

IN THE HOUSE OF REPRESENTATIVES

HOUSE RESOLUTION NO. 22

BY WAYS AND MEANS COMMITTEE

A HOUSE RESOLUTION

STATING FINDINGS OF THE HOUSE OF REPRESENTATIVES AND PROVIDING FOR THE
AMENDMENT OF RULE 45 OF THE RULES OF THE HOUSE OF REPRESENTATIVES.

Be It Resolved by the House of Representatives of the State of Idaho:

WHEREAS, the House of Representatives deems it necessary and desirable
that Rule 45 of the Rules of the House of Representatives be amended.

NOW, THEREFORE, BE IT RESOLVED by the members of the House of Represen-
tatives, assembled in the Second Regular Session of the Sixty-sixth Idaho
Legislature, that Rule 45 of the Rules of the House of Representatives shall
be amended to read as follows:

RULE 45

Committee on Ethics and House Policy. -- (1) (a) ~~In~~ Within twelve days
of the convening of the first regular session of each Legislature, an Ethics
and House Policy Committee shall be organized and its membership shall be de-
termined. The Ethics and House Policy Committee shall consist of five mem-
bers of the House, three of whom shall be selected by members of the major-
ity party and two of whom shall be selected by members of the minority party.
Committee members must have served at least one full term in the Legislature
and may have served previously on the committee. House members holding who
have been sanctioned by the House for an ethics violation pursuant to this
rule or who hold leadership positions shall not serve on the Ethics and House
Policy Committee. Committee Chairmen may serve on the Ethics and House Pol-
icy Committee. ~~Committee members shall not have been previously sanctioned~~
~~by the House for an ethics violation pursuant to this rule.~~

~~The majority party and minority party may select only members who have~~
~~previously served at least one full term.~~

(b) Each party shall ~~also~~ select two a first and second committee alter-
nates for ~~their~~ its respective party, ranked according to the number of
votes each alternate received. In the event of a tie, the ranking shall
be determined by a coin toss. The committee alternates shall sit and
have voting rights when the committee is sitting to review House policy.
When the committee is sitting to consider an ethics matter, the commit-
tee alternates shall serve only in the event of a vacancy, for the dura-
tion of the vacancy, as provided in paragraph (c) of this subsection.

(c) ~~Committee members may be selected to serve on a subsequent commit-~~
~~tee.~~ A vacancy on the committee shall be filled ~~with an alternate avail-~~
~~able and selected by the leadership of the party entitled to fill the va-~~
~~cancy by the first, followed by the second, alternate for the respective~~
~~party for the duration of the vacancy.~~ When no alternates are avail-
able to fill a vacancy, such vacancy shall be filled by majority vote of
the House members of the party entitled to fill the vacancy. ~~Except as~~
~~otherwise provided in subsection (8) of this rule, a~~ A member filling a

1 permanent vacancy shall serve for the remainder of the unexpired term.
 2 If a complaint concerns misconduct of a member of the Ethics and House
 3 Policy Committee, that member shall not serve on the committee for any
 4 purpose relating to such complaint.

5 (d) The Speaker of the House shall appoint committee shall elect one of
 6 the majority party members of the committee as chairman of the commit-
 7 tee by a four-fifths majority vote. Alternates shall not be entitled to
 8 vote for chairman or to serve as chairman unless filling a vacancy.

9 (2) (a) The chairman of the Ethics and House Policy Committee shall re-
 10 ceive complaints from any member of the House and shall be solely re-
 11 sponsible for the security and retention of all committee records re-
 12 lating to a complaint, which shall be maintained in a locked box in the
 13 office of the chief clerk for the duration of the respondent's service
 14 in the Idaho Legislature, regardless of the ultimate disposition of the
 15 complaint.

16 (b) The A complaint shall be in writing, signed and contain one or more
 17 of the following allegations that may constitute:

18 (i) Conduct unbecoming a Representative which is detrimental to
 19 the integrity of the House as a legislative body;

20 (ii) Disclosure of information that is confidential as provided
 21 in House rules;

22 (iii) Conduct constituting a felony under any state law, or which
 23 violates any state law relating to the use of public office for
 24 private pecuniary gain;

25 (iv) A violation of any state law or House rule relating to con-
 26 licts of interest involving legislative duties; or

27 (v) A violation of any state law or House rule that brings dis-
 28 credit to the House of Representatives or that constitutes a
 29 breach of public trust.

30 (c) The complaint shall be specific and provide:

31 (i) The name of the member of the House of Representatives alleged
 32 to be in violation (the "respondent");

33 (ii) Identification of any third parties involved;

34 (iii) Reference to the House rule and/or applicable state law sup-
 35 porting the alleged violation;

36 (iiiv) A description of the facts and circumstances supporting
 37 each alleged violation; and

38 (iv) The evidence the complainant has at the time of making the
 39 complaint supporting the facts and violation alleged in the com-
 40 plaint.

