

FIRST REGULAR SESSION

House Resolution No. 137

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE EGGLESTON.

1350H.011

DANA RADEMAN MILLER, Chief Clerk

ETHICS COMMITTEE

2 RULES OF PROCEDURE

3

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 37.

7

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) Letter of reproof - A sanction which expresses disapproval of conduct based on**
13 **the appropriateness of such conduct by a member, regardless of whether the conduct**
14 **constitutes a legal or moral wrong and is included as part of the Committee's report.**

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

19 **(3) Censure - A sanction which recognizes the [respondent's] member's conduct**
20 **constituted a legal or moral wrong, and which shall include punishment in the form of denying**
21 **privileges of office, which recommendation is included as part of the Committee's report and**
22 **requires the presence of the [respondent] member in the chamber during consideration and vote**
23 **by the entire House on such resolution.**

24 ~~[(2) Letter of Reproval – A sanction which expresses disapproval of conduct based on the~~
25 ~~appropriateness of such conduct by a legislator, regardless of whether the conduct constitutes a~~
26 ~~legal or moral wrong and is included as part of the Committee's report.]~~

27 ~~——— (3) Reprimand – A sanction which recognizes the respondent's conduct constituted a legal~~
28 ~~or moral wrong and which may include punishment in the form of denying privileges of office,~~
29 ~~which recommendation is included as part of the Committee's report, is issued by the Speaker~~
30 ~~and the recommendation for reprimand is made a public record.]~~

31 **(4) Expulsion – A sanction which recognizes the member's conduct constituted a**
32 **legal or moral wrong and which may include punishment in the form of removal from**
33 **office as provided in Article III, Section 18 of the Missouri Constitution, which**
34 **recommendation is included as part of the Committee's report.**

35 **(5) Ethical misconduct –**

36 **(a) A crime;**

37 **(b) Willful neglect of duty;**

38 **(c) Corruption in office;**

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

42 **(e) Any conduct constituting a conflict of interest under Chapter 105, RSMo; or**

43 **(f) The intentional filing of a false complaint or the filing of a complaint in reckless**
44 **disregard of the truth.**

45 **(6) Member – Any Missouri State Representative or Missouri State Representative-**
46 **Elect.**

47

48 **RULE 3. Quorum**

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

50

51 **RULE 4. Form of Complaints**

52 A. All complaints filed ~~[with the Speaker]~~ against a member ~~[of the House]~~ shall be made
53 ~~[by a member or other individual]~~ under the authority of Rule ~~[101]~~ **37** of the House Rules of
54 Procedure ~~[or the Policy Handbook of the Missouri House of Representatives involving sexual~~
55 ~~harassment investigations and member referral to the Committee on Ethics]~~. The complaints
56 shall be confidential and shall be referred to the Committee on Ethics within ~~[ten (10) days, or~~
57 ~~within]~~ fourteen (14) **calendar** days ~~[under Rule 101 of the House Rules of Procedure, and]~~ .
58 **Each complaint** shall be in writing and under oath~~], setting forth in simple, concise and direct~~
59 ~~statements, unless such complaint alleges sexual harassment and is filed under the authority of~~
60 ~~Rule 101 of the House Rules of Procedure or the Policy Handbook, in which case the~~
61 ~~investigative report shall be sufficient to be considered a proper complaint referred to the~~
62 ~~Committee on Ethics]~~ **from the member, or in the case of alleged sexual harassment, the**
63 **investigative report shall be sufficient to be considered a proper complaint. All complaints**
64 **shall contain:**

65 (1) The name and ~~[legal]~~ address of the member or members or other individual **or**
66 **individuals** acting as complainant;

67 (2) The name of the member ~~[of the House]~~ alleged to have engaged in ~~[the commission~~
68 ~~of a crime, misconduct, willful neglect of duty, corruption in office or other acts constituting~~
69 ~~ethical misconduct. "Misconduct" means:~~

70 ~~—— (a) Any conduct constituting a legal or moral wrong which materially impairs the~~
71 ~~member's ability to perform the duties of his office or substantially impairs public confidence~~
72 ~~in the General Assembly;~~

