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CLOSING A CONGRESSIONAL OFFICE: A BRIEF OVERVIEW

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#### ABSTRACT

This paper sets forth questions that a congressional office needs to consider in the process of closing down. These include statutory and non-statutory matters such as staff, the franking privilege, retirement benefits for Members and staff, allowances, and the disposition of congressional papers, and other office items.

This report is based upon a report originally prepared by Marc Yacker, October 10, 1978.

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## CLOSING A CONGRESSIONAL OFFICE: A BRIEF OVERVIEW 1/

### INTRODUCTION

At some point, every congressional office must be closed down. However, the amount of preparatory time available to staff and Member engaged in this activity varies from more than ample (in the case of an announced retirement) to virtually none (in the event of a Member's death).

There are many aspects of a congressional office operation, and each is subject to different statutory and internal provisions in the course of closing down an office. Such regulations are discussed by category below.

### STAFF

The staff of a Representative who either resigns in mid-term or dies in office will be maintained at full salary level under the jurisdiction of the Clerk of the House until a successor is named, in accordance with 2 U.S.C. 92b, as follows:

... in case of the death or resignation of a Member of the House during his term of office, the clerical assistants designated by him and borne upon the clerk hire pay rolls of the House of Representatives on the date of such death or resignation shall be continued upon such pay rolls at their respective salaries until the successor to such Member of the House is elected to fill the vacancy.

1/ Although the specific references in this report are in many cases to Members of the House rather than the Senate, the procedures outlined in the paper are applicable to Members of both Houses. The procedures are also applicable to Members of Congress who have experienced an electoral defeat.

This original language was contained in H.J.Res. 189 (49 Stat. 679,680), and approved August 21, 1935. On October 2, 1980 the House passed H.Res. 804, which broadened the above language to include:

... any termination of service during a term of office of a Member of the House that is not described in the first section of such joint resolution shall be treated as if such termination were described in such section...

The purpose of the resolution was to allow continued limited constituent services to a Member's district after his expulsion, by paying the assistants to complete the unfinished work. These provisions apply to staff both in Washington and in the congressional district. In the Senate, pursuant to 2 U.S.C. 92e, staff assistants "shall be continued on such pay rolls in their respective positions and be paid for a period not to exceed sixty days."

All such staff persons in the House are under the supervision of the Clerk of the House and no longer work for the Member. The Senate staffs are under the direction of the Secretary of the Senate. The staff's responsibility, during this period, is to complete unfinished work associated with the former Member. The statutory language grants the Clerk of the House and the Secretary of the Senate the authority to remove such staff for failure to perform their duties.

Staff members of retiring, expelled, deceased or defeated Members of Congress have certain re-employment rights in the competitive civil service. Pursuant to 5 U.S.C. 3304(c), the Rampspect Act, congressional staff members who have lost their jobs involuntarily can apply for comparable positions in the Federal Competitive Service if they meet the following criteria:

- (1) three years employment in the legislative branch (does not need to be continuous);
- (2) good employment record;
- (3) have been released or will be released from staff position because of death, defeat or resignation of Member, lack of work, or office reorganization; and
- (4) staff member must locate a competitive position within 1 year of involuntary separation.

Both Civil Service Application and Ramspeck Act Application forms should be filed with the agency in which employment is desired. Some positions require a written examination. The test is given by the Office of Personnel Management on a non-competitive basis, but a passing grade is required. The OPM also evaluates the applicant's qualifications and determines whether or not the applicant meets the requirements of the position for which applicant is being considered. Applications for Civil Service positions can be made 90 days prior to anticipated date of termination of position.

#### RETIREMENT BENEFITS FOR MEMBER AND STAFF

Members of Congress are included in the Civil Service Retirement on a voluntary basis. Staff members who have elected to participate contribute seven and one-half percent of their salary while serving. A staff employee must have at least five years of creditable Federal civilian service, and must have had retirement contributions withheld. Participants may retire on an immediate annuity if they meet one of the following criteria: 1) age 55 and 30 years of service; 2) age 60 with 20 years of service; or 3) age 62 with five years of service. If the cause of retirement is involuntary (for example, death or resignation of the employee), immediate annuities are also paid persons who are 50 years or older with 20 years of Federal service or



at any age with 25 years of service. In the latter case, there will be an annuity reduction of 2 percent per year for each year the retiree is under age 55. The reduction is not eliminated when the annuitant reaches age 55.

