

House Resolution No. 139

97TH GENERAL ASSEMBLY

1062H.011

ETHICS COMMITTEE

RULES OF PROCEDURE

RULE 1. Scope and Authority

2 These Rules of Procedure govern the conduct of the investigation of complaints of ethical
3 misconduct by a member of the House and are adopted pursuant to House Rule 36.

4 RULE 2. Definitions

5 As used in these Rules, unless the context requires otherwise, the following words and terms
6 shall have the following meanings, and the use of masculine gender shall include the feminine.

7 (1) Censure - A sanction which recognizes the respondent's conduct constituted a legal or moral
8 wrong, and which shall include punishment in the form of denying privileges of office, which
9 recommendation is included as part of the committee's report and requires the presence of the
10 respondent in the chamber during consideration and vote by the entire House on such resolution.

11 (2) Letter of Reproval - A sanction which expresses disapproval of conduct based on the
12 appropriateness of such conduct by a legislator, regardless of whether the conduct constitutes a
13 legal or moral wrong and is included as part of the committee's report.

14 (3) Reprimand - A sanction which recognizes the respondent's conduct constituted a legal or
15 moral wrong and which may include punishment in the form of denying privileges of office,
16 which recommendation is included as part of the committee's report, is issued by the Speaker
17 and the recommendation for reprimand is made a public record.

18 RULE 3. Quorum

19 A quorum exists when a majority of the members of the Committee are present.

20 RULE 4. Form of Complaints

21 A. All complaints filed with the Speaker against a member of the House shall be made by a
22 member. The complaints shall be confidential and shall be referred to the Committee on Ethics
23 within ten (10) days and shall be in writing and under oath, setting forth in simple, concise and
24 direct statements:

- 25 (1) The name and legal address of the member or members acting as complainant;
- 26 (2) The name of the member of the House alleged to have engaged in the commission of a crime,
27 misconduct, willful neglect of duty, corruption in office or other acts constituting ethical
28 misconduct. "Misconduct" means:
- 29 (a) Any conduct constituting a legal or moral wrong which materially impairs the member's
30 ability to perform the duties of his office or substantially impairs public confidence in the
31 General Assembly;
- 32 (b) Any conduct constituting a conflict of interest under Chapter 105, RSMo;
- 33 (c) The intentional filing of a false complaint or the filing of a complaint in reckless disregard
34 of the truth.
- 35 (3) The nature of the alleged crime, misconduct, neglect, corruption or other unethical act,
36 including when applicable, the specific law, rule, regulation or ethical standard violated;
- 37 (4) The facts alleged to have given rise to the violation; and
- 38 (5) Where the facts are alleged upon the information and belief of the complainant, the complaint
39 shall so state and set forth the basis for such information and belief.
- 40 B. All documents in the possession of the complainant that are relevant to and in support of the
41 allegations shall be appended to the complaint.
- 42 **RULE 5. Initial Examination of the Complaint by the Committee**
- 43 A. Within thirty (30) days of the assignment of the complaint by the Speaker, the Committee
44 shall determine if it is in compliance with Rule 4 of these Rules, and whether on the face of the
45 complaint, the allegations contained therein are within the jurisdiction of the Committee, and if
46 so, whether the allegations merit proceeding to a preliminary hearing. The complainant shall not
47 act as a member of the Committee at a hearing in which the complainant is likely to be called as
48 a necessary witness. A respondent shall not act as a member of the Committee for purposes of
49 his complaint.
- 50 B. Complaints determined not to be in compliance with Rule 4 of these Rules shall be returned
51 to the complainant with a general statement that it is not in compliance with the Rules of
52 Procedure. The complaint may be resubmitted in the proper form.
- 53 C. Once a determination has been made that the complaint complies with Rule 4 of these Rules,
54 a majority of the Committee appointed shall vote by roll call to either:
- 55 (1) Defer action pending completion of any other administrative, disciplinary, commission, or
56 judicial proceeding;

57 (2) Proceed to a preliminary hearing;

58 (3) Dismiss the complaint. When a motion to proceed to a preliminary hearing fails on a
59 recorded vote, the complaint shall be immediately dismissed.

