

HOUSE RESOLUTION NO. 141

ETHICS COMMITTEE
RULES OF PROCEDURE
103rd 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

6 RULE 2. Definitions

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

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

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

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

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

26 (5) Ethical misconduct -

27 (a) A crime;

28 (b) Willful neglect of duty;

29 (c) Corruption in office;

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

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

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

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

40 (6) Member - Any Missouri State Representative or Missouri State
41 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
5 of 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

13 RULE 4. Form of Complaints

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

26 B. In the case of a complaint of sexual harassment or a
27 violation of the amorous relationship policy made either by or against
28 a member, the Chief Clerk of the House shall contract with outside
29 legal counsel for the purpose of investigating the complaint. The
30 Chief Clerk shall ensure the complaint and any results of an
31 investigation shall be referred within fourteen calendar days of
32 receipt of the complaint to the chair and vice chair of the Committee
33 on Ethics; except that, the fourteen-day referral requirement may be
34 extended for good cause for a period no longer than thirty days.

35 C. All complaints shall contain:

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

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

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

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

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

48 ~~[B-]~~ D. All records in the possession of the complainant that
49 are relevant to and in support of the allegations shall be appended to
50 the complaint.

1 ~~[C.]~~ E. In the case that the Chief Clerk retains outside counsel
2 to investigate an alleged violation of the sexual harassment or
3 amorous relationship policies, the Chief Clerk shall notify the
4 respondent in writing that a complaint has been filed, but shall not
5 disclose details of the complaint or complainant to the respondent
6 without permission from the Chair and Vice Chair of the Committee.
7

8 RULE 5. Jurisdictional ~~[Hearing of the Complaint by the Committee]~~
9 Hearings

10 A. Within ~~[thirty (30)]~~ twenty-one (21) calendar days of the
11 assignment of the complaint, the Committee shall determine if it is in
12 compliance with Rule 4 of these Rules, and whether on the face of the
13 complaint, the allegations contained therein are within the
14 jurisdiction of the Committee. No person named in the complaint shall
15 act as a member of the Committee for purposes of such complaint. ~~[The]~~
16 A jurisdictional hearing to examine the complaint and report or other
17 evidence provided to the Committee, and the determination under Rule
18 5. C. shall be conducted in a closed hearing.

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

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

26 (1) Proceed to a primary hearing;

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

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

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

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

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

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

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

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

50 ~~—F.]~~ Any party may make an objection to the participation of any

1 member of the Committee in an examination of the complaint on the
2 grounds that the member cannot render an impartial and unbiased
3 decision in the case. The majority of the members present shall rule
4 on the objection to the participation of any member of the Committee.
5 A temporary replacement shall be made to serve on the Committee on
6 Ethics for all actions concerning a particular complaint for any
7 member of the Committee who is prevented from acting on a complaint
8 under these rules. Any temporary replacement made shall be of the
9 same party as the replaced member and shall be chosen by the Speaker
10 for the replacement of a member of the majority party or chosen by the
11 Minority Floor Leader for the replacement of a member of the minority
12 party; except that, if the Speaker is the respondent, the complainant,
13 or the victim, the temporary replacement shall be chosen by the Chair
14 of the Committee or, if the Minority Floor Leader is the respondent,
15 the complainant, or the victim, the temporary replacement shall be
16 chosen by the Vice Chair of the Committee. If a member of the
17 Committee is unable to fulfill his or her duties for any other reason,
18 a temporary replacement shall be appointed under the procedure
19 described in this paragraph.

20
21 RULE 6. Confidentiality

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

26 B. No member or staff of the Committee on Ethics shall, during
27 or after the investigation of the complaint, disclose, to any person
28 or entity outside the Committee, any information received in the
29 course of service with the Committee, except as authorized by the
30 Committee or in accordance with its rules.

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

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

41 E. All confidential Committee records, including reports received
42 by the Committee, shall remain closed records unless otherwise ordered
43 by the Committee or these rules.

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

49
50 RULE 7. Answers and Motions

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

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

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

16 B. Any motion submitted pursuant to this rule is not in lieu of
17 an answer and shall be accompanied by a memorandum of points and
18 authorities. Answers or motions not submitted ~~within the twenty-one~~
19 ~~(21) calendar-day period~~ prior to the deadline described in paragraph
20 A of this Rule shall not be considered by the Committee.

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

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

31 E. The Chair may elect to retain special counsel for the
32 Committee. In the event that [a] special counsel is retained by the
33 Committee, the attorney-client privilege is applicable to the
34 Committee and not to the House.

35
36 RULE 8. Primary Hearings

37 A. Complaints determined to be in compliance with Rule 4 of
38 these Rules and accepted for a primary hearing shall be transmitted to
39 the respondent before the conclusion of the primary hearing with a
40 copy of the Rules of Procedure and notice in writing that the
41 respondent may respond to the complaint either by way of answer or
42 motion pursuant to Rule 7 of these Rules; a redacted complaint or a
43 summary of the complaint may be provided in lieu thereof upon approval
44 of the Committee. The complainant and alleged victim shall also be
45 notified, in writing, of the action of the Committee.

46 B. A primary hearing may be held to hear arguments based on the
47 evidence submitted in the case. The primary hearing may be closed at
48 the discretion of the Committee. The Committee shall provide the
49 complainant and the respondent or counsel for the complainant and
50 respondent an opportunity to present, orally or in writing, a

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

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

22 ~~[C.]~~ D. The Committee may receive witness testimony and evidence
23 upon which to base findings, conclusions, and recommendations. The
24 Committee may require, by subpoena or by subpoena duces tecum, the
25 attendance and testimony of such witnesses and the production of such
26 books, records, correspondence, memorandums, papers, electronic
27 communications, and documents as it deems necessary. The Committee
28 may issue and enforce subpoenas as allowed by law.