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

74 ~~—— (c) The intentional filing of a false complaint or the filing of a complaint in reckless~~
75 ~~disregard of the truth.]~~ **conduct constituting ethical misconduct;**

76 (3) The nature of the alleged ~~[crime, misconduct, neglect, corruption or other unethical~~
77 ~~act]~~ **act constituting ethical misconduct**, including when applicable, the specific law, rule,
78 regulation, or ethical standard violated;

79 (4) The facts alleged to have given rise to the ~~[violation]~~ **act constituting ethical**
80 **misconduct;** and

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

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

85

86 RULE 5. ~~[Initial Examination]~~ **Preliminary Hearing** of the Complaint by the Committee

87 A. Within thirty (30) **calendar** days of the assignment of the complaint ~~[by the Speaker]~~,
88 the Committee shall determine if it is in compliance with Rule 4 of these Rules, and whether on
89 the face of the complaint, the allegations contained therein are within the jurisdiction of the
90 Committee~~], and if so, whether the allegations merit proceeding to a preliminary hearing. The~~
91 ~~complainant shall not act as a member of the Committee at a hearing in which the complainant~~
92 ~~is likely to be called as a necessary witness. A respondent]~~ . **No person named in the complaint**
93 ~~shall [not]~~ **act as a member of the Committee for purposes of [his] such complaint.**

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

97 C. Once a determination has been made that the complaint complies with Rule 4 of these
98 Rules, a majority of the Committee appointed shall vote by roll call to ~~[either]~~:
99

100 (1) **Proceed to an informal hearing;**

101 (2) Defer action pending completion of any other administrative, disciplinary,
102 commission, or judicial proceeding; **or**

103 ~~[(2) Proceed to a preliminary hearing;]~~

104 (3) Dismiss the complaint. When a motion to proceed to ~~[a preliminary]~~ **an informal**
105 **hearing** fails on a recorded vote, the complaint shall be immediately dismissed. **The Committee**
106 **may, in its discretion, issue a report in conjunction with the dismissal of a complaint.**

107 D. In determining whether or not to proceed **to an informal hearing**, the Committee
108 shall consider the following:

109 (1) The credible evidence **of ethical misconduct** contained in the complaint or appended
110 thereto ~~[of the commission of a crime, misconduct, willful neglect of duty, corruption in office,~~
111 ~~or other acts violating applicable ethical standards]~~ ;

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

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

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

117 E. Complaints determined to be in compliance with Rule 4 of these Rules and accepted
118 for ~~[a preliminary]~~ **an informal** hearing shall be transmitted to the respondent with a copy of the
119 Rules of Procedure and notice in writing that the respondent has twenty-one (21) calendar days
120 to respond to the complaint either by way of answer or motion pursuant to Rule ~~[6]~~ 7 of these
121 Rules. The complainant, **alleged victim, and respondent** shall also be notified, in writing, of
122 the action of the Committee. Examination of the complaint and the determination of Rule 5.C.
123 shall be conducted in a closed meeting.

124

125 RULE 6. Confidentiality

126 **No member or staff of the Committee on Ethics shall disclose, to any person or**
127 **entity outside the Committee, any information received in the course of service with the**
128 **Committee, except as authorized by the Committee or in accordance with its rules. No**
129 **person who reviews the results of any investigation or report written by outside legal**
130 **counsel pursuant to Rule 37 shall disclose, to a person or entity outside the Committee, any**
131 **information contained in the report, except as authorized by the Committee or in**
132 **accordance with its rules. The Committee may redact any of the names and identifying**
133 **information of the parties mentioned in the report or provide a summary of the report. If**
134 **the complaint proceeds to an informal hearing, an unredacted report shall be provided to**
135 **the complainant, alleged victim, and respondent. The Committee shall have jurisdiction**
136 **to investigate breaches of confidentiality.**

