

ETHICS COMMITTEE
RULES OF PROCEDURE
101st GENERAL ASSEMBLY

Adopted February 1, 2021

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.

(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 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 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.

(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.

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

No allegation of ethical misconduct may be based on actions that occurred more than six years prior to the date the respondent assumed the office of Representative, unless the actions, whether charged or uncharged, would constitute a Class A felony offense under the laws of this state, or would constitute an offense of a sexual nature under the laws of this state.

RULE 3. Quorum

A quorum exists when a majority of the members of the Committee are present. A quorum of appointed members shall be necessary to hold a hearing of any type.

RULE 4. Form of Complaints

A. All complaints filed against a member shall be made under the authority of Rule 37 of the House Rules of Procedure. The complaints shall be confidential and shall be referred to the Committee on Ethics within fourteen (14) calendar days. The Speaker's referral of a complaint shall include a letter delivered to the Chief Clerk noting the date and time of receipt of the complaint, and the date and time of delivery to the Committee on Ethics. Each complaint shall be in writing and under oath from the member, or in the case of alleged sexual harassment or a violation of the amorous relationship policy, the investigative report shall be sufficient to be considered a proper complaint. All complaints shall contain:

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

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

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

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

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

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

C. In the case that the Chief Clerk retains outside counsel to investigate an alleged violation of the sexual harassment or amorous relationship policies, the Chief Clerk shall notify the respondent in writing that a complaint has been filed, but shall not disclose details of the complaint to the respondent without permission from the Chair and Vice Chair of the Committee.

RULE 5. Jurisdictional Hearing of the Complaint by the Committee

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

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

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

(1) Proceed to a primary hearing;

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

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

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

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

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

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

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

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

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

the respondent, the complainant, or the victim, the temporary replacement shall be chosen by the Vice Chair of the Committee.

RULE 6. Confidentiality

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

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

C. No person, other than House staff or employees properly part of the complaint process by rule or policy, who reviews or receives the results of any investigation or report shall disclose any information contained in the report, except to his counsel or in accordance with these rules.

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

E. No audio or visual recording shall be made of any closed hearing of the Committee on Ethics without the prior, express permission of the Chair. A violation of this paragraph may be treated as contempt or disorderly conduct as authorized under Article III, Section 18 of the Constitution of the state of Missouri.

RULE 7. Answers and Motions

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

(1) An admission or denial under oath, of the allegations set forth in the complaint, including negative and affirmative defenses, and any other relevant information, including

supporting evidence which the respondent may desire to submit. Failure to file an answer within the time prescribed shall be considered by the Committee as a denial of each allegation; or

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

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

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

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

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

RULE 8. Primary Hearings

A. A primary hearing may be held to hear arguments based on the evidence submitted in the case. The primary hearing may be closed at the discretion of the Committee. The Committee shall provide the complainant and the respondent or counsel for the complainant and respondent an opportunity to present, orally or in writing, a statement, which shall be under oath or affirmation, regarding the allegations and any other relevant questions arising out of the complaint or other evidence provided to the committee. Opening statements made during a primary hearing shall be limited to fifteen minutes for the complainant and fifteen minutes for the respondent; however, such time limitations may be increased at the discretion of the Chair of the Committee.

B. The Committee shall require that testimony be given under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this Committee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered by the Chair or Committee member designated by him to administer oaths. The Committee may take testimony from the complainant, alleged victim, respondent, and any other

witness at the discretion of the Chair. The complainant, alleged victim, and respondent may submit a list of proposed witnesses to the Chair for consideration at least twenty-four hours in advance of the hearing. Only the Committee members, or special counsel for the Committee, may question a witness at the primary hearing.

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

(1) Dismiss the complaint, which may be accompanied by a report issued by the Committee;

(2) Proceed by undertaking a formal hearing; or

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

(a) Letter of reproof;

(b) Reprimand;

(c) Censure; or

(d) Expulsion.

The member shall be given notice of his or her right to object to the Committee's recommended sanction by the time set forth by the Committee, which shall be no less than seventy-two hours. If the respondent fails to object in writing to the Committee's recommendation, he or she shall be deemed to waive any and all rights to further proceedings before the Committee on Ethics and the Committee report shall be filed by the Committee in the form of a House Resolution with the Clerk of the House. The recommendation shall also be published in the House Journal and automatically placed on the House Resolutions Calendar without further referral. If the respondent objects in writing to the recommendation within the time set forth by the Committee, the Committee shall proceed to a formal hearing, which shall take place no later than ninety days after the receipt of such objection or as scheduled or extended by a majority vote of the Committee.

RULE 9. Formal Hearings

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

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

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

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

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

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

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

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

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

(d) Rebuttal witnesses.

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

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

RULE 10. Admissibility of Evidence

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

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

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

RULE 11. Witnesses

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

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

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

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

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

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

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

RULE 12. Findings, Conclusions and Recommendations

A. At the completion of the primary hearing or formal hearings, the Committee, by a majority vote of its members, shall, within forty-five (45) days, adopt a report stating its findings and conclusions on the complaint. The report shall be filed with the Chief Clerk of the House, with a copy delivered to the office of the Speaker, office of the Majority Floor Leader, and office of the Minority Floor Leader, and shall be printed in the House Journal. In the event the Committee finds that the complaint is not well-founded, the report shall so state, and shall include a copy of a Letter of Reproval if the Committee authorized such sanction. In the event the Committee finds that the complaint is well-founded, the report shall state the Committee's recommendation in a resolution appended thereto.

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

- (1) Letter of reproval;
- (2) Reprimand;
- (3) Censure; or
- (4) Expulsion.

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

D. The Committee's recommendation may also require payment of restitution and costs incurred in the investigation, or impose any other sanction that the Committee deems just and proper under the circumstances, but the amount of restitution and costs shall not exceed the costs incurred by the House related to the complaint. Any assessment of fines or restitution and costs shall be paid in full by the member no later than thirty days after the adoption of a recommendation by the House of Representatives. If the member fails to pay in full by the expiration of the thirty-day time period, then the Chief Clerk may deduct from the member's salary an appropriate monthly sum to repay the full amount due by the conclusion of the member's current term of office.

RULE 13. Matters Not Covered in These Rules of Procedure

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

RULE 14. Depositions

The Chair of the Committee, upon consultation with the Vice Chair, may order the taking of depositions, under the authority of Section 21.380, RSMo, by a member or counsel of the Committee. Witnesses may be accompanied at a deposition by counsel to advise the witnesses of their rights. Only members of the Committee, Committee staff designated by the Chair or Vice Chair, an official reporter, the witness, and the witness's counsel are permitted to attend. Depositions may be taken at any stage of the proceedings and may be used as evidence submitted by the Committee on Ethics.

RULE 15. Limitations on Scope and Authority

Nothing contained in these rules shall be construed to limit the authority of the House of Representatives as enumerated under Article III, Section 18, of the Constitution of the state of Missouri.