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# Minnesota House of Representatives

COMMITTEES: AGRICULTURE; ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE;  
TAXES: SALES AND INCOME TAX DIVISION - TAXES

TO: All House Members

FROM: Representative Elaine Harder, Ethics Committee Chair

DATE: February 18, 1999

RE: Rules of Procedure for Ethics Committee

A handwritten signature in cursive script, reading "E. Harder", positioned to the right of the "FROM:" line.

As you know, House Rule 6.10 requires that the House Ethics Committee "adopt written procedures, which must include due process requirements for handling complaints and issuing guidelines." Furthermore, House Rule 6.21 provides that if committees establish written procedures pertaining to the conduct of the committee's business, the speaker and each member of the House must be provided a copy before the procedures are implemented.

Pursuant to these permanent rules of the House, I am providing members with the Ethics Committee rules of procedure that were adopted in Ethics Committee on February 9, 1999. Please let me know if you have any questions about these rules or anything else pertaining to the Ethics Committee. Thank you.

Enclosures



1                   House Committee on Ethics

2                   Rules of Procedure

3           1. PURPOSE. The Committee shall meet only: (a) to review  
4 and dispose of complaints against members (other than those  
5 arising out of election contests), as authorized by House Rule  
6 6.10, which are submitted to the Speaker prior to adjournment  
7 sine die; (b) to adopt written procedures for handling  
8 complaints; (c) to review and make recommendations regarding  
9 ethical guidelines; (d) to consider complaints alleging  
10 violations of open meeting requirements that the Speaker has  
11 referred to the Committee under House Rule 6.23; and, (e) to  
12 consider matters referred to it by the Committee on Rules and  
13 Legislative Administration or the House.

14           Pursuant to House Rule 6.10, the following shall serve as  
15 the written procedures and due process requirements for handling  
16 complaints referred to the Committee on Ethics.

17           2. COMPLAINTS. As specified in House Rule 6.10, a  
18 complaint regarding the conduct of a member of the House shall  
19 be made by two or more members of the House, shall be in writing  
20 and under oath, shall name the member or members charged and the  
21 actions complained of, shall present with specificity the  
22 factual evidence supporting the complaint, and shall be  
23 submitted to the Speaker.

24           On matters of complaints against members, the House

1 Research Department shall serve as staff to the Committee only,  
2 and not to either the complainants or any member named in a  
3 complaint.

4 If a complaint is withdrawn by the complainants, the  
5 Committee shall immediately terminate all proceedings respecting  
6 the complaint, except as the Committee deems necessary to  
7 determine whether the complaint is frivolous for purposes of  
8 action under Rule 8.

9 3. PROCEEDINGS TO BE HELD IN PUBLIC; EXCEPTIONS.

10 The existence and substance of the complaint, including any  
11 supporting materials, and all proceedings, meetings, hearings  
12 and records of the Committee are public; except that the  
13 committee, upon a majority vote of the whole Committee, may meet  
14 in executive session to consider or determine the question of  
15 probable cause, as provided in Rules 6 and 7, to consider a  
16 member's medical or other health records, or to protect the  
17 privacy of a victim or a third party.

18 4. DUE PROCESS. Any member named in a complaint must be  
19 fully informed of due process rights. The member must be given  
20 a copy of the complaint and must be given timely notice of and  
21 the right to be present at all meetings and hearings. The  
22 member has the right to respond to all charges, to be  
23 represented by counsel, to call and cross-examine witnesses, to  
24 introduce exhibits, to be furnished with exhibits, documents,  
25 and evidence in possession of the Committee, and to rebut  
26 evidence offered by the complainants. The members making a  
27 complaint must be notified of all meetings and hearings on the  
28 complaint and must be given notice of their opportunity to offer  
29 evidence of matters alleged in the complaint.

30 5. COMMITTEE PROCEEDINGS; RECORDS. All public records of  
31 the Committee must be disposed of in accordance with House Rule  
32 6.24. When the Committee meets in executive session, the  
33 proceedings, all evidence presented in the session, and all  
34 records of the session are confidential except insofar as the  
35 Committee determines, by a majority vote of the whole Committee,  
36 that items should be made part of the public record. The

1 Committee shall advise all participants in an executive session  
2 of the confidentiality requirement. Confidential records of  
3 executive sessions must be kept by the Committee until the  
4 December 31 next following adjournment sine die, at which time  
5 the confidential records must be destroyed by the Chair of the  
6 Committee, or the Chair's designee, and notification of the  
7 destruction sent to the Chief Clerk.

8 6. MEETING ON PROBABLE CAUSE. The Committee shall, upon  
9 receipt of a complaint, hold a meeting within 21 days to  
10 determine whether there is probable cause to support the  
11 complaint. The Committee may, upon a vote of the majority of  
12 the whole Committee, defer its proceedings until the completion  
13 of ongoing criminal proceedings related to the conduct named in  
14 the complaint.

