

# Congress of the United States

## House of Representatives

### Committee on Ethics and Committee on House Administration

#### JOINT GUIDANCE REGARDING REDISTRICTING

September 10, 2021

Although congressional redistricting is constitutionally mandated, the redistricting process is a state function with little direct effect on official duties. Nevertheless, our Committees recognize that redistricting can affect Members' official work in various ways. This memorandum offers guidance on what Members may and may not do with official resources where redistricting is concerned. As with most questions concerning the use of official resources, there are permutations and exceptions. Therefore, please contact our Committees if you have a specific question. The Committee on Ethics may be reached at 5-7103. The Committee on House Administration may be reached at 5-2061 (majority) or 5-8281 (minority).

#### *Use of Official House Resources Related to Redistricting*

As with the use of official resources in general, Members may not use the Members' Representational Allowance (MRA) for political purposes in connection with congressional redistricting. Like other citizens, Members may engage in political activities designed to influence the outcome of redistricting, but they may not do so at public expense.

The Committee on House Administration recognizes, however, that constituents and others may contact Members with questions about redistricting and how it might affect them now, or in the future. Members may use the MRA to keep abreast of the current status of redistricting. Members may reply to constituent inquiries on the subject in the same manner as they would reply on any matter. Members should use caution and common sense to limit the use of the MRA to discussion of only the redistricting process. Similarly, Members may be reimbursed for expenses of attending public meetings of a state legislative committee or redistricting commission to testify, for example, about how dividing cohesive communities among multiple districts might complicate constituent casework. But a Member may not seek reimbursement for expenses of attending delegation meetings to discuss how certain redistricting plans might affect future elections.

The *Members' Congressional Handbook* restricts the use of official resources for activities outside Members' current districts. Members may not use official funds, including the use of staff resources, to conduct "town hall" meetings or other official gatherings outside their districts, with the exception of holding a joint town hall meeting with a home state Senator or with a Member in an adjacent district.<sup>1</sup> The rules also prevent use of official resources for travel other than "to

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<sup>1</sup> See generally Comm. on House Admin., *Members' Congressional Handbook*, <https://cha.house.gov/handbooks/members-congressional-handbook>.

support the conduct of the official and representational duties of a Member ... with respect to the district from which the Member ... is elected.”<sup>2</sup> Under the franking statute and *Communications Standards Manual*, a Member may not send any unsolicited mass communication outside the congressional district from which the Member was elected.”<sup>3</sup>

In addition, as a general matter, Members may not devote official resources to performing casework for individuals who live outside the district. When contacted by persons living in other districts, Members may, however, use official funds to refer them to their own Representative or Senators.

Finally, in addition to the redistricting process as it is carried out in a Member’s state, redistricting as a general matter may be the subject of federal legislation and policy- or rulemaking by Congress or federal agencies. In this context, as distinct from the execution of redistricting in a Member’s state to redraw particular congressional district lines, Member may also appropriately use official resources in the same manner as they may for other official policy matters.

In summary, below are the general rules regarding the use of official resources related to redistricting:

- Members may use the MRA to notify constituents on the current status of redistricting, limited only to the redistricting process.
- Members may be reimbursed for expenses of attending public meetings of a state legislative committee or redistricting commission to testify, but may not seek reimbursement for attending any meeting discussing how redistricting may affect future elections.
- Members may not conduct “town hall” meetings outside of their district except if holding a joint town hall meeting with the home state Senator or a Member in an adjacent district.
- As a general matter, Members may not send unsolicited communications to or perform casework for individuals outside of their district. Members may respond to an individual who lives outside their district to refer that individual to their own Representative or Senators.
- Members and staff may only travel outside of the district if conducting official business that directly relates to the Member’s official and representational duties to the district from which elected and which they currently represent.
- Members may not use MRA funds or official resources in general for an activity the primary purpose of which relates exclusively to an area outside their current district, which may be considered for inclusion in a redrawn version of the district, and Members may not send communications to any such area.

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<sup>2</sup> 2 U.S.C. § 5341; see *Members’ Congressional Handbook*.

<sup>3</sup> 39 U.S.C. § 3210(a)(7) and the *Communications Standards Manual*.

### ***Use of Campaign Resources Related to Redistricting***

Although a Member may not use official resources to host or participate in events outside their district, the Member may sponsor events in those areas using campaign staff and resources, to the extent the sponsorship is allowed under federal election laws and regulations. Remember that any activity where a Member uses campaign staff and resources is considered a campaign event, not an official event.<sup>4</sup> Therefore, no official resources may be used to support or organize such an event and official activities should not occur at these events. Please contact the congressional liaisons at the Federal Election Commission (FEC) for information concerning the appropriate use of campaign resources for political purposes. They can be reached at (202) 694-1006.

### ***Participation in Legal Challenges to Redistricting***

Members may wish to participate in fundraising for groups raising legal challenges to a state's redistricting process. To solicit on behalf of these groups, Members should contact the Committee on Ethics for further guidance. Members may need to seek and receive prior formal written permission to assist with any solicitation efforts. Whether or not such prior approval is required, all solicitations on behalf of redistricting efforts are subject to the same restrictions applicable to all other solicitations made by Members and staff (*e.g.*, use of official resources is prohibited, etc.).<sup>5</sup>

A Member may also want to personally challenge the redistricting process in the Member's state. If a Member wishes to establish a Legal Expense Fund for that purpose, the Member must receive formal written permission from the Committee on Ethics. The Committee's Legal Expense Fund regulations are available on the Committee's website.<sup>6</sup> If a Member would like to use campaign funds to challenge redistricting, the Member should contact the Committee on Ethics and the FEC's congressional liaisons for further guidance.

Solicitations by Members related to redistricting may be subject to limits on campaign sources and amounts. Members should contact the FEC's congressional liaisons to further discuss those limits.

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<sup>4</sup> Although House Rule 24 allows the use of campaign funds for certain types of official expenses, these are limited. House Rule 24, cls. 1-2; *see* Comm. on Ethics, *2008 House Ethics Manual* at 173-177.

<sup>5</sup> *See* Comm. on Ethics, *2008 House Ethics Manual* at 347-349; Comm. on Ethics, *Member, Officer, and Employee Participation in Fundraising Activities* (May 2, 2019).

<sup>6</sup> Comm. on Ethics, *Revised Legal Expense Fund Regs.* (Dec. 20, 2011), <https://ethics.house.gov/financial-disclosure-pink-sheets/revised-legal-expense-fund-regulations>.