

# **ARKANSAS SENATE CODE OF ETHICS**

**Ninety-Fifth General Assembly**



**State of Arkansas**

Official Copy

# ARKANSAS SENATE CODE OF ETHICS

## Ninety-Fifth General Assembly

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# ARKANSAS SENATE CODE OF ETHICS

## ***1.0 Introduction***

The holding of public office is a public trust created by the confidence which the electorate places in the integrity of Senators who serve in the Arkansas Senate. Members of the Senate are expected to carry out their duties in a manner that brings honor and integrity to the body. It is recognized that the part-time, citizen-based nature of the Arkansas General Assembly may create ethical dilemmas, but this does not nullify or diminish the Senate's expectation that Senators will make every effort to resolve these issues in satisfactory fashion and comply with these rules.

This Code of Ethics has been adopted to define the ethical expectations, provide a process for addressing accusations of ethical misconduct, and to provide for sanctions and penalties. The Code is adopted pursuant to authority granted by the Constitution of the State of Arkansas for the Senate to be the sole judge of the qualifications of its members and to determine its own rules and procedures.

## ***2.0 Definitions***

- (a) "State agency" means every board, commission, department, division, institution, and other office of state government whether located within the legislative, executive or judicial branch of government and including state supported colleges and universities.
- (b) "Family" means an individual who is a spouse, natural or adopted child, stepchild, parent, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law or daughter-in-law.
- (c) "Financial Interest" means any relationship to a business in which a Senator or his or her spouse is an employee, consultant, attorney, officer, director or owns more than a ten percent (10%) interest.
- (d) "Compensation" means any money or anything of value received, whether in the form of a fee, retainer fee, salary or expense allowance, or any form of recompense or any combination thereof.
- (e) "Consultant" means a person who provides expert or professional advice or contracts to provide professional services.
- (f) "Business" means any specific or particular corporation, partnership, sole

proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, receivership, trust or any legal entity through which a commercial enterprise is conducted.

- (g) “Contract” means any contract, lease agreement, grant, request for proposal, sub- grant, sub- contract, sub-lease or assignment.

### ***3.0 Compliance with Law***

Senators shall comply with all constitutional and statutory provisions relating to elected office. Violation of any constitutional or statutory provision shall be grounds for administering penalties as provided in the Code of Ethics. Any penalty imposed by the Senate shall not bar any other civil or criminal proceedings.

### ***4.0 Advisory Opinion***

A Senator may request in writing an advisory opinion from the Senate Ethics Committee concerning his or her compliance with the Senate Code of Ethics. A written opinion from the Senate Ethics Committee shall be signed by the Chair. An opinion shall be advisory only and shall not be binding on the Senate as a whole.

### ***5.0 Contracts with the State***

No Senator shall have a financial interest in any contract with any State agency unless it is awarded through a process of public notice and competitive bidding, through a public notice requesting proposals, or has received the prior approval of the Legislative Council. This section is applicable only in instances where the Senator knows or should have known of the contract with a State agency. Contracts entered into prior to a Senator’s election are not subject to this rule. Extension of any such contracts are subject to the provisions of this rule.

### ***6.0 Prohibited Conduct and Conflicts of Interest***

It is the policy of the Senate that a Senator may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of his or her duties in the public interest.

- (1) A Senator shall not knowingly:

- (a) Solicit, agree to accept, or accept a benefit other than official compensation for the performance of public duties or that the Senator knows or should know is being offered to influence his or her official conduct;
  - (b) Accept other employment or compensation that could reasonably be expected

to impair his or her independence of judgment in the performance of his or her official duties;

