
CRS Report for Congress

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Casework in a Congressional Office

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Summary

This report and its appendices present a general overview of congressional office procedures associated with handling casework and the assistance provided by a Member of Congress to help constituents in their dealings with federal agencies. It discusses options for assisting Members' constituents and the role of Members and staff in providing casework services. This report is intended for congressional use only.

Casework generally consists of assistance provided by Members of Congress and their staff to constituents in their transactions with federal agencies. Casework involves individuals or groups with a common concern, and typically includes a problem, grievance, question of eligibility, specific need, or other tangible interest or benefit. Whether it is a delayed Social Security check, a denied veteran's claim, or a Medicare reimbursement dispute, the constituent's problem usually has to do with a federal program, rule, regulation, or administrative decision resulting from the implementation of a public law. Casework mostly emanates from constituent letters, visits, phone calls, faxes, and e-mails. Members view casework as an important, necessary, and legitimate congressional function.

A Member of Congress usually allocates casework responsibilities to one or more staff members who review and respond to needs, complaints, or personal problems posed by constituents. The caseworker represents the Member, both to the constituents and to the appropriate federal agencies. Identifying the total problem is the first step for the caseworker. Upon receipt of the inquiry, most caseworkers feel it is advisable to send an immediate acknowledgment by letter advising the constituent that the Member is aware of the request and is inquiring into the matter, and that the constituent will be contacted again when some response is forthcoming.

Every caseworker has to develop a personal approach to analyzing the nature of the constituent's problem and how to generate the most expeditious and just resolution. Adherence to ethical and legal standards is of concern to Members of Congress and their personal and committee staff when intervening in the administrative process. Once an agency has been contacted on behalf of the constituent, the case should be tracked until completion. Responding to constituents' needs, complaints, or problems gives a Member an opportunity to determine whether the programs of the executive agencies are functioning in accordance with legislative mandates and may indicate the need for congressional oversight and new legislation.

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Casework in a Congressional Office

Introduction

Casework consists of assistance provided by Members of Congress and their staff at the request, and on behalf of, constituents in their dealings with federal agencies. Casework involves individuals (and on occasion a group with a common concern), and typically includes a problem, grievance, question of eligibility, need, or other tangible interest or benefit to these individuals. Whether it is a delayed social security check, a denied veteran's claim, or medicare reimbursement, the constituent's problem usually has to do with a federal program, rule, regulation, or administrative decision resulting from the implementation of a public law. The constituent may also have another need connected with government, national or foreign, on which a Member may be of assistance. Casework mostly emanates from constituent letters, visits, phone calls, faxes and e-mails. Members view casework as an important, necessary, and legitimate congressional function.

A basis for casework can be found in the first sentence of the Constitution: "We the people of the United States in order to form a more perfect Union ... establish justice ... promote the general welfare ..."

There is no doubt that the casework function in a congressional office promotes an individual's general welfare and often may correct an injustice. There is also no doubt that the framers of the Constitution could not have envisioned the complexity of modern government: the scores of agencies, and thousands of regulations that affect our citizens. Occasionally, an important benefit check is delayed, or a veteran needs hospital care right away—these are some of the many problems presented to a caseworker. The representative functions of Members of Congress in this area, while not so defined, are arguably implicit in the Constitution. Additionally, the first Article of the Bill of Rights provides that "Congress shall make no law ... abridging the ... right of the people ... to petition the government for a redress of grievances."

Casework, or "constituent business" as it was sometimes called, was an early function for Members of Congress, as noted in the diaries of John Quincy Adams and James K. Polk. According to Leonard White's *The Jacksonians*, Polk wrote of cases in which he provided assistance in claims for pensions, land claims, writing letters for appointments to West Point, and a search for a letter in a dead-letter office.¹ Legislators did not have any staff to assist them: until well into this century, Members had to depend solely upon requests to the executive agencies for information.

¹Leonard White, *The Jacksonians* (New York: MacMillan, 1954), p. 144. See also John Spencer Bassett, "James K. Polk and His Constituents, 1831-1832," *American Historical Review*, vol. 28, no. 1 (Oct. 1922), pp. 68-77.

By the 1940s, it had become clear that attending to constituents' needs was consuming large blocks of Members' time. A report by the American Political Science Association's Committee on Congress, published in 1945 acknowledged this fact and recommended relief.² That same year, hearings on the organization of Congress were held by a joint committee at which a number of Members and observers testified about this problem. Several witnesses advocated the appointment of an administrative assistant who would assist Senators and Representatives "in their office and departmental work." Members reported spending from 50-80% of their time occupied with non-legislative matters, including handling constituent requests before departments. Some urged deliverance from the growing burden of services to constituents, while a few argued that Members should be forbidden altogether from intervening on behalf of constituents.³

In its 1946 report, the Joint Committee on the Organization of Congress noted that "expansion of governmental activities during the past 25 years [had] vastly increased the volume of ... requests for service" from constituents.⁴ It further stated that "while it is true that the Constitution does not place this burden directly upon Congress, nevertheless service to constituents has long been an accepted part of the job of a Member of Congress."⁵ This contact affords, said the Committee, one of the few remaining direct links between citizens and their elected representatives. Furthermore, it continued, no other agency or office of government can perform this service "so cheaply or with such patience, understanding, and personal interest as congressional offices." Despite suggested alternative ways of rendering this service,, the committee concluded that "it is neither possible or advisable" to do so⁶.

Citing past precedents in which Congress had increased clerical assistance to Members, the committee recommended that "a competent assistant capable of assuming a large part of the service burden" be appointed so as to release Members for the performance of their legislative duties.

When the Senate subsequently enacted the Legislative Reorganization Act of 1946 (Public Law 79-601), it included a provision to this effect. The House, however, acted last, and its version, which was accepted by the Senate due to the lateness of the session, did not contain this provision. Nevertheless, it was successfully argued by Senator Robert LaFollette, Jr., co-chairman of the Joint Committee that drafted the Legislative Reorganization Act, that funds should be appropriated for these assistants. Within a short period of time, 91 of the 96 Senators

²American Political Science Association, Committee on Congress, *The reorganization of Congress: a report of the Committee on Congress of the American Political Science Association* (Washington: Public Affairs Press, 1945), pp. 78-81.

³U.S. Congress, Joint Committee on the Organization of Congress, *Organization of Congress*, summary of hearings, 79th Cong., 1st sess. (Washington: GPO, 1945), p. 3.

⁴U.S. Congress, Joint Committee on the Organization of Congress, *Organization of Congress*, H.Rept. 1675, 79th Cong., 2nd sess. (Washington: GPO, 1946), p. 15.

⁵Ibid.

⁶Ibid., p.16.

appointed such assistants. Subsequently, administrative assistants were also authorized for the staffs of House Members.

These actions were tantamount to statutory authority for caseworkers in senatorial offices. Since 1946, of course, their number has grown to reflect the magnitude of constituent requests for assistance in dealing with the many departments, agencies, and offices of the federal government. It is of both historical and current importance that casework has been perceived as a legitimate, necessary, and irreplaceable function of Members and their staffs, and that Congress explicitly recognized this over four decades ago.

