

Regulations on the Use of the
CONGRESSIONAL FRANK

By Members of the House of Representatives

And

RULES OF PRACTICE IN PROCEEDINGS

Before the House Commission on
Congressional Mailing Standards

PREPARED BY

**THE COMMISSION ON CONGRESSIONAL
MAILING STANDARDS**

HOUSE OF REPRESENTATIVES



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Part I

INTRODUCTION

The House Commission on Congressional Mailing Standards, created by Public Law 93-191, is directed to issue regulations governing the proper use of the franking privilege.

These regulations govern the use of the frank under sections 3210, 3211, 3212, 3213(2), 3215, 3218, 3219, and 3220 of title 39, United States Code, which cover franked mail generally, public documents, Congressional Record and Congressional Record excerpts, U.S. Department of Agriculture seeds and reports, and the lending of the frank.

These regulations apply to any Member or Member-elect of the House, Resident Commissioner or Resident Commissioner-elect, Delegate or Delegate-elect, designated survivor of any of the foregoing, House officials, former Members and former House officials entitled to use the frank.

The law was amended on October 26, 1981, upon enactment of Public Law 97-69. The most significant changes were to enact major provisions of House Rule XLVI relating to mass mailings and to eliminate the authority to send letters of condolence and letters of congratulations for personal distinctions.

The law had also been amended in 1978, upon enactment of Public Law 95-521 and was again amended in 1982, upon enactment of Public Law 97-263, to authorize use of the frank for the Senate Legal Counsel and the Law Revision Counsel of the House, respectively.

Public Law 99-87, enacted in 1985, authorized the use of official mail to aid in the location and recovery of missing children. This Act was extended for a period of five years in December 1987.

Public Law 101-163, enacted in 1989, limited any mass mailing to two sheets of paper or their equivalent, and changed the numerical limitation on postal customer mail and restrictions on the timing of mass mailings prior to elections.

Public Law 101-520, enacted in 1990, established an "Official Mail Allowance" for each person in the House of Representatives authorized to use the frank; required that all mass mailings be submitted to the Commission for review prior to mailing; and limited the geographic distribution of mass mailings.

Public Law 102-392, enacted in 1992, eliminated the two sheets of paper restriction on mass mailings and prohibited Members from mass mailing outside of the Congressional district from which they are elected.

Public Law 104-197, enacted in 1996, requires that all mass mailings bear the following disclaimer statement: "This mailing was prepared, published, and mailed at taxpayer expense.," and prohibits Members from mass mailing 90 days prior to any primary or general election in which such Member is a candidate for public office.

The Commission is also directed to provide guidance, assistance, advice, and counsel through advisory opinions or consultations in connection with the mailing or contemplated mailing of franked mail. The staff assigned to the Commission is delegated the authority by the Commission to perform advisory and consultatory functions, subject to review by the Commission.

The examples of frankable or nonfrankable mail matter as set forth in these regulations are based on the guidelines for franked mail matter enacted under Public Law 93-191, as amended. Any violation of the franking privilege is determined by the Commission under the procedures prescribed by section 5 of Public Law 93-191, as amended.

All section references in the following guidelines and regulations are to chapter 32 of title 39, United States Code, unless otherwise noted.

References to the Rules of the House, as such, are noted.

CHAPTER ONE

WHO MAY USE THE CONGRESSIONAL FRANK

1. Entitlement to Use the Frank

The following Members of the House, officers of the House and survivors are authorized to use the frank:

- a) a Representative, Delegate, or Resident Commissioner;
- b) a Representative-elect, Delegate-elect, or Resident Commissioner-elect;
- c) the Clerk, Sergeant at Arms, CAO, and Chaplain;
- d) the Legislative Counsel of the House and the Law Revision Counsel of the House;
[Note: Authority for all of the above is section 3210(b)(1).]
- e) any authorized person in the case of a vacancy in the offices of (c) or (d) above under authority of section 3210(b)(2);
- f) the designated survivor of a Representative, Delegate, or Resident Commissioner who died during his term of office, for not more than 180 days afterward, under section 3218.

2. Expiration of the Franking Privilege

Under section 3210(b)(3), Representatives and others vested with the franking privilege (see paragraph 1 above) are entitled on a restricted basis to use the frank during the 90-day period immediately following the date on which they leave office.

During this period, use of the frank is limited to matters directly related to the closing of the official business of the congressional or other respective office.

A Representative may not use the franking privilege during this 90-day period to –

- mail matter with a simplified form of address (postal customer mailing);
- mail newsletters, questionnaires or other similar mass mailings;
- mail any general or other mass mailings of any nature unless such mailings are in direct response to inquiries or requests from persons to whom the matter is mailed.

From the date a Member leaves office and until a successor is sworn in, all new official business of the Washington and District offices, and well as pending official business extending beyond the 90-day period described in the preceding paragraphs, shall be mailed under the

franking privilege of the Clerk of the House pursuant to the Clerk's responsibility under 2 U.S.C. 92c.

Further, upon the death of a Member, all official business relating to the closing of the office, as well as new business, shall be mailed under the Clerk's franking privilege until a successor is sworn in.

3. Representative-Elect

For the purpose of the applicable franking statutes and these regulations and guidelines, the franking privilege of a Representative-elect, a Delegate-elect, or a Resident Commissioner-elect to the House of Representatives shall begin on the date on which a certificate of election in due form is filed with the Clerk of the House.

Representatives-elect have limited use of the frank, i.e., to respond to incoming mail (although thank you messages for election to office are not frankable), set up their congressional offices or file documents with the Clerk's office. Campaign stationery cannot be used with the frank. Mass mailings may not be sent by Representatives-elect because they do not receive official expense allowances until they are sworn in as Members of the House of Representatives. Pursuant to section 3210(f), all mass mailings must be prepared and printed with appropriated funds.

4. Committees

Mail matter of any standing, select, special, or joint committee of the House, or a subcommittee thereof, or commission, composed of Members of Congress, which is frankable under section 3210, may be sent under the frank of the chairman, ranking minority member, or any other member of such committee, subcommittee, or commission. In addition, the Democratic caucus and the Republican conference of the House, or a committee, subcommittee, or other body established thereunder, may use the frank of a Member under authority of section 3215.

Section 3215 permits use of the frank by "official" committees created by order of the Congress, composed only of Members of Congress (excluding informal "caucus" or "ad hoc" groups of Members) whose business relates to political, party policy, special interest, or regional matters.

5. Loan of Frank

Section 3215 states, "A person entitled to use a frank may not lend it or permit its use by any committee, organization, or association, or permit its use by any person for the benefit or use of any committee, organization, or association. This section does not apply to any standing, select, special, or joint committee, or subcommittee thereof, or commission of the Senate,

House of Representatives, or Congress, composed of Members of Congress, or to the Democratic caucus or the Republican conference of the House of Representatives or of the Senate.”

This section prohibits the use of the frank for the benefit of charitable organizations, political action committees, trade organizations, and so forth.

It should be pointed out that while the “penalty mail” provisions of law, which apply to government agencies, permit penalty mail covers to be used by persons from whom official information is desired [39 U.S.C. 3202(b)], there is no such authority under the franking laws.¹ Therefore, attention is called to the following examples:

- A Representative may not provide a frank to a radio or television station for the return of a radio or television tape.
- A Representative may not permit his frank to be used for the return to him of responses to a questionnaire.
- A Representative may not use the frank to announce an event sponsored or cosponsored by an organization unless the event is part of an officially-sanctioned competition that appears on the list published by the Chairman and Ranking Member of the Committee on House Administration pursuant to the *Members Congressional Handbook*.²
- A Representative may not permit his frank to be used for the return of authorization forms from his constituents which may be required under the Privacy Act.

6. Inside Mail

Matter which is processed and delivered as “Inside Mail” is not subject to the provisions of the franking laws. This is a messenger service of the House provided to Members for the transmittal of inter-office communications. Since this mail matter never enters into the system of the U.S. Postal Service and is not handled by employees of the U.S. Postal Service, it is not

¹ Prohibitions concerning the receipt of return mail under the frank are expressed in *Cannon’s Precedents of the House of Representatives*, vol. VI, secs. 217, 219 (1936), Section 217 provides:

There is no provision of law under which a person receiving a request from a Member of Congress for information, official or otherwise, may send such information in the mails free of postage in an envelope bearing the frank of such Member of Congress furnished by the Member.

