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# A Survey of House and Senate Committee Rules on Subpoenas

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## Summary

House Rule XI, clause 2(m)(1) and (3) authorizes House committees and subcommittees to issue subpoenas for the attendance of witnesses and the production of documents. Senate Rule XXVI, paragraph 1 authorizes Senate committees and subcommittees to subpoena witnesses and documents. In turn, most House and Senate committees have adopted in their own rules subpoena provisions containing procedures for exercising this grant of power from their parent chamber.

Committee rules may cover authorization, issuing, and service of subpoenas; may cover just one or two of these actions; or may be silent on exercise of the subpoena power. A subpoena must be authorized—a decision to approve this legal order to a person to appear to testify or to provide documents. Once authorized, a subpoena must be issued—signed and given to an individual to deliver the subpoena to the person named in it. To deliver a subpoena to the person named is to serve the subpoena.

Most House and Senate committees have specifically included in their rules one or more provisions on committees' and subcommittees' power to authorize subpoenas by majority vote. Most House committees have also delegated to their chair the power to authorize subpoenas. Many of these rules delegating authority also require the chair to consult the committee's ranking minority Member.

Most Senate committees' subpoena rules delegate to the chair and ranking minority Member together the power to authorize subpoenas.

In addition to rules on authorizing subpoenas, the rules of most committees in both chambers also address issuing subpoenas. Most House committees' rules delegate authority to issue subpoenas to the chair or to another committee member who has been designated by the committee. Most Senate committees' rules delegate authority to issue subpoenas to the chair or to another committee member designated by the chair.

Some committees' rules are explicit on procedures for subcommittees to authorize subpoenas; other committees' rules are not explicit. Other requirements or limitations pertaining to subpoenas may also appear in committees' rules.

The distinctions among committees' subpoena rules are varied and nuanced.

Committees' other procedural rules might have an effect on scheduling and conducting meetings to authorize a subpoena. These other rules deal with the notice for and agenda of a meeting, the quorum to conduct business, voting, and consideration.

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## Introduction

The rules of both the House and the Senate provide power to committees and subcommittees to subpoena witnesses and documents. Committees' subpoena power is defined as "The authority granted to committees by the rules of their respective houses to issue legal orders requiring individuals to appear and testify, or to produce documents pertinent to the committee's functions, or both."<sup>1</sup> Consistent with this grant of power, most committees have adopted in their own rules subpoena provisions containing procedures for exercising this power.<sup>2</sup>

Committee rules may cover authorization, issuing, and service of subpoenas; may cover just one or two of these actions; or may be silent on exercise of the subpoena power. A subpoena must be authorized—a decision to approve this legal order to a person to appear to testify or to provide documents. Once authorized, a subpoena must be issued—signed and given to an individual to deliver the subpoena to the person named in it. To deliver a subpoena to the person named is to serve the subpoena.

Most House and Senate committees have specifically included in their rules one or more provisions on committees' and subcommittees' power to authorize subpoenas by majority vote.<sup>3</sup> Most House committees have also delegated to their chair the power to authorize subpoenas. Many of these rules delegating authority also require the chair to consult the committee's ranking minority Member.

Most Senate committees' subpoena rules delegate to the chair and ranking minority Member together the power to authorize subpoenas. Most committees also have rules on committee authorization of subpoenas, and many have rules on subcommittee authorization.<sup>4</sup>

In addition to rules on authorizing subpoenas, the rules of most committees in both chambers also address issuing subpoenas. Most House committees' rules delegate authority to issue subpoenas to the chair or to another committee member who has been designated by the committee. Most Senate committees' rules delegate authority to issue subpoenas to the chair or to another committee member designated by the chair.

This report surveys House committees' subpoena rules first and then Senate committees' subpoena rules. Both surveys begin with a brief description of chamber rules, followed by a short summary of that chamber's committees' rules that are related to subpoenas but do not directly

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<sup>1</sup> Walter Kravitz, *Congressional Quarterly's American Congressional Dictionary*, 3rd ed. (Washington, DC: CQ Press, 2001), p. 250.