The Legislative Reorganization Act of 1970 (Public Law 91-510) provided some increase in resources for constituent services in its reorganization of the Congressional Research Service (CRS). Section 203(a)(5) of the Act authorizes CRS, “upon request, or upon its own initiative in anticipation of requests, to prepare and provide information, research, and reference materials and services to committees and Members of the Senate and House of Representatives and joint committees of Congress to assist them in their legislative and representative functions” The majority of CRS assistance is related to legislation or oversight: CRS assists in casework only by providing readily available materials to Members in responding to constituent inquiries.⁷

Congressional Research Service Resources on Casework

The Congressional Research Service (CRS) has an hour video *Congressional Casework: Advice from a Practitioner* (Video VB60025 or Audio AB50388). For congressional staffers handling casework and needing to communicate with federal executive offices, request *Congressional Liaison Offices of Selected Federal Agencies*, CRS Report 98-446 (April 16, 2001; for congressional office use only). CRS Office of Special Programs presents a seminar on casework as part of its three day District/State Staff Institute held quarterly in Washington, D.C. Check the CRS Web site [<http://www.crs.gov>] for dates and registration. To obtain any of these products, call the CRS Products Line at 202-707-7132.

⁷For additional information on casework see John R. Johannes, *To Serve the People* (Lincoln: University of Nebraska Press, 1984). Also see Congressional Management Foundation, *Frontline Management: A Guide for Congressional District/State Offices* (Washington: 1998).

Performing Casework

Most federal departments and agencies have regional or state offices. Members of Congress and federal agency officials often recommend that congressional district and state offices first seek to resolve constituent problems through these units.⁸

Ninety-seven percent of all congressional caseworkers work in field offices.⁹ The volume of casework continues to increase. The Congressional Management Foundation, a non-profit foundation, stated that its:

1997 survey of District and State Directors shows that 53% of House offices and 42% of Senate offices receive between 1,000 and 5,000 cases each year, and 32% of Senate offices report more than 7,500 cases annually. Moreover, 58% of House offices and 84% of Senate offices report an increase in casework in the past five years—with an average increase of 35%!¹⁰

Assigning Casework Responsibilities

A Member of Congress usually allocates casework responsibilities to one or more staff members who review and respond to needs, complaints, or personal problems posed by constituents. The personal communication aspect is very important. The caseworker should be personable, helpful, and ready to assist an individual with his or her problem. A caseworker should also be compassionate, realizing that those in need may be desperate when they contact Members. Finally, the caseworker must be well organized and know how to follow through.

Casework is rarely an isolated operation in a congressional office: it can involve the administrative assistant, legislative assistants, grants and projects staff, the office manager, and the press secretary, as well as staff in the field offices. Caseworkers also contribute to other functions of the office, such as alerting the press secretary of a noteworthy case or identifying for the legislative staff a law that may need changing.

Responding to constituent needs, complaints, or problems gives a Member an opportunity to determine whether executive agencies' programs are functioning in accordance with legislative mandates. Thus, casework has the potential to contribute to legislative oversight of agencies. Indeed, some offices make it a practice to bring

⁸These regional agencies are listed in sources such as the *United States Government Manual* (in print) or via the Government Printing Office's National Archives Internet site [<http://www.access.gpo.gov/nara/browse-gm-00.html>], the *Catalog of Federal Domestic Assistance* Appendix IV: "Federal Agency Contacts in States" (in print), or via the Internet [<http://www.cfda.gov>], and *Carroll's Federal Regional Directory* (in print).

⁹Congressional Management Foundation, *House Staff Employment Study* (Washington: 1998), pp. 48-49; and Congressional Management Foundation, *Senate Staff Employment: Salary, Tenure, Demographics, and Benefits* (Washington: 1997), p.70.

¹⁰Richard H. Shapiro, *Frontline Management: A Guide for Congressional District/State Offices* (Washington: Congressional Management Foundation, 1998), p. 89.

casework observations to the attention of the pertinent authorizing committee(s), particularly if a pattern emerges. It may even lead to new legislation.

Most federally assisted casework involves problems regarding social security checks, benefits, and appeals; workers' compensation claims, hearings, and appeals; military service problems, such as a hardship discharge from the service; veterans' benefits, medical care, and home loan guarantees; immigration problems; and other appeals for help. Casework is closely related to, but different from, grants and project work, which usually concerns local governmental units or other organizations (e.g., corporations, universities, and research firms) that compete for federal government funds in the form of contracts, grants, loans or other disbursements. Some congressional offices, however, combine these functions and call them "constituent services."¹¹

Privacy Safeguards

Constituent letters sent to a Member's office are not protected by the Privacy Act of 1974 (5 U.S.C. 552a) or any other statute safeguarding personally identifiable records received and maintained in such offices. However, for a variety of reasons, including the high probability of an expectation of privacy concerning these communications, a policy safeguarding privacy is advisable for such offices. Such a policy would include:

- ! physically safeguarding such correspondence in office files; and
- ! limiting access to such correspondence, including the drafting of responses, to office personnel.

Concerning constituent casework correspondence awaiting final disposition at the time of a Member's retirement or departure from office, see *Handling Cases When Closing a Congressional Office*, later in this report. Most Members of Congress do not archive case files to a repository not only because both Members and repositories are concerned about privacy issues but also because repositories cannot manage the large volume of these files. Some repositories take case work, while others sample it. This should be discussed with the receiving depository as to what it is willing and able to do. Most Members destroy case files before they leave office.

Beyond privacy issues, the need to process such records and their volume would be a heavy burden for a repository, especially since the researcher demands would be focused on other aspects of the collection. It would be advantageous to include staff

¹¹For further information from the Congressional Research Service (CRS) on grants and projects, congressional staff may access the CRS Grants Information Web page at [<http://www.crs.gov/reference/general/grantsinfo.shtml>]; and call 202-707-7132 to request the Congressional Research Service *Grants and Foundation Support: Information on Government and Private Funding*, CRS Info Pack IP050G; *Grants Work in a Congressional Office*, by Merete F. Gerli, CRS Report 97-220 (Washington: January 25, 2001); *Grants Information for Constituents*, by Merete F. Gerli, CRS Report RS20514 (Washington: February 5, 2001).

from the repository in the casework transfer process as early as possible to determine which casework files (if any) should be saved.

In the unlikely case of a Member or repository agreeing to transfer casework files, the deed of a gift should include provisions for personal information to be redacted from the case files before the files are released to researchers. Relying upon a signed form promising not to reveal personal information contained in a case file released to the researcher is not enough to prevent the release of personal data.

Congressional offices should prepare and file periodic summary reports on their casework. Such reports should summarize the office's casework projects and their status. It should not include any personal identifying information. This approach would capture the essence of casework activities and allow for the secure destruction of most casework files.

Casework should be conducted with sensitivity to the constituent's personal privacy rights. Although neither the Freedom of Information Act nor the Privacy Act apply to Congress, they may be used by caseworkers to seek federal department and agency records on behalf of constituents. The former law allows any person to request existing unpublished agency records on any subject so long as the materials are reasonably described and not otherwise restricted. The latter statute permits an American citizen or permanent resident alien to seek agency records or files pertaining exclusively to himself or herself.

General guidance on the Privacy Act is provided in an Office of Management and Budget (OMB) memorandum of October 3, 1975, concerning "congressional inquiries which entail access to personal information subject to the Privacy Act." OMB recommends that, as a matter of policy, each agency administering the Privacy Act adhere to the position that disclosure may be made to a congressional office pursuing personally identifiable information at the request of that individual.

Since most agencies will not release personally identifiable information without written consent, it is important to have either a letter from the constituent that will serve as a Privacy Act release or a separate form on file. The form may state, "I authorize Senator/Representative _____ to check into my case and receive information connected with it."¹² The form must be sent to the constituent for signature and returned. When contacting an agency on behalf of a constituent, a caseworker may say, "This office has Mr./Ms. _____ authorization to receive information about his/her case." Many agencies do not require the form and will accept a verbal authorization, but only with the assurance that a Privacy Act form will be forthcoming. It is in the interest of a member's office to secure this privacy release.

¹²An example of a Privacy Act form used by one Member's office is provided in Appendix C: Sample Privacy Act Release Form.

