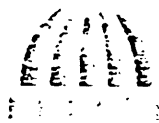


Chamber Rules



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To: Brenda Elmer
MN House

From: Brenda Erickson

Message: Attached are examples of chamber
rules re: member conduct during
debate.
I will forward anything else I
find or gather shortly.

Number of pages sent
(including this cover sheet): 11

Date: 3/6/00

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Examples of Chamber Rules
Re: Member Conduct—Language

State	Rule Number	Text or Text Excerpt
Alabama	Senate Rule 40	Senators engaged in debate shall refrain from engaging in abusive and derogatory language in reference to other Senators and shall immediately be called to order by the presiding officer if such practice prevails. When a Senator shall be called to order by the President, he or she shall immediately sit down; however, the Senator will not lose his or her place and may resume the microphone at the direction of the presiding officer. Senators engaged in debate shall address each other by their official title and last name or reference their geographical district of representation.
	Senate Rule 71	If a Senator be called to order by a Senator for words spoken, the exceptional words shall be taken down immediately in writing by the Secretary. The presiding officer shall then judge the matter, and rule accordingly.
	House Rule 50	If any member transgresses the rules, in speaking or otherwise, the Speaker shall, or any member may, call him to order, in which case the member called to order shall immediately sit down, unless he is allowed to explain; and the House shall, if appealed to, decide on the case without debate. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, and the case requires it, he shall be liable to censure

State	Rule Number	Text or Text Excerpt
Arizona	Senate Rule 9	...C. No Senator in debate shall, directly or indirectly, by any form of words, impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator. D. If any Senator, in speaking or otherwise, transgresses the rules of the Senate, the Presiding Officer shall call the Senator to order; and when called to order the Senator shall sit down and not proceed without leave of the Presiding Officer or upon motion adopted by the Senate, that the Senator be allowed to proceed in order, which motion shall be determined without debate. E. If a Senator be called to order for words spoken in debate, the exceptionable words shall, upon the demand of any Senator, be taken down in writing, and read at the table for the information of the Senate.
	House Rule 18	A. When a member desires to speak in debate or deliver any matter to the House, or make a motion, he shall rise and address himself to the Chair, and on being recognized may address the House. He shall confine himself to the question and avoid personalities. No member shall impeach or impugn motives of any other member's argument or vote...
	House Rule 19	A. No member shall be permitted to indulge in personalities, use language personally offensive, arraign motives of members, charge deliberate misrepresentation or use language tending to hold a member of the House or Senate up to contempt. B. If any member be called to order for words spoken in debate, the member calling him to order shall repeat the words excepted to; and they shall be taken down in writing at the Chief Clerk's desk and read aloud to the House, but he shall not be held to answer or be subject to the censure of the House therefor if further debate or other business has intervened. C. If any member, in speaking or otherwise, transgresses the Rules of the House, the Speaker shall, or any member may call him to order, in which case he shall immediately sit down unless permitted to explain; and the House shall, if appealed to, decide the case without debate. If the decision is in favor of the member called to order, he shall be at liberty to proceed, but not otherwise; and, if the case requires it, he shall be liable to censure or such punishment as the House may deem proper...
California	Senate Rule 36	When a Senator shall be called to order he or she shall sit down until the President shall have determined whether he or she is in order or not. Every question of order shall be decided by the President, subject to an appeal to the Senate by any Senator. If a Senator be called to order for words spoken, the objectionable language shall immediately be taken down in writing by the Secretary of the Senate.

State	Rule Number	Text or Text Excerpt
California (cont'd.)	Assembly Rule 114	If any Member transgresses the Rules of the Assembly, the Speaker shall, or any Member may, call the offending Member to order. The Member so called to order immediately shall take his or her seat, until the Speaker, without debate, has determined whether the Member is in order. That decision by the Speaker shall be subject to an appeal to the Assembly. If any Member is called to order for offensive words spoken in debate, the person calling him or her to order shall state to the Assembly the words to which exception is taken. No Member may be held to answer, or be subject to censure by the Assembly, for language used in debate if other business has been transacted by the Assembly prior to exception being taken to the words spoken.
Colorado	Senate Rule 16	... (d) (1) If any Senator, in speaking or otherwise, transgresses the rules of the Senate, the President shall, or any member may, call him to order, in which case he shall immediately sit down, and shall not speak, except in explanation, until it shall have been determined whether or not he is in order. (2) If any Senator is called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be reduced to writing by the secretary; but no Senator shall be held to answer or be subject to censure of the Senate therefor if further debate or other business has intervened after the words spoken and before exception to them shall have been made. (e) Any Senator shall have the right to protest or remonstrate against any action of the Senate, and such protest or remonstrance, with the reasons therefor, if reduced to writing, shall without alteration or delay be, with the consent of the Senate, entered in the journal if the protest or remonstrance is not personal in its nature.
Connecticut	Senate Rule 16	If a member, in speaking or otherwise, transgresses the rules and order of the Senate, the president shall, or any member may, call such member to order; and if speaking, such member shall sit down, unless permitted to explain; and if a member is guilty of a breach of any of the rules and orders, such member may be required by the Senate, on motion, to make satisfaction therefor, and until satisfaction has been made shall not be allowed to vote or speak except by way of excuse.
	House Rule 18	The speaker shall, or any member may, call to order any member who in speaking or otherwise, transgresses the rules and orders of the house. If speaking, the member shall sit down, unless permitted to explain; and if a member is guilty of a breach of any of the rules and orders, the member may be required by the house, on motion, to make satisfaction therefor, and shall not be allowed to vote or speak except by way of excuse until such satisfaction is made.

