

IN THE HOUSE OF REPRESENTATIVES

HOUSE RESOLUTION NO. 2

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

A HOUSE RESOLUTION

STATING FINDINGS OF THE HOUSE OF REPRESENTATIVES AND PROVIDING FOR THE
AMENDMENT OF RULE 76 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 76 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 First Regular Session of the Sixty-second Idaho
Legislature, that Rule 76 of the Rules of the House of Representatives shall
be amended to read as follows:

RULE 76

Committee on Ethics.-- (1) Before the end of the twelfth day of the first
regular session of each Legislature, an ethics committee shall be organized
and its membership shall be determined. The ethics committee shall consist
of five members of the House, three of whom shall be members of the majority
party and two of whom shall be members of the minority party. House members
holding leadership positions shall not serve on the ethics committee. Com-
mittee Chairmen may serve on the ethics committee. Committee members shall
not have been previously sanctioned by the House for an ethics violation pur-
suant to this rule.

(2) The Caucus Chairman of each party shall conduct the election of
ethics committee members as follows:

(a) Phase I: At a designated caucus meeting, each Caucus Chairman shall
receive from members of their respective caucus a silent ballot nom-
inating to membership on the ethics committee up to three members who
have previously served at least one full term. Each caucus chairman
and the two elected at-large legislative council members for the caucus
shall prepare a ballot of nominees consisting respectively of the five
nominees for the majority party and the four nominees for the minority
party receiving the most nominating votes.

(b) Phase II: By silent ballot, each member of the majority party shall
vote for three and of the minority party for two nominees on their re-
spective ballots. The caucus chairman and the two elected at-large
legislative council members for the caucus shall count the votes and
prioritize the members from greatest to least number of votes received.
The three members of the majority party and the two members of the mi-
nority party receiving the highest number of votes shall be members of
the ethics committee for the term of the Legislature. Others receiving
votes shall serve in order of priority as committee alternates for their
respective party.

(c) Committee members may be reelected to a subsequent committee. A
vacancy on the committee shall be filled with the highest priority al-

1 ternate available to the party entitled to fill the vacancy. When no
 2 electd alternates are available to fill a vacancy, such vacancy shall
 3 be filled by majority vote of the House members of the party entitled
 4 to fill the vacancy. Except as otherwise provided in subsection (9) of
 5 this rule, a member filling a vacancy shall serve for the remainder of
 6 the unexpired term.

7 (d) The Speaker of the House shall appoint one of the members of the com-
 8 mittee as chairman of the committee.

9 (3) (a) The Speaker chairman of the ethics committee shall receive
 10 written, signed complaints from any member concerning misconduct in-
 11 volving legislative duties by a member of the House and such complaint
 12 shall be limited to, the alleged use of legislative position for per-
 13 sonal gain, benefit or advantage, alleged conduct unbecoming a member
 14 of the House or the alleged violation of the Rules of the House of Repre-
 15 sentatives or the provisions of applicable law of the House.

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

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;

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

35 (iii) A description of the facts and circumstances supporting each
 36 alleged violation; and

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

40 (d) Subject to the provisions of this rule, the committee shall review
 41 the written complaint. The committee shall dismiss any ethics com-
 42 plaint that:

43 (i) Does not comply with this rule; or

44 (ii) Alleges violations that occurred either before the accused
 45 member was first elected to the House of Representatives or for
 46 which an applicable statute of limitation has run.

47 (e) Written complaints shall remain confidential until such time as an
 48 the ethics committee, appointed by the Speaker as provided for in this
 49 rule, finds probable cause that such member has committed misconduct
 50 involving legislative duties as provided in this rule.

1 ~~(2) Whenever such a complaint is received, the Speaker, in a timely~~
2 ~~fashion, shall appoint a committee on ethics of seven members, consisting of~~
3 ~~four majority party members, and three minority party members. The majority~~
4 ~~party members of the committee shall be selected from among the chairmen~~
5 ~~of committees of reference of the House. The minority party members of the~~
6 ~~committee shall be selected, after considering recommendations made by~~
7 ~~the minority leader, from among the members of the House who are senior in~~
8 ~~service and experience. The Speaker shall designate the chairman and vice~~
9 ~~chairman of the committee from among its members.~~