Section 219 provides:

There is no provision of law under which the frank may be used for return reply. – On July 21, 1930, reply to an inquiry from the Clerk of the House, submitted at the instance of Mr. Conrad G. Selvig, of Minnesota, the Third Assistant Postmaster General rendered the following opinion:

It is improper under the law to furnish envelopes bearing frank for the use of individuals in reply to letters, and individuals receiving such envelopes cannot lawfully use them to mail matter free of postage under the frank of a Member of Congress. *** Furthermore, there is no provision of law under which a person receiving a request from a Member of Congress for information, official or otherwise, may send such information in the mails free of postage in an envelope bearing the frank of such Member of Congress.

On May 8, 1975, the Commission held as frankable a petition by two Members, acting alone, to intervene in a rate case on behalf of constituents. The Commission held further that the same petition would not be frankable if another person not entitled to the franking privilege (such as the state attorney general) joined in the petition.

² Adopted by the Commission on October 29, 2015

considered “franked mail” under the statute. Therefore, it is not necessary for Members to obtain advisory opinions on material sent as “Inside Mail.”

7. International Mail

The congressional franking privilege may be used only for mail matter to be delivered within the United States, its territories and possessions and for mail matter bearing an APO or FPO address for delivery through the United States military mail system.³

The congressional frank may not be used for mail matter addressed for delivery in a foreign country. Under terms of the Universal Postal Union Convention, such mail matter must bear prepayment of postage.

For official mail addressed to U.S. Embassies and missions abroad, Members may consult the Department of State for use of diplomatic pouch service.

8. Responsibility of Member’s Staff

The actual determination of whether or not to send a particular piece of mail under a Member’s frank probably will be made by his staff who prepare his mail for delivery. An improper use of the frank by a staff member, ranging from an inadvertent mistake on a single letter to a willful abuse on a mass mailing, will be imputed to his Member under most circumstances. To help avoid these violations of the franking law, with all of their resultant possible penalties and reflections on the effective administration of his office, a Member should reasonably ensure that his staff knows what kinds of mail are frankable by providing for the training and supervision of these employees and their familiarization with these regulations. Members should encourage their staff, especially in the case of all mass mailings, to consult with and seek the advice of the Commission to the greatest extent possible.

³ In October 1990, the Commission ruled that mail bearing an APO or FPO address must relate to the official business of the Congress. Personal messages are not frankable.

CHAPTER TWO

CONTENTS OF FRANKABLE MAIL

1. Policy of Congress

Section 3210(a)(1) states, “It is the policy of the Congress that the privilege of sending mail as franked mail shall be established under this section in order to assist and expedite the conduct of the official business, activities, and duties of the Congress of the United States.”

2. Intent of Congress

Section 3210(a)(2) states, “It is the intent of the Congress that such official business, activities, and duties cover all matters which directly or indirectly pertain to the legislative process or to any congressional representative functions generally, or to the functioning, working, or operating of the Congress and the performance of official duties in connection therewith, and shall include, but not be limited to, the conveying of information to the public, and the requesting of the views of the public, or the views and information of other authority of government, as a guide or a means of assistance in the performance of those functions.”

3. Matters of Public Concern or Public Service

Section 3210(a)(3)(A) authorizes franking of mail matter “to any person and to all agencies and officials of Federal, state, and local governments regarding programs, decisions, and other related matters of public concern or public service, including any matter relating to actions of a past or current Congress.”⁴

⁴ Advisory opinion dated October 24, 1983, held as frankable a letter to residents advising them of a public meeting on contamination of waste disposal sites at a local Air Force Base.

Advisory opinion dated October 5, 1983, held as frankable a letter to businessmen concerning small business issues.

Advisory opinion dated December 27, 1983, held as frankable a letter to dairy farmers concerning new dairy legislation.

Commission ruling dated November 1974, held that Members may not project themselves into a future Congress, until after the November general election.

Commission ruling dated July 23, 1991, held that mass mailings to APO or FPO addresses are not frankable.

Members may not make any mass mailings outside of the district from which they are elected. Members may respond directly to inquiries or requests from outside the district (See Chapter 3: Mass Mailing).⁵

4. Newsletter and News Release

Section 3210(a)(3)(B) authorizes franking of “the usual and customary congressional newsletter or press release which may deal with such matters as the impact of laws and decisions on state and local governments and individual citizens; reports on public and official actions taken by Members of Congress and discussions of proposed or pending legislation or governmental actions and the position of the Members of Congress on, and arguments for or against, such matters” (See Chapter 3: Mass Mailing).

Guidelines for Personally Phrased References

Members are cautioned on the excessive use of personally phrased references (Member’s name, “I,” “me,” “the Congressman,” “the Representative”) in newsletters or other mass mailings.

Personally phrased references contained in a mass mailing, for the most part, should not appear on the average more than eight times per page (the size of which is 8 ½ x 11” or larger, with a reasonable reduction in the number of such personally phrased references in mail matter smaller than 8 ½” x 11”), except where such references:

- appear as the frank;
- appear in a masthead;
- consist of the signature and name following a letter, message, or the like;
- appear in any return, district, or Washington office address;
- identify a Member in a photo;
- appear in Congressional Record reprints, in most cases; or
- appear in reprints of articles from magazines, newspapers, and other periodicals, in most cases.

(The Commission points out that the guidelines set forth above do not carry the full force and effect of regulations. Thus, they are not outright limitations on the use of personally phrased references, but have been established to assist Members in preparing newsletters and other mass mailings. The use of personally phrased references in excess of these guidelines, when viewed as a whole and in the proper context, may not be in violation of the spirit and intent of the franking statutes or regulations thereunder.)

⁵ Public Law 102-392 enacted in 1992.

4(a). Examples of Nonfrankable Items

- **Personal or biographical matter (See paragraphs 8, 10, 14, 16)**
 - Autobiographical or biographical material of a Member, staff, or constituent is not frankable. [NOTE: An official biography of the Member may be franked in response to a specific request or to media.]
 - No reports on the Member's family or family life.
 - No reports on how the Member spends time other than in the performance of official duties.
 - Community service or workday activities performed by the Member or staff are not official.
 - No thank you notes or messages regarding election or re-election to office.
 - Birthday, anniversary, wedding, birth, retirement, or condolence messages are prohibited. Non-incident holiday greetings are prohibited. (Incidental holiday greetings are permissible)⁶
- **Political and partisan references (See paragraphs 7, 17)**
 - Avoid excessive use of party labels. A general guideline is two references per page for each party.
 - No party labels in photo caption excepting leadership titles.
 - No specific references to past or future campaigns or elections, including election or re-election announcements and schedules of campaign related events.⁷
 - Political cartoons or graphics are prohibited.
 - Materials (i.e. photos, logos, slogans) used in campaign literature as well as specific campaign pledges or promises are not frankable.
 - Members may not project themselves through an election cycle into a future Congress.
 - Members may not directly or indirectly solicit a constituent's party affiliation.
 - Comments critical of policy or legislation should not be partisan, politicized or personalized.
- **Solicitations, promotions, or endorsements (See paragraphs 5, 6, and 17, and Chapter One, paragraph 5)**
 - No solicitations for funds for or on behalf of *any* organization or person.
 - No grassroots lobbying or soliciting support for a Member's position on a legislative, public policy or community issue. Members cannot generate or circulate a petition under the frank.
 - No material that advertises, promotes, endorses or otherwise provides a benefit to an individual or organization not entitled to use the frank. This would include commercial, charitable, non-profit, and political organizations, as well as Congressional Member Organizations (CMO) and advisory boards or task forces. [NOTE: Leadership task

⁶ The Commission on December 4, 2013 held as frankable an incidental holiday greeting.

⁷ The Commission on November 25, 1974, by a unanimous vote, held as not frankable comment in newsletter expressing gratitude to constituents for election to the Congress.

forces or working groups are eligible for franking privileges under the Republican conference or Democratic caucus]

4(b). Examples of Frankable Items

- **Legislative duties (See paragraphs 2, 3, 7)**
 - Newsletters, reports, summaries or press releases on the Member's position on legislative or public policy issues.
 - Discussions of official activities or meetings including participation in committee or subcommittee activities, official trips or tours, leadership roles.
 - Tabulation of the Member's voting record or attendance record.⁸
 - Follow-up letters or updates on a specific issue or to a targeted constituency are frankable.
 - Members may discuss awards or honors presented in recognition of official or legislative efforts (no personal or political accomplishments).
 - News articles, Congressional Record reprints, testimony and copies of official correspondence may be used as enclosures or excerpts provided the content complies with franking regulations.
 - Questionnaires seeking public opinion on any law or proposed legislation. Opinion ballots on specific issues are permissible provided pro and con views are indicated.
 - Editorial or issue-oriented cartoons which depict public issues (e.g., energy, inflation, defense) on a nonpolitical basis are frankable.
- **Official activities (See paragraph 2)**
 - Announcements of town hall meetings, district office or neighborhood outreach hours, or constituent service events. [NOTE: Members cannot cosponsor events with an outside entity.]
 - Notices of a visit to various sites in the district or a personal appearance by the Member to conduct official business. [NOTE: Members can only invite constituents to attend official events sponsored by the Member.]
 - Military academy applications and appointment forums.
 - Statements of financial disclosure when contained in a press release or newsletter are frankable.
- **Constituent service (See paragraphs 8, 11, 12, 13, 23)**
 - Federal laws and publications, copies of bills, the Congressional Record, Library of Congress documents, U.S. Capitol Historical Society calendars and publications purchased with federal funds. [NOTE: There are limited exceptions for enclosing public service materials in an otherwise frankable mailing (see Chapter 3, Paragraph 3).]
 - Non-partisan voting registration or election information.

