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Overview of Travel Rules for Congress

Travel by Members, Senators and congressional staff are subject to specific requirements described in the Rules of the House of Representatives and the Standing Rules of the Senate. Usually the travel regulations are similar for both houses of Congress, but the House and Senate separately approved rules governing privately-sponsored travel with minor differences.

According to the rules, travel expenses usually include transportation, lodging, food and refreshments,^[1] but not expenditures for entertainment or recreational activities.^[2] The travel rules are distinguished from the gift rules largely by geographical radius around the Capitol or a Member's home district. Within a 35-mile radius of the Capitol or home district, the gift rules dominate. Outside that 35-mile radius, many of the gift rules, such as limits on expenditures for meals and hospitality, are superseded by the travel rules.^[3] (Occasional travel expenses within the 35-mile radius are permitted for giving speeches.)

Types of Travel

Seven types of travel are governed by congressional rules:

- Travel in connection with the individual's official duties that is paid for by a private source;
- Travel entirely unrelated to official duties that is paid for by a private source;
- Travel entirely unrelated to official duties that is paid for by a personal friend;
- Travel paid for by the Federal Government, or by a state or local government;
- Travel paid for by a foreign government or an international organization;
- Travel for a political purpose that is paid for by a political organization; and
- Official travel paid for or authorized by the House or Senate.

All seven types of travel are subject to different sets of regulations that are summarized below.

I.A. Officially Connected Travel Paid by a Private Source – General Requirements

Privately-sponsored travel for officially-related purposes is the type of travel that had been most commonly subject to abuse. This is where private entities – corporations, unions and other special interest groups – provide free transportation, meals and lodging for Members, Senators and staff for “officially-connected duties,” such as giving a speech to constituents, participating in a conference, or attending a fact-finding trip. Until passage of the Honest Leadership and Open Government Act of 2007 (S. 1), these trips often used to be little more than junkets, as lobbyists made use of the laxer travel rules to wine and dine Members, Senators and

congressional staff on behalf of paying clients. Such abuses were the source of the new House and Senate travel rules restricting the role of lobbyists and lobbying organizations on officially-connected trips.

Today, a Member, Senator, or staff may accept travel expenses to attend a meeting, speaking engagement, fact-finding trip or similar event related to official duties, from a private source only if:

a) **The private source is directly and immediately associated with the event and the location of the event bears a relationship to the officially-connected purpose of the trip.**^[4] When a non-profit organization, for instance, pays for officially-connected travel, the organization must (1) be publicly disclosed as a trip sponsor on the applicable travel disclosure forms and (2) be directly involved in the event. If the organization pays the travel expenses with donations that are earmarked, either formally or informally, for the trip, each such donor is deemed a “private source” for the trip and must be disclosed and intimately involved in the event. In terms of location, the rules distinguish between travel to locations arranged without regard to congressional participation, which is deemed presumptively reasonable, as opposed to travel arranged largely for congressional participation, which must be located at a site directly related to official business.

b) **The private source is not a registered lobbyist or a registered foreign agent.**^[5]

- The prohibition against accepting travel expenses from a registered lobbyist, an agent of a foreign principal, or a lobbying firm applies even when the lobbyist, agent or firm will later be reimbursed for those expenses by a non-lobbyist client.
- “Registered lobbyist” is any person registered under the LDA.^[6]
- “Foreign agent” covers any person registered under the Foreign Agents Registration Act, usually foreign governments or entities supported by foreign governments.^[7] However, the Members, Senators and staff of Congress may accept some specific travel expenses from foreign agents subject to regulations of other types of travel – travel paid for by a foreign government or an international organization outside the United States.
- Important additional requirements restricting the role of lobbying organizations are discussed below.

c) **Travel expenditures cover brief time periods.**^[8]

- For the House it is limited to four days total for domestic trips and seven days for trips outside the United States, excluding days taken in whole or in part in traveling to and from the United States.
- For the Senate the limits are three and seven days respectively (in both cases time of traveling is excluded).
- A Member, Senator or staff can travel beyond the day limits if he or she is participating in consecutive but distinctive trips financed by different organizations, or he or she is willing to extend the trip at his or her own expense. In the latter case, the Member, Senator or staff may still accept return transportation.

d) **The private source offers to cover only transportation, lodging and related expenses that are necessary** to accomplish the purpose of the trip, and thus it may not always be proper to accept expenses for the full three-, four- or seven-day period.^[9] The new House and Senate rules further stipulate that travel expenses should be “reasonable.” Reasonable expenses are defined as expenses commensurate with other attendees at an event that is organized without regard to congressional participation (e.g. academic conference), or expenses compatible with per diem rates for trips organized largely for congressional participation (e.g. fact-finding trip).

e) **Travel expenditures regarding entertainment or recreational activities are generally not permitted.**^[10] However, Members, Senators and staff may accept such expenditures if they are provided to all attendees as an integral part of the event, or alternatively if they conform to the gift limits.

f) **No more than one relative accompanies a Member, Senator or employee of Congress at the expense of the private sponsor.**^[11] A Member, Senator or staff may accept payment from a private sponsor for the expenses of one relative only, not a spouse and a child. However, the Member, Senator or staff can be accompanied by other individuals at his or her own expense.