State	Rule Number	Text or Text Excerpt
Delaware	House Rule 15	(a) Each member shall conduct himself or herself in a dignified manner at all times. (b) No member or other person may walk across the House Chamber, or converse privately, in such a manner as to interrupt the House proceedings. (c) A member shall not be interrupted when speaking except for the following reasons: (1) a call to order by the Speaker. (2) a point of order by a member. (3) a motion by a member to move the previous question, to adjourn, or to recess. (d) A member shall not make derogatory personal comments about or to other members.
Florida	House Rule 24	Legislative office is a trust to be performed with integrity in the public interest. A Member is respectful of the confidence placed in the Member by the other Members and by the people. By personal example and by admonition to colleagues whose behavior may threaten the honor of the lawmaking body, the Member shall watchfully guard the responsibility of office and the responsibilities and duties placed on the Member by the House. To this end, each Member shall be accountable to the House for violations of this Rule or any provision of the House Code of Conduct contained in Rules 24 through 31.
	House Rule 99	When a Member desires to speak or deliver any matter to the House, the Member shall rise and respectfully address the Speaker as "Mr. (or Madam) Speaker" and shall confine all remarks to the question under debate, avoiding personalities. Once recognized, a Member may speak from the Member's desk or may, with the Speaker's permission, speak from the well.
Hawaii	House Rule 27.3	The Speaker shall order any member who conducts himself or herself in a disorderly manner during any session of the House to stay in his or her seat and be in order. The Speaker shall order the Sergeant-at-Arms to remove any member who persists in disorderly conduct from the House for the remainder of the day's session, unless the member who has been disorderly pledges to the House that he or she will maintain a good behavior.

State	Rule Number	Text or Text Excerpt
Illinois	Senate Rule 7-3	(c) If any Senator in speaking (or otherwise) transgresses these Senate Rules, the Presiding Officer shall, or any Senator may, call him or her to order, in which case the Senator so called to order shall sit down, unless permitted to explain; and the Senate, if appealed to, shall decide on the case without debate. If the decision be in favor of the Senator called to order, he or she shall be at liberty to proceed. If otherwise, and the case requires it, he or she shall be liable to the censure of the Senate. (d) If any Senator be called to order for words spoken in debate, the person calling him or her to order shall repeat the words excepted to, and they shall be taken down by the Secretary. No Senator shall be held to answer or be subject to the censure of the Senate for words spoken in debate if any Senator has spoken in debate or other business has intervened after the words spoken and before exceptions to them shall have been taken.
Kentucky	House Rule 23 (Senate Rule 23 is similar)	If any member, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.
Maine	Joint Rule 304	At public hearings, the chair may limit testimony as necessary for the orderly conduct of the hearing. Members may question witnesses to clarify testimony and to elicit helpful and pertinent information. While aggressive and probing questions may sometimes be appropriate, members shall exhibit respect for the witnesses and for one another. Members shall refrain from interrogation that is argumentative, oppressive, repetitive or unnecessarily embarrassing to hearing participants.
Minnesota	House Rule 2.31	If a member is called to order for offensive words in debate, the member calling for order must report the words to which exception is taken and the Clerk must record them. A member must not be held to answer, or be subject to censure of the House, for language used in debate unless exception is taken before another member speaks or other business takes place.

State	Rule Number	Text or Text Excerpt
Mississippi	House Rule 20	If any member, in speaking, or otherwise, transgresses the Rules of the House, the Speaker shall, or any member may on point of order ask the Speaker to call the transgressor to order; and the member called to order shall immediately sit down, unless permitted on motion of another member to explain, and the House if appealed to, shall decide on the case without debate. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if against him and the case requires it, he shall be liable to the censure of the House, or such other punishment as the House may deem proper.
	House Rule 21	If a member is called to order for words spoken in debate, the member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor be subject to the censure of the House therefor, if further debate on other business has intervened.
Missouri	Senate Rule 78	If a senator is called to order for words spoken in debate, the senator calling him to order shall repeat the words excepted to, and they shall be taken down in writing on the secretary's table, and no senator shall be held to answer, or be subject to the censure of the senate for words spoken in debate, if any other senator has spoken or business has intervened after the words spoken and before exception to them has been taken.
	House Rule 83	When any member is about to speak in a debate or deliver a matter to the House, he/she shall rise from his/her seat and respectfully address himself/herself to "Mr. Speaker" or "Madam Speaker." The member shall confine himself/herself to the questions under debate and avoid personality. If any member violates the rules of the House the Speaker, or any member, may call him/her to order. Any member called to order shall immediately sit down, unless permitted to explain, and the House shall, if appealed to, decide the case without debate.
Nebraska	Senate Rule 2, Sec. 9	If a member is called to order for words spoken in debate, the member calling him or her to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the Legislature, but he or she shall not be held to answer, nor be subject to the censure of the Legislature therefore, if further debate or other business shall have intervened.

State	Rule Number	Text or Text Excerpt
Ohio	House Rule 46	If any member, in speaking, or otherwise, transgresses the rules of the House, the Speaker shall call the offending member to order. The member so called to order shall take the member's seat immediately, unless permitted by the Speaker to explain. Any member may, by raising the point of order, call the attention of the Speaker to such transgression. Except as provided in Rule 45, the point of order shall be decided by the Speaker without debate. Every such decision of the Speaker shall be subject to appeal to the House by any two members. If a member be called to order by another member for offensive words spoken in debate, the member calling the member to order shall, if the Speaker so requires, reduce the objectionable language to writing.
Oregon	Senate Rule 6.10	(1) In speaking, a member must confine remarks to the question under debate and shall avoid personalities. A member may refer to the actions of a committee if such actions are relevant to the debate, but a member shall not impugn the motives of another member's vote or argument.
	Senate Rule 6.35	(1) If a member transgresses the rules of the Senate, the President, or any member through the President, may call the member to order. Unless permitted by the President to explain, the member called to order shall be seated immediately. (2) The member who is called to order may appeal the ruling of the President. If the Senate decides the appeal in favor of the member, the member may proceed with the debate. If the Senate decides the appeal against the member, the member may proceed "in order" or be liable to a motion of censure of the Senate.
	Senate Rule 6.40	If a member is called to order for words spoken in debate, the member objecting shall immediately repeat the words to which objection is taken and they shall be recorded by the Journal Editor. However, if any other member has spoken or other business has intervened after the words were spoken and before the objection was made, the member shall not be held answerable or subject to censure.
Rhode Island	Senate Rule 7.4	No senator shall use profane, insulting, or abusive language in the course of public debate in the senate chamber, or in testimony before any committee of the general assembly.
	Senate Rule 9.10	No senator shall use profane, insulting or abusive language or act in any manner that interferes with the orderly conduct of the session of the senate.