- (c) Seek, accept, use, allocate, grant, or award public funds for a purpose other than that approved by law, or make a false statement in connection with a claim, request, or application for compensation, reimbursement or travel allowances from public funds;
  - (d) Acquire a financial interest in a business that may receive positive economic benefit due to actions taken by the General Assembly or another entity of Arkansas State government, when the Senator's decision to acquire the financial interest is based on advance, non- public information regarding possible upcoming law or policy change that he or she would not otherwise have knowledge of outside of the office of Senator;
  - (e) Pay below fair market value or charge above fair market value for any goods, products, services, or rents from a registered lobbyist or entity that does business with the State of Arkansas;
  - (f) Perform an act that adversely affects a business when he or she or his or her spouse has a financial interest in a competing business.
- (2) (a)(i) It shall be a violation of the Senate's Code of Ethics for any member of the Senate to accept a campaign contribution, including a pledge for a campaign contribution, for all offices, except an election for United States Representative, during the period beginning thirty (30) days before and ending thirty (30) days after any regular session of the General Assembly.
- (ii) If there is an extended recess of the General Assembly, the period shall end thirty (30) days after the beginning of the recess.
- (b) It shall also be a violation of the Senate's Code of Ethics for any member of the Senate to accept a campaign contribution, including a pledge for a campaign contribution, during any extended session of the General Assembly or during any special session of the General Assembly except an election for United States Representative.
- (c) The term "regular session" shall not apply to "fiscal sessions" as required by Amendment 86 of the Arkansas Constitution.
- (3) Conflicts. Except as provided in section (4), a Senator shall not knowingly participate in the discussion of a question in committee, or on the floor of the Senate, or vote in

committee or on the floor of the Senate on any matter in which the Senator knows:

- (a) He or she, or his or her spouse, or a business in which the Senator or his or her spouse has a financial interest will, as a result of legislative action, receive compensation or derive a financial benefit that is distinguishable from the effects of the action on the public generally. The Senator may have his or her abstention noted of record.
  - (b) Will specifically relate to a business which employs the Senator or in which he or she receives compensation as an attorney or consultant. The Senator may have his or her abstention noted of record.
- (4) Notwithstanding a conflict under section (3), a Senator may participate and vote on any matter pending before a committee or on the floor of the Senate if he or she complies with one of the following processes for disclosing a conflict:
- (a) Conflict Disclosure in the Chamber. Prior to beginning debate or voting, the Senator publicly discloses any compensation or financial interest he, she or the Senator's spouse may have regarding the matter. The disclosure of a conflict shall be made verbally or in writing.
    - (i) Verbal Disclosure of a Conflict. Disclosure of a conflict can be made verbally when a Senator shares information regarding the source of the Compensation and the financial interest held. The Senate's General Counsel shall convert the verbal disclosure into a written statement, email the same to all Senators, and keep a copy of the statement on file for the duration of the Senator's senatorial service.
    - (ii) Written Disclosure of a Conflict. Disclosure of a conflict can be made when a Senator provides the Senate's General Counsel with a letter detailing the source of the compensation and the financial interest held. The Senate's General Counsel shall email a copy of the letter to all Senators and keep a copy of the letter on file for the duration of the Senator's senatorial service.
  - (b) Conflict Disclosure in Committee. Unless previously disclosed, such disclosure statement shall be read aloud by the committee staff of the appropriate committee at which the Senator will participate in debate or voting detailing the source of the compensation or financial interest held. The Senate's General Counsel shall email a copy of the statement to all Senators and keep a copy of the statement on file for the duration of the Senator's senatorial service.

- (5) Notwithstanding Ethics Rule 9.0(1)(b)(iii), Senators and the public shall be entitled to receive conflict disclosure letters and statements made by other Senators upon submitting a written request to the Senate's General Counsel. The General Counsel shall notify the Senator who is the subject of any such request that a request has been made. Such notice shall also include the identity of the requestor and what (if any) conflict letters or statements are in the Senator's file and subject to disclosure.
- (6) A Senator who chooses not to participate in the discussion of a question in committee or on the floor of the Senate, or vote in committee or on the floor of the Senate because of a conflict as described in the aforementioned section [Section 6.0 (3)], shall not directly or indirectly lobby or in any way attempt to influence the action or vote of another member of the Senate.
- (7) A Senator shall not provide legal representation to any claimant before the Arkansas Claims Commission, nor shall a member of a Senator's law firm provide such representation. However, if the law firm's representation of the client and filing of the Claims Commission case commenced prior to the election of the Senator, the representation of the client by the firm shall be allowed to continue so long as the Senator receives no income or profit from any judgment rendered and does not personally participate in any matter, legislative or otherwise, related to the claim. The Senator shall disclose this information by letter to the Secretary to the Senate.
- (8) No Senator shall serve as a registered lobbyist, as defined by Arkansas Code Annotated § 21-8-402.
- (9) A family member of a Senator shall be prohibited from working for the Senate. However, a family member of a Senator may be permitted to work for the Senate on an unpaid or volunteer basis.
- (10) A Senator may use Senate equipment, facilities and resources for the performance of official business of the Senate in their official capacity. A Senator cannot conduct meetings in Senate offices or Senate facilities where the nature of the meeting involves state or federal dollar and involves impacting, coercing, soliciting or activities of influence that could potentially result in private or professional gain or profit.
- (11) A family member of a Senator is prohibited from conducting meetings in Senate offices or Senate facilities where the nature of the meeting involves state or federal dollar and involves impacting, coercing, soliciting or activities of influence that could potentially result in private or professional gain or profit.