⁸ The commission on February 21, 1974, by a unanimous vote held as frankable a press release relating to the attendance record of a Member of the House.

- Photos and biographies of missing children provided by the National Center for Missing and Exploited Children.
- Congratulations to a person who has achieved some public distinction.

4(c). Pictures in Newsletters, News Releases, or Other Mass Mailings

Mail matter consisting of newsletters, the usual and customary congressional questionnaire, or other general mass mailings, including covering letters in connection therewith, may include as a part thereof a single picture, sketch, or other likeness of the Member appearing alone which is in reasonable proportion to the size of the page.⁹

Additionally, mass mailings may contain pictures in which other *clearly visible* persons appear with the Member. Photos in which the Member appears are limited to a maximum of two per page.

Press releases which are frankable, if mailed to the communications media, may be accompanied by photographs which are directly related to the subject matter of the press release being so mailed.

Guidelines for Pictures and Sketches

- Mail matter consisting of newsletters, press releases, questionnaires, meeting notices, agriculture and consumer pamphlets, and certain other mass mailings may contain a picture of the Member.
- Calendars, business cards, academy posters, letterhead, note paper, labels, and newspaper advertisements or inserts may not contain a picture of the Member.
- A mass mailing may contain only one picture, sketch, or likeness in which the Member appears alone. Such a picture may be positioned anywhere on any page, and may cover 6 percent of the page, not to exceed 6 square inches. A masthead-type photo does not require a caption or accompanying text.

⁹ Advisory opinion dated July 1, 1974 held as frankable the U.S. Department of Agriculture Publications List together with an explanatory cover letter containing a masthead photograph.

Advisory opinion dated September 27, 1974 held as not frankable a pocket calendar, one side of which was imprinted with the photograph of the Member.

Photo Measurements of Member Appearing alone

Masthead-Type Photo

Page Size	Maximum Photo Size
3.5 x 5	1 square inch
3.5 x 8	1.7 square inches
4 x 6	1.5 square inches
5.5 x 8.5	3 square inches
7 x 8.5	3.6-4 square inches
8.5 x 11	6 square inches
8.5 x 14 or larger	6 square inches

- Newsletters and other mass mailings should not include more than two pictures on any one page in which the Member appears (this includes the masthead), and the area covered by such pictures should not exceed 50 percent of such page.¹⁰

Photo Measurements Totaling 50 Percent of Page

Page Size	Maximum Photo Size
3.5 x 5	8.75 square inches
4 x 6	12 square inches
5.5 x 8.5	23.4 square inches
7 x 8.5	29.75 square inches
8.5 x 11	46.75 square inches
8.5 x 14	59.5 square inches

- Except for an individual Member photo as described above, a picture which includes the Member must relate to the content of the accompanying text, or have a cutline or caption which explains the official activity rather than merely labels the picture.
- Members are cautioned on the use of pictures which contain a banner, poster, or other prominent display of a Member's name (such as mobile office). Such pictures, if they "lead to the conclusion that (their) purpose is to advertise the Member or Member-elect rather than illustrate accompanying text" could be the basis for filing a complaint. Therefore, Members are urged to exercise judgment and restraint in the use of such pictures.
- Subject matter of such photos is limited to the official business, activities, and duties of a Member of Congress.¹¹

¹⁰ The commission on December 4, 2013 held that the guidelines for the total area per page of pictures and sketches be increased effective January 1, 2014.

¹¹ Advisory opinion dated November 17, 1975 held as not frankable a photo of a Member performing a "work day" function in his congressional district unrelated to official duties. "Work day" functions include activities such as: assembly line work, farming chores, pumping gas, cashiering, etc.

- A picture of a Member in the performance of legislative, representative, or other official duties, may include the spouse or other members of the family of such Member.¹²
- A picture of a Member may not be included with mail matter consisting solely of voting or election information.
- Members are encouraged to limit their use of photographs and text which depict them receiving awards, certificates of commendation, or the like.
(The guidelines, which are set forth above, are intended to assist Members of the House in determining the proper size, number, and content of such pictures.)

5. Size and Format

Mass mailings are not restricted in their length or number of pages.¹³

There shall be a clear and readable address panel consisting of a rectangular area approximately 3 ½” from top to bottom and 4 ¼” from left to right, in proportion to the size of the page. This space will be used for the frank in the upper right-hand corner, the return address in the upper left-hand corner, and addressee information in the center.

In any frankable mailing, the size on print type in which a Member’s name appears is limited to not more than ¼” in height, except for the masthead where it may measure not more than ½”.

Mail matter which contains any logo, masthead design, slogan, or photograph which is a facsimile of any matter contained in a Member’s campaign literature is not frankable.¹⁴

All mass mailings must bear the following disclaimer statement: “This mailing was prepared, published and mailed at taxpayer expense.” This notice must appear prominently on the front page of a letter, on the front of the envelope or near the mailing panel, or on the first page of a self mailer. It must appear horizontally and set apart from other text by lines of spacing and printed in type size not smaller than 7 point.¹⁵

¹² In its decision in the case of *Lowenstein v. Wydler* (February 20, 1976), the Commission ruled nonfrankable a photograph appearing in a Member’s newsletter depicting the Member and the Member’s son meeting with the President in the Oval Office. The photograph was accompanied by the following caption: “LIFETIME THRILL: Right after Gerald R. Ford became President of the United States, Congressman Jack Wydler and 13- year-old son Chris were invited for a private visit with the President in the Oval Office. The casual meeting covered many topics, including the nation’s number one problem, inflation. And for Chris, who sat in the President’s chair, the visit became a thrill of a lifetime.”

¹³ Public Law 102-392, enacted in 1992, eliminated the two sheets of paper restriction on mass mailings.

¹⁴ Adopted by the Commission in October 1988, effective January 1, 1989.

¹⁵ Public Law 104-197 enacted in September 1996.

6. Solicitation of Funds

The solicitation of funds for or on behalf of a private organization, for example, for the purpose of supporting any charitable, educational, religious or political program is not frankable.

A notice of or reference to a registration fee to cover the cost of participation (program materials, food and beverage) in an official event, conference, meeting or other such function sponsored by the Member, is not considered a solicitation.

7. Questionnaire Seeking Public Opinion

Section 3210(a)(3)(C) authorizes the franking of “the usual and customary congressional questionnaire seeking public opinion on any law, pending or proposed legislation, public issue, or subject.”

A tabulation of the results of these questionnaires received by the Representative may be included in a newsletter or other frankable mailing.

A Representative may not permit his frank to be used for the return to him of responses to the questionnaire.

The questionnaire may not include a question inviting the constituent to indicate his or her political affiliation, such as “Democrat,” “Republican,” or “Independent.”

8. Congratulations

Section 3210(a)(3)(F) authorizes the franking of “mail matter expressing congratulations to a person who has achieved some public distinction.”

The Commission emphasizes that these messages of congratulations are limited to matters of public distinction as opposed to matters of personal achievement. The following examples are illustrative, and not all-inclusive:

Examples of public distinction:

Election or appointment to public office	Publicly notable awards and honors
U.S. Citizenship	Eagle Scout / Gold Star
High School Graduation	Heroism
Appointment to a U.S. military academy	

In the above examples, there is a public purpose to be served in establishing communication with newly elected or appointed public officials on a Federal, state or local level; with new citizens and graduates; and with honorees for outstanding public service to promote the public good.

Letters consisting solely of birthday, wedding, anniversary, retirement or condolence messages are not frankable.

However, legislative correspondence, which otherwise is frankable, may contain an incidental statement of condolence or of congratulations for personal achievement. For example, a response to a constituent's request for assistance in obtaining survivor annuity benefits may contain an incidental statement of condolence. Similarly, a letter enclosing Federal publications may contain a brief congratulatory message for personal achievement, provided the substance of the letter focuses on the content of the publication or other officially related subject matter rather than on the congratulatory remark.

