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Amending Ethics Committee Sanction Recommendations in the House of Representatives

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Abstract

The Constitution provides Congress with the power to punish and discipline its Members. Since the 90th Congress (1967-1968), the House Ethics Committee has been authorized to investigate allegations of misconduct and recommend punishments. This paper examines seven instances where the House Ethics Committee has recommended a punishment and the House has considered an amendment to increase or decrease the proposed sanction. Using a combination of case studies and a roll call vote data, this paper finds that demographic similarities between the accused and the voting Member (race, party, and state delegation), partisanship, and serving on the Ethics Committee influence whether a Member might choose to support an alternative sanction. For amendments that proposes an increased penalty, same state delegation (negative effect), co-partisanship (positive effect), race (positive effect), ideology (positive effect), and type of scandal (negative effect) matter. For decreased penalties, same state delegation (positive effect), race (positive effect), and ideology (negative effect) matter. For all amendments, being an Ethics Committee member is a strongly negative predictor. These findings imply that committee members attempt to protect the committee's recommendation, that demographic similarities matter when Members are making sanction decisions, and that ideology is a driving factor in deciding to support a change in ethics penalty.

Keywords: House of Representatives, Ethics, Amendment, Sanction

The U.S. Constitution (Article I, Section 5, clause 2) confers the authority to discipline Members to the House of Representatives and Senate, respectively (House of Representatives 2003). Traditionally, the House or Senate has interpreted and executed this clause on an ad-hoc basis and the application of discipline was often inconsistent (Saint-Martin 2014), since neither chamber had a codified system in place to define or enforce a code of conduct. How the House or Senate chooses to punish members for unethical conduct ultimately has consequences for the public's trust in government (Tucker 2004; Zhang and Kim 2018).

Historically, neither the House nor Senate has used its power to sanction Members except for the most grievous offenses (Lawrence 1990, 433; Basinger 2016; Straus 2021). Instead, Congress has traditionally relied on “either criminal prosecution or voter rejection at the polls to punish misbehavior by Members” (McBride 1990, 478). For example, in 1950, Representative J. Parnell Thomas resigned from the House following his conviction on charges of “padding his Congressional pay roll and keeping the money” (McFadden 1970).¹ Between the 69th Congress (1925-1927) and the 89th Congress (1965-1966), a general lack of ethics enforcement occurred, especially in the House, where no ethics cases were brought to the floor. The lack of enforcement, in combination with an absence of a formal code of conduct prior to 1957,² led to the application of society's norms of decency when deciding to sanction Members (Roberds 2003, 26; Baker 1985, 4).

Since the creation of the House Committee on Standards of Official Conduct (now the House Committee on Ethics) in 1967, the investigation of disciplinary cases—and the recommendation of sanctions, if necessary—are under the committee's exclusive jurisdiction (Straus 2021). The Ethics Committee enjoys a unique procedural place when it recommends, and the House considers, a sanction. Unlike most policy-oriented committees, once the Ethics

Committee has reported a sanction recommendation, the House considers the resolution under rules limiting the possibility of amendments, thus favoring the committee's sanction preference (Straus and Saturno 2015). In narrow cases, a procedure can be utilized to propose an alternative to either increase or decrease the committee's punishment recommendation. Even in circumstances where the House has considered an alternative, the House has always adopted a penalty, either the Ethics Committee's recommendation or the offered alternative.

This paper focuses on the instances when the House considered a sanction alternative. Using a combination of case studies and data analysis, the paper finds that demographic similarities between the accused and voting Members of the House, ideology, and service on the Ethics Committee to be predictors of Member voting behavior for an alternative punishment.

Ethics in Congress

Generally, congressional committees are considered experts within their policy areas (Stewart 2012; Mills and Selin 2017). The Ethics Committee is no different. Unlike most standing committees, the Ethics Committee has a narrow jurisdiction, an even membership split between the majority and minority party (5 each), and a mixture of partisan and non-partisan professional staff. Ethics Committee Members are often considered ethics experts, especially for cases in which an investigation has occurred and discipline has been recommended (Roberds 2003, 27-28). The committee's even majority-minority membership split gives bipartisan support to the committee's recommendations, as it takes both majority and minority party committee members to recommend a sanction. Therefore, the introduction of, or a vote for, an amendment to a sanction recommendation could be considered a vote against the committee's expertise.

In trying to understand why, in certain circumstances, House Members support an attempt to amend the work of the Ethics Committee, the relationship between the Ethics

Committee and rank-and-file House Members could be a key factor. The existing literature provides several possible hypotheses for why rank-and-file House Members might support an alternative sanction.

Scandal Type

In general, the literature identified four types of political scandals: financial (e.g., improper gifts, conflicts of interest), political (e.g., campaign fundraising violations), consumption (e.g., drugs and alcohol), and sex (Basinger 2019). Most studies of scandal attempt to gauge its electoral impact on a candidate. Those studies find consumption and sex scandals are the most electorally costly, with financial and political scandals having almost no impact (Basinger 2013; Brown and Gulati 2015). How serious the public perceives a scandal also matters. More serious scandals decrease “the odds of survival” (Newmark, Vaughn, and Pleites-Hernandez 2019, 1279).

Past observations of congressional ethics has shown that Members involved in moral scandals (sex or consumption) tend to resign more often or, if they chose to stay in the House or Senate, face harsher punishments than those involved in financial or political scandals (Stewart 1994; Thompson 1995; Roberds 2004; Rosenson 2014). Therefore, it is possible that scandal type and support for an alternative punishment could be related.

Punishment Ideals

The Ethics Committee generally spends months, if not years, investigating potential violations (Committee on Standards of Official Conduct 2004). When the Committee determines that a behavior requires House action (e.g., reprimand, censure, or expulsion) other House Members often perceive that the committee, as the subject matter expert (Curry 2019), has considered its punishment recommendation carefully.

The Ethics Committee and the House floor might agree that a sanction is warranted, but determining the level of punishment can be difficult. What the Committee considers a harsh penalty might be considered lenient on the House floor. Public opinion can also play a role. If the public believes the House is going to “let a Member off easy,” they might push for a stronger penalty (Allen and Bresnahan 2010). Individual Members must weigh what they feel is an appropriate against the committee’s recommendation, with some observers noting that inherent conflicts of interest exist when Members are policing other Members (Joint Committee on the Organization of Congress 1993, 127). Therefore, what an individual member perceives as an ideal punishment for a particular action is likely a factor in deciding to vote for a reduced or increased penalty.

Consideration of Sanction Resolution

Once the Ethics Committee reports a sanction recommendation resolution, the resolution will be privileged for consideration in the House under the “Hour Rule.” Under the Hour Rule (Rule XVII, clause 2), the committee chair is recognized to control one hour of debate, and yields time to Members to speak for “the purpose of debate only” (Saturno 2017). Subsequently, in most circumstances, there is no opportunity for Members to offer amendments directly to the sanction recommendation resolution (Bach and Smith 1988, 54, fn 31).

The Hour Rule provides that the committee’s sanction recommendation has a built-in advantage over an amendment attempt because the committee chair generally controls time during debate (Saturno 2017). Because the chair is unlikely to yield time for anything other than debate, the committee’s recommendation has a higher probability of adoption than an amendment in most circumstances, unless the committee chair is willing to recognize a Member to offer an amendment. The committee chair could be willing to allow an amendment if a vote on

the alternative has been arranged with House leadership, or if, after debate, they perceive that other Members view the recommended sanction unfavorably.

For Members who oppose the committee recommendation there are procedural alternatives. One would be to defeat a motion for the previous question, which would have the effect of extending debate and allowing an amendment to be offered notwithstanding the chair's opposition (Finocchiaro and Rohde 2008, 36). This alternative is unlikely and was not attempted in any of the examined cases.

