

HOUSE RESOLUTION NO. 85

ETHICS COMMITTEE
RULES OF PROCEDURE
102nd GENERAL ASSEMBLY

1 RULE 1. Scope and Authority

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

5 RULE 2. Definitions

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

9 (1) Letter of reproof - A sanction which expresses disapproval
10 of conduct based on the appropriateness of such conduct by a member,
11 regardless of whether the conduct constitutes a legal or moral wrong.

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

16 (3) Censure - A sanction which recognizes the member's conduct
17 constituted a legal or moral wrong, and which shall include punishment
18 in the form of denying privileges of office and requires the presence
19 of the member in the chamber during consideration and vote by the
20 entire House on such resolution.

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

25 (5) Ethical misconduct -

26 (a) A crime;

27 (b) Willful neglect of duty;

28 (c) Corruption in office;

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

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

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

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

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

1 No allegation of ethical misconduct may be based on actions that
2 occurred more than six years prior to the date the respondent assumed
3 the office of Representative, unless the actions, whether charged or
4 uncharged, would constitute a Class A felony offense under the laws of
5 this state, or would constitute an offense of a sexual nature under
6 the laws of this state.
7

8 RULE 3. Quorum

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

12 RULE 4. Form of Complaints

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

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

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

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

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

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

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

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

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

46 A. Within thirty (30) calendar days of the assignment of the
47 complaint, the Committee shall determine if it is in compliance with
48 Rule 4 of these Rules, and whether on the face of the complaint, the

1 allegations contained therein are within the jurisdiction of the
2 Committee. No person named in the complaint shall act as a member of
3 the Committee for purposes of such complaint. The jurisdictional
4 hearing to examine the complaint and report or other evidence provided
5 to the Committee, and the determination under Rule 5. C. shall be
6 conducted in a closed hearing.

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

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

14 (1) Proceed to a primary hearing;

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

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

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

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

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

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

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

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

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

1 or the victim, the temporary replacement shall be chosen by the Chair
2 of the Committee or, if the Minority Floor Leader is the respondent,
3 the complainant, or the victim, the temporary replacement shall be
4 chosen by the Vice Chair of the Committee.

5 RULE 6. Confidentiality

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

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

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

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

24 E. All confidential Committee records, including reports
25 received by the Committee, shall remain closed records unless
26 otherwise ordered by the Committee or these rules.

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

32 RULE 7. Answers and Motions

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

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

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

48 B. Any motion submitted pursuant to this rule is not in lieu of

1 an answer and shall be accompanied by a memorandum of points and
2 authorities. Answers or motions not submitted within the twenty-one
3 (21) calendar-day period shall not be considered by the Committee.

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

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

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

17 RULE 8. Primary Hearings

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

30 B. The Committee shall require that testimony be given under
31 oath or affirmation. The form of the oath or affirmation shall be: "Do
32 you solemnly swear (or affirm) that the testimony you will give before
33 this Committee in the matter now under consideration will be the
34 truth, the whole truth, and nothing but the truth (so help you God)?"
35 The oath or affirmation shall be administered by the Chair or
36 Committee member designated by ~~him~~ the Chair to administer oaths.
37 The Committee may take testimony from the complainant, alleged victim,
38 respondent, and any other witness at the discretion of the Chair. The
39 complainant, alleged victim, and respondent may submit a list of
40 proposed witnesses to the Chair for consideration at least twenty-four
41 hours in advance of the hearing. Only the Committee members, or
42 special counsel for the Committee, may question a witness at the
43 primary hearing.

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

- 46 (1) Dismiss the complaint, which may be accompanied by a report
47 issued by the Committee;
48 (2) Proceed by undertaking a formal hearing; or
49 (3) Offer a recommended sanction to the member which may include

1 one of the following:

- 2 (a) Letter of reproof;
- 3 (b) Reprimand;
- 4 (c) Censure; or
- 5 (d) Expulsion.

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

21 RULE 9. Formal Hearings

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

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

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

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

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

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

- 47 (a) Witnesses and other evidence offered by the complainant;
- 48 (b) Witnesses and other evidence offered by the respondent;

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

2 (d) Rebuttal witnesses.

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

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

12 RULE 10. Admissibility of Evidence

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

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

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

28 RULE 11. Witnesses

29 A. A subpoena to a witness shall be served sufficiently in
30 advance of his or her scheduled appearance to allow [~~him~~] the witness
31 a reasonable period of time, as determined by the Committee, to
32 prepare for the hearing and to employ counsel should he or she so
33 desire.

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

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

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

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

47 F. Each witness shall be furnished a printed copy of the Rules
48 of Procedure and the pertinent provisions of the Rules of the House

1 applicable to the rights of witnesses.

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

13 RULE 12. Findings, Conclusions and Recommendations

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

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

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

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

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

1 monthly sum to repay the full amount due by the conclusion of the
2 member's current term of office.

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~~] 118th Congress
6 shall be taken as guidelines in deciding questions, issues, and other
7 matters not otherwise provided for in these Rules of Procedure, except
8 that the Rules of the Missouri House of Representatives governing the
9 party representation on committees shall apply to this Committee.

10 RULE 14. Depositions
11 The Chair of the Committee, upon consultation with the Vice
12 Chair, may order the taking of depositions, under the authority of
13 Section 21.380, RSMo, by a member or counsel of the Committee.
14 Witnesses may be accompanied at a deposition by counsel to advise the
15 witnesses of their rights. Only members of the Committee, Committee
16 staff designated by the Chair or Vice Chair, an official reporter, the
17 witness, and the witness's counsel are permitted to attend.
18 Depositions may be taken at any stage of the proceedings and may be
19 used as evidence submitted by the Committee on Ethics.

20 RULE 15. Limitations on Scope and Authority
21 Nothing contained in these rules shall be construed to limit the
22 authority of the House of Representatives as enumerated under Article
23 III, Section 18, of the Constitution of the state of Missouri.

1 Introduced By: (Sponsor) _____
2 Signature Dist. #

3 REMINDER: Co-sponsors must sign onto a house bill or resolution electronically through a
4 house computer or the house WEB Portal (home.house.mo.gov). Please call the office of the
5 Assistant Chief Clerk at (573) 751-4503 if you have questions.