9. Letters of Recommendation

A letter of recommendation for a current or former employee or any individual that has worked with the Member in an official capacity is frankable as long as it relates to the duties performed by the individual. Members as part of their official duties can write recommendations for military academy and political appointees.

Members may write letters of general introduction, not endorsement or recommendation for organizations or individuals.

Letters of recommendation other than those described above are not frankable.¹⁶

10. Holiday Greetings

Section 3210(a)(5)(B)(iii) prohibits the use of the frank "for any card expressing holiday greetings from [a Representative]." The Commission has interpreted this to cover newsletters and all other mailings that include "non-incidental holiday greetings." Incidental holiday greetings are permissible. Examples of incidental greetings include salutations, signatures, and other simple greetings. Holiday colors, illustrations, and greetings on calendars are non-incidental and not frankable.

11. Federal Laws and Publications

Section 3210(a)(3)(G) authorizes franking of "mail matter, including general mass mailings, which consists of Federal laws, Federal regulations, other Federal publications, publications purchased with Federal funds, or publications containing items of general information."

Federal publications include the Congressional Directory, Department of Agriculture pamphlets and any other publications printed by order of Congress or by the Government Printing Office.

¹⁶ Adopted by the Commission on December 10, 1995.

Publications purchased with Federal funds would include the U.S. Capitol Historical Society calendar.

Section 3210(f) provides, “Any mass mailing which otherwise would be permitted to be mailed as franked mail under this section shall not be so mailed unless the cost of preparing and printing the mail matter is paid exclusively from funds appropriated by Congress, except that an otherwise frankable mass mailing may contain, as an enclosure or supplement, any public service material which is purely instructional or informational in nature, and which in content is frankable under this section.”

The following are examples of materials which, if printed with nonappropriated funds, may be sent as enclosures in an otherwise frankable mass mailing:

- Voter registration or election information;
- Brochures listing educational institutions or opportunities;
- Brochures listing career opportunities;
- State or local government publications listing public services;
- Publications on energy, consumer, or conservation measures of an informational nature.

Surplus books and other publications from the Library of Congress are mailable under the frank to other libraries or persons.

Ordinarily a book which is printed privately under the authorship or editorship of a Representative is not mailable under the frank; however, if the book is substantially biographical, under the provisions of paragraph 14 of this chapter, it may be mailed under the frank in response to a specific request for biographical material.

12. Congressional Record and Congressional Record Reprints

Section 3212 authorizes the franking of the Congressional Record. That section also states, “Members of Congress may send, as franked mail, any part of, or a reprint of any part of, the Congressional Record, including speeches or reports contained therein, if such matter is mailable as franked mail under section 3210...”

In other words, a Congressional Record reprint or excerpt is subject to the test of frankability as set forth in section 3210 and applicable regulations.

Members are cautioned on mass mailing of Congressional Record reprints containing laudatory statements of one Member by another Member, and are urged to ensure that such material complies with the statutory provisions governing laudatory statements.

13. Voting Information

Section 3210(a)(3)(H) authorizes the franking of “mail matter which consists of voter registration or election information or assistance prepared and mailed in a nonpartisan manner.”

A Representative may send under his frank material encouraging citizens to register and to vote or other material which provides information on voting. Care should be taken that such

information is prepared in a non-partisan manner and that it does not contain any political material which would cause it to be nonfrankable.¹⁷

If the matter mailed consists solely of voter information, it should not contain a picture of the Member (see paragraph 4(c) of this chapter, “Pictures in Newsletters, News Releases, or Other Mass mailings”).

14. Biographical Matter

Section 3210(a)(3)(I) authorizes franking of “mail matter which constitutes or includes a biography or autobiography of any Member of, or Member-elect to, Congress or any biographical or autobiographical material concerning such Member or Member-elect or the spouse or other members of the family of such Member or Member-elect, and which is so mailed as a part of a Federal publication or in response to a specific request therefor and is not included for publicity purposes in a newsletter or other general mass mailing of the Member or Member-elect under the franking privilege.”

Biographical matter not in a Federal publication and sent in response to a request may be in the form of a book, or part of a book, a specially printed brochure, a newspaper or a magazine article, or any other available form.

The frankability of biographical matter would be impaired by the inclusion of personal matter for publicity, advertising, or political purposes.

The incidental inclusion of biographical material or the incidental reference to personal history in a newsletter article would not cause the entire newsletter to be nonfrankable. However, if a substantial part of the article was a recitation of the personal history of a Member, such material would come under the prohibition.

A Representative may mail biographical material under the frank to the news media, in the absence of a specific request, for the purpose of updating news media files.

15. Picture of a Representative

Section 3210(a)(3)(J) authorizes franking of “mail matter which contains a picture, sketch, or other likeness of any Member or Member-elect and which is so mailed as a part of a Federal publication or in response to a specific request therefor and, when contained in a newsletter or other general mass mailing of any Member or Member-elect, is not of such size, or does not occur with such frequency in the mail matter concerned, as to lead to the conclusion that the purpose of such picture, sketch, or likeness is to advertise the Member or Member-elect rather than to illustrate accompanying text.”

¹⁷ Advisory opinion dated July 17, 1974 held as frankable a mass mailing to constituents urging voter registration.

Advisory opinion dated July 26, 1974 held a Member may not use his franking privilege as honorary chairman of a group of state administrators of elections to mail organizational information to such administrators.

The use of pictures in newsletters and accompanying news releases is described in paragraph 4(c) of this chapter.

A Representative may mail his photograph under the frank to the news media, in the absence of a specific request, for the purpose of updating their files.

A picture of the Member with a group of constituents may be sent individually to persons in the picture.

16. Personal Matter

Section 3210(a)(4) prohibits the use of the frank for “the transmission through the mails... of matter which in its nature is purely personal to the sender or to any other person and is unrelated to the official business, activities, and duties of the public officials (who are authorized to use the frank).”¹⁸ Letters of acceptance or regret to invitations may be sent under the frank only if a Member is invited to appear in an official capacity.

Section 3210(a)(5)(A) prohibits the use of the frank for “mail matter which constitutes or includes any article, account, sketch, narration, or other text laudatory and complimentary of any Member of, or Member-elect to, Congress on a purely personal or political basis rather than on the basis of performance of official duties as a Member or on the basis of activities as a Member-elect.”

Section 3210(a)(5)(B)(ii) prohibits the use of the frank for “reports of how or when such Member or Member-elect, or the spouse or any other member of the family of such Member or Member-elect, spends time other than in the performance of, or in connection with, the legislative, representative, and other official functions of such Member or the activities of such Member-elect as a Member-elect.”

These prohibitions do not extend to the mailing under the frank of biographical matter, as authorized under paragraph 14 of this chapter.

Matter complimenting a Representative on a legislative achievement is frankable so long as it relates only to achievements concerned with official duties as a Member of Congress.

A thank you note or message regarding election to office is not frankable.

Section 3210(a)(5)(B)(i) prohibits the franking of mail matter which constitutes or includes “greetings from the spouse or other members of the family of such Member or Member-elect unless it is a brief reference in otherwise frankable mail.”

¹⁸ Advisory opinion dated June 17, 1974 held as not frankable a signed copy of the Code of Fair Campaign Practices (being returned to the Fair Campaign Practices Committee, Inc.).

17. Political Matter

Section 3210(a)(5)(C) prohibits the use of the frank for “mail matter which specifically solicits political support for the sender or any other person or any political party, or a vote or financial assistance for any candidate for any public office.”¹⁹

This prohibited mail matter would include the forwarding or transmittal of any mail matter of private persons or associations which seeks to influence any public issue.

The use of the frank to mail matter constituting a petition is not authorized.

Mail, including newsletters or news releases, which mentions that the Representative or an employee of a Representative (or any other person) is a candidate for political office is not frankable.

18. Mail Between a Representative’s Washington Office and District Offices

Section 3210(a)(3)(D) authorizes the franking of “mail matter dispatched by a Member of Congress between his Washington office and any congressional district offices, or between his district office.”

This provision is subject to the restrictions on the frankability of personal and political material as set forth in this chapter, and is further subject to the size and weight limitations on mail as set forth generally in the postal statutes.

19. Mail to Other Legislators

Section 3210(a)(3)(E) authorizes the franking of “mail matter directed by one Member of Congress to another Member of Congress or to representatives of the legislative bodies of state and local governments.”

20. Restitution for Misuse of the Frank; Payment to the Treasury

A mistake exists when a Representative, or an assistant to a Representative acting within the scope of his employment, improperly or unlawfully uses the frank on mail under an erroneous conviction arising from ignorance, forgetfulness, or misplaced confidence. Intentional or negligent use of the frank in an improper or unlawful manner cannot be excused as a mistake.