Another would be to offer a motion to recommit with amendatory instructions (Clark 2012). This alternative would provide the minority an opportunity to offer a motion that would have the same effect as an amendment. Because the motion to recommit is the prerogative of the minority (Clark 2012), it provides an opportunity for the minority to get a vote on its desired alternative.

Committee Expertise

In their classic study, Dyson and Soule (1970) noted that committees were highly influential on roll call votes. In fact, they found that “on nearly 90 percent of roll calls in the House on bills reported out by committees, the majority of a committee was on the winning side, i.e., the majority of the House supported the position of the committee majority” (632). Specifically, “committees’ overwhelming floor success seems to stem from the alignment of committee-chamber policy preferences and from the support that the majority party is able to generate for committee recommendations” (Maltzman 1998, 210). Additionally, non-committee Members are often deferential to committee positions because committees hold negative agenda power over legislation (Krehbiel, Shepsle, and Weingast 1987). Committee members can also be valuable information conduits (Holcombe and Parker 1991) and have “specialized knowledge

and expertise” over the committee’s subject matters (Curry 2019, 204). Additionally, non-committee Members, because they lack time and resources to deeply understand bills themselves, rely on committee members for information and voting cues when making voting decisions (Curry 2015).

This is specifically the case for the Ethics Committee. Since the committee has a relatively narrow jurisdiction, its Members inevitably become ethics issue experts. Non-committee Members can depend on the Ethics Committee members as lodestars during a sanction debate (Baughman 2006).

Partisanship

A popular narrative is that Congress has become increasingly partisan (Mann and Ornstein 2008). Certainly, Congress passed recent landmark legislation (e.g., the Affordable Care Act (ACA) or the Tax Cuts and Jobs Act of 2017) on a partisan basis, with no Republicans voting for the ACA and no Democrats for the 2017 tax cuts. The passage of such measures without bipartisan support, however, is historically unusual (Lee 2016).

One theory of Congress (Conditional Party Government) suggests that the majority party works to provide benefits and resources to ensure cohesiveness and the maintenance of majority party status (Aldrich and Rode 2009). One way the majority party attempts to maintain their status is to provide choice committee assignments to individual Members (Rohde and Schepsle 1973; Kellermann and Shepsle 2009) and to engage minority party members in certain matters (e.g., appropriations) to avoid conflict over major legislation (Balla, Lawrence, Maltzman, and Sigelman 2002).

Another theory of Congress (Cartel Theory) posits the majority party wants to maintain its majority and the minority party wants to become the majority (Cox and McCubbins 1993;

Straus and Williams 2020). To maintain its status quo, the majority party, especially in the House, has the ability to control the legislative schedule (Sinclair 1995; Cox and McCubbins 2005). The majority's scheduling power further extends to control—through the House Rules Committee, where it enjoys a supermajority—how much time might be spent considering a measure, whether amendments are allowed, and how many amendments are approved for consideration (Schickler and Pearson 2009; Moffett 2012; Meinke 2021). Since the majority wants to maintain its majority and they control the agenda, they are often loath to allow the partisan minority the opportunity to influence legislation once it reaches the floor (Richman 2015).

Partisanship has not generally been an issue for the Ethics Committee. The majority and minority both have the same number of committee members and rules ensure bipartisan action (Committee on Ethics 2019). For example, the Ethics Committee can only issue a subpoena with a majority vote (House Rule XI, clause 3(m), 2019). Since the Ethics Committee has five members from each party, at least one must concur to have a majority vote. The committee's even membership split has generally ensured the reporting of a bipartisan decision.

Creating a House Ethics Framework

Acceptable behavior by Members of Congress has shifted over time. The House has historically handled relatively few ethics cases (Committee on Standards of Official Conduct 2004). Acceptable 18th or 19th Century behavior could be grounds for punishment today (Thompson 1995, 2). For example, in 1798, Representative Matthew Lyon (VT) and Representative Roger Griswold (CT) were charged with “disorderly behavior” after they exchanged words on the House floor. As part of their exchange, Representative Griswold assaulted Representative Lyons with a “stout cane” and Representative Lyons retaliated with

fireplace tongs. First threatened with expulsion and then censure, “the House declined to expel either [Mr.] Lyon or [Mr.] Griswold” Instead, “Messrs. Lyon and Griswold were required to pledge themselves before the Speaker to keep the peace during the session” (Hinds 1907, II §§1642-1643, 1114-1115).

The ad-hoc nature of ethics enforcement began to change in the mid-twentieth century. Whereas in the case of Lyons and Griswold, the House dealt with their disciplinary action using unwritten norms of conduct and the existence of a “club spirit” (Getz 1966, 113), in the late 1950s, the first efforts to create a formal code of conduct began (Morse 1946). In 1957, Congress agreed to a Code of Ethics for Government Service to oversee officials and employees for the entire federal government (72 Stat. B12; *Congressional Record* 1957, 16297; *Congressional Record* 1958, 13556). Its adoption was a first step toward a formalized ethics process.

In the 1960s, the ethics climate shifted with investigations into separate instances of alleged misconduct by Senate staffer Bobby Baker and Representative Adam Clayton Powell (Guide to Congress 2000). Baker, then the “Secretary to the Senate Democratic Majority, resigned from his job in October 1963, following allegations that he had misused his official position for personal financial gain” (Landau 1963; U.S. Congress, Senate Select Committee on Ethics 2020). Representative Powell was accused of misusing travel funds and employing a relative on his official payroll when they were not doing official work (Select Committee Pursuant to House Resolution 1, 1967, p. 1). The Senate did not specifically punish Mr. Baker, but he was convicted of tax evasion in 1967 (Genzlinger 2017). The House expelled Representative Powell on March 1, 1967, but he was reelected to Congress in November 1968.³

In response to these cases, the House (*Congressional Record* 1967) and Senate (*Congressional Record* 1964) created ethics committees. In the House, the focus of this paper,

the Ethics Committee has jurisdiction over the House Code of Conduct and Member financial disclosure (Committee on House Administration 1994, 298; Rules of the House of Representatives 2017, §721). This includes the authority to investigate allegations of Member wrongdoing; adjudication of evidence; and recommendation of penalties to the House, when appropriate.

House Ethics Process

The House Ethics Committee and ethics process was intended to be non-controversial. From the beginning, however, the Ethics Committee has been seen by some as an entity designed “to sweep things under the rug and not make waves” (Davidson and Oleszek 1977, 148). Consequently, the committee has formalized its investigation and sanction recommendation process to make it as bipartisan and objective as possible. **Figure 1** shows the Ethics Committee’s general investigation, adjudication, and sanction recommendation process.

[Figure 1 here]

Punishment Options

The *U.S. Constitution* (Article I, Section 5, clause 2) only mentions one legislative punishment option—expulsion.⁴ The House has rarely expelled Members. Historically, expulsion has been reserved for offenses related to official conduct or being deemed “unfit to participate in the deliberations and decisions of the House and whose presence in it tends to bring that body into contempt and disgrace” (Hinds 1907; Deschler 1976; Brown and Johnson 2003).⁵

Since expulsion requires a high threshold (two-thirds present and voting) and it is reserved for only the most severe cases, the House has developed other punishment options. Two of these—censure and reprimand—require a vote of the House to sanction a Member, while the Ethics Committee can also issue a letter of reproof or admonition.⁶

- *Censure*: a formal punished implemented with the adoption by a majority vote of the House with the sanctioned Member standing in the “well” of the House chamber to receive a verbal rebuke and listen to the censure resolution read by the Speaker of the House (Deschler 1976; Brown and Johnson 2003).⁷
- *Reprimand*: often considered a lesser sanction than censure, Reprimand is adopted by a majority vote with the Member “standing in his place,” or by the adoption of the committee’s report (Cannon 1935; Deschler 1976).⁸
- *Letters of Reproval and Letters of Admonition*: are administrative actions authorized under House rules and issued as part of the Committee’s public report (Committee on Standards of Official Conduct 2005, 62-68).

