

FIRST REGULAR SESSION

[ADOPTED]

HOUSE COMMITTEE SUBSTITUTE FOR

House Resolution No. 74

99TH GENERAL ASSEMBLY

1277H.02P

ETHICS COMMITTEE

RULES OF PROCEDURE

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4 RULE 1. Scope and Authority

5 These Rules of Procedure govern the conduct of the investigation of complaints of ethical
6 misconduct by a member of the House and are adopted pursuant to House Rule ~~[38]~~ 37.

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8 RULE 2. Definitions

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

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

17 (2) Letter of Reproval - A sanction which expresses disapproval of conduct based on the
18 appropriateness of such conduct by a legislator, regardless of whether the conduct constitutes a
19 legal or moral wrong and is included as part of the committee's report.

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

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25 RULE 3. Quorum

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

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28 RULE 4. Form of Complaints

29 A. All complaints filed with the Speaker against a member of the House shall be made
30 by a member **or other individual under the authority of Rule 101 of the House Rules of**
31 **Procedure or the Policy Handbook of the Missouri House of Representatives involving**
32 **sexual harassment investigations and member referral to the Committee on Ethics.** The
33 complaints shall be confidential and shall be referred to the Committee on Ethics within ten (10)
34 days, **or within fourteen (14) days under Rule 101 of the House Rules of Procedure,** and
35 shall be in writing and under oath, setting forth in simple, concise and direct statements, **unless**
36 **such complaint alleges sexual harassment and is filed under the authority of Rule 101 of**
37 **the House Rules of Procedure or the Policy Handbook, in which case the investigative**
38 **report shall be sufficient to be considered a proper complaint referred to the Committee**
39 **on Ethics:**

40 (1) The name and legal address of the member or members **or other individual** acting
41 as complainant;

42 (2) The name of the member of the House alleged to have engaged in the commission of
43 a crime, misconduct, willful neglect of duty, corruption in office or other acts constituting ethical
44 misconduct. "Misconduct" means:

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

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

49 (c) The intentional filing of a false complaint or the filing of a complaint in reckless
50 disregard of the truth.

51 (3) The nature of the alleged crime, misconduct, neglect, corruption or other unethical
52 act, including when applicable, the specific law, rule, regulation or ethical standard violated;

53 (4) The facts alleged to have given rise to the violation; and

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

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

58

59 RULE 5. Initial Examination of the Complaint by the Committee

60 A. Within thirty (30) days of the assignment of the complaint by the Speaker, the
61 Committee shall determine if it is in compliance with Rule 4 of these Rules, and whether on the
62 face of the complaint, the allegations contained therein are within the jurisdiction of the
63 Committee, and if so, whether the allegations merit proceeding to a preliminary hearing. The
64 complainant shall not act as a member of the Committee at a hearing in which the complainant
65 is likely to be called as a necessary witness. A respondent shall not act as a member of the
66 Committee for purposes of his complaint.

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

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

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

74 (2) Proceed to a preliminary hearing;

75 (3) Dismiss the complaint. When a motion to proceed to a preliminary hearing fails on
76 a recorded vote, the complaint shall be immediately dismissed.

77 D. In determining whether or not to proceed the Committee shall consider the following:

78 (1) The credible evidence contained in the complaint or appended thereto of the
79 commission of a crime, misconduct, willful neglect of duty, corruption in office, or other acts
80 violating applicable ethical standards;

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

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

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

86 E. Complaints determined to be in compliance with Rule 4 of these Rules and accepted
87 for a preliminary hearing shall be transmitted to the respondent with a copy of the Rules of
88 Procedure and notice in writing that the respondent has twenty-one (21) calendar days to respond
89 to the complaint either by way of answer or motion pursuant to Rule 6 of these Rules. The
90 complainant shall also be notified, in writing, of the action of the Committee. Examination of
91 the complaint and the determination of Rule 5.C. shall be conducted in a closed meeting.

92

93 RULE 6. Answers and Motions

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

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

103 (2) An objection to the jurisdiction of the Committee to investigate the complaint; or

104 (3) An objection to the participation of any member of the Committee in an investigation
105 of the complaint on the grounds that the member cannot render an impartial and unbiased
106 decision in the case. The majority of the members present shall rule on the objection to the
107 participation of any member of the Committee. A temporary replacement shall be made to serve
108 on the Committee on Ethics for all actions concerning a particular complaint for any member of
109 the Committee who is prevented from acting on a complaint under these rules.

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

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

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

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

122

123 RULE 7. Preliminary Hearings

124 A. A preliminary hearing may be held to hear arguments based on the pleadings
125 submitted in the case. The preliminary hearing shall be an open meeting. The committee shall
126 provide the complainant and the respondent or counsel for the complainant and respondent an
127 opportunity to present, orally or in writing, a statement, which shall be under oath or affirmation,
128 regarding the allegations and any other relevant questions arising out of the pleadings. A
129 complainant or respondent who is represented by counsel shall not be questioned in the absence
130 of counsel unless an explicit waiver is obtained.

131 B. The committee shall require that testimony be given under oath or affirmation. The
132 form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony
133 you will give before this Committee in the matter now under consideration will be the truth, the
134 whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be
135 administered by the Chairman or Committee member designated by him to administer oaths.
136 Members of the committee shall be given an opportunity to question the complainant and
137 respondent or counsel for the complainant or respondent following the opening statements.

