

# Congressional Investigations and the Rules of the 119th Congress

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Election and Political Law, Public Policy

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At the start of each Congress, the House and Senate, along with the various committees in each chamber, adopt internal rules that govern their operations. Though many such rules remain unchanged from one Congress to another, the continued emphasis on congressional investigations across Capitol Hill lends new significance to even subtle changes in the rules governing such investigations.

In recent weeks, nearly every major investigative committee has adopted rules governing the 119th Congress. As one notable exception, the Senate Committee on Commerce, Science, and Transportation has not yet adopted its rules for the current Congress. This likely reflects ongoing disagreement within the Committee regarding efforts by Chairman Ted Cruz (R-Tex.) to amend the Committee's existing rules to provide that he has unilateral authority to issue subpoenas on behalf of the Committee.<sup>1</sup>

With current committee rules now largely in place, and to assist our clients responding to inquiries from congressional investigators, this alert summarizes the current rules related to congressional investigations in both the House and Senate, with a particular focus on the rules related to subpoena authority, depositions, and—where applicable—confidentiality. In addition to the detailed summaries below, key elements of relevant House committee rules are set out in an attached [chart](#), while those of relevant Senate committee rules are set out in a separate attached [chart](#).

## I. House of Representatives

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On January 3, 2025, the House adopted the rules package for this Congress, H. Res. 5. The resolution left unchanged the relevant congressional investigations rules in effect last Congress.<sup>2</sup> Those rules are summarized below.

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<sup>1</sup> Ben Leonard, *Republicans question giving Cruz broad subpoena power at Senate Commerce*, Politico (Feb. 19, 2025), <https://www.politico.com/live-updates/2025/02/19/congress/cruzs-senate-commerce-committee-still-weighing-subpoena-authority-ahead-of-deadline-00204946>.

<sup>2</sup> H. Res. 5, 119th Cong. (2025).

### **A. House Rules—Committee Subpoena Authority**

The House Rules set out the general rules governing House committee procedures, including the process by which committees may issue subpoenas. Specifically, clause 2(m) of Rule XI provides that committees and subcommittees may “require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it considers necessary.”<sup>3</sup> In general, committee and subcommittee subpoenas “may be authorized and issued . . . only when authorized by the committee or subcommittee, a majority being present.”<sup>4</sup> Importantly, however, this subpoena authority “may be delegated to the chair of the committee under such rules and under such limitations as the committee may prescribe.”<sup>5</sup> As described below, many committees have relied on this provision to authorize their respective chairs to issue subpoenas, often unilaterally. Once issued, a subpoena may be enforced “only as authorized or directed” by the full House.<sup>6</sup>

### **B. House Rules—Committee Deposition Authority**

The House Rules package extends for the 119th Congress the authority of committee chairs, in consultation with their ranking members, to “order the taking of depositions, including pursuant to subpoena, by a member or counsel” of their respective committees.<sup>7</sup> This authority extends to the Permanent Select Committee on Intelligence and all standing committees except the Committee on the Rules. Notably, this authority permits depositions by committee counsel—staff members—in addition to depositions by Members of Congress. As a practical matter, many witnesses who provide non-public testimony to congressional investigators do so in the form of a voluntary “transcribed interview.” Though the rules governing compelled depositions technically do not apply to such interviews, understanding the rules governing depositions is an important factor in negotiating any voluntary appearance before a committee.

Committee deposition authority is “subject to regulations issued by the chair of the Committee on Rules,” which were released on January 14, 2025.<sup>8</sup> The regulations include requirements concerning consultation with the ranking member and written notice to committee members before depositions are taken, and address permitted attendees, the designation of depositions as part of joint investigations between committees, the order and length of questioning, processes for raising and ruling on objections, and transcribing and recording the deposition. For instance, a witness may not be required to participate in a deposition unless the witness has been provided with the relevant rules and regulations, while witnesses who appear for a

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<sup>3</sup> Clerk of the House of Representatives, 119th Cong., Rules of the House of Representatives, Rule XI(2)(m)(1)(B) (2025).

<sup>4</sup> *Id.*, Rule XI(2)(m)(3)(A)(i).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*, Rule XI(2)(m)(3)(C).

<sup>7</sup> H. Res. 5, § 3(t)(1), 119th Cong. (2025).

<sup>8</sup> *Id.* § 3(t)(2); see House Comm. on Rules, Regulations for the Use of Deposition Authority, available at <https://rules.house.gov/sites/evo-subsites/rules.house.gov/files/documents/119th-staff-deposition-authority-regulations-final.pdf>.

deposition may be accompanied by two “nongovernmental” attorneys to advise them of their rights.<sup>9</sup> Likewise, for depositions conducted by committee counsel, no more than four committee counsel (two designated by the Chair and two designated by the Ranking Member) are permitted to question a witness per round, with rounds lasting no more than 60 minutes per side, with equal time designated to the majority and minority. Finally, in a departure from more familiar litigation depositions, objections raised by counsel are presented to the committee Chair, with the Chair’s ruling appealable only by a member of the committee and appeals resolved by the full committee.

The House Rules grant the Committee on Oversight and Government Reform the authority to adopt a rule authorizing a committee member or counsel to take a deposition, including pursuant to subpoena under clause 2(m) of Rule XI.<sup>10</sup> This provision was added in the 116th Congress and maintained this year.<sup>11</sup> As this authority is set out in the House Rules, whereas the general committee deposition authority is contained in the House Resolution adopting the rules, the specific deposition authority for the Oversight Committee presumably supersedes the general deposition authority provided to other committees and frees the Committee from the limitations included in the regulations adopted by the Rules Committee.