This provision has recently come under closer scrutiny for its tax implications. The IRS requires that payments by a private source for the travel of a family member, if the family member is not serving a bona fide business purpose, as additional income to the recipient, subject to tax. Public Citizen filed a complaint with the IRS alleging that many, if not all, Members, Senators and staff routinely fail to report this income and pay taxes on it. The congressional ethics committees have no rule or advice to Members, Senators and staff of the potential tax implications of family travel paid for by a third party.

g) **After each trip taken by a Member, Senator or staff a travel disclosure form that lists the expenses by the private source must be completed, signed and filed** with the Clerk of the House or the Secretary of the Senate.^[12] The form must include good faith estimates of the transportation, lodging, meal and other expenses paid, set out separately, and a determination that such expenses were ‘necessary’ and related to the individual’s official duties. In the House, this disclosure form must be filed within 15 days of returning from the trip. In the Senate, the disclosure form must be filed within 30 days of the trip. Furthermore, Members, Senators and officers, as well as employees who file a Financial Disclosure Statement, must also disclose each such trip on Schedule VII of their annual financial disclosure statement.

I.B. Officially Connected Travel Paid by a Private Source – Specific Requirements Relative to Different House and Senate Rules

a) Trips sponsored by lobbying organizations^[13]

1) ***In the House*, a private entity that retains or employs a lobbyist is prohibited from sponsoring officially-connected travel**, except in the following limited circumstances:

- The trip is pre-approved by the ethics committee.
- The trip is for a one-day event, exclusive of travel time and one night’s stay.

- A second night's stay may be permitted if it is necessary to accomplish the purpose of the one-day trip.
- An institution of higher education, even if it hires a lobbyist, is exempt from the one-day trip restriction.

2) *In the Senate*, registered lobbyists and the entities that employ them are prohibited from sponsoring officially-connected travel, except in the following limited circumstances:

- The trip is pre-approved by the ethics committee
- The trip is necessary to participate in a one day (travel time excluded) meeting or speaking engagement, fact-finding trip or similar event.
- A second night's stay may be permitted if it is necessary to accomplish the purpose of the trip.
- A 501(c)(3) charity, even if it hires a lobbyist, is exempt from the one-day trip restriction.

b) Lobbyist participation in travel events [\[14\]](#)

1) ***In the House*, registered lobbyists are prohibited from participating in travel events, except for *de minimis* involvement.** Even for permissible one-day events sponsored by a lobbying organization, a lobbyist may participate in meetings at the destination of the trip, but the lobbyist cannot accompany the Member or staff on the travel; organize, finance or arrange the trip; or participate in more than a negligible fashion in the event. This restriction on lobbyist participation does not apply to an event sponsored by an institution of higher learning. Nevertheless, registered lobbyists and agents of foreign principals may not directly finance any trips.

2) ***In the Senate*, registered lobbyists may not plan, organize, arrange or participate in officially-connected trips except for *de minimis* involvement.** Even for permissible one-day events sponsored by a lobbying organization, a lobbyist may participate in meetings at the destination of the trip, but the lobbyist cannot accompany the Senator or staff on the travel; organize, finance or arrange the trip; or participate in more than a negligible fashion in the event. This restriction on lobbyist participation does not apply to events sponsored by a 501(c)3 charity. However, the restriction does apply to events sponsored by charities. Nevertheless, registered lobbyists and agents of foreign principals may not directly finance any trips.

c) Transportation of Members and Senators by corporate jets [\[15\]](#)

1) ***In the House*, Members may not use official, personal or campaign funds to pay for the use of privately-owned aircraft on trips,** unless the aircraft is owned by the Member, a family member or a personal friend. Since privately-sponsored trips are considered reimbursement to the House, a private entity may not supply a private jet at no cost for an officially-connected trip. A sponsor may pay for up to business-class transportation on commercial aircraft or rail. A private source may provide charter fare or first-class fare only if it can be demonstrated necessary to accommodate a disability, security concerns, or other exceptional circumstances.