A Representative may offer to pay for the cost of a mailing sent out under his frank and which is not authorized under franking statutes. Such an offer will be viewed as an act of good faith by the House Commission on Congressional Mailing Standards in deciding whether to conduct further proceedings in case of a complaint against the Representative because of the mailing.

¹⁹ Advisory opinion dated July 15, 1974 held as not frankable a reprint from a national publication which reviewed the record of, and encouraged political support for, the incumbent Member of Congress.

Section 3216(d) provides, “Money collected for matter improperly mailed under the franking privilege shall be deposited as miscellaneous receipts in the general fund of the Treasury.”

Representatives making reimbursements under this provision should make checks payable to: U.S. Treasury – Financial Management Services, and mail to:

Finance Division
Room 257
401 14th Street, S.W.
Washington, D.C. 20227
Phone: (202) 874-7110

21. Advisory Opinions

Under its authority, the Commission has delegated to the Commission staff the initial authority to issue advisory opinions to Members on the frankability of mail matter. A Member of the House, acting in that Member’s capacity as a representative of a congressional district, shall, before making any mass mailing, submit a sample or description of the mail matter involved to the Commission for an advisory opinion as to whether such proposed mailing is in compliance with applicable provisions of law, rule, or regulation.²⁰

An advisory opinion does not constitute approval by the Commission nor does it offer relief from the applicable statutes. Therefore, mail matter which is the subject of an advisory opinion should not bear the legend “Approved by the Commission on Congressional Mailing Standards” or any other such imprint indicating Commission approval.

No advisory opinion is final until it has been issued in writing.

Templates for Town Hall Meeting Notices, Qualifying Advertisements, Posters and Flyers, and Scripts for Automated Telephone Calls and Public Service Announcements to be Distributed via Other Than the U.S. Postal Service (USPS)

A Member may submit a single request for an Advisory Opinion on the frankability of a Template of a communication to be used to give notice of a recurring official event, e.g., town hall meetings or community office hours, to be hosted by the Member over the course of the current year. The Advisory Opinion issued may be applied to each subsequent use of the template in that year as long as no changes are made to the Template other than the date, time, and location of the event.²¹

Within two business days of a subsequent use of an approved Template, the Member must submit a completed “Pre-Approved Template Form” to the Franking Commission. A

²⁰ Public Law 101-520, enacted in 1990.

²¹ Approved by the Commission on April 8, 2008. Effective January 3, 2009.

copy of this notice shall be included in the permanent records of the Franking Commission and the Legislative Resource Center.

***Please note that this regulation does not apply to notices to be distributed as via USPS. Each notice to be distributed as a mass mailing must be submitted to the Franking Commission for review and consideration prior to being mailed. ***

22. Public Access

All written staff advisory opinions issued on or after January 3, 1996 are available for public review and photocopying. In addition, mass mailings issued prior to that date are available for inspection. The Legislative Resource Center will make these materials available to the public. The Legislative Resource Center is located at 135 Cannon House Office Building, phone 6-5200.²²

23. Missing Children

Under section 3220, a franked mailing may contain biographies and photographs of missing children. This material may appear on the envelope or any page of a newsletter, questionnaire, meeting notice, or similar mailing. However, caution should be exercised that this material does not impede the mailing panel of a self-mailer. Should Members or staff have any questions regarding placement of the information, they should contact the Commission staff.

Note to Section 3220 of title 39 provides that any guidelines, rules, or regulations prescribed pursuant thereto shall cease to be effective December 31, 2002.²³

For information on obtaining appropriate biographies and photographs of missing children, Members may contact the Program Director, The National Center for Missing and Exploited Children, 1835 K Street, N.W., Suite 700, Washington, D.C. 20006, (202) 634-7161.

²² Adopted by the Commission on December 10, 1995.

²³ Public Law 105-126 enacted December 1997.

CHAPTER THREE

MASS MAILINGS

1. Definition

Section 3210(a)(6)(E) defines “mass mailing” as, with respect to a session of Congress, any mailing of newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces in that session. This term does not apply to (1) mailings in direct response to communications from persons to whom the matter is mailed; (2) mailings to colleagues in the Congress or to government officials whether Federal, state, or local; (3) mailings of news releases to the communications media.

Mass mailings, therefore, are determined by quantity. Any mailing, whether a newsletter, issue letter, Federal publication, meeting notice, etc., is deemed to be a mass mailing if it is to be distributed in a quantity of more than 500 pieces, regardless of form of address.

2. Funds Used in Preparation

Section 3210(f) provides that “any mass mailing which otherwise would be permitted to be mailed as franked mail under this section shall not be so mailed unless the cost of preparing and printing the mail matter is paid exclusively from funds appropriated by Congress, except that an otherwise frankable mass mailing may contain, as an enclosure or supplement, any public service material which is purely instructional or informational in nature, and which in content is frankable under this section.”

Cost of preparing and printing includes: stationery supplies, design and layout, printing and handling services, and mailing list compilation or acquisition costs.

Certain materials printed with nonappropriated funds may be exempted from this provision provided they are directly related to the Member’s official representative function and are sent as enclosures or supplemental material to a mailing which is otherwise authorized by this provision. These materials must be instructional in nature on a public service basis rather than a general discussion of issues.

The following are examples of materials which, if printed with nonappropriated funds, may be sent as enclosures in an otherwise frankable mass mailing:

- Voter registration and election information.
- Brochures listing educational institutions or opportunities.
- Brochures listing career opportunities.
- State or local government publications listing public services.

- Publications on energy, consumer, or conservation measures.

3. Forms of Address

Mass mailings are divided into three categories:

- a) Individually addressed mail, first class, which bears specific names and addresses in the standard address format of:

- Name
- Street
- City, State, Zip Code

- b) Individually addressed, standard bulk rate which bears specific names and addresses in standard address format of:

- Name
- Street
- City, State, Zip Code

The abbreviation “Blk. Rt. ECRWSS” should be printed on the address side of each piece directly beneath the Member’s frank. A bulk mail permit (#G-300) is required to send franked bulk standard mailings from a congressional district. Application for use of permit should be made with local bulk mail facility.

- c) Simplified form of address for general distribution to postal customers. This mail is addressed as follows:

- Postal Customer
- (#) Congressional District
- (State)

Franked mail mailed with a simplified form of address under this subsection –

- (I) shall be prepared as directed by the Postal Service; and
- (II) may be delivered to –
 - (i) each box holder or family on a rural or star route;
 - (ii) each post office box holder; and
 - (iii) each stop or box on a city carrier route.

Section 3210(d)(4) provides that any franked mail which is mailed by a Member under section 3210(d) (simplified form of address or postal customer mail), shall be mailed at the equivalent rate of postage which assures that such mail will be sent by the most economical means practicable.

All mass mailings, regardless of form of address, are subject to the same content requirements. (For further information on congressional mailings see Appendix 4.)

4. Advisory Opinions

Section 311(F), Title 2 U.S.C. provides that a Member entitled to mail franked mail, shall, before making any mass mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion on the frankability of such mail matter.²⁴

Under regulations issued by the Commission, the staff of the Commission is authorized to issue advisory opinions on the frankability of mail matter.²⁵

In order for the Commission staff to be responsive to the needs of Members in complying with this rule, each Member is asked to observe the following procedures:

- assign a staff member familiar with the franking laws and regulations to supervise preparation of the mailing so that obvious violations of the franking laws are avoided before submitting the material for an advisory opinion;
- submit copies of the material in its proof form, and required administrative forms (see Appendix 5). If possible suggest that staff resolve questions in advance by telephone or personal consultation; and
- allow at least three days for an advisory opinion to be processed.

5. Applicability

The provisions relating to mass mailings apply to mailings by any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives, when such Member, Delegate, or Resident Commissioner is acting in his or her capacity as a representative of a congressional district.

²⁴ Legislative Branch Appropriations Act, 1991 (Public Law 101-520) enacted 1990.

²⁵ Commission ruling dated July 23, 1991, held that correspondence specifically related to casework need not be submitted for review.

CHAPTER FOUR

ELECTION YEAR MAILING RESTRICTIONS

1. Restriction on Mass Mailings Prior to Elections

Section 3210(a)(6)(A) provides that a Member may not frank any mass mailing less than 90 days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member is a candidate for public office.²⁶

The above restrictions on mass mailings by candidates do not apply to mass mailings by the chairman of any standing, select, joint, or other official committee of the Congress, or subcommittee thereof, and which relate to the normal business of the committee.

