

IN THE HOUSE OF REPRESENTATIVES

HOUSE RESOLUTION NO. 8

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

A HOUSE RESOLUTION

STATING FINDINGS OF THE HOUSE OF REPRESENTATIVES AND PROVIDING FOR THE AMENDMENT OF RULE 22 AND RULE 45 OF THE RULES OF THE HOUSE OF REPRESENTATIVES.

Be It Resolved by the House of Representatives of the State of Idaho:

WHEREAS, the House of Representatives is the sole authority to determine its own policies, rules, and procedures; and

WHEREAS, the House of Representatives has determined that the House Ethics Committee is a standing committee; and

WHEREAS, the Ethics Committee consists entirely of members voted into the committee by the respective caucuses; and

WHEREAS, the Ethics Committee has been charged to review and make recommendations to the body regarding the House Policies, having its jurisdiction expanded thereby to include House Policies; and

WHEREAS, House Policies, to be enforceable, must be passed by a majority of the body, like all other enactments affecting the House; and

WHEREAS, good policy must be regularly reviewed in order to remain effective, relevant, and applicable; and

WHEREAS, the Ethics Committee, having been directly elected by the body, is the appropriate committee to best review and recommend House Policies; and

WHEREAS, the House of Representatives hereby ratifies the expanded jurisdiction of the House Ethics Committee to sit, and continue, during and after the 2020 Legislative Session, and to be renamed the Ethics and House Policy Committee; and

WHEREAS, the House of Representatives deems it necessary and desirable that Rule 22 and Rule 45 of the Rules of the House of Representatives be amended.

NOW, THEREFORE, BE IT RESOLVED by the members of the House of Representatives, assembled in the Second Regular Session of the Sixty-fifth Idaho Legislature, that Rule 22 and Rule 45 of the Rules of the House of Representatives shall be amended to read as follows:

RULE 22

Standing Committees. -- Standing Committees shall be appointed by the Speaker, except for the Ethics and House Policy Committee, whose membership shall be governed by House Rule 45. The number of members on each committee shall be fixed in the order of appointment, and such order shall be read into the journal. The standing committees are:

- Agricultural Affairs
- Appropriations

1 Business
 2 Education
 3 Environment, Energy, and Technology
 4 Ethics and House Policy
 5 Health and Welfare
 6 Commerce and Human Resources
 7 Judiciary, Rules and Administration
 8 Local Government
 9 Resources and Conservation
 10 Revenue and Taxation
 11 State Affairs
 12 Transportation and Defense
 13 Ways and Means

14 RULE 45

15 Committee on Ethics and House Policy.-- (1) ~~Before the end of the~~
 16 ~~twelfth day of~~ In the first regular session of each Legislature, at the
 17 organizational meeting of each respective caucus and immediately after
 18 election of the candidates for leadership positions, an ethics and House
 19 policy committee shall be organized and its membership shall be deter-
 20 mined by election from each respective caucus. Members elected pursuant
 21 to this rule shall sit on the ethics and House policy committee. The ethics
 22 and House policy committee shall consist of five members of the House, three
 23 of whom shall be members of the majority party and two of whom shall be mem-
 24 bers of the minority party. House members holding leadership positions
 25 shall not serve on the ethics and House policy committee. Committee Chairmen
 26 may serve on the ethics and House policy committee. Committee members shall
 27 not have been previously sanctioned by the House for an ethics violation
 28 pursuant to this rule.

29 (2) The Caucus Chairman of each party shall conduct the election of
 30 ethics and House policy committee members as follows:

31 (a) Phase I: At a designated caucus meeting, each Caucus Chairman
 32 shall receive from members of their respective caucus a silent ballot
 33 nominating to membership on the ethics and House policy committee up
 34 to three members who have previously served at least one full term.
 35 Each caucus chairman and the two elected at-large legislative council
 36 members for the caucus shall prepare a ballot of nominees consisting
 37 respectively of the five nominees for the majority party and the four
 38 nominees for the minority party receiving the most nominating votes.