<sup>2</sup> For an introduction to congressional subpoenas, see CRS Report RL34114, *Congress's Contempt Power and the Enforcement of Congressional Subpoenas: A Sketch*, by Todd Garvey and Alissa M. Dolan. For a more extensive discussion, see CRS Report RL34097, *Congress's Contempt Power and the Enforcement of Congressional Subpoenas: Law, History, Practice, and Procedure*, by Todd Garvey and Alissa M. Dolan.

<sup>3</sup> House and Senate committees must adopt committee rules in each Congress (House Rule XI, cl. 2(a)(1) and Senate Rule 26, para. 2). In January and February following the convening of a new Congress, committees hold organizational meetings at which they typically adopt rules and a proposed budget and take other actions in preparation for the new Congress. Although committees tend to adopt most or all of the rules that they had adopted in the preceding Congress, they also often adopt incremental changes to these rules. For example, in the 114<sup>th</sup> Congress, three House committees adopted changes to their rules that delegated power to authorize subpoenas to their chairs, and several House committees removed some restrictions on their chairs' exercise of this authority.

<sup>4</sup> There is not a single compilation or record of House or Senate committees' exercise of their power to subpoena witnesses and documents.

pertain to authorizing or issuing subpoenas. It includes tables that compare the chamber's committees' rules on authorizing and issuing subpoenas, with table notes adding further detail.<sup>5</sup>

## House Rules on Subpoenas

Rule XI, clause 2(m)(1) and (3) authorizes committees and subcommittees to issue subpoenas for the attendance of witnesses and the production of documents.<sup>6</sup> Clause 2(m)(3) requires authorization by a committee or subcommittee, "a majority being present."<sup>7</sup> Unless otherwise provided in their rules, a quorum of one-third of a committee is required to debate a subpoena, under Rule XI, clause 2(h)(3).

Rule XI, clause 2(m)(3) also allows committees to adopt rules to delegate the authorization and issuance of subpoenas to a committee's chair "under such rules and under such limitations as the committee may prescribe." This same subparagraph requires subpoenas to be signed by the chair or by a member who has been designated by the committee.

Rule XI, clause 2(m)(3)(B) allows a committee or subcommittee to designate a return for documents other than at a meeting or hearing.<sup>8</sup> Clause 2(m)(3)(C) allows enforcement of a subpoena only as authorized or directed by the House.<sup>9</sup>

## House Committees' Rules on Subpoenas

If a committee meets to consider one or more subpoenas for a witness, witnesses, or documents, it meets in a markup session, and members may offer amendments and motions, make points of order, and engage the relevant procedures and procedural strategy that could also occur in a markup of legislation. The House Office of General Counsel maintains subpoena-related forms to assist committees and may advise committees on subpoenas.

Most committees' rules have also delegated authority to issue subpoenas to their chair, but many committees with such a rule also require the chair to consult the ranking minority Member. In

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<sup>5</sup> There are means besides subpoenas for congressional committees to obtain information, especially from the executive branch, which include the voluntary appearance of witnesses; writing requirements for reports or studies into law; resolutions of inquiry (see CRS Report R40879, *Resolutions of Inquiry: An Analysis of Their Use in the House, 1947-2011*, by Christopher M. Davis); and existing provisions of law, such as 5 U.S.C. § 2954, which requires an executive agency to submit information requested by the House Committee on Oversight and Government Reform, or any seven members of the committee, or the Senate Committee on Homeland Security and Governmental Affairs, or any five members of the committee (see CRS Report RL34097, *Congress's Contempt Power and the Enforcement of Congressional Subpoenas: Law, History, Practice, and Procedure*, by Todd Garvey and Alissa M. Dolan).

<sup>6</sup> House Rule XI, cl. 2(k)(5) and (6) allows a committee to receive and dispose of requests to subpoena additional witnesses, as requested by a witness or by others, including committee members.

<sup>7</sup> House Rule XI, clause 2(m)(3)(A)(ii), however, requires a majority of members of a subcommittee of the Ethics Committee to vote to authorize and issue a subpoena.