41 (3) The committee may, in its discretion and upon an affirmative vote
 42 by four-fifths of the committee, resolve and dismiss a complaint at any
 43 time. It shall maintain a confidential record of the committee review and
 44 dismissal of the complaint, as provided in subsection (2) (a) of this rule.
 45 The dismissal may be in the form of a letter to the respondent and the com-
 46 plainant, in that order.

47 (d4) Subject to the provisions of this rule, the committee shall
 48 conduct a preliminary investigation of the complaint, beginning with an
 49 initial review the written complaint, as follows:

1 (a) The committee shall conduct an initial review of the written com-
 2 plaint and, by a four-fifths vote, shall dismiss any ethics complaint
 3 that:

4 (i) Lacks sufficient evidence of conduct described by subsection
 5 (2) (b) of this rule;

6 (ii) Does not comply with subsection (2) (c) of this rule; or

7 (iii) Alleges violations that occurred either before the accused
 8 member was first elected to the House of Representatives or for
 9 which an applicable statute of limitation has run.

10 ~~(e) Written complaints shall remain confidential until such time as the~~
 11 ~~Ethics and House Policy Committee finds probable cause that such member~~
 12 ~~has committed misconduct as provided in this rule.~~

13 ~~(3b) The If a complaint is not dismissed pursuant to paragraph (a) of~~
 14 ~~this subsection following the initial review, the committee shall no-~~
 15 ~~tify the person against whom the complaint was brought respondent and~~
 16 ~~shall provide such person the respondent with a copy of the complaint~~
 17 ~~and all evidence submitted supporting the complaint.~~

18 (c) During the initial review and preliminary investigation phase of
 19 the process, all proceedings shall be held in executive session and all
 20 information regarding the complaint shall remain confidential.

21 (d) The person complained against respondent may submit a written an-
 22 swer to the committee. The member complained against shall provide such
 23 written answer to the chairman of the committee no later than fourteen
 24 days following the date that the copy of the complaint was provided to
 25 the member complained against respondent.

26 (e) Following receipt of the answer from the respondent, or if no an-
 27 swer to the complaint is provided to the chairman within the time period
 28 provided fourteen days, the committee shall meet and conduct a continue
 29 the preliminary investigation of the complaint.

30 (f) Notwithstanding the provisions of Rule 26, such meeting shall be
 31 held in executive session. At the preliminary investigation, Following
 32 consideration of the evidence presented, if a complaint is not resolved
 33 and dismissed pursuant to this rule, the committee shall may determine,
 34 based upon the complaint, other relevant information and the answer to
 35 the complaint, whether by a four-fifths vote, that the evidence sub-
 36 stantiates the alleged facts such that probable cause exists that the
 37 member committed misconduct as provided in this rule may have occurred.
 38 If, at the conclusion of the preliminary investigation, the committee
 39 determines no probable cause exists that misconduct has occurred, the
 40 complaint shall be dismissed and the written complaint shall remain
 41 confidential. If, at the conclusion of the preliminary investigation,
 42 the committee determines probable cause exists that misconduct may have
 43 occurred, At such time, the committee shall so notify the person com-
 44 plained against and respondent, followed by the complainant, that the
 45 committee will proceed to a public hearing. The committee shall, within
 46 seventy-two hours following such notification, redact the names and
 47 other personal identifying information of third parties, when deemed
 48 appropriate, from copies of the complaint and response, including any
 49 evidence attached to each, redacted as necessary, and such renditions
 50 of the written complaint against the member and response shall no longer

1 be confidential but shall become a public documents. After such time,
2 the chairman shall notify the body that a public hearing shall be held.
3 The complainant and the respondent are entitled to unredacted copies of
4 the complaint and response and all of the evidence in support of each,
5 which must be held confidential by the complainant and respondent and
6 their representatives.

7 (45) (a) Following a finding of probable cause and in a timely fash-
8 ion, the committee shall conduct a public hearing before which the
9 member respondent shall be entitled to appear, present evidence,
10 cross-examine witnesses, and be represented by counsel. The com-
11 plainant or authorized agent of the complainant shall first present
12 the complaint and supporting evidence and testimony to the committee.
13 The committee shall have the power to take testimony under oath and
14 to issue subpoenas and subpoenas duces tecum in the manner provided
15 in Section 67-407, Idaho Code, and make inquiry and discover evidence
16 relevant to the allegation. Formal rules of evidence are not applica-
17 ble; however, evidence shall be weighed according to its reliability,
18 and the accused respondent may raise objection to any evidence. The
19 accused respondent may defer presentation of any defense until all of
20 the evidence has been presented in support of the complaint. The ac-
21 used shall have a full and fair opportunity to obtain and review all of
22 the evidence in support of the complaint.