Analyzing the Constituent's Problem

Frequently, when constituents seek assistance they have done everything they know how to do and are coming to the Member's office as a last resort because they do not know where else to go for help. Often they feel caught in a bureaucratic labyrinth. Accordingly, they may see their Member as a last chance for relief.

Identifying all elements of the problem is the first step for the caseworker: sometimes individuals do not provide the whole story, and occasionally, they may forget or omit crucial information. When caseworkers read a letter, see a referral from the field office, or receive a phone call from a constituent, they should make certain that they have all relevant information needed to proceed. For example, a social security number and the age of the recipient, or time and length of military service may not only be useful, but necessary in processing a claim.¹³

Upon receipt of the inquiry, most caseworkers feel it is advisable to send an acknowledgment letter to the constituent immediately to inform them that the Member is aware of the request and is inquiring into the matter, and that the constituent will be contacted again when some response is forthcoming. This method establishes a basic office file in the name of the constituent, and is also a means of requesting any additional information from the constituent, if needed.

Every caseworker has to develop a method of analyzing the nature of the constituent's problem and conducting the most expeditious resolution of it. Knowing where to go first can save time; the caseworker, therefore, must have a working knowledge of federal agencies. This includes a knowledge of the relevant agency program, as well as keeping abreast of current legislation that might affect the constituent's case. Understanding the various sources of assistance, federal and non-federal, including welfare organizations and charities, can enable the caseworker to assist more fully and expeditiously. Effective caseworkers develop a telephone list of contacts in the various agencies and retain the numbers of other congressional caseworkers who might be able to assist with a lead, a number, or advice based on their own casework experience.

Caseworkers may consult Appendix A for contacts and telephone numbers for various types of cases, such as civilian pensions and benefits, military affairs, and State Department inquiries. For contacts not listed in Appendix A, the caseworker could call the appropriate federal department or agency congressional liaison office for the correct office or person to help with a particular problem.¹⁴ This approach may save valuable time, rather than guessing who might best be able to help a constituent. Appendix B refers to contacts at military academies.

Members of Congress also receive inquiries from constituents dealing with subjects or programs within the jurisdiction of state or local governments. In such instances, the Member office must decide upon an appropriate response to the

¹³See Appendix A: Federal Office Contacts for Types of Cases and Information Required.

¹⁴*Congressional Liaison Offices of Selected Federal Agencies*, CRS Report 98-446C (April 16, 2001; for congressional office use only).

constituent inquiry. Most Member offices routinely respond to constituent inquiries about local government issues by referring the matter to local officials, and if the decision is to refer the case to local officials, the constituent must be notified that the congressional office has done so. However, some Members' field office staff work in conjunction with state legislative and local government staff as a means to more effectively serve the constituency at the federal, state and local levels.

In communicating with an agency, the caseworker must convey concern and, if necessary, urgency, communicate clearly, and be reasonable, but persistent. The caseworker must also decide how best to transmit the case, either by phone, fax, buck-slip, or letter. The form of contact with the agency usually depends upon the degree of urgency: sometimes the problem requires an immediate response, but more often, it is not so urgent. All appeals for help, however, should be dealt with in a timely and personal way on behalf of the Member. Once an agency has been contacted, the case is tracked; if no response has been received after a reasonable amount of time, a follow-up is done. Sometimes an interim response is sent to the constituent advising that the Member is still working on the case. When the agency finally renders its determination, caseworkers have to read it as if they were the constituent and recast it, if necessary: rephrasing "bureaucratese" so that it is simple and direct is an essential task of casework. Following are examples of several cases:

Worker's Compensation. With a worker's compensation case, a constituent has typically filed a claim, but has not received the payment to which he or she feels entitled. The Department of Labor, when contacted by a congressional office, will locate the case, check the status, and determine agency action. It is the Department's practice to answer congressional correspondence within 14 calendar days.

As with most agencies, if the answer is still unsatisfactory, a reconsideration, hearing, or procedure before the appeals board are all alternatives for a denied constituent. The appeals process can vary from agency to agency. At the Department of Labor, an individual may request one of the above or all three, but at the appeals board level no new information can be entered. While agencies will allow a caseworker to review the file, this is rarely done.

Military Personnel Inquiries. When contacting a military liaison officer on behalf of a member of the Armed Services, provide the name, rank, social security number, location and unit of assignment. Additionally, a military liaison will probably require an acknowledgment that a Privacy Act clearance has been provided to the congressional office by the military petitioner. The military petitioner's unit is contacted to determine the situation and to verify information provided to the Member of Congress. If assistance or counseling is appropriate, the military organization will do so, and express the Member's interest in the matter. The Member's caseworker is then notified of the findings and/or actions taken as a result of the inquiry.

Military Hardship Discharge. Military liaisons require the individual's name, rank, social security number, location and unit to which assigned, and the circumstances of the request for a hardship discharge. Additionally, liaison officers also require acknowledgment that a Privacy Act clearance has been submitted to the congressional office by the requesting military member. The military liaison then

contacts the unit to which the member is assigned to determine his or her status and to verify the information the military member has provided the Member. If the military member has not yet filed a request for hardship discharge, the military liaison asks the military organization to advise the military member regarding the application, and expressing the Member's interest in the matter. The military liaison then notifies the Member's staff and caseworker of their actions, and the outcome of the case. The acceptable hardship criteria for a release as well as the steps involved may differ among services.

Social Security (Lost Check). Typically, a retiree who has not received a social security check contacts a Member of Congress. A caseworker on that Member's staff then contacts the Social Security Administration with the pertinent information—name, social security number, type of benefit, and a description of the problem. The agency confirms that the individual has reported the problem to its district office and determines the check number, amount, and date of issue. This information is furnished to the congressional office. A caseworker can greatly expedite the claim by phoning this information to the Department of Treasury, Congressional Division of Check Claims.

If the check has not been cashed, Treasury will confirm or place a stop order on the check and reissue it immediately. If the check has been paid, a photostatic copy and claim form are sent to the payee for endorsement verification. If it is shown that the beneficiary did not receive or cash the check, a settlement check is issued to the payee upon receipt of a properly executed claim. Suspicious circumstances surrounding claims will be investigated, and such investigation can take several months.

Social Security Appeal. Most appeals are within the disability area. An unfavorable decision from the Social Security Administration, either in whole or in part, may lead to an appeal. After a due process notice (appeals rights) goes out, the constituent may file for reconsideration. This request for reconsideration must be filed within 60 days of receiving the notice. The individual's claim is then again reviewed by the disability determination service. If a favorable answer is still not forthcoming, the individual has 60 days to file for a hearing with an administrative law judge, who will hear the case, in a face-to-face hearing if so desired. If the judge's ruling is unfavorable, there is further recourse. A request for further review must be filed within 60 days. An appeals council may review the decision. After that, it can be taken outside the purview of the federal agency to the federal district court in the constituent's area.

Congressional Intervention in the Administrative Process

Adhering to ethical and legal standards is of concern to Members of Congress and their personal and committee staff when intervening in the administrative process. Congressional interventions involve varying degrees of intrusion into agency decision making processes.¹⁵

¹⁵See Appendix D: Legal and Ethical Considerations of Casework. See also CRS Report 90- (continued...)

Tracking Casework

Once an agency has been contacted on behalf of the constituent, the case should be tracked. Although a letter is usually sent to the agency head from the Member of Congress, it frequently helps to contact directly key agency staff likely to respond to a casework request. Sometimes an interim response is sent to the constituent advising that the Member is still working on the case. If no agency response has been received after a reasonable amount of time, a follow-up is advised. When the agency finally renders its determination, a caseworker should read it as if the caseworker were the constituent. Rephrasing bureaucratic wording and procedures is an essential task of casework.

