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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE RESOLUTION

No. 192 Session of  
2022

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INTRODUCED BY KLUNK, STEPHENS, ROTHMAN, HENNESSEY, WHITE,  
HARKINS, CUTLER, BENNINGHOFF, OBERLANDER, TOMLINSON, LEWIS  
DELROSSO, O'NEAL, ECKER, FARRY, FEE AND KAIL, APRIL 5, 2022

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REFERRED TO COMMITTEE ON RULES, APRIL 5, 2022

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A RESOLUTION

1 Amending House Rules 2.1 E and 3 E, further providing for  
2 professional conduct and for Committee on Ethics.

3 RESOLVED, That House Rules 2.1 E(1) and 3 E be amended to  
4 read:

5 RULE 2.1 E

6 Professional Conduct

7 (1) No Member or officer of the House shall do any of the  
8 following:

9 (a) Use the submission to or rejection by a House  
10 employee of conduct constituting sexual harassment as a basis  
11 for an employment decision affecting the employee.

12 (b) Make submission to conduct constituting sexual  
13 harassment, either explicitly or implicitly, a term or  
14 condition of a House employee's employment.

15 (c) Engage in conduct constituting sexual harassment  
16 that is so frequent or severe that it creates a hostile or  
17 offensive work environment for a House employee or another

1 Member or officer of the House.

2 (d) Engage in sexual harassment while performing House-  
3 related services or duties or in or on any House owned or  
4 leased property or facilities.

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6 RULE 3 E

7 COMMITTEE ON ETHICS

8 The Committee shall consist of eight Members, four of whom  
9 shall be members of the majority party appointed by the Speaker,  
10 and four of whom shall be members of the minority party  
11 appointed by the Minority Leader. From the Members appointed to  
12 the Committee, the Speaker shall appoint a chair, vice-chair and  
13 secretary for the Committee. The chair shall be a member of the  
14 majority party, and the vice chair shall be a member of the  
15 minority party.

16 The members of the Committee shall first meet upon the call  
17 of the chair and perfect its organization. A majority of the  
18 Committee shall constitute a quorum for it to proceed to  
19 business. Unless otherwise provided in this rule, a majority of  
20 the Committee shall be required to take any action authorized by  
21 this rule. The Committee shall have the power to promulgate  
22 rules not inconsistent with this rule or Rules of the House that  
23 may be necessary for the orderly conduct of its business.

24 The chair of the Committee shall notify all members of the  
25 Committee at least 24 hours in advance of the date, time and  
26 place of meetings and, insofar as possible, the subjects on the  
27 agenda. Meetings may be called from time to time by the chair of  
28 the Committee as the chair deems necessary. A member of the  
29 Committee may request that the chair call a meeting for a  
30 specific purpose. If the chair refuses to call a meeting upon

1 such request, a majority of the Committee may vote to call a  
2 meeting by giving two days' written notice to the Speaker of the  
3 House setting forth the time and place for such meeting. Such  
4 notice shall be read in the House and posted in the House  
5 Chamber by the Chief Clerk or a designee. Thereafter, the  
6 meeting shall be held at the time and place specified in such  
7 notice.

8 The Committee shall not continue to exist after sine die  
9 adjournment of the General Assembly. Proceedings on matters  
10 before the Committee that have not been concluded or disposed of  
11 by sine die adjournment of the General Assembly shall cease on  
12 such date and all documents, reports, communications,  
13 transcripts and other materials compiled by the Committee for  
14 such matters, as well as any communications or other materials  
15 received by the Committee after sine die adjournment of the  
16 General Assembly, shall be collected, organized and submitted to  
17 the Chief Clerk under seal for transition to the reconstituted  
18 Committee consisting of Members appointed from the incoming  
19 General Assembly. These materials shall be held in a secure  
20 manner and nothing in this rule shall authorize the Chief Clerk  
21 or any other person to view such materials. Within 30 days  
22 following the reconstitution of the Committee in the next  
23 succeeding legislative term, the Committee shall review such  
24 materials and determine whether or not to proceed with one or  
25 more of the matters under review by the former Committee or  
26 received after sine die adjournment. Any time period required  
27 for any actions of the Committee or others under this rule shall  
28 be tolled until the reconstituted Committee has made a  
29 determination whether or not to proceed. If the Committee  
30 determines to proceed with a matter, the Committee shall, if

1 applicable, continue from the stage in the consideration of the  
2 matter where the former Committee ended.

