.60

OUTSIDE EARNED INCOME LIMIT.....\$ 26,550.00

FINANCIAL DISCLOSURE THRESHOLD

(for 60 days or more)\$119,553.60

POST-EMPLOYMENT THRESHOLD

For employees of Member, committee, or leadership offices\$130,500.00

For employees of "other legislative offices"\$155,500.00

¹¹ Members are also subject to these restrictions.

¹² See 5 U.S.C. app. 4 § 502(a); House Rule 25, cls. 1-4.

¹³ 18 U.S.C. § 207.

¹⁴ This amount is referred to as the "very senior staff rate."