

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR

House Resolution No. 74

99TH GENERAL ASSEMBLY

1277H.02C

ETHICS COMMITTEE

RULES OF PROCEDURE

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4 RULE 1. Scope and Authority

5 These Rules of Procedure govern the conduct of the investigation of complaints of ethical
6 misconduct by a member of the House and are adopted pursuant to House Rule ~~[38]~~ 37.

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8 RULE 2. Definitions

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

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

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

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

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25 RULE 3. Quorum

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

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28 RULE 4. Form of Complaints

29 A. All complaints filed with the Speaker against a member of the House shall be made
30 by a member **or other individual under the authority of Rule 101 of the House Rules of**
31 **Procedure or the Policy Handbook of the Missouri House of Representatives involving**
32 **sexual harassment investigations and member referral to the Committee on Ethics.** The
33 complaints shall be confidential and shall be referred to the Committee on Ethics within ten (10)
34 days, **or within fourteen (14) days under Rule 101 of the House Rules of Procedure,** and
35 shall be in writing and under oath, setting forth in simple, concise and direct statements:

36 (1) The name and legal address of the member or members **or other individual** acting
37 as complainant;

38 (2) The name of the member of the House alleged to have engaged in the commission of
39 a crime, misconduct, willful neglect of duty, corruption in office or other acts constituting ethical
40 misconduct. "Misconduct" means:

41 (a) Any conduct constituting a legal or moral wrong which materially impairs the
42 member's ability to perform the duties of his office or substantially impairs public confidence
43 in the General Assembly;

44 (b) Any conduct constituting a conflict of interest under Chapter 105, RSMo;

45 (c) The intentional filing of a false complaint or the filing of a complaint in reckless
46 disregard of the truth.

47 (3) The nature of the alleged crime, misconduct, neglect, corruption or other unethical
48 act, including when applicable, the specific law, rule, regulation or ethical standard violated;

49 (4) The facts alleged to have given rise to the violation; and

50 (5) Where the facts are alleged upon the information and belief of the complainant, the
51 complaint shall so state and set forth the basis for such information and belief.

52 B. All documents in the possession of the complainant that are relevant to and in support
53 of the allegations shall be appended to the complaint.

54 RULE 5. Initial Examination of the Complaint by the Committee

55 A. Within thirty (30) days of the assignment of the complaint by the Speaker, the
56 Committee shall determine if it is in compliance with Rule 4 of these Rules, and whether on the
57 face of the complaint, the allegations contained therein are within the jurisdiction of the
58 Committee, and if so, whether the allegations merit proceeding to a preliminary hearing. The
59 complainant shall not act as a member of the Committee at a hearing in which the complainant
60 is likely to be called as a necessary witness. A respondent shall not act as a member of the
61 Committee for purposes of his complaint.

62 B. Complaints determined not to be in compliance with Rule 4 of these Rules shall be
63 returned to the complainant with a general statement that it is not in compliance with the Rules
64 of Procedure. The complaint may be resubmitted in the proper form.

65 C. Once a determination has been made that the complaint complies with Rule 4 of these
66 Rules, a majority of the Committee appointed shall vote by roll call to either:

67 (1) Defer action pending completion of any other administrative, disciplinary,
68 commission, or judicial proceeding;

69 (2) Proceed to a preliminary hearing;

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

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

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

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

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

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

81 E. Complaints determined to be in compliance with Rule 4 of these Rules and accepted
82 for a preliminary hearing shall be transmitted to the respondent with a copy of the Rules of
83 Procedure and notice in writing that the respondent has twenty-one (21) calendar days to respond

84 to the complaint either by way of answer or motion pursuant to Rule 6 of these Rules. The
85 complainant shall also be notified, in writing, of the action of the Committee. Examination of
86 the complaint and the determination of Rule 5.C. shall be conducted in a closed meeting.

87

88 RULE 6. Answers and Motions

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

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

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

99 (3) An objection to the participation of any member of the Committee in an investigation
100 of the complaint on the grounds that the member cannot render an impartial and unbiased
101 decision in the case. The majority of the members present shall rule on the objection to the
102 participation of any member of the Committee. A temporary replacement shall be made to serve
103 on the Committee on Ethics for all actions concerning a particular complaint for any member of
104 the Committee who is prevented from acting on a complaint under these rules.

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

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

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

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

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118 RULE 7. Preliminary Hearings

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

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

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

135 (1) Dismiss the complaint, or

136 (2) Proceed by

137 (a) undertaking an investigative hearing; or

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

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

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

143 (1) Letter of reproof;

144 (2) Reprimand; or

145 (3) Censure.

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147 RULE 8. Investigative Hearings

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

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

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

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

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

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

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

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

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

169 (d) Rebuttal witnesses.

170 (4) The Chairman or his designee shall examine each witness. The Committee members
171 may then question the witness. The respondent or his counsel may then cross-examine the
172 witness. Redirect or recross examination may be permitted in the Chairman's discretion. With
173 respect to witnesses offered by the respondent, a witness shall be examined first by the
174 respondent or his counsel, if he has one, and then may be cross-examined by the complainant or

175 his counsel, if he has one, and then may be cross-examined by the Chairman or his designee.
176 Committee members may then question the witness. Redirect and recross examination may be
177 permitted in the Chairman's discretion.

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

183

184 RULE 9. Admissibility of Evidence

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

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

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

196

197 RULE 10. Witnesses

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

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

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

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

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

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

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

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

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

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231 RULE 11. Findings, Conclusions and Recommendations

232 A. At the completion of the preliminary hearing or investigative hearings, the Committee,
233 by a majority vote of its members, shall, within forty-five (45) days, adopt a report stating its
234 findings and conclusions on the complaint. The report shall be filed with the Chief Clerk of the
235 House and shall be printed in the House Journal. In the event the Committee finds that the
236 complaint is not well-founded, the report shall so state, and shall include a copy of a Letter of
237 Reapproval if the Committee authorized such sanction. In the event the Committee finds that the

238 complaint is well-founded, the report shall state the Committee's recommendation in a resolution
239 appended thereto.

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

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

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

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

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

248 The Rules of Procedure of the United States House of Representatives Committee on
249 Ethics of the [~~114th~~] 115th Congress shall be taken as guidelines in deciding questions, issues, and
250 other matters not otherwise provided for in these Rules of Procedure, except that the Rules of
251 the Missouri House of Representatives governing the party representation on committees shall
252 apply to this Committee.

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