3 The Committee shall compile, update and distribute a Members'  
4 Handbook on Ethics for Members and House Employees on matters  
5 regarding the ethical conduct of their legislative duties. Each  
6 Member shall complete two hours of ethics education and training  
7 and one hour of sexual harassment and discrimination in the  
8 workplace education and training each legislative term. A Member  
9 shall be excused from one hour of ethics training for any full  
10 year the Member was absent due to illness, injury, military  
11 service or any other permissible excuse under General Operating  
12 Rule 64(a). The Committee shall be responsible for planning and  
13 offering the education and training programs.

14 The Committee shall issue to a Member upon the Member's  
15 request an advisory opinion regarding the Member's duties under  
16 Rule 2E relating to legislative nonprofit organizations. The  
17 opinion shall be issued within 14 days following the request. No  
18 Member who acts in good faith on an opinion issued under this  
19 paragraph shall be subject to any sanctions for so acting if the  
20 material facts are as stated in the request. Opinions issued  
21 under this paragraph shall be public records and may from time  
22 to time be published.

23 Notwithstanding the foregoing, the Member requesting the  
24 opinion may request that an opinion undergo deletions and  
25 changes necessary to protect the identity of the persons  
26 involved, and the Committee shall make such deletions and  
27 changes.

28 The Committee may issue other advisory opinions with regard  
29 to questions pertaining to other legislative ethics or decorum  
30 at the request of a Member or House employee. An opinion issued

1 under this paragraph shall be confidential and shall apply  
2 exclusively to the requestor. No requestor who acts in good  
3 faith on an opinion issued under this paragraph shall be subject  
4 to any sanctions for acting in accordance with the opinion if  
5 the material facts are as stated in the request.

6 The Committee may receive complaints against Members and  
7 House employees alleging unethical conduct under the Legislative  
8 Code of Ethics or the Rules of the House and complaints against  
9 Members and officers of the House for violations of Rule 2.1 E.  
10 A complaint must be in writing and be signed by the person  
11 filing the complaint under penalty of law under 18 Pa.C.S. §  
12 4904 (relating to unsworn falsification to authorities). The  
13 complaint must set forth in detail the actions constituting the  
14 alleged unethical conduct or violation. No person shall disclose  
15 or acknowledge to any other person any information relating to  
16 the filing of a complaint or the proposed filing of a complaint,  
17 except as otherwise authorized under this rule or Rule 2.1 E,  
18 for the purpose of seeking legal advice, as otherwise required  
19 by law or to carry out a function of the Committee.

20 The Committee shall not have jurisdiction over, shall not  
21 accept for review or action and shall return to the complainant  
22 with a notice explaining the Committee's lack of jurisdiction  
23 any of the following:

24 (1) a complaint filed later than five years following the  
25 occurrence of the alleged unethical conduct or violation;

26 (2) a complaint filed against a former Member or former House  
27 employee unless required by Section 7(c) of the Legislative Code  
28 of Ethics; or

29 (3) a complaint filed against a Member during a restricted  
30 period.

1 A five-year limitations period that expires during a  
2 restricted period shall be tolled until the day following the  
3 election occurring at the expiration of the restricted period.

4 Within 30 days following receipt of a complaint over which  
5 the Committee has jurisdiction under this rule, the Committee  
6 shall do one of the following:

7 (1) dismiss the complaint, with notice explaining the basis  
8 for the Committee's dismissal, if it:

9 (a) alleges facts that do not constitute unethical conduct or  
10 a violation of Rule 2.1 E;

11 (b) is objectively baseless;

12 (c) is insufficient as to form;

13 (d) is a frivolous complaint; or

14 (2) initiate a preliminary investigation of the alleged  
15 unethical conduct or violation.

16 If the Committee initiates a preliminary investigation, it  
17 shall, promptly upon voting to proceed, send the subject a  
18 letter setting forth each allegation in the complaint. Within 15  
19 days after receipt of the letter, the subject may file a written  
20 response with the Committee. Failure of the subject to file a  
21 response shall not be deemed to be an admission, or create an  
22 inference or presumption, that the allegations in the complaint  
23 are true, and such failure shall not prohibit the Committee from  
24 either proceeding with the preliminary or a formal investigation  
25 or dismissing the complaint. The Committee may engage an  
26 independent counsel to assist in a preliminary investigation.  
27 The subject may be represented by counsel of the subject's  
28 choosing at any point during an investigation under this rule.