### **C. House Rules—Committee Confidentiality Authority**

The House Rules include confidentiality provisions regarding committee hearings and business meetings, such as markups. The Rules provide that every “hearing conducted by a committee or subcommittee (other than the Committee on Ethics or its subcommittees) shall be open to the public.”<sup>12</sup> The same applies to committee business meetings. However, hearings will be closed when a committee or subcommittee “in open session and with a majority present, determines by record vote” that “disclosure of testimony, evidence, or other matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would violate a law or rule of the House.”<sup>13</sup> Business meetings can be closed for these reasons, or if “disclosure of matters to be considered would . . . tend to defame, degrade, or incriminate any

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<sup>9</sup> The exclusion of agency counsel from depositions of current or former agency witnesses has led to repeated confrontations between Congress and the Executive Branch, which has relied on a series of opinions from the U.S. Department of Justice’s Office of Legal Counsel to contend that congressional subpoenas that would bar agency counsel from depositions are unconstitutional and unenforceable. Most recently, in May 2025, the House Judiciary Committee voluntarily dismissed an effort to civilly enforce deposition subpoenas issued to two Department of Justice officials in connection with the Committee’s investigation into the Department’s handling of matters related to President Biden’s son. Ryan Tarinelli, *House dismisses lawsuit over Judiciary Committee subpoenas*, CQ News (May 28, 2025).

<sup>10</sup> Clerk of the House of Representatives, 119th Cong., Rules of the House of Representatives, Rule X(4)(c)(3)(A) (2025).

<sup>11</sup> Clerk of the House of Representatives, 116th Cong., Rules of The House of Representatives (2019).

<sup>12</sup> Clerk of the House of Representatives, 119th Cong., Rules of the House of Representatives, Rule XI(2)(g)(2)(A) (2025).

<sup>13</sup> *Id.*

person.”<sup>14</sup> Additionally, “testimony taken in executive session, and proceedings conducted in executive session, may be released or used in public sessions only when authorized by the committee, a majority being present.”<sup>15</sup>

#### **D. Committee on Armed Services**

##### **1. Subpoenas**

The House Committee on Armed Services rules provide that “[a] subpoena may be authorized and issued by the Committee, or any subcommittee with the concurrence of the Chair and after consultation with the Ranking Minority Member . . . only when authorized by a majority of the members voting, a majority of the Committee or subcommittee being present.”<sup>16</sup> The rules further provide that for the purposes of authorizing a subpoena, a majority of the Committee or subcommittee shall constitute a quorum.

In addition, the Committee rules note that “[p]ursuant to clause 2(m) of rule XI of the Rules of the House of Representatives, compliance with any subpoena issued by the Committee or any subcommittee . . . may be enforced only as authorized or directed by the House of Representatives.”<sup>17</sup>

##### **2. Depositions**

The Committee’s rules provide that a deposition conducted by the Committee will be “conducted in a manner consistent with House Rules and regulations.”<sup>18</sup>

##### **3. Confidentiality**

The rules provide that hearings and business meetings must be open to the public, except when a majority of members of the Committee, subcommittee, panel, or task force are present and vote to close the hearing or meeting because the disclosure of testimony, evidence, or other matters would endanger national security, compromise sensitive law enforcement information, or violate any law or House Rule. Additionally, if two or more members are present, they may vote to close a hearing or meeting for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, compromise sensitive law enforcement information, or violate any law or House Rule.

The rules also provide that the Chair, with the approval of a majority of the Committee, must establish procedures to prevent the unauthorized disclosure of any national security information classified as confidential or higher. These procedures must allow access upon request to the information by any Committee member or any other House member, Committee staff, or designated staff who have the appropriate security clearances and the need to know. In addition, the Chair must, in consultation with the Ranking Member, establish procedures to

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<sup>14</sup> *Id.*, Rule XI(2)(g)(1).

<sup>15</sup> *Id.*, Rule XI(2)(k)(7).

<sup>16</sup> H. Comm. on Armed Servs., 119th Cong., Rules of Procedure, Rule 12(b)(1) (2025).

<sup>17</sup> *Id.*, Rule 12(b)(2).

<sup>18</sup> *Id.*, Rule 12(c).

prevent the unauthorized disclosure of any proprietary information that is received by the Committee.

#### **E. Select Committee on the Chinese Communist Party (“CCP”)**

##### **1. Subpoenas**

The House Select Committee on the CCP will continue to use rules originally adopted during the 118th Congress, when the Committee was titled the “Select Committee on the Strategic Competition between the United States and the Chinese Communist Party.” These rules delegate the power to authorize and issue subpoenas exclusively to the Chair pursuant to the generally applicable House Rule.<sup>19</sup>

##### **2. Depositions**

There are no special rules addressing depositions, and the Committee rules simply incorporate the generally applicable House Rules on depositions.

##### **3. Confidentiality**

The rules provide that Committee and subcommittee hearings and meetings must be open to the public, including radio, television, and still photography coverage, unless such meetings are closed pursuant to the requirements of the House Rules.

#### **F. Committee on Education and the Workforce**

##### **1. Subpoenas**

The House Committee on Education and the Workforce rules delegate the power to authorize and issue subpoenas “to the Chair of the full Committee.”<sup>20</sup> The Ranking Member’s consent is not required. Rather, the rules require only that “[t]he Chair shall notify the Ranking Member prior to issuing any subpoena under such authority” and that “[t]o the extent practicable, the Chair shall consult with the Ranking Member at least 24 hours in advance of a subpoena being issued under such authority, excluding Saturdays, Sundays, and federal holidays.”<sup>21</sup> In addition, “[a]s soon as practicable after issuing any subpoena under such authority, the Chair shall notify in writing all Members of the Committee of the issuance of the subpoena.”<sup>22</sup>

##### **2. Depositions**

The rules grant deposition authority to the Chair, upon consultation with the Ranking Member, in accordance with section 3(t) of H. Res. 5. The Chair, or the majority staff, must consult with the Ranking Member, or minority staff, at least three business days before any notice or subpoena

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<sup>19</sup> H. Select Comm. on Strategic Competition Between the U.S. & the Chinese Communist Party, 119th Cong., Rules of the Select Committee (2025).

<sup>20</sup> H. Comm. on Educ. & the Workforce, 119th Cong., Rules of Procedure, Rule 10 (2025).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

for a deposition is issued. After such consultation, all Committee members must receive written notice that a notice or subpoena for a deposition will be issued.

