

HOUSE RESOLUTION NO. _____

ETHICS COMMITTEE
RULES OF PROCEDURE

RULE 1. Scope and Authority

These Rules of Procedure govern the conduct of the investigation of complaints of ethical misconduct by a member of the House and are adopted pursuant to House Rule 37.

RULE 2. Definitions

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

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

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

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

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

(5) Ethical misconduct -

(a) A crime;

(b) Willful neglect of duty;

(c) Corruption in office;

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

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

(f) The intentional filing of a false complaint or the filing of a complaint in reckless disregard of the truth; or

(g) Any breach of confidentiality provided for under these rules.

1 (6) Member - Any Missouri State Representative or Missouri State
2 Representative-Elect.

3 RULE 3. Quorum

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

6 RULE 4. Form of Complaints

7 A. All complaints filed against a member shall be made under the
8 authority of Rule 37 of the House Rules of Procedure. The complaints
9 shall be confidential and shall be referred to the Committee on Ethics
10 within fourteen (14) calendar days. Each complaint shall be in
11 writing and under oath from the member, or in the case of alleged
12 sexual harassment, the investigative report shall be sufficient to be
13 considered a proper complaint. All complaints shall contain:

14 (1) The name and address of the member or members or other
15 individual or individuals acting as complainant;

16 (2) The name of the member alleged to have engaged in conduct
17 constituting ethical misconduct;

18 (3) The nature of the alleged act constituting ethical
19 misconduct, including when applicable, the specific law, rule,
20 regulation, or ethical standard violated;

21 (4) The facts alleged to have given rise to the act constituting
22 ethical misconduct; and

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

26 B. All records in the possession of the complainant that are
27 relevant to and in support of the allegations shall be appended to the
28 complaint.

29 RULE 5. Jurisdictional Hearing of the Complaint by the Committee

30 A. Within thirty (30) calendar days of the assignment of the
31 complaint, the Committee shall determine if it is in compliance with
32 Rule 4 of these Rules, and whether on the face of the complaint, the
33 allegations contained therein are within the jurisdiction of the
34 Committee. No person named in the complaint shall act as a member of
35 the Committee for purposes of such complaint. The jurisdictional
36 hearing to examine the complaint and report or other evidence provided
37 to the Committee, and the determination under Rule 5. C. shall be
38 conducted in a closed hearing.

39 B. Complaints determined not to be in compliance with Rule 4 of
40 these Rules shall be returned to the complainant with a statement that
41 it is not in compliance with the Rules of Procedure. The complaint
42 may be resubmitted in the proper form.

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

46 (1) Proceed to a preliminary hearing;

47 (2) Defer action pending completion of any other administrative,
48 disciplinary, commission, or judicial proceeding; or

1 (3) Dismiss the complaint. When a motion to proceed to a
2 preliminary hearing fails on a recorded vote, the complaint shall be
3 immediately dismissed. The Committee may, in its discretion, issue a
4 report in conjunction with the dismissal of the complaint.

5 D. In determining whether or not to proceed to a preliminary
6 hearing, the Committee shall consider the following:

7 (1) The credible evidence of ethical misconduct contained in the
8 complaint, any report, or other evidence appended thereto;

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

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

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

15 E. Complaints determined to be in compliance with Rule 4 of
16 these Rules and accepted for a preliminary hearing shall be
17 transmitted to the respondent with a copy of the Rules of Procedure
18 and notice in writing that the respondent has twenty-one (21) calendar
19 days to respond to the complaint either by way of answer or motion
20 pursuant to Rule 7 of these Rules. The complainant and alleged victim
21 shall also be notified, in writing, of the action of the Committee.

22 F. Any party may make an objection to the participation of any
23 member of the Committee in an examination of the complaint on the
24 grounds that the member cannot render an impartial and unbiased
25 decision in the case. The majority of the members present shall rule
26 on the objection to the participation of any member of the Committee.
27 A temporary replacement shall be made to serve on the Committee on
28 Ethics for all actions concerning a particular complaint for any
29 member of the Committee who is prevented from acting on a complaint
30 under these rules. Any temporary replacement made shall be of the
31 same party as the replaced member and shall be chosen by the Speaker
32 for the replacement of a member of the majority party or chosen by the
33 Minority Floor Leader for the replacement of a member of the minority
34 party; except that, if the Speaker is the respondent, the complainant,
35 or the victim, the temporary replacement shall be chosen by the Chair
36 of the Committee or, if the Minority Floor Leader is the respondent,
37 the complainant, or the victim, the temporary replacement shall be
38 chosen by the Vice Chair of the Committee.