## **7.0 Financial Disclosure**

- (1) All members of the Senate shall file a financial disclosure form, under oath and on penalty of perjury, with the Secretary of the Senate by January 31<sup>st</sup> of each year covering the preceding calendar year if income is derived from the following sources:
  - (a) Attorney members of the Senate who are knowingly retained by a registered lobbyist, or knowingly retained by an individual or entity who employs a registered lobbyist, shall disclose such clients and the income derived from the relationship.
  - (b) Attorneys, who are members of the Senate, and participate in a profit- sharing or cost- sharing agreement with their law firm, shall report any income knowingly derived from the retention of the law firm by a registered lobbyist or an individual or entity that employs a registered lobbyist. The name of the client shall be disclosed in the report.
  - (c) Consultants, who are members of the Senate and who are knowingly employed by or knowingly retained by a registered lobbyist, or knowingly employed by or knowingly retained by an individual or entity that employs a registered lobbyist, shall disclose such clients and the income derived from the relationship.
  - (d) Consultants, who are members of the Senate, and participate in a profit-sharing or cost- sharing agreement with their consulting firm, shall report any income knowingly derived from the retention of the consulting firm by a registered lobbyist or an individual or entity that employs a registered lobbyist. The name of the client shall be disclosed in the report.
  - (e) A Senator who receives financial benefit from or has legal signatory authority over finances of a church or organization recognized as a 501(c)(3) tax-exempt organization by the Internal Revenue Service, shall report any income of the church or organization knowingly derived from a registered lobbyist or an individual or entity that employs a registered lobbyist. The name of the individual or entity making the contribution to the church or organization shall be disclosed in the report.
  - (f) Senators who are business owners, or who have an interest in a business exceeding 10%, and who knowingly engage in business activity with a registered lobbyist or with entities that employ or retain a registered lobbyist, shall disclose such clients and the income derived from the relationship.

(g) The income disclosure requirement in Section 7.0 (a)-(f) shall be reflected in the following manner by checking the appropriate box on the Arkansas Senate Financial Disclosure Form:

- \$1,000 to \$12,500
- \$12,501 to \$50,000
- \$50,001 to \$100,000
- \$100,001 to \$250,000
- More than \$250,000

(h) If real estate is held for investment or revenue production by a Senator or his or her spouse, or entity for which the member or spouse has a controlling interest, and revenue is knowingly derived from a registered lobbyist, a listing thereof, including a listing of annual gross rent and lease income on real estate shall be included in the financial disclosure.

(i) If real estate is held for investment or revenue production by a Senator or his or her spouse, or entity for which the member or spouse has a controlling interest, and the member or spouse knowingly rents or leases the real estate to the State of Arkansas or a subdivision or agency of the state, a listing thereof, including a listing of annual gross rent and lease income on real estate shall be included in the financial disclosure.

(2) No Senator shall knowingly fail to file a disclosure form on or before the filing deadline established under this section. No Senator shall knowingly file a false form under this section. Disclosure forms filed under this section are public records under the Freedom of Information Act of 1967, Arkansas Code §25-19-101 *et seq.*, and shall be maintained by the Secretary of the Senate.

## **8.0 Senate Ethics Committee**

(1) There is established the Senate Ethics Committee to consist of eight (8) members appointed by the President Pro Tempore of the Senate, three (3) of whom shall be a member of the minority party.

(2) The members of the committee shall select the Chair and Vice-chair.

(3) Each member shall serve for the duration of the General Assembly for which the member is appointed. Any vacancies that may occur during this term, shall be filled through appointment by the President Pro Tempore of the Senate.