#### THE FRANKING PRIVILEGE

In addition to Members and offices of Congress, the franking privilege is also extended (with qualifications) to retired Members of Congress (39 U.S.C. 3210 b 2) and to the surviving spouse of a Member of Congress who died while serving in Congress (39 U.S.C. 3218). Members who have retired are entitled to use their frank for 90 days following the date on which they leave office. However, this privilege carries with it the following prohibitions (P.L. 94-177): a retired Member of Congress may not use his frank for postal patron mailings, for newsletters, questionnaires or similar matters, or any other mass mailings unless they are in direct response to inquiries or requests from persons to whom the matter is mailed. Representatives who retire in mid-term, responses to new correspondence received after the date of resignation (but before a successor is sworn in) are sent under the frank of the Clerk of the House, as is pending business that extends beyond the 90-day period. In the case of surviving spouses, the statute provides that their franking privilege shall be for "correspondence relating to the death of the Member," a provision which is construed by House authorities to include all pending matters. Such mail is also sent under the frank of the Clerk. Pursuant to the Secretary of the Senate's responsibility under U.S.C. 92c, mail relating to closing a Senator's office will be mailed under the Secretary's frank.

ALLOWANCES

In the event of a Member's death, resignation or defeat, the Member's allowance for official expenses ceases. The Clerk of the House assumes responsibility for the total operation of the Member's office, and all expenses necessary for the discharge of duties associated with the office are borne by the Clerk out of the contingent fund. All debts incurred by the office before the resignation, death or defeat are paid out of the former Member's allowances. In the Senate, the necessary expenses are paid out of the contingent fund of the Senate by the Secretary of the Senate.

A number of other matters not governed by regulation also need to be considered when closing down a congressional office.

DISPOSITION OF RECORDS

In the course of a congressional career, each Member will accumulate a large quantity of filed material. The first decision to be made is whether or not to archive these records and papers. Some factors to be considered are: the length of service, the interests and contributions of the Congressman or Senator, the committee assignments (Chairman or ranking Minority member), 2/ service on a Committee or Joint Committee of interest to the depository.

If the decision has been made to archive the records and papers, a depository is then chosen; for example:

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2/ It should be noted, however, that the Rules of the House and Senate require that the files of committees be kept separate and distinct from the congressional office records of the Representative or Senator serving as Chairman. Committee records remain the property of the chamber.

- Personal library
- Local library
- University or College library
- State Archives or State library
- Research Institution
- State Historical Society
- National Archives
- Presidential library
- Library of Congress
- Institution(s) or Group(s) in which the Member has had an active interest

As soon as a depository has been designated, a deed of gift must be made. <sup>3/</sup>  
If there are any restrictions (such as certain records are not to be opened until after the death of the Member) to be placed on the papers they should be specified in the deed.

If the records and papers are to be archived, work should be initiated as soon as possible. An interested university might want to designate an interdisciplinary team (a librarian, an archivist, a political scientist, an administrator) to work with the congressional office in a liaison capacity. All parties involved should be cognizant of the size of the donation and the estimated space the institution has to offer so the number of items involved can be reduced, if necessary, to be compatible with the library's facilities. A few institutions have expressed a preference for microfilmed material, which would minimize space problems. For example, if casework files were separately

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<sup>3/</sup> An example of such a deed of gift is included in the appendix to this report.

filmed in the beginning they could be removed without editing years of film. Members seeking advice about the disposition of their papers may wish to consult with the chief of the Manuscript Division of the Library of Congress. The Senate Historian's office will also provide consultation about the processing and disposition of Senators' papers and records.