According to the rules, the deposition shall be conducted by one or more members or Committee counsels, as designated by the Chair or Ranking Member. A deponent may be accompanied at a deposition by counsel; however, only members and Committee counsel may examine the deponent. No one may be present at a deposition other than members, Committee staff designated by the Chair or Ranking Member, the deponent, the deponent's counsel (including personal counsel and counsel for the entity employing the deponent if the scope of the deposition is expected to cover actions taken as part of the deponent's employment), and people needed to administer the oath or affirmation and transcribe or record the proceedings.

The rules further provide for the manner and length of questions and objections in a deposition. Unless the majority, minority, and deponent agree otherwise, questions in a deposition will proceed in rounds alternating between the majority and minority, with each round not exceeding 60 minutes per side unless a different length of questioning is agreed upon by the members or counsel conducting the deposition. The deponent may object and refuse to answer a question only to preserve a privilege. If the Chair overrules any such objection and thereby orders a deponent to answer, such ruling must be filed with the clerk of the Committee and must be provided to members and the deponent at least three days before the ruling is enforced at a reconvened deposition. A deponent who refuses to answer a question after being directed to answer by the Chair in writing may be subject to sanction, unless the ruling of the Chair is reversed by the full Committee following an appeal by a member of the Committee.

### 3. Confidentiality

The rules provide that Committee and subcommittee hearings and meetings must be open to the public, including radio, television, and still photography coverage, unless such meetings are closed pursuant to the House Rules.

## **G. Committee on Energy and Commerce**

### 1. Subpoenas

The House Committee on Energy and Commerce rules allow the Chair of the full Committee to authorize and issue subpoenas without a vote.<sup>23</sup> The Ranking Member's consent is not required. Rather, the rules only require that "[t]he chair shall notify the ranking minority member prior to issuing any subpoena under such authority."<sup>24</sup> The rules also provide that the Chair "shall consult with the ranking minority member at least 72 hours in advance of a subpoena being issued under such authority," but only "[t]o the extent practicable."<sup>25</sup> Finally, the rules require that "[t]he chair shall report to the members of the Committee on the issuance of a

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<sup>23</sup> H. Comm. on Energy & Commerce, 119th Cong., Rules of Procedure, Rule 16 (2025).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

subpoena as soon as practicable but in no event later than one week after issuance of such subpoena.”<sup>26</sup>

## 2. Depositions

There are no special rules addressing depositions, and depositions are therefore controlled by the generally applicable House Rules and regulations.

## 3. Confidentiality

The rules provide that Committee meetings and hearings “shall be open to the public, including to radio, television, and still photography coverage, consistent with the provisions of Rule XI of the Rules of the House.”<sup>27</sup>

# H. Committee on Financial Services

## 1. Subpoenas

The House Committee on Financial Services rules delegate the power to authorize and issue subpoenas to the Chair. The rules require that, unless there are exigent circumstances, “the Chair will provide written notice to the ranking minority member at least 48 hours in advance of the authorization and issuance of a subpoena, and such notice shall include a full copy of the proposed subpoena including any proposed document schedule.”<sup>28</sup> The rules provide that a majority of the members of the Committee constitutes a quorum for the purposes of authorizing a subpoena, other than a subpoena authorized and issued by the Chair.

## 2. Depositions

The House Committee on Financial Services incorporate the House Rules on depositions by reference without revision. Depositions are therefore controlled by the generally applicable House Rules and regulations.

## 3. Confidentiality

The rules provide that the “meetings and hearings of the committee shall be open to the public unless closed in accordance with clause 2(g) of rule XI of the Rules of the House.”<sup>29</sup>

# I. Committee on Homeland Security

## 1. Subpoenas

The Committee rules grant the power to authorize and issue subpoenas to the Chair of the full Committee. The Chair is required to provide notice to the Ranking Member prior to the issuance of a subpoena, and “[t]o the extent practicable” the Chair must consult with the Ranking Member at least 24 hours (excluding Saturdays, Sundays, and federal holidays) before the subpoena is

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.*, Rule 5.

<sup>28</sup> H. Comm. on Fin. Servs., 119th Cong., Rules of Procedure, Rule 3(e)(1) (2025).

<sup>29</sup> *Id.*, Rule 3(a)(2).



issued.<sup>30</sup> The Chair must notify all members of the Committee of a subpoena “as soon as practicable, but in no event later than one week after service of such subpoena.”<sup>31</sup>

## 2. Depositions

The House Committee on Homeland Security Rules incorporate the broader House Rules on depositions by reference without amending them.

## 3. Confidentiality

All meetings and hearings are open to the public except as provided for in the House Rules or when a majority of the Committee is present and holds a recorded vote “that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security, compromise sensitive law enforcement information, tend to defame, degrade or incriminate a witness, or violate any law or rule of the House of Representatives.”<sup>32</sup> Once this procedure is invoked, the Committee or a subcommittee is able to “meet in executive session for up to five additional consecutive days of hearings if agreed to by the same procedure.”<sup>33</sup> The rules also contain provisions regulating and protecting classified and controlled unclassified information.

# J. Permanent Select Committee on Intelligence

## 1. Subpoenas

The House Permanent Select Committee on Intelligence rules provide that “[a]ll subpoenas shall be authorized by the Chair of the full Committee, upon consultation with the Ranking Minority Member, or by vote of the full Committee.”<sup>34</sup>

## 2. Depositions

The rules grant deposition authority to the Chair, upon consultation with the Ranking Member, in accordance with applicable House rules. Consultation requires three calendar days’ (excluding Saturdays, Sundays, and legal holidays unless the House is in session on those days) notice to the Ranking Member. If applicable, a copy of the proposed deposition subpoena must be provided to the Ranking Member at that time. Barring exigent circumstances, all Committee members must receive three calendar days’ (excluding Saturdays, Sundays, and legal holidays unless the House is in session on those days) written notice that a deposition has been scheduled.

According to the rules, the deposition shall be conducted by any members or Committee counsel designated by the Chair or Ranking Member. A deponent may be accompanied at a deposition by two designated personal, nongovernmental attorneys to advise them of their

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<sup>30</sup> H. Comm. on Homeland Security, 119th Cong., Committee Rules, Rule XII(A) (2025).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*, Rule VI(A)(1).

<sup>33</sup> *Id.*, Rule VI(A)(2).