“Regular” Floor Process for Committee Sanction Recommendations

As discussed earlier, the House generally considers a sanction recommendation under the “Hour Rule,” where the Ethics Committee chair controls debate and generally yields for the “purpose of debate only.” Often, the chair will yield time evenly between the chair, ranking minority Member, and the accused individual, so each controls one-third. Debate on the sanction recommendation then proceeds in a manner similar to any other House debate, unless the chair yields time specifically for the purpose of offering an amendment. If the chair does not yield for an amendment, the opportunity to offer one is limited to offering a motion to recommit at the end of debate.⁹

Data and Methodology

This study covers cases investigated by the House Ethics Committee between its creation in 1967, and 2010, the last time an ethics sanction amendment was offered. To determine the number instances where sanction alternatives were offered, the Ethics Committee’s *Historical*

Summary of Conduct Cases in the House of Representatives, 1789-2004, and the *Summary of Activities: Report of the Committee on Ethics* for the 109th through the 111th Congresses, was consulted. Between 1967 and 2010, the committee reviewed 117 cases. Of those, 16 were brought to the House floor and seven had alternatives offered. **Table 1** lists the ethics cases where an amendment was offered, the type of scandal (financial or moral), the Ethics Committee’s recommendation, the amendment recommendation, and the final sanction.

[Table 1 here]

With 16 total cases and 7 where the House considered an alternative sanction, this study has the potential to suffer from a small “n” problem. In some cases, statistics can overcome a small number of cases (King and Zeng 2001). In other instances, the high-profile nature of the topic (e.g., presidential behavior) has encouraged smaller studies that observe behavior, even if results are not generalizable to a wider population (King 1993; Powner 2015).

For Congress, where a small sample size is almost never a problem, a small “n” study alone would not leverage the wealth of potential data available. Therefore, this study explores sanction amendment attempts in two ways—case studies of the seven cases where sanction amendments were offered and Member roll call votes for the amendment. This mixed method approach provides for an opportunity to test the literature’s expectation of why a Member might choose to vote for a sanction alternative and provides context for each rare event—the sanctioning of a Member by the House of Representatives.

After determining the number of ethics cases with an amendment attempt, individual Member level data was collected for each amendment vote. Member vote data was downloaded from *Govtrack.us*. While *Congress.gov* is the official data source for congressional legislative activity, it does not provide vote data before the 101st Congress (1989-1990). In order to have

consistent data for each of the cases in this study, data for all seven instances where an amendment was offered were downloaded from the same source. The *Govtrack.us* data included the Member's name, district and state, party affiliation, and vote. Several independent variables were also collected as control variables based on the expectation that certain characteristics have historically influenced the way Members vote, which in this case means a Members' potential support of a sanction amendment. The factors included ideology (Poole and Daniels 1985; Poole and Rosenthal 1997); whether the Member was on the Ethics Committee (Curry 2019); race (Levy and Stoudinger 1976), party (Cox and McCubbins 1993), and home state (Truman 1956).

Specifically for ideology, Poole and Rosenthal (1997) DW-Nominate common space scores were utilized. Data on common space scores (where -1 is the most liberal and +1 is the most conservative Member) were collected from the *voteview.com* website, where Poole and Rosenthal maintain data for each Congress. Common space scores were utilized because each legislator "is assigned a single coordinate throughout his or her career so that members who served in both chambers will have the same coordinate in both" (*voteview.com* 2017). With a single score assigned to each Member, their actions can be generalized across congresses. This is important because several Members served in multiple congresses represented in the seven cases presented in this paper.

Research suggests that individuals use available information, including shared experiences and shortcuts to make decisions (Simon 1947; Simon 1957; Jones 1994; Weick 1995; Jones 2001). This includes picking candidates that look like them or policy positions that share their experiences (Oppenheimer and Edwards 2012). Research also suggests that Members use similar decision-making process as their constituents (Clausen 1973).

Second, case studies of the seven cases were developed. Case studies are a powerful comparative tool that provides context to the collected data and can explore each amendment attempt (Van Evra 1997). While many studies that utilize case studies are challenged with the selection process (Seawright and Gerring 2008), for this inquiry, there exists only seven available cases, and all can be examined. The seven case studies demonstrate the variety of circumstances that face the House in deciding to vote for an amendment and the potential reasons why an amendment may or may be preferred over the committee's recommended sanction. Data for the case studies come from a variety of sources including primary source documents and historical media reports on congressional activity.

Attempts to Amend Ethics Sanction Recommendations in Context

The House has attempted to amend or alter a committee sanction recommendation seven times. In three of these cases—Koreagate and two improper sexual conduct cases—the House agreed to the alternative. In the other four cases—mail fraud and making false statements; bribery, false employment, and personal use of campaign funds; prostitution, improper use of office, and improper sexual activity; and misuse of official resources, failure to file financial disclosure statements, and failure to pay taxes—the attempt to alter the sanction recommendation was defeated.

Koreagate

In February 1977, the House of Representatives ordered an investigation into allegations that the Republic of South Korea was bribing government officials to ensure that President Richard Nixon did not withdraw American troops from the Korean Peninsula (H.Res. 252, 95th Congress; *Congressional Record* 1977). Popularly referred to as “Koreagate,” *Congressional*

Quarterly described it as the “most sweeping allegations of congressional corruption ever investigated by the federal government” (*CQ Almanac* 1977, 820).

Pursuant to H.Res. 252, the Committee on Standards was to “conduct a ‘full and complete inquiry and investigation’ into the allegations; ... and to report its recommendations to the House of Representatives regarding disciplinary action to be taken against any Member of the House of Representatives found, as a result of the investigation, to have violated any applicable standard of conduct” (Committee on Standards of Official Conduct 1978a, 1). At the end of the investigation, the committee found that three members had taken bribes from Korean officials (*CQ Almanac* 1977, 822).¹⁰ Included in the group was Representative Edward Roybal, who was accused of accepting a campaign donation from Tongsun Park, a South Korean citizen, and using it for personal benefit. Additionally, Representative Roybal was accused of lying to the committee about receiving the money (*Congressional Record* 1978a; Fitzgerald 1978).

In October 1977, the committee confirmed that

[t]he testimony and exhibits removed any doubt that there was, in fact, a carefully planned and executed program by which the Government of the Republic of South Korea hoped to win the favor of Members of Congress through gifts of money or things of substantial value either to them or to members of their families or their associates. (Committee on Standards of Official Conduct 1977, 1)

Subsequently, Representative Roybal “confirmed testimony by Tongsun Park that he gave Roybal a \$1,000 cash contribution, which the committee alleged Roybal failed to report. Roybal said his failure to report the contribution was a ‘mistake of judgment’” (*CQ Almanac* 1978a, 805).