60 D. In determining whether or not to proceed the Committee shall consider the following:

61 (1) The credible evidence contained in the complaint or appended thereto of the commission of
62 a crime, misconduct, willful neglect of duty, corruption in office, or other acts violating
63 applicable ethical standards;

64 (2) Other administrative or disciplinary action by other interested bodies;

65 (3) Criminal investigation, Missouri Ethics Commission proceeding, or judicial proceedings,
66 either civil or criminal; and

67 (4) Other relevant circumstances that would justify expediting, declining or deferring action by
68 the Committee.

69 E. Complaints determined to be in compliance with Rule 4 of these Rules and accepted for a
70 preliminary hearing shall be transmitted to the respondent with a copy of the Rules of Procedure
71 and notice in writing that the respondent has twenty-one (21) calendar days to respond to the
72 complaint either by way of answer or motion pursuant to Rule 6 of these Rules. The complainant
73 shall also be notified, in writing, of the action of the Committee. Examination of the complaint
74 and the determination of Rule 5.C. shall be conducted in a closed meeting.

75 RULE 6. Answers and Motions

76 A. If the Committee determines that the complaint merits proceeding to a preliminary hearing,
77 the respondent shall have twenty-one (21) calendar days in which to respond to the complaint
78 by way of answer or motion, unless this time period is waived by the respondent. Any answer
79 or motion shall be in writing, signed by the respondent and his counsel, if he has one, and shall
80 be limited to the following:

81 (1) An admission or denial under oath, of the allegations set forth in the complaint, including
82 negative and affirmative defenses, and any other relevant information, including supporting
83 evidence which the respondent may desire to submit. Failure to file an answer within the time
84 prescribed shall be considered by the Committee as a denial of each allegation;

85 (2) An objection to the jurisdiction of the Committee to investigate the complaint; or

86 (3) An objection to the participation of any member of the Committee in an investigation of the
87 complaint on the grounds that the member cannot render an impartial and unbiased decision in
88 the case. The majority of the members present shall rule on the objection to the participation of
89 any member of the Committee. A temporary replacement shall be made to serve on the

90 Committee on Ethics for all actions concerning a particular complaint for any member of the
91 Committee who is prevented from acting on a complaint under these rules.

92 B. Any motion submitted pursuant to this rule is not in lieu of an answer and shall be
93 accompanied by a memorandum of points and authorities. Answers or motions not submitted
94 within the twenty-one (21) calendar-day period shall not be considered by the Committee.

95 C. The Chairman of the Committee shall pass upon such motions as soon as practicable and
96 notice of the decision shall be furnished to the respondent and the complainant. A motion to
97 quash a subpoena shall be decided by the Chairman of the Committee.

98 D. Time limitations imposed by this Rule may be extended when, in the discretion of the
99 Chairman, such extension would facilitate a fair and complete inquiry and may be shortened
100 when the Chairman determines that there are special circumstances compelling expedition, and
101 upon twenty-four (24) hours notice of said action to the respondent and the claimant.

102 E. In the event that a special counsel is retained by the Committee, the attorney-client privilege
103 is applicable to the Committee and not to the House.

104 RULE 7. Preliminary Hearings

105 A. A preliminary hearing may be held to hear arguments based on the pleadings submitted in the
106 case. The preliminary hearing shall be an open meeting. The committee shall provide the
107 complainant and the respondent or counsel for the complainant and respondent an opportunity
108 to present, orally or in writing, a statement, which shall be under oath or affirmation, regarding
109 the allegations and any other relevant questions arising out of the pleadings. A complainant or
110 respondent who is represented by counsel shall not be questioned in the absence of counsel
111 unless an explicit waiver is obtained.

