

VERMONT SENATE



ETHICS PANEL PROCEDURE

(ADOPTED ON APRIL 19, 2016)

Permanent Rules of the Vermont Senate

XIX

OF CONDUCT OF MEMBERS AND OFFICERS

102. Ethics

(a) *The Committee on Committees shall, at the beginning of the biennium or as soon as possible thereafter, establish an Ethics Panel to receive and investigate allegations of ethical violations of senators, except for those complaints covered under Rule 101, and to recommend to the Senate any disciplinary action against a senator for an ethical violation, if the Panel deems it necessary.*

(b) *The Panel shall be comprised of five members of the Senate including at least one Senator from each major political party. The Panel shall elect a chair. All records and documents of the Ethics Panel shall be maintained in the Senate Secretary's Office.*

(c) *The Rules Committee shall develop and adopt a policy and procedure for receiving and reviewing allegations of ethical violations of Senators and procedures for when information and documents are confidential and public. Revisions to the policy and procedure may be proposed by the Panel to the Rules Committee, which shall consider the proposal and report the proposal to the full Senate with recommendation for the Senate's consideration.*

(d) *At the end of each biennium, the Ethics Panel shall report to the Senate the number of complaints filed and the disposition of those complaints.*

103. Disclosure

On or before the 10th day of the beginning of the biennium, each senator shall submit to the Secretary a disclosure form. The form shall be signed by the senator and be publicly available. A senator shall update the senator's disclosure form as circumstances require. The initial form shall be developed by the Secretary. Changes to the form shall be proposed by the Panel to the Rules Committee, which shall consider the proposal and report the proposal to the full Senate with recommendation.

Procedure for Handling Reported Alleged Ethical Violations

1. Reports must be in writing and signed by the Reporter. A report may be made by any person, but it must be in regard to alleged unethical conduct committed by a member during the current biennium or during the period between when the Senate adjourned during the last year of the prior biennium and the end of the current biennium.
2. The Panel shall provide the Respondent a copy of the report. The Respondent may file a response with the Panel. No Panel member shall participate as a Panel member for a report for which the Panel member is the Reporter or the Respondent.
3. The Panel shall make a preliminary review of the report to determine whether there is probable cause to believe an ethical violation pertaining to the Vermont Constitution or Senate Rules has occurred, which may include judging the qualifications of a member.
 - A. If this criterion is not met, the report is closed and remains confidential. Notice is sent to the Reporter and the Respondent.
 - B. If this criterion is met, the Panel proceeds with an investigation.
4. Investigations.
 - A. General. An investigation includes interviewing witnesses and collecting any available documents.
 - B. Confidentiality. The investigation is confidential.
 - C. All proceedings of the Committee pursuant to this paragraph shall remain confidential.
 - D. Outcome of investigation.
 - i. If the Panel determines that no ethical violation occurred; an ethical violation occurred but it is minor in nature; or there is not enough evidence to support a charge of an ethical violation, the complaint is closed and remains confidential. Notice of the Panel's decision is sent to the Reporter and the Respondent.
 - ii. If the Panel determines there are reasonable grounds to believe the Respondent committed an ethical violation and the report of an alleged ethical violation is not closed as provided in subdivision (i) of this subdivision (D):
 - I. The Panel may enter into a confidential stipulation with the Respondent that may include a warning or discipline, such as a reprimand. The Panel

shall advise the Reporter of the specifics of the remedial action taken.

- II. If the Respondent chooses not to enter into a stipulation, the Panel shall draft charges and set the matter for a hearing. The Reporter and the Respondent shall receive a copy of the charges and the details regarding the time, date, and location of the hearing. The Respondent may file an answer to the charges, a copy of which the Panel shall provide to the Reporter.

5. Hearings.

- A. General. The Panel shall conduct a hearing on the charges. The Committee shall have the power to take testimony under oath and to issue subpoenas and to issue subpoenas duces tecum in accordance with Vermont law. The Respondent shall be entitled to appear, present his or her position, present evidence, cross examine witnesses, and call witnesses. The Chair of the Panel shall preside and the Panel may hire independent counsel. The Respondent may hire his or her own counsel at the Respondent's expense.
- B. Confidentiality. The hearing is closed to the public, unless the Respondent asks that it be open to the public.
- C. Rules of procedure and evidence. The Panel is not bound by technical rules of evidence and may admit evidence that the Panel considers to be reliable, material, and relevant. The Chair makes evidentiary rulings, which may be overruled by a majority of the Panel present at the hearing. The decision of the Panel cannot be based solely on hearsay evidence.
- D. Burden of proof. Burden of proof that an ethical violation occurred is clear and convincing evidence. This standard indicates that the alleged ethical violation is highly probable or reasonably certain. Evidence is "clear" if it is certain, unambiguous, and plain to the understanding; and it is "convincing" if it is reasonable and persuasive.

6. Findings.

- A. If the Panel finds an ethical violation did not occur, it will dismiss the charges. This dismissal is confidential. Notice of dismissal is sent to the Complainant and the Reporter.
- B. If the Panel finds an ethical violation occurred, it will introduce for the Senate's consideration a Senate resolution containing the

chargers, the evidence presented, the Panel's findings, and its recommendations for disciplinary action.

7. Confidentiality and maintenance of records.

A. Confidentiality. Except for the Senate resolution described in subdivision (6)(B) of this Procedure:

i. Members of the Panel, the office of the Senate Secretary's Office and the Office of Legislative Council shall keep confidential any information received and any records produced or acquired in accordance with this Procedure.

ii. All records produced or acquired in accordance with this Procedure are not subject to the Public Records Act.

B. Maintenance of records. The Office of Secretary of the Senate shall maintain all records associated with handling any ethical report under this Procedure.

Senate Disclosure Form

1. Income: State the source, but not amount, of all personal taxable income that generates more than \$10,000.00 annually. If you are self-employed, indicate the nature of that employment. (Use a separate sheet of paper if necessary.)

2. Corporate Ownership: Identify any corporation in which you have a controlling interest. (Use a separate sheet of paper if necessary.)

3. Boards, Commissions & Associations: List any board, commission or association with which you are affiliated. For any such entity in which you are an officer, place a check on the line on the right. (Use a separate sheet of paper if necessary.)

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Signature

Date