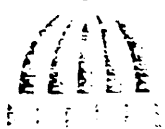
State	Rule Number	Text or Text Excerpt
Rhode Island (cont'd.)	House Rule 14	If any member, in speaking or otherwise, transgresses any rule of the House, the Speaker shall, or any member may, call him to order, in which case the member called to order shall immediately sit down, unless permitted by the Speaker to explain and the House shall, if appealed to, decide on the case but without debate.
South Carolina	House Rule 1.3	If any member, in speaking or otherwise, transgresses the Rules of the House, the Speaker shall call him to order, or any member may call such transgressions to the attention of the Speaker who shall call the transgressor to order. If repeated cries of order are ineffective, the Speaker may call a member by name, and if the Speaker deems it necessary, he shall state the offense committed. The member may be heard in his exculpation and shall withdraw, and the House shall consider his punishment or any further proceedings to be had.
	House Rule 3.6	Every member, when about to speak, shall rise from his seat and respectfully address himself to "Mr. Speaker" and shall avoid disrespect to the House or the Senate and all personalities, observe decency of speech, and shall confine himself to the question under consideration.
Texas	House Rule 5, Sec. 33	If any member, in speaking or otherwise, transgresses the rules of the house, the speaker shall, or any member may, call the member to order, in which case the member so called to order shall immediately be seated; however, that member may move for an appeal to the house, and if appeal is duly seconded by 10 members, the matter shall be submitted to the house for decision by majority vote. In such cases, the speaker shall not be required to relinquish the chair, as is required in cases of appeals from the speaker's decisions. The house shall, if appealed to, decide the matter without debate. If the decision is in favor of the member called to order, the member shall be at liberty to proceed; but if the decision is against the member, he or she shall not be allowed to proceed, and, if the case requires it, shall be liable to the censure of the house, or such other punishment as the house may consider proper.
Virginia	Senate Rule 39	No Senator or other person shall give audible expression to his or her approval or disapproval of any proceeding before the Senate.
	Senate Rule 40	If words are spoken in debate that give offense, exception thereto shall be taken the same day, and be stated in writing; and in such case, if the words are decided by the presiding officer, or by the Senate, upon an appeal, to be offensive, and they are not explained or retracted by the Senator who uttered them, he shall be subject to such action as the Senate may deem necessary.

State	Rule Number	Text or Text Excerpt
Virginia (cont'd.)	House Rule 58	If any member, in speaking, transgress the Rules of the House, the Speaker shall, or any member may, call him to order; in which case the member called to order shall immediately take his seat, unless permitted to explain. If there be no appeal, the decision of the Chair shall be final. If the decision be in favor of the member called to order, he shall be at liberty to proceed; otherwise, he shall not proceed, except by leave of the House. For frequent or repeated violations of order, especially if persisted in after the admonition of the Speaker, a member shall be liable to the censure of the House.
West Virginia	House Rule 32	When a member is about to speak in debate or deliver any matter to the House, he shall rise in his place and respectfully address the presiding officer as "Mr. Speaker," and, upon being recognized, shall proceed, confining himself to the question under debate, avoiding all personalities and indecorous or disrespectful language.
	House Rule 36	If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to and they shall be taken down at the Clerk's table. And no member shall be held to answer, or be subjected to the censure of the House, for words spoken in debate, if any other member has spoken or other business has intervened after the words were spoken and before the exception to them was taken.
Wisconsin	Senate Rule 58	Any member called to order shall sit down, and shall not speak, except in explanation, until it shall have been determined whether or not the member was in order. When a member is called to order for words spoken, the exceptional words shall be taken down in writing to better enable the president to judge whether they are in violation of the rules.
	Assembly Rule 58	(1) During debate, a member may question the orderliness of the remarks made by another member or whether the other member, in the manner of discussion or conduct, has violated the rules of the assembly. (2) When the presiding officer calls a member to order, that member shall not speak, except in explanation, until it is determined whether or not the member is in order. (3) When a member is called to order for the use of improper or disorderly language, the specific words to which exception has been taken shall be put in writing, thus enabling the presiding officer better to be able to judge whether the words spoken were in violation of the rules.

State	Rule Number	Text or Text Excerpt
Wyoming	House Rule 16-1	When a member is interrupted and called to order by the presiding officer for digressing from the question, exceeding a time limit, using improper language, speaking without recognition by the chair or wrongfully excluding others who wish to speak, he shall cease speaking and be seated at once until it is determined whether he is in order, except he may be permitted to explain his position when asked to do so.

Source: Search of NCSL's rules and procedures data base, March 2000.

Poll of other
states



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Denver, Colorado 80202

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To: Brenda Elmer

From: Brenda Erickson

Message: Attached is additional information
on debate decorum.

Number of pages sent
(including this cover sheet): 5

Date: 3/8/00

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March 31 - April 2, 2000

Denver, Colorado

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Debate Decorum

A request for information on debate decorum was posted to the electronic discussion group of the American Society of Legislative Clerks and Secretaries in March 2000. The original questions were:

1. Must a challenge or protest to language used or words spoken by a member during debate on the floor occur within a set time frame?
2. Has your chamber ever disciplined or censured a member for language used or words spoken during debate on the floor?
3. What was the member's "punishment?"