In any case, the office and the depository should agree on what will be included in the collection, both in terms of quantity and content. Whatever is decided upon, the office will have the use of the franking privilege for 90 days after leaving office for the transfer of files, records, papers, etc. In addition House Members may ship records and other papers by the most economical means available, pursuant to H.Res. 1297, 95th Congress. Expenses incurred for this purpose will be reimbursed from the contingent fund upon authorization of the Clerk of the House. If records are to be shipped to a depository in a Member's District, the Clerk of the House can arrange for transportation by freight. The Property Supply and Repair Service Office, under the Clerk, will assist offices in shipping records by freight. The Senate Historian has information on the advantages and disadvantages of sending Senate records by freight, U.S. Postal Service, or commercial parcel service.

Most depositories recommend forwarding records that will document the structure, management, activities, and interrelations of the Member's office and staff; the Member's role in the legislative process; the role and importance of the Member's committee work; the Member's interactions with Federal executive departments and agencies; the Member's interactions with his constituents, and with local and regional community development, economic, and public service activities. Depositories often will seek approval to remove from the donated material items of presumed minor importance, e.g. duplicate copies of any material and routine informational requests.

Different categories of congressional papers and records raise different questions and merit individual consideration. A discussion of these categories follows.

#### CASEWORK

Casework material consists of correspondence with constituents and governmental departments and agencies in which Members of Congress provided assistance to their constituents. Although there is no standard procedure for the disposition of casework files, they can generally be divided into two categories: closed and open cases.

Closed cases are those that have been worked on and concluded while the Member served in Congress. There is no longer any ongoing communication with the constituent, and there has been some resolution in the case.

Essentially three alternatives exist as to the disposition of closed cases. First, they can be forwarded with other correspondence to the institution which will house the Member's papers, if the facility wants them. Some depositories do not want a large volume of papers, while others want to keep samples to illustrate the kind of work and the constituent services a legislator includes in his work. Second, if the closed cases are particularly personal, and the Member (or staff of a deceased Member) wishes to protect a constituent's privacy, the correspondence may be returned to the constituent. Third, if the correspondence is considered personal and possibly embarrassing, it can be destroyed.

If casework correspondence is forwarded to a depository (other than a Federal Agency) along with other correspondence, some or all cases might be designated as being of a personal nature so as to restrict public access

to these papers at least for a specified period of time and to ensure their privacy. It may be possible that the papers would be subject to State laws regarding public records act, the freedom of information act, or the privacy. These issues should be resolved in consultation with the institution.

Open cases, on the other hand, are those that are not resolved or concluded when the Member leaves the office. A Member has a number of options with regard to these cases. He/she may pass on open cases to his/her successor, assuming the successor is willing, and the constituent has granted approval. Sometimes, however, this is not politically desirable. A retiring Member of the House may transfer open cases to one of the State's Senators, assuming a Senator is amenable. Or, rarely, open cases may be transferred to another Member of Congress after the approval of the constituent involved in the case has been obtained. Usually, Members deal only with cases from their own constituents. The files may be turned over to another office by transferring the files and informing the liaison offices who will be taking over the cases. Nearly all congressional liaison offices in executive agencies will accept and follow instructions of the outgoing Member. The one exception, the Veteran's Administration, will automatically close all pending cases when a Member of Congress leaves office. If there are no instructions, some liaison offices will continue the case with the succeeding Member from the State or District. Unless instructed otherwise by the Member other liaison offices will continue to work on each case to conclusion, communicating only with the constituent. It is advisable to check with each agency liaison office, at which any cases are pending. A Member could also return each case to the constituent, with a letter explaining that he or she is leaving office and is no longer in a position to follow the case to a conclusion.

SENSITIVE RECORDS AND CORRESPONDENCE

In closing a congressional office consideration should be given to the disposition of any sensitive information contained in the Member's records and papers. Some casework correspondence and case files could be included in this category. For example, most constituents believe they are privately corresponding with the Member, and may include information in the correspondence which could cause embarrassment or harm to persons or institutions identified therein. Another example is correspondence from the business or trade sector. The release of these records could possibly disclose trade secrets or economic information which could be detrimental to the parties concerned. Personal identifiers can be eliminated by marking out names, places, etc. if feasible.

