



GENERAL ASSEMBLY

STATE OF ILLINOIS

HOUSE OF REPRESENTATIVES

SELECT COMMITTEE ON DISCIPLINE OF THE NINETY-SEVENTH GENERAL ASSEMBLY

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**Procedural Rules of the Select Committee on Discipline
97th General Assembly of the State of Illinois**

**Filed this 29th day of June, 2012 by
Barbara Flynn Currie, Chairperson of the Select Committee on Discipline**

Rule 1. Definitions. As used in these Rules, terms have the meaning ascribed to them as follows, unless the context clearly requires a different meaning:

- (a) “Chairperson” means that Representative designated by the Speaker to serve as chair of the committee.
- (b) “Clerk” means the elected Clerk of the House.
- (c) “Committee” means the Select Committee on Discipline for the 97th General Assembly.
- (d) “Counsel to the Committee” means the attorney designated by the Speaker to assist in the conduct of the hearings and to advise the Committee on matters of law or procedure.
- (e) “Final Hearing” means the adversarial hearing at which each party will present opening statements, any evidence supporting their position, and closing arguments.
- (f) “Hearing” means any public meeting of the Committee.
- (g) “House Manager” refers to either State Representative Lou Lang or State Representative Jim Durkin, duly appointed by the Special Investigating Committee for the 97th General Assembly to present the case for disciplinary action against the Respondent.
- (h) “House Rules” means the Rules of the Illinois House of Representatives adopted for the 97th General Assembly.
- (i) “Member,” unless otherwise specified, means a State Representative appointed by the Speaker or Minority Leader to serve on the Committee or a State Representative sitting as a temporary substitute on the Committee in accordance with the House Rules.
- (j) “Minority Counsel” means the attorney designated by the Minority Leader to assist in the conduct of the hearings and to advise the Committee on matters of law or procedure.
- (k) “Minority Spokesperson” means that Representative designated by the Minority Leader to serve as the minority spokesperson of the Committee.
- (l) “Party” means either the Respondent or the House Manager.
- (m) “Presiding Officer” means the Chairperson or person designated by the Chairperson.
- (n) “Respondent” means State Representative Derrick Smith or, where appropriate, his attorneys.
- (o) “Rules” means the Rules adopted by the Committee.
- (p) “Special Investigating Committee” means the Special Investigating Committee of the 97th General Assembly convened to consider charges against Representative Derrick Smith.
- (q) “Quorum” means at least 7 members of the Committee.

Rule 2. Committee Procedure. The Chairperson of the Committee has the authority to call meetings of the Committee, call the Committee to order, designate the order of business, and generally supervise the affairs of the committee. A Member of the Committee may preside over the Committee at the direction of the Chairperson. No action shall be taken by the Committee at any meeting unless a quorum is present. Except where otherwise provided in these Rules, the Committee may act by the affirmative vote of at least 7 Members. A Member may be temporarily replaced on the Committee, provided that only Members appointed to the Committee may vote on each specification and charge and recommended discipline, if any. Provided, further, that only those appointed Members who attended the Final Hearing may vote on each specification and charge and recommended discipline, if any.

Rule 3. Committee Clerk. The Clerk of the House shall serve as the Clerk of the Committee, provided that the Clerk may designate the Assistant Clerk or others to attend Committee hearings and receive materials submitted to the Committee.

Rule 4. Hearings. Hearings shall be scheduled by the Chairperson and conducted in accordance with the House Rules and these Rules. Notice of these hearings shall be given in accordance with the posting requirements of the House Rules.

Rule 5. Schedule. The Chairperson shall issue a schedule that provides for the orderly exchange of evidence between the parties, including a Proposed Exhibit List and Proposed Witness List as provided in Rule 6; a deadline for objections by each party to the opposing party's proposed evidence as provided in Rule 7; and a deadline for responses to any objections.

Rule 6. Disclosure of Evidence. All disclosures of evidence shall be in writing and shall follow the procedures set forth below:

- (a) Proposed Exhibit List. Proposed evidence that is not live witness testimony shall be disclosed on a Proposed Exhibit List. Each proposed Exhibit shall be separately denoted by number, along with a generic description of the proposed Exhibit and the reason that such proposed Exhibit is relevant to the proceeding. The Exhibits themselves shall be provided simultaneously with the written disclosure and shall be marked as "Respondent Proposed Exhibit" followed by the applicable number (1, 2, *et seq.*) or "House Managers Proposed Exhibit" followed by the applicable number (1, 2, *et seq.*).
- (b) Proposed Witness List. Proposed witness testimony shall be disclosed on a Proposed Witness List. Each witness shall be separately denoted, along with a generic description of the subject matter of the witness's testimony and the reason that such testimony is relevant to the proceeding.
- (c) No Exhibit or witness testimony shall be admitted into the Record at the Final Hearing unless it was properly disclosed by the deadline set by the Chairperson. Provided, however, that the Chairperson, after consultation with the Members, may admit evidence into the Record that was not timely disclosed if the Chairperson finds that reasonable cause exists why such evidence could not have been timely disclosed, that the evidence was disclosed as promptly as possible once discovered, and that the admission of such evidence is not unduly prejudicial to the opposing party.

Rule 7. Objections. Objections, in whole or in part, to any Exhibit or witness testimony disclosed by the opposing party shall be in writing and shall specify the precise objection along with any factual or legal supporting argument, if appropriate. Objections not made in writing by the deadline set by the Chairperson shall be deemed waived. Provided, however, that each party reserves the right to object to specific questions of witnesses at the Final Hearing.