Shown below are the responses.

Arizona. House. If any member is called to order for words spoken in debate, the member calling the other member to order shall repeat the words excepted to; and they shall be taken down in writing at the Chief Clerk's desk and read aloud to the House; but the member shall not be held to answer or be subject to the censure of the House if further debate or other business has intervened. House Rule 19 B. When heated words are exchanged in debate or otherwise, the member speaking apologizes to the other member and to the House. No one has been censured or subjected to any other punishment as the House deems appropriate for at least twenty-five years.

Arkansas. Senate. The Senate rules state: 9.06 If any member in speaking or otherwise transgresses the Rules of the Senate, the President shall, or any member may, call him to order, in which case he shall immediately sit down unless permitted on motion of another member to explain, and the Senate shall, if appealed to, decide on the case without debate. If the decision is in favor of the member called to order he shall be at liberty to proceed, but not otherwise, and, if the case requires it, he shall be liable to censure or such punishment as the Senate may deem proper.

9.07 If a member is called to order for words spoken in debate, the member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Secretary's desk and read aloud to the Senate; but he shall not be held to answer, nor by such other censure of the Senate, therefore, if further debate or other business has intervened

Colorado. Senate. The Colorado Senate rules read as follows: "(2) If any Senator is called to order for words spoken in debate, the person calling him to order shall repeat the words *excepted to*, and they shall be reduced to writing by the secretary; but no Senator shall be held to answer or be subject to censure of the Senate therefor if further debate or other business has intervened after the words spoken and before exception to them shall have been made." I don't ever recall this rule being used. In most cases, the presiding officer (President, pro tem or Chairman of the Committee of the Whole) will intervene if members start getting personal. This has happened when emotions are running high and, when it does, the presiding officer just asks the members to keep their remarks to the topic at hand. Usually, that ends the problem.

Idaho. Senate. "If a Senator is called to order for words spoken, the exceptional words spoken shall be immediately reduced to writing by the Secretary and if the ruling is final (no appeal or appeal unsuccessful), the Senator called to order shall yield the floor and speak no further if on a matter of privilege nor until all others have had an opportunity to speak if on a question before the Senate." We have never censored anyone that I can remember. If someone gets their feelings hurt, they might object, and the President will remind everyone of the Rule, but it usually doesn't amount to more than an apology given on the floor.

Nevada. Senate. If any Senator is called to order for offensive or indecorous language or conduct, the person calling him/her to order shall report the offensive/indecorous language/conduct to the presiding officer. No member may be held to answer for any language used on the floor of the Senate if business has intervened before exception to the language was taken. In cases of breaches of decorum or propriety, any Senator, officer or other person is liable to such censure or punishment as the Senate may deem proper. In 1997, a Senator made serious allegations that the amendment process of the Senate was being influenced by nonmembers of the body. In essence, he stated that the process was being manipulated by staff and other influences because of who he was and for what he believed. The Majority Leader responded immediately by stating: the nature of the Senator's remarks impugned the integrity of the Senate. The Majority Leader requested the Senator to be either specific about his allegations or apologize. Two days later, the Senator offered a public apology on the floor.

Assembly. Nevada Assembly Standing Rule No. 20 states: "If any member, in speaking or otherwise, transgresses the rules of the Assembly, the Speaker shall, or any member may, call to order, in which case the member so called to order shall immediately sit down, unless permitted to explain: and if called to order by a member, such member shall immediately state the point of order." At this time the point of order must be sustained/not sustained. Following that we would use Masons. I have not heard of any problem having ever occurred in the Assembly.

Ohio. Senate. In the Ohio Senate, objection to the offending language would have to occur immediately. If the member is ruled out of order by the President, he or she would be required to sit down and would not be permitted to continue speaking without leave of the Senate. This has not happened in the last 15 years. The relevant rules follow.

Rule 68. (How Often Senator May Speak.) No senator shall speak more than twice on the same question except by leave of the Senate or responding to the floor; and the senator speaking shall confine the speech to the question under debate and avoid personalities.

Rule 73. (Senator May Be Called to Order.) If any senator, in speaking or otherwise, is transgressing the Rules of the Senate, the President shall, or any member may, call the senator to order; and the senator called to order shall take the senator's seat until the question of order is decided.

Rule 74. (If Called to Order.) If the decision be in favor of a senator called to order, the senator shall be at liberty to proceed; if otherwise, the senator shall not be permitted to proceed without further leave of the Senate.

Oregon. Senate. Oregon's Senate Rules state: "If a member is called to order for words spoken in debate, the member objecting shall immediately repeat the words to which objection is taken and they shall be recorded by the Journal Editor. However, if any other member has spoken or other business has intervened after the words were spoken and before the objection was made, the member shall not be held answerable or subject to censure." Last session one member seemed to "offend" members of his own caucus on a routine basis. Fortunately, our current Senate President is a peace-maker, so he was able to mediate successfully. Although, it took a lot of time away from the business of the Senate.

Pennsylvania. Senate. There have only been a couple of times in my tenure when offensive language was used in debate. Exception to the debate must be immediate. We do have the elaborate procedure of taking down the words, etc. and proceeding to discipline as the Senate might order but we have never used this procedure. In the past, when objection was heard, we immediately put the Senate at ease. The Member offering the offensive remarks is called to the front desk along with the floor leaders. After a private *tete a tete*, the Member is usually convinced to offer an apology to the Senate and any offended Members. We then entertain a motion to expunge the offensive remarks from the Journal and records of the Senate. However, the apology remains in the Journal.

