

MINUTES
HOUSE ETHICS AND HOUSE POLICY COMMITTEE

DATE: Monday, December 06, 2021
TIME: 11:00 A.M.
PLACE: Room EW42
MEMBERS: Chairman Dixon, Representative(s) Horman, Crane, Gannon, Davis, Barbieri, Young, McCrostie, Chew
**ABSENT/
EXCUSED:** Representative Chew
GUESTS: None

Chairman Dixon called the meeting to order at 11:05 a.m.

Chairman Dixon said the purpose of these meetings is to review ideas and edits that came before to improve House Rule 45. He said this is not a formal discussion, but there will be discussion.

Rep. Barbieri said it is important to recognize the precepts of the language in the rule, to ensure fairness and there is a question of due process. He also mentioned the rules of evidence may need to be modified, and there is a question about resources and fairness in resources. He said the question of confidentiality needs to be addressed. Rep. Barbieri said this is an internal matter, and possibly all members of the committee should be brought in on the process. Censure should be limited or defined, and there is a question of mandatory participation.

Rep. Gannon commented on the due processes and evidence saying they have established a mechanism of due process, which can be improved.

Rep. Crane said the rule shows clear rules of evidence, and those were followed in the previous hearings. He said maybe those portions of the rule should be looked at on a case-by-case basis, he said the rules were stated and followed. He said he agreed with **Rep. Barbieri** on changing the selection of the chairman.

Rep. Horman agreed with the comments made by **Rep. Crane** because each complaint is unique. She said she did think the rules of procedure for public hearings could be added to the rule. She said she could agree with having a larger committee rather than alternates and is open to the conversation of due process, but she didn't think it was denied and she is fine with the committee selecting the chairman.

Rep. Young mentioned the concern about confidentiality in the rule and the engagement in the process is for the most part an internal issue. She said she would like to maintain the confidentiality and the focus of the work that needs to be done.

Rep. Crane said he would agree with the complaint and response being released to the public.

Committee members discussed the change in chairman selection and possibly taking out the committee election process and adding it to caucus rules. The number of members was in question and if the alternates should sit in on the meetings initially if there is a complaint to deal with.

Rep. Horman expressed concern with the size of the committee because it is intense work and in protecting the confidentiality of the committee's work. She said the more members there are the harder it is to remain confidential.

Carrie Maulin, Chief Clerk of the House clarified that committees cannot reprimand an individual or privately reprimand a member, she said the committee does not have the authority. **Rep. Crane** said private sanction and public sanction needs to be clarified in the rule.

Committee members discussed defining the term conduct unbecoming, **Rep. Horman** said the term is defined by how the House votes as a whole, in a public setting on the recommendation of the committee. She said the term is defined by each new sitting body of legislators and she would not be opposed to further definition, but it is the House that defines the term when they vote. The committee uses the probable cause standard.

Discussion was held around the rule not saying anything about a conviction for a felony and the committee not being a criminal investigative body. If there is conduct that has been adjudicated a felony, then the burden should be put on the court process. This issue was flagged for further discussion.

The committee discussed the requirement of evidence. **Rep. Crane** said if the committee is doing its due diligence the evidence will be brought forward in the investigation. He said the more descriptive it is in the rule, it makes the work of the committee more difficult. It was discussed that the rule should have more than only two qualifications for dismissal and the committee should have the ability to dismiss a complaint outright.

Discussion was held regarding the transparency of the process and if that should be modified in the rule. It was questioned if transparency was so paramount that the committee should need to go through the public process. **Rep. Crane** said it is important the matters of government be in the public view.

Rep. Gannon agreed to the need to keep the public aspect of the process and expressed his concern with the process of not having any counsel available for the person accused.

Committee members discussed the requirements for the notification of a complaint, requiring participation from the respondent in the private preliminary investigation and the standard for the term probable cause.

The committee recessed at 1:06 p.m. **Chairman Dixon** reconvene the committee at 2:16 p.m.

The committee continued discussion on the definition of terms in the rule and changing the vote requirement for the vote in the House.

Rep. Crane said he would like to see some parameters around reprimand and censure, the differences, and the definitions. He said currently there are no limitations to what the sanctions can be when recommending a censure.

Discussion was held regarding the language around expulsion, the committee making a recommendation or not within the 30-days after a public hearing and the outcome if a respondent doesn't participate in the preliminary investigation.

Rep. Gannon mentioned language could be added to allow a respondent to have access to the Attorney General's staff in order to promote fairness in the process. It was suggested both the committee and the respondent could have access to the same resources and that this is a legislative matter, and the legal part should be left out of the process.

Questions were raised regarding testimony given in private or in public during the process and what happens to that testimony if there are potential criminal charges. It was explained the documented testimony is public, but the state statute gives protection to the respondent during the process; the member is required to testify but then the testimony could not be used against them.

Chairman Dixon said he would prefer to not use legal counsel because it is an internal issue and should be dealt with by the body, but the rule should still include the provision. **Rep. McCrostie** mentioned he did do a draft of the rule which included the rules of procedure for a public hearing if the committee was interested in incorporating those into the rule.

Committee members discussed the potential revision of parts of the current Respectful Workplace Policy and how that could possibly be incorporated into a rule for adoption.

Ms. Maulin mentioned the Respectful Workplace Committee is reviewing the process again to define changes that may need to be made for improvement. She said House staff is governed by the current Respectful Workplace Policy and do adhere to the guidelines and training.

ADJOURN: The meeting adjourned at 3:04 p.m.

Representative Dixon
Chair

Susan Werlinger
Secretary