

**Campaign Legal Center • Common Cause • Democracy 21
League of Women Voters • Public Citizen • U.S. PIRG**

June 9, 2010

The Honorable Nancy Pelosi
Speaker of the House of Representatives
U.S Capitol
Washington, D.C. 20515

Dear Speaker Pelosi:

Our organizations are writing to express our strong support for the Office of Congressional Ethics (OCE) and our opposition to the efforts being undertaken by some Members to undermine the House rules that established the Office.

The organizations include the Campaign Legal Center, Common Cause, Democracy 21, the League of Women Voters, Public Citizen and U.S.PIRG

We have applauded your past recognition of the need for the OCE and your strong and effective leadership in pressing for its establishment in the last Congress. We urge you to continue your strong support for the OCE and to oppose the predictable efforts being undertaken by some Members to cripple the Office.

To date, the OCE has made important progress in restoring the shattered credibility of the House ethics enforcement process.

The resolution recently introduced by Representative Marcia Fudge (D-OH) would undo what has been accomplished and return the House to an era when potential ethics violations disappeared into the files of the House Ethics Committee, without explanation or public accountability for the Committee's inaction.

The Fudge resolution would usher in a period of more secrecy, less transparency, less accountability and less trust in the House's ability to police its own ethics rules and standards.

Representative Fudge is quoted as saying, "O.C.E. is currently the accuser, judge and jury. This isn't the case in the American justice system, and it shouldn't be so in Congress."

That is an inaccurate portrayal of the duties and responsibilities that the House assigned to the OCE. The much more limited role of the OCE is to conduct preliminary investigations of potential ethics violations and to recommend to the House Ethics Committee either dismissal of such matters or further investigation of the matters by the Committee.

In fact, it is the pre-OCE system that posed the conflicts described by Representative Fudge where only House members could trigger ethics investigations and where only the Ethics Committee served as investigator, prosecutor, judge and jury in an ethics case. That is the system that resulted in a publicly discredited and ineffectual House ethics enforcement process.

We believe it was essential for the OCE to be established to inject an element of independence, transparency and credibility into the ethics enforcement process and the Office has done just that.

In fact, the OCE cannot make recommendations about whether an ethics violation has occurred, cannot judge a case, cannot find ethics violations have occurred and cannot sanction a Member for ethics violations. And the OCE has not tried to do so.

All the OCE can do is conduct a preliminary investigation and make recommendations to the House Ethics Committee as to whether the Committee should further investigate the matter. It cannot recommend any other action by the Ethics Committee or the House.

The OCE does make a report to the Ethics Committee on the findings of its preliminary investigation, which cannot include any findings regarding whether ethics violations have occurred. If the OCE recommends further investigation by the Ethics Committee and the Committee instead dismisses the matter, the report becomes public. This is the core provision in the new ethics enforcement process for ensuring public accountability for House Ethics Committee determinations.

The Fudge resolution would require that in order to even begin a preliminary investigation, the OCE would have to receive a sworn complaint from a citizen asserting personal knowledge of any alleged violation. This is an impossible standard to meet as a practical matter and it would shut down the OCE. Citizens and groups concerned about potential ethics violations are almost never going to have “personal knowledge” about the violations unless they participated in them.

This prerequisite in the Fudge resolution defies our system of justice and would impose on the OCE a far more onerous standard than has been imposed on the House Ethics Committee, which has long had the authority to initiate ethics investigations on its own authority.

As a general matter of enforcing laws and rules, it is not required for investigative bodies to have a sworn statement from an eye witness before an investigation can even begin. A case need not be proven before an investigation can be initiated. That is the purpose of the investigation. Enforcement bodies initiate investigations based on credible evidence, including information provided to the body, press stories, and other reports.

To raise the threshold for the OCE to conduct a preliminary investigation to this unique and unreasonable standard has one purpose and one purpose only – to shield Members of Congress from ethics investigations and enforcement.

The resolution also seeks to silence the OCE by prohibiting public release of its reports if the Ethics Committee votes to dismiss a case or the Committee deadlocks in a tie vote. The public

release of OCE reports in these circumstances, however, is essential to providing public accountability for House Ethics Committee actions.

This provision in the Fudge resolution would allow the Ethics Committee to dismiss or bury cases with impunity and without any public knowledge about what happened to an alleged ethics violation or why it happened. It would return the House to the old, discredited ethics process that caused all the problems in the first place and that publicly discredited the House as an institution.

The American public has long been concerned that Congress does not provide the same kind of enforcement for the rules that govern its own Members as it requires for the laws that apply to the rest of us.

Your leadership in the establishment of the OCE has resulted in a marked improvement in the House ethics enforcement process. The OCE has had an impressive and successful track record in the first Congress of its existence.

We strongly urge you to continue your strong support for the OCE and to oppose any efforts to weaken or undermine this important Office.

Campaign Legal Center
Common Cause
Democracy 21

League of Women Voters
Public Citizen
U.S PIRG