Texas. Senate. Senate Rule 4.07 provides: "Whenever a member is called to order by the President of the Senate or by the presiding officer then the chair and such member fails to sit down and be in order but continues disorderly, it shall be the duty of the sergeant-at-arms and/or the sergeant's assistants upon the direction of the presiding officer to require such recalcitrant member to take his or her seat and be in order. Any member who persists in disorderly conduct after being warned by the presiding officer may, by motion duly made and carried by two-thirds vote of the members present, be required to purge himself or herself of such misconduct. Until such member has purged himself or herself of such misconduct, the member shall not be entitled to the privileges of the floor." Our members are such good ladies and gentlemen, there have been no instances of removal in many years.

Utah. Senate. In Utah, Senate Rule 22.06 states: "If a senator is called to order for words spoken in debate, the senator making the call shall repeat the words to which exception is taken and the words shall be recorded by the Minute Clerk. If called to order, the senator shall sit down, unless granted permission to explain. A senator may not be called to order or censured for words spoken in debate if there has been intervening business. During my tenure (7 years), no senator has ever been disciplined or censured for words spoken during a floor debate.

Washington. Senate. Normally the point of order is raised immediately, and the sanction is a caution to the offending speaker. If it's flagrant enough, the offender would be required to cease speaking. Or, in truly bad cases, the body could impose reprimand, censure, or expulsion. I'm not aware of any of these. As to the timing, it's not entirely clear, but since we follow Reed's Rules, they suggest that the point has to be made "as soon as possible," so I don't think any significant passage of time would be allowed. We did have an incident last year where a senator's remarks were found offensive by certain House members, and the senator made an apology on a point of personal privilege the following day. Our experience has been consistent with this comment from Reed's Rule 226: "It almost always happens, when attention is called to the unsuitable nature of the words used by the member, or the acts performed by him that he makes such an explanation or retraction as enables the assembly to excuse him and go on with its business."

West Virginia. House. The West Virginia House has censured for words spoken in debate. The words excepted to must be repeated by the person taking exception to them, and they are to be taken down at the Clerk's desk to be read back to the House by the Clerk. The House may take whatever course of "punishment" it desires, from a slap on the hand to expulsion for the remainder of the day's session.

Wisconsin. Senate. The only thing I have is what is stated in Mason's, Section 123, (9). When another member has spoken or any other business has taken place since the member spoke, it is too late to take notice of any disorderly words used for the purpose of censure.

INSIDE THE LEGISLATIVE PROCESS

A comprehensive survey by
the American Society of Legislative Clerks and Secretaries
in cooperation with the National Conference of State Legislatures



National Conference of State Legislatures
William T. Pound, Executive Director

1560 Broadway, Suite 700
Denver, Colorado 80202

444 North Capitol Avenue NW, Suite 515
Washington, D.C. 20001

Revised November 1998

* Comments by
Chief Clerk's Office

corrections
on pg. 6-2
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6. GENERAL LEGISLATIVE PROCESS

Censure, Expulsion and Other Disciplinary Actions

The power to discipline and expel members is inherent to a legislative body. It originated with the English Parliament in the sixteenth century, and it was exercised by colonial legislatures prior to American independence. When responding to member misconduct, legislatures have the flexibility to view censure, expulsion and other disciplinary actions as points on a continuum. The punishments that are usually within a legislature's authority include withdrawal of privileges, fine, imprisonment, reprimand, censure, suspension and expulsion. Formal disciplinary procedures generally are regarded as a drastic step reserved for serious situations. Most often, every effort is made to obtain a satisfactory, but informal, solution to the matter.

Modern court cases establish that a legislator who is subject to disciplinary proceedings has the right to due process. Therefore, any special procedures set by a legislative chamber should be built upon the basic elements of a fair disciplinary process.

Basic Elements of a Fair Disciplinary Process

1. Charges of alleged violations should be filed in writing with the proper authority.
2. A confidential, preliminary investigation should take place promptly to determine whether further action is warranted.
3. The accused member should be notified of the issues under review. This individual also should be informed of his or her right to counsel and the dates, places and times of any hearings.
4. Any hearing should be conducted to preserve decorum, restrict evidence and testimony to the written charges and uphold the right of the accused to question witnesses and to call witnesses.
5. Within a reasonable time, a report of recommendation—either exonerating the accused or preferring specific charges—should be prepared and presented to the member and the proper authority.
6. The full membership of the chamber should make the final determination. It may vote to accept, reject or, in some instances, amend the recommendation.

Although the power to judge members is available to all legislative bodies, many chambers do not specify the procedures to investigate charges of misconduct. Only half of the survey respondents reported having investigation procedures that are set by rule, statute or constitutional provision. These chambers are shown below.

Chambers that Have Investigation Procedures

Alabama Senate	Michigan Senate
Alaska Senate and House	Minnesota Senate and House
Arizona Senate	Missouri House
California Senate	New Hampshire Senate and House
Colorado House	New Jersey Senate and General Assembly
Delaware House	New Mexico Senate and House
Florida Senate and House	New York Senate and Assembly
Georgia House	Ohio Senate and House
Hawaii Senate and House	Oregon Senate
Idaho Senate	Pennsylvania Senate and House
Illinois House	Tennessee Senate and House
Indiana Senate and House	Utah Senate and House
Iowa Senate	Virginia Senate and House
Kansas Senate and House	Washington Senate and House
Kentucky Senate and House	West Virginia House
Louisiana Senate	Wisconsin Assembly
Maryland Senate and House	

In addition, the actual reasons for which a lawmaker may be disciplined often are vague or not specified at all. Table 96-6.1 provides examples of grounds that are set out by constitution, statute or chamber rule. Disorderly behavior or conduct, listed by 37 states, is the most common basis for disciplinary action.

State constitutions provide that each house, with the requisite vote, may expel a member; however, it is a very rare occurrence. Only 17 chambers reported that they had ever taken this very serious action.