After its investigation, the Committee on Standards issued a three count Statement of Alleged Violations against Representative Roybal and recommended that he be censured by the

House (Committee on Standards of Official Conduct 1978b, 6). The three counts Statement of Alleged Violation stated:

The Committee found that it had been established by clear and convincing evidence that (1) Representative Roybal failed to report a \$1,000 cash contribution he received from Tongsun Park on or about August 22, 1974; (2) Representatives Roybal converted the \$1,000 contribution from Tongsun Park to his own use; and (3) Representative Roybal gave “testimony which he did not believe to be true”, when he denied under oath that he received the contribution. (Committee on Standards of Official Conduct 1978b, 1)

On October 13, 1973, floor debate on the motion to censure Representative Roybal occurred, following the debate on reprimand resolutions for others involved in the “Koreagate” investigation (*Congressional Record* 1978b; *Congressional Record* 1978c).¹¹ During the debate, many Members spoke on behalf of Representative Roybal and urged the House to consider the lesser sanction of reprimand. Members advocating for a lesser penalty, focused on the equity of the Committee on Standards process—other implicated Members had been reprimanded—and whether racism—Representative Roybal was Hispanic—might have factored into the committee’s decision to recommend censure (*CQ Almanac* 1978a, 808).

Following debate, a motion to recommit was offered to send the resolution back to the Committee on Standards and instruct them to report “forthwith” an amended resolution recommending reprimand instead of censure (*Congressional Record* 1978a, 37016). The motion to recommit was agreed to and the resolution to reprimand Representative Roybal was subsequently agreed to (*Congressional Record* 1978c, 37017; Fitzgerald 1978).

Mail Fraud and Making False Statements

For more than two decades, Representative Charles C. Diggs was a leading African-American figure in the House of Representatives, advocating for civil rights and increased American aid to Africa (“Diggs, Charles Cole, Jr., 2021). In March 1978, a federal “grand jury indicted Representative Diggs on multiple charges, including taking kickbacks from his

congressional staff” (“Diggs, Charles Cole, Jr., 2021). In October 1978, Representative Diggs was convicted on multiple counts of felony mail fraud and making false statements and was sentenced to three years imprisonment for each count, to be served concurrently (*CQ Almanac* 1978b, 11; Committee on Standards of Official Conduct 1979, 1). Following his conviction, Mr. Diggs was reelected to the 96th Congress (1979-1980). After his election, but prior to his being seated, Representative Diggs agreed to relinquish “...his chairmanship of the House District of Columbia Committee but would fight to keep his chairmanship of the International Relations Subcommittee on Africa” (*CQ Almanac* 1979, 561).

At the beginning of the 96th Congress (1979-1980), a group of Members publicly announced that they would move to expel Representative Diggs should he vote on the House floor. Such a vote, they argued, would have been in opposition to the House Code of Conduct, which suggests that Members convicted by a court refrain from voting on the House floor (*Congressional Record* 1979a, 3467; *CQ Almanac* 1979, 563).¹² On February 28, 1979, Representative Diggs voted on a public debt limit bill. Following the vote, a resolution (H.Res. 142) was introduced to expel Representative Diggs (*Congressional Record* 1979b). The expulsion resolution was referred to the Committee on Standards of Official Conduct, which took no further action on the measure (*Congressional Record* 1979c).

Prior to Representative Diggs’s vote and the subsequent introduction of an expulsion resolution, the Committee on Standards had begun an investigation of Representative Diggs. In February 1979, the Committee on Standards had appointed an investigatory subcommittee to examine the charges that Representative Diggs had violated House Rules in addition to federal law (Committee on Standards of Official Conduct 1979, 1). When the February 1979 expulsion

resolution was referred to the Committee on Standards, the Committee did not take further action. Rather, the Committee focused on its own investigation.

In March 1979, the Standards Committee formally opened an inquiry into Representative Diggs and in April adopted a Statement of Alleged Violation (Committee on Standards of Official Conduct 1979, 5) alleging that Representative Diggs had

violated House rules by placing two employees on his payroll without duties in order to have their salaries help pay some of his personal bills, inflating the salaries of three other employees to cover Diggs' personal and congressional expenses; and putting one employee on his congressional payroll although her duties were to work for Diggs' private business, the House of Diggs Funeral Home in Detroit, Mich. (*CQ Almanac* 1979a, 564).

Following the adoption of the Statement of Alleged Violations, negotiations between Representative Diggs and the Committee on Standards commenced. In June, Representative Diggs admitted, in a letter to the Committee, that he had violated House Rules and he agreed to be censured by the House for his activities (Committee on Standards of Official Conduct 1979a, 16-17; *CQ Almanac* 1979a, 564). Subsequently, the Committee reported a censure resolution.

On July 30, a second expulsion resolution (H.Res. 391) was offered during debate on the Committee's recommendation (H.Res. 378). The second expulsion resolution set up a choice for House Members—adopt the harsher expulsion penalty or agree to the Committee's censure recommendation. The House choose to table the expulsion resolution (*Congressional Record* 1979d, 21297), arguing that “there is no precedent for expelling a Member for the kinds of violations at issue in the Diggs matter...” (*Congressional Record* 1979e, 21589). On July 31, the House debated the censure resolution and unanimously agreed to censure Representative Diggs (*Congressional Record* 1979e, 21592; Steinbach 1979). Representative Diggs also agreed to pay restitution to the House (Houston 1979, 1).

Bribery, False Employment, and Personal Use of Campaign Funds

In 1979, the Committee on Standards of Official Conduct began an investigation into allegations that a Member had “accepted cash gifts from an individual with a direct interest in legislation before Congress, placed the same individual on his congressional payroll and paid him more than his duties required, converted campaign funds to his personal use, and testified falsely under oath to a Standards Committee attorney” (*CQ Almanac* 1979b, 592-593). The investigation began as the result of information gathered during the Koreagate investigation in the previous Congress (Committee on Standards of Official Conduct 1980a, 1).

In December, the Committee adopted a 15 count Statement of Alleged Violations against the Member.

The Statement alleged generally that Representative [Charles H.] Wilson received gifts of substantial value from a person with a direct interest in legislation, caused to be hired on his clerk-hire payroll a person whose salary was not commensurate with duties performed, and that he commingled campaign funds with personal funds and converted campaign funds to personal use in excess of allowed reimbursable amounts. (Committee on Standards of Official Conduct 1980b, 5)

Additionally, the Committee reported that “[a]ll violations charged in the Statement of Alleged Violations were based on the standards in effect at the times pertinent to the respective counts” (Committee on Standards of Official Conduct 1980b, 5). In its report on the censure recommendation, the Committee included eight of the 15 counts. The *Washington Post* reported that the committee had dropped some counts “...because members wanted to make as strong a case as possible to present to the House.” Additionally, one committee member told the paper that “We felt we had some very substantial instances of wrongdoing in the eight counts we sustained” (Babcock 1980, A2).

In April 1980, after conducting its investigation, the Committee found that Mr. Wilson had violated House Rules and recommend he be censured and “denied the chair on any Committee or Subcommittee of the House of Representatives for the remainder of the 96th

Congress” (Committee on Standards of Official Conduct 1980a, 12). The committee reported its resolution (H.Res. 660), which was debated on the floor in early June (*CQ Almanac* 1980). The resolution stated:

Resolved,

- (1) That Representative Charles H. Wilson be censured;
- (2) That Representative Charles H. Wilson be denied the chair on any committee or subcommittee of the House of Representatives for the remainder of the Ninety-sixth Congress;
- (3) That upon adoption of this resolution, Representative Charles H. Wilson forthwith present himself in the well of the House of Representatives for the public reading of this resolution by the Speaker; and
- (4) That the House of Representatives adopt the report of the Committee on Standards of Official Conduct dated May 8, 1980, in the matter of Representatives Charles H. Wilson.

Debate on the censure recommendation focused on Mr. Wilson’s activities and was conducted in two parts. First, after a brief discussion of committee activities, Representative Charles Bennett, chair of the Committee on Standards of Official Conduct, recognized Representative Tom Foley for an amendment to the sanction recommendation (*Congressional Record* 1980, 13811). Representative Foley’s amendment proposed the removal of section two of the sanction recommendation that stripped Mr. Wilson of his committee chairmanship. The amendment was allowed by the committee because the Democratic Caucus had previously adopted a rule that “automatically remove[s] any committee or committee chairman who is censured by a vote of the House or who is convicted of a felony” (*Congressional Record* 1980, 13812).