<sup>8</sup> "Return" in this rule refers to instructions to the individual named on when and where to respond to the subpoena with the documents demanded. This rule explicitly allows a committee or subcommittee to issue a subpoena to an individual both to appear and to provide documents, but to deliver the documents at another time than the hearing or meeting at which the individual is directed to appear. It also allows a committee or subcommittee to have a subpoena for documents only to designate a delivery time other than a hearing or meeting.

<sup>9</sup> "An individual who fails or refuses to comply with a House subpoena may be cited for contempt of Congress." Wm. Holmes Brown, Charles W. Johnson, and John V. Sullivan, *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* (Washington, DC: GPO, 2011), p. 449. See *House Practice*, pp. 449-454 for an explanation of how the House enforces a subpoena if an individual fails to comply. See also footnote 2.

many committees, subcommittees may authorize and issue subpoenas subject to specified conditions. Some committees' rules are not explicit on procedures for subcommittees to authorize subpoenas.

Other provisions pertaining to subpoenas, but not directly relating to authorizing or issuing them, may appear in committees' rules. Several committees reference the authority of the House to enforce a subpoena issued by the committee or, if permitted by committee rules, its subcommittees. These committees are the Committees on Appropriations, Armed Services, House Administration, and Transportation and Infrastructure.<sup>10</sup>

The Permanent Select Committee on Intelligence has a rule establishing conditions prior to the referral of a contempt recommendation to the House. "Reasonable" notice of a meeting to consider a contempt recommendation must be given to all committee members. The committee must meet and consider the contempt allegations. The individual who is the subject of the allegations must have an opportunity to respond in writing or in person as to why or why not the individual should be held in contempt. The committee by majority vote must agree to recommend a contempt citation to the House.

The Committee on Ethics has three rules related to subpoenas separate from their authorization and issuance. Two relate specifically to subpoenas issued by adjudicatory subcommittees. First, a subpoena for documents may specify terms of return other than a meeting or hearing of the subcommittee. Second, a subpoena requiring a witness to appear must be served "sufficiently in advance" of the scheduled appearance to allow the witness to prepare and to retain counsel. The third rule appears to apply to all subpoenaed witnesses, covering travel expenses at the per-diem rate established by the House Administration Committee.

The Committee on Transportation and Infrastructure has a similar rule to that of the Committee on Ethics on expenses of subpoenaed witnesses.

The rules of the Committee on Homeland Security allow the chair with the concurrence of the ranking minority Member or the committee to include provisions in a subpoena that "prevent" the disclosure of the committee's demand for information "when deemed necessary for the security of information or the progress of an investigation." Such provisions may prohibit witnesses and their counsel from revealing the committee's inquiry. Another rule pertaining to a subpoena for documents allows the committee to specify terms of return other than a regularly scheduled meeting of the committee.

Six committees also have rules on service of subpoenas. Five committees—Budget, Financial Services, House Administration, Natural Resources, and Rules—provide that a subpoena may be served by any person designated by the chair or by the member authorized by the committee to issue subpoenas. The Intelligence Committee's rule allows the chair to designate a person to serve a subpoena.

Committees' other procedural rules *might* have an effect on scheduling and conducting meetings to authorize a subpoena. These other rules deal with the notice for and agenda of a meeting, the quorum to conduct business, voting, and consideration. Committees' rules also mirror a House rule requiring a majority to be actually present to report (Rule XI, clause 2(h)(1)).

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<sup>10</sup> "Contempt of Congress—Willful obstruction of the proper functions of Congress. Most frequently, it is a refusal to obey a subpoena to appear and testify before a committee or to produce documents demanded by it." *Congressional Quarterly's American Congressional Dictionary*, p. 66. See also footnote 2.

## **Explanation of Table 1: Committee Subpoena Requirements, House Committees' Rules, 114<sup>th</sup> Congress**

**Table 1** compares House committees' rules in the 114<sup>th</sup> Congress on whose authority a subpoena may be authorized and issued and on notifying members of a committee that a subpoena has been issued. Committees are listed in alphabetical order in the left column, with the Permanent Select Committee on Intelligence and the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi appearing at the end of the table. The first three rows of the headings contain key terms describing committees' rules, as explained immediately below. A check in a box indicates that that committee adopted a rule or a closely related variation on it. An empty box indicates that a committee did not address that subject. Certain checks are noted to offer additional detail on a particular committee's rule or lack of a rule. In some cases, a single table note is used to offer additional detail on a rule or circumstances that affect more than one committee's rules.

