

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-1315**

August 23, 2021

The Honorable Theodore E. Deutch  
Chairman, Committee on Ethics  
U.S. House of Representatives  
1015 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Jackie Walorski  
Ranking Member, Committee on Ethics  
U.S. House of Representatives  
1015 Longworth House Office Building  
Washington, D.C. 20515

RE: APPEAL OF NOTIFICATION OF VIOLATION OF HOUSE RESOLUTION 38

Chairman Deutch and Ranking Member Walorski,

This letter serves as my official appeal of a notification of violation of House Resolution 38 (H.Res. 38), noticed on August 2, 2021, for a mask violation. I appeal this fine for the reasons enumerated below.

A Committee on Ethics document dated March 9, 2021 entitled, "Special Policies and Procedures Relating to Fine Notifications and Appeals" states in paragraph 10 that "the Committee may agree to an appeal if it determines the fine is **(a) arbitrary and capricious, an abuse of discretion, or otherwise not consistent with law or with principles of fairness** [emphasis added]; (b) not made consistent with required procedures; or (c) unsupported by substantial evidence."

On July 27, 2021, the Speaker reversed previous guidance lifting a mask mandate for Members and reinstated a mask mandate, which applied only to the House side of the Capitol complex. Guidance from the Attending Physician states, "[f]or all House Office Buildings, the Hall of the House, and House Committee Meetings, wearing of a well-fitted, medical grade, filtration face mask is required when an individual is in an interior space and other individuals are present. To be clear, for meetings in an enclosed US House of Representatives controlled space, masks are REQUIRED [emphasis in original]."

The guidance issued does not exempt the Speaker of the House from the mask mandate or the issuance of fines. Yet, the Speaker was photographed multiple times on July 28, July 30, and August 4, 2021, violating the mask mandate (see Attachment 1). The Speaker was photographed by journalists on the House side of the Capitol walking through the halls with other individuals present while not wearing a mask, standing in hallways with other individuals present while not wearing a mask, standing in interior space with other individuals present while not wearing a mask, and seated in interior space with other individuals present while not wearing a mask.

By failing to issue Speaker Pelosi a warning and fines for her multiple violations of the mask mandate but issuing warnings and fines to other members, the fine has become "arbitrary and

capricious, an abuse of discretion, or otherwise not consistent with law or with principles of fairness," according to the guidance from the Ethics Committee.

I also note that this Committee has recently upheld appeals of fines related to the metal detector rule for both Majority Whip James Clyburn (D-S.C.) and Rep. Hal Rogers (R-Ky.) and, given this arbitrary enforcement of House Rules, submit that if the rules are not enforced equally across the board, they should not be enforced at all.

Furthermore, I am appealing the fine because federal statutes set Congressional salary, because there is no statutory basis for the issuance of a fine to deprive a member of pay, and because no House Rule has undergone passage in both houses of Congress and been presented to the President as required by the Presentment Clause, which would permit the deprivation of property. In short, no resolution setting forth a rule can override statutory pay provisions that have been set forth in law.

I am also appealing the fine because the reduction in pay and fine under these circumstances violates the Twenty-Seventh Amendment to the United States Constitution, the First Amendment to the United States Constitution, the Fifth Amendment to the United States Constitution, and the Eighth Amendment to the United States Constitution.

Turning to the circumstances at issue; the fine is arbitrary and capricious, an abuse of discretion, and otherwise not consistent with law or with principles of fairness because it was not applied equally to Speaker Pelosi.

Thank you for your consideration.

Sincerely,



Mary E. Miller  
Member of Congress



ATTACHMENT 1: Photos of Speaker Pelosi violating mask guidance July 28 – August 4, 2021.



Speaker Pelosi not wearing a mask on the House side of the Capitol on July 28, 2021 ([Getty Images](#))



Speaker Pelosi not wearing a mask on the House side of the Capitol on July 30, 2021 ([Politico](#))





Speaker Pelosi not wearing a mask on the House side of the Capitol on July 30, 2021 ([AP Image](#))



Speaker Pelosi not wearing a mask on the House side of the Capitol on July 30, 2021 ([AP Image](#))





Speaker Pelosi not wearing a mask on the House side of the Capitol on July 30, 2021 ([AP Image](#))



Speaker Pelosi not wearing a mask on the House side of the Capitol on August 04, 2021 ([AP Image](#))