<sup>34</sup> H. Perm. Select Comm. on Intelligence, 119th Cong., Rules of Procedure, Rule 10(A) (2025).



rights. No one may be present at a deposition other than members, Committee staff designated by the Chair or Ranking Member, an official reporter, the deponent, and the deponent's counsel.

The rules further provide for the manner and length of questions and objections in a deposition. Questions in a deposition will proceed in rounds alternating between the majority and minority, with each round not exceeding 60 minutes per side unless a different length of questioning is otherwise agreed upon by the counsel or members conducting the questioning. The deponent may object and refuse to answer a question only to preserve a privilege. If the Chair overrules any such objection during the deposition, the witness shall be ordered to answer. If the Chair overrules any such objection following the deposition's recess and thereby orders a deponent to answer, such ruling must be filed with the chief clerk of the Committee and must be provided to members and the deponent at least three days before the ruling is enforced at a reconvened deposition. A deponent who refuses to answer a question after being directed to answer by the Chair in writing or orally may be subject to sanction, unless the ruling of the Chair is reversed by the Committee.

### 3. Confidentiality

The House Permanent Select Committee on Intelligence rules provide that business meetings are open to the public unless the Committee votes in open session, with a majority of the Committee present, that disclosure of the matters to be discussed may endanger national security, compromise sensitive law enforcement information, tend to defame, degrade, or incriminate any person, or otherwise violate any law or House rule. For hearings, the Committee may vote to close a hearing without a majority being present if a majority of the members who are present determine that the testimony or evidence would endanger national security. Such a vote can be held as long as at least two members are present, at least one of those members is from the minority party, and that member votes on the motion.

The rules also prohibit, with certain limited exceptions, Committee members and staff from discussing or disclosing at any time, either during or after their tenure, the classified substance of the work of the Committee, any information received by the Committee in executive session, any classified information received by the Committee from any source, or the substance of any hearing that was closed to the public. The Chair must supervise and direct Committee staff with respect to the security and nondisclosure of classified information. The rules also provide for the proper procedures by which to handle classified material.

## **K. Committee on the Judiciary**

### 1. Subpoenas

The House Committee on the Judiciary rules allow subpoenas to be "authorized and issued by the Chair . . . in the conduct of any investigation or activity or series of investigations or activities within the jurisdiction of the Committee, following consultation with the Ranking Minority Member."<sup>35</sup> The rules also allow subpoenas to be authorized and issued by the Committee or its subcommittees when authorized by a majority of the members voting, with a majority of the Committee or subcommittee present.

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<sup>35</sup> H. Comm. on the Judiciary, 119th Cong., Rules of Procedure, Rule IV(a) (2025).

The Chair must consult with the Ranking Member at least one calendar day before issuing a subpoena and provide a full draft copy of the proposed subpoena, including a draft of any proposed document schedule. The Chair can waive this requirement if an emergency “does not reasonably allow” for such written notice.<sup>36</sup> The rules note that one such scenario would be if a “witness who is voluntarily before the Committee refuses to answer a question.”<sup>37</sup>

## 2. Depositions

The House Judiciary Rules reference the broader House Rules and affirm that the Chair may order a deposition, including by subpoena. The rules explicitly state that H. Res. 5 and the Rules Committee regulations will govern depositions by the Committee and its subcommittees.

## 3. Confidentiality

The rules provide that hearings and business meetings are open to the public except if the Committee or subcommittee determines by majority vote to close the meeting because disclosure would endanger national security, compromise sensitive law enforcement information, or tend to defame, degrade, or incriminate any person or otherwise would violate any law or House rule.

# L. **Committee on Oversight and Government Reform**

## 1. Subpoenas

The House Committee on Oversight and Government Reform rules allow the Chair to issue subpoenas unilaterally, without consultation with or notice to the Ranking Member.<sup>38</sup>

## 2. Depositions

As noted above, the House Committee on Oversight and Government Reform has unique deposition authority under the House Rules. Committee rules provide that “[t]he Chair of the Committee, upon consultation with the Ranking Minority Member of the Committee, may order the taking of depositions, under oath and pursuant to notice or subpoena.”<sup>39</sup> The consultation with the Ranking Member must include three calendar days’ notice (excluding Saturdays, Sundays, and legal holidays, unless the House is in session on such days), and a copy of a proposed deposition subpoena, if applicable, before any deposition is taken.

In addition, except in exigent circumstances, all members must receive three calendar days’ written notice that a deposition will be taken. Witnesses may be accompanied at a deposition by “two designated personal, nongovernmental attorneys” to advise them of their rights.<sup>40</sup> No one

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<sup>36</sup> *Id.*, Rule IV(d).

<sup>37</sup> *Id.*

<sup>38</sup> H. Comm. on Oversight & Accountability, 119th Cong., Rules of Procedure, Rule 12(g) (2025).

<sup>39</sup> *Id.*, Rule 15(a).

<sup>40</sup> *Id.*, Rule 15(e).

may be present at depositions except members, Committee staff designated by the Chair or Ranking Member, an official reporter, the witness, and the witness's counsel.

Questioning during depositions may be conducted by any member or counsel designated by the Chair or Ranking Member. While other Committee staff members designated by the Chair or Ranking Member may attend, they may not pose questions to the witness. When depositions are conducted by Committee counsel, no more than two Committee counsel may question a witness per round. Depositions occur in rounds, with the majority beginning each round. Unless the members or counsel conducting the deposition agree to a different length of questioning, a single round may not exceed 60 minutes per side.

Members or counsel may raise objections “concisely” and in a “non-argumentative and non-suggestive manner.”<sup>41</sup> The witness may refuse to answer a question only to preserve a privilege. If the witness chooses to do so, members or staff may either proceed with the deposition or, either at that time or at a subsequent time, seek a ruling from the Chair. If the Chair overrules the objection during the deposition, the witness is ordered to answer. If, following the deposition's recess, the Chair overrules an objection, that ruling must be filed with the clerk of the Committee and provided to the Members and the witness at least three days before the deposition reconvenes. If a member of the committee appeals in writing the ruling of the Chair, the appeal is preserved for Committee consideration. A deponent who refuses to answer a question after being directed by the Chair, in writing or orally, during the proceeding as reflected in the record, may be subject to sanction unless the ruling of the Chair is reversed by the Committee.

