



## Democracy 21

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House Speaker-designee John Boehner  
H -204 The Capital  
Washington, DC 20515

Dear Speaker-designee Boehner:

As House Speaker, the most important ethics issue you will face in the next Congress will come immediately: the issue of continuing the Office of Congressional Ethics (OCE) with its powers intact in the new Congress.

The OCE was created following the complete breakdown of the House ethics enforcement process in the 109<sup>th</sup> Congress, the last Congress in which the Republican Party controlled the House.

Since its inception, the OCE has served citizens, the country and the House well. The Office has effectively carried out its mission to provide an independent, publicly credible voice in the ethics enforcement process and to increase transparency and accountability for a process that was completely discredited prior to the creation of the Office.

Democracy 21 strongly urges you to support the continuation of the OCE in the new Congress with its authority and powers intact and to oppose any efforts to weaken the Office. We also strongly urge you to oppose any effort to weaken the House ethics rules adopted in 2007 in response to the infamous Jack Abramoff lobbying and ethics scandals.

With more than one hundred new Members in the new Congress, it would be a grave mistake to make them cast one of their first votes to kill or gut the OCE. Yet, in effect, that is what new Members will have to do if the OCE is omitted from the House rules package to be adopted by the House in January or if the Office is included in the rules package but with changes that undermine or weaken its ability to do its job.

Surely the 2010 House elections were not about reversing the most important step taken to strengthen the House ethics enforcement process since the Ethics Committee was created in 1966.

This is illustrated by the support for continuing the OCE recently voiced by Tea Party leaders in your home state of Ohio.

According to an article in *The Hill* (November 18, 2010):

The Ohio Liberty Council, the main umbrella organization for 58 Tea Party groups in the state, supports efforts to strengthen the OCE and is warning House GOP leaders that any attempt to weaken it will upset Tea Party activists.

"If they move in the opposite direction of transparency that this office provides, I think we will be very upset about that," said Chris Littleton, president of the Ohio Liberty Council and the Cincinnati Tea Party. "Symbolically, it's a huge problem for them. They should be as transparent as they can be. Any opposition to that would be inappropriate on their part."

The OCE, for the first time ever, gives nonmembers of Congress a key role in the congressional ethics enforcement process. You chose three of the six OCE Board members yourself and the Board has done its job without any apparent bias and in a highly professional, effective and credible manner.

As a *New York Times* editorial (November 15, 2010) noted:

The new speaker should protect and bolster the Office of Congressional Ethics. The last thing Congress needs is a retreat to the days of good old boy self-policing and no real accountability

The OCE was established to serve as an action-forcing mechanism to ensure that the House Ethics Committee considers and addresses serious ethics matters and that the ethics enforcement process is more transparent and publicly accountable. The OCE has done precisely what it was created to do.

Prior to the establishment of the OCE, ethics allegations all too often would disappear into the Ethics Committee never to be seen again, without public explanation or accountability.

As a *Washington Post* editorial (November 17, 2010) noted:

The previous ethics arrangement - a committee of lawmakers judging their peers and equally divided along partisan lines - was designed for stalemate and too often accomplished that aim. The new office, even without the subpoena power that it should have, has provided a crucial adjunct to the ethics panel without supplanting lawmakers as the final authority on disciplinary matters.

The dysfunctional nature of the House Ethics Committee in 2005 and 2006 was dramatically illustrated by the failure of the Committee to conduct any investigation or take any action to deal with the Abramoff scandals, the worst congressional ethics and lobbying scandals in decades. This failure was a stunning indictment of the Ethics Committee and the House ethics enforcement process.

As far as the public knew, the House Ethics Committee did not lift a finger to hold any House member or any staff member accountable for their role in the Abramoff scandals. In the

face of an historic scandal, the Ethics Committee took no action to uphold the House ethics rules and standards of conduct.

During the 109<sup>th</sup> Congress, for example, there were multiple, serious allegations of ethics violations regarding the activities of House Majority Leader Tom DeLay and his dealings with Abramoff. Among the allegations were charges that involved a ten-day trip to England and Scotland taken by Representative DeLay, his wife and staff members and funded by Abramoff or associates of Abramoff.