112 B. The committee shall require that testimony be given under oath or affirmation. The form of
113 the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will
114 give before this Committee in the matter now under consideration will be the truth, the whole
115 truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered
116 by the Chairman or Committee member designated by him to administer oaths. Members of the
117 committee shall be given an opportunity to question the complainant and respondent or counsel
118 for the complainant or respondent following the opening statements.

119 C. At the conclusion of the preliminary hearing, a majority of the Committee shall vote by roll
120 call to either:

121 (1) Dismiss the complaint, or

122 (2) Proceed by

123 (a) undertaking an investigative hearing; or

124 (b) deciding the case based upon the preliminary hearing.

125 A decision based upon a preliminary hearing shall require the consent of the respondent.

126 D. If the committee decides to make a summary decision of the case and the respondent accepts
127 this disposition the Committee may, by a majority vote, recommend one of the following
128 sanctions:

129 (1) Letter of reproof;

130 (2) Reprimand; or

131 (3) Censure.

132 RULE 8. Investigative Hearings

133 A. An investigative hearing may be held on the record to receive evidence upon which to base
134 findings, conclusions, and recommendations, if any, to the House. The Committee may require,
135 by subpoena or otherwise, or by subpoena duces tecum, the attendance and testimony of such
136 witnesses and the production of such books, records, correspondence, memorandums, papers and
137 documents as it deems necessary. The Committee may obtain a court-issued subpoena in the
138 event that any person refuses to obey the subpoena issued by the Committee.

139 B. Prior to setting a hearing date and issuing subpoenas for witnesses, the Committee shall
140 resolve the scope and purpose of the hearings. A copy of this statement of scope and purpose
141 shall be furnished to all witnesses. During the course of the hearings the Committee may expand
142 or contract the scope in light of evidence received.

143 C. The order of the investigative hearing shall be as follows:

144 (1) The Chairman shall open the hearing by stating the Committee's authority to conduct the
145 investigation, the purpose of the investigation and its scope.

146 (2) The complainant and the respondent or counsel for the complainant and respondent shall be
147 permitted to make opening statements. Such opening statements shall not exceed fifteen minutes
148 each.

149 (3) Testimony from witnesses and other evidence pertinent to the matter under investigation shall
150 be received in the following order:

151 (a) Witnesses and other evidence offered by the complainant;

152 (b) Witnesses and other evidence offered by the respondent;

153 (c) Witnesses and other evidence offered by the Committee staff; and

154 (d) Rebuttal witnesses.

155 (4) The Chairman or his designee shall examine each witness. The Committee members may
156 then question the witness. The respondent or his counsel may then cross-examine the witness.
157 Redirect or recross examination may be permitted in the Chairman's discretion. With respect to
158 witnesses offered by the respondent, a witness shall be examined first by the respondent or his
159 counsel, if he has one, and then may be cross-examined by the complainant or his counsel, if he
160 has one, and then may be cross-examined by the Chairman or his designee. Committee members
161 may then question the witness. Redirect and recross examination may be permitted in the
162 Chairman's discretion.

163 D. Testimony of all witnesses shall be taken under oath. The form of the oath shall be: "Do you
164 solemnly swear (or affirm) that the testimony you will give before this Committee in the matter
165 now under consideration will be the truth, the whole truth, and nothing but the truth (so help you
166 God)?" The oath shall be administered by the Chairman or Committee member designated by
167 him to administer oaths.

168 RULE 9. Admissibility of Evidence

169 A. The object of the hearings shall be to ascertain the truth. Any evidence that is relevant and
170 probative shall be admissible, unless privileged or unless the Constitution otherwise requires its
171 exclusion. Objections going only to the weight that should be given to evidence will not justify
172 its exclusion.

173 B. The Chairman or other member presiding shall rule upon any question of admissibility of
174 testimony or evidence presented to the Committee. The Chairman or other member presiding
175 may limit the presentation of repetitious evidence. Rulings shall be final unless reversed or
176 modified by a majority vote of the Committee members present.

