



UNRIG THE RULES EXPLAINER

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Navigating New Rules in a New Congress

Updated January 11, 2023

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Introduction

The House of Representatives' rules play a crucial role in the legislative process. They determine how business is conducted in the chamber and ensure order during debates and voting. Typically, on the first day of each Congress, lawmakers in the House vote to adopt a rules package so the chamber can carry out its constitutional responsibilities effectively. Changes to the House's rules can impact the issues Congress focuses on, which voices are amplified or diminished, and even shape legislation itself.

This explainer breaks down some of the most significant House rules changes for the 118th Congress. It is *not* exhaustive and intended only to provide a basic understanding of critical issues raised in the House rules for this Congress. Additionally, this explainer does not detail what [Punchbowl News](#) described on January 9 as a "secret three-page addendum" to the official House rules. Reporting suggests that this addendum may contain important details regarding House operations changes that Speaker Kevin McCarthy agreed to as part of his speakership bid. However, there is no public addendum as of January 10, 2023.

The complete rules package, approved by a House vote of 220-213 on January 9, 2023, is available [here](#).

Rules Kept in Place from Last Congress

Office of Diversity and Inclusion (ODI): Plagued by a lack of racial diversity among congressional staff and insufficient data on staff demographics, the House established the ODI in 2018, led by a Democratic director and a Republican deputy director. The ODI's mission is to empower a wider range of Americans to have the opportunity to serve in Congress so that it more closely reflects America's diversity. ODI has had a notable impact, providing information on House staff composition and building pathways to employment for diverse communities. As a result, House senior staff's racial diversity has increased from 13.7 percent of people of color in 2018

to 18 percent today.¹ Nevertheless, that still falls far short of reflecting America, where people of color comprise 40 percent of the population.

72-hour Rule: The rules package maintains the 72-hour rule, which requires that bills be released at least 72 hours before a vote on the House floor. In theory, this gives lawmakers time to review the legislation before voting on it. Congressional leadership, however, may disregard this rule to vote on time-sensitive or must-pass bills, such as a bill to avoid a government shutdown.

House Office of the Whistleblower Ombuds: First established in the 116th Congress and placed into the rules in the 117th, this office supports the House community in an independent and nonpartisan capacity. It provides education, training, and guidance for working with whistleblowers effectively. This assists the House in protecting its sources and constituents while conducting its oversight function. Protecting sources and constituents is crucial to ensuring whistleblowers feel safe when identifying misconduct in the private sector or the government. The office has broad bipartisan support.

Delegate Voting: Nonvoting delegates from the District of Columbia, American Samoa, the Northern Mariana Islands, the Virgin Islands, and Guam and Puerto Rico's resident commissioner continue to have the opportunity to vote on amendments and procedural motions on the House Floor. However, the delegates' votes cannot determine the final vote outcome for matters they can vote on. If their votes *are* the deciding factor, the House must vote again without the delegates.

Rules Discarded from Last Congress

Proxy Voting and Remote Proceedings: The new rules do not permit proxy voting, which allows members of Congress to vote on legislation on the House Floor through another member when they could not be in the Capitol. Proxy voting was first authorized by a resolution in May 2020 in response to the COVID-19 pandemic. The new rules also do not allow committees to conduct their business remotely or in a hybrid remote and in-person format. The rules, however, allow nongovernmental witnesses to testify remotely before committees at the chair's discretion. By not continuing proxy voting and remote committee proceedings, the new majority may force members who test positive for COVID-19 to miss significant votes or vote in-person and risk exposing their colleagues to the virus. It might also discourage testing altogether, putting members' and staff's health at risk. It also could create significant continuity of Congress issues in circumstances where members cannot rapidly assemble.

Select Committees: Select committees are created for a particular purpose—such as to conduct an investigation—and are not renewed in perpetuity. Depending on the parameters set out in the resolution authorizing the select committee, some are

¹ LaShonda Brenson, *Racial diversity among top staff in the U.S. House of Representatives*, Joint Center for Political and Economic Studies (Oct. 6, 2022), available at: [Racial Diversity Among Top Staff in the U.S. House of Representatives - Joint Center](#)

disbanded automatically upon issuing their final report, such as the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi. Other select committees are established for a designated period—such as for the duration of the current Congress—and require renewal at the start of the next Congress to continue their work.

The select committees during the 117th Congress were the Select Committee on Economic Disparity and Fairness in Growth; the Select Committee on the Climate Crisis; the Select Committee on the Modernization of Congress; and the Select Committee to Investigate the January 6th Attack on the United States Capitol. The new majority has chosen not to reinstate these select committees and instead establish the Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party, the Select Subcommittee on the Weaponization of the Federal Government, and the Select Subcommittee on the Coronavirus Pandemic. These new select committees and subcommittees could provide platforms for dangerous misinformation about the pandemic or federal government activities. For example, they could harm the public by exacerbating vaccine hesitancy or encouraging the kind of anti-government extremism that contributed to the January 6, 2021 insurrection. In addition, the Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party could amplify xenophobic voices and, in turn, worsen discrimination and violence targeting Asian Americans.