39 (b) Phase II: By silent ballot, each member of the majority party shall
 40 vote for three and of the minority party for two nominees on their res-
 41 pective ballots. The caucus chairman and the two elected at-large leg-
 42 islative council members for the caucus shall count the votes and prior-
 43 itize the members from greatest to least number of votes received. The
 44 three members of the majority party and the two members of the minor-
 45 ity party receiving the highest number of votes shall be members of the
 46 ethics and House policy committee for the term of the Legislature. Oth-

1 ers receiving votes shall serve in order of priority as committee alter-
 2 nates for their respective party.

3 (c) Committee members may be reelected to a subsequent committee. A
 4 vacancy on the committee shall be filled with the highest priority al-
 5 ternate available to the party entitled to fill the vacancy. When no
 6 elected alternates are available to fill a vacancy, such vacancy shall
 7 be filled by majority vote of the House members of the party entitled
 8 to fill the vacancy. Except as otherwise provided in subsection (9) of
 9 this rule, a member filling a vacancy shall serve for the remainder of
 10 the unexpired term.

11 (d) The Speaker of the House shall appoint one of the members of the com-
 12 mittee as chairman of the committee.

13 (3) (a) The chairman of the ethics and House policy committee shall re-
 14 ceive complaints from any member of the House.

15 (b) The complaint shall be in writing, signed and contain one or more of
 16 the following allegations:

17 (i) Conduct unbecoming a Representative which is detrimental to
 18 the integrity of the House as a legislative body;

19 (ii) Disclosure of information that is confidential as provided
 20 in House rules;

21 (iii) Conduct constituting a felony under any state law, or which
 22 violates any state law relating to the use of public office for
 23 private pecuniary gain;

24 (iv) A violation of any state law or House rule relating to con-
 25 flicts of interest involving legislative duties; or

26 (v) A violation of any state law or House rule that brings dis-
 27 credit to the House of Representatives or that constitutes a
 28 breach of public trust.

29 (c) The complaint shall be specific and provide:

30 (i) The name of the member of the House of Representatives alleged
 31 to be in violation;

32 (ii) Reference to the House rule and/or applicable state law sup-
 33 porting the alleged violation;

34 (iii) A description of the facts and circumstances supporting each
 35 alleged violation; and

36 (iv) The evidence the complainant has at the time of making the
 37 complaint supporting the facts and violation alleged in the com-
 38 plaint.

39 (d) Subject to the provisions of this rule, the committee shall review
 40 the written complaint. The committee shall dismiss any ethics com-
 41 plaint that:

42 (i) Does not comply with this rule; or

43 (ii) Alleges violations that occurred either before the accused
 44 member was first elected to the House of Representatives or for
 45 which an applicable statute of limitation has run.

46 (e) Written complaints shall remain confidential until such time as the
 47 ethics and House policy committee finds probable cause that such member
 48 has committed misconduct as provided in this rule.

49 (4) The committee shall notify the person against whom the complaint
 50 was brought and shall provide such person with a copy of the complaint and

1 evidence submitted supporting the complaint. The person complained against
2 may submit a written answer to the committee. The member complained against
3 shall provide such written answer to the chairman of the committee no later
4 than fourteen days following the date that the copy of the complaint was pro-
5 vided to the member complained against. Following receipt of the answer or
6 if no answer to the complaint is provided to the chairman within the time pe-
7 riod provided, the committee shall meet and conduct a preliminary investi-
8 gation of the complaint. Notwithstanding the provisions of Rule 26, such
9 meeting shall be held in executive session. At the preliminary investiga-
10 tion, the committee shall determine, based upon the complaint, other rele-
11 vant information and the answer to the complaint, whether probable cause ex-
12 ists that the member committed misconduct as provided in this rule. If, at
13 the conclusion of the preliminary investigation, the committee determines
14 no probable cause exists that misconduct has occurred, the complaint shall
15 be dismissed and the written complaint shall remain confidential. If, at the
16 conclusion of the preliminary investigation, the committee determines prob-
17 able cause exists that misconduct may have occurred, the committee shall so
18 notify the person complained against and the written complaint against the
19 member shall no longer be confidential but shall become a public document.