2) *In the Senate, Members and employees are required to pay full market value for airfares (charter rates) for flights on private jets not operated by the Federal Aviation*

Administration (FAA), except if the aircraft is owned or leased by the Senator involved or an immediate family member of the Senator (including an aircraft owned by an entity that is not a public corporation in which the candidate or an immediate family member of the candidate has an ownership interest), so long as the Senator does not use the aircraft more than the candidate's or immediate family member's proportionate share of ownership allows. The term 'immediate family member' means, with respect to a Senator, a father, mother, son, daughter, brother, sister, husband, wife, father-in-law, or mother-in-law.

d) Formal approval of trips[\[16\]](#)

1) ***In the House, all privately-sponsored trips for Members and staff must be pre-approved by the House ethics committee.*** The committee must certify both the sponsor and the nature of the trip prior to travel. The sponsor must submit written certification that it will abide by all the conditions and restrictions regarding the payment, arranging and participation in the event. Members and staff must also receive written approval that the trip complies with the restrictions on duration, location and purpose of congressional travel. Pre-approval authorizations are made immediately available to the public. Post-travel disclosure of expenses is required within 15 days after the traveler returns.

2) ***In the Senate, all privately-sponsored trips for Senators and staff must be pre-approved by the Senate ethics committee.*** The committee must certify both the sponsor and the nature of the trip prior to travel. The sponsor must submit written certification that it will abide by all the conditions and restrictions regarding the payment, arranging and participation in the event.

Senators and staff must also receive written approval that the trip complies with the restrictions on duration, location and purpose of congressional travel. Pre-approval authorizations are made immediately available to the public. Post-travel disclosure of expenses is required within 30 days after the traveler returns.

II. Travel Unrelated to Official Duties and Paid by a Private Source[\[17\]](#)

A Member, Senator or employee of Congress may accept transportation, lodging, meals and other benefits unrelated to official duties paid for by a private source if it is related to outside business or employment. This type of travel is not as strictly regulated as officially connected travel – it is not subject to time limits, the limitation that only one relative may accompany, or the prohibition on recreational activities.

But two important restrictions still apply:

a) The travel benefits may not have been offered or enhanced because of the official position of the Member, Senator or staff person.

b) The benefits must be identical to those customarily provided to others in similar business circumstances.

Unlike officially-connected travel, the travel expenditures unrelated to official duties should not be reported on the 15-day travel disclosure forms filed with the Clerk of the House or the 30-day travel disclosure forms filed with the Secretary of the Senate. But unofficial travel funded by a private source that exceeds \$250 in value in a calendar year must be reported on Schedule VII of the annual Financial Disclosure Statements of Members and those employees required to file an annual statement.

III. Travel Unrelated to Official Duties and Paid by Personal Friend[\[18\]](#)

This kind of travel is subject to regulations imposed on other unofficial travel paid for by a private source (see above). In addition, if travel expenditures exceed \$250 in value they may not be accepted on the basis of personal friendship unless the ethics committee issues a written determination that the personal friendship provision applies. Therefore, Members, Senators and congressional staff should submit an advance written request to the Committee. This request and the Committee's response are confidential. Usually, travel paid for on the basis of personal friendship that exceeds \$250 in value should be reported on the annual Financial Disclosure Statement but under some circumstances the Committee may waive the reporting requirement.

IV. Travel Paid for by Federal, State or Local Government[\[19\]](#)

The gift rules of both houses of Congress allow accepting travel from any governmental entity in the United States. This type of travel is not considered a gift and does not have any regulations regarding trip duration, spouses or children. Such trips don't have to be disclosed on either the travel disclosure forms or on annual Financial Disclosure Statements.

V. Travel Paid for by a Foreign Government or International Organization[\[20\]](#)

The U.S. Constitution prohibits Members, Senators and employees of Congress from receiving gifts including travel, from a foreign state or its representative without the consent of Congress. That's why Congress has consented to the acceptance of travel by the officials only in limited circumstances – under the provisions of the Foreign Gifts and Decorations Act (FGDA) and the Mutual Educational and Cultural Exchange Act (MECEA). Both acts contain very complicated and distinctive sets of regulations. The basic features include:

Foreign Gifts and Decorations Act:

- Any travel paid for by a foreign government under FGDA regulations must relate directly to the official duties of the Member, officer, or employee.
- That Act defines the term of “foreign government” to include not only foreign governments per se but also international or multinational organizations whose membership is composed of units of foreign governments, and any agent or representative closely affiliated with such a government or organization while acting as such.
- The trip must take place totally outside of the United States to be consistent with the interests of the United States and be permitted by the Standards Committee.
- Travel expenses for an accompanying spouse or dependent may be accepted.