29 If the Committee initiates a preliminary investigation of a  
30 complaint of a violation under Rule 2.1 E, it shall also send to

1 the appropriate employer a copy of the letter sent to the  
2 subject setting forth each allegation in the complaint. Upon the  
3 request of the complainant, the employer shall make adjustments  
4 to the complainant's work hours, assignment or duties or  
5 location that may be appropriate under the circumstances of the  
6 allegations in the complaint. The adjustments may include:

7 (1) removing the complainant or the subject from the physical  
8 work location of the complainant;

9 (2) allowing the complainant to be placed on administrative  
10 leave with continued pay and benefits, if  
11 applicable; or

12 (3) any other reasonable accommodation agreed to by the  
13 employer and the complainant.

14 The employer shall keep the letter and the fact of the  
15 initiation of a preliminary investigation confidential but may  
16 disclose necessary information to Members, officers of the House  
17 or House employees as needed in order to implement the foregoing  
18 adjustments. No House employee shall retaliate or take adverse  
19 actions against the complainant in response to the filing of a  
20 complaint of a violation of Rule 2.1 E with the Committee.

21 A member of the Committee who is the complainant, the subject  
22 or a witness to the unethical conduct or violation alleged in a  
23 complaint shall not participate in any Committee consideration  
24 of the complaint. The Member shall be temporarily replaced on  
25 the Committee in a like manner as his or her original  
26 appointment.

27 Within 30 days following the initiation of a preliminary  
28 investigation, the Committee shall vote to dismiss the complaint  
29 for lack of probable cause to support the alleged unethical  
30 conduct or violation or to proceed with a formal investigation

1 because it finds that probable cause exists. If a majority of  
2 the Committee is unable to agree on either course of action, the  
3 Committee shall dismiss the complaint. The Committee shall  
4 promptly notify the subject in writing of the result.

5 If the Committee votes to proceed with a formal  
6 investigation, the Committee shall engage an independent  
7 counsel unless the Committee determines that the alleged  
8 unethical conduct or violation raised in the complaint does not  
9 warrant the expense of engaging an independent counsel. If the  
10 Committee does not engage an independent counsel, the Committee  
11 shall be represented in the investigation and any hearing  
12 conducted under this rule by Committee staff attorneys,  
13 including at least one from each party.

14 The Committee, including Committee staff attorneys, and any  
15 independent counsel engaged by the Committee shall have the  
16 power to conduct investigations and hearings under the  
17 guidelines set out in this rule.

18 Where a provision of this rule conflicts with another Rule of  
19 the House, the provision of this rule shall govern.

20 This rule shall be construed to empower the Committee and its  
21 independent counsel to do all of the following:

- 22 (1) act as a neutral fact-finder;
- 23 (2) protect due process and other constitutional rights of a  
24 subject;
- 25 (3) fully investigate and deter unethical conduct or  
26 violation of Rule 2.1 E; and
- 27 (4) protect the public trust.

28 The Chief Clerk shall pay the fees and expenses of an  
29 Independent Counsel engaged by the Committee under this rule.

30 The Committee may issue subpoenas for documents or testimony



1 as part of a preliminary investigation, a formal investigation  
2 or in connection with a hearing before the Committee.  
3 Notwithstanding the provision of any other Rule of the House,  
4 subpoenas issued under this rule shall be in the name of the  
5 Committee, shall be signed by the chair of the Committee and  
6 shall be attested by another member of the Committee who voted  
7 in favor of authorizing the subpoena.

8 A subpoena issued by the Committee may be served upon any  
9 person and shall have the force and effect of a subpoena issued  
10 out of the courts of this Commonwealth. Subpoenas shall be  
11 served by the Sergeant-at-Arms of the House or another person  
12 designated by the Committee when directed to do so by the  
13 Committee. Each subpoena shall be addressed to the witness and  
14 shall state that such proceeding is before a Committee of the  
15 House for which the witness is required to attend and testify at  
16 a specified time and place; or to produce books, papers,  
17 records, accounts, reports, documents and data and information  
18 produced and stored by any electronic data processing system; or  
19 both, as the Committee may also require. Mileage and witness  
20 fees shall be paid by the House to such witness in an amount  
21 prescribed by law. Unless addressed to and served on the  
22 subject, a copy of a subpoena issued by the Committee shall be  
23 provided to the subject and the subject's counsel, if  
24 applicable. A person who willfully neglects or refuses to comply  
25 with a subpoena issued by the Committee shall be subject to the  
26 penalties provided by the laws of this Commonwealth with respect  
27 to such willful neglect or refusal. Notwithstanding the  
28 foregoing, a recipient of a subpoena issued by the Committee may  
29 object to the subpoena by serving notice of such objection on  
30 the signatory to the subpoena and the Committee. The Committee

1 may quash or modify the subpoena if it finds the subpoena to be  
2 overly broad or without proper purpose. Each member of the  
3 Committee shall have the power to administer oaths and  
4 affirmations to witnesses appearing before the Committee.