Chambers that Have Expelled a Member

Alabama Senate	North Carolina House
Alaska Senate	Pennsylvania Senate and House
Arizona Senate	South Carolina House
Florida House	Virginia Senate
Louisiana Senate	Washington House
Michigan House	West Virginia Senate
<u>Minnesota House</u>	Wisconsin Senate and Assembly

*No one
Expelled
any*

In fact, disciplinary actions in general are fairly uncommon (see table 96-6.2). Only 21 legislative bodies reported censuring a member, and only 17 chambers have taken other disciplinary actions toward members.

Chambers that Have Censured a Member

Alaska Senate	Montana Senate
California Senate	Nebraska Senate
Connecticut House	Nevada Assembly
Florida Senate and House	New Mexico House
Georgia House	Oregon House
Hawaii Senate	Utah House
Idaho House	Virginia Senate
Maine House	Washington House
Minnesota Senate and House	Wisconsin Senate and Assembly

Chambers that Have Taken Other Disciplinary Actions

Alaska Senate	Michigan Senate and House
Arizona House	Minnesota House
Colorado House	Montana Senate
Connecticut House	New Hampshire House
Florida House	North Carolina House
Hawaii Senate	Washington Senate
Idaho Senate	Wisconsin Senate and Assembly
Iowa Senate	

Disciplinary actions are used by legislatures to respond to both official and private misconduct. Typically, however, a chamber will consider private misconduct only when it reflects upon a member's loyalty or integrity and if it tends to diminish public confidence in the member's capacities or the legislative institution. Tables 96-6.3 and 96-6.4 provide examples of disciplinary actions that have been taken by legislative chambers.

Table 96-6.1 Grounds for Censure, Expulsion or Other Disciplinary Actions

State	Description
Alabama	Contempt, disorderly behavior, transgression of the rules in speaking or otherwise, corruption
Alaska	No grounds specified
Arizona	Disorderly behavior, conduct alleged to be unethical including, but not limited to, a violation of the public trust, any improper conduct of a public office, or any improper conduct that adversely reflects upon the Senate
Arkansas	Embezzlement of public monies, bribery, forgery, contempt, disorderly behavior, corruption
California	Conflict of interest violations, acceptance of prohibited honoraria, bribery
Colorado	Contempt; disorderly behavior; corruption; disclosing any words; statements; matters or proceedings occurring during an executive session; bribery; influence in general assembly (vote trading); misconduct involving legislative duties
Connecticut	Disorderly conduct
Delaware	Disorderly behavior
Florida	Contempt, disorderly conduct, violations of law, violations of code of conduct
Georgia	Disorderly behavior, misconduct
Hawaii	Misconduct, disorderly behavior or neglect of duty
Idaho	No grounds specified
Illinois	Disorderly behavior, felony conviction, bribery, perjury or other infamous crime
Indiana	Disorderly behavior
Iowa	Disorderly behavior, violation of the code of ethics, conflict of interest violations
Kansas	Misconduct, failure to vote when not excused, treason, bribery or other high crimes and misdemeanors
Kentucky	Disorderly behavior, dueling, using money or property to secure or influence election, receiving profit on public funds, accepting free passes
Louisiana	Disorderly conduct, contempt
Maine	Disorderly conduct
Maryland	Disorderly or disrespectful behavior
Massachusetts	
Michigan	Conviction of a felony, election law violation leading to election, conflict of interest violations
Minnesota	Disorderly behavior
Mississippi	Bribery, perjury, theft, corruption, disorderly behavior
Missouri	Ethical misconduct, disorderly behavior
Montana	No grounds specified

Table 96-6.1 Grounds for Censure, Expulsion or Other Disciplinary Actions

State	Description
Nebraska	No grounds specified
Nevada	Bribery, disorderly conduct, conflict of interest violations
New Hampshire	Disorderly conduct
New Jersey	Disorderly behavior
New Mexico	Contempt, disorderly behavior
New York	
North Carolina	
North Dakota	Bribery, corruption, perjury or other infamous crimes
Ohio	Bribery, code of ethics violations, conflict of interest violations, diswillfully or flagrantly exercising authority or power not authorized by law, misdemeanor in office, neglect to perform any official duty imposed by law, gross neglect of duty, disorderly conduct, gross immorality, drunkenness, misfeasance, malfeasance or nonfeasance, embezzlement, theft in office
Oklahoma	Corruption, conflict of interest violations, disorderly behavior, drunkenness, use of illegal drugs, abusive language, altering a bill draft or engrossed copy of a bill, bribery, vote trading
Oregon	Disorderly behavior
Pennsylvania	Embezzlement of public moneys; bribery; perjury or other infamous crime; contempt; disorderly behavior; corruption
Rhode Island	Conflict of interest violations, disorderly behavior
South Carolina	Disorderly behavior, incapacity, misconduct, neglect of duty
South Dakota	Inappropriate remarks; criminal conduct; bribery; perjury or other infamous crime; violation of oath of office
Tennessee	Disorderly behavior
Texas	Disorderly conduct, bribery
Utah	Abuse of official position, conflict of interest violations, disorderly conduct
Vermont	
Virginia	Disorderly behavior
Washington	Transgression of chamber rules, contempt, disorderly behavior, violation of ethics laws or rules
West Virginia	Transgressing the House rules, disorderly behavior
Wisconsin	Contempt, disorderly behavior
Wyoming	Contempt, disorderly behavior, corruption

Table 96-6.2 Censure, Expulsion or Other Disciplinary Actions Taken

State (1)	Chamber has censured a member	Chamber has expelled a member	Chamber has taken other disciplinary actions toward member	Member has been convicted of a criminal offense	Member has resigned while under criminal investigation	Member has resigned following criminal conviction	Member has resigned prior to or during expulsion proceedings	Member has taken voluntary absence during criminal conviction	Member has taken voluntary absence during expulsion actions
Alabama		S		S					
Alaska	S	S	S			S			
Arizona		S	H		B				
Arkansas					S				
California	S	S		S		S			
Colorado			H						
Connecticut	H		H						
Delaware				H	H	H			
Florida	B	H	H	H	B	H	H	H	
Georgia	H								
Hawaii	S		S	S				S	
Idaho	H		S						
Illinois									
Indiana					S				
Iowa			S						
Kansas									
Kentucky				B	S	B			
Louisiana		S		H	H	B	H	H	H
Maine	H			H		H	H		
Maryland				B	H	S			
Massachusetts									
Michigan		H	B	B	B	B	S		
Minnesota	B	H	H		H				
Mississippi									
Missouri					S				
Montana	S		S						

Table 96-6.2 Censure, Expulsion or Other Disciplinary Actions Taken, cont'd.