Casework and other requests of Members invariably increase over time. In order to cope with the workload, offices have installed computer and word processing systems. Such equipment enables offices to retain, in computers, disks or tapes, casework information, including constituent's name, the problem, any interim communications, and final disposition data. Case management software may create particular problems for repositories unprepared for dealing with such special media. Over time, the problem with case management software will only grow for members who serve for many terms.

Disposition of Casework

Successful resolution of a case, more than anything else, will show the individual that his or her Member, and the government, are really working for the constituent. There are times, however, when it is not possible to achieve what an individual has requested. A caseworker has to know when the case is no longer worth pursuing. On the other hand, a caseworker must know when to persist in the face of perceived agency resistance, and to do the utmost to assure as complete an effort on behalf of the constituent as possible. If advisable, a negative decision from an agency can be appealed to the appropriate agency office.¹⁶

Closed cases are kept on file for future reference. The files provide a Member with examples of service to constituents and can be brought to the Member's attention for possible use when communicating with constituents. If the situation is newsworthy, the Member's press aide should be involved. Successful cases are sometimes included in newsletters, press releases, and in human interest feature stories. The constituent's permission, of course, is required.¹⁷

¹⁵(...continued)

440, *Congressional Intervention in the Administrative Process: Legal and Ethical Considerations*, by Morton Rosenberg and Jack H. Maskell (Washington: Sept. 7, 1990).

¹⁶If the case is taken through the administrative process and the constituent feels that he or she has unjustly been denied recourse or benefits, they have the right to take their grievance to federal court, but only after the administrative process and appeals have been completed.

¹⁷The Legislative Resource Center, Office of the Clerk of the House (202-226-5200), the Office of Historian, Secretary of the Senate (202-224-3351), and the Senate Sergeant at Arms (continued...)

Handling Cases When Closing a Congressional Office

Archivists recommend preserving case files that relate to particular issues (black lung disease and disaster relief in the district/state, for example), only if the office has maintained these files separately or can retrieve them easily. If one wishes a special restriction on personal information in case files, it should be written into the deed of the gift. Possible restrictions on case files include that the files be used for statistical purposes only or be closed for a longer time than other sections of the office records. Another alternative is that the depository or library require researchers to sign an agreement that they will not use names or quote from particular documents. The requirement both allows researchers to use the case files and gain information from them but also discourages publication that would embarrass any specific individual.

Some casework files may be vital to understanding the activities of the Member. Such files may initiate ideas for legislation or policy advocacy. In other cases, these files may reflect the policy record or a particular interest of the Member. Such casework files should be maintained separately or filed among the Member's legislative or personal files. The House and Senate do not recommend keeping case files, but do suggest keeping samples of files. Such a strategy allows for redacting individual files. Case files should be kept if the case led to agency or legislative oversight investigation or if the case is of particular interest to a Member of Congress.

To reduce the number of open case files, it is advisable for departing Members to set a date beyond which they will not accept new case files. The constituent's request is returned with a letter recommending that the request be resubmitted to the Member's successor or a Senator whose term is not expiring.

Open cases are those that are unresolved or not concluded by the time the Member leaves office. Representatives have a number of options with regard to these cases. They may pass on open cases to their 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 and the constituent are agreeable to this arrangement. If not, the active file is returned to the constituent.

¹⁷(...continued)

(202-224-2341) provide assistance and guidelines to Members on records management issues, particularly for those who are leaving Congress. See their documents: *Closing a Congressional Office: A Guide to the Disposition of Official Papers and Records* (House Clerk) and *Records Management Handbook for U.S. Senators and Their Archival Repositories* (S. Pub. 102-17), Secretary of the Senate.

Courtesy storage facilities are available to Members of Congress at the Washington National Records Center of the National Archives and Records Administration (NARA) in Suitland, Maryland. Many Member offices store closed case files in courtesy storage. If an office uses courtesy storage, they must keep on file Standard Form 135 to allow staff to keep track of these files. When a Member is aware that he or she will not be returning to Congress, staff should consult their SF 135 to determine whether courtesy storage files should be returned to the office, sent to the repository, or destroyed by the records center.

When Senators leave office, active files are customarily transferred to the succeeding Senator, or to the other Senator representing the same state, so that work can continue on the problem. In some offices, however, Senators who are leaving will return the active file to the constituent, with a letter explaining that they are leaving office and are no longer able to follow the case to a conclusion.

Appendix A: Federal Office Contacts for Types of Cases and Information Required

For a list of congressional liaison offices in over 150 federal agencies, call CRS Products Line at 202-707-7132 and request CRS Report 98-446, *Congressional Liaison Offices of Selected Agencies*, a report to aid congressional offices in placing telephone calls and addressing correspondence to government agencies. The most common requests for assistance are noted here, including the type of information usually needed, and a contact name and phone number.

Civilian Pensions and Benefits

1. **Social Security Benefits.** Retirement, disability, and survivors. Provide social security number, nature of the problem, name and address, type of benefit.

410-965-3929 Marlow L. Mitchell (Social Security Administration)

2. **Supplemental Security Insurance.** Name, address (each state has different rules), social security number and nature of impairment: aged, blind, or disabled.

410-965-3929 Marlow L. Mitchell (Social Security Administration)

3. **Black Lung Benefits.** Administered by the Department of Labor. Social security number, name, city, nature of the problem, claim number, and date of claim.

202-219-6141 Mr. Earl Cohl (Department of Labor)

4. **Medicare.** Name, address, medicare claim number, social security number, and description of problem.

202-690-8220 Ms. Carleen Talley (Center for Medicare and Medicaid Services)

5. **Civil Service Retirement.** The Office of Personnel Management administers both the Civil Service Retirement System and the Federal Employees Retirement System. Applicants include those seeking regular and disability retirements, or their surviving spouses and children. Other categories of inquiry: lost checks; change of address for correspondence and direct deposit for checks; refunds of retirement contributions; voluntary contributions; federal employees health benefits program; federal employees group life insurance program; federal and state income tax withholding; federal long-term care; court orders and tax levies; and deposits and redeposits.

For each inquiry it is necessary to have either the civil service annuity number, survivor number, or a social security number, and date of birth of the person receiving benefits.

202-225-4955 Ms. Charlene Luskey (Office of Personnel Management)

6. **Railroad Retirement.** For benefits and unemployment benefits, provide name, address, social security number.

312-751-4777 Mr. William G. Poulos (Railroad Retirement Board)

7. **Unemployment Benefits.** Name, social security number, place of last employment, reason for termination. In general, cases should be handled through the local unemployment office first.

202-219-6141 Ms. Teri Bergman (Department of Labor)

8. **Workers' Compensation.** Name, address, social security number, claim number, date of injury, and status of care. (Could cover, for example, long shore and harbor workers, F.E.C.A., or black lung programs).

202-219-6141 Mr. Bill Buie (Department of Labor)

Military Affairs and Service Academies

9. **Military.** Hardship and retirement cases. Name, rank, social security number, location, unit to which assigned, nature of the problem.

Army: (Senate) 202-224-2881 Col. Tim Peterson
(House) 202-225-6818 Col. Abe Turner

Navy: (Senate) 202-226-4682 Capt. Barry Costello
(House) 202-685-6079 Capt. J. Michael Denkler

Air Force: (Senate) 202-685-2573 Col. Lyle Koenig
(House) 202-685-4531 Col. Pete Buncep

Coast Guard: (Senate) 202-224-2913 Cdr. Tom Richey
(House) 202-225-4775 Cdr. Karl Schultz

10. **Military Academy Recommendations.** Name, address, desired appointment, indication of credentials and brief history requested for a letter of recommendation.¹⁸

11. **Selective Service System.** For those born on or after January 1, 1960: name and social security number; selective service number is helpful. For those born prior to January 1, 1960: name, date of birth, and address at time of registration; selective service number is helpful. For approval or disapproval of educational loans under Title IV of the Higher Education Act—name, social security number, and/or selective service number.