The following list explains the headings in **Table 1**:

- **Committee/Subcommittee by Majority Vote**—a committee or subcommittee may authorize a subpoena by a majority vote.
- **Chair**—indicates under what conditions a chair has been delegated power to authorize a subpoena:
  - **On Own Initiative**—a chair may authorize subpoenas, subject to conditions in the committee's rules.
  - **Ranking Minority Member**—indicates the role of a ranking minority Member in allowing the chair to authorize or issue a subpoena:
    - **Concurs**—the ranking minority Member must concur with the chair before a subpoena is authorized or issued.
    - **Consulted**—the chair must consult the ranking minority Member before authorizing or issuing a subpoena.
  - **Three Days**—a chair may authorize and issue a subpoena only when the House has adjourned for more than three days.
- **Authorized to Issue Subpoena**—who is authorized by committee rules to issue a subpoena—the chair, a committee member designated by the chair, or a committee member designated by the committee.
- **Notification to Committee (as soon as practicable)**—a chair shall notify the committee as soon as practicable that a subpoena has been issued.

**Table I. Committee Subpoena Requirements, House Committees' Rules, 114<sup>th</sup> Congress**

By Committee Decision or by Chair's Authority, Authority to Issue a Subpoena, and Notification to the Committee

Committee	Committee/Subcommittee by Majority Vote	Chair				Three Days	Authorized to Issue Subpoena			Notification to Committee (as soon as practicable)
		On Own Initiative	Ranking Minority Member		Chair		Member Designated by Chair	Member Designated by Committee		
			Concurs	Is Consulted						
Agriculture	✓ <sup>a, b</sup>	✓		✓ <sup>c</sup>		✓		✓		
Appropriations	✓ <sup>d</sup>					✓		✓		
Armed Services	✓ <sup>e</sup>					✓		✓		
Budget	✓ <sup>d</sup>					✓	✓			
Education and the Workforce	b	✓		✓ <sup>f</sup>		✓			✓ <sup>g</sup>	
Energy and Commerce	b	✓		✓ <sup>h</sup>		✓			✓ <sup>i</sup>	
Ethics	✓ <sup>j</sup>					✓ <sup>k</sup>				
Financial Services	b	✓		✓ <sup>l</sup>		✓		✓		
Foreign Affairs	✓	✓		✓		✓		✓		
Homeland Security	b	✓		✓ <sup>f</sup>		✓			✓ <sup>i</sup>	
House Administration	✓ <sup>d, m</sup>					✓		✓		
Judiciary	✓	✓		✓ <sup>n</sup>		✓		✓		
Natural Resources	✓	✓			✓	✓		✓		
Oversight and Government Reform	b	✓				✓				



Committee	Committee/Subcommittee by Majority Vote	Chair				Three Days	Authorized to Issue Subpoena			Notification to Committee (as soon as practicable)
		On Own Initiative	Ranking Minority Member		Chair		Member Designated by Chair	Member Designated by Committee		
			Concurs	Is Consulted						
Rules	✓	✓			✓	✓		✓		
Science, Space, and Technology	<sup>b</sup>	✓				✓				
Small Business	✓ <sup>o, b</sup>	✓		✓	✓					
Transportation and Infrastructure	✓	✓ <sup>p</sup>		✓		✓		✓	✓	
Veterans' Affairs	✓									
Ways and Means	<sup>b</sup>	✓				✓				
Intelligence	✓ <sup>b</sup>	✓		✓		✓		✓		
Benghazi <sup>q</sup>		✓				✓				

**Source:** Prepared by the Congressional Research Service (CRS) based on a review of House committee rules, 114<sup>th</sup> Congress.