State (1)	Nebraska	Nevada	New Hampshire	New Jersey	New Mexico	New York	North Carolina	North Dakota	Ohio	Oklahoma	Oregon	Pennsylvania	Rhode Island	South Carolina	South Dakota	Tennessee	Texas	Utah	Vermont	Virginia	Washington	West Virginia	Wisconsin	Wyoming
		S	H		H		H				H	B		H				H		S	H	S	B	B
	Chamber has censured a member																							
	Chamber has expelled a member											B		H						S	H	S	B	B
	Chamber has taken other disciplinary actions toward member			H		H															S		B	
	Member has been convicted of a criminal offense	S	S		B	B	H			S	S	B								S	B	B	B	B
	Member has resigned while under criminal investigation			H	S	S				S	S	H		H						S	B	B	B	
	Member has resigned following criminal conviction	S	S				H			S	S	H		H							S	B	B	B
	Member has resigned prior to or during expulsion proceedings	S										H		H				H						
	Member has taken voluntary absence during criminal conviction									S		S												
	Member has taken voluntary absence during expulsion actions																							

**Table 96-6.2 Censure, Expulsion or Other Disciplinary Actions Taken,
cont'd.**

Key:

S=Senate

H=House or Assembly

B=Both chambers

Note:

1. The following chambers did not respond to the survey: Delaware Senate, Georgia Senate, Massachusetts Senate and House, Mississippi Senate, North Carolina Senate, Rhode Island House, South Carolina Senate; nor did any legislatures from the U.S. territories respond.

Table 96-6.3 Examples of Disciplinary Actions—Senate

State	Description
Alabama	Date not given—member convicted of soliciting a bribe and expelled; member was reinstated by federal court for lack of due process; Senate did not pursue issue further Date not given—member convicted of felony mail fraud; any member convicted of a felony is automatically expelled by such conviction.
Alaska	1994—member was sanctioned for (a) use of official position to obtain a private gain by seeking sexual favors; (b) use of his legislative position for nongovernmental purpose; and (c) providing employment in exchange for private gain. The member was stripped of all committee chair positions and Senate appointments to various committees; was required and compelled to attend at his own expense a court-sanctioned male awareness program; was prohibited from traveling out-of-state at state expense during the remainder of legislative term; and was formally censured and placed on probation for the remainder of term. 1982—member was expelled following conviction of bribery and receiving a bribe.
Arizona	1991—member was expelled for unethical conduct that violated the Senate rules, the campaign finance disclosure requirements, and the personal financial disclosure requirements. 1991—member resigned while facing charges for unethical conduct that violated Senate rules.
California	1994, 1991, 1990—each year, a member resigned following criminal conviction for corruption in office.
Florida	1977—member was reprimanded and fined for violating Senate rules relating to standards of conduct at a special session of the Senate. 1971—member was excused from attendance following indictment on income tax evasion charges; member subsequently resigned.
Hawaii	Date not given—member was censured following conviction of soliciting act of prostitution. Date not given—member was censured following conviction of spouse abuse.
Idaho	1990—member was seen counting envelopes of another member's mailing; the member was required to make a formal apology to fellow member for impulsive lack of good judgment with regard to the expected standard of conduct, decorum and protocol of a Senator and the Senate.
Indiana	1979—member was convicted of extorting money, bribery, making false statements and influencing grand jury witnesses; member resigned.

Table 96-6.3 Examples of Disciplinary Actions—Senate, cont'd.

State	Description
Iowa	Date not given—member was reprimanded and removed from committee positions for conflict of interest between private activities promoting local government investments and activities as Senator.
Kentucky	1992—15 legislators (8 senators and 7 representatives) were convicted on corruption charges following a federal investigation; all members still in office resigned, except one representative against whom only state charges had been brought; this member was found to have violated the Legislative Ethics Code and the House will determine his punishment during the 1996 regular session.
Louisiana	1993—member was convicted of a federal felony; resigned from the Senate in 1994 after appeal was unsuccessful. 1979—member was convicted of federal felony, but maintained his seat during the 1980 session while appeals were pending; member was expelled after missing the entire 1981 session due to incarceration.
Minnesota	1996—two members are being investigated on felony and gross misdemeanor charges related to long-distance phone privileges; one member was reprimanded by the Senate. 1996—member was reprimanded for slapping his wife in public; member apologized to the Senate and is not seeking reelection. 1995—member was charged with shoplifting and other crimes; member resigned his seat. 1994—member was reprimanded for misuse of long-distance phone privileges; member apologized to the Senate, resigned from his committee chairmanship, resigned his membership on the Rules Committee and reimbursed the Senate for the cost of the questioned telephone calls.
Missouri	1983—member was accused of stealing from a client's estate; resigned from the Senate.
Nebraska	No dates given—two members have been convicted of criminal offenses; one member resigned prior to his conviction, the other resigned following his conviction.
Nevada	1983—member was convicted of taking a \$5000 payment on a \$150,000 bribe; member resigned.
New Mexico	No date given—member was found guilty of bribing officials; he resigned after the conviction but prior to his expulsion.
Oregon	1988—member was recalled following allegations of sexual abuse of a minor. 1993—member resigned following conviction of fraud in conjunction with fundraising.

