

COMMITTEE RULES FOR THE HOUSE ETHICS COMMITTEE [AS OF AUGUST 14, 2017]

I. GENERAL COMMITTEE RULES

- A. Where applicable, the rules of the House, as now or hereafter adopted, shall be the Committee rules except as otherwise provided herein.
- B. The House Ethics Committee recognizes its duties, jurisdiction, and responsibilities as enumerated in House Rule 4.16. Where the Committee Rules might be deemed in conflict with the Rules of the House of Representatives, the Rules of the House of Representatives will prevail.
- C. The members of the Committee shall elect, at the beginning of each session, a Chairperson, Vice-Chairperson, and a Secretary consistent with the provisions in Section 8-13-510.
- D. A quorum of the Committee shall consist of a majority of the members of the Committee.
- E. Matters to be taken up in any meeting shall be listed on an agenda. The preparation of the agenda and the designation of meeting times shall be the responsibility of the Chairperson.
- F. In order to address the Committee, a person must be: (1) a constitutional officer of the state; (2) a member of the General Assembly; (3) scheduled on the agenda; or (4) granted permission during the meeting by the Chairperson upon the unanimous consent of the Committee. This does not apply to public hearings.
- G. A recorded vote will be taken on any question pending consideration, and the yeas and nays will be recorded in the minutes.
- H. The Committee Chairman shall designate subcommittees and a subcommittee chairman as he deems appropriate for the conduct of Committee business.
- I. The foregoing rules shall be taken to be an expression of the normal operating procedure of the Committee, but such procedure may be waived or departed from by a two-thirds (2/3) vote of the Committee members present and voting. The approval of two-thirds of the membership of the Committee shall be required to permanently change any of the foregoing rules.
- J. Committee members may participate in a meeting of the Committee by means of conference call or other means of communication by which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at such meeting. Any such meeting shall be open to the public, except where it is necessary to meet in executive session. Upon objection of three members, a quorum must be present in person for a meeting to be held.

II. COMMITTEE AUTHORITY

A. Confidentiality [House Rule 4.16G]

1. The Committee, staff, parties, and other appropriate persons will adhere to the confidentiality requirements in House Rule 4.16G.
2. The respondent to any complaint may waive confidentiality by submitting, in writing, an affirmative waiver of confidentiality in compliance with House Rule 4.16G.(2). The Committee will not accept a partial waiver. Once submitted such waiver is absolute, without limitation, and cannot be revoked. Waiver by the respondent does not waive the Committee's ability to proceed and does not affect privileged communications or work-product of the Committee, counsel, staff, investigators, or other persons assisting the Committee in the performance of its duties.
3. The chair is the official spokesperson for the committee and is responsible for communication, both verbal and written, which is shared with those covered by the Ethics law, the public, the press, and other interested parties. The chair may delegate this responsibility as necessary.
4. Committee members may talk to the public, the press, and other interested parties on matters upon which they have a personal opinion unless prohibited under confidentiality provisions. Committee members may not issue informal Ethics advice or act as the official spokesperson for the committee unless delegated to do so by the chair.
5. Staff is authorized to communicate with the public, the press and other interested parties at any time on informational and procedural matters. With permission of the chair, staff may communicate on all issues considered public relating to the committee.

B. Staff may provide informal advice to people subject to the Ethics Act. However, advice given by staff does not hold any precedential value. Such informal advice is not the opinion of the House Ethics Committee but rather advice based on provisions of the State Ethics Act and the Committee's past interpretations of the Act provided in prior formal opinions. Informal staff advice shall not be binding on the Committee.

C. Pursuant to Rule 4.16, staff is authorized to examine filings of statement of economic interest reports and campaign disclosure reports for irregularities and to bring any abnormalities to the Chairman's attention for additional inquiry or action.

D. The Committee shall issue fines pursuant to section 8-13-1510 for failure to file a statement or report required to be filed under Chapter 13, Title 8 of the S.C. Code of Laws before the statutorily established deadline.