138 C. At the conclusion of the preliminary hearing, a majority of the Committee shall vote
139 by roll call to either:

140 (1) Dismiss the complaint, or

141 (2) Proceed by

142 (a) undertaking an investigative hearing; or

143 (b) deciding the case based upon the preliminary hearing.

144 A decision based upon a preliminary hearing shall require the consent of the respondent.

145 D. If the committee decides to make a summary decision of the case and the respondent
146 accepts this disposition the Committee may, by a majority vote, recommend one of the following
147 sanctions:

148 (1) Letter of reproof;

149 (2) Reprimand; or

150 (3) Censure.

151

152 RULE 8. Investigative Hearings

153 A. An investigative hearing may be held on the record to receive evidence upon which
154 to base findings, conclusions, and recommendations, if any, to the House. The Committee may
155 require, by subpoena or otherwise, or by subpoena duces tecum, the attendance and testimony
156 of such witnesses and the production of such books, records, correspondence, memorandums,
157 papers and documents as it deems necessary. The Committee may obtain a court-issued subpoena
158 in the event that any person refuses to obey the subpoena issued by the Committee.

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

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

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

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

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

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

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

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

174 (d) Rebuttal witnesses.

175 (4) The Chairman or his designee shall examine each witness. The Committee members
176 may then question the witness. The respondent or his counsel may then cross-examine the
177 witness. Redirect or recross examination may be permitted in the Chairman's discretion. With
178 respect to witnesses offered by the respondent, a witness shall be examined first by the
179 respondent or his counsel, if he has one, and then may be cross-examined by the complainant or
180 his counsel, if he has one, and then may be cross-examined by the Chairman or his designee.
181 Committee members may then question the witness. Redirect and recross examination may be
182 permitted in the Chairman's discretion.

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

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189 RULE 9. Admissibility of Evidence

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

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

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

201

202 RULE 10. Witnesses

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

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

209 C. Witnesses at investigative hearings may be accompanied by their counsel for the
210 purpose of advising them concerning their constitutional rights and to raise objections to
211 procedures or to the admissibility of testimony and evidence. Counsel for a witness other than
212 the respondent shall not be permitted to engage in oral argument with the Committee. After a
213 witness has testified, his counsel may submit to the Committee, in writing, any questions he
214 wishes propounded to his client and any request for additional witnesses or other evidence. Such
215 request may be granted in the discretion of the Committee.

216 D. The respondent may apply to the Committee for the issuance of subpoenas for the
217 appearance of witnesses or the production of documents on his behalf. The application shall be
218 granted upon good cause shown by the respondent that the proposed testimony or evidence is
219 relevant and not otherwise available. The application shall be denied if not made at a reasonable
220 time or if the testimony or evidence would be merely cumulative.

221 E. The respondent is entitled to present witnesses in his behalf. However, the Chairman
222 may limit such testimony when, in his discretion, he finds the testimony is repetitious or
223 cumulative.

224 F. Each witness subpoenaed by the Committee shall be reimbursed for those reasonable
225 expenses approved by the Committee.

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

228 H. Within ten (10) calendar days before the scheduled investigative hearing, the
229 Chairman shall notify the respondent, in writing, of the witnesses that are to appear before the
230 Committee. Within five (5) calendar days before the scheduled investigative hearing, the
231 respondent shall notify the Committee, in writing, of the witnesses that are to appear in his
232 behalf. Additional witnesses may be brought before the Committee, in the discretion of the
233 Chairman or other member presiding and upon good cause, if their whereabouts or existence
234 were unknown to the respondent at the time for submission of the witness list to the Committee.

235 RULE 11. Findings, Conclusions and Recommendations

236 A. At the completion of the preliminary hearing or investigative hearings, the Committee,
237 by a majority vote of its members, shall, within forty-five (45) days, adopt a report stating its
238 findings and conclusions on the complaint. The report shall be filed with the Chief Clerk of the
239 House and shall be printed in the House Journal. In the event the Committee finds that the
240 complaint is not well-founded, the report shall so state, and shall include a copy of a Letter of
241 Reprimand if the Committee authorized such sanction. In the event the Committee finds that the
242 complaint is well-founded, the report shall state the Committee's recommendation in a resolution
243 appended thereto.

244 B. The resolution shall state the Committee's findings and conclusions on each allegation
245 in the complaint with the recommendation that the House:

246 (1) Expel the member as provided in Article III, Section 18 of the Missouri Constitution;

247 (2) Punish the member as provided in Article III, Section 18 of the Missouri Constitution,
248 by reprimand on the adoption of the resolution, or by censure by the Speaker in open session; or

249 (3) Take no further action, stating the reasons therefor.

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251 RULE 12. Matters Not Covered in These Rules of Procedure

252 The Rules of Procedure of the United States House of Representatives Committee on
253 Ethics of the ~~[114th]~~ 115th Congress shall be taken as guidelines in deciding questions, issues, and
254 other matters not otherwise provided for in these Rules of Procedure, except that the Rules of
255 the Missouri House of Representatives governing the party representation on committees shall
256 apply to this Committee.

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