A. Definitions

1) *Candidate*. – A Member of or a Member-elect to the House of Representatives is deemed to be a candidate for public office at an election if his or her name appears anywhere on any official ballot to be used in such election.²⁷

2) *Mass mailing*. – Means newsletters and other similar mailings of more than 500 pieces in which the content of the matter mailed is substantially identical but shall not apply to (a) mailings in direct response to communications from persons to whom the matter is mailed; (b) mailings to colleagues in the Congress or to government officials whether Federal, state, or local; or (c) mailings of news releases to the communications media. Mail matter will be deemed to fall within the prohibition of the subject rule when the total of such pieces of mail matter exceeds 500, whether in cumulative mailings or a single mailing during the 90-day period of the rule.

Federal publications, publications purchased with Federal funds, and publications containing items of general information, when individually addressed and not included in a planned mailing or one which can be reasonably anticipated, shall not be deemed “similar mailings” for the purpose of the subject statute or these regulations, unless such a mailing exceeds 500 pieces in a single mailing.

For example, information to new home owners would be frankable during the 90-day period, but certificates to high school graduates would not be frankable since such a mailing would be considered planned or reasonably anticipated.

²⁶ Public Law 101-197, enacted September 1996.

²⁷ Adopted by the Commission on February 21, 1974.

B. Exceptions

Section 3210(a)(6)(E) provides three exceptions to the mass mail prohibition prior to elections:

- (i) (mailings) which are in direct response to inquiries or requests from the persons to whom the matter is mailed;
- (ii) (mailings) to colleagues in Congress or to government officials (whether Federal, state, or local); and
- (iii) (mailings) of news releases to the communications media.

The Commission believes the last two exceptions are self-explanatory.

In application of the first exception, the Commission stresses the phrase “*direct* response to inquiries or requests.”²⁸ Therefore, response to a signed petition with a form or identical letter individually addressed to each of the signers of the petition is frankable. However, a follow-up letter to the same list of petitioners is not frankable under this section in that it would not be in direct response to an inquiry.

Similarly, follow-up letters to persons who had previously written and had been answered on a particular subject, if such letters by their form and volume constitute a mass mailing, are not frankable during the 90-day period prior to elections. Also, requests for questionnaire results or other material, when solicited by Members on questionnaire forms or newsletters, are not deemed to be in direct response to an inquiry or request.

Members may not send miscellaneous enclosures of “inserts” with direct response mail, during the 90-day cutoff period, if 500 or more of the inserts will be mailed in one session of Congress. However, you may include an enclosure or insert if it is *specifically germane* to the topic of the inquiry or request. Therefore, if someone specifically requests information about the topic of the enclosure or insert, you *may* include it with your mail. But if the topic of the insert is unrelated to the incoming inquiry, during the 90-day cutoff period, you *may not* include that insert in your response (if 500 or more will be mailed).²⁹ Section 3210(a)(6)(B) provides that any mass mailing which is mailed by the chairman of any standing, select, special or joint committee, subcommittee, or commission of the House of Representatives, which relates to the *normal and regular business* of the organization may be mailed without regard to the mass mailing cutoff provisions. The Commission emphasizes “normal and regular” committee business, i.e., press releases, schedules of hearings, or committee documents. Nothing in 3210(a)(6)(B) should be used to circumvent the pre-election mass mailing laws and regulations. A newsletter which is suddenly issued by a committee during a cutoff, for example, would not be deemed frankable material.

²⁸ Advisory opinion dated October 17, 1974 held as not frankable (during the 28-day period prior to the general election) approximately 2,000 letters to constituents who had completed a questionnaire since the proposed letter embodied an offer to meet with the addressee at some unspecified time and place and was not in direct response to an inquiry.

²⁹ Adopted by Commission on August 19, 1994.

C. Caution on 90-day Cutoff Periods Prior to Elections

The 90-day cutoff prohibition on mass mailings applies to every Member whose name is to appear on an official ballot for election or reelection to public office.

State election laws vary considerably. For example, in some states, if a Member is unopposed in either the primary or general election, the Member's name *does not* appear on the ballot. The Member, therefore, would not be subject to the 90-day cutoff provision.

In other states, however, a Member's name may appear on the ballot *whether or not* the Member has an opponent. Even if a Member is unopposed, if the Member's name is to appear on the ballot, the 90-day mass mailing prohibition *would* apply.

Members should ensure that staff members responsible for mass mailings are knowledgeable concerning election laws as they affect mailing privileges during the period prior to primary and general election periods. Members' staff seeking advisory opinions from the Commission must certify that, to the best of their knowledge, the frankability of the proposed mailing is not adversely affected by applicable state election laws.

Part II

RULES OF PRACTICE IN PROCEEDINGS
before the
HOUSE COMMISSION ON
CONGRESSIONAL MAILING STANDARDS

FOREWORD

This part contains the Rules of Practice in Proceedings before the House Commission on Congressional Mailing Standards which were adopted by the Commission on February 4, 1974, and as amended on June 27, 1974, and January 12, 1977, pursuant to section 5 of Public Law 93-191.

Also included in the introduction of this part is the notice printed in the Congressional Record on February 19, 1974, providing public notice of the rules.

The Commission has also included suggested forms (see page 42) which may be used by persons involved in proceedings before the Commission.

BILL THOMAS, *Chairman*

INTRODUCTION

NOTICE

RULES OF PRACTICE IN PROCEEDINGS BEFORE THE HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

Notice is hereby given that, pursuant to section 5 of the act of December 18, 1973 (87 Stat. 742; Public Law 93-191), the Rules of Practice in Proceedings before the House Commission on Congressional Mailing Standards, as hereinafter set forth, have been prescribed and established by the House Commission on Congressional Mailing Standards at its organizational meeting held on February 4, 1974.

Subsection (e) of section 5 provides in part that the Commission “shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this subsection providing for equitable procedures and the protection of individual, public, and Government interests. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551-559, and 701-706, of title 5, United States Code. These regulations shall govern matters under this subsection subject to judicial review thereof.”

In view of the fact that a commission of the legislative branch is not authorized to publish documents, such as these rules of practice, in the Federal Register (44 U.S.C. 1501), the Commission has determined to provide public notice thereof by printing them in the Congressional Record. In addition to the notice hereby given, copies of the rules will be made available to any person upon request to the Commission.

Due to the fact that the only remedy now available to persons who may wish to commence a proceeding on a violation of the franking privilege as it relates to the House of Representatives, is the filing of a complaint and proceedings before the Commission under section 5 of the act of December 18, 1973 (87 Stat. 742; Public Law 93-191), the Commission has determined that these rules shall take effect immediately.

Although the Commission does not anticipate any specific future changes in these regulations, the Commission would appreciate, and therefore invites comments or suggestions which might assist in future revision of the rules. Comments should be submitted with at least 10 copies and may be mailed to the Commission at 305 Cannon House Office Building, Washington, D.C. 20515.

In consideration of the foregoing, the Rules of Practice in Proceedings before the House Commission on Congressional Mailing Standards as hereinafter set forth are made effective immediately.

Issued in Washington, D.C. on February 19, 1974.

MORRIS K. UDALL, *Chairman*
House Commission on
Congressional Mailing Standards

RULES OF PRACTICE IN PROCEEDINGS BEFORE THE HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

ANALYSIS OF RULES

- Rule 1. Authority for rules.
- Rule 2. Scope of rules.
- Rule 3. Informal dispositions.
- Rule 4. Office; business hours.
- Rule 5. Complaints.
- Rule 6. Service.
- Rule 7. Notice of hearing.
- Rule 8. Filing documents for the record.
- Rule 9. Answer.
- Rule 10. Default.
- Rule 11. Amendment of pleadings.
- Rule 12. Continuances and extensions.
- Rule 13. Hearings.
- Rule 14. Change of place of hearings.
- Rule 15. Appearances.
- Rule 16. Hearing officers.
- Rule 17. Evidence.
- Rule 18. Subpoenas.
- Rule 19. Witness fees.
- Rule 20. Depositions.
- Rule 21. Transcript.
- Rule 22. Proposed findings and conclusions.
- Rule 23. Decisions.
- Rule 24. Motion for reconsideration.
- Rule 25. Modification or revocation of orders.
- Rule 26. Computation of time.
- Rule 27. Official record.
- Rule 28. Public information.

Rule 1. Authority for rules.

These rules of practice are issued by the House Commission on Congressional Mailing Standards of the U.S. House of Representatives, hereinafter referred to as the Commission, pursuant to authority under section 5 of the act of December 18, 1973 (87 Stat. 742; Public Law 93-191).

Rule 2. Scope of rules.

These rules of practice shall be applicable in all proceedings before the Commission.

Rule 3. Informal dispositions.