E. With the consent of the House Ethics Committee, Staff may issue a subpoena duces tecum to a candidate or former candidate's financial institution as part of the administrative closure process to obtain information regarding the candidate or former candidate's campaign financial institution account and to verify whether the account has been closed. The candidate or former candidate will be notified that staff has subpoenaed his or her campaign financial institution account records. If requested, the Committee shall pay the costs for the search and copy fees to the financial institution in order to obtain the subpoenaed information. The Committee may also

use the information obtained by subpoena for the setoff debt program.

III. COMPLAINTS

- A. In order to be accepted, the complaint must meet the criteria set forth in Section 8-13-540(A)(1) and House Rule 4.16.
- B. For a complaint alleging a violation of the rules of the House of Representatives, the respondent shall respond to the complaint as set forth in House Rule 4.16D.(4). This response must include an affidavit signed by the respondent attesting to the truthfulness of the response. For complaints sent to or referred to the State Ethics Commission (Commission) regarding a House Member or candidate, the respondent shall submit a response pursuant to Section 8-13-540(B)(2)(a).
- C. If the Commission determines that the complaint alleges a technical violation and refers it back to the Committee, the Committee may dispose of the complaint pursuant to Section 8-13-540(B)(2)(c).
- D. After a complaint is filed with the House Ethics Committee, committee members shall not discuss the matter with people who are not Ethics Committee members, staff, or independent counsel. Parties to the matter and all other people, except staff, shall not discuss the matter with members of the Ethics Committee, except in the conduct of the investigation as provided by House Rule 4.16D.
- E. The complaint process shall be that as set forth by S.C. Code Ann. §§ 8-13-530 - 550.

IV. PRELIMINARY INVESTIGATIONS

- A. Upon receiving a complaint by an individual and upon a majority vote of the total membership of the Committee to file a complaint when alleged violations are identified, the Committee must:
 1. issue prompt, written notification to the accused of the allegation(s) against him and refer the complaint to the State Ethics Commission within thirty days; but,
 2. if the complaint only alleges a violation of a rule of the House of Representatives, the Committee must forward a copy of the complaint to the person alleged to have committed the violation and the committee shall conduct an investigation pursuant to Section 8-13-510(A)(2).

Pursuant to House Rule 4.16D.(6), in order to involve an investigator who is not a House Ethics Committee member or House staff, the Chairman must determine, with the consent of a majority of the House Ethics Committee members, that specialized talents are necessary, potential conflicts of interest may exist, or additional workforce is necessary.

- B. If the complaint alleges a violation of the rules of the House of Representatives, the Committee will set forth the scope of the preliminary investigation. Following the report of the preliminary investigation, the Committee may determine further preliminary investigation is necessary before making a determination as to probable cause.
- C. If the Committee determines for a complaint alleging a violation of the rules of the House of Representatives there is no finding of probable cause that a violation occurred, the complaint must be dismissed and the complainant and respondent notified. House Rule 4.16D.(6) and §