New Rules for the 118th Congress

CUTGO: The new majority has reinstated the Cut-As-You-Go rule, otherwise known as CUTGO. During the 117th Congress, the House operated under the Pay-As-You-Go (PAYGO) rule. PAYGO requires government spending increases to be offset with either an equal decrease in spending or an increase in revenue. Alternatively, CUTGO requires mandatory spending increases to be offset only with equal or greater spending decreases. In other words, if the House wants to increase spending, it cannot raise taxes to offset that spending. Instead, it must identify a corresponding cut to another part of federal spending.

Debt Limit Vote: The House will now require members to directly vote on proposals to suspend or raise the debt limit. Previously, the House could automatically pass legislation to adjust the debt limit after it adopted a conference report—that is, an agreement between the House and Senate—on a budget resolution. Deficit-hawk lawmakers have already signaled their [opposition to debt ceiling adjustments](#) without cuts to key programs like Social Security and Medicare, and Speaker McCarthy has reportedly [agreed not to raise the debt limit](#) without spending cuts. This rule change could make a debt limit showdown more likely in the coming year.²

Other Spending Rules: The House is creating significant new hurdles to legislation that addresses spending and taxation. This includes a prohibition on budget

² For further reading on the debt limit, see the Congressional Progressive Caucus Center's ["Manufactured Crisis: Understanding the Debt Limit."](#)

resolutions that would increase mandatory government spending. This would prevent the use of budget reconciliation to enact certain new measures. In recent years, Congress has used the reconciliation process to avoid the Senate filibuster, as reconciliation bills require only a simple majority vote to pass. Republicans used the reconciliation process to pass the Tax Cuts and Jobs Act (TCJA) in 2017, while Democrats used the process to pass the American Rescue Plan (ARP) in 2021 and the Inflation Reduction Act (IRA) in 2022.

Holman Rule: The new rules for this Congress reinstate the “Holman Rule,” which permits members to propose amendments to appropriations bills that target specific federal workers by reducing their salaries or firing them. This allows members of Congress to get around protections for civil servants and target workers with whom they disagree. The rule also allows amendments that would cut funding for specific programs rather than reduce funding for the federal agencies responsible for those programs.

Office of Congressional Ethics: The Office of Congressional Ethics (OCE) is a bipartisan ethics office composed of an eight-member board that helps monitor and report on ethics issues involving members of Congress, and frequently makes its recommendations to the House Ethics Committee on a unanimous vote. It has a proven track record of enhancing transparency and enforcement of ethics rules and has gained widespread support among the American public. The new rules [undermine the OCE](#) by imposing new term limits for the board, which would immediately force out three of the four Democratic board members. The new rule would also create narrow deadlines for hiring staff, making it extremely difficult to adequately assess candidates and hire staff for these important jobs.

Staff Unionization: The new rules, [as described by the new majority](#), purport to eliminate the “creation of House staff labor unions so that Congressional staff are accountable to the elected officials they serve.” However, it was not clear at the time of publication that the new rules, as written, would accomplish this. Former Congressman Andy Levin (D-MI), who authored [the resolution](#) protecting staff’s right to organize and bargain collectively, explained in [a statement](#) that “under the Congressional Accountability Act, rights that have been implemented can’t simply be taken away absent new legislation to change the Act itself.” Therefore, absent a law to amend the Congressional Accountability Act of 1995, it is not clear that this rule change will have a practical impact on existing staff unions or those organized in the future.

Motion to Vacate the Chair: The new majority has restored the Motion to Vacate the Chair, a procedure for ousting the Speaker of the House. Historically, any single member of Congress could file the Motion to Vacate the Chair as a privileged resolution, meaning it would force a vote on the House floor without any objection. The privileged motion was last used during the 114th Congress and helped oust then-Speaker John Boehner. Democrats changed the rule for the 117th Congress and considered the motion privileged only if it was offered at the direction of a party caucus or conference. Now, for the 118th Congress, any majority party member may

make a privileged Motion to Vacate the Chair and force a vote on ousting the Speaker.

Calendar Wednesday: In the House, the Rules Committee acts as a traffic cop, determining which legislation will receive a vote and setting the parameters for debate on that legislation (i.e., how long the debate will last, how many amendments—if any—will be considered, etc.). The resolution that sets those parameters is called “the rule.” Members must vote on the rule governing debate for a specific piece of legislation before that legislation can receive a vote. The new rules allow committee chairs to bring bills that have passed in committee directly to the House floor for a vote, bypassing the House Rules Committee. Practically, this could allow committee chairs to bring up legislation that their party leadership opposes or considers politically unpopular.

Conclusion

Every two years, the House of Representatives has an opportunity to unrig its rules and make the chamber more responsive to and representative of the public. The new Congress keeps in place some rules and offices that will help achieve this, such as the 72-hour rule, the House Office of the Whistleblower Ombuds, and the Office of Diversity and Inclusion. However, other rules are concerning, such as those that hamstring the Office of Congressional Ethics and, in turn, could jeopardize public trust in their elected representatives. Other rules around federal spending could make it harder to pass legislation that responds to the public’s needs. These changes represent a step backward and a missed opportunity to foster a more responsive democracy.