39 RULE 6. Confidentiality

40 A. Counsel for the Committee on Ethics, with the consent of the
41 Chair and Vice Chair, may redact any of the names and identifying
42 information of the parties mentioned in any report, or provide a
43 summary of the report.

44 B. No member or staff of the Committee on Ethics shall disclose,
45 to any person or entity outside the Committee, any information
46 received in the course of service with the Committee, except as
47 authorized by the Committee or in accordance with its rules.

48 C. No person, other than House staff or employees properly part
49 of the complaint process by rule or policy, who reviews or receives

1 the results of any investigation or report shall disclose any
2 information contained in the report, except to his counsel or in
3 accordance with these rules.

4 D. If the complaint proceeds to a preliminary hearing, an
5 unredacted report shall be provided to the complainant, respondent,
6 and alleged victim. Any document provided by the Committee shall
7 contain a watermark indicating that the document is confidential and
8 shall list the name of the recipient.

9 RULE 7. Answers and Motions

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

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

23 (2) An objection to the jurisdiction of the Committee to
24 investigate the complaint.

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

29 C. The Chair of the Committee shall pass upon such motions as
30 soon as practicable and notice of the decision shall be furnished to
31 the respondent and the complainant. A motion to quash a subpoena
32 shall be decided by the Chair of the Committee.

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

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

42 RULE 8. Preliminary Hearings

43 A. A preliminary hearing may be held to hear arguments based on
44 the evidence submitted in the case. The preliminary hearing may be
45 closed at the discretion of the Committee. The Committee shall
46 provide the complainant and the respondent or counsel for the
47 complainant and respondent an opportunity to present, orally or in
48 writing, a statement, which shall be under oath or affirmation,

1 regarding the allegations and any other relevant questions arising out
2 of the complaint or other evidence provided to the committee. Opening
3 statements made during a preliminary hearing shall be limited to
4 fifteen minutes for the complainant and fifteen minutes for the
5 respondent; however, such time limitations may be increased at the
6 discretion of the Chair of the Committee.

7 B. The Committee shall require that testimony be given under
8 oath or affirmation. The form of the oath or affirmation shall be: "Do
9 you solemnly swear (or affirm) that the testimony you will give before
10 this Committee in the matter now under consideration will be the
11 truth, the whole truth, and nothing but the truth (so help you God)?"
12 The oath or affirmation shall be administered by the Chair or
13 Committee member designated by him to administer oaths. The Committee
14 may take testimony from the complainant, alleged victim, respondent,
15 and any other witness at the discretion of the Chair. The
16 complainant, alleged victim, and respondent may submit a list of
17 proposed witnesses to the Chair for consideration at least twenty-four
18 hours in advance of the hearing. Only the Committee members, or
19 special counsel for the Committee, may question a witness at the
20 preliminary hearing.

21 C. At the conclusion of the preliminary hearing, a majority of
22 the Committee shall vote by roll call to:

- 23 (1) Dismiss the complaint, which may be accompanied by a report
24 issued by the Committee;
25 (2) Proceed by undertaking a formal hearing; or
26 (3) Offer a recommended sanction to the member which may include
27 one of the following:
28 (a) Letter of reproof;
29 (b) Reprimand;
30 (c) Censure; or
31 (d) Expulsion.

32 If the member accepts the Committee's recommended sanction, the
33 sanction shall be enforced and the complaint shall be concluded. If
34 the member does not accept the recommended sanction, the Committee
35 shall then proceed to a formal hearing which shall take place no later
36 than ninety (90) calendar days after the date that the recommended
37 sanction was rejected or as scheduled or extended by a majority vote
38 of the Committee.

39 RULE 9. Formal Hearings

40 A. A formal hearing shall be held on the record to receive
41 evidence upon which to base findings, conclusions, and
42 recommendations, if any, to the House; except that, such hearing may
43 be closed at the discretion of the Committee. The Committee may
44 require, by subpoena or otherwise, or by subpoena duces tecum, the
45 attendance and testimony of such witnesses and the production of such
46 books, records, correspondence, memorandums, papers, electronic
47 communications, and documents as it deems necessary. The Committee
48 may issue and enforce subpoenas as allowed by law.