- a. A subcommittee investigation may be initiated only after consultation with the committee chair or a majority of the committee.
- b. The committee's rules do not explicitly address subcommittee subpoenas.
- c. The chair is directed by committee rule to consult the ranking minority Member at least 48 hours in advance of a subpoena being issued under the chair's authority.
- d. The power to authorize and issue subpoenas may be delegated to the chair pursuant to such rules and under such limitations as the committee may prescribe.
- e. Concurrence of the full-committee chair and consultation with the ranking minority Member are required in addition for a subpoena authorized by a subcommittee.
- f. The chair, to the extent practicable, should consult with the ranking minority Member at least 24 hours in advance of issuing, excluding Saturdays, Sundays, and federal holidays.
- g. Notification must be in writing.
- h. The chair, to the extent practicable, should consult with the ranking minority Member at least 72 hours in advance of issuing.
- i. Notification must occur not later than one week after issuance of a subpoena.

- j. Investigative subcommittees, by a majority vote, may authorize a subpoena for witnesses or documents. Unless the full committee otherwise provides, the committee chair and ranking minority Member must issue the subpoena upon request of the subcommittee. Adjudicatory subcommittees may authorize and issue subpoenas. A respondent or counsel may also apply to an adjudicatory subcommittee for the issuance of subpoenas for the appearance of witnesses or the production of evidence.
- k. The chair and ranking minority Member together issue subpoenas in behalf of the committee and investigative subcommittees. The committee rule permitting adjudicatory subcommittees to authorize subpoenas does not indicate who may issue them.
- l. The chair should “notify” the ranking minority Member at least 48 hours in advance of authorizing and issuing. If exigent circumstances prevent 48 hours’ notice, the chair must provide notice “as soon as possible.”
- m. Committee has no subcommittees.
- n. The chair is directed by committee rule to consult the ranking minority Member at least 2 “business days” in advance of a subpoena being issued under the chair’s authority, and must provide the ranking minority Member with a “full copy” of the subpoena, including “any proposed document schedule.” This requirement may be waived if “an emergency does not reasonably allow for advance written notice.”
- o. The requirement of a majority vote by the full committee may be waived by the ranking minority Member.
- p. If a specific request for a subpoena has not previously been rejected by the committee or a subcommittee, the committee chair, after consulting the ranking minority Member, may authorize and issue the subpoena.
- q. The select committee was established by H.Res. 567 (113<sup>th</sup> Cong.), agreed to in the House May 8, 2014. The existence of the select committee was continued in the 114<sup>th</sup> Congress by H.Res. 5, §4(a), agreed to in the House January 6, 2015. The resolution provided rules for the select committee, and exempted the select committee from House Rule XI, cl. 2(a), requiring House committees to adopt rules.

## Senate Rules on Subpoenas

Senate committees and subcommittees are authorized to subpoena witnesses and documents (Rule XXVI, paragraph 1). No additional details specific to authorizing or issuing subpoenas appear in Rule XXVI.<sup>11</sup>

### Senate Committees' Rules on Subpoenas

If a committee meets to consider one or more subpoenas for a witness, witnesses, or documents, it meets in a markup session, and Senators may offer amendments and motions, make points of order, and engage the relevant procedures and procedural strategy that could also occur in a markup of legislation. The Senate Office of Legal Counsel may advise committees on subpoenas.

Most Senate committees in their rules have also delegated authority to issue subpoenas to their chair and ranking minority Member acting together. Some committees' rules are explicit on procedures for subcommittees to authorize subpoenas.

Other provisions pertaining to subpoenas, but not directly relating to authorizing or issuing them, may appear in committees' rules. The Select Committee on Ethics has a unique rule for withdrawing a subpoena. The committee by a recorded vote of no fewer than four members may withdraw a subpoena that it had authorized or that the chair and vice chair together had authorized. In addition, the chair and vice chair together could withdraw a subpoena that they had authorized.

