

Senate Rules

43. COMMITTEE ON ETHICS

(a) Any person who has knowledge concerning misconduct involving legislative duties by a member of the Senate, including but not limited to the alleged violation of the Rules of the Senate or of Section 40 of Article V of the state Constitution, may file a written, signed complaint with the President setting forth the facts that constitute the alleged misconduct and specifying the statutes, rules, constitutional provisions, or other ethical principles alleged to have been violated. The President shall provide the member complained against with a copy of the complaint. The President shall consult with the majority leader and the minority leader about the complaint. The President may ask the member complained against to provide an explanation of the member's understanding of the issues raised in the complaint for the purpose of assisting the President, the majority leader, and the minority leader in making a preliminary determination of whether the complaint should be dismissed. The President may also discuss the complaint with the complainant to obtain more details on the matter. The President, the majority leader, and the minority leader shall keep the fact that a complaint has been filed and any documents relating thereto confidential; except that the President, the majority leader, or the minority leader may discuss the complaint with the Office of Legislative Legal Services for the purpose of gathering information or receiving legal advice. If at least two of the three leaders conclude that the complaint is not meritorious or does not substantiate an ethical violation, the complaint shall be dismissed, and the complainant and the member complained against shall be so notified. If the complaint is dismissed, the President, the majority leader, and the minority leader shall keep the matter confidential. However, the President, the majority leader, and the minority leader may discuss evidence of a prior complaint previously filed by the same complainant against the same member but which had been dismissed.

(b) If the complaint is not dismissed pursuant to subsection (a) of this rule, a committee on ethics shall be appointed, which shall consist of not less than five nor more than seven members. The party representation on the committee shall be in proportion generally to the relative number of members of the two major political parties in the Senate. The majority party members of the committee shall be appointed by the President from among the chairmen of committees of reference of the Senate. The minority party members of the committee shall be appointed by the minority leader from among the members of the Senate who are senior in service and experience. The President shall designate the chairman and vice-chairman of the committee from among its members.

(c) The person complained against may submit a written answer to the committee within ten days after appointment of the committee. The committee shall make a preliminary investigation of the complaint. The preliminary investigation shall consist of an examination of the complaint, the answer, if any, and any other evidence compiled pursuant to the request of the committee, but the committee shall not receive testimony or other evidence from other sources. The preliminary investigation shall be completed within thirty days after appointment of the committee. If, after the preliminary investigation, the committee determines no violation has occurred, the complaint shall be dismissed.

(d) If, after the preliminary investigation, the committee determines probable cause exists to find that a violation may have occurred, it shall so notify the person complained against. Within seven days after such notification, such person may request a hearing before the committee, at which he or she shall be entitled to appear, present evidence, cross-examine witnesses, and be represented by counsel. The committee shall have the power to take testimony under oath and to issue subpoenas and subpoenas duces tecum in the manner provided by Joint Rule No. 33 (b), (c), and (d) of the Joint Rules of the Senate and House of Representatives. The hearing shall commence within fourteen days after receipt of the request for a hearing.

(e) All proceedings of the committee shall be governed by the provisions of part 4 of article 6 and part 2 of article 72 of title 24, Colorado Revised Statutes.

(f) After a hearing held pursuant to subsection (d) of this rule, the committee may dismiss the complaint, or, if it finds that action should be taken against the member complained against, it shall make appropriate recommendations to the Senate, including reprimand, censure, or expulsion. Pursuant to the authority vested in the Senate by Section 12 of Article V of the state Constitution, the Senate may expel the member in question by an affirmative vote of no fewer than two-thirds of the members elected to the Senate, or the Senate may reprimand, censure, or otherwise punish the member by an affirmative vote of a majority of the members elected to the Senate.

(g) Action of the leadership, the ethics committee, or the Senate pursuant to this rule is final and not

subject to court review. Nothing in this rule shall prohibit the Senate from taking any action based upon its authority to judge the qualifications of its members pursuant to Section 10 of Article V of the state Constitution.

(h) The committee may retain such counsel and may hire such investigators as it deems necessary for the performance of its duties under this rule. All expenditures incurred pursuant to this subsection (h) shall be approved by the President and paid by vouchers and warrants drawn as provided by law from appropriations made to the General Assembly.

(i) The committee may adopt rules of procedure for the orderly conduct of its meetings, investigations, and hearings, which rules shall be consistent with this rule and other applicable rules and statutes.

(j) If the complaint concerns misconduct of the President, then the duties of the President in this rule shall be the duties of the majority floor leader and the duties of the majority floor leader shall be the duties of the assistant majority leader. If the complaint concerns misconduct of the majority floor leader or the minority leader, then the duties of such leader in this rule shall be the duties of the assistant majority leader or the assistant minority leader, as the case may be.