



April 12, 2022

The Honorable Tim Ryan
Chairman
Subcommittee on the Legislative Branch
Committee on Appropriations
House of Representatives
H-306 The Capitol
Washington, DC 20515

The Honorable Jaime Herrera Beutler
Ranking Member
Subcommittee on the Legislative Branch
Committee on Appropriations
House of Representatives
1036 Longworth House Office Building
Washington, DC 20515

Dear Chairman Ryan and Ranking Member Herrera Beutler:

The Project On Government Oversight (POGO) and the Levin Center at Wayne Law submit the following requests for language to be included in the fiscal year 2023 Legislative Branch Appropriations bill and report.

POGO is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. POGO champions reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

The Levin Center works to strengthen the integrity, transparency, and accountability of public and private institutions through the promotion and support of bipartisan, fact-based legislative oversight; to advance good governance, particularly with respect to the legislative process; and to promote civil discourse on current issues of public policy.

POGO and the Levin Center, along with the Lugar Center, offer Oversight Boot Camps twice a year for House and Senate staff from committee and personal offices and from both political parties to produce a bipartisan, bicameral experience. To date, over 300 congressional staff have undergone boot camp instruction on how to do fact based, bipartisan, in-depth investigations.

To further strengthen Congress's ability to conduct fact based, bipartisan oversight, we would like to suggest some modest reforms, all of which could be addressed in report language accompanying the legislative branch appropriations bill:

1. Encourage the use of bipartisan committee websites.
2. Encourage the use of bipartisan committee reports when possible.
3. Require bipartisan administrative personnel in oversight committees.
4. Improve questioning of witnesses during oversight hearings.

5. Add bipartisan oversight workshops to the Congressional Staff Academy and Congressional Leadership Academy.
6. Include a bipartisan oversight session in the New Member Orientation.
7. Support creation of a Congressional Office of Legal Counsel.

All of these suggestions are further described in the attachment to this letter.

Thank you for your consideration of these modest reforms to strengthen congressional oversight. For more information, please have your staff contact Tim Stretton at POGO at tim.stretton@pogo.org and Elise Bean at the Levin Center at elise.bean@wayne.edu.

Sincerely,



Danielle Brian
Executive Director
Project On Government Oversight



Jim Townsend
Director
Levin Center at Wayne Law

Enclosure: 1

POGO-Levin Center Recommendations to Ensure Strong Congressional Oversight

To further strengthen Congress's ability to conduct fact based, bipartisan oversight, the Project On Government Oversight and the Levin Center at Wayne Law suggest the following modest reforms, all of which could be addressed in report language accompanying the Legislative Branch Subcommittee's appropriations bill. The oversight functions of Congress are essential to creating an accountable federal government and upholding our democracy's system of checks and balances.

Encourage the Use of Bipartisan Committee Websites

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Salaries and Expenses

Type of Request: Report Language

Justification: The House now permits committees to create partisan websites that post information prepared exclusively by the majority or minority. This practice contributes to partisanship at the committee level, impedes bipartisan oversight, makes it more difficult for the public to follow committee activities, and increases taxpayer costs by requiring the upkeep of two websites instead of one. The use of partisan websites also risks losing online committee records after changes in the majority party or committee leadership. On December 8, 2021, the House Select Committee on the Modernization of Congress issued Civility Recommendation 11 endorsing bipartisan committee websites. Senate committees already typically use bipartisan websites.

Proposed Report Language: The Committee encourages House committees to merge any existing, partisan websites into a single website for each committee. Newly combined websites should present nonpartisan information about the committee and its activities (including all oversight activities), identify all committee and subcommittee members, and include a section allowing the majority and minority to each post joint, majority, or minority committee-related news releases. The Committee believes that committee websites that combine information from the majority and minority will encourage bipartisan committee operations and oversight efforts, aid the public in following committee activities, better safeguard committee records, and reduce taxpayer costs by maintaining one website instead of two.

Encourage the Use of Bipartisan Committee Reports when Possible

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Salaries and Expenses

Type of Request: Report Language

Justification: Committees conducting oversight often issue reports summarizing their factual findings and recommendations, but on occasion the majority and minority issue separate reports

about the same investigation. Separate reports encourage partisan analysis, make it more difficult for the public to understand the committee's oversight work and any areas of disagreement among committee members, and increase taxpayer costs by producing two reports instead of one. Committees also risk losing copies of minority reports that are posted solely on minority committee websites. A better practice is for committees to issue a single report that includes any additional or dissenting views of committee members. As POGO pointed out in a 2017 report, *Necessary and Proper: Best Practices for Congressional Investigations*, Senate committees often produce bipartisan reports that include lengthy additional or dissenting views, demonstrating the practicality of that approach for House committees.