703-605-4100 Mr. Dick Flahavan (Selective Service System)

¹⁸See Appendix B: Appointments to U.S. Military Service Academies.

12. **Veterans (Department of Veterans Affairs (VA)).** VA benefits include, but are not limited to, disability, education and training, home loan, life insurance, burial, survivor benefits, and health care benefits. Eligibility for most VA benefits is based upon discharge from active military service other than from training under honorable conditions for a minimum period specified by law.

Provide veteran's name, social security number, claim number, policy number (for insurance), date of birth and period of service. Evidence of honorable discharge may be necessary.

202-224-5351 Mr. Philip Mayo (Senate) (VA)

202-225-2280 Ms. Linda Jurvelin (House) (VA)

For policy issues or statutes, call congressional liaison:

202-273-5611 Ms. Sheila Clarke McCready (VA)

State Department Inquiries

13. **Visas.** Name, date, place of birth, type of visa (visitors, working, student, immigrant); where they applied; nature of the problem, if applicable.

202-663-1516 Ms. Nadine Wick (State Department)

14. **Passports.** On an emergency basis, may be completed on same day. Name, address, certified birth certificate, driver's license, previous U.S. passport or naturalization certificate, two passport photos, fee, flight tickets, pertinent application form.

202-955-0198 Ms. Patience Tait (State Department)

15. **Letters of Introduction.** To American embassy abroad. Congressional office may contact State Department or embassy directly. Provide name of constituent, date of visit to foreign country. Suggested clause to be included in letter: "Please extend appropriate courtesies to my constituent."

16. **Overseas Citizens Services.** Deaths, arrests, missing persons, child custody, injured relatives—name, relevant information on itinerary or location.

202-647-5226 Ms. Dianne Andruch (State Department)

17. **Refugee/Asylum Cases.** 202-663-1056 Ms. Pam Lewis (State Department)

Other

18. **Immigration.** Name, place and date of birth, immigration file number or receipt number if known, type of case, location, alien number (if applicable), and date of filing. If the case was denied, find out if and when an appeal has been filed.

202-514-5231 Ms. Gerri Ratliff (Immigration and Naturalization Service)

19. **Labor Certification.** Employees who have applied for certification. Provide employee name, employer name, type of job, case number, last action, date of application or appeal. Employers (former) who are being investigated. Provide name of employer or person being investigated, location, name of individual making the inquiry.

202-219-6141 Mr. Earl Cohl (Department of Labor)

20. **Higher Education Loans and Assistance.** Student financial assistance, grants, budget and legislative proposals.

- (a) Student financial assistance and related issues including repayment, defaults, consolidation.

202-401-1028 Ms. Libby Upshur (Department of Education)

- (b) Budget and general program questions

202-401-1028 Ms. Cynthia Wetmore (Department of Education)

- (c) Legislative proposals

202-401-1028 (request appropriate specialists)

- (d) Grant funding

202-401-1028 Ms. Elnora Walker; Mr. Rodney Capel; Ms. Caroline Beurkle (Department of Education)

- (e) Correspondence

202-401-1028 Ms. Theresa Toye (Department of Education)

21. **Farmers' Loans.** Farm Credit Administration. Knowledge of whether application has already been made, name, address, county and state in which property is located.

703-883-4056 Mr. Mark McBeth; Ms. Eileen McMahon (Farm Credit Administration)

22. **Communications Licenses.** The information needed depends on the nature of the inquiry. For example, for status queries about pending applications, the agency needs the name of the applicant, file number, call number of station, and city of license.

202-418-1903 Mr. Dan Python (Federal Communications Commission)

23. **Government Procurement and Property.** General Services Administration (GSA) provides the following assistance regarding government procurement and property: how to obtain surplus personal/donation property; how to do business with the federal government; federal travel regulations/per diem rates for federal employees; child care in the federal workplace; regulations on smoking in federal buildings; GSA owned/leased space; and disposal of surplus real property (land/structures).

202-501-0563 Ms. Brenda Short (General Services Administration)

24. **Housing.** Name, address, property address, indications of need, case or file number. Specify public or FHA assisted or insured housing. Programs cover: housing for the elderly and handicapped; Section 8 voucher and certificate assistance; Fair Housing; FHA insurance; manufactured housing; home equity conversion mortgages; and home ownership assistance for low-income and moderate-income families. May also require contact with local public housing agency or regional Department of Housing and Urban Development (HUD) program.

202-708-0380 Mr. John Biechman (HUD)

25. **American Indians and Alaska Natives.** To be eligible for most Bureau of Indian Affairs programs, an individual must be a member of a federally recognized tribe living on or near a reservation.

202-208-5706 Ms. Jaqueline Cheek (Bureau of Indian Affairs)

26. **Postal Service.** Employee problems, job opportunities, mail delivery, provide name, address, Post Office involved.

202-268-2353 Mr. Thomas Edwards (U.S. Postal Service)

27. **Federal Prisoners.** All matters related to the care, treatment, and programming of federal prisoners.

- (a) All matters regarding incarceration to include transfers, medical care, furloughs and halfway house placement. (Provide either name or register number.)

202-514-9663 Ms. Judith Simon Garrett (Federal Bureau of Prisons)

- (b) Prisoner paroles: provide name, register number, name of prison.

301-492-5990 Ms. Ann Vos (U.S. Parole Commission)

28. **Small Business.** Small business loans and contract assistance. For a Small Business Administration (SBA) loan, provide name of business, location where filed, amount, if possible, other pertinent information. For SBA contract assistance, give name of contract, type of contract, which government agency provides contract, name of contracting officer, if possible. For SBA 8(A) certification: provide company name, date the company filed for certification, name of any SBA contact person with whom they have worked, and what they have heard from that person.

202-205-6700 Ms. Karen Hontz (Small Business Administration)

29. **Treasury.** Department of Treasury, Internal Revenue Service: All Congressional activities and legislative proposals that enhance tax administration, are provisions of newly-enacted tax legislation, and GAO/TIGTA reviews.

202-662-3720 Mr. Floyd Williams (Department of Treasury)

30. **U.S. Commission on Civil Rights.** Civil Rights Complaints

202-376-7700 Ms. Kim Alton (U.S. Commission on Civil Rights)

31. **Recommendations for Federal Employment.** Nature of the situation, whether school or job, relationship with Member of Congress.

Members of Congress and their employees may make recommendations regarding federal employment. However, appointing personnel in the executive branch may consider recommendations from a Member of Congress *only* as to the character and residence of that person.¹⁹

See “Prohibited Employment Recommendations,” Appendix D, Legal and Ethical Considerations of Casework.

¹⁹CRS Report 96-913, *Recommendations by Members of Congress on Behalf of Applicants for Federal Employment*, by Jack H. Maskell, (Washington, Nov. 15, 1996).

Appendix B: Appointments to U.S. Military Service Academies

U.S. Military, Naval, and Air Force Academies

Nominations for appointments to U.S. military service academies made by Members of Congress are accepted by the U.S. Military Academy, the U.S. Naval Academy and the U.S. Air Force Academy. The following nominating procedures apply to the U.S. Military, Naval, and Air Force Academies: The quota for appointments is five cumulative per Senator and five cumulative per Representative to each Academy at any one time. Appointments made by a predecessor are considered part of the quota of a newly elected Member.