23 (b) The committee may take appropriate measures to protect the identity
24 and privacy of third party witnesses who testify at the public hearing.

25 (c) If evidence previously unknown to the respondent is presented dur-
26 ing the public hearing, the committee chairman may, at the request of
27 the respondent, recess the hearing while the respondent prepares a re-
28 sponse.

29 (d) During the public hearing, the committee may deliberate in execu-
30 tive session.

31 (e) The committee may consult with and be assisted by the attorney gen-
32 eral's office or another attorney or other experts of their choosing.

33 (f) The respondent shall have access to an attorney or other represen-
34 tative for advice and consultation. The committee may also vote to pro-
35 vide the respondent with financial assistance to employ an attorney to
36 represent the respondent in any proceeding under this rule.

37 (56) If, after investigation and hearings held pursuant to this rule,
38 the committee finds by clear and convincing evidence that the respondent's
39 conduct alleged in the complaint did in fact occur and that such conduct con-
40 stitutes a violation of one or more of the standards contained in subsection
41 (2) (b) of this rule occurred, the committee shall make appropriate recommen-
42 dations to the House of Representatives. By four-fifths vote of the commit-
43 tee, the committee shall may recommend dismissal of the charges, complaint,
44 or reprimand, censure, or expulsion, provided that a recommendation for ex-
45 pulsion shall only be based upon a finding beyond reasonable doubt that mis-
46 conduct involves commission of a felony or use of public office for pecu-
47 niary gain under subsection (2) (b) (iii) of this rule of the respondent. A
48 reprimand shall carry no sanctions other than the reading of the reprimand
49 into the Journal of the House of Representatives. The sanction of censure
50 of a member may be with or without include conditions or restrictions placed

1 upon the member, but may not have the effect of expulsion, such as terminat-
2 ing salary or benefits or denying a legislative district representation via
3 floor votes. The committee recommendation must be approved by a four-fifths
4 vote of the committee, except in the case of a recommendation for expulsion,
5 which must be approved by a unanimous vote of the committee.

6 ~~(7) The committee shall prepare a report setting forth its find-~~
7 ~~ings, listing the complaint that was filed, the committee findings in~~
8 ~~relation to the facts and evidence relevant to that complaint, the com-~~
9 ~~mittee's recommendation and the reasons for such recommendation. If the~~
10 ~~committee does not issue a recommendation within thirty days of the conclu-~~
11 ~~sion of the public hearing, the complaint shall be deemed dismissed.~~

12 ~~(8) The House of Representatives shall vote on the recommendation of~~
13 ~~the committee, as set forth in the report, during the regular session of the~~
14 ~~Legislature in which the committee reports. If the committee meets and re-~~
15 ~~ports during the interim when the Legislature is not in session, then the~~
16 ~~House of Representatives shall vote on the committee recommendation during~~
17 ~~the next regular session of the Legislature. If the committee does not issue~~
18 ~~a recommendation within thirty days of the conclusion of the public hearing,~~
19 ~~the complaint shall be deemed dismissed. Expulsion of a House member shall~~
20 ~~require the affirmative vote of two-thirds of the members elected to of the~~
21 ~~House, as provided by Section 11 of Article III of the Constitution. Reprim-~~
22 ~~and or censure of a member shall require the affirmative vote of a majority~~
23 ~~of the members elected to of the House. Action of the House pursuant to this~~
24 ~~rule is final and not subject to court review.~~

25 ~~(69) The committee may retain such counsel and may hire such investi-~~
26 ~~gators as it deems necessary for the performance of its duties under this~~
27 ~~rule. All expenditures incurred pursuant to this subsection (5) of this~~
28 ~~rule shall be approved by the Chairman and paid by vouchers and warrants~~
29 ~~drawn as provided by law from appropriations made to the Legislative Ac-~~
30 ~~count.~~

31 ~~(710) The committee may adopt rules of procedure for the orderly con-~~
32 ~~duct of committee meetings, investigations and hearings, which rules shall~~
33 ~~be consistent with this rule and other applicable rules and statutes.~~

34 ~~(8) If the written signed complaint concerns misconduct of a member of~~
35 ~~the Ethics and House Policy Committee, or is filed by a member of the Ethics~~
36 ~~and House Policy Committee, or both, then that member or members shall be~~
37 ~~disqualified and shall not serve on the committee for any purpose relating to~~
38 ~~such complaint. A vacancy on the committee created as a result of this sub-~~
39 ~~section shall be filled by an alternate in accordance with the provisions of~~
40 ~~subsection (1) (c) of this rule, except that the fulfillment of any such va-~~
41 ~~cancy shall only be for purposes relating to such complaint.~~