The amendment striking the committee’s recommendation to strip Mr. Wilson of his committee chair was agreed to by the House (*Congressional Record* 1980, 13818). Following adoption of the Foley Amendment, the House resumed debate on the censure resolution, as amended. A motion to recommit was offered that would have lessened the sanction from censure

to reprimand, but the motion failed and the House subsequently voted to censure Representative Wilson (*Congressional Record* 1980, 13820).

Improper Sexual Conduct

In 1982, the House authorized the Committee on Standards to investigate allegations of improper sexual contact between Members and House officials and House Pages (Committee on Standards of Official Conduct 1983c, 1). The investigation was authorized after the media reports “...quoting former pages who said that pages had been the victims of sexual misconduct on the part of House members” (*CQ Almanac* 1983, 583).

Following the investigation’s authorization, the Committee on Standards retained a special counsel—James A. Califano, Jr.—who conducted the investigation into the alleged misconduct. Mr. Califano found that two Members of the House had engaged in improper sexual conduct with House pages between 1973 and 1980. In both cases, the pages were 16 or older—then the legal age of consent in the District of Columbia—and no specific laws were broken. The Members, however, were found to be in violation of House Rules and the Code of Official Conduct (Committee on Standards of Official Conduct 1983c, 3; *Congressional Record* 1983, 20022).

Subsequent to the investigation, the Committee on Standards of Official Conduct official recommended the reprimand of Representatives Gerry Studds and Daniel Crane (Committee on Standards of Official Conduct 1983a; Committee on Standards of Official Conduct 1984b). In recommending a sanction, the committee believed that reprimand in combination of the public release of records associated with the punishment would place “...an indelible stain on the reputations of these Members” (*Congressional Record* 1983, 20023).

When the committee reprimand resolutions were brought to the floor, debate ensued about the proper punishment for what some Members perceived was a challenge to “the integrity of the institution...” (Roberts 1983a, A1). Debate on the reprimand resolutions for both Members occurred consecutively in the House—first for Representative Crane and then for Representative Studds. Overall, Members universally praised the work of the committee, but many felt that reprimand was not severe enough a punishment for violating the trust that parents had placed in the House and the page program. As a result, motions to recommit with amendatory instructions that changed the sanction recommendation from reprimand to censure for both Representatives Crane and Studds were offered and agreed to by the House (*Congressional Record* 1983, 20028; *Congressional Record* 1983, 20036; Roberts 1983b, A1; Gemperlein 1983, 18).

Prostitution, Improper Use of Office, and Improper Sexual Activity

In August 1989, the media reported that a Member of Congress had hired a prostitute as a personal employee and that the employee had used the Member’s Capitol Hill apartment to solicit other clients (Rodriguez and Archibald 1989, A1; Beegan 1989). In September, shortly after the media allegations, the Committee on Standards of Official Conduct opened an investigation (Committee on Standards of Official Conduct 1990a, 2).

During the course of its investigation, the Committee heard testimony on four allegations of impropriety. They were: “(1) use of personal residence for prostitution by third parties, (2) improper contacts with probation office on behalf of a personal assistant, (3) improper dismissal of assistant’s parking tickets, and (4) sexual activity in the House gymnasium” (Committee on Standards of Official Conduct 2004). On July 19, 1990, the committee recommended that Representative Barney Frank be reprimanded because he “brought discredit upon the House of Representatives....” in violation of House Rules. Additionally, the Committee found that he had

engaged in improper conduct when he attempted to have a staff member's parking tickets dismissed (Committee on Standards of Official Conduct 1990b, 12).

On July 26, the case was debated on the House floor. The debate consisted of two parts. First, the Ethics Committee allowed an expulsion resolution to be debated and voted on by the House. This resolution was ultimately defeated (*Congressional Record* 1990a, 19705-19717). Debate on the committee's reprimand resolution then commenced. Because of the nature of the charges, and that expulsion efforts had just failed, some Members continued to feel that reprimand was not a serious enough punishment (Hook 1990, 2379). Subsequently, a motion to recommit was offered to raise the punishment from reprimand to censure. The motion to recommit, however, was not agreed to and the House reprimanded Representative Frank (*Congressional Record* 1990a, 19731-19732).

Misuse of Official Resources, Failure to File Financial Disclosure Statements, and Failure to Pay Taxes

In September 2008, the Committee on Standards of Official Conduct announced the creation of an investigatory subcommittee to "determine whether Representative [Charlie] Rangel violated the Code of Official Conduct or any law, rule, regulation, or other standard of conduct ..." (Committee on Standards of Official Conduct 2008a). The Congressman was accused of misusing official resources, failure to correctly file annual financial disclosure forms, and failure to pay taxes (Committee on Standards of Official Conduct 2008b).

The investigatory subcommittee continued its work into the 111th Congress (2009-2010) (Committee on Standards of Official Conduct 2009), before transmitting a Statement of Alleged Violations to the full committee in July 2010. The Committee on Standards of Official Conduct then empaneled an adjudicatory subcommittee "to determine whether any counts in the

Statement of Alleged Violated have been proved by clear and convincing evidence and to make findings of facts” (Committee on Standards of Official Conduct 2010a). The adjudicatory subcommittee reported their findings on 13 counts, recommending to the committee that the Representative be censured for his activities (Committee on Standards of Official Conduct 2010b).

On December 2, 2010, the House of Representatives considered the Committee on Standards of Official Conduct’s censure recommendation. The committee’s representative opened by making the case for censure, while also acknowledging that some Members believed that a reprimand would be more appropriate (*Congressional Record* 2010, H7891-H7892). Over the course of debate, a number of Members rose to support reprimand over censure, emphasizing that censure was too harsh a punishment for what the accused Representative’s behavior. For example, one Member argued that while there was “no question that Mr. Rangel violated House rules” he did not engage “in dishonest or corrupt conduct,” the historic standard for censure (Butterfield 2010). Instead, the Member argued that reprimand was more appropriate. When time for debate expired, an amendment was offered to reduce the sanction from censure to reprimand (*Congressional Record* 2010, H7897). The amendment was defeated (*Congressional Record* 2010, H7897), and the House voted for the committee’s recommendation of censure (*Congressional Record* 2010, H7898).

Modeling Votes on Ethics Sanction Recommendations

Based on the literature’s expectations, Members who share demographic characteristics with the Member under investigation should be more likely to support an amendment that is favorable to the accused. This means that Members of the same race, same party, or same state should be more likely to support a favorable amendment, while Members who are of a different

race, party, or state should be more likely to support the Ethics Committee's recommendation. Further, the literature suggests that Members are more likely to support an amendment for financial, rather than moral transgressions. If partisanship plays a role in the decision to support an amendment, more ideological Members should support an amendment. **Table 2** reports the variables utilized in the models, including mean, standard deviation, and range.

[Table 2 here]

The relationship between the independent and dependent variables were tested using two logit models in STATA17: one for instances where the amendment would increase the sanction and one for where the amendment would decrease the sanction. Logit was chosen because the dependent variable (the vote on the sanction amendment) is a 0/1 variable for whether the House Member voted for (1) or against (0) the sanction amendment. To make interpretation of the logit model results easier, the odds ratio were also calculated.

[Table 3 here]

As **Table 3** shows, both models have multiple significant variables. For both models, all variables except same party are significant. Broadly, this suggests that a Members of Congresses vote on a proposed sanction amendment are influenced by shared characteristics (excluding party) and are likely dependent on the individual circumstances of the ethics case.

