



MEMORANDUM

Prepared for: House Special Committee on Conduct
Date: December 17, 2019
By: Jan Nordlund, LPRO Analyst
Re: Role of Committee under Rule 27

LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

All sections of Rule 27 ([HCR 20](#) (2019)) became operational November 25, the date the Joint Committee on Conduct notified the presiding officers that Jackie Sandmeyer was appointed to serve as the acting Legislative Equity Officer. Sections 14 and 15 of Rule 27 prescribe the process the conduct committee is to follow upon receiving a final report from an investigator. This memo outlines the process and duties of the conduct committee members under the three possible scenarios.

WHEN A LEGISLATOR IS THE RESPONDENT

The independent investigator will provide their final report to the members of the special committee on conduct and the parties of the complaint when the respondent is a legislator. The report will include the investigator's findings of fact. The investigator will not determine whether the facts constitute a violation of Rule 27. At the hearing on the complaint, the committee members having the following duties:

- Make a final determination of facts;
- Make a final determination of whether the facts constitute a violation of the rule; and
- Prescribe or recommend remedies if determined that a violation of the rule occurred.

Schedule and Hold a Hearing

A hearing must be held within 14 days of the committee's receipt of the investigator's final report. However, the parties to the complaint have seven days from receipt of the report to submit to the committee a written challenge to any of the factual findings. This results in the committee having a seven-day window in which to schedule the hearing.

At the hearing, the committee must allow the complainant and respondent to appear, present documents and physical evidence and suggest witnesses. The committee may determine to hear witnesses, but only committee members may question witnesses.

The rule is interpreted to allow only the parties to the complaint to present materials for the record. The agenda will note that the public hearing is limited to invited testimony. If the committee receives materials from anyone other than a party to the complaint, the submitter will be instructed that materials must be submitted through either the respondent or complainant.

Impose Remedial Measures

If the committee determines that a legislator violated Rule 27, it is the duty of the committee to impose any remedy that is sufficient to reprimand the member and deter future conduct that

violates the rule. This could include, but is not limited to, a reprimand, monetary fine or other remedy the committee determines is appropriate for the circumstances.

A recommendation to expel a member must be reported to the full chamber. A recommendation to remove a member from any or all committees must be reported to the presiding officer. Other than those two recommendations, the committee has authority to impose a remedial measure without further approval.

There is no appeal process.

WHEN A PARTISAN STAFF PERSON IS THE RESPONDENT

If the respondent is a partisan staff person, the independent investigator will provide a final report to the respondent's appointing authority (who is a legislator) and the relevant special committee on conduct. The investigator's final report will include findings of fact as well as a determination by the investigator of whether the facts constitute a violation of the rule.

Recommend remedial measure

It is the duty of the conduct committee to recommend to the appointing legislator what remedial measures should be imposed. The recommendation must be consistent with the investigator's determination that the respondent violated the rule. This recommendation must be made within seven days of receiving the final report.

It is the responsibility of the appointing legislator to consider the committee's recommendation and make a final determination on the remedial measures within 14 days of receiving the investigator's final report. If the Legislative Equity Officer (LEO) determines that no remedial measure was imposed or the remedial measure was substantially different than the committee's recommendation, the Equity Officer will notify the committee. The committee has the discretion to hold a hearing and impose a remedy.

Appeal

The partisan staff person may appeal, to the committee on conduct, the investigator's final report or the remedial measure imposed. The appeal must be made within seven days of the remedial measure being imposed. The appeal must be based on newly discovered evidence; a claim of process error; or that the investigator, appointing legislator, or committee imposing the remedy acted with bias.

The rule does not specify a process or timeline for hearing the appeal.

WHEN A NONPARTISAN STAFF PERSON IS THE RESPONDENT

A nonpartisan staff member may appeal, to the Joint Committee on Conduct, the investigator's final report or any remedial measure imposed by their appointing authority. The appeal must be based on newly discovered evidence; a claim of process error; or that the investigator, appointing authority, or committee imposing the remedy acted with bias.

The rule does not specify a process or timeline for hearing the appeal.

COMPARISON OF THE THREE SCENARIOS

The table below summarizes how the committee's duties vary depending on the status of the respondent.

Duty of Special Committee on Conduct	Legislator	Partisan Staff	Nonpartisan Staff
Make final determination of facts	✓		
Determine if Rule 27 was violated	✓		
Prescribe or recommend remedial measures	✓	✓	
Hear Appeal		✓	✓

CONDUCT PROHIBITED UNDER RULE 27

Rule 27, section 8, prohibits conduct that:

- Constitutes harassment and creates a hostile work environment;
- Constitutes sexual harassment and creates a hostile work environment;
- Constitutes an unlawful practice that aids or abets discrimination in a place of public accommodation under the laws of the state; or
- Is retaliation.