- Travel is usually subject to the seven-day limit when it is taken in connection with a trip that is otherwise paid for with private funds.
- Such travel expenses should be disclosed within 30 days after leaving the host country in a special form filed with the ethics committee, but they should not be reported on the annual Financial Disclosure Statement.

Mutual Educational and Cultural Exchange Act:

- This Act applies to travel related to cultural exchange programs that finance visits and interchanges between the United States and other countries.
- Members and congressional staff may accept travel expenses from a foreign government in order to participate in MECEA programs approved by the Director of the United States Information Agency.
- Such travel expenses are not considered gifts and are to be paid by the sponsoring government, not by any private source.
- Under MECEA, the traveling Member, officer or employee may not accept travel expenses for a spouse or dependent.
- Travel expenses associated with approved exchange cultural programs do not need to be disclosed on the travel disclosure forms, but they must be reported on the annual Financial Disclosure Statement.

VI. Travel Paid for by a Political Organization[\[21\]](#)

A Member, Senator or employee of Congress may accept travel expenses provided by a political organization or party committee in connection with a fundraising or campaign event sponsored by that organization. These are campaign trips in support of a candidate or party committee. If expenses are paid for by the political organization, it is considered either an in-kind contribution from the political organization to the campaign or a party expenditure. The travel expenses may also be paid for or reimbursed by the campaign itself. These expenses are not to be reported on the travel disclosure forms. The expenses need be reported on the annual Financial Disclosure Statement of the Member or staff *only* if that travel is not filed with the Federal Election Commission.

VII. Official Travel Paid for or Authorized by the House or Senate[\[22\]](#)

Official travel usually includes travel paid for out of Congressional funds, as well as the travel of Members, Senators or staff abroad as part of an official delegation. All official travel must be paid for or authorized by the House or Senate. A private source generally may not pay any portion of the expenses of a trip having an official purpose. Official travel is not to be reported either on the travel disclosure forms or on the annual Financial Disclosure Statement. There are surprisingly few regulations, and very little oversight and public disclosure, of official taxpayer funded travel.

VIII. CODEL Reforms

In May of 2010, the former speaker of the house Nancy Pelosi issued new limits for House members. The new limits restrict members of the house from flying business-class unless the scheduled flight time exceeds 14 hours. Members of committees must seek authorization for travel for oversight purposes. The Speaker made a point to emphasize that DOD aircraft support is extremely limited and stipulated that it be requested through the Office of Interparliamentary Affairs and not the DOD directly. Finally, the new rules designate a quarterly filing period in which travel expenditures must be disclosed to the Clerk of the House [23].

Prepared by Bryan Kappe, Public Citizen (May 2011)

- [1] House Rules 25(5)(b)(4)(B); Senate Rules 35(2)(d)(2)
- [2] House Rules 25(5)(b)(4)(C); Senate Rules 35(2)(d)(3)
- [3] Committee on Standards of Official Conduct, Gift and Travel Booklet (April, 2000)
- [4] House Rules 25(5)(b)(3); Senate Rules 35(2)(c)
- [5] House Rules 25(5)(b)(1)(A); Senate Rules 35(2)(a)(1)
- [6] House Rules 25(5)(g)(1); Senate Rules 35(5)(a)
- [7] House Rules 25(5)(g)(2); Senate Rules 35(5)(b)
- [8] House Rules 25(5)(b)(4)(A); Senate Rules 35(2)(d)(1)
- [9] House Rules 25(5)(b)(4)(B); Senate Rules 35(2)(d)(2)
- [10] House Rules 25(5)(b)(4)(C); Senate Rules 35(2)(d)(3)
- [11] House Rules 25(5)(b)(4)(D); Senate Rules 35(2)(d)(4)
- [12] House Rules 25(5)(b)(3); Senate Rules 35(2)(c)
- [13] House Rules 25(5)(b)(1)(C)
- [14] House Rules 25(5)(c)(2)
- [15] House Rules 23(15)(a)
- [16] House Rules 25(5)(d)(1); Senate Rules 35(2)(a)(1)
- [17] House Rules 25(5)(a)(3)(G); Senate Rules (1)(c)(7)
- [18] House Rules 25(5)(a)(5); Senate Rules 35(1)(e)
- [19] House Rules 25(5)(a)(3)(O); Senate Rules 35(1)(c)(16)
- [20] House Rules 25(5)(a)(3)(N); Senate Rules 35(1)(c)(15)
- [21] House Rules 25(5)(a)(3)(B); Senate Rules 35(1)(c)(2)
- [22] House Rules 25(5)(a)(3)(T); Senate Rules 35(1)(c)(21)
- [23] Nancy Pelosi. Letter to House Committee Chairs, May 13, 2010