Members may also acquire sensitive records and papers relating to committee business. Rule II 2. (c) 2 of the House and Rule XXVI 10(a) of the Senate provides that all "committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as Chairman of the committee." These papers must be handled in accordance with the rules and regulations of the House and Senate.

CONGRESSIONAL-RELATED PAPERS

In the course of a congressional career, a Member of Congress will receive such papers and documents as letters from Presidents, correspondence from colleagues in Congress, and communications with other public officials. When closing a congressional office, the Member or staff must reach a decision as to the disposal of those items. If it has been decided to archive the papers in a depository, it must be determined whether or not the papers will add to the understanding of historical events or to the operation of a congressional

office, or to the importance of the Member's role as a legislator. There may be some documents of public importance or documents a Member may want to save for his (her) heirs. These may be kept by the Member or preserved in the depository with appropriate access requirements for researchers. This, too, should be specified in the deed of gift.

#### OTHER MATERIAL AND CORRESPONDENCE

In addition to those items discussed above, a Member of Congress will have accumulated substantial files of routine constituent correspondence, research materials, newspaper clippings, etc., during a congressional career. If a Member has elected to donate his (her) papers to a library or other institution, a decision must be made as to how many essentially routine items are included in the donation. Although they may be indicative of the quantity of work produced in each office, they do not necessarily reflect the individual Member's activity. Hence, from a historical perspective, these papers may be of limited value.

#### POSITION PAPERS

Distinct from the routine items listed above are documents embodying the Member's position on legislative matters through the years. In this category would fall press releases, speeches, bills introduced, master copies of "robo" letters, and Congressional Record excerpts (not articles sent to the Member for insertion). These can be arranged in any number of ways: chronologically, by subject (housing, agriculture, foreign aid, etc.), by type (press release, speech, etc.), or in any other manner which illustrates the Member's career. If there are no second copies, the papers the Member wants to keep can be



duplicated. If the Member anticipates reentering politics at some future date, this compilation will provide a brief recapitulation of positions taken previously. Also, if the Member plans on doing any writing, these position papers will be useful as documentation. In later years, position papers could prove to be among the most valuable in any research undertaken on the Member's career.

#### INFORMATION AND ASSISTANCE

The Committee on House Administration will provide staff assistance to Members needing help in disposing of their papers and records. The Senate Historical office provides, upon request, consultation regarding the processing and planning for the disposition of Senators' papers.

#### OFFICIAL AND UNOFFICIAL MEMENTOES

As is true with official papers, a Member of Congress may wish to ensure that those mementoes of an official nature are kept separate and not discarded. Official mementoes would include photographs with important persons, actual copies of bills introduced by the Member and later enacted into law (perhaps with the signature of colleagues who played key roles in the bill's passage), Presidential pens used in signing legislation, committee pictures, and, when the Member has served as committee chairman, gavels used during committee hearings. Unofficial mementoes would include, among other things, plaques and awards presented by constituent groups, and particularly meaningful letters from constituents. Most such mementoes would also add to any display (if one is contemplated) that would accompany the collection of materials at a library or other depository. Some institutions also seek license plates, plaques,

campaign leaflets and other memorabilia. As with position papers, some of these mementoes might be useful if the Member plans any future political activity. For example, photographs with famous persons can be used in the future, and Presidential pens can be cited as recognition of prior legislative accomplishments. It is important to distinguish between official and unofficial mementoes. Official mementoes are entitled to be franked, while personal items, and memorabilia not related to the performance of the Member's duties, must be shipped at the Member's or the depository's expense.

#### STATIONERY AND OTHER GOODS

Goods bought with such government funds as congressional allowances may remain the property of the Government. In closing a congressional office, it is advisable to seek the counsel of the Committee on House Administration or the Senate Committee on Rules and Administration for guidance as to the disposal of such items. Items bought with personal funds may, of course, be disposed of at will.

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