1 B. Prior to setting a hearing date and issuing subpoenas for
2 witnesses, the Committee shall resolve the scope and purpose of the
3 hearings. A copy of this statement of scope and purpose shall be
4 furnished to all witnesses. During the course of the hearings the
5 Committee may expand or contract the scope in light of evidence
6 received.

7 C. The order of the formal hearing shall be as follows:

8 (1) The Chair shall open the hearing by stating the Committee's
9 authority to conduct the investigation, the purpose of the
10 investigation and its scope.

11 (2) The complainant and the respondent or counsel for the
12 complainant and respondent shall be permitted to make opening
13 statements. Such opening statements shall not exceed fifteen minutes
14 each.

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

- 17 (a) Witnesses and other evidence offered by the complainant;
- 18 (b) Witnesses and other evidence offered by the respondent;
- 19 (c) Witnesses and other evidence offered by the Committee; and
- 20 (d) Rebuttal witnesses.

21 (4) The Chair, or his designee, and the Committee members may
22 question any witness.

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

29 RULE 10. Admissibility of Evidence

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

35 B. The Chair or other member presiding shall rule upon any
36 question of admissibility of testimony or evidence presented to the
37 Committee. The Chair or other member presiding may limit the
38 presentation of repetitious evidence. Rulings shall be final unless
39 reversed or modified by a majority vote of the Committee members
40 present.

41 C. At a formal hearing, the burden of proof is on the
42 complainant with respect to each count to establish the facts alleged
43 therein clearly and convincingly by the evidence that he introduces.

44 RULE 11. Witnesses

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

1 B. Except as otherwise specifically authorized by the Chair, no
2 member of the Committee or staff shall make public the name of any
3 witness subpoenaed by the Committee before his scheduled appearance.

4 C. Witnesses at formal hearings may be accompanied by their
5 counsel for the purpose of advising them concerning their
6 constitutional rights and to raise objections to procedures or to the
7 admissibility of testimony and evidence.

8 D. Chair may limit such testimony when, in his discretion, he
9 finds the testimony is repetitious, cumulative, or irrelevant.

10 E. Each witness subpoenaed by the Committee shall be reimbursed
11 for those reasonable expenses approved by the Committee.

12 F. Each witness shall be furnished a printed copy of the Rules
13 of Procedure and the pertinent provisions of the Rules of the House
14 applicable to the rights of witnesses.

15 G. Within ten calendar days before the scheduled formal hearing,
16 each party shall notify the Committee and all other parties to the
17 complaint, in writing, of the witnesses that are to appear at the
18 formal hearing. Within five calendar days before the scheduled formal
19 hearing, each party shall notify the Committee and all other parties
20 to the complaint, in writing, of any proposed rebuttal witnesses that
21 are to appear on his behalf. The Chair may exercise discretion in
22 allowing any party's good faith request for additional witnesses that
23 are proposed after the expiration of these time limits, or in denying
24 any witness request made by a party if such request is not made in
25 good faith.

26 RULE 12. Findings, Conclusions and Recommendations

27 A. At the completion of the preliminary hearing or formal
28 hearings, the Committee, by a majority vote of its members, shall,
29 within forty-five (45) days, adopt a report stating its findings and
30 conclusions on the complaint. The report shall be filed with the
31 Chief Clerk of the House and shall be printed in the House Journal.
32 In the event the Committee finds that the complaint is not
33 well-founded, the report shall so state, and shall include a copy of a
34 Letter of Reproval if the Committee authorized such sanction. In the
35 event the Committee finds that the complaint is well-founded, the
36 report shall state the Committee's recommendation in a resolution
37 appended thereto.

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

- 41 (1) Letter of reproof;
- 42 (2) Reprimand;
- 43 (3) Censure; or
- 44 (4) Expulsion.

45 C. The chair or counsel for the Committee shall redact from its
46 findings, conclusions, and recommendations, the name or names and any
47 identifying information of any person or persons alleged to be a
48 victim of sexual harassment or sexual misconduct by a member. An
49 alleged victim may consent to the release of his or her name or other

1 identifying information by providing a written request to the chair of
2 the Committee.

3 RULE 13. Matters Not Covered in These Rules of Procedure
4 The Rules of Procedure of the United States House of
5 Representatives Committee on Ethics of the 116th Congress shall be
6 taken as guidelines in deciding questions, issues, and other matters
7 not otherwise provided for in these Rules of Procedure, except that
8 the Rules of the Missouri House of Representatives governing the party
9 representation on committees shall apply to this Committee.

Introduced By: (Sponsor) _____
Signature Dist. #

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