Proposed Report Language: The Committee encourages House committees conducting oversight investigations to produce a single oversight report combining majority and minority views whenever possible, rather than separate majority and minority reports, and to include within the joint report any additional or dissenting views by committee members. The Committee believes that committee reports which incorporate additional or dissenting views will encourage bipartisan committee operations, aid the public in understanding the committee's work and any areas of disagreement among committee members, better safeguard committee records, and reduce taxpayer costs by producing one report instead of two.

Require Bipartisan Administrative Clerks in Oversight Committees

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Salaries and Expenses

Type of Request: Report Language

Justification: Some House committees employ separate administrative personnel for the majority and minority. As a result of being employed by one group of members rather than the full committee, administrative personnel may perceive their duty to lie not with the overall committee but with one side of the aisle. A committee's administrative tasks should be executed in a nonpartisan manner, including such oversight-related tasks as preparing and issuing subpoenas, logging documents, releasing deposition transcripts, preparing reports, announcing hearings, compiling hearing records, and archiving investigative materials. In addition, committee administrative staff answering to both sides of the aisle may remain with the committee longer, building institutional knowledge including on oversight matters. In the 116th Congress, the House Select Committee on the Modernization of Congress issued Recommendation 74 calling for committees to "hire bipartisan staff approved by both the Chair and Ranking Member to promote strong institutional knowledge, evidence-based policy making, and a less partisan oversight agenda." Senate committees already follow this practice.

Proposed Report Language: The Committee encourages House committees to hire administrative staff on a bipartisan basis and allocate employee compensation between the majority and minority on a roughly 50-50 basis. The Committee believes that joint administrative staff will eliminate duplication by employing fewer administrative staffers, encourage bipartisan administration of committee oversight tasks, and free up limited resources for other oversight professionals.

Improve Questioning of Witnesses During Oversight Hearings

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Office of the Chief Administrative Officer

Type of Request: Report Language

Justification: Currently, House rules encourage committees to place a five-minute limit on questions asked by House members during hearings. Short-duration questioning too often diminishes the gravity and coherence of oversight hearings, leaves members struggling to get answers to their questions, and gives the impression that members are insensitive to witnesses. Five-minute question limits also produce abrupt topic changes that can make an oversight hearing difficult to follow and that produce exchanges which are not conducive to a useful hearing record. In the 116th Congress, the House Select Committee on the Modernization of Congress issued Recommendation 73 calling for committees to “experiment with alternative hearing formats to encourage more bipartisan participation.” During the 117th Congress, the Modernization Committee modeled the use of relaxed time limits during its oversight hearings. In the Senate, some committees and subcommittees have long used alternative time limits for questions during oversight hearings.

Proposed Report Language: The Committee encourages House committees to allow their chair and ranking member to reach agreement on questioning one or more witness for equal time periods without first having to obtain a motion or rule to do so, to eliminate the one-hour aggregate limit on time periods that extend beyond five minutes for questioning witnesses, and to encourage all House committees’ members to delegate any of their unneeded or remaining allotted time to other committee members when it would facilitate a hearing. The Committee believes that longer time periods for questioning witnesses will encourage more respectful, coherent, and productive oversight hearings.

Add Bipartisan, Fact-Based Oversight Workshop to the Congressional Staff Academy and Congressional Leadership Academy

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Office of the Chief Administrative Officer

Type of Request: Report Language

Justification: To deter Members of Congress, their staffs, and committee staff from treating oversight investigations as a partisan exercise, and to demonstrate how oversight inquiries can bridge political divides and provide effective reviews of government programs and private sector activities, more oversight training and workshops are needed. Currently, the Congressional Staff Academy offers no training on using fact-based, bipartisan oversight to strengthen rather than weaken committee and member relationships, civility, and collaboration. In addition, limited or no consideration has been given to providing a bipartisan, fact-based oversight workshop for members in the upcoming Congressional Leadership Academy.

Since 2006, POGO’s Congressional Oversight Initiative has worked to help Congress perform one of its most important constitutional responsibilities: overseeing the executive branch. Over the past 15 years we have trained thousands of congressional staff — Democrats and Republicans, House and Senate, and from nearly every committee office and many personal offices — on best investigative and oversight practices through our monthly oversight trainings. Additionally, since 2015, POGO, the Levin Center, and the Lugar Center have held twice yearly bipartisan training sessions for congressional staff, called “[Oversight Boot Camps](#),” to hone the skills needed to conduct fact-based, bipartisan, high-quality inquiries. Our two-day boot camps combine staff from the House and Senate, and from both parties, in investigative exercises that, to date, have trained over 300 staffers. In recent years, we’ve received over 100 applications for the 25 spots available in each boot camp, demonstrating the strong demand for civil, effective, bipartisan oversight training. Boot camp participants are put into bipartisan groups, often with their committee counterparts on the other side of the aisle or on the other side of the Capitol, helping to create invaluable working relationships.