Nominations by Members are made when a vacancy in the appointment quota occurs, i.e., when an appointed member graduates or for any reason leaves an academy. Announcements of vacancies in the U.S. Naval Academy, the U.S. Military Academy, and U.S. Air Force Academy are made by August of the preceding year. Additional announcements are made as vacancies occur. Notification of vacancies in an individual Member's quota is made at the beginning of a newly elected Member's term of office. Unfilled vacancies are carried over from one year to the next.

Tri-service nomination forms (DD Form 1870) are supplied to a Member with the notification of a vacancy in an Academy quota. Additional forms can be obtained on request from academy liaison offices.

The following information should be typed on a nomination form: full name (no nicknames); date of birth; social security number; permanent address, temporary address; identification of candidate as constituent; type of nomination; alternate's numerical rank, if applicable; and signature of the Member of Congress.

In addition to requesting nomination by a Member of Congress, the individual must complete an application form for each academy to which the candidate is applying. Application form request cards are supplied by the academies to either Members of Congress or applicants.

A maximum of ten applicants can be nominated for each vacancy. If fewer than ten applicants are available for one vacancy, all names can be submitted as nominees. If more than one vacancy exists, ten names can be submitted for each vacancy.

Three methods of nominee selection can be used by Members:

Competitive Method—ten nominees are submitted for one vacancy; most qualified nominee is appointed by the academy.

Principal with Competing Alternates Method—Member's first choice of nominees is designated as principal nominee. If qualified, the nominee receives the appointment; if disqualified, nominees compete for the vacancy. The most qualified person receives the appointment.

Principal with Numbered Alternates Method—The principal nominee is designated by a Member; alternates are numbered in order of preference. If qualified, the principal receives the appointment. If disqualified, alternates are considered in order of preference until one is qualified.

A combination of methods can be used if two or more vacancies exist. For example, in the case of two vacancies, one principal with nine alternates and ten competitors can be nominated, or 20 competitive nominees can compete for the two vacancies.

Admission to the academies can also be obtained through the following appointment procedure: a qualified alternate can be appointed to bring academies to maximum strength. Qualified nominees who did not receive appointments for which they were nominated are eligible. Appointments are granted in order of merit and are charged against quotas of the secretaries of the military services.

Nominations to more than one academy can be made for one applicant. Applicants can be nominated by both a Senator and a Representative; if appointed, the applicant's appointment will be charged against only one vacancy.

The deadline for submission of nominations by Members is January 31 of the year for which July entrance is desired. Nominations will be accepted at the U.S. Military and Naval Academies from August 1 of the previous year to January 31, and at the Air Force Academy from May 1 of the previous year to January 31.

Members are informed of the status of nominees throughout the selection process.

Notification of a nominee's appointment is made to a Member of Congress by telephone about three days (Military Academy—two days) in advance of the nominee's receipt of the appointment. Advance notice to a Member allows time for personal congratulations by the Member prior to Academy notification to nominee.

Qualifications and Legal Requirements

Qualifications for admissions to the academies include a consideration of scholastic examination scores, physical aptitude scores, class rank, extracurricular activities, athletics and medical examinations, and are determined on an individual basis through evaluation of the "whole person."

Scholastic Assessment Test-1 or American College Testing examinations are required of all applicants. Guideline scores required generally (check specific requirements with Academy in which interested) are:

	SAT-1	ACT
Military Academy	560 Verbal; 560 Math	21 English; 27 Math
Naval Academy	600 Verbal; 600 Math	26 English; 26 Math
Air Force Academy ^a	580 Verbal; 560 Math	24 English; 25 Math

^a In addition, the Air Force Academy requires ACT scores of 24 in Reading and 25 in Science Reasoning.

Test scores will be sent directly to a Member on the request of a nominee. Nominees financially unable to take College Boards can do so, free of charge, with a verification of need from a high school official. Members of Congress may contact the Educational Testing Service (609-771-7881) to be assigned a SAT code number so that SAT-1 scores are sent directly to the Member of Congress. Extra copies of ACT scores are obtained when the applicant indicates a request for them on the ACT application form. The applicant must then send an extra copy to the Member from whom a nomination is being requested.

Class rank in the top 40 % is usually required but qualification will be waived for nominees attending selected schools.

Physical aptitude examination is required of all nominees. A medical examination is required of all applicants; exams are given at various locations around the country. Evaluation of all medical examinations is made by the Department of Defense Medical Examination Review Board.

20/20 vision uncorrected is required of 65 % of the applicants for the U.S. Naval Academy. Vision must be correctable to 20/20 for applicants to the U.S. Military Academy. U.S. Air Force Academy applicants must have visual acuity no worse than 20/50 for potential pilot, 20/200 for navigator and distant correctable to 20/40 in one eye and 20/70 in the other, or 20/30 in one eye and 20/100 in the other, or 20/20 in one eye and 20/400 in the other for commissioning.

Minor disqualifying defects subject to medical or dental correction can be waived. Disqualifying illnesses include chronic skin disease; asthma; organic heart diseases; uncorrected hernias; and loss of either thumb or great toe.

Candidates must be: citizens of the United States; at least 17 and no more than 23 years of age by July 1 of the year of entry; unmarried, not pregnant, and have no legal requirement to provide support to a dependent; of good moral character; and be a resident and legally domiciled in the state/district from which they are nominated.²⁰

²⁰Legal residence of father normally determines constituency; if parents are divorced, residence of parent with whom the nominee lives determines constituency.

Additional Types of Nominations for Appointments.

Presidential Nominations to Academies can be given to sons and daughters of career or retired military parents. Applications by eligible applicants are made directly to the academies. Appointments are competitive.

Vice Presidential Nominations for appointment can be made by the Vice President of the United States as the President of the Senate. Nominations are made from the nation at large; quota is five appointments to each academy. Applicants must write to the Vice President for consideration.

Sons and Daughters of Medal of Honor winners can be appointed to the academies. Applications by eligible applicants are made directly to the academies. Applicants must only meet qualifications for admission. Qualified children of POWs and MIAs and of deceased or disabled veterans may compete for one of 65 appointments by applying directly to the academies.

Nominations for Active Duty Enlisted Members can be made by the secretaries of the Army, Navy, and Air Force. Honor military schools and ROTC units also have limited nominating authority.

Liaison Offices

Military Academy
U.S. Total Army Personnel Command
Attn: TAPC-OPD-CM
200 Stovall Street
Alexandria, VA 22332-0413
Ms. Jorja Graves
Telephone: 703-325-7414
Fax: 703-325-6073

U.S. Air Force Academy Liaison Office
USAFA/RRA
Pentagon Room 5E-152
1040 Air Force Pentagon
Washington, DC 20330-1040
Ms. Karen Parker, Chief
Telephone: 703-697-7116
Fax: 703-695-7999

Naval Academy
Nomination and Appointments Office
117 Decatur Road
Annapolis, MD 21402
Ms. Delma Miller
Telephone: 410-293-4392
Fax: 410-293-1828

Additional information, services, and assistance in making nominations are provided by the academy liaison offices. Services include personal visits to Members' offices by academy representatives; dissemination of information for applicants to Members' offices; and providing assistance, on request, in forming selection committees to assist a Member in making nominations to the academies.

The U.S. Military Academy sponsors one trip a year for congressional staff to visit the academy and periodic visits for educators. The U.S. Naval Academy hosts 10 to 15 orientation visits each year for congressional staff, educators and the media. The Air Force Academy Group conducts two to three orientation tours to the academy each year for congressional staff who are responsible for the academy program. Workshops are conducted annually in major U.S. cities.