The Ethics Committee has rules in addition that

- by a recorded vote of no fewer than four members, may prohibit committee members and staff and outside counsel from publicly identifying a subpoenaed witness prior to the day of the witness's appearance, except as authorized by the chair and vice chair acting together;
- allow the respondent in an adjudicatory hearing to "apply to the Committee" for the subpoena of witnesses and documents in the individual's behalf;
- allow a subpoenaed witness to request, subject to the committee's approval, not to be photographed at a hearing or to have the witness's testimony broadcast or reproduced while testifying;
- require a subpoena to be served sufficiently in advance of a scheduled appearance to provide the witness with "a reasonable period of time" to prepare and to obtain counsel;
- permit service of a subpoena by any person 18 years of age or older designated by the chair or vice chair; and
- prohibit the committee from seeking civil or criminal enforcement for a failure to appear or testify or to produce documents for a deposition unless the deposition was accompanied by a subpoena.

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<sup>11</sup> Standing orders creating the Senate's select committees may contain additional details, which are reflected in those committees' rules surveyed in the text and table that follow in this report. See U.S. Congress, Senate Rules and Administration, *Senate Manual*, prepared by Matthew McGowan, 113th Cong., 1st sess., 2014, 113-1 (Washington: GPO, 2014).

The Committees on Aging, Agriculture, and Homeland Security and Governmental Affairs also have a rule on civil or criminal enforcement related to a deposition like that of the Ethics Committee.

Four other committees have additional rules that pertain to subpoenas, but not specifically to their authorization or issuance. These rules are as follows:

A rule of the Foreign Relations Committee deals with the return of a subpoena or of a request to an agency for documents. The rule states that the return could be a time and place other than a committee meeting.<sup>12</sup> If the return was incomplete or accompanied by an objection, the rule states that that is good cause for a hearing of the committee on shortened notice. On such a return, the chair or a member designated by the chair could convene a hearing on four hours' notice to members by telephone or email. One member is a quorum for this hearing, which occurs for the sole purpose of "elucidat[ing] further information about the return and to rule on the objection."

The Health, Education, Labor, and Pensions Committee's investigations and subpoena rule has an additional provision that makes information obtained from investigative activity available to committee members requesting the information and to staff of committee members who have been designated in writing by the members, subject to restrictions contained in Senate rules. A committee member may also request information relevant to an investigation to be "summarized in writing as soon as practicable." Moreover, the committee or a subcommittee chair must call an executive session to discuss investigative activity and the issuance of subpoenas in support of this activity at the request of any member.

A rule of the Small Business and Entrepreneurship Committee specifically authorizes the chair to rule on objections or assertions of privilege in response to subpoenas or on questions raised by a committee member or staff.

The Select Committee on Intelligence has a rule on recommending that an individual "be cited for contempt of Congress or that a subpoena be otherwise enforced." A recommendation could not be forwarded to the Senate unless the committee had met and considered the recommendation, provided the individual an opportunity to oppose the recommendation in person or in writing, and agreed by majority vote to forward the recommendation to the Senate.<sup>13</sup> Another rule of the committee allows the chair, vice chair, or committee member issuing a subpoena to designate any person to serve a subpoena.

Committees' other procedural rules *might* have an effect on scheduling and conducting meetings to authorize a subpoena. These other rules deal with the notice for and agenda of a meeting, the quorum to conduct business, voting, and consideration. Committees' rules also mirror a Senate rule requiring a majority to be physically present, and the concurrence of a majority of the members present, to report (Rule 26, paragraph 7).

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<sup>12</sup> *Return* in this rule refers to instructions to the individual named on when and where to respond to the subpoena with the documents demanded. The rule makes explicit that a subpoena for documents may specify that the documents be delivered at other times or to other places than a committee meeting.

<sup>13</sup> "Contempt of Congress—Willful obstruction of the proper functions of Congress. Most frequently, it is a refusal to obey a subpoena to appear and testify before a committee or to produce documents demanded by it." *Congressional Quarterly's American Congressional Dictionary*, p. 66. For an explanation of contempt and enforcement of a Senate subpoena, see the CRS reports listed in footnote 2.