In the 116th Congress, the House Select Committee on the Modernization of Congress issued Recommendations 32 and 63 calling for an increase in “bipartisan learning opportunities for staff” and “staff certifications” in congressional skills. On December 8, 2021, the Modernization Committee also recommended that the proposed Congressional Leadership Academy and Congressional Staff Academy offer voluntary training to members and staff to promote civility, leadership, and collaboration skills.

Proposed Report Language: The Committee encourages the Chief Administrative Officer (CAO) to ask the Congressional Staff Academy and the Congressional Leadership Academy to work with outside organizations that provide effective oversight workshops to offer educational and professional development opportunities on conducting high-quality, fact-based, bipartisan oversight investigations. The Committee also encourages the CAO to prioritize offering a staff certification for Oversight Investigators through the Congressional Staff Academy.

Include Bipartisan Oversight Session in the New Member Orientation

Appropriations Committee: Legislative Branch

Agency: House of Representatives

Account: Office of the Chief Administrative Officer

Type of Request: Report Language

Justification: To prevent newly elected House members from treating oversight investigations as a partisan exercise, and to provide them with basic information about Congress’s oversight responsibilities and capabilities, the 2022 New Member Orientation should include a bipartisan session on oversight. In December 2020, at the invitation of the Committee on House Administration, the first ever New Member Orientation oversight workshop was held, and featured four panelists: the Government Accountability Office, the House Office of the Whistleblower Ombuds, the Levin Center, and POGO. Although it was offered to all new members, because a Democratic leadership session was held at the same time, only Republican members attended. During the 116th Congress, the House Select Committee on the Modernization of Congress issued Recommendations 12-14 calling for “offering new-Member

orientation in a nonpartisan way,” providing “opportunities for members to collaborate in small groups,” “making new-Member orientation more comprehensive,” and “promoting civility during new-Member orientation.” On December 8, 2021, the Modernization Committee also recommended that New Member Orientation sessions be held separately from party leadership events so that all members may attend, and to include material to promote bipartisan collaboration.

Proposed Report Language: The Committee encourages the Chief Administrative Officer and the Committee on House Administration to sponsor a bipartisan workshop on congressional oversight during the 2022 New Member Orientation, to schedule the workshop at a time when members from both parties may attend, and if possible, include interactive oversight exercises. The Committee believes that an NMO bipartisan oversight workshop will help foster relationships between new members, improve civility, and build trust among new members.

Congressional Office of Legal Counsel

Appropriations Committee: Legislative Branch

Agency: Government Accountability Office

Account: Salaries and Expenses

Type of Request: Report Language

Justification: The executive branch derives great value from the opinions issued by the Justice Department’s Office of Legal Counsel (OLC), which shape public and judicial views of the law. However, these opinions overwhelmingly favor executive branch interests at the expense of Congress, and contribute to the overreach of executive power. It is crucial that Congress develop its own process for issuing respected, persuasive legal opinions on its legislative and oversight authorities. Congress has previously considered establishing a bicameral legal office to articulate and defend its institutional interests and authorities, including during the drafting of the Ethics in Government Act of 1978. Although the OLC objected to a 1975 bill seeking to establish such an office, then called the Office of the Congressional Legal Counsel, the department later agreed to an iteration of that office included in the Senate version of the Ethics in Government Act after negotiations with lawmakers. Proposals to strengthen the House Office of General Counsel and the Office of Senate Legal Counsel have also been considered from time to time. In October 2021, the House Committee on the Modernization of Congress sent a letter to the Government Accountability Office asking it to study the feasibility and possible functions of a Congressional Office of Legal Counsel.

Proposed Report Language: The Committee applauds the Government Accountability Office for beginning to study the feasibility and possible functions of a Congressional Office of Legal Counsel. Congress has a strong interest in protecting and asserting its constitutional prerogatives so it can obtain the information it needs to effectively conduct oversight and its legislative duties. The Committee strongly encourages the GAO to examine how a congressional counterpart to the executive branch’s OLC should be structured, what functions and authorities that office should have, and how the office should interact or intersect with the functions and powers of existing legal support offices in Congress.