5 All subpoenaed books, papers, records, accounts, reports,  
6 documents, data and information shall be returned to the person  
7 from whom such material was subpoenaed when the Committee has  
8 completed its examination of such material, but in no event  
9 later than the date of final disposition of the matter.

10 Following the completion of a formal investigation, the  
11 Committee shall conduct a hearing if:

12 (1) the independent counsel engaged by the Committee  
13 recommends that a hearing be conducted and the Committee votes  
14 to adopt the recommendation; or

15 (2) an independent counsel was not engaged by the Committee  
16 but the Committee finds that the testimony and documents  
17 reviewed by the Committee during the formal investigation  
18 indicates more likely than not that the unethical conduct or  
19 violation alleged in the complaint occurred.

20 If a hearing is to be conducted, the Committee shall provide  
21 the subject and the subject's counsel, if applicable, with  
22 written notice consistent with constitutional principles of due  
23 process. The Pennsylvania Rules of Evidence shall apply during  
24 the hearing, unless the Committee determines otherwise.  
25 Notwithstanding the foregoing, the Committee may not infringe on  
26 the right of the subject to present evidence, cross-examine  
27 witnesses, face his or her accuser and be represented by counsel  
28 at a hearing conducted under this rule.

29 Witnesses called to appear at a hearing under this rule,  
30 including a subject, may be accompanied by his or her own

1 counsel for the purpose of advising him or her concerning his or  
2 her constitutional rights. Counsel may interpose legal objection  
3 to any and all questions which in the opinion of counsel may  
4 violate the constitutional rights of his or her clients.

5 The proceedings of a hearing conducted under this rule shall  
6 be either stenographically or electronically recorded. The  
7 Committee shall determine which parts of such recorded  
8 proceedings, if any, shall be transcribed.

9 The burden shall be on the independent counsel, if one has  
10 been engaged by the Committee, or the Committee staff attorneys,  
11 if an independent counsel has not been engaged, to prove, by  
12 clear and convincing evidence, that the unethical conduct or  
13 violation alleged in the complaint occurred. Within 30 days  
14 following the conclusion of the formal investigation and  
15 hearing, the Committee shall make a determination as to whether  
16 the burden was met and shall submit its finding to the House. If  
17 the Committee finds that the burden was met, the Committee may  
18 make one or more of the following recommendations to the House:

- 19 (1) a reprimand of the subject;
- 20 (2) a censure of the subject;
- 21 (3) expulsion of the subject from the House; or
- 22 (4) the denial or limitation of any right, power or privilege  
23 of the Member granted by Rules of the House and not contrary to  
24 the Pennsylvania Constitution.

25 The Committee shall provide a written report of its findings  
26 and recommendations, if any, to the subject and shall  
27 simultaneously submit a copy of the same to the House. Only  
28 findings and recommendations agreed to by a majority of the  
29 Committee shall be included in the report. The report may  
30 include a minority report. The House shall not take any action

1 on the findings and recommendations submitted by the Committee  
2 and shall not make such findings and recommendations public  
3 until a period of at least seven days has passed following the  
4 Committee's provision of the report to the subject.

5 The Committee may extend any of the time periods, other than  
6 those relating to the jurisdiction of the Committee, required  
7 for any actions of the Committee or others under this rule.

8 [Investigations,] The Committee shall maintain the  
9 confidentiality of all complaints and complaint-related  
10 proceedings and actions, except as provided in this rule. The  
11 Committee may disclose complaint data, including the number of  
12 complaints received and dispositions on complaints in the  
13 aggregate without identifying information regarding the  
14 complainant or the accused. The Committee shall maintain the  
15 confidentiality of all investigations, hearings and meetings of  
16 the Committee relating to an investigation and the existence of  
17 such investigations, hearings, and meetings [shall be  
18 confidential]. A majority of the members of the Committee may  
19 vote to suspend the confidentiality provisions in this rule in  
20 whole or in part if information regarding a complaint or an  
21 investigation has been entered into the public domain by someone  
22 other than a member of the Committee and the Committee  
23 determines that it is in the best interest of the Committee to  
24 address public inquiry or information on the complaint or  
25 investigation. In this case, the Committee may disclose whether  
26 a complaint has been filed, the disposition or status of action  
27 on the complaint and other information as the Committee may  
28 determine is appropriate under the circumstances. All other  
29 meetings of the Committee shall be open to the public. Any  
30 member of the Committee breaching the confidentiality provisions

1 specified in this rule shall be removed immediately from the  
2 Committee and replaced by another Member in a like manner as his  
3 or her original appointment.