20 (5) Following a finding of probable cause and in a timely fashion, the
21 committee shall conduct a public hearing before which the member shall be en-
22 titled to appear, present evidence, cross-examine witnesses, and be repre-
23 sented by counsel. The complainant or authorized agent of the complainant
24 shall first present the complaint and supporting evidence and testimony to
25 the committee. The committee shall have the power to take testimony under
26 oath and to issue subpoenas and subpoenas duces tecum in the manner provided
27 in Section 67-407, Idaho Code, and make inquiry and discover evidence rel-
28 evant to the allegation. Formal rules of evidence are not applicable; how-
29 ever, evidence shall be weighed according to its reliability, and the ac-
30 cused may raise objection to any evidence. The accused may defer presenta-
31 tion of any defense until all of the evidence has been presented in support of
32 the complaint. The accused shall have a full and fair opportunity to obtain
33 and review all of the evidence in support of the complaint.

34 (6) If after investigation and hearings held pursuant to this rule,
35 the committee finds by clear and convincing evidence that a violation of the
36 standards contained in this rule occurred, the committee shall make appro-
37 priate recommendations to the House of Representatives. By four-fifths vote
38 of the committee, the committee shall recommend dismissal of the charges,
39 reprimand, censure or expulsion, provided that a recommendation for expul-
40 sion shall only be based upon a finding beyond reasonable doubt that mis-
41 conduct involves commission of a felony or use of public office for pecu-
42 niary gain under subsection (3) (b) (iii) of this rule. The sanction of cen-
43 sure may be with or without conditions or restrictions placed upon the mem-
44 ber. The committee shall prepare a report setting forth its findings, rec-
45 ommendation and reasons for such recommendation. The House of Representa-
46 tives shall vote on the recommendation of the committee, as set forth in the
47 report, during the regular session of the Legislature in which the committee
48 reports. If the committee meets and reports during the interim when the Leg-
49 islature is not in session, then the House of Representatives shall vote on
50 the committee recommendation during the next regular session of the Legis-

1 lature. If the committee does not issue a recommendation within thirty days
2 of the conclusion of the public hearing, the complaint shall be deemed dis-
3 missed. Expulsion of a House member shall require the affirmative vote of
4 two-thirds of the members elected to the House, as provided by Section 11 of
5 Article III of the Constitution. Reprimand or censure of a member shall re-
6 quire the affirmative vote of a majority of the members elected to the House.
7 Action of the House pursuant to this rule is final and not subject to court
8 review.

9 (7) The committee may retain such counsel and may hire such investiga-
10 tors as it deems necessary for the performance of its duties under this rule.
11 All expenditures incurred pursuant to this subsection shall be approved by
12 the Chairman and paid by vouchers and warrants drawn as provided by law from
13 appropriations made to the Legislative Account.

14 (8) The committee may adopt rules of procedure for the orderly con-
15 duct of committee meetings, investigations and hearings, which rules shall
16 be consistent with this rule and other applicable rules and statutes.

17 (9) If the written signed complaint concerns misconduct of a member of
18 the ethics and House policy committee, then that member shall be disquali-
19 fied and shall not serve on the committee for any purpose relating to such
20 complaint. A vacancy on the committee created as a result of this subsection
21 shall be filled by an alternate in accordance with the provisions of subsec-
22 tion (2)(c) of this rule, except that the fulfillment of any such vacancy
23 shall only be for purposes relating to such complaint.

24 BE IT FURTHER RESOLVED that the Ethics and House Policy Committee shall
25 now and in future terms be authorized to sit at the outset of each term, to an-
26 nually review and recommend to the House body, for formal affirmation, cur-
27 rent and proposed House Policies in addition to reviewing any ethics com-
28 plaints pursuant to House Rule 45.