Rule 8. Rulings on Objections.

- (a) The Chairperson may grant or deny, in whole or in part, any objections raised by the parties. The Chairperson may request oral argument on any objection in her discretion. The Chair may issue her ruling in writing or orally at a hearing.

- (b) If the Chairperson admits a proposed Exhibit into the Record, that Exhibit will be designated as “Select Committee Exhibit,” followed by the applicable number (1, 2, *et seq.*).

Rule 9. Limitations on Evidence. Notwithstanding any other provision of these Rules, it is never in order for either party to request or introduce any information, or to call any witness, if the United States Attorney for the Northern District of Illinois has indicated that the information or testimony could compromise the United States Attorney’s ongoing investigation of Representative Derrick Smith or any related investigation, as exemplified by but not limited to Exhibits 6 and 7 of the Special Investigating Committee Record.

Rule 10. Stipulations. Stipulations of fact or law, or as to admissibility of evidence, are encouraged. The parties shall promptly advise the Counsel to the Committee of any stipulations.

Rule 11. Offers of Proof. If a party’s proposed Exhibit or witness testimony is disallowed, the party may make an offer of proof, explaining what the Exhibit or witness testimony would have proven had it been allowed into the Record. If the Respondent invokes his constitutional right against self-incrimination or declines to appear before the Committee at the Final Hearing, the House Managers may make an offer of proof as to the questions they would have asked had the Respondent been willing to testify to the substance of the questions.

Rule 12. Preliminary Matters Before Final Hearing. No less than twenty-four hours prior to the Final Hearing, the parties shall inform the opposing party and the Counsel to the Committee of the order of the evidence they intend to introduce at the Final Hearing.

Rule 13. Sequence of Final Hearing. The Final Hearing shall proceed as follows:

- (a) The Committee shall first take up any outstanding motions or preliminary matters before the formal presentation of evidence and argument;
- (b) The House Managers may make an opening statement, setting out the facts and law supporting their position, not to exceed fifteen minutes;
- (c) The Respondent may make an opening statement, setting out the facts and law supporting his position, not to exceed fifteen minutes;
- (d) The House Managers shall present their case-in-chief;
- (e) The Respondent may present any defense;
- (f) At the discretion of the Chairperson, the House Managers may present rebuttal evidence;
- (g) The House Managers may make a closing argument not to exceed one hour;
- (h) The Respondent may make a closing argument not to exceed ninety minutes;

- (i) At the discretion of the Chairperson, the House Managers may make a rebuttal argument not to exceed thirty minutes.

Time limitations on opening statements and closing arguments may be extended or limited at the Chairperson's discretion or by a record vote of 7 Members.

Rule 14. Objections, Examinations, and Argument at the Final Hearing.

- (a) At the Final Hearing, any party may raise an objection to a question put to a witness. The Chairperson shall rule on each objection. Each party shall have the right to cross-examine the opposing party's witnesses. Each party shall have the right to ask re-direct questions of a witness following cross-examination. Subject to the discretion of the Chairperson, a party may treat a witness called by that party as an adverse witness.
- (b) Each party may raise an objection during opening statements or closing arguments. The Chairperson shall rule on each objection.
- (c) Members may ask questions of the witnesses during their testimony and may ask questions of the House Managers or Respondent's counsel during closing arguments.
- (d) Subject to the discretion of the Chairperson, Counsel to the Committee and the Minority Counsel may ask questions of the witnesses during their testimony and may ask questions of the House Managers or Respondent's counsel during closing arguments.

Rule 15. Right to counsel. Each witness may be accompanied by counsel of his or her own choosing, who may advise the witness as to his or her rights, subject to reasonable limitations that the Chairperson may prescribe to prevent obstruction of, or interference with, the orderly conduct of the hearing. Nothing in these Rules, however, shall be construed to create a right to counsel at public expense for witnesses testifying before the Committee.

Rule 16. Public hearings. All hearings of the Committee shall be public, except that hearings of the Committee may be closed to the public if two-thirds of the members elected to the House determine that the public interest so requires, as provided in Section 5(c) of Article IV of the Illinois Constitution. All hearings shall be transcribed by a court reporter, and transcripts will be made available on the General Assembly website as they become available.

Rule 17. Committee Record. Any and all materials created by or submitted to the Committee during the course of the investigation shall be inventoried and stored with the Clerk of the House as the Committee Record. All such materials shall be posted on the General Assembly website within a reasonable time after they are received by the Committee.

Rule 18. Obtaining evidence or information. Nothing contained in these Rules shall be construed to limit or prohibit the acquisition of evidence or information by the Committee by any lawful means.

Rule 19. Ex parte communications. Members of the Committee are discouraged from communicating with the House Managers or the Respondent or his counsel concerning any matters pending before the Committee that are substantive and not merely procedural or ministerial, except during Committee hearings as defined by these Rules. This prohibition shall apply until those matters are no longer pending before the Committee. Provided, however, that the Counsel to the Committee and the Minority Counsel may communicate with the House Managers or the Respondent's counsel at any time.

Rule 20. Effective date. These Rules take effect upon their filing with the House Clerk.

Rule 21. Applicability. The hearings of the Committee shall be conducted in accordance with these Rules and all other applicable House Rules, statutes, and provisions of the Illinois Constitution.