- (4) The committee may meet at the call of the Chair or of a majority of the members.
- (5) An executive session of the committee shall be permitted upon determination of the Chair. However, the committee shall not be permitted to take any action while in executive session.
- (6) Senate Rules Apply. Except where there is a conflict between the Senate Code of Ethics and the Rules of the Senate, the Rules of the Senate shall apply to and in all matters concerning the Senate Ethics Committee, its meetings, its proceedings, and its conduct.

## **9.0 Allegations of Violations**

- (1) Petitioning Process. Three (3) or more members of the Senate who have good reason to believe that a member or members of the Senate have violated the Senate's Code of Ethics may petition the Senate Ethics Committee to meet to conduct an investigation regarding the alleged violation. The petitioning process shall be as follows:
  - (a) For purposes of the process set forth in this rule, "claimants" means the Senators who are making an allegation of a violation of the Senate's Code of Ethics, and "respondent" means the Senator who is the subject of the allegation.
  - (b) The claimants shall prepare a petition. The petition shall list the respondent Senator's name, the name of the claimants, the Senate Code of Ethics provision that has allegedly been violated, and a description of the alleged unethical activity.
    - (i) Except as set forth in subsection (ii) of this section, claimants and respondents are prohibited from requesting advice or assistance from legislative staff related to the filing of or defense against a Senate ethics petition. However, the Senate's General Counsel may advise and assist the Senate Ethics Committee on all matters pertaining to ethics allegations, including but not limited to drafting the Ethics Committee's final report and recommendation.
    - (ii) Any Senator may request and obtain public records possessed by Senate staff regarding another Senator if the requested records are otherwise subject to public disclosure under Arkansas law. Such requests shall be made in writing, dated, and submitted directly to the Senate's General Counsel.

- (A) After receiving a written request, the Senate's General Counsel shall promptly notify the subjects of the request that a request for public records has been made about them and shall identify the Senator(s) who made the request, the public records requested, and once a determination has been made, what (if anything) will be disclosed.
- (B) Unless specifically stated by the Senator making the request, a request by one Senator for public records from Senate staff concerning another Senator shall not constitute a formal request made pursuant to the Arkansas Freedom of Information Act, Ark. Code Ann. 25-19-101 et seq. Nonetheless, Senate staff shall attempt to adhere as closely as practicable to the procedural expectations articulated in 25-19-101 et seq. in both preparing and conveying a response.
- (iii) Individual Senators are not entitled to receive non-public records from Senate staff concerning another member, but such records may be acquired by the Senate Ethics Committee in the course of its investigation under section 10 of the Senate's Code of Ethics or by the Senate body under article 5, section 12 of the Arkansas Constitution.
- (iv) Nothing in subsection (ii) or (iii) is intended to limit or impact the ordinary exchange of legislative information by, between, and through Senators and Senate staff regarding legislative measures, legislative proceedings, or other routine legislative functions.
- (c) The claimants shall deliver a copy of the petition to the respondent and the Secretary of the Senate. The Secretary of the Senate shall deliver a copy of the petition to the Chair of the Ethics Committee.
- (d) The committee shall commence its investigation of the allegations within ten (10) business days of receiving the petition.
- (e) Any allegation of violation of the Senate's Code of Ethics shall be brought in the manner described in this rule, by filing a written petition. A Senator shall not make an allegation of a violation verbally in a meeting of the Senate or by any other means outside the petition and committee process of these rules. A Senator who improperly brings an allegation of a violation may be subject to any of the penalties set forth in Section 11.0 of this rule.
- (f) Senators are discouraged from discussing the subject matter of an ethics petition filed under this rule with the following individuals from the time that the

petition is filed until the Senate Ethics Committee has issued the report of its findings and recommendations to the President Pro Tempore of the Senate: the claimants, the respondent, any witnesses in the hearing before the committee or who are named in the petition, and members of the Senate Ethics Committee. Claimants and Respondents, however, may discuss the subject matter of the petition with potential witnesses.

(2) Withdrawal of Petition.

- (a) An allegation of violation may be withdrawn by one (1) or more of the claimants at any time between the filing of the petition and the conclusion of the respondent's presentation of his or her case to the Senate Ethics Committee during its hearing procedure. If there are any claimants remaining who have not withdrawn from the petition, the committee investigation will continