House Rules Changes:
Sunlight's Proposals for the 113th Congress

Congress runs on rules. With the upcoming changeover from the 112th to the 113th Congress, the House of Representatives will adopt new regulations that innervate every aspect of legislative life. The last time it did this, in 2010, the House set the stage for greater openness and transparency in the lower chamber. At that time, Sunlight issued a series of recommendations, some of which were adopted. The House of Representatives made significant progress toward ensuring the people's house belongs to the people, from the new transparency portal docs.house.gov to expanded video coverage of House proceedings to retaining the Office of Congressional Ethics.

In advance of the 113th Congress, we're issuing an updated set of transparency recommendations, each of which would mark a significant step towards increased transparency.

AUDIT AND CREATE AN INDEX OF HOUSE INFORMATION

The House of Representatives creates and holds many documents and data sets. But with so many entities responsible for receiving and generating information, it is not clear to Members, staff, or the public what information is held by the House, who is responsible for it, and whether it can be made available to the public. Over time, there have been some attempts to address this issue. For example, House Rule II requires the Clerk to list all reports any office or Department is required to make to Congress -- and legislation is pending to make all those reports centrally available. The Sunlight Foundation has made a list of all the ethics information that's available from the legislative resource center, a task already performed in the Senate by the Secretary of the Senate.

Each congress, the House of Representatives should undertake an audit of the documents or other information that it holds, who is responsible for the information, the format in which it is stored, and where and how it can be obtained by the public. The House undertook a related effort in 1992 as memorialized in S. Pub. 102-20. The results of this biannual audit should be published online as an Index to House Information.

ADOPT A CHAMBER-WIDE PRESUMPTION IN FAVOR OF PUBLIC ACCESS

As part of the rules package for the 112th Congress, the House decided that online publication of documents satisfy certain rules requirements for distribution of publications to all members of Congress. The House also charged the Committee on House Administration with the responsibility to establish and maintain standards for making documents publicly available in

electronic form, and allowed Members of Congress to use electronic devices to access information the House floor. Altogether, this illustrates a trend towards online access to legislative information by everyone anywhere, including on the floor of the House.

Even with these changes, requests for access to legislative documents or information held by Congress are still being rejected or made unduly difficult. Often times access is denied simply because there is no institutional mandate to do so, and inertia trumps transparency. The House should strike a better balance that addresses the public's right to know while identifying circumstances where non-disclosure is appropriate, such as internal deliberative process, national security, or personal privacy.

The House should adopt a rule creating a rebuttable presumption in favor of public access to all congressionally-held information. Members, committee and leadership offices, legislative support offices, and (when working on House issues) legislative support agencies should be encouraged to make information available to a requester unless there is a strong, clearly articulable reason that outweighs the public's interest in access. In addition, a response to a requester should be timely, and information should be made available to a requester in the format that is requested unless doing so is not practical.

The House should also require the proactive online publication of information that is already available to the public, including historical information that's stored in electronic form. It should continue to work to create open data standards for the publication of machine-readable information (including bulk access) and formalize the Bulk Data Task Force.

CENTRALIZE THE TIMELY ANNOUNCEMENT OF COMMITTEE ACTIVITIES

In the last rules package, the House required committees to announce hearings one week in advance and committee meetings three days in advance of their occurrence, with notices required to be made available to the public in electronic form. While many committees have complied with the spirit as well as the letter of this rule, some committees publish notices as PDFs on their webpages, which are difficult to electronically discover and defeat their role as a "public notice." We applaud the House's efforts to "develop a unique application to create and publish the Committee Legislative Calendars," as described in a RFP, and hope that it will ultimately resolve the issue.

We suggest the House publish all committee events in a central location in a structured data format and require committees to announce all hearings and committee meetings as soon as they are scheduled. The Senate already does this, and it is our understanding that a comprehensive calendar is also available internally in the House, perhaps through the press gallery. Because House committee activities are required to be published in the Daily Digest, we suggest that the

Clerk or another appropriate office be tasked with gathering and republishing committee activities on an appropriate centralized website until such system as is under construction comes online.

ENSURE WEBCASTING OF COMMITTEE HEARINGS

The House as part of its rules package for the 112th Congress required committees to webcast their hearings "to the maximum extent practicable." This has been a tremendous success, with all committees but one making nearly 100% of their activities available online. The exception was the Appropriations Committee, which only webcast 30% of its hearings during the time we monitored.

When we asked why its hearings were not webcast, the Appropriations Committee spokesperson responded:

> "Whenever logistically possible, the main committee room - which is equipped with webcast and video capabilities - is used for hearings and mark-ups. The Committee schedules rooms for hearings and mark ups based upon many factors, including but not limited to: space availability, accessibility for members and the public, physical proximity to the house floor to accommodate voting schedules, and room size. Committee hearing rooms are also used for a variety of other purposes such as meetings and briefings. In addition, we allow any credentialed media organization to tape and/or record our open hearings and mark-ups, no matter which room is being used."

The committee was unwilling to request a camera be brought into its subcommittee room to cover its activities, to use a room already equipped with a camera, or to make use of another space in the Capitol that was appropriately equipped. We believe this violates the spirit and the letter of the rule, and based upon the performance of all the other committees, that webcasting is not an unreasonable burden.

We suggest that the rule be tweaked slightly to require webcasts "except when impracticable." The purpose is to make clear that all efforts should be made to have webcasts except when physically or technologically impossible, and that inconvenience is an insufficient reason for failure to webcast proceedings.

RETAIN THE OFFICE OF CONGRESSIONAL ETHICS

The Office of Congressional Ethics is the House's independent ethics watchdog. It provides a valuable service and should be retained intact. Ultimately, it should be placed on a firmer

footing, to guarantee its continued presence as a vital force for oversight.

FIX LOBBYING DISCLOSURE FORMS

While it is possible to track who is lobbying Congress by the filing entity, it is not possible to track each lobbyist, even though all lobbyists have a unique identifier. The House Rules should require the publication of lobbyist unique identifiers in the lobbying disclosure datasets released by the House of Representatives.

ONLINE MEDIA ACCREDITATION

Journalists from online media are still having difficulty becoming accredited by the House or Senate Press Galleries (see, for example, this article). It is time to revisit the rules so that more people engaging in journalism can become accredited.

REQUIRE 72 HOURS ONLINE FOR BILLS

The House of Representatives made significant progress when it adopted a 3-legislative-day rule under which all legislation must be published online prior to consideration on the floor of the House. To implement the rule, the House created the innovative transparency portal docs.house.gov and also recognized that information published online can be an official version of a document. These are major steps forward and should be applauded.

However, 3-legislative-days is not the same as 72 hours, and in practice can be as short as 24 hours. We believe that the original pledge of 72 hours should be fully implemented.

CREATE MECHANISMS TO COORDINATE TRANSPARENCY EFFORTS

Like many large institutions, responsibility for work on a particular issue is often spread out over many offices on the hill. This is particularly true for transparency issues, where leadership, committees, personal offices, and legislative support offices and agencies each have a small part. Unsurprisingly, efforts to coordinate among these offices are difficult, and institution-wide awareness of what's going on is hard to come by. To improve coordination and awareness, we suggest the House consider the following steps.

Transparency Ombudsman

The House of Representatives has key staff responsible for the needs of the chamber. In addition to major support offices such as the Clerk, Sergeant-At-Arms, and Chief Administrative Officer, there's also offices for the Chaplain, Historian, General Counsel, and Inspector General. Helping to make the House more transparent is a task that spans several of these offices, and is also the responsibility of leadership and several committees. But like most institutions, this diffusion of responsibility means that there is no central point of contact for congressional offices trying to be more transparent, or for those outside the institution to figure out who to contact.

We suggest that the House consider creating a transparency ombudsman. The Ombudsman's responsibilities would include encouraging collaboration and information sharing among those responsible for different transparency efforts inside the House, to serve as a resource for those inside the House who wish to adopt best practices, to be a primary point of contact for those seeking information from the House, and generally to facilitate a more open and transparent Congress.

Advisory Committee on Public Access to Information

The House's efforts to improve transparency are intended to be of benefit to other offices within Congress, co-equal branches of government, the public at large, journalists, academics, and others. There is no regular forum, however, where interested parties can get together and talk with representatives of congress about how to best meet everyone's needs in the most efficient and effective manner.

We suggest that the House create an advisory committee (along the lines of the Advisory Committee on the Records of Congress) that provides advice and recommendations to the House regarding public access to information.

Fix Oversight of Legislative Support Agencies

The Joint Committee on the Library and the Joint Committee on Printing are responsible for coordinating oversight with the Senate over the Library of Congress and the Government Printing Office. Unfortunately, JCP and JCL only met once for 5 minutes in the 112th Congress, no longer have their own websites, and from a public perspective are effectively moribund. It's also our understanding that there's no dedicated staff within the Committee on House Administration that staff each of these joint committees.

In the past, these committees provided effective guidance and oversight for legislative support agencies, which are responsible for making much of the work of Congress (and the government as a whole) available to the American people. Now, with the exception of infrequent but helpful

5

CHA oversight hearings, much of the public-facing oversight work is performed by the Legislative Branch Appropriations Subcommittee at its annual hearings, which are not webcast and are held in rooms too small to allow all interested members of the public to attend. In addition, we have found that different messages are sometimes communicated by the legislative support agencies to their respective House and Senate oversight committees, which apparently impedes the ability to effectively oversee and direct their functions.

We recommend that the House explore ways to reinvigorate oversight of the Library of Congress and the Government Printing Office. It should particularly focus on making sure that Congress has sufficient capacity to effectively ensure that these agencies are properly performing their roles of making information available to the public, and that the oversight process in performed in a way that the public can be properly engaged.

It also may be wise to look more broadly about creating a Chief Technology Officer for the House of Representatives, whose office would look at campus-wide issues, including technology needs within the House as well as the legislative support agencies. This centralizing role has been recommended before, and is discussed in a September 27, 2006 Committee on House Administration hearing entitled "*Hearing on IT Assessment: A Ten-Year Vision for Technology in the House*."

REQUIRE HOUSE DOCUMENTS TO BE AVAILABLE ONLINE

In an earlier recommendation we suggested that House documents generally be made available to the public online. In this section, we identify several kinds of documents that specifically should be directed to be available online in appropriate formats.

* Dear Colleague letters should be made available to the public automatically except when doing so would endanger the security of the House or the originating office has requested otherwise. These widely-distributed documents often are made publicly available and are a helpful window into Capitol Hill. In addition, their public availability will allow technologists to build new tools to help make this flood of information more digestible to those working for Congress.

* Widely-distributed Congressional Research Service reports should be made available to the public by the Clerk's office. Thousands of CRS Reports are available online, and many more can be purchased through third party-vendors. These frequently-cited documents can help explain important policy issues to the public, and occasionally could benefit from public review for completeness and accuracy. However, they are not available to the public in a timely way, and public access is spotty. There is a bipartisan resolution pending in the 112th Congress (H Res. 727) that addresses all the important aspects of making these reports freely available to the public. It is time to level the playing field and give everyone equal access to them.

* House Ethics Documents maintained by the Clerk for public access should all be available online. We've conducted an [inventory](#), which is something the Clerk should do. To the extent data is drawn from or stored in a database, it should be online as well. In particular, the House Statement of Disbursements should be published as a dataset and not just a PDF.

* Publish Post Employment Notifications whenever a Member of Congress is negotiating for employment, not just later when an [actual conflict arises](#).

* Annual, semi-annual and other regularly recurring reports from the legislative support offices (e.g. the Clerk, Chief Administrative Office, Sergeant-at-Arms, etc.) all should be made available online as they are issued. While some legislative support offices do an excellent job of publishing their reports online, for example, [the CAO](#), other offices do not publish their reports online and refuse requests for copies. Access to this information makes it possible for the public to have confidence that the House is being operated effectively and efficiently, and also for academics, journalists, and others to make recommendations for improvement.

* Require transcripts of committee activities to be made available to the public within 3 weeks. The Senate ([Rule XXVI](#)) requires "each committee and subcommittee shall make publicly available through the Internet a video recording, audio recording, or transcript of any meeting not later than 21 business days after the meeting occurs," except for meetings closed in accordance with the rules. While many House committees are good at posting video from proceedings, some are not. In addition, persons who are hearing impaired cannot understand videos without closed captions, and computers are not sufficiently sophisticated to be able to reliably transform audio into text for processing. While committees may still wish to release finalized transcripts that may take more than 3 weeks to complete, committees should be directed to publish online non-final transcripts within 21 days.

* Publicly release individual reports filed by congressional delegations (CODELs) that contain expenditures, the reasons for the expenditures, and the members of the CODEL within a timely period.

ADDITIONAL RESOURCES ON LEGISLATIVE TRANSPARENCY
* [Benchmarks for Legislative Data Transparency](#) (February 2012)
* [Improving Congressional Oversight](#) (September 2012)
* [On Public Access to Legislative Information: Recommendations to the Bulk Data Task Force](#) (August 2012)
* [Budget and Spending Transparency](#)
* [House Rules Proposals for the 112th Congress](#) (September 2010)
* [Ten Principles for Opening Up Government Information](#) (August 2010)