These rules do not preclude the disposition of any matter by the Commission prior to any proceeding or hearing, if it determines that there is no substantial reason to believe that a violation has or is about to occur as alleged in the complaint, or by agreement between the parties either before or after the filing of a complaint when time, the nature of the proceeding, and the public interest permit.

Rule 4. Office; business hours.

The offices of the Commission and the officials mentioned in these rules are located at the House of Representatives, 1216 Longworth House Office Building, Washington, D.C. 20515, and are open Monday through Friday except holidays from 9:00 am to 5:00 pm.

Rule 5. Complaints.

(a) Any person who believes that a person authorized to use the frank is about to violate or, within the immediately preceding period of 1 year, has violated the use of the frank under section 3210, 3211, 3212, 3213(2) or 3218, or in connection with the operation of section 3215, of title 39, United States Code, may file with the Commission a signed complaint which names the person involved; states the legal authority and jurisdiction under which the proceeding is initiated; states the facts in a manner sufficient to enable the person named therein to make answer thereto; recommends the issuance of an appropriate order; sets forth the address of the complainant and the name and address of his attorney, if any.

(b) All allegations in the pleadings shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all succeeding pleadings. Each complaint founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

(c) Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

(d) The person so named in the complaint shall be known as the respondent and the person filing the complaint shall be known as the complainant.

Rule 6. Service.

(a) The Commission shall cause a copy of the complaint to be served upon the respondent or his agent and it shall issue a notice stating the date for filing an answer, which shall not exceed 10 days from the service of the complaint, and a reference to the effect of failure to file an answer. (See rule 10)

(b) Service of all papers shall be effected by mailing the same, postage prepaid registered, or certified mail, return receipt requested, or by causing said papers to be personally served on the parties or the respective agents, as appropriate, by an authorized representative of the Commission. In the case of personal service the person making service shall secure from the parties or their agents, a written acknowledgement of receipt of said papers, showing the date and time of such receipt. Said acknowledgement (or the return receipt where service is effectuated by mail) shall be made a part of the record of the proceedings. The date of delivery, as shown by the acknowledgement of personal service or the return receipt, shall be the date of service.

Rule 7. Notice of hearing.

Upon the filing of the respondent's answer, if the Commission determines that there is reasonable justification for a complaint filed under rule 5, it shall issue a notice of hearing stating the time and place of the hearing and a reference to the effect of failure to appear at the hearing (see rule 10). Except for good cause shown, the hearing date shall be within 30 days of the date of the filing of the complaint.

Rule 8. Filing documents for the record.

(a) Each party shall file with the Commission, pleadings, motions, orders, and other documents for the record. The Commission shall cause copies to be served promptly to other parties to the proceeding and to the hearing officer.

(b) The parties shall submit four copies of all documents unless otherwise ordered by the hearing officer. One copy shall be signed as the original.

(c) Documents shall be dated and state the title of the proceeding. Any pleading or other document required by order of the hearing officer to be filed by a specified date shall be delivered to the Commission on or before such date. The date of filing shall be entered thereon by the Commission.

Rule 9. Answer.

(a) The answer shall contain a concise statement admitting, denying, or explaining each of the allegations set forth in the complaint.

(b) Any facts alleged in the complaint which are not denied or are expressly admitted in the answer may be considered as proved, and no further evidence regarding these facts need be adduced at the hearing.

(c) The answer shall be signed personally by the respondent except for good cause shown.

(d) The answer shall set forth the respondent's address and the name and address of his attorney.

(e) The answer shall affirmatively state whether the respondent will appear in person or by his attorney at the hearing.

(f) If the respondent does not desire to appear at the hearing in person or by his attorney he may request that the matter be submitted for determination pursuant to paragraph (b) of rule 10.

Rule 10. Default.

(a) If the respondent fails to file an answer within the time specified, he shall be deemed in default, and to have waived a hearing and further procedural steps. The Commission shall thereafter issue an order without further notice to the respondent.

(b) If the respondent files an answer but fails to appear at the hearing, the hearing officer shall receive complainant's evidence and submit proposed findings of fact and conclusions of law to the Commission.

(c) If the complainant or his attorney fails to appear at the hearing, the hearing officer shall receive the respondent's evidence and submit proposed findings of fact and conclusions of law to the Commission.

Rule 11. Amendment of pleadings.

(a) Amendments proposed prior to the hearing shall be filed with the Commission. Amendments proposed thereafter shall be filed with the hearing officer.

(b) By consent of the parties, a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing and, provided that the amendment is reasonably within the scope of the proceeding initiated by the complaint, the hearing officer shall make such ruling on the motion as he deems to be fair and equitable to the parties.

(c) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the complaint are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the evidence and to raise such issues shall be allowed at any time upon the motion of any party.

(d) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues made by the pleadings, but fails to satisfy the hearing officer that an amendment of the pleadings would prejudice him on the merits, the hearing officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(e) The hearing office may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have happened since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

Rule 12. Continuances and extensions.

Continuances and extensions will not be granted by the hearing officer except for good cause shown.

Rule 13. Hearings.

Hearings are held at the U.S. Capitol, Washington, D.C. 20515, or other locations designated by the Commission.

Rule 14. Change of place of hearings.

Not later than 7 days prior to the date fixed for the hearing, a party may file a request that a hearing be held to receive evidence on this behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement outlining:

- (a) The evidence to be offered in such place;
- (b) The names and addresses of the witnesses who will testify; and
- (c) The reasons why such evidence cannot be produced in Washington, D.C.

The Commission shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

Rule 15. Appearances.

- (a) The parties may appear and be heard in person or by attorney.
- (b) When a party is represented by an attorney, all pleadings and other papers subsequent to the complaint shall be mailed to the attorney.
- (c) Parties must promptly file a notice of change of attorney.

Rule 16. Hearing officers.

(a) A hearing officer may be appointed by the Commission to preside over any proceeding or hearing hereunder.

(b) The hearing officer shall have authority to:

- (1) Administer oaths and affirmations;
- (2) Examine witnesses;
- (3) Rule upon offers of proof, admissibility of evidence, and matters of procedure;
- (4) Order any pleadings amended upon motion of a party at any time prior to the close of the hearing;
- (5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;
- (6) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;
- (7) Order prehearing conference for the purpose of the settlement or simplification of issues by the parties;
- (8) Order the proceeding reopened at any time prior to a final decision for the receipt of additional evidence; and
- (9) Take any other action authorized by the Commission.

Rule 17. Evidence.

(a) Except as otherwise provided in these rules, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern. However, such rules may be relaxed to the extent that the hearing officer deems proper to insure a fair hearing. The hearing officer shall exclude irrelevant, immaterial, or repetitious evidence.

(b) Testimony shall be under oath or affirmation and witnesses shall be subject to cross-examination.

(c) Agreed statements of fact may be received in evidence.

(d) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(e) Authoritative writings of the sciences may be submitted in evidence, but only through the testimony of expert witnesses or by stipulation.

(f) The written statement of a competent witness may be received in evidence provided that such statement is relevant to the issues that the witness shall testify under oath at the hearing, that the statement is in all respects true and in the case of expert witnesses, that the statement correctly states his opinion or knowledge concerning the matters in question.

(g) A party who objects to the admission of evidence shall make a brief statement of the grounds for the objection. Formal exceptions to the rulings of the hearing officer are unnecessary.

Rule 18. Subpoenas.

At the request of any party, subpoenas for attendance of witnesses at a hearing may be issued over the signature of the chairman of the Commission or of any member designated by him or by the Commission and may be served by such person or persons as may be designated by such chairman or member.

Rule 19. Witness fees.

Fees and expenses for witnesses for either party or for depositions requested by either party shall not be paid by the Commission.

Rule 20. Depositions.

(a) Not later than 5 days after the filing of respondent's answer, any party may file application with the Commission for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(b) If the application be granted, the order for the taking of the deposition will specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken, and any other necessary information.

(c) Each witness testifying upon deposition shall be duly sworn, and the adverse party shall have the right to cross examine. The questions and answers, together with all objections, shall be reduced to writing and, unless waived by stipulation of the parties, shall be read to and subscribed by the witness in the presence of the deposition officer who shall certify it in the usual form. The deposition officer shall file the testimony taken by deposition as directed in the order. The deposition officer shall put the witness on oath. All objections made at the time of examination shall be noted by the deposition officer and the evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, a party may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim. Objections to relevancy or materiality of testimony; or to errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties; and errors of any kind which might be obviated, cured, or removed if promptly presented, are waived unless timely objection is made at the taking of the deposition.