137

138 Rule 7. Answers and Motions

139 A. If the Committee determines that the complaint merits proceeding to ~~[a preliminary]~~
140 **an informal** hearing, the respondent shall have twenty-one (21) calendar days in which to
141 respond to the complaint by way of answer or motion, unless this time period is waived by the
142 respondent. Any answer or motion shall be in writing, signed by the respondent and his counsel,
143 if he has one, and shall be limited to the following:

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

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

149 (3) An objection to the participation of any member of the Committee in an
150 ~~[investigation]~~ **examination** of the complaint on the grounds that the member cannot render an
151 impartial and unbiased decision in the case. The majority of the members present shall rule on
152 the objection to the participation of any member of the Committee. A temporary replacement
153 shall be made to serve on the Committee on Ethics for all actions concerning a particular
154 complaint for any member of the Committee who is prevented from acting on a complaint under
155 these rules. **Any temporary replacement made shall be of the same party as the replaced**
156 **member and shall be chosen by the Speaker for the replacement of a member of the**
157 **majority party or chosen by the Minority Floor Leader for the replacement of a member**
158 **of the minority party; except that, if the Speaker is the respondent, the temporary**
159 **replacement shall be chosen by the Chair of the Committee or, if the Minority Floor**
160 **Leader is the respondent, the temporary replacement shall be chosen by the Vice Chair of**
161 **the Committee.**

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

165 C. The ~~[Chairman]~~ **Chair** of the Committee shall pass upon such motions as soon as
166 practicable and notice of the decision shall be furnished to the respondent and the complainant.
167 A motion to quash a subpoena shall be decided by the ~~[Chairman]~~ **Chair** of the Committee.

168 D. Time limitations imposed by this Rule may be extended when, in the discretion of the
169 ~~[Chairman]~~ **Chair**, such extension would facilitate a fair and complete inquiry and may be
170 shortened when the ~~[Chairman]~~ **Chair** determines that there are special circumstances
171 compelling expedition, and upon twenty-four (24) hours notice of said action to the respondent
172 and the claimant.

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

175

176 RULE [7-] 8. ~~[Preliminary]~~ **Informal Hearings**

177 A. ~~[A preliminary]~~ **An informal** hearing may be held to hear arguments based on the
178 pleadings submitted in the case. The ~~[preliminary]~~ **informal** hearing ~~[shall be an open meeting]~~
179 **may be closed at the discretion of the Committee.** The Committee shall provide the
180 complainant and the respondent or counsel for the complainant and respondent an opportunity
181 to present, orally or in writing, a statement, which shall be under oath or affirmation, regarding
182 the allegations and any other relevant questions arising out of the pleadings. A complainant or
183 respondent who is represented by counsel shall not be questioned in the absence of counsel
184 unless an explicit waiver is obtained. **Opening statements made during an informal hearing**
185 **shall be limited to fifteen minutes for the complainant and fifteen minutes for the**
186 **respondent; however, such time limitations may be increased at the discretion of the Chair**
187 **of the Committee.**

188 B. The Committee shall require that testimony be given under oath or affirmation. The
189 form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony
190 you will give before this Committee in the matter now under consideration will be the truth, the
191 whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be
192 administered by the ~~[Chairman]~~ **Chair** or Committee member designated by him to administer
193 oaths. ~~[Members of the Committee shall be given an opportunity to question the complainant and~~
194 ~~respondent or counsel for the complainant or respondent following the opening statements]~~ **The**
195 **Committee may take testimony from the complainant, alleged victim, respondent, and any**
196 **other witness at the discretion of the Chair. The complainant, alleged victim, and**
197 **respondent may submit a list of proposed witnesses to the Chair for consideration at least**
198 **twenty-four hours in advance of the hearing. Only the Committee members, or special**
199 **counsel for the Committee, may question a witness at the informal hearing.**

200 C. At the conclusion of the ~~[preliminary]~~ **informal** hearing, a majority of the Committee
201 shall vote by roll call to ~~[either]~~:

202 (1) Dismiss the complaint, ~~[or]~~ **which may be accompanied by a report issued by the**
203 **Committee;**

204 (2) Proceed by ~~[(a)]~~ undertaking ~~[an investigative]~~ **a formal** hearing; or