### 3. Confidentiality

Meetings and hearings are open to the public unless closed in accordance with the House Rules.

## **M. Committee on Transportation and Infrastructure**

### 1. Subpoenas

The House Committee on Transportation and Infrastructure rules provided that the Committee or one of its subcommittees may issue a subpoena if authorized by a majority of members voting, so long as the vote is held with a majority of members present.<sup>42</sup> These subpoenas can then be signed by the Chair or by any other member designated by the Committee. The Chair can also issue subpoenas after consultation with the Ranking Member, as long as that specific request has not been previously rejected by the Committee or a subcommittee. The Chair shall notify all Committee members of the subpoena “[a]s soon as practicable” after it is issued.<sup>43</sup>

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<sup>41</sup> *Id.*, Rule 15(i).

<sup>42</sup> H. Comm. on Transportation and Infrastructure, 119th Cong., Rules of Procedure, Rule XII(d)(1) (2025).

<sup>43</sup> *Id.*

## 2. Depositions

The rules provide for the Committee Chair to order depositions, including pursuant to a subpoena, upon consultation with the Ranking Member. The depositions must be taken by a member or counsel of the Committee.

## 3. Confidentiality

Committee and subcommittee meetings and hearings are open to the public except as provided for by House Rule XI clauses 2(g) and 2(k).

# N. Committee on Ways and Means

## 1. Subpoenas

The House Committee on Ways and Means rules allow the Chair to issue subpoenas unilaterally, without consultation or notice to the Ranking Member.<sup>44</sup>

## 2. Depositions

There are no special rules addressing depositions, and depositions are therefore controlled by the generally applicable House Rules and regulations.

## 3. Confidentiality

The rules refer to House Rule XI in discussing the transcription of Committee meetings. They provide that an official stenographic transcript must be available for inspection by the public, members of the House, and members of the Committee, “except for meetings closed pursuant to clause 2(g)(1) of Rule XI of the Rules of the House.”<sup>45</sup>

# II. United States Senate

## A. Senate Rules—Committee Subpoena Authority

The Standing Rules of the Senate provide general authority by which committees may issue subpoenas.<sup>46</sup> The Rules authorize Senate committees and subcommittees to subpoena witnesses and documents. The Senate rule provides that “each standing committee, including any subcommittee of any such committee, is authorized . . . to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents.”<sup>47</sup> The Senate Rules do not otherwise specify the manner in which subpoenas may be authorized or issued.

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<sup>44</sup> H. Comm. on Ways & Means, 119th Cong., Rules of Procedure, Rule 16 (2025).

<sup>45</sup> *Id.*, Rule 23.

<sup>46</sup> Standing Rules of The Senate, S. Doc. 113-18, Rule XXVI(1) (2013).

<sup>47</sup> *Id.*

## **B. Senate Rules—Committee Deposition Authority**

Senate committees do not possess independent deposition authority. Instead, deposition authority must be granted to each committee by the Senate. If a Senate committee has not been granted deposition authority, witnesses can be subpoenaed to testify only at a hearing with a quorum of members present, one member being the minimum.

## **C. Senate Rules—Committee Confidentiality Authority**

Senate committee meetings, including hearings, shall be open to the public.<sup>48</sup> However, under certain circumstances, committee members may vote to close a meeting when the matters to be discussed or the testimony to be taken at such a meeting:

1. Will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;
2. Will relate solely to matters of committee staff personnel or internal staff management or procedure;
3. Will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;
4. Will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;
5. Will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or (B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or
6. May divulge matters required to be kept confidential under other provisions of law or Government regulations.

Many of the Senate committee rules mirror the confidentiality provisions in Rule XXVI(5)(b).

## **D. Senate Special Committee on Aging**

### **1. Subpoenas**

Under the Senate Special Committee on Aging rules, investigations may be initiated “upon the approval of the Chairman and the Ranking Minority Member,” and the “Chairman and Ranking Minority Member, acting together, shall authorize a subpoena.”<sup>49</sup> Before a subpoena may be

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<sup>48</sup> *Id.*, Rule XXVI(5)(b).

<sup>49</sup> S. Special Comm. on Aging, 119th Cong., Rules of Procedure, Rule VI(1)-(2) (2025).

issued, the Ranking Member and any other member requesting notification must be notified regarding the identity of the person to whom the subpoena will be issued, the nature of the information sought, and its relationship to the investigation.

In addition, the rules explicitly provide that each subcommittee is authorized to conduct investigations, including by using subpoenas.

## 2. Depositions

The rules provide that a witness's counsel may be present during a deposition to advise the witness of his or her rights. In the case of any witness who is an officer or employee of the government or of a corporation or association, the Chair may rule that the witness must be represented by personal counsel if representation by counsel from the government, corporation, or association creates a conflict of interest.

Notices for the taking of depositions in an investigation authorized by the Committee must be authorized and issued by the Chair or by a staff officer the Chair designates. Unless otherwise specified, depositions are in private. If a witness fails to appear, the Committee may not initiate procedures leading to criminal or civil enforcement proceedings unless the deposition notice was accompanied by a Committee subpoena.

## 3. Confidentiality

The Committee's rules provide that all meetings and hearings are open to the public unless closed. To close a meeting or hearing or portion thereof, a motion shall be made and seconded to go into closed discussion of whether the meeting or hearing will concern Committee investigations or matters enumerated in Senate Rule XXVI(5)(b). Immediately after the discussion, the meeting or hearing or portion thereof may be closed by a vote in open session of a majority of the members of the Committee present.

No records of a closed session, material declared confidential by a majority of the Committee, or report of the proceedings of a closed session, may be made public, in whole or in part or by way of summary, unless specifically authorized by the Chair and Ranking Member.

# E. Senate Committee on Armed Services

## 1. Subpoenas

The Senate Committee on Armed Services rules stipulate that subpoenas may be issued after consultation with the Ranking Member, by the Chair, or any other member designated by the Chair, but only when authorized by a majority of the members of the Committee.<sup>50</sup>

Regarding the contents of the subpoena, the rules provide that the subpoena must briefly state the matter to which the witness is expected to testify or the documents to be produced.