U.S. Merchant Marine Academy

Each Member of Congress may nominate 10 candidates to the U.S. Merchant Marine Academy annually. Nominees must be (a) U.S. Citizens or a national of the United States; and (b) a resident of the state/district represented by such Member. Nominees then compete for appointment to the Academy based upon their competitiveness and state and national vacancies. Qualifications for admission include consideration of the candidate's academic record, class rank, test scores (ACT or SAT-1), and meeting the medical requirements as well as Naval Reserve midshipmen standards. Additional information can be obtained by calling Capt. James M. Skinner, Admissions Office at 516-773-5391 or 1-800-732-6267, or Fax 516-773-5390.

Coast Guard Academy

The Coast Guard Academy bases admissions on an annual nationwide competition. The Academy does not have a congressional nominee program for applicants. Competition is open to American citizens who have reached their 17th but not 22nd birthday by July 1 of the entering year. In selecting students for admission, the Academy prohibits discrimination based on gender, race, color, national origin, or religion. Factors considered in the competition include ACT or SAT-1 scores, high school standing, and leadership potential as demonstrated by participation in high school extracurricular activities, community affairs, or part-time employment. All candidates must pass a strict medical and physical fitness examination. Applications are made directly to the Academy, Office of the Director of Admissions, New London, CT. 06320. For additional information, call Captain Robert W. Thorne at 860-444-8500, or Fax 860-437-6700.

Appendix C: Sample Privacy Act Release Form

PLEASE RETURN THIS FORM TO:

Senator/Representative _____
United States Senate (House of Representatives)
Washington, D.C. 20510 (20515)

_____ (Date) _____

TO WHOM IT MAY CONCERN:

I am aware that the Privacy Act of 1974 prohibits the release of information in my file without my approval. I authorize the (*name of federal agency or Department*) to provide information on my claim/case to (Senator/Representative)_____.

_____ (Signature) _____

_____ (Address) _____

_____ (Social Security or claim number) _____

_____ (Telephone Number) _____

If you wish information to be provided to parent, child, attorney, or other interested party, please indicate below.

I authorize _____ to receive information from Senator/Representative _____ relative to my claim/case.

_____ (Signature) _____

Note: To expedite delivery to congressional offices, constituents should use the Zip Code plus four digits in addressing correspondence. Mark envelope: "Privacy Act Request."

Appendix D: Legal and Ethical Considerations of Casework

Title 5 United States Code Section 3303 prohibits appointing officers of the federal government from considering or receiving a recommendation other than as to character or residency.

Title 18 United States Code Sections 201(b) and 201(c) forbids Members of Congress and their staff from soliciting or receiving a bribe or anything of value for or because of any official act performed.

Title 18 United States Code Section 203(a) states that Members and their staff may not be privately remunerated for casework interventions on behalf of any person; it sets forth penalties for any person who:

“ ... directly or indirectly demands, seeks, receives, accepts or agrees to receive or accept any compensation for any services rendered or to be rendered personally or by another

1. At a time when such person is a Member of Congress; or Member of Congress Elect ...; or
2. At a time when such person is an officer or employee of the United States in the legislative ... branch of the government ...”

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission ...

Shall be fined not more than \$10,000 or imprisoned for not more than two years or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

Title 18 United States Code Section 205 forbids government officials from privately handling cases before government tribunals on behalf of an individual, but allows Members of Congress to do so without compensation. There are, however, limits on Member representation; for example, they are prohibited from appearing in maritime cases and before the Court of Claims and the now defunct Indian Claims Commission.

Agency Intervention Protocol

Members of Congress are prohibited from *ex parte* communications concerning formal adjudications (off-the-record communications by one person concerning some agency action), and must abide by the rules which apply to all citizens making inquiries to federal agencies (5 U.S.C. 557(d)). This does not mean that they cannot contact agencies, but their communications may be made public under the *ex parte*

rules of a particular agency. The prohibition only applies to formal agency adjudications (hearings on the record), and not to regular casework.²¹

Employment Recommendation Restrictions²²

There is now no specific prohibition on Members recommending or referring applicants for federal positions or for other federal personnel actions; hiring officials are instructed only to receive and consider such “recommendations” from a Member as to the character or residence of the applicant, however. Additionally, hiring officials may consider and receive statements from a Member based on personal knowledge or records, related to an applicant’s work performance, ability, aptitude, qualifications, or suitability (P.L. 104-197, Section 315).

Current law prohibits officials in the executive branch from *receiving and considering* any recommendations from a Member of Congress of an applicant for a federal position except as to the character and/or residency of the applicant. A Member of Congress is not expressly prohibited, however, from *making* such recommendations (5 U.S.C. 3303). Current law protects against any potential political abuses in civil service hiring by prohibiting the consideration of political factors by appointing officials in referrals from Members or in any referrals (5 U.S.C. 3303 and 2302(b)), and prohibits anyone in the federal service from considering recommendations or statements other than those that evaluate work performance, ability, qualifications and suitability (5 U.S.C. 2302(b)(2)).

Responsibility to Constituents (House Ethics Committee Advisory Opinion)

In its first advisory opinion, issued on January 26, 1970, the House Committee on Standards of Official Conduct (the Ethics Committee) concluded that the exercise of the First Amendment right applies not only to petition by groups of citizens with common objectives, but increasingly by people with problems or complaints involving their personal relationship with the federal government. The Committee reasoned that:

As the population has grown and as the government has enlarged in scope and complexity, an increasing number of citizens finds it more difficult to obtain redress by direct communication with administrative agencies. As a result, the individual turns increasingly to his most proximate connection with the government, his representative in the Congress, as evidenced by the fact that congressional offices devote more time to constituent requests than to any other single duty.

²¹For a further explanation, see CRS Report 90-440, *Congressional Intervention in the Administrative Process: Legal and Ethical Considerations*, by Jack H. Maskell and Morton Rosenberg (Washington: Sept. 7, 1990).

²²This section is drawn from CRS Report, 96-913, *Recommendations by Members of Congress on Behalf of Applicants for Federal Employment*, by Jack H. Maskell (Washington: Nov. 15, 1996). See also U.S. Congress, House Committee on Standards of Official Conduct, *Employment Recommendations Memo* (Washington: Oct. 1, 1998).

The reasons individuals sometimes fail to find satisfaction from their petitions are varied. At the extremes, some grievances are simply imaginary rather than real, and some with merit are denied for lack of thorough administrative consideration.

Sheer numbers impose requirements to standardize responses. Even if mechanical systems function properly and timely, the stereotyped responses they produce suggest indifference. At best, responses to grievances in form letter or by other automated means leave much to be desired.

Another factor which may lead to petitioner dissatisfaction is the occasional failure of legislative language, or the administrative interpretation of it, to cover adequately all the merits the legislation intended. Specific cases arising under these conditions test the legislation and provide valuable oversight disclosure to the Congress.

Further, because of the complexity of our vast federal structure, often a citizen simply does not know the appropriate office to petition.

For these, or similar reasons, it is logical and proper that the petitioner seek assistance of his Congressman for early and equitable resolution of his problem.²³

The Committee on Standards of Official Conduct issued House Advisory Opinion No. 1 because it had received a number of requests on what “actions a Member of Congress may properly take in discharging his representative function with respect to communications on constituent matters.” The advisory opinion was written to provide guidelines that would be of assistance to Members in dealing with such matters.

Representations Before Federal Agencies

The Committee expressed its opinion:

that a Member of the House of Representatives, either on his own initiative or at the request of a petitioner, may properly communicate with an Executive or Independent Agency on any matter to request information or a status report; urge prompt consideration; arrange for interviews or appointments; express judgment; call for the reconsideration of an administrative response which he believes is not supported by established law; federal regulation or legislative intent; or perform any other service of a similar nature in this area compatible with the criteria hereinafter expressed in this Advisory Opinion.

