

HOUSE COMMITTEE SUBSTITUTE

FOR

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

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

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

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

12
13 RULE 3. Quorum

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

17
18 RULE 4. Form of Complaints

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

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

40 C. All complaints shall contain:

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

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

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

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

50 (5) Where the facts are alleged upon the information and belief

1 of the complainant, the complaint shall so state and set forth the
2 basis for such information and belief.

3 ~~[B.]~~ D. All records in the possession of the complainant that
4 are relevant to and in support of the allegations shall be appended to
5 the complaint.

6 ~~[C.]~~ E. In the case that the Chief Clerk retains outside counsel
7 to investigate an alleged violation of the sexual harassment or
8 amorous relationship policies, the Chief Clerk shall notify the
9 respondent in writing that a complaint has been filed, but shall not
10 disclose details of the complaint or complainant to the respondent
11 without permission from the Chair and Vice Chair of the Committee.
12

13 RULE 5. Jurisdictional ~~[Hearing of the Complaint by the Committee]~~
14 Hearings

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

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

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

- 31 (1) Proceed to a primary hearing;
32 (2) Defer action pending completion of any other administrative,
33 disciplinary, commission, or judicial proceeding; or
34 (3) Dismiss the complaint. When a motion to proceed to a
35 primary hearing fails on a recorded vote, the complaint shall be
36 immediately dismissed. The Committee may, in its discretion, issue a
37 report in conjunction with the dismissal of the complaint.

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

- 40 (1) The credible evidence of ethical misconduct contained in the
41 complaint, any report, or other evidence appended thereto;
42 (2) Other administrative or disciplinary action by other
43 interested bodies;
44 (3) Criminal investigation, Missouri Ethics Commission
45 proceeding, or judicial proceedings, either civil or criminal; and
46 (4) Other relevant circumstances that would justify expediting,
47 declining, or deferring action by the Committee.

48 E. ~~[Complaints determined to be in compliance with Rule 4 of
49 these Rules and accepted for a primary hearing shall be transmitted to
50 the respondent with a copy of the Rules of Procedure and notice in~~

1 ~~writing that the respondent has twenty-one (21) calendar days to~~
2 ~~respond to the complaint either by way of answer or motion pursuant to~~
3 ~~Rule 7 of these Rules. The complainant and alleged victim shall also~~
4 ~~be notified, in writing, of the action of the Committee.~~

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

25
26 RULE 6. Confidentiality

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

31 B. No member or staff of the Committee on Ethics shall, during
32 or after the investigation of the complaint, disclose, to any person
33 or entity outside the Committee, any information received in the
34 course of service with the Committee, except as authorized by the
35 Committee or in accordance with its rules.

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

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

46 E. All confidential Committee records, including reports received
47 by the Committee, shall remain closed records unless otherwise ordered
48 by the Committee or these rules.

49 F. No audio or visual recording shall be made of any closed
50 hearing of the Committee on Ethics without the prior, express

1 permission of the Chair. A violation of this paragraph may be treated
2 as contempt or disorderly conduct as authorized under Article III,
3 Section 18 of the Constitution of the state of Missouri.
4

5 RULE 7. Answers and Motions

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

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

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

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

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

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

36 E. The Chair may elect to retain special counsel for the
37 Committee. In the event that ~~[a]~~ special counsel is retained by the
38 Committee, the attorney-client privilege is applicable to the
39 Committee and not to the House.
40

41 RULE 8. Primary Hearings

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

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

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

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

34 E. If in the course of investigating the complaint, the
35 Committee discovers information that may indicate ethical misconduct
36 by the respondent other than that outlined in the complaint, the
37 Committee may, by a majority vote of the Committee, expand the scope
38 of the investigation to include broader or additional allegations of
39 ethical misconduct.

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

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

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

17
18 RULE 9. Formal Hearings

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

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

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

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

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

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

- 46 (a) Witnesses and other evidence offered by the complainant;
47 (b) Witnesses and other evidence offered by the respondent;
48 (c) Witnesses and other evidence offered by the Committee; and
49 (d) Rebuttal witnesses.

50 (4) ~~[The Chair, or his or her designee, and the Committee members~~

1 ~~may question any witness.]~~ Only the Committee members, or special
2 counsel for the Committee, may question a witness at the formal
3 hearing.

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

11
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
29 RULE 11. Witnesses

30 A. A subpoena to a witness shall be served sufficiently in
31 advance of his or her scheduled appearance to allow the witness a
32 reasonable period of time, as determined by the Committee, to prepare
33 for the hearing and to employ counsel should he or she so 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. The 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
49 applicable to the rights of witnesses.

50 G. Within ten calendar days before the scheduled formal hearing,

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

11
12 RULE 12. Findings, Conclusions and Recommendations

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

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

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

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

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

1 RULE 13. Matters Not Covered in These Rules of Procedure
2 The Rules of Procedure of the United States House of
3 Representatives Committee on Ethics [~~of the 118th Congress~~] shall be
4 taken as guidelines in deciding questions, issues, and other matters
5 not otherwise provided for in these Rules of Procedure, except that
6 the Rules of the Missouri House of Representatives governing the party
7 representation on committees shall apply to this Committee.
8

9 RULE 14. Depositions

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

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.

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.