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<sup>50</sup> S. Comm. on Armed Servs., 119th Cong., Rules of Procedure (2025).

## 2. Depositions

The Committee's rules do not address depositions.

## 3. Confidentiality

The Committee's rules regarding confidentiality mirror Senate Rule XXVI(5)(b). In addition, they provide that any confidential testimony or confidential material presented in a closed hearing of the Committee or subcommittee, or any report of the proceedings of such hearing, may not be made public in whole or in part or by way of summary unless authorized by a majority vote of the Committee or subcommittee.

# **F. Senate Committee on Banking, Housing, and Urban Affairs**

## 1. Subpoenas

The Senate Committee on Banking, Housing, and Urban Affairs rules provide that witnesses may be subpoenaed by the Chair of the Committee or a subcommittee with the agreement of the Ranking Member of the Committee or the relevant subcommittee, or by a majority vote of the Committee or subcommittee.<sup>51</sup>

Regarding counsel, the rules provide that any witness subpoenaed to a public or executive hearing may be accompanied by counsel of the witness's choosing who shall be permitted, while the witness is testifying, to advise the witness of their legal rights.

## 2. Depositions

The Committee's rules do not address depositions.

## 3. Confidentiality

The rules provide that confidential testimony or confidential material presented during an executive session of the Committee or any subcommittees, or any report of the proceedings of an executive session, may not be made public either in whole or in part or by way of summary, unless specifically authorized by the Chair and the Ranking Member or by a majority vote of the Committee or subcommittee.

# **G. Senate Committee on the Budget**

## 1. Subpoenas

The Senate Budget Committee rules permit the issuance of a subpoena or "requests for documents from agencies" to be conducted pursuant to a poll.<sup>52</sup> To conduct a poll, the Chair circulates polling sheets to each member of the Committee, specifying what matter is being polled and how long they have to complete the poll. A meeting must be held in place of a poll if any member so requests. If a matter is decided by poll, any member can move to have a vote on the polled matter at the next Committee meeting.

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<sup>51</sup> S. Comm. on Banking, Hous., & Urban Affairs, 119th Cong., Rules of Procedure (2025).

<sup>52</sup> S. Comm. on the Budget, 119th Cong., Rules of Procedure, Rule IV(4)(a)(ii) (2025).



## 2. Depositions

The Committee's rules do not address depositions.

## 3. Confidentiality

The Committee's rules regarding meeting and hearing confidentiality mirror Senate Rule XXVI(5)(b).

# H. Senate Committee on Commerce, Science, and Transportation

## 1. Subpoenas

As previously noted, the Senate Committee on Commerce, Science, and Transportation has not adopted new rules for the 119th Congress.

The Committee's existing rules provide that the Chair may issue subpoenas "with the approval of the ranking minority member of the Committee."<sup>53</sup> However, the approval of the Ranking Member is not required if the Chair or a member of the Committee staff designated by the Chair has not received notification from the Ranking Member or a member of the Committee staff designated by the Ranking Member of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena.

Under the Committee's existing rules, if a subpoena is disapproved by the Ranking Member or his or her designee, the subpoena may nonetheless be authorized by vote of the members of the Committee, according to the quorum rules. The quorum rules provide that, in general, a "majority of the members, which includes at least 1 minority member, shall constitute a quorum for official action of the Committee."<sup>54</sup> Although the rules provide that "one-third of the entire membership of the Committee" is generally enough to constitute a quorum for the transaction of committee business, they except "authorizing a subpoena" from the one-third rule.<sup>55</sup> This effectively means that the minority can block issuance of a subpoena by ensuring that no member of the minority appears to provide a quorum for voting on a subpoena.

The existing rules provide that the failure of any witness to secure counsel shall not excuse the witness from complying with a subpoena.

## 2. Depositions

Under the Committee's current rules, staff may take depositions from a witness "at the direction of the Chair," consistent with the 72-hour notice requirement and opportunity for minority objection described above.<sup>56</sup> Where a deposition proceeds, the Ranking Member, or a member of the Committee staff designated by the Ranking Member, must be given the opportunity to

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<sup>53</sup> S. Comm. on Commerce, Sci., & Transp., 118th Cong., Rules of Procedure, Rule V(1) (2023).

<sup>54</sup> *Id.*, Rule II(1).

<sup>55</sup> *Id.*, Rule II(2).

<sup>56</sup> *Id.*, Rule V(1).

attend and participate in the taking of any deposition. In addition, the rules allow for witnesses to be accompanied at a deposition by counsel to advise them of their rights.

The rules also establish requirements regarding the recording and filing of depositions. They provide that an accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings and depositions. If testimony given by deposition is transcribed, the individual administering the oath must certify on the transcript that the witness was duly sworn in his or her presence and the transcriber must certify that the transcript is a true record of the testimony. The transcript with these certifications must be filed with the Chief Clerk of the Committee.

The rules likewise provide that the witness or the witness's counsel may inspect the record of the witness's testimony under Committee supervision. If a part of a deposition testimony is subsequently quoted or made part of the record in a public session, a copy of it must be provided to that witness at the witness's expense if so requested.

Under the rules, after inspection, within a time limit set by the Clerk of the Committee, a witness may request changes in the transcript to correct errors of transcription and grammatical errors. The witness may also bring to the attention of the Committee errors of fact in the witness's testimony by submitting a sworn statement about those facts with a request that it be attached to the transcript. The Chair or a member of the Committee staff designated by the Chair rules on such requests.

### 3. Confidentiality

The previously adopted Senate Committee on Commerce, Science, and Transportation rules regarding confidentiality mirror Senate Rule XXVI(5)(b).

## **I. Senate Committee on Environment and Public Works**

### 1. Subpoenas

The Senate Committee on Environment and Public Works rules authorize the Committee Chair to issue a subpoena either with the agreement of the Ranking Member or with a majority vote of the Committee.<sup>57</sup> To issue a subpoena pursuant to a Committee vote, there must be a quorum of at least seven members, at least two of whom are members of the minority party.