4 Meetings and hearings held related to the investigation of a  
5 complaint shall be in the nature of executive session and shall  
6 not be open to the public. All other meetings of the Committee  
7 shall be open to the public.

8 Notwithstanding the above, except for a hearing on complaints  
9 of a violation of Rule 2.1 E, the Committee shall conduct a  
10 hearing in public upon the written request of the subject unless  
11 the Committee determines that evidence or testimony to be  
12 received at the hearing may substantially defame, degrade, or  
13 incriminate a person other than the subject. In that event, the  
14 Committee shall receive such evidence or testimony in executive  
15 session. No evidence or testimony taken in executive session may  
16 be released to any person or authority or used in public  
17 sessions without the consent of the Committee.

18 The Committee may enter into a consent agreement with the  
19 subject at any point in the proceedings. The Committee may make  
20 an appropriate referral of a complaint to a law enforcement  
21 agency at any point in the proceedings.

22 The complaint, response and records of the Committee shall be  
23 confidential. Notwithstanding the foregoing:

24 (1) consent agreements and final findings by the Committee of  
25 unethical conduct and the Committee's recommendations with  
26 respect to such findings shall not be confidential;

27 (1.1) consent agreements and final findings by the Committee  
28 of a violation of Rule 2.1 E shall not be confidential, except  
29 that at the request of a complainant, the name of the  
30 complainant and, unless the House considers a resolution to

1 discipline the subject, any facts that may lead to the  
2 identification of the complainant, including the name of the  
3 subject, shall be redacted before an agreement or final findings  
4 of the Committee are made public;

5 (2) the subject may, in his or her discretion, make public a  
6 finding by the Committee that no unethical conduct or violation  
7 of Rule 2.1 E had occurred or that there was insufficient  
8 evidence presented to the Committee that unethical conduct or a  
9 violation of Rule 2.1 E had occurred, except that the subject  
10 shall not make public the name of a complainant who filed a  
11 complaint alleging a violation of Rule 2.1 E; and

12 (3) if the Committee makes a referral of a complaint to a law  
13 enforcement agency, the Committee may provide the agency with  
14 copies of documents and information in its possession.

15 Any member of the Committee breaching the confidentiality  
16 provisions set forth in this rule shall be removed immediately  
17 from the Committee and replaced by another Member in a like  
18 manner as his or her original appointment.

19 A nondisclosure agreement shall not be imposed on an  
20 individual as a condition of the initiation of the procedures  
21 available under this rule for the filing and hearing of a  
22 complaint of a violation of Rule 2.1 E.

23 Nothing in this paragraph shall be construed to prohibit the  
24 complainant and the subject from voluntarily entering into a  
25 settlement agreement with a nondisclosure provision agreed to by  
26 each party as part of the settlement of a complaint or  
27 proceeding. Notwithstanding the foregoing, a Member who is the  
28 subject of a complaint of a violation of Rule 2.1 E filed with  
29 the Committee shall not benefit from a nondisclosure agreement  
30 or provision if a completed formal investigation of the

1 Committee finds that the complaint is credible or a final  
2 decision by the Committee finds a violation.

3 The Committee may meet with a committee of the Senate to hold  
4 investigations or hearings involving complaints against  
5 employees of the two chambers jointly or officers or employees  
6 of the Legislative Reference Bureau, the Joint State Government  
7 Commission, the Local Government Commission, the Legislative  
8 Budget and Finance Committee, the Legislative Data Processing  
9 Committee or other legislative service agencies. No action may  
10 be taken at a joint meeting unless it is approved by the  
11 Committee. A member of the Committee who is the complainant, the  
12 subject or a witness to the unethical conduct or violation of  
13 Rule 2.1 E alleged in a complaint under this paragraph shall not  
14 participate in any joint proceedings under this paragraph. The  
15 Member shall be temporarily replaced on the Committee in a like  
16 manner as his or her original appointment.