

# Office of the Legislative Counsel

U.S. House of Representatives

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## History of the Office

The Office had its origins in the Legislative Drafting Research Fund established at Columbia University in 1911 through the work of Joseph P. Chamberlain, Professor of Public Law at the University.

In 1916, Middleton Beaman, the Law Librarian of the Library of Congress, was requested by the Fund to conduct a demonstration of the usefulness of a legislative drafting service to the Congress. The success of Mr. Beaman's work on various pieces of legislation resulted in the establishment of a Legislative Drafting Service by section 1303 of the Revenue Act of 1918, which was enacted on February 24, 1919.

On October 26, 1970, the President signed into law the Legislative Reorganization Act of 1970, title V of which set forth a separate charter for the Office of the Legislative Counsel of the House of Representatives. Section 502 of the Act provides that the purpose of the Office is "to advise and assist the House of Representatives, and its committees and Members, in the achievement of a clear, faithful, and coherent expression of legislative policies".

## Structure of the Office

The Office consists of approximately 35 attorneys and a support staff of about 15 individuals, and is headed by the Legislative Counsel of the House. The Legislative Counsel is appointed by the Speaker of the House and, subject to the approval of the Speaker, appoints and fixes the compensation of the Office's personnel.

The operation of the Office is in many ways unique among governmental offices. There are no formal committees or departments. Attorneys in the Office naturally develop special expertise in certain areas of the law. However, all attorneys are expected to cooperate with, and assist, each other in handling the workload of the Office. Many attorneys work in informal groups or teams of two or more to address a general 'zone' of Federal law.

The Office is impartial as to issues of legislative policy and does not advocate the adoption or rejection of any proposal or policy. In providing services to committees and Members, the Office will assist the committees, Members, and their staffs in analyzing the effects of legislative proposals, but will not advocate any position.

The Office has traditionally been career-oriented, with unusually low turnover among the legal staff. Experienced attorneys in the Office specialize in one or more areas of law and will normally handle requests for assistance in those areas.

### **Work of the Office**

The Office provides drafting and related assistance to the Members of the House, the House committees, and the conference committees between the House and the Senate. Although the Members and committees are not required to use the Office, most legislation in the House is worked on by attorneys in the Office.

The typical legislative proposal starts on its way because someone believes that there is a problem about which something can be done by legislation. The attorney who drafts the proposal must gain a clear understanding of the problem, including the factual and legal setting in which it arises, and the intended policy of the Member or committee. This process ordinarily involves consultation with Members and their assistants, and with committee, departmental, and other expert advisers. Work being performed for a committee on a bill often involves attendance at committee markups, at sessions of the House during floor consideration, and at meetings of the conference committee between the House and the Senate to resolve the differences between the two Houses.

In preparing a draft for a Member or committee, it is the goal of the Office that the draft accurately reflect the legislative policy of the Member or committee and that the draft be legally sufficient to carry out that policy. The Office tries to meet this goal in a form and style consistent with good legislative drafting and strives for clarity of expression while addressing all necessary aspects of what are often highly complex policy matters.

In rendering this drafting and other legal assistance, the attorney must at all times maintain an impartial attitude with respect to the policies which are to be incorporated in the legislative proposal. Thus, the attorney is concerned with the legislative policy only for the purpose of making sure that the bill, resolution, or amendment accurately reflects the policy of the Member or committee for whom it is being drafted.

All communications with the Office are confidential and subject to the attorney-client relationship. Unless otherwise indicated by the Member or staff, no information concerning a request for assistance (including the fact that the request was made) will be disclosed outside the Office.

The Office has a long history of successfully working with opposing sides of legislative policy issues while maintaining confidentiality with respect to communications with each Member. It is, for example, routine for an attorney in

the Office who has drafted a bill for a committee to then draft floor amendments for individual Members on all sides of issues raised by the bill.

The pace of the Office varies enormously with the schedule of Congress. A typical week might involve discussions on legislative proposals with Members and their staffs, attendance at committee consideration of a bill and amendments, discussions with counterparts in the Senate and the Executive Branch regarding legislative proposals of common interest, review of the Congressional Record and other legal services and materials regarding matters within the subject areas of the attorney, and the drafting of bills and amendments.