Observations on Sanction Amendment Efforts

For most sanction related matters, the House defers to the Committee on Ethics. In some circumstances, however, alternative sanctions are offered, considered, and adopted. Several specific model and case study results merit discussion. First, both the model and the case studies suggest that demographics matter, regardless of whether the amendment proposed to strengthen or weaken the sanction amendment. Second, similarities between the accused and the voting

member are important for the potential to support an alternative sanction. Finally, ideology is a strong predictor for both types of amendments, and being an Ethics Committee Member has a strong negative association with voting to increase a penalty.

Demographic Significance

Two demographic variables—same state and same race—are significant in both models. First, the data suggests that being in the same state delegation has a small negative effect for supporting an increased penalty and a strong positive effect for supporting a decreased penalty. In practicality, this means that state delegation members, regardless of party, are likely to vote for the lesser penalty, either the committee recommendation when the vote is to increase a penalty or the alternative when the vote is to decrease a penalty. This finding appears to be in line with other studies of same-state delegations where same state Senators “construct distinct legislative portfolios” but also work together to provide “a commitment to representation” (Schiller and Cassidy 2011, 17).

As demonstrated in misuse of official resources, failure to file financial disclosure statements, and failure to pay taxes case, Members of the New York delegation came to the defense of the accused on the House floor and spoke in support of a reduced sanction. For example, a Republican Member from New York spoke against the censure recommendation as being overly harsh and that his friendship with the accused and representation of similar constituents transcended politics. He said:

Now, lest my Republican friends get nervous, let me make it clear; while Charlie Rangel is a friend and colleague, we disagree on virtually every issue. I can't begin to tell you how many times Charlie and I have gone at it and debated over the years on local news shows back in New York ... but they were very significant debates. During that entire time, I have never heard anyone question Charlie Rangel's integrity nor have I ever seen Charlie Rangel treat anyone with disrespect—which is very unusual for somebody in his high position, as many of us know--whether it be flight attendants, cab drivers, staff members, or the guy on the street corner on 125th Street. (King 2010).

State delegations present an interpretation challenge. Since same state is significant in both models, but in opposite directions, it is hard to understand the role state delegations might play. While no previous work exists on sanctions and state delegations, the case studies suggest that same state delegations “stick” together, at least for financial scandals. Similarly, the policy literature has found mixed results when linking congressional votes on non-sanction related matters to constituent preferences (Truman 1956; Deckard 1972; Albouy 2013). For sanction amendments, the calculus is likely more difficult, as constituents are historically unlikely to have an opinion—although that might be changing in the era of social media (Gainous and Wagner 2014). In these cases, choosing to support the status quo seemingly would make other members of the state delegation happy and avoid the potential to anger constituents or co-partisans.

Second, the model results for Members who identify as the same race of the accused are more challenging. For amendments that propose a decreased penalty, same race has strong negative significance. In practice, this means same race might indicate a willingness to support sanction amendment amendments regardless of whether they would increase or decrease a penalty. Evidence from the case studies suggests that has played a role in past sanction discussions. In 1978, race reportedly played a role in the sanctioning of Representative Edward Roybal in the Koreagate investigation. As the media reported:

Presented with reports on the committee's findings only hours before being asked to vote on them, few members evidenced any reluctance to uphold the committee's suggested reprimands of McFall and Wilson. But confronted with the choice of voting to uphold the panel's recommended “censure” of Roybal, who was of Hispanic descent, and suggestions that such a vote would be perceived as racist, a majority of the House backed off from the tougher recommendation. (CQ Almanac 1978a)

Within the confines of a sanction recommendation, the models results parallel the Roybal observations. Sharing a race is a statistically significant factor for supporting a decreased penalty.

Sharing a race is also a statistically significant factor for supporting an *increased* penalty. Support of ethics sanction amendments appears to be in contrast to the general congressional leadership on shared characteristics. That literature suggests that both informal coalition members (Pinny and Serra 1999; Rouse, Swers, and Parrott 2013) and formal organization colleagues (e.g., the Congressional Black Caucus and the Congressional Hispanic Caucus will support other group members across policy areas (Levy and Stoudinger 1976; Darrow 1978; Owens 2012; Munoz 2019).

While the findings here might not conform to the literature's expectation, it is possible that the policy v. behavior element of the discussion matters. While the literature continuously finds cooperation amongst individuals with shared characteristics, it has never addressed whether that cooperation continues when a group member is accused of wrongdoing. This model, and case study evidence, suggests that support is conditional on the circumstances, where some potential offenses might reduce support that is traditionally identified on policy issues for behaviorally related circumstances.

Ideology

Ideology is strongly significant for both types of sanction amendments, but in opposite directions. Ideology is a strong, positively associated factor for supporting an increased sanction amendment, and a strong, negatively associated factor for voting against a decreased penalty amendment. This result suggests that ideology causes Members to lean toward an increased penalty (i.e., supporting an increased sanction amendment or supporting the status quo when a reduction amendment is considered).

In recent years, an increase in the ideological split among Members of the House has been growing (voteview.com 2021). Studies find that Democrats are becoming more liberal

(towards -1 on the DW-Nominate scale used in this study) and Republicans are becoming more conservative (towards 1) (Bender 1991; Lublin and Voss 2003). Subsequently, moderate members, who historically maintained a position as the median voters in the House (and the key vote for moving policy in either direction), has nearly vanished or become more ideological (Fiorina 1999).

Unlike the model results, the case studies do not speak to ideology as a major motivating factor. Therefore, a puzzle exists about what role ideology might play in Member decision-making. Ideology is often used as a shortcut to explain political behavior (Diermeier et. al, 2012), especially in the electorate (Shor and Rogowski 2018). For Members of Congress ideology is important and it certainly guides their decision-making. Most congressional vote studies examine when an individual Member of Congress supports or opposes their party's position (Poole and Rosenthal 2007). While, the data on sanction amendments potentially fits the conventional narrative, the case studies do not speak to ideology. It is not something that Members of Congress discuss during the Ethics Committee process or on the House floor. In fact, the House ethics process, as outlined above, emphasizes bipartisanship through the evenly split committee members, non-partisan staff, and requirements for both Democrats and Republicans to agree before an investigation can proceed.

As a result, most written summaries of ethics investigations emphasize the bipartisan nature of the Ethics Committee's work. For example, in the improper sexual conduct investigation, the committee chair emphasized the committee's bipartisanship and the time committee Members spent to ensure that the investigation was fair. He said:

Members of this committee come from every part of this country. They are evenly divided between Republicans and Democrats. They have agonized over the recommendations before you today. They have devoted hundreds and hundreds of hours over the past year to carrying out the charge of the House to investigate [the] allegations

... sat through more than 125 depositions ... have spent long hours being briefed on extensive reports from the committee's special counsel ... have discussed, debated, analyzed and reanalyzed the issues raised by these cases ... have listened to arguments ... sifted through evidence and they have debated many hours as a committee on these cases. In approaching these cases, they have drawn on their collective experience of more than 100 years in the House, and they have voted 11-1 to report the resolutions.... (Stokes 1983).

Just because the Committee deemphasizes ideology, however, does not make it disappear. This is evident in the statistical model. Further work in this area is likely necessary to understand how ideology might frame an individual Member's decision to support or oppose a sanction recommendation in light of other potential influences (e.g., same state, same race).

Ethics Committee Membership

Being an Ethics Committee member is a strongly negative predictor for voting for a sanction amendment. This is expected. Since committees are often considered jurisdictional experts (Deering and Smith 1997), committee members are more likely to support the recommended sanction rather than an alternative. Generally, committee membership provides a level of exclusivity and makes them valuable as information conduits to their colleagues (Holcombe and Parker 1991). This is specifically the case for the Ethics Committee. Since the committee has a relatively narrow jurisdiction, committee Members inevitably become experts on ethical issues (Gabaldon 1996; Roberds 2004).