## **Explanation of Table 2: Committee Subpoena Requirements, Senate Committees' Rules, 114<sup>th</sup> Congress**

**Table 2** compares committees' rules in the 114<sup>th</sup> Congress on subpoena requirements across the 20 Senate committees. The 16 standing committees with legislative authority are listed in alphabetical order in the left-most column, followed by the 2 additional permanent committees with legislative authority. The two committees without legislative authority appear in the last two positions of the table.<sup>14</sup> The first two rows of the heading contain key terms describing the committees' rules, as explained immediately below. A check in a box indicates that a committee adopted a rule or a closely related variation on it. An empty box indicates that a committee did not address that subject in its rules. Certain checks are noted to offer additional detail on a particular committee's rule. In some cases, a single table note is used to give additional detail for a rule or circumstances that affect more than one committee's rules.

The following list explains the headings in **Table 2**:

- Authorization—refers to who has the authority to authorize a subpoena—the chair, the chair with the ranking minority Member, or the committee. *RMM* is used as an abbreviation for *ranking minority Member*.
- Issued upon Signature of—refers to whose signature is required for the issuance of a subpoena—that of the chair, of a committee member designated by the chair, or of a committee member(s) designated by the committee.

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<sup>14</sup> The Select Committee on Ethics has authority to report by recommendation or resolution “additional rules or regulations” that the committee “shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities.” S.Res. 338, § 2(a)(5), agreed to in the Senate July 24, 1964.

**Table 2. Committee Subpoena Requirements, Senate Committees’ Rules, 114<sup>th</sup> Congress**  
Authorization and Issuance

Committee	Authorization			Issued upon Signature of		
	Chair	Chair with RMM	Committee Majority	Chair	Member Designated by Chair	Members Designated by Committee
Agriculture, Nutrition, & Forestry <sup>a</sup>		✓ <sup>b,c,d</sup>	✓	✓	✓	
Appropriations						
Armed Services <sup>e</sup>			✓	✓ <sup>f,g</sup>	✓ <sup>f</sup>	
Banking, Housing, & Urban Affairs <sup>h</sup>		✓	✓			
Budget						
Commerce, Science, & Transportation <sup>i</sup>		✓ <sup>c,j</sup>	✓	✓	✓	
Energy & Natural Resources <sup>i</sup>	✓ <sup>k</sup>	✓	✓	✓		
Environment & Public Works						
Finance <sup>e</sup>		✓	✓	✓	✓	
Foreign Relations <sup>e</sup>			✓ <sup>l</sup>	✓		✓
Health, Education, Labor, & Pensions <sup>m</sup>	✓ <sup>m</sup>		✓	✓ <sup>n</sup>	✓ <sup>n</sup>	
Homeland Security & Governmental Affairs <sup>o</sup>		✓ <sup>d,p</sup>	✓	✓	✓	
Judiciary						
Rules & Administration						
Small Business & Entrepreneurship <sup>q</sup>		✓ <sup>p,r</sup>	✓ <sup>r</sup>	✓ <sup>s</sup>	✓ <sup>s</sup>	
Veterans’ Affairs <sup>t</sup>		✓ <sup>u,d</sup>	✓	✓	✓	
Indian Affairs <sup>t</sup>		✓	✓			
Intelligence <sup>t</sup>			✓	✓ <sup>v</sup>	✓ <sup>v</sup>	
Aging <sup>h</sup>		✓		✓ <sup>w</sup>	✓ <sup>w,x</sup>	
Ethics <sup>t</sup>		✓ <sup>y</sup>	✓ <sup>y</sup>	✓ <sup>z</sup>		

**Source:** Prepared by CRS based on a review of Senate committees’ rules, 114<sup>th</sup> Congress.

- a. The committee chair, with the approval of the committee ranking minority Member, may authorize subpoenas for witnesses or documents for subcommittee hearings or, when authorized by the committee, subcommittee investigations.