The numerous ethics questions regarding Representative DeLay raised in published reports included:

- Did Representative DeLay or his agents solicit any trips, or portions of any trips, or the arrangements for any trips, in violation of the House ethics rule banning Members from soliciting gifts, including trips and travel-related expenses?
- Did Representative DeLay receive reimbursements for recreational activities, or reimbursements in excessive amounts for travel-related expenses, in violation of House ethics rules that prohibit reimbursements for recreational activities and require reimbursements for travel-related expenses to be “necessary” and “reasonable”?
- Did a registered lobbyist pay for any portion of DeLay’s trips, in violation of House ethics rules, and did DeLay or his agents know, or should they have known, that a lobbyist was helping to finance his trips?
- Did an agent of a foreign principal pay for any portion of DeLay’s trips, in violation of House ethics rules, and did DeLay or his agents know, or should they have known, that a foreign agent was helping to finance his trips?
- Did Representative DeLay fail to disclose the actual sources of funding for his trips, as required by the House ethics rules?
- Did those who paid for the DeLay trips meet the ethics rules requirement that they have a “direct and immediate relationship” with the “event or location” of the trips, and did DeLay or his agents know, or should they have known, whether they did?
- Did Representative DeLay’s trips or any other financial benefits DeLay or his projects received affect his official actions, or create an appearance of improper action in violation of House ethics rules?
- Did DeLay receive trips, financial benefits, fundraising assistance or contributions from registered lobbyists, and make his office as a Representative and a House leader available to such lobbyists to use in obtaining and assisting clients, in violation of the House ethics standard that Members shall conduct themselves “at all times in a manner which shall reflect creditably on the House of Representatives?”

The basis for the DeLay ethics allegations was detailed in a Democracy 21 report sent on May 19, 2005 to the House Ethics Committee and all House members. The Ethics Committee never investigated or took action on any of the ethics issues concerning Representative DeLay.

In the current Congress, the pivotal role played by the OCE has been the key to a more active and transparent House Ethics Committee. The argument some have made that as an alternative approach the OCE should be abolished and the Ethics Committee strengthened presents a false choice. The ability of the Ethics Committee to function more effectively and credibly is a direct result of the existence and effective performance of the OCE.

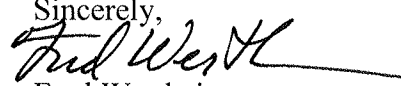
It is not only essential to continue the OCE in the next Congress; it is also essential for the Office to maintain its authority and powers fully intact. This must be done in order for the Office to function effectively and credibly in its role to protect the interests of the American people in an ethical Congress.

During this Congress, Representatives from both parties have at times grumbled about the Office, primarily, in our view, because the Office is simply doing its job. A House resolution was introduced, for example, by Representative Marcia Fudge (D-OH) that provides a road map for gutting the Office, a road map that must not be followed. Adopting changes to the OCE such as those proposed by Representative Fudge would, as a practical matter, be the equivalent of killing the OCE altogether.

One of Representative Fudge's proposals would require the OCE to receive a sworn complaint from someone with personal knowledge of a violation before the OCE could even open a preliminary investigation. That is an impossible standard to meet as a practical matter and would end the OCE's ability to function.

Another proposal by Representative Fudge seeks to silence the OCE by prohibiting public release of its reports if the Ethics Committee votes to dismiss a case or if the Committee deadlocks in a tie vote. This proposal strikes at the core mission of the OCE. The public release of OCE reports in these circumstances is essential to provide transparency and public accountability for Ethics Committee actions. It is also necessary to serve as a check against the Committee dismissing or burying cases with impunity and without any public knowledge about what happened to alleged ethics violations or why it happened.

The 2010 House elections did not provide a mandate for returning to the dysfunctional and discredited House ethics enforcement process that existed in the 109<sup>th</sup> Congress. Democracy 21 strongly urges you to include the Office of Congressional Ethics with its authority and powers fully intact in the House rules package to be voted on by the House at the beginning of the new Congress next year. We also strongly urge you to oppose any effort to undermine or weaken the ethics rules adopted in 2007 in response to the Abramoff scandals.

Sincerely,  
  
Fred Wertheimer  
President