177 C. At an investigative hearing, the burden of proof is on the complainant with respect to each
178 count to establish the facts alleged therein clearly and convincingly by the evidence that he
179 introduces.

180 RULE 10. Witnesses

181 A. A subpoena to a witness shall be served sufficiently in advance of his scheduled appearance
182 to allow him a reasonable period of time, as determined by the Committee, to prepare for the
183 hearing and to employ counsel should he so desire.

184 B. Except as otherwise specifically authorized by the Chairman, no member of the Committee
185 or staff shall make public the name of any witness subpoenaed by the Committee before his
186 scheduled appearance.

187 C. Witnesses at investigative hearings may be accompanied by their counsel for the purpose of
188 advising them concerning their constitutional rights and to raise objections to procedures or to

189 the admissibility of testimony and evidence. Counsel for a witness other than the respondent
190 shall not be permitted to engage in oral argument with the Committee. After a witness has
191 testified, his counsel may submit to the Committee, in writing, any questions he wishes
192 propounded to his client and any request for additional witnesses or other evidence. Such request
193 may be granted in the discretion of the Committee.

194 D. The respondent may apply to the Committee for the issuance of subpoenas for the appearance
195 of witnesses or the production of documents on his behalf. The application shall be granted upon
196 good cause shown by the respondent that the proposed testimony or evidence is relevant and not
197 otherwise available. The application shall be denied if not made at a reasonable time or if the
198 testimony or evidence would be merely cumulative.

199 E. The respondent is entitled to present witnesses in his behalf. However, the Chairman may
200 limit such testimony when, in his discretion, he finds the testimony is repetitious or cumulative.

201 F. Each witness subpoenaed by the Committee shall be reimbursed for those reasonable expenses
202 approved by the Committee.

203 G. Each witness shall be furnished a printed copy of the Rules of Procedure and the pertinent
204 provisions of the Rules of the House applicable to the rights of witnesses.

205 H. Within ten (10) calendar days before the scheduled investigative hearing, the Chairman shall
206 notify the respondent, in writing, of the witnesses that are to appear before the Committee.
207 Within five (5) calendar days before the scheduled investigative hearing, the respondent shall
208 notify the Committee, in writing, of the witnesses that are to appear in his behalf. Additional
209 witnesses may be brought before the Committee, in the discretion of the Chairman or other
210 member presiding and upon good cause, if their whereabouts or existence were unknown to the
211 respondent at the time for submission of the witness list to the Committee.

212 RULE 11. Findings, Conclusions and Recommendations

213 A. At the completion of the preliminary hearing or investigative hearings, the Committee, by a
214 majority vote of its members, shall, within forty-five (45) days, adopt a report stating its findings
215 and conclusions on the complaint. The report shall be filed with the Chief Clerk of the House
216 and shall be printed in the House Journal. In the event the Committee finds that the complaint
217 is not well-founded, the report shall so state, and shall include a copy of a Letter of Reproval if
218 the Committee authorized such sanction. In the event the Committee finds that the complaint is
219 well-founded, the report shall state the Committee's recommendation in a resolution appended
220 thereto.

221 B. The resolution shall state the Committee's findings and conclusions on each allegation in the
222 complaint with the recommendation that the House:

223 (1) Expel the member as provided in Article III, Section 18 of the Missouri Constitution;

224 (2) Punish the member as provided in Article III, Section 18 of the Missouri Constitution, by
225 reprimand on the adoption of the resolution, or by censure by the Speaker in open session; or

226 (3) Take no further action, stating the reasons therefor.

227 RULE 12. Matters Not Covered in These Rules of Procedure

228 The Rules of Procedure of the United States House of Representatives Committee on Ethics of
229 the 113th Congress shall be taken as guidelines in deciding questions, issues, and other matters
230 not otherwise provided for in these Rules of Procedure, except that the Rules of the Missouri
231 House of Representatives governing the party representation on committees shall apply to this
232 Committee.

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