- b. A majority of committee members must vote to approve an investigation by the committee or a subcommittee in which subpoenas will be issued. The chair, with the ranking minority Member's approval, may also issue subpoenas for other hearings.
- c. The chair could, however, issue a subpoena if the chair had not received a notification of disapproval from the ranking minority Member within 72 hours, excluding Saturdays and Sundays.
- d. A majority vote of the committee overrides disapproval by the ranking minority Member.
- e. The committee's subcommittee rules do not list subpoena authority among subcommittees' powers.
- f. After authorization by the committee, the chair or a member designated by the chair could issue subpoenas, following consultation with the ranking minority Member.
- g. A subpoena is to briefly describe the matter on which an individual is to testify or the documents to be produced.
- h. Subcommittees, and their chairs and ranking minority Members, are given the same authority for subpoenas as the committee and its chair and ranking minority Member.
- i. Subcommittee powers are not listed.
- j. When the chair and ranking minority Member do not concur, a majority of the committee may authorize a subpoena. A quorum in this instance must include at least one minority member.
- k. The chair could issue a subpoena when authorized by a majority of committee members or within the scope of an investigation that was authorized by the chair and ranking minority Member together.
- l. A subpoena could be authorized at a meeting or by proxies. At the request of a member, a subpoena could be authorized only at a meeting.
- m. After the committee has authorized a committee or subcommittee investigation, the chair of the committee or subcommittee, or a member designated by the relevant chair, could issue subpoenas.
- n. After authorization of an investigation by the committee and delegation of subpoena authority to the chair (or a member designated by the chair), the chair of the committee or a subcommittee could issue a subpoena following notification to the ranking minority Member and to other committee or subcommittee members requesting notification. Notification must include the identity of the person subpoenaed, the nature of the information sought, and the relationship of the information to the authorized investigative activity. Notification could be waived if the chair, in consultation with the ranking minority Member, determined that notice would "unduly impede the investigation."
- o. Subcommittees are authorized by a committee rule to write their own rules, including subpoena rules. Under this rule, however, if a subcommittee authorizes a subpoena under its own rules, the subcommittee must notify the committee's chair and ranking minority Member (or staff members designated by them) in writing. The subpoena could not be issued for at least 48 hours, excluding Saturdays and Sundays, unless the chair and ranking minority Member waived the waiting period or the subcommittee chair certified to the committee chair and ranking minority Member that it was necessary to issue the subpoena immediately.
- p. The chair could issue a subpoena without the approval of the ranking minority Member if the chair had not received a notification of disapproval from the ranking minority Member within 72 hours, excluding Saturdays, Sundays, and holidays. The rule of the Homeland Security and Governmental Affairs Committee in addition excludes these same days only when the Senate is not in session on those days. The Homeland Security rule also explicitly allows staff to deliver and receive notices and responses and permits e-mail to be used.
- q. A committee rule states that there are no subcommittees.
- r. Committee members' consent could be given without a meeting but must be in writing.
- s. A subpoena should be accompanied by a briefly stated purpose of the hearing and the matters on which the individual is to testify. Concerning documents, a subpoena should describe them with as much "particularity as practicable."
- t. The committee has no subcommittees.
- u. The chair could issue a subpoena without the approval of the ranking Minority member if the chair had not received a notification of disapproval from the ranking minority Member within 48 hours, excluding Saturdays, Sundays, and holidays.
- v. A subpoena could also be issued by the vice chair. The committee's rule requires a copy of the committee's rules and of S.Res. 400, the standing order, to be attached to any subpoena. (See the standing order in Section 81 of the *Senate Manual*. (U.S. Congress, Senate Rules and Administration, *Senate Manual*, prepared by Matthew McGowan, 113th Cong., 1st sess., 2014, 113-1 (Washington: GPO, 2014).))

- w. Before issuing a subpoena, the chair is to notify the ranking minority Member, and any other member who requested notification, of the identity of the person to be subpoenaed, the nature of the information sought, and the information's relationship to the investigation.
- x. Committee Rule VII, para. 5 states: "The Committee may authorize staff, by issuance of commissions, to fill in prepared subpoenas.... Commissions shall be accompanied by instructions from the Committee regulating their use."
- y. May be authorized "during a preliminary inquiry, adjudicatory review, or other proceeding."
- z. May alternately be signed by the vice chair. A subpoena is to be accompanied by a copy of the committee's rules and a brief statement of the purpose of the committee's proceeding. A subpoena to testify at an adjudicatory hearing must also be accompanied by a copy of the public announcement of the hearing.

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