10 (34) The committee shall notify the person against whom the complaint
11 was brought and shall provide such person with a copy of the complaint and
12 evidence submitted supporting the complaint. The person complained against
13 may submit a written answer to the committee. The member complained against
14 shall provide such written answer to the chairman of the committee no later
15 than fourteen days following the date that the copy of the complaint was pro-
16 vided to the member complained against. Following receipt of the answer or
17 if no answer to the complaint is provided to the chairman within the time pe-
18 riod provided, the committee shall meet and conduct a preliminary investiga-
19 tion of the complaint. Notwithstanding the provisions of House Rule 57, such
20 meeting shall be held in executive session. At the preliminary investiga-
21 tion, the committee shall determine, based upon the complaint, other rele-
22 vant information and the answer to the complaint, whether probable cause ex-
23 ists that the member committed misconduct ~~involving legislative duties as~~
24 provided in this rule. If, at the conclusion of the preliminary investi-
25 gation, the committee determines no probable cause exists that misconduct
26 ~~involving legislative duties~~ has occurred, the complaint shall be dismissed
27 and the written complaint shall remain confidential. If, at the conclusion
28 of the preliminary investigation, the committee determines probable cause
29 exists that misconduct ~~involving legislative duties~~ may have occurred, the
30 committee shall so notify the person complained against and the written com-
31 plaint against the member shall no longer be confidential but shall become a
32 public document.

33 (45) Following a finding of probable cause and in a timely fashion, the
34 committee shall conduct a public hearing before which the member shall be en-
35 titled to appear, present evidence, cross-examine witnesses, and be repre-
36 sented by counsel. The complainant or authorized agent of the complainant
37 shall first present the complaint and supporting evidence and testimony to
38 the committee. The committee shall have the power to take testimony under
39 oath and to issue subpoenas and subpoenas duces tecum in the manner provided
40 in Section 67-407, Idaho Code, and make inquiry and discover evidence rel-
41 evant to the allegation. Formal rules of evidence are not applicable; how-
42 ever, evidence shall be weighed according to its reliability, and the ac-
43 cusd may raise objection to any evidence. The accused may defer presenta-
44 tion of any defense until all of the evidence has been presented in support of
45 the complaint. The accused shall have a full and fair opportunity to obtain
46 and review all of the evidence in support of the complaint.

47 (56) If after investigation and hearings held pursuant to this rule,
48 the committee finds by clear and convincing evidence that a violation of the
49 standards contained in this rule occurred, t~~The committee may shall~~ make
50 appropriate recommendations to the House of Representatives based upon the

1 ~~investigations conducted and hearings held pursuant to this rule. In the~~
2 ~~case of a member of the House~~ By four-fifths vote of the committee, the com-
3 ~~mittee may shall~~ recommend dismissal of the charges, reprimand, censure, or
4 ~~expulsion,~~ provided that a recommendation for expulsion shall only be based
5 upon a finding beyond reasonable doubt that misconduct involves commission
6 of a felony or use of public office for pecuniary gain under subsection
7 (3) (b) (iii) of this rule. The sanction of censure may be with or without
8 conditions or restrictions placed upon the member. The committee shall
9 prepare a report setting forth its findings, recommendation and reasons for
10 such recommendation. The House of Representatives shall vote on the recom-
11 mendation of the committee, as set forth in the report, during the regular
12 session of the Legislature in which the committee reports. If the committee
13 meets and reports during the interim when the Legislature is not in session,
14 then the House of Representatives shall vote on the committee recommendation
15 during the next regular session of the Legislature. If the committee does
16 not issue a recommendation within thirty days of the conclusion of the public
17 hearing, the complaint shall be deemed dismissed. Expulsion of a House mem-
18 ber shall require the affirmative vote of two-thirds of the members elected
19 to the House, as provided by Section 11 of Article III of the Constitution.
20 Reprimand or censure of a member shall require the affirmative vote of a ma-
21 ajority of the members elected to the House. Action of the House pursuant to
22 this rule is final and not subject to court review.

23 (67) The committee may retain such counsel and may hire such investiga-
24 tors as it deems necessary for the performance of its duties under this rule.
25 All expenditures incurred pursuant to this subsection (6) shall be approved
26 by the Speaker Chairman and paid by vouchers and warrants drawn as provided
27 by law from appropriations made to the Legislative Account.

28 (78) The committee may adopt rules of procedure for the orderly con-
29 duct of committee meetings, investigations and hearings, which rules shall
30 be consistent with this rule and other applicable rules and statutes.

31 (89) If the written signed complaint concerns misconduct of the
32 Speaker, then the duties of the Speaker in this rule shall be the duties of
33 the majority floor leader a member of the ethics committee, then that member
34 shall be disqualified and shall not serve on the committee for any purpose
35 relating to such complaint. A vacancy on the committee created as a result
36 of this subsection shall be filled by an alternate in accordance with the
37 provisions of subsection (2) (c) of this rule, except that the fulfillment of
38 any such vacancy shall only be for purposes relating to such complaint.

39 BE IT FURTHER RESOLVED that, notwithstanding the timing requirement
40 provided in subsection (1) of Rule 76 of this Resolution, within twelve days
41 from passage of this Resolution by the members of the House of Represen-
42 tatives, assembled in the First Regular Session of the Sixty-second Idaho
43 Legislature, an ethics committee shall be organized and members shall be
44 determined consistent with the provisions of this Resolution.