### 2. Depositions

The Chair is granted the authority to subpoena a witness to appear at a deposition with either the agreement of the Ranking Member or a vote of the Committee. Where the Ranking Member does not consent, the quorum rule described above applies for any vote to approve a subpoena. The Committee rules do not provide for a special deposition procedure.

### 3. Confidentiality

Meetings and hearings held by the Committee or a subcommittee are open to the public unless the Committee holds a roll call vote and a majority of those present choose to close a portion of the meeting on the basis that the matters to be discussed or testimony to be taken will disclose

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<sup>57</sup> S. Comm. on Environment and Public Works, 119th Cong., Rules of Procedure (2025).

information impacting national defense or foreign relations, relate solely to matters of Committee staff or staff management, or constitute any other grounds for closure listed in Senate Rule XXVI(5)(b).

## **J. Senate Committee on Finance**

### **1. Subpoenas**

The Senate Committee on Finance rules provide that witnesses may be subpoenaed by the Chair of the Committee with the agreement of the Ranking Member or by a majority vote of the Committee.<sup>58</sup> Subpoenas are issued by the Chair, or by any other member of the Committee designated by the Chair.

### **2. Depositions**

The Committee's rules do not address depositions.

### **3. Confidentiality**

The Committee's rules regarding confidentiality mirror Senate Rule XXVI(5)(b). The rules add that the record of an executive session of the Committee that is closed to the public pursuant to Rule 26 may not be published or made public in any way except by majority vote of the Committee after all members of the Committee have had a "reasonable opportunity to correct their remarks for grammatical errors or to accurately reflect statements made."<sup>59</sup>

## **K. Senate Committee on Health, Education, Labor, and Pensions ("HELP")**

### **1. Subpoenas**

The Senate HELP Committee rules provide that the Committee, or any subcommittee, may issue subpoenas or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such activity has been authorized by majority vote of the Committee.<sup>60</sup> The Committee may, by a majority vote, delegate the authority to issue subpoenas to the Chair of the Committee or a subcommittee, or to any member designated by the Chair.

Prior to the issuance of each subpoena, the Ranking Member of the Committee or Subcommittee, and any other member so requesting, must be notified regarding the identity of the person to whom the subpoena will be issued and the nature of the information sought and its relationship to the authorized investigative activity. However, this requirement is waived if the Chair of the Committee or subcommittee, in consultation with the Ranking Member, determines that such notice would unduly impede the investigation.

In addition, the rules require that, upon the request of any member, the Chair call an executive session to discuss investigative activity or the issuance of any subpoena in connection with investigative activity.

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<sup>58</sup> S. Comm. on Fin., 119th Cong., Rules of Procedure (2025).

<sup>59</sup> *Id.*, Rule 18.

<sup>60</sup> S. Comm. on Health, Educ., Labor, & Pensions, 119th Cong., Rules of Procedure (2025).

## 2. Depositions

The Committee's rules do not address depositions.

## 3. Confidentiality

The Committee's rules provide that confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, may not be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the Committee or Subcommittee.

### **L. Senate Committee on Homeland Security and Governmental Affairs and the Permanent Subcommittee on Investigations ("PSI")**

#### 1. Subpoenas

The Senate Committee on Homeland Security and Governmental Affairs rules authorize the Chair, with notice to the Ranking Member, to subpoena the attendance of witnesses at a hearing or deposition or the production of memoranda, documents, records, or any other materials.<sup>61</sup>

Typically, the Ranking Member must receive a written notice of intent to issue a subpoena 72 hours (excluding Saturdays and Sundays) before the issuance of the subpoena. However, the Chair may subpoena attendance or production without waiting this allotted time if the Ranking Member waives the waiting period or if the Chair certifies in writing to the Ranking Member that they find it necessary to issue a subpoena immediately.

The rules provide that witnesses are permitted to retain counsel, and that counsel may be present during their testimony or deposition to provide legal counsel. For witnesses who are officers or employees of the government, a corporation or an association, the Chair can rule that representation by counsel from the Government, corporation, or association or by counsel representing other witnesses, creates a conflict of interest. In this situation, the Chair can rule that the witness must be represented by personal counsel not representing other witnesses for the purpose of the testimony. The rules provide that the failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice. In addition, the Committee may not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear or produce materials unless the deposition notice was accompanied by a Committee subpoena.

The rules also specify that subcommittees are allowed to adopt subpoena rules that need not be consistent with the rules of the Committee. The Permanent Subcommittee on Investigations has traditionally issued its own subpoena rules, and did so for the 119th Congress.<sup>62</sup> The Subcommittee rules provide that "subpoenas for witnesses, as well as documents and records, may be authorized and issued by the Chair, or any other Member of the Subcommittee

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<sup>61</sup> S. Comm. on Homeland Sec. & Gov't Affairs, 119th Cong., Rules of Procedure (2025).

<sup>62</sup> S. Comm. on Homeland Sec. Gov't Affairs, S. Perm. Subcomm. on Investigations, Rules of Procedure (2025).

designated by the Chair, with notice to the Ranking Minority Member.”<sup>63</sup> They further provide, in conjunction with the Committee rules, that, “[a] written notice of intent to issue a subpoena shall be provided to the Chair and Ranking Minority Member of the Committee, or staff officers designated by them, by the Chair or a staff officer designated by the Chair, immediately upon such authorization, and no subpoena shall be issued for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chair and Ranking Minority Member of the Committee waive the 48 hour waiting period or unless the Chair certifies in writing to the Chair and Ranking Minority Member of the Committee that, in the Chair’s opinion, it is necessary to issue a subpoena immediately.”<sup>64</sup>

## 2. Depositions

The Committee’s rules provide that “[n]otices for the taking of depositions shall be authorized and issued by the Chair, with notice to the Ranking Minority Member of the Committee.”<sup>65</sup> Typically, the Chair may only initiate depositions after giving the Ranking Member 72 hours’ notice (excluding Saturdays and Sundays) in the form of a written notice of intent to issue a deposition notice. However, waiting this allotted time is not necessary if the Ranking Member waives this waiting period or the Chair certifies in writing to the Ranking Member that, in the Chair’s opinion, it is necessary to issue a deposition notice immediately.