The expertise developed by Members of the Ethics Committee individually, and by the committee collectively, seemingly influences whether non-Committee Members are willing to offer amendments. Ethics cases are necessarily complex. All of the cases studied in this paper had multiple nuances of both federal law and House Rules. To understand and enforce the laws and rules, some level of expertise is required. Subsequently, when a sanction is reported to the

floor, more often than not, the general House Membership is willing to utilize the committee's expertise in deciding on a sanction.

This was particularly the case in the mail fraud and false statements case. It is possible that what the accused Member did was worthy of expulsion, but those who supported the stronger penalty were a small minority. For other Members, that the Ethics Committee followed a prescribed process in making its recommendation validated the sanction choice. For example, one Member stated, "There is a process...in this House. It is no great secret that I did not think Richard Milhouse [sic] Nixon was the greatest President we ever had, but we followed a process. We did not come to the floor and say, 'We will conduct impeachment hearings in the whole House.' We did not do that. We recognized a time honored process..." (Mitchell 1979, 3750). This statement demonstrates how many Members felt about the expertise and process used to investigate ethics matters.

Conclusion

Since the Ethics Committee's creation in 1967, the House of Representatives has considered floor amendments to alter a sanction recommendation on seven occasions. These rare events provide specific context for the relationship between the Ethics Committee and the House, general observations about the relationship between committees and the House floor, and Member decision making. The factors discussed in this paper—demographic characteristics, ideology, and Ethics Committee membership—all influence a Member's decision to vote for an alternative sanction or support the committee's recommendation. As this study has shown, it matters whether the proposed floor amendment would increase or decrease the recommended sanction. For both amendments to increase and decrease a penalty, all variables except same party were significant. The case studies further bolster these results, with the evidence showing

that while individual circumstances of an ethics case matter, demographic variables and committee membership are influential factors for Member decision-making.

House votes on ethics sanctions and the consideration of proposed amendments remain rare. Consequently, when these events do occur they can provide insight into a Member decision-making process that is different from how they might decide to vote on a matter of public policy. House Members remain deferential to Ethics Committee members (and staff), who spent countless hours investigating, interviewing, and interpreting the House Code of Conduct and relevant rules and laws (Stokes 1983). As such, the role that Ethics Committee Members might play within the institution harkens back to the era when committees, not leadership, were the dominate players in the legislative, administrative, and oversight process (Straus 2012, 3-4).

Congressional theories posit that Members of Congress are “single minded seekers of reelection” and make choices to ensure that their constituents will return them to Washington (Mayhew 1974). While Mayhew’s theory has been observed in multiple studies of Member behavior (Arnold 2017; Hager 2018), whether or not it is a factor for supporting a sanction alternative is an open question currently outside the scope of this study. Members of Congress are sensitive to public opinion, especially from their constituents (Fenno 1973; Ladewig 2005), but they generally try to insulate themselves from the whims of fluctuating public opinion (Poole 2007). Such appears to be the case for most ethics related matters. Members want to ensure that they are imposing a proper sanction both based on precedent, but also on public perception of an issue.

The importance of public salience was evident in the sexual misconduct cases. In these cases, the Ethics Committee recommended reprimand because, while the Member’s behavior was morally questionable, no specific House Rules or laws were broken. In earlier times, the

committee's recommendation might have been adopted, but two events conspired to change the public salience of the debate: national media attention and the fact that pages were involved.

The cases of sexual misconduct became national news after a CBS news report on the incident (*CQ Almanac* 1983, 583). Once the national media was following the story, non-Ethics Committee Members were more likely to be following the story and have formulated opinions on the cases prior to the committee issuing a recommendation.

Beyond confirming the importance of shared demographic characteristics and deference to committee members, this paper identified the tricky nature of ideology. As noted above, ideology was positively associated with supporting an increased sanction amendment, and a negatively associated with supporting a decreased penalty amendment. Since ideology so often is a stand-in for partisanship; as Congress has become more polarized, and party line votes have become the norm on all but the least controversial issues, it is hard to project the effect of ideology and partisanship on future House sanction actions.

The results of this study, while interesting and illustrative of the relationship between individual Members, committee action, and ethics related matters, are also potentially limited in scope. Since only a limited number of cases (seven) exist and the subject matter (ethics) is not generally a legislative focus, the relationships identified point to potential trends that might not be generalizable to broader public policy decision-making. Legislative amendments to committee-approved measures, however, are offered to all types of legislative measures. This relatively narrow study on ethics and individual voting behavior on amendments can still provide insight into Member decision-making (Clausen 1973; Jones 1994), the procedural advantage of committee reported measures in the House of Representatives (Stewart 2012; Mills and Selin 2017), and behavioral norms (Thompson 1995).

Regardless of whether a committee sanction recommendation is accepted or amended, the action of enforcing the code of conduct and House Rules is important to ensure the maintenance of public trust (Bowler and Karp 2004). Congress has recently experienced some of its lowest recorded approval ratings (Mendes and Wilke 2013) and of fostering an environment created by the “politics of venom” (Tolchin and Tolchin 2001). Despite general public dissatisfaction with Congress, Members continue to work hard to represent their constituents. Additionally, the vast majority of Members are not involved in unethical activities (Sinha 1967).

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Figure 1 – House Ethics Committee Investigation, Adjudication, and Recommendation Process

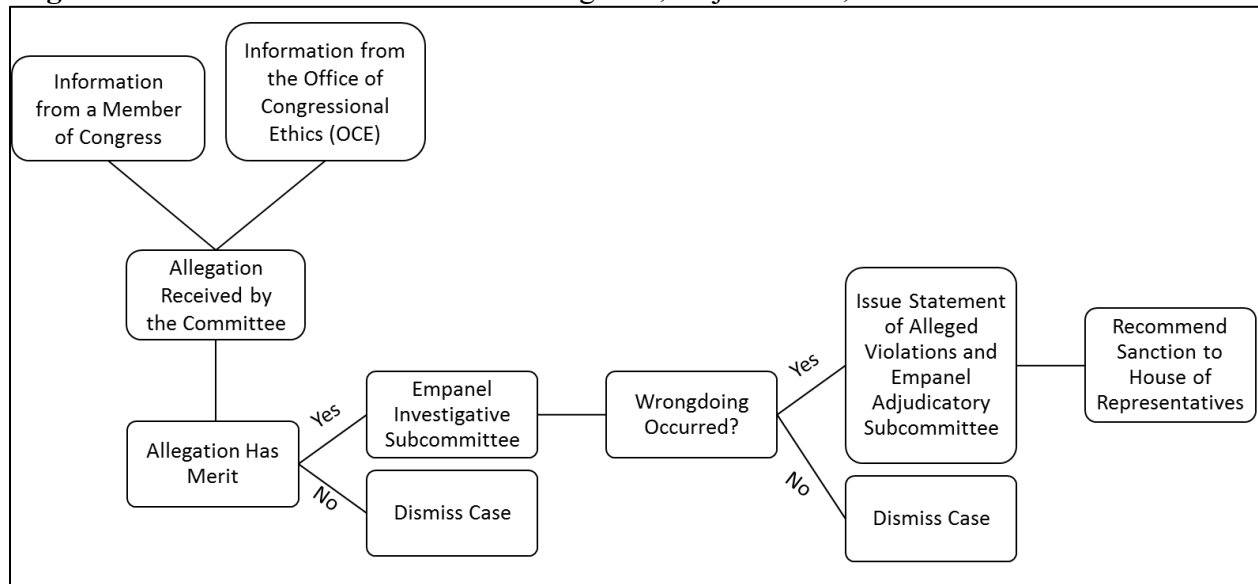


Table 1–House Ethics Cases with Amendment Attempts

Year	Case	Scandal Type	Committee Recommendation	Amendment Recommendation	Final Sanction
1978	<i>Edward Roybal</i>	<i>Financial</i>	<i>Censure</i>	<i>Reprimand</i>	<i>Reprimand</i>
1979	Charles Diggs	Financial	Censure	Expulsion	Censure
1980	Charles Wilson	Financial	Censure	Reprimand	Censure
1983	<i>Gerry Studds</i>	<i>Moral</i>	<i>Reprimand</i>	<i>Censure</i>	<i>Censure</i>
1983	<i>Daniel Crane</i>	<i>Moral</i>	<i>Reprimand</i>	<i>Censure</i>	<i>Censure</i>
1990	Barney Frank	Moral	Reprimand	Censure	Reprimand
2010	Charlie Rangel	Financial	Censure	Reprimand	Censure