205 ~~[(b) deciding the case based upon the preliminary hearing.~~

206 ~~——— A decision based upon a preliminary hearing shall require the consent of the respondent.]~~

207 **(3) Offer a recommended sanction to the member which may include one of the**
208 **following:**

209 **(a) Letter of reproof;**

210 **(b) Reprimand;**

211 **(c) Censure; or**

212 **(d) Expulsion.**

213

214 **If the member accepts the Committee's recommended sanction, the sanction shall be**
215 **enforced and the complaint shall be concluded. If the member does not accept the**
216 **recommended sanction, the Committee shall then proceed to a formal hearing.**

217 ~~[D. If the Committee decides to make a summary decision of the case and the respondent~~
218 ~~accepts this disposition, the Committee may, by a majority vote, recommend one of the following~~
219 ~~sanctions:~~

220 ~~———(1) Letter of reproof;~~

221 ~~———(2) Reprimand, or~~

222 ~~———(3) Censure.]~~

223

224 **RULE [8.] 9. [Investigative Hearings] Formal Hearings**

225 A. ~~[An investigative]~~ **A formal hearing [may] shall** be held on the record to receive
226 evidence upon which to base findings, conclusions, and recommendations, if any, to the House;
227 **except that, such hearing may be closed at the discretion of the Committee.** The Committee
228 may require, by subpoena or otherwise, or by subpoena duces tecum, the attendance and
229 testimony of such witnesses and the production of such books, records, correspondence,
230 memorandums, papers, **electronic communications**, and documents as it deems necessary. The
231 Committee may obtain a court-issued subpoena in the event that any person refuses to obey the
232 subpoena issued by the Committee.

233 B. Prior to setting a hearing date and issuing subpoenas for witnesses, the Committee
234 shall resolve the scope and purpose of the hearings. A copy of this statement of scope and

235 purpose shall be furnished to all witnesses. During the course of the hearings the Committee may
236 expand or contract the scope in light of evidence received.

237 C. The order of the ~~[investigative]~~ **formal** hearing shall be as follows:

238 (1) The ~~[Chairman]~~ **Chair** shall open the hearing by stating the Committee's authority
239 to conduct the investigation, the purpose of the investigation and its scope.

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

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

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

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

247 (c) Witnesses and other evidence offered by the Committee ~~[staff]~~; and

248 (d) Rebuttal witnesses.

249 (4) The ~~[Chairman]~~ **Chair**, or his designee ~~[shall examine]~~ , **and the Committee**
250 **members may question** each witness. ~~[The Committee members may then question the witness.~~
251 ~~The respondent or his counsel may then cross-examine the witness. Redirect or recross~~
252 ~~examination may be permitted in the Chairman's discretion.]~~ **The complainant, alleged victim,**
253 **and respondent, and counsel for each party, may then cross examine each witness;**
254 **however, any redirect or recross examination of a witness may be limited at the discretion**
255 **of the Chair.** With respect to witnesses offered by the respondent, a witness shall be examined
256 first by the respondent or his counsel, if he has one, and then may be cross-examined by the
257 complainant or his counsel, if he has one, and then may be cross-examined by the ~~[Chairman]~~
258 **Chair**, or his designee~~[-]~~ , **and the Committee members** ~~[may then question the witness].~~
259 Redirect and recross examination may be permitted in the ~~[Chairman's]~~ **Chair's** discretion.

260 D. Testimony of all witnesses shall be taken under oath. The form of the oath shall be:
261 "Do you solemnly swear (or affirm) that the testimony you will give before this Committee in
262 the matter now under consideration will be the truth, the whole truth, and nothing but the truth
263 (so help you God)?" The oath shall be administered by the ~~[Chairman]~~ **Chair** or Committee
264 member designated by him to administer oaths.

265

266 RULE ~~[9:]~~ **10. Admissibility of Evidence**

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

271 B. The ~~[Chairman]~~ **Chair** or other member presiding shall rule upon any question of
272 admissibility of testimony or evidence presented to the Committee. The ~~[Chairman]~~ **Chair** or
273 other member presiding may limit the presentation of repetitious evidence. Rulings shall be final
274 unless reversed or modified by a majority vote of the Committee members present.