Table 96-6.3 Examples of Disciplinary Actions—Senate, cont'd.

State	Description
Texas	1972—member resigned following allegations he violated the law by putting his relatives on the legislative payroll.
Washington	1995—member was reprimanded by Legislative Ethics Board for writing a memo to law partners indicating availability to assist them or their clients during the legislative session. 1990—member was sued for sexual harassment, retaliation and constructive discharge; member resigned.
West Virginia	1989—member resigned from leadership position and the Senate following indictment on federal extortion charges.
Wisconsin	1995—member failed to disclose political contributions and payments and was fined by the State Elections Board. 1990—three members were accused of ethics law violations of various degrees; one member agreed to pay a fine and perform community service in lieu of formal prosecution by the Ethics Board, another paid fines and court costs, and the third resigned from the legislature as part of a plea agreement. 1987—seven senators and representatives were charged with violating ethics laws, each was required by the Ethics Board to acknowledge the violation and pay a fine. 1978—member was charged with felony false testimony about campaign contributions and was removed from office upon felony conviction. 1978—member was charged with misuse of federally-paid CETA workers during a campaign and was removed from office upon felony conviction.

Table 96-6.4 Examples of Disciplinary Actions—House

State	Description
Arizona	1991—"Azscam" violations of campaign finance laws; House began disciplinary actions against one member, who resigned prior to the conclusion of the proceedings; five other members resigned before any proceedings were initiated.
Connecticut	1988—House passed a resolution rededicating the House and its dignity and disassociating itself from the remarks of a member. 1980—member was reprimanded and censured for offensive written communication.
Delaware	1983—one member resigned after some financial irregularities had been alleged in connection with the civil association for which he served as president; another member resigned after he was found guilty of tax evasion and filing false statements.
Florida	1994—member was admonished by the Speaker following House investigation into allegations that he represented another person or entity before a state agency for compensation, which violates Florida constitution and statute. 1992—member was admonished by the Speaker following House investigation into allegations that he personally represented others before a state agency, which violates Florida constitution and statute. 1991—member was admonished by letter from the Speaker and removed from his leadership position after House investigation into violations of several Florida statutes. 1987—member was charged with bribery and grand theft; member was suspended without pay from all privileges of membership of the House pending appellate action; member subsequently resigned his seat. 1986—member was censured by the House after conviction of making misstatements on SBA loan application. 1980—member was reprimanded by the House for violating House rules regarding sexual discrimination, sexual harassment and legislative conduct. 1976—member voluntarily excused himself while charges of intention to commit fraud were being investigated; charges were dropped. 1975—member resigned after pleading guilty to indictment charging perjury, fabricating evidence and witness tampering. 1971—member was granted leave of absence after indictment on federal charges of fraud, conspiracy and securities violations; the member subsequently resigned.

Table 96-6.4 Examples of Disciplinary Actions—House, cont'd.

State	Description
Idaho	1990—member was reprimanded for alleged questionable conduct (giving the impression to someone that he was using his position as a legislator for the benefit of a family member), the member formally apologized to the body.
Kentucky	1992—15 legislators (8 senators and 7 representatives) were convicted on corruption charges following a federal investigation; all members still in office resigned, except one representative against whom only state charges had been brought; this member was found to have violated the Legislative Ethics Code and the House will determine his punishment during the 1996 regular session.
Louisiana	1991 and 1987—a member was convicted of federal racketeering; each time, the member was served with notice of expulsion and resigned prior to the hearing.
Maine	1987—member was convicted of ballot tampering, member resigned during House process to expel.
Minnesota	1986—member was censured for violating ethics law by filing late and incomplete campaign reports and for plea of guilty to a felony theft charge. 1979—member was expelled for campaign and election law violations. Date not given—member convicted of soliciting a prostitute was required to submit letter of apology to the House for publication in the Journal. Date not given— 1988—member resigned during a criminal investigation for alleged misappropriation of funds while employed as a financial planner. Date not given— 1990—member resigned during a criminal investigation for alleged misuse of House long-distance phone privileges. 1994
New Mexico	1992—member was censured for conduct that impugned the integrity of the House (soliciting a bribe); the member was subsequently convicted in criminal court.
North Carolina	1982—member resigned; he had been convicted in connection with an arson case.
Oregon	No date given—the House refused to seat a member on the first day for alleged campaign practices violation; the member was subsequently seated and censured by the House and later recalled by the voters of his district.
South Carolina	1991, 1990—House was part of an FBI undercover investigation into possible "vote buying;" 28 legislators and lobbyists were indicted on drug or bribery charges.
Utah	1993—member was censured for shoplifting; the member resigned during the vote to reconsider for expulsion.

Wrong!
House declared a vacancy in office—member was not expelled

Table 96-6.4 Examples of Disciplinary Actions—House, cont'd.

State	Description
Washington	1985—member was censured for campaign violations. 1980—member was convicted of mail fraud.
West Virginia	No date given—member resigned pending proceedings against him for extortion.
Wisconsin	1995—a letter of reprimand signed by the leaders of both political parties was sent to member (and printed in the journal) after his third arrest for various violations, including marijuana possession and drunk driving. 1987—seven senators and representatives were charged with violating ethics laws, each was required by the Ethics Board to acknowledge the violation and pay a fine. 1986—member was charged with violating ethics laws and was required by the Ethics Board to pay a fine and court costs. 1985—member was charged with violating ethics law and was required to acknowledge violation and pay fine. 1980—member was charged with two criminal misdemeanor election law violations by misuse of campaign funds; he pleaded guilty and served 30 days in jail. 1979—member was charged with felony false swearing to a federal grand jury and was removed from office upon felony conviction.