The rules allow for counsel retained by any witness to be present during the testimony of such witness at any public or executive hearing or deposition to advise such witness of his or her legal rights while testifying. The failure of any witness to secure counsel does not excuse such witness from complying with a subpoena or deposition notice.

The rules provide that unless otherwise specified, depositions shall be in private. In addition, the Committee may not initiate procedures leading to criminal or civil enforcement proceedings for a witness’s failure to appear or produce materials unless the deposition notice was accompanied by a Committee subpoena.

The Permanent Subcommittee on Investigations rules provide that “[n]otices for the taking of a deposition in an investigation authorized by the Subcommittee shall be authorized and issued by the Chair.”<sup>66</sup> Likewise, “[t]he Chair of the Committee and the Ranking Minority Member of the Subcommittee shall be kept fully apprised of the authorization for the taking of depositions.”<sup>67</sup> Similar to the Committee rules, depositions are conducted in private and the Subcommittee may not initiate procedures leading to criminal or civil enforcement proceedings for a witness’s failure

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<sup>63</sup> *Id.*, Rule 2.

<sup>64</sup> *Id.*

<sup>65</sup> S. Comm. on Homeland Sec. & Gov’t Affairs, 119th Cong., Rules of Procedure, Rule 5(K)(1) (2025).

<sup>66</sup> S. Comm. on Homeland Sec. Gov’t Affairs, S. Perm. Subcomm. on Investigations, Rules of Procedure, Rule 9.1 (2025).

<sup>67</sup> *Id.*

to appear or produce materials unless the deposition notice was accompanied by a Subcommittee subpoena.

### 3. Confidentiality

The Committee's rules regarding meeting and hearing confidentiality mirror Senate Rule XXVI(5)(b). All testimony taken in executive session of the Permanent Subcommittee on Investigations must be kept secret and will not be released without the approval of a majority of the members of the Subcommittee.

## **M. Senate Select Committee on Intelligence**

### 1. Subpoenas

The Senate Select Committee on Intelligence rules provide that subpoenas authorized by the Committee may then be issued by the Chair, Vice Chair, or any member of the Committee designated by the Chair, and may be served by any person designated by the Chair, Vice Chair, or member issuing the subpoenas.<sup>68</sup>

The rules require that each subpoena must have attached to it a copy of S. Res. 400 of the 94th Congress, which established the Committee and provided it with investigatory and subpoena powers, and a copy of the Committee's rules.

The rules also address contempt procedures surrounding subpoenas. The rules provide that "[n]o recommendation that a person be cited for contempt of Congress or that a subpoena be otherwise enforced" may be forwarded to the Senate until the Committee has, upon notice to all its Members, met and considered the recommendation, afforded the person an opportunity to address such contempt recommendation or subpoena enforcement proceeding either in writing or in person, and agreed by a majority vote of the Committee to forward such recommendation to the Senate.<sup>69</sup>

### 2. Depositions

The Committee's rules do not reference deposition authority. However, S. Res. 400 of the 94th Congress authorizes the Committee "to take depositions and other testimony" without elaborating on the procedures that will govern depositions.<sup>70</sup>

### 3. Confidentiality

The Committee's rules regarding confidentiality indicate that meetings will be open to the public except as provided in Senate Rule XXVI(5)(b).

However, S. Res. 400 of the 94th Congress includes specific provisions regarding the protection of information in the possession of the Committee relating to the lawful intelligence activities of

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<sup>68</sup> S. Select Comm. on Intelligence, 119th Cong., Rules of Procedure (2025).

<sup>69</sup> *Id.*, Rule 8.9.

<sup>70</sup> S. Res. 400, 94th Cong. (1976), § 5(a)(7).

any department or agency of the United States that has been classified under established security procedures.

## **N. Senate Committee on the Judiciary**

### **1. Subpoenas**

The Senate Judiciary Committee rules provide that the Chair may subpoena the attendance of a witness at a hearing or deposition or the production of materials, with the agreement of the Ranking Member or by a vote of the Committee.<sup>71</sup>

### **2. Depositions**

The rules provide that any subpoena issued for a deposition that is to be conducted by staff must be accompanied by a notice of deposition identifying the majority staff officers designated by the Chair and the minority staff officers designated by the Ranking Member to take the deposition. The majority and minority are given the opportunity to participate on equal terms.

In addition, unless waived by agreement of the Chair and Ranking Member, any deposition must have at least one member present for the duration of the deposition. All members must be notified of the date, time, and location of any deposition, and any member of the Committee may attend and participate in the taking of any deposition. Unless otherwise specified, the deposition will not be conducted publicly.

### **3. Confidentiality**

No confidentiality provisions are provided in the Committee's rules.

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<sup>71</sup> S. Comm. on The Judiciary, 119th Cong., Rules of Procedure (2025).



If you have any questions concerning the material discussed in this client alert, please contact the following members of our Election and Political Law practice group or Public Policy practice group:

<b><u>Robert Kelner</u></b>	+1 202 662 5503	<a href="mailto:rkelner@cov.com">rkelner@cov.com</a>
<b><u>Brian Smith</u></b>	+1 202 662 5090	<a href="mailto:bdsmith@cov.com">bdsmith@cov.com</a>
<b><u>Dana Remus</u></b>	+1 202 662 5910	<a href="mailto:dremus@cov.com">dremus@cov.com</a>
<b><u>Angelle Smith Baugh</u></b>	+1 202 662 5211	<a href="mailto:abaugh@cov.com">abaugh@cov.com</a>
<b><u>Ashley Joyner Chavous</u></b>	+1 202 662 5579	<a href="mailto:achavous@cov.com">achavous@cov.com</a>
<b><u>Perrin Cooke</u></b>	+1 202 662 5715	<a href="mailto:pcooke@cov.com">pcooke@cov.com</a>
<b><u>Kaitlyn Hobbs Demers</u></b>	+1 202 662 5896	<a href="mailto:kdemers@cov.com">kdemers@cov.com</a>
<b><u>Stephanie King</u></b>	+1 202 662 5305	<a href="mailto:stking@cov.com">stking@cov.com</a>
<b><u>Channing Ruff</u></b>	+1 202 662 5761	<a href="mailto:jruff@cov.com">jruff@cov.com</a>

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