- D. The Committee shall dispose of any complaint the Commission refers to the Committee pursuant to Section 8-13- 540(B)(2)(c) for a technical violation according to Section 8-13-1170 or 8-13-1372.
- E. If the Committee finds that the complaining party willfully filed a groundless complaint, the finding must be reported to the appropriate law enforcement authorities.
- F. Acquisition of materials and evidence in the investigation:
 - 1. Subpoena Power - The Committee has subpoena powers under House Rule 4.16D.(5), statutory law, and its constitutional power subject to judicial enforcement as provided by law.
 - 2. Discovery - The Committee may obtain information regarding any matter, which is relevant to the subject matter involved in the pending action by the following methods:
 - a. depositions upon oral examination or written questions;
 - b. written interrogatories;
 - c. production of documents or things or permission to enter upon property for inspection purposes; and
 - d. affidavits.
 - 3. The Committee shall have the authority to enforce compliance with this Rule, including judicial enforcement as provided by law.
- G. A person who is the subject of an investigation for a violation of the rules of the House of Representatives or a technical violation must be offered the opportunity to appear before the Committee in person to be heard on the alleged violation under oath. The subject may appear pro se or through counsel or both, and shall be provided the opportunity to offer information, including an explanation of the allegations or any other relevant information. Any written or oral statement offered by any person, other than counsel for the subject or the Committee, shall be made under oath. Any written or oral statement offered by any person, other than counsel for the subject or the Committee, shall be made under oath. The respondent may also submit affidavits for these purposes as provided in House Rule 4.16E.(4).
- H. The results of the investigation will be delivered to the Committee at a meeting scheduled by the Chairperson.
- I. After the investigation of a complaint referred to the Commission and the Commission subsequently provided a report to the Committee with a recommendation that there is probable cause to believe a violation of Chapter 13, Title 8 or of Chapter 17, Title 2 has occurred, the Committee may then concur or nonconcur with the Commission's recommendation, or within forty-five days from the Committee's receipt of the report, submit a request to the Commission to continue the investigation in order to review information previously received or consider additional matters not considered by the Commission pursuant to Section 8-13-540(B)(6) and (D)(1).

If, after reviewing the Commission's recommendation and relevant evidence, the Committee determines that there is not competent and substantial evidence of a violation of Chapter 13, Title 8 or of Chapter 17, Title 2 has occurred, the Committee shall dismiss the complaint and send a written decision to the respondent and the complainant. The notice of dismissal must be made

public if the Commission made a recommendation that probable cause existed pursuant to Section 8-13-540(D)(2).

If, after reviewing the Commission's recommendation and relevant evidence, the Committee determines that the respondent has committed only a technical violation pursuant to Section 8-13-1170 or 8-13-1372, then the provisions of the appropriate section apply pursuant to Section 8-13-540(D)(3).

If, after reviewing the Commission's recommendation and relevant evidence, the Committee determines that there is competent and substantial evidence that a violation of Chapter 13, Title 8 or of Chapter 17, Title 2 has occurred, except for a technical violation of Section 8-13-1170 or 8-13-1372, the Committee shall, pursuant to Section 8-13-540(D)(4), as appropriate:

- (a) render an advisory opinion to the respondent and require the respondent's compliance within a reasonable time; or,
- (b) convene a formal public hearing on the matter.

The Committee may obtain its own information, or request additional investigation by the Commission, if it needs additional information to make a determination as to whether or not competent and substantial evidence of a violation exists.

V. PUBLIC HEARINGS

A. If, after reviewing the Commission's recommendation and relevant evidence, the Committee determines that there is competent and substantial evidence that a violation of Chapter 13, Title 8 or of Chapter 17, Title 2 has occurred, and the Committee determines a public hearing should be held, it must commence within ninety days after notice of the hearing has been sent to the respondent pursuant to Section 8-13-540(D)(5).

In the matter of a rules or technical violation, if the Committee determines there is probable cause that a public hearing should be held, it must commence within ninety days after notice of the hearing has been sent to the respondent.

The notice shall include:

- (1) statement of the time, place, and nature of the hearing;
- (2) statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) reference to the particular sections of the statutes and rules involved; and,
- (4) short and plain statement of the matters asserted.

B. All public hearings must be conducted in open session pursuant to House Rule 4.16E and Section 8-13-540(D)(5).

C. The respondent shall be responsible for any costs associated with discovery the respondent conducts. Discovery by respondent requires prior authorization by the Committee and shall be limited to the following: (1) Depositions upon oral examination as set forth in Rule 30(b)-(c), SCRCP, or upon written questions as set forth in Rule 31, SCRCP; (2) Written interrogatories limited to the standard interrogatories under Rule 33(b), SCRCP; and (3) production of documents or things or permission to enter upon property for inspection purposes as set forth in Rule 34, SCRCP.