29 E. If in the course of investigating the complaint, the
30 Committee discovers information that may indicate ethical misconduct
31 by the respondent other than that outlined in the complaint, the
32 Committee may, by a majority vote of the Committee, expand the scope
33 of the investigation to include broader or additional allegations of
34 ethical misconduct.

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

- 37 (1) Dismiss the complaint, which may be accompanied by a report
38 issued by the Committee;
39 (2) Proceed by undertaking a formal hearing; or
40 (3) Offer a recommended sanction to the member which may include
41 one of the following:
42 (a) Letter of reproof;
43 (b) Reprimand;
44 (c) Censure; or
45 (d) Expulsion.

46
47 The member shall be given notice of his or her right to object to the
48 Committee's recommended sanction by the time set forth by the
49 Committee, which shall be no less than seventy-two hours. If the
50 respondent fails to object in writing to the Committee's

1 recommendation, ~~[he or she]~~ the respondent shall be deemed to waive
2 any and all rights to further proceedings before the Committee on
3 Ethics and the Committee report issued by the committee pursuant to
4 this paragraph shall be filed by the Committee in the form of a House
5 Resolution with the Clerk of the House. The recommendation shall also
6 be published in the House Journal and automatically placed on the
7 House Resolutions Calendar without further referral. If the
8 respondent objects in writing to the recommendation within the time
9 set forth by the Committee, the Committee shall proceed to a formal
10 hearing, which shall take place no later than ninety days after the
11 receipt of such objection or as scheduled or extended by a majority
12 vote of the Committee.

13
14 RULE 9. Formal Hearings

15 A. If the respondent objects in writing to the Committee's
16 recommendation pursuant to Rule 8, a formal hearing shall be held on
17 the record to receive evidence upon which to base findings,
18 conclusions, and recommendations, if any, to the House; except that,
19 such hearing may be closed at the discretion of the Committee. The
20 Committee may require, by subpoena or otherwise, or by subpoena duces
21 tecum, the attendance and testimony of such witnesses and the
22 production of such books, records, correspondence, memorandums,
23 papers, electronic communications, and documents as it deems
24 necessary. The Committee may issue and enforce subpoenas as allowed
25 by law.

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

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

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

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

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

- 42 (a) Witnesses and other evidence offered by the complainant;
43 (b) Witnesses and other evidence offered by the respondent;
44 (c) Witnesses and other evidence offered by the Committee; and
45 (d) Rebuttal witnesses.

46 (4) ~~[The Chair, or his or her designee, and the Committee members~~
47 ~~may question any witness.]~~ Only the Committee members, or special
48 counsel for the Committee, may question a witness at the formal
49 hearing.

50 D. Testimony of all witnesses shall be taken under oath. The

1 form of the oath shall be: "Do you solemnly swear (or affirm) that
2 the testimony you will give before this Committee in the matter now
3 under consideration will be the truth, the whole truth, and nothing
4 but the truth (so help you God)?" The oath shall be administered by
5 the Chair or Committee member designated by the Chair to administer
6 oaths.
7

8 RULE 10. Admissibility of Evidence

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

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

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

25 RULE 11. Witnesses

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

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

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

38 D. The Chair may limit such testimony when, in his or her
39 discretion, he or she finds the testimony is repetitious, cumulative,
40 or irrelevant.

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

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

46 G. Within ten calendar days before the scheduled formal hearing,
47 each party shall notify the Committee and all other parties to the
48 complaint, in writing, of the witnesses that are to appear at the
49 formal hearing. Within five calendar days before the scheduled formal
50 hearing, each party shall notify the Committee and all other parties

1 to the complaint, in writing, of any proposed rebuttal witnesses that
2 are to appear on his or her behalf. The Chair may exercise discretion
3 in allowing any party's good faith request for additional witnesses
4 that are proposed after the expiration of these time limits, or in
5 denying any witness request made by a party if such request is not
6 made in good faith.
7

8 RULE 12. Findings, Conclusions and Recommendations

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

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

- 24 (1) Letter of reproof;
- 25 (2) Reprimand;
- 26 (3) Censure; or
- 27 (4) Expulsion.

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

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

48 RULE 13. Matters Not Covered in These Rules of Procedure

49 The Rules of Procedure of the United States House of
50 Representatives Committee on Ethics of the 118th Congress shall be

1 taken as guidelines in deciding questions, issues, and other matters
2 not otherwise provided for in these Rules of Procedure, except that
3 the Rules of the Missouri House of Representatives governing the party
4 representation on committees shall apply to this Committee.
5

6 RULE 14. Depositions

7 The Chair of the Committee, upon consultation with the Vice
8 Chair, may order the taking of depositions, under the authority of
9 Section 21.380, RSMo, by a member or counsel of the Committee.

10 Witnesses may be accompanied at a deposition by counsel to advise the
11 witnesses of their rights. Only members of the Committee, Committee
12 staff designated by the Chair or Vice Chair, an official reporter, the
13 witness, and the witness's counsel are permitted to attend.

14 Depositions may be taken at any stage of the proceedings and may be
15 used as evidence submitted by the Committee on Ethics.
16

17 RULE 15. Limitations on Scope and Authority

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

Introduced By: (Sponsor) _____
Signature Dist. #

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