15 7. FINDING OF PROBABLE CAUSE. If a majority of the whole  
16 Committee finds, based upon the complaint and supporting and  
17 rebutting evidence presented by the complainants and the member  
18 or members named, sufficient factual evidence to believe that  
19 the allegations contained in the complaint are more probably  
20 true than not and that, if true, they tend to support  
21 disciplinary action, the Committee shall inform the Speaker and  
22 the member or members named that it has found probable cause and  
23 shall proceed to public hearings under Rule 10. If a majority  
24 of the whole Committee fails to find probable cause, the  
25 complaint shall be dismissed.

26 8. FRIVOLOUS COMPLAINTS. If a complaint is withdrawn or  
27 dismissed, and a majority of the whole Committee finds the  
28 complaint to have been frivolous, the Committee shall  
29 immediately issue a public letter of reproof to the  
30 complainants and may recommend other disciplinary action against  
31 the complainants.

32 9. MINOR VIOLATIONS, INFORMAL RECONCILIATION. At any time  
33 during the proceedings, if a majority of the whole Committee  
34 finds that a violation of a law, rule, administrative policy, or  
35 norm of behavior was inadvertent, technical, or of a de minimus  
36 nature, or may not warrant disciplinary action by the House, the

1 Committee may attempt to bring about voluntary remedial or other  
2 action by the subject of the complaint without disciplinary  
3 action. The Committee also may recommend clarification of a  
4 law, rule, policy, or norm of behavior and may caution the  
5 members of the House with respect to it.

6 10. FINAL HEARING. The hearing to make a final Committee  
7 determination on a complaint shall be held in public except  
8 insofar as the Committee votes to meet in executive session  
9 pursuant to House Rule 6.10 and Rule 3. The purpose of the  
10 hearing shall be to receive and evaluate the evidence offered in  
11 support of or opposition to disciplinary action and to make a  
12 final Committee determination on the complaint.

13 11. COMMITTEE DETERMINATION. If a majority of the whole  
14 Committee finds clear and convincing evidence in support of  
15 disciplinary action, the Committee shall, with or without  
16 comment, make a recommendation to the House for final  
17 disposition. If a majority of the whole Committee fails to find  
18 clear and convincing evidence in support of disciplinary action,  
19 the complaint shall be dismissed.

20 12. RECOMMENDATIONS FOR DISCIPLINARY ACTION. The  
21 Committee may recommend disciplinary action by the House as  
22 follows:

23 (a) The Committee may recommend expulsion. Expulsion is  
24 the ultimate penalty available to the House. It is the only  
25 sanction expressly referred to in the state constitution, which  
26 recognizes the gravity of this power by requiring a vote of  
27 two-thirds to exercise it. Expulsion is a sanction that is  
28 properly reserved for the most serious violations of law, rule,  
29 standards, or duty, for conduct so abhorrent that it obliges the  
30 House to repudiate an elected representative of the people.

31 (b) The Committee may recommend censure. Short of  
32 expulsion, censure is the strongest formal statement of  
33 disapproval of the conduct of a member by the member's peers.  
34 It is used to condemn very serious misconduct that does not  
35 justify expulsion from the House. Censure is carried out by a  
36 majority vote of the House, through the adoption of a resolution

1 of censure that is entered in the permanent Journal of the House.

2 (c) The Committee may recommend reprimand. Reprimand is  
3 the appropriate discipline for misconduct that warrants formal  
4 disapproval by the House but is not so serious as to justify  
5 censure. Reprimand is carried out by a majority vote of the  
6 House, through the adoption of a resolution of reprimand that is  
7 entered in the permanent Journal of the House.

8 (d) As part of a resolution of censure or reprimand, the  
9 Committee may recommend that the member be required to make  
10 financial restitution. This is appropriate in cases where the  
11 Committee finds that the misconduct was committed to secure, or  
12 resulted in, an undeserved personal financial benefit due to  
13 misuse or misappropriation of public funds or assets.

14 (e) As part of a resolution of censure or reprimand, the  
15 Committee may recommend that remedial or other action be  
16 required of the member, including a requirement that the member  
17 accept professional counseling or assistance.

18 (f) As part of a resolution of censure or reprimand, the  
19 Committee may recommend that the House impose other discipline  
20 that the Committee deems appropriate.

21 (g) Under the Minnesota Constitution, article IV, section  
22 6, and article VII, section 1, a member who is convicted of a  
23 felony is not entitled to continued membership in the House,  
24 until restored to civil rights, and must, if necessary, be  
25 expelled.

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This Committee action taken ... 2/9... 1999

... *Eugene Zander* ... Chair  
... *Ed. Hunt* ... Chair