D. Pursuant to House Rule 4.16D.(5) and House Rule 4.16E.(3), the Committee may issue subpoenas and compel the attendance of any person who the Committee deems proper and relevant to the matter. A person to whom a subpoena has been issued must appear and is required to answer questions under oath, subject to the right to move the Committee for an order quashing the subpoena as set forth in House Rule 4.16D.(5). The Committee shall have the authority to enforce compliance with a subpoena to include finding the person in civil contempt. Upon a finding of civil contempt, the Committee may order an appropriate sanction which may include a requirement that such person pay the reasonable costs and expenses associated with requiring compliance.

E. In accordance with House Rule 4.16E and Section 8-13-540(D)(5), the public hearing shall be conducted in the following manner:

1. The Chairman or his designee shall serve as the Hearing Officer to preside over the hearing and make rulings and determinations as to procedure.
2. The Committee shall have legal counsel available to advise them on matters of law.
3. Committee members may examine or cross-examine any witness on any matter relating to the subject of the hearing.
4. (a) The investigator or attorney handling the investigation for the Commission shall present the evidence related to the complaint to the Committee.
(b) If the matter involves a technical or rules violation, the Committee will follow the procedure in House Rule 4.16E.(2).
5. It is the duty of the investigator or attorney to further investigate the subject of the complaint and any related matters under the jurisdiction and at the direction of the Committee, to request assistance from appropriate state agencies as needed, to request authorization from the committee for funds for the hiring of auditors, investigators, or other assistance as necessary, to prepare subpoenas, and to present evidence to the committee at any public hearing.
6. The respondent will be allowed to examine and make copies of all evidence in the Committee's possession relating to the charges. At the hearing, the respondent will be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross-examine opposing witnesses.
7. All hearings must be open to the public.

F. Concerning evidentiary matters in the hearing:

- a. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.
- b. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given the opportunity to compare the copy to the original.
- c. Objections to evidentiary offers must be made at the time of the offer and shall be noted in the record. The Committee shall consider only competent evidence in its deliberations

on the pending matter for disposition.

- G. After the formal public hearing, the Committee will determine its findings of fact and issue its final order.
- H. Upon finding, based on competent and substantial evidence, the respondent has committed a violation within the Committee's jurisdiction, the Committee shall impose sanctions as provided in House Rule 4.16F and Section 8-13-540(D)(6)(c).
- I. The Committee's Order shall be final. The Committee shall report its findings in writing to the Speaker of the House of Representatives. The Order must be accompanied by an order of punishment or dismissal and supported and signed by a majority of the Committee members. The complainant or respondent may seek review of the Committee's action as set forth in House Rule 4.16F.(c). Any written notice shall set forth specific grounds for challenging the Committee's action.
- J. The following documents will become public record: exhibits introduced at the hearing, the Committee's findings, and the final order pursuant to House Rule 4.16G.(3) and Section 8-13-540(D)(6)(e).
- K. The Committee may levy an enforcement or administrative fee on a person found in violation, or who admits to a violation, pursuant to Title 2 or Title 8 pursuant to Section 8-13-130.

VI. PUBLIC REPRIMANDS FOR UNTIMELY FILING

If a statement of economic interest or a campaign disclosure report has not been filed after two reporting deadlines have passed, then a public reprimand will be issued by the House Ethics Committee. Additionally, after two reporting deadlines have passed, if no payment has been made on a fine resulting from a late statement or report, then a public reprimand will be issued. However, if a person has made a payment on a fine, the time period before a public reprimand is issued may be stayed as long as regular payments are being made. This determination is in the House Ethics Committee's discretion. The issuance of a public reprimand for failure to make a timely filing may be appealed to the House Ethics Committee.

Other public reprimands may be issued by the Committee as it deems appropriate.

VII. EXECUTIVE SESSION

The Committee or a subcommittee may enter into executive sessions for reasons including, but not limited to, discussion of confidential information, receipt of legal advice and review of work product, discussion of employment issues, discussion of negotiations incident to proposed contractual arrangements, and discussion of investigation, and for other reasons as may be provided by law.