

MINUTES
HOUSE ETHICS AND HOUSE POLICY COMMITTEE

DATE: Tuesday, March 22, 2022
TIME: Upon Adjournment
PLACE: Room EW41
MEMBERS: Chairman Dixon, Representatives Horman, Crane, McCrostie, Gannon, Barbieri, Young, Green, Chew
**ABSENT/
EXCUSED:** Rep. Barbieri
GUESTS: The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be retained in the Legislative Library.

Chairman Dixon called the meeting to order at 4:15 p.m.

Chairman Dixon mentioned there is a new draft with some of the underlying changes made this morning. He review some changes saying the added language on page 3, line 23 to allow a respondent to reveal an ethics complaint against them when it has been dismissed has been removed. He said subsections (b) and (c) have been swapped in their order and pick up again on subsection (d). He asked if there is anything to be reviewed regarding what was discussed this morning.

Rep. Crane said section 2(b) doesn't comply with 2(a) and is irrelevant and deferred to **Kristin Ford**, LSO drafter, for further definition. **Rep. McCrostie** pointed out the conditions should have "or" added so it would include any one of the three conditions on line 10 and not all three.

Rep. Horman suggested removing lines 23 through 25, but if the are kept in should say "without providing any details of the complaint". **Rep. Gannon** reiterated he would like to keep the committee out of this section all together. He continued saying there are a lot of reasons why a complaint could be dismissed that is not based upon the merit or lack of merit of the complaint. He said the committee should be ether in or out of this portion, but not part way. Committee members discussed removing this portion or altering it. Members agree this may cause the committee problems and there is a reason the preliminary portion is kept in executive session. Some members were in favor of the original rule language and thought it was a better approach than this suggestion.

There was discussion regarding members not being present and running out of time in the session in getting an RS ready to print and be heard by a committee. **Rep. Green** said at some point the committee needs to move forward and make decisions.

Rep. Crane needed clarification on when documents become public and discussion was held regarding this being addressed later in the draft document. **Kolby Reddish**, LSO legal council, commented on where this is placed now and how it is relating to that stage in the process of staying in executive session.

Moving on to subsection (d), the committee discussed the 4/5 vote threshold in two instances and **Rep. Horman** said the language "in testimony" was restrictive and removal was suggested.

Adding the language to provide evidence within 72 hours after notification to give time for redactions was discussed. **Rep. Young** said the committee is not under time constraints before this time and can make redactions. **Rep. Horman** said from experience the committee needs to have attorneys do the redactions and there is a need for time to accomplish this. There was discussion regarding subsections (g) and (f) and **Mr. Reddish** said these subsections are not duplicative because the evidence may have evolved. He explained there are differences in what evidence is attached. **Rep. Crane** questioned if this was putting more of a burden on the committee with providing evidence. He continued saying this is a disciplinary issue and these examples of evidence may move into a judicial issue. **Chairman Dixon** suggested this should be more explicit and include all evidence in support of the complaint. **Rep. Young** said everything that is released to the public should be released to both parties. **Ms. Ford** suggested language changes, striking line 33 and the first part of line 34. **Chairman Dixon** said it is the intent of the committee to release the response also so both sides are treated equally. He said the committee should release the complaint, response and evidence.

Committee members discussed what documents should be released to the public. Discussion was held regarding transcripts from interviews during the committee investigation and some members would like the language to not be so explicit and just say what will be released. The committee discussed keeping the release of documents to relevant information at the discretion of the committee. **Chairman Dixon** stated all documents should be shared by both parties and questioned if lines 33 through 34 should be removed. This is in a different phase and some documents should be made public during different phases. Discussion was held regarding changing what "evidence" is public and it was mentioned there also may need to be some language in the rule or on a case by case basis for supplying documents for public records. **Mr. Reddish** said because constitutionally the legislature can create their own rules, there are rules that provide for exemptions.

Chairman Dixon continued review on page 4. Committee members discussed the redundancy of continually saying the respondent is allowed to obtain and review all the evidence. It was pointed out this is original language and the committee agreed they want to retain the respondent's duty to obtain and review the documents. **Rep. Horman** expressed concern with outlining the respondents portion of the hearing, without outlining the committee's portion of the hearing and during the process the structure of the hearing was negotiated. **Rep. McCrostie** said in reviewing the differences with the current rule, there is not much different and members agreed they should just move forward knowing this has been addressed.

The committee discuss using legal council to ask the questions during a public hearing, because it can be uncomfortable to question peers and committee members may not be trained to ask questions. **Rep. Gannon** agreed saying the committee should be more like a jury or judge instead of a prosecutor. He said it is different work to prepare for examination during a hearing and they could be viewed more as an advocate. The committee shouldn't be an advocate. **Ms. Ford** gave examples of a more general rewrite for using legal council. **Rep. Young** discussed equity of legal council and if the committee should pay to provide council to the respondent if the committee has legal council. **Chairman Dixon** said the current rule already provides for the ability of both parties to have legal council they only need to determine if the committee is going to pay for it. **Rep. Chew** said if a third party is involved to make sure those people are protected otherwise they won't complain and justice won't be served.

Ms. Ford read and reviewed other proposed language to provide for the committee to pay for council for either or both parties that had been discussed in previous meetings. The committee agreed with some of the suggested language. **Rep. Gannon** said with the issue in **Jane Doe's** case and providing testimony, to add something in the rule. **Chairman Dixon** said this would fall under the rule already and **Rep. Crane** said this would fall under the committee providing protection of the identity of a third party. **Mr. Reddish** said this is already in the rule with the subpoena power of the committee, the language would not require the committee to do this if it felt there was enough evidence already.

In discussion regarding the 4/5 vote threshold in subsection 6, **Mr. Reddish** said this points back to the Constitution. **Chairman Dixon** reviewed the portion regarding the committee report and the 30 day time line for the report. Chairman Dixon further reviewed the portion of the rule regarding the committee recommendation to the House and House actions.

Rep. Crane mentioned he didn't want to move forward without one member of the committee and that member should not have veto power because they are not present. Several committee members said they would like to move forward with this tonight and others mentioned they would like to see an RS before making a final decision.

MOTION: **Rep. McCrostie** made a motion to strike lines 23 through 25 on page 3, the underlined language. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 5:58 p.m.

Representative Dixon
Chair

Susan Werlinger
Secretary