²³U.S. Congress, House Committee on Standards of Official Conduct, “Advisory Opinion No. 1: The Role of a Member of the House of Representatives in Communicating with Executive and Independent Federal Agencies,” *Congressional Record*, vol. 116, Jan. 26, 1970, p. 1077.

Principles to be Observed

The Committee concluded that the “overall public interest, naturally, is primary to any individual matter and should be so considered. There are also other self-evident standards of official conduct which Members should uphold with regard to these communications.” The Committee recommended that Members observe the following three basic principles of official conduct:

1. A Member’s responsibility in this area is to all his constituents equally and should be pursued with diligence regardless of political or other considerations.
2. Direct or implied suggestion of either favoritism or reprisal in advance of, or subsequent to, action taken by the agency contacted is unwarranted abuse of the representative role.
3. A Member should make every effort to assure that representations made in his name by any staff employee conform to his instruction.

The Committee noted that “subsequent legislation, regulation or rules may affect part or all of this advisory opinion.”²⁴

Guidance for Future Conduct (Senate Ethics Committee Report)

The Senate Ethics Committee in the final report on its investigation of five Senators who intervened on behalf of Lincoln Saving and Loan Association presented the following guidelines for future conduct:

During the time that the Committee has had the Keating matter before it, the Committee has had the opportunity to review the sources discussed above and to consider at length the issue of the propriety of interventions with a federal agency on behalf of an individual who has made or raised significant political contributions. Based on this experience, the Committee suggests that until written guidelines have been adopted, a Member who has any reasonable doubt about whether to proceed in a particular matter consider the following issues:

The merits of the constituent’s case.

The continuing viability of the constituent’s claim. If the constituent’s claim initially appeared to have merit, has the Senator acted despite facts or circumstances that later undermined the merits of that claim?

²⁴U.S. Congress, House Committee on Standards of Official Conduct, “Casework Considerations,” *House Ethics Manual*, 102nd Cong., 2nd sess., April 1992 (Washington: GPO, 1992), pp. 239-266.

The kind of agency involved and the nature of its proceedings. Is the agency performing in a quasi-judicial, adjudicative or enforcement function?

If the Senator or staff member knows that an individual is a contributor, the following issues should also be considered. (If the Senator or staff member does not know if an individual is a contributor, he or she is not required or encouraged to find out. Most Senate staff members are not provided with information regarding contributions and are unaware of whether an individual seeking assistance is a contributor.)

The amount of money contributed. Has the contributor given or raised more than an average contribution?

The history of donations by a contributor. Has the constituent made contributions to the Senator previously?

The nature and degree of the action taken by the Senator. To what extent does the action or pattern of action deviate from that Senator's normal conduct?

The proximity of money and action. How close in time is the Senator's action to his or her knowledge of or receipt of the contribution(s)?

In its consideration of this case, the Committee has referred to or quoted from sources which may be largely unknown to Senators, such as the writings of Senator Paul Douglas and Advisory Opinion No. 1 of the House. The Committee believes that these sources have value as helpful guidance to Senators and to the Committee in analyzing the established norms of behavior in the Senate. However, these sources, in and of themselves, are not precedential and should not be considered as established Senate norms for purposes of discipline.²⁵

Representation of Petitioners Before Federal Agencies

On July 2, 1992, the Senate passed S.Res. 273, establishing a new rule of the Senate pertaining to representation of petitioners before federal agencies.²⁶ Section 2, which lists various actions that a Member may properly take in assisting a petitioner in dealings with government officials or agencies, is drawn substantially from House Advisory Opinion No. 1 (above). The Senate Select Committee on Ethics can provide advice and guidance to Members and staff on this rule.

²⁵U.S. Congress, Senate Select Committee on Ethics, *Investigation of Senator Alan Cranston*, S.Rept.102-223, 102nd Cong., 1st sess. (Washington: GPO, 1991), pp. 13-14. See also U.S. Congress, Senate Select Committee on Ethics, *Senate Ethics Manual*, S. Pub. 106-40, 106th Cong., 2nd sess. (Washington: GPO, 2000), pp. 177-191.

²⁶For a section by section analysis of S.Res. 273, see *Congressional Record*, vol. 138, July 2, 1992, pp. 17954-17957.

Senate Rule XLIII—Representation by Members

Senate Rule 43, Representation by Members, states:

1. In responding to petitions; for assistance, a Member of the Senate, acting directly or through employees, has the right to assist petitioners before executive and independent government officials and agencies.
2. At the request of a petitioner, a Member of the Senate, or a Senate employee, may communicate with an executive or independent government official or agency on any matter to: request information or a status report; urge prompt consideration; arrange for interviews or appointments; express judgments; call for reconsideration of an administrative response which the Member believes is not reasonably supported by statutes, regulations or considerations of equity or public policy; or perform any other service of a similar nature consistent with the provisions of this rule.
3. The decision to provide assistance to petitioners may not be made on the basis of contributions or services, or promises of contributions or services, to the Member's political campaigns or to other organizations in which the Member has a political, personal, or financial interest.
4. A Member shall make a reasonable effort to assure that representations made in the Member's name by any Senate employee are accurate and conform to the Member's instructions and to this rule.
5. Nothing in this rule shall be construed to limit the authority of Members, and Senate employees, to perform legislative, including committee, responsibilities.

Congressional Intervention in the Administrative Process²⁷

When congressional committees engage in oversight of the administrative bureaucracy, or when Members of Congress intervene in agency proceedings on behalf of private constituents or other private entities with interests affecting the Member's constituency, such interventions involve varying degrees of intrusion into agency decision making processes. A CRS Report on congressional intervention in the administrative process (90-440A) briefly examines the currently applicable legal and ethical considerations and standards that mark the limits of such intercessions.

²⁷This section is drawn from U.S. Library of Congress, Congressional Research Service, *Congressional Intervention in the Administrative Process: Legal and Ethical Considerations*, by Morton Rosenberg and Jack H. Maskell, CRS Report 90-440 A (Washington: Sept. 7, 1990), summary page.

The report reviews the judicial development and application of standards for determining when congressional pressure or influence has been deemed to have tainted an agency proceeding. It concludes that the courts, in balancing Congress's performance of its constitutional and statutory obligations to oversee the actions of agency officials against the rights of parties before agencies, have shown a decided predilection for protecting the congressional prerogatives. Where informal rule making or other forms of informal decision making are involved, the courts look to the nature and impact of the political pressure on the agency decision maker, and intervene only where that pressure has had the effect of forcing the consideration of factors Congress did not intend to make relevant. Where agency adjudication is involved, a stricter standard is applied, and the finding of an appearance of impropriety can be sufficient to taint the proceeding. Even here, however, the courts have required that the pressure or influence be directed at the ultimate decision maker before they will intervene.

The report also examines the conduct of Members of Congress intervening in administrative matters from the perspective of ethics or conflict of interest rules and statutes which may bear upon a Member's official duties. Since congressional intervention and expressions of interest in administrative matters from a Member's office are recognized as legitimate, official representational and oversight functions and duties of Members of Congress, the primary focus of these ethical and statutory conduct restraints is limited: (1) any improper enrichment or financial benefit accruing to the Member in return for or because of his or her official actions, that is, any illegal or corrupt bargain or payment for such activities, sale of influence, or personal financial conflicts of interest in such matters; and (2) any overt coercion or threats of reprisals, or promises of favoritism or reward to administrators from the Member's office which could indicate an arguable abuse of a Member's official representational or oversight role in such matters. Additionally, ethical guidelines in Congress may incorporate broad "appearance of impropriety" standards for Members which could raise ethical concerns in relation to the acceptance of gifts, favors, donations, and benefits by Members from those who are directly affected by the Member's official duties, even in the absence of a showing of a corrupt bargain, an express payment, or other specific connection to an official act.