275 C. At ~~[an investigative]~~ **a formal** hearing, the burden of proof is on the complainant with
276 respect to each count to establish the facts alleged therein clearly and convincingly by the
277 evidence that he introduces.

278

279 RULE ~~[10:]~~ **11. Witnesses**

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

283 B. Except as otherwise specifically authorized by the ~~[Chairman]~~ **Chair**, no member of
284 the Committee or staff shall make public the name of any witness subpoenaed by the Committee
285 before his scheduled appearance.

286 C. Witnesses at ~~[investigative]~~ **formal** hearings may be accompanied by their counsel for
287 the purpose of advising them concerning their constitutional rights and to raise objections to
288 procedures or to the admissibility of testimony and evidence. Counsel for a witness other than
289 the respondent shall not be permitted to engage in oral argument with the Committee. ~~[After a~~
290 ~~witness has testified, his counsel may submit to the Committee, in writing, any questions he~~
291 ~~wishes propounded to his client and any request for additional witnesses or other evidence. Such~~
292 ~~request may be granted in the discretion of the Committee.]~~

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

298 E. The respondent is entitled to present witnesses ~~[in]~~ **on** his behalf. However, the
299 ~~[Chairman]~~ **Chair** may limit such testimony when, in his discretion, he finds the testimony is
300 repetitious ~~[or]~~ , cumulative, **or irrelevant**.

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

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

305 H. Within ten (10) calendar days before the scheduled ~~[investigative]~~ **formal** hearing, the
306 ~~[Chairman]~~ **Chair** shall notify the respondent, in writing, of the witnesses that are to appear
307 before the Committee. Within five (5) calendar days before the scheduled ~~[investigative]~~ **formal**
308 hearing, the respondent shall notify the Committee, in writing, of the witnesses that are to appear
309 in his behalf. Additional witnesses may be brought before the Committee, in the discretion of
310 the ~~[Chairman]~~ **Chair** or other member presiding and upon good cause, if their whereabouts or
311 existence were unknown to the respondent at the time for submission of the witness list to the
312 Committee.

313

314 **RULE ~~[44-]~~ 12. Findings, Conclusions and Recommendations**

315 A. At the completion of the ~~[preliminary]~~ **informal** hearing or ~~[investigative]~~ **formal**
316 hearings, the Committee, by a majority vote of its members, shall, within forty-five (45) days,
317 adopt a report stating its findings and conclusions on the complaint. The report shall be filed with
318 the Chief Clerk of the House and shall be printed in the House Journal. In the event the
319 Committee finds that the complaint is not well-founded, the report shall so state, and shall
320 include a copy of a Letter of Reproval if the Committee authorized such sanction. In the event
321 the Committee finds that the complaint is well-founded, the report shall state the Committee's
322 recommendation in a resolution appended thereto.

323 B. The resolution shall state the Committee's findings and conclusions on each allegation
324 in the complaint with the recommendation that the House **take one of the following actions**:

- 325 (1) ~~[Expel the member as provided in Article III, Section 18 of the Missouri Constitution;~~
326 ~~(2) Punish the member as provided in Article III, Section 18 of the Missouri Constitution;~~
327 ~~by reprimand on the adoption of the resolution, or by censure by the Speaker in open session; or~~
328 ~~(3) Take no further action, stating the reasons therefor]~~ **Letter of reproval;**

329 **(2) Reprimand;**

330 **(3) Censure; or**

331 **(4) Expulsion.**

332

333 RULE ~~[12.]~~ **13.** Matters Not Covered in These Rules of Procedure

334 The Rules of Procedure of the United States House of Representatives Committee on
335 Ethics of the ~~[115th]~~ **116th** Congress shall be taken as guidelines in deciding questions, issues,
336 and other matters not otherwise provided for in these Rules of Procedure, except that the Rules
337 of the Missouri House of Representatives governing the party representation on committees shall
338 apply to this Committee.

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