Source: Committee on Standards of Official Conduct (2004).

Note: Cases where the House adopted a sanction amendment are listed in *italics*.

Table 2 – Dependent and Independent Variables of Sanction Amendment Votes¹³

Variable	Mean	SD	Range
Vote on Sanction Amendment	0.491	0.499	0 = Against the amendment 1 = For the amendment
Same Race	0.550	0.498	0 = No 1 = Yes
Same State	0.05799	0.234	0 = No 1 = Yes
Same Party	0.587	0.492	0 = No 1 = Yes
Ethics Committee Member	0.289	0.168	0 = No 1 = Yes
Ideology (DW-Nominate First Dimension Common Space Scores)	-0.0722	0.369	-0.782 to 0.988
Scandal Type	0.429	0.495	0 = Financial/Political 1 = Moral

Table 3 – Logit Models: Votes to Alter Ethics Committee Sanction Recommendations

<i>Variable</i>	<i>Increase Penalty</i>				<i>Decrease Penalty</i>			
	<i>Coefficient (Std. Error)</i>	<i>Odds Ratio</i>	<i>95% CI</i>		<i>Coefficient (Std. Error)</i>	<i>Odds Ratio</i>	<i>95% CI</i>	
Same Race	1.117 *** (0.220)	3.05	0.686	1.548	0.827 *** (0.136)	2.29	0.561	1.093
Same State	-0.779 ** (0.273)	0.46	-1.31	-0.244	1.46 *** (0.284)	4.30	0.902	2.017
Same Party	0.061 (0.113)	1.06	-0.160	0.283	-0.387 (0.265)	0.68	-0.907	0.133
Ethics Committee Member	-0.771 ** (0.293)	0.46	-1.344	-0.197	-1.257 ** (0.425)	0.28	-2.089	-0.425
Ideology	0.771 *** (0.162)	2.16	0.454	1.09	-3.04 *** (0.373)	0.048	-3.77	-2.309
Type	-0.770 *** (0.229)	0.46	-1.22	-0.320	--			
Constant	0.229 (0.119)	1.26	-0.005	0.463	-0.110 (0.167)	0.90	-0.438	0.219
	N=1,735				N=1,297			
	R ² =0.0393				R ² =0.1880			

Notes: *p<0.1, ** p<0.05, *** p<0.001; Type omitted from decreased penalty model by StataSE 17 because of collinearity.

Notes

¹ Representative Parnell has been chair of the Committee on Un-American Activities in the 80th Congress (1947-1948), where he led the congressional investigation of “Communist inroads into organized labor, higher education, government agencies, atomic energy, and the motion-picture industry (Carlson 1967, ii). Representative Parnell was not specifically investigated by the House, but rather resigned only after his conviction in federal court

² In the 85th Congress (1957-1958), the House and Senate adopted a general Code of Ethics for Government Service, which applied to appointees and employees in the legislative, executive, and judicial branches of government (72 Stat. B12). Agreed to as a concurrent resolution, the Code of Conduct technically only applied to the 85th Congress. The Code of Ethics, however, continues to be cited by congressional investigations. For more information, see Straus and Saturno (2015), fn 15 and 16.

³ Upon his reelection, the House refused to seat Representative Powell, since he had previously been expelled. He sued then-Speaker of the House John McCormack. The resulting Supreme Court Case—*Powell v. McCormack* (1969)—established a prohibition on extra-constitutional requirements (e.g., more than age, citizenship, and residency) for office holders (Committee on Standards of Official Conduct, 2004, p. 11).

⁴ Pursuant to the Article I, Section 5, clause 2, the House has the power to expel a Member, after the Member has taken the oath of office, by a two-thirds vote of those present and voting. *In re Chapman*, 166 U.S. 661, 669 (1897).

⁵ Hinds 1907, vol. 2, § 1286, 852-857; Deschler 1976, Ch. 12, § 13.1, 177; Brown and Johnson 2003, Ch. 25, § 20, 516-517.

⁶ In some cases, either before or after Ethics Committee or House action, the Member’s political party has imposed sanctions. These sanctions have included deprivation of seniority status, exclusion from committee participation, and removal as committee chair or ranking member (Brown and Johnson 2003, ch. 25, § 26). These cases are separate from action by the House or a committee.

⁷ Deschler 1976, Ch. 12, § 16, 196-198; Brown and Johnson 2003, Ch. 25, § 22, 518-519. The “well” of the House is the “sunken, level, open space between members’ seats and the podium at the front of each chamber” (Kravitz 2001, 277).

⁸ Cannon 1935, vol. VI, Ch. CLXXV, § 236, 402-405; Deschler 1976, Ch. 12, § 16, 196.

⁹ The motion to recommit, if agreed to, will “send a measure back to the committee that reported it” (Kravitz 2001, 205). “A successful motion to recommit with instruction to report back ‘forthwith’ allows any amendatory language included in the motion to be adopted immediately without the measure leaving the House floor” (Clark 2012, 89).

¹⁰ The other Members investigated were Charles H. Wilson, John McFall, and Edward Patten.

¹¹ The Committee on Standards recommended that Representatives Charles Wilson and John McFall be reprimanded. The House concurred with the committee and reprimanded both Members.

¹² In the 94th Congress (1975-1976), the House adopted Rule 43, clause 10 suggesting that Members convicted of a crime refrain from voting in the House. In the 106th Congress (1999-2000), House rules were re-codified. This clause is now found in Rule XXIII, clause 10. Currently, the clause states that “A Member, Delegate, or Resident Commissioner who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years’ imprisonment may be imposed should refrain from participation in the business of each committee of which such individual is a member, and a Member should refrain from voting on any question at a meeting of the House or of the Committee of the Whole House on the state of the Union, unless or until judicial or executive proceedings result in reinstatement of the presumption of the innocence of such Member or until the Member is reelected to the House after the date of such conviction.”

¹³ Data for the variables come from: Vote on sanction amendment—<http://www.govtrack.us> for vote H1514 (95th Congress); vote H366 (96th Congress); vote H949 (96th Congress); H243 (98th Congress); H245 (98th Congress); H270 (100th Congress); and H606 (111th Congress); race, state, and party—Office of the House Historian, “Black American Members by Congress, 1870-Present,” “Asian and Pacific Islander American Representatives, Senators, Delegates, and Resident Commissioners by Congress, 1900-Present,” and “Hispanic-American Representatives, Senators, Delegates, and Resident Commissioners by Congress, 1822-Present.” Ethics Committee Members (Straus 2021, pp. 19-29; and Ideology/DW Nominate Common Space Scores—<https://www.voteview.com>.