(d) At the hearing, any part or all of the deposition may be offered in evidence by any party who was presented or represented at the taking of the deposition or who had notice thereof. If the

deposition is not offered and received in evidence, it shall not be considered as a part of the record in the proceeding. The admissibility of depositions or parts thereof shall be governed by the rules of evidence.

(e) The party requesting the deposition shall pay all fees required to be paid to witnesses and the deposition officer, and shall provide an original and one copy of the deposition for the official record, and shall serve one copy upon the opposing party.

(f) Within the United States or within a territory or insular possession, subject to the dominion of the United States, depositions may be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(g) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter, and the officer shall be present at the examination of the witness, which fact shall be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.

Rule 21. Transcript.

(a) Hearings shall be stenographically reported under the supervision of the hearing officer. Argument upon any matter may be excluded from the transcript by order of the hearing officer. A copy of the transcript shall be a part of the record and the sole official transcript of the proceeding. Copies of the transcript shall be supplied to the parties to the proceeding at their own expense by the reporter. Copies of parts of the official record other than the transcript may be obtained by the parties from the reporter upon the payment to him of a reasonable price therefor.

(b) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes shall be made in or upon the official transcript, or any part thereof, which have been filed with the record. Within 5 days after the receipt by any party of a copy of the official transcript, or any part thereof, he may file a motion requesting correction of the transcript. Opposing counsel shall, within such time as may be specified by the hearing officer, notify the hearing officer in writing of his concurrence or disagreement with the requested corrections. Failure to interpose timely objection to a proposed correction shall be considered to be concurrence. Thereafter, the hearing officer shall by order specify the corrections to be made in the transcript. The hearing officer on his own initiative may order corrections to be made in the transcript with prompt notice to the parties of the proceeding. Any changes ordered by the hearing officer other than by agreement of the parties shall be subject to objection and exception.

Rule 22. Proposed findings and conclusions.

(a) Each party to a proceeding, except one who fails to appear at the hearing or indicates that he does not desire to appear, may, unless at the discretion of the hearing officer such is not appropriate, submit proposed findings of fact, conclusions of law, and supporting reasons either in oral or written form in the discretion of the hearing officer. The hearing officer may also require parties to any proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. Unless given orally, the date set for filing of proposed findings of fact and conclusions of law shall be within 5 days after the delivery of the official transcript to the Commission who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties. If not submitted by such date, or unless extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Except when presented orally before the close of the hearing, proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be separately stated.

Rule 23. Decisions.

(a) *Findings and conclusions by hearing officer.* – Within 20 days after any proceeding or hearing, as appropriate, has been concluded, the hearing officer shall submit to the Commission proposed findings of fact and conclusions of law, with the reasons therefor, upon all the material issues of fact or law presented on the record.

(b) *Final decision by the Commission.* – The Commission shall render a final decision within 30 days after any proceeding or hearing, as appropriate, has been concluded or, in the event that no hearing or other proceeding is held, within 30 days after the answer to a complaint is filed. Such decision shall include findings and conclusions, with the reasons therefor, upon all the material issues of fact or law presented on the record, and the appropriate order or denial thereof.

Rule 24. Motion for reconsideration.

A party may file a motion for reconsideration of a final Commission decision within 10 days after receiving it or within such longer period as the Commission may fix. Each motion for reconsideration shall be accompanied by a brief clearly setting forth the points of fact and of law relied upon in support of said motion. The Commission shall transmit a copy of the motion and brief to the opposing party, who shall file a written reply brief within 10 days after filing or such other period as the Commission may fix. A copy of the reply brief shall be sent to the moving party by the Commission.

Rule 25. Modification or revocation of orders.

A party against whom an order has been issued may file an application for modification or revocation thereof. The Commission shall transmit a copy of the application to the opposing party, who shall file a written reply within 10 days after filing or such other period as the Commission may fix. A copy of the reply shall be sent to the applicant by the Commission. Thereafter, an order granting or denying such application will be issued by the Commission.

Rule 26. Computation of time.

A designated period of time under these rules excludes the day the period begins, and includes the last day of the period unless that last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

Rule 27. Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding shall constitute the official record of the proceeding.

Rule 28. Public information.

The Commission maintains for public inspection in its offices copies of all final decisions, including a record of the votes on any question on which a record vote is taken. The Commission also maintains a complete official record of every proceeding, all other records, data and files of the Commission which shall be the property of the Commission and shall be kept in the offices of the Commission or such other places as the Commission may direct.

INTRODUCTORY STATEMENT

The following forms are intended for illustration only. They are limited in number, since no attempt has been made to furnish a manual of forms.

These forms do not cover every possible situation involving an allegation of a violation of the franking laws. They may be used as a guide for the preparation of pleadings by prospective parties in proceedings before the Commission

Each pleading, motion, or other paper should have a caption similar to that shown on the forms hereinafter set forth with the designation of the particular paper substituted for the word “complaint.”

Form 1. Complaint

HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

A.B., complainant

V.

COMPLAINT

Y.Z., Respondent

The complainant, for his complaint against the respondent, states:

- 1) That I, A.B., reside at _____, _____
Street address City
_____, (and I have retained _____, Esq.,
State
with offices at, _____, _____, _____
Street address City State
to represent me in all proceedings on this matter).

2) That this complaint arises under the franking laws extended to Members of the House of Representatives of the United States as hereinafter more fully appears.

Complaint #1

3) That on or about the ____ day of _____, 19____,
the respondent caused to be mailed, under his frank, to various persons in the _____ Congressional District of the State of _____, a letter (a copy of which is attached here to as Exhibit #1 and made a part here of) soliciting political support for his candidacy for the office of _____ in the State of _____ to be decided at a (general) (primary) election to be held in the State of _____ on the ____ day of _____, 19____.

4) That the mailing of this letter is a violation of the said franking laws, and, more particularly, Section 3210(a)(5)(C), title 39, United States Code.

Complaint #2

5) That on or about the _____ day of _____, 19_____, the respondent caused to be mailed, under his frank, a mass mailing to his constituents in the _____ District of the State of _____ consisting of a newsletter (a copy of which is attached hereto as Exhibit #2 and made a part hereof).

6) That the contents of the newsletter consist of certain printed matter which solicits political support for the respondent in violation of the said franking laws, and, more particularly, Section 3210(a)(5)(C), title 39, United States Code.

7) Further, that the said newsletter contains a number of photographs which occur with such frequency and the sole purpose of which is to advertise the Member rather than illustrate the text and is in violation of the said franking laws, and, more particularly, Section 3210(a)(3)(J), title 39, United States Code.

8) Further, that the respondent is a candidate for the office of _____ in the State of _____ to be decided at a (general)(primary) election on _____ day of _____, 19____ and that the said newsletter was mailed less than 90 days before such election in violation of the said franking laws, and, more particularly, Section 3210(a)(5)(D), title 39, United States Code.

Complaint #3

9) That on or about the _____ day of _____, 19_____, the respondent caused to be mailed, under his frank, to mail matter consisting of a _____ containing
(description of matter mailed)
_____ (a copy of which is attached
(state the contents) _____ which violate the franking laws)
hereto as Exhibit #3 and made a part hereof) in violation of the said franking laws, and, more particularly, Section _____, title 39, United States Code.

Wherefore, the complainant demands that the respondent be found in violation of the franking laws as hereinbefore alleged and that the Commission order such other relief as is proper and lawful.

Signed at _____ (signature) _____
City and State A.B

this _____ day of _____, 19_____

Form 2. Answer 1/

HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

A.B., Complainant

V.

ANSWER

Y.Z., Respondent

The respondent, answering the complaint herein, states:

- 1) That the respondent does not have sufficient information to either deny or admit the allegations in paragraph 1 of the complaint herein.

- 2) That the respondent denies each and every allegation in paragraphs 2 and 4 of the complaint herein.

- 3) That the respondent denies those allegations in paragraphs 3 and 6 of the complaint which state that the mail matter involved solicited political support.

- 4) That the respondent admits the allegations contained in paragraph 5 of the complaint herein.

- 5) That the respondent denies those allegations in paragraph 7 of the complaint which state that the photographs in the subject newsletter tend to advertise the Member rather than illustrate the accompanying text.

- 6) That the respondent denies those allegations in paragraph 8 of the complaint which state that the newsletter was mailed less than 60 days before the election to be held on the day of _____, 19_____.

- 7) That the respondent denies those allegations in paragraph 9 of the complaint which

(state the allegations

to the complaint which are denied)

Wherefore, the respondent demands the complaint in its entirety be dismissed.

Signed at _____
City and State

_____ (signature)
Y.Z.

this ____ day of _____, 19_____

1/

NOTE: If the respondent is to be represented by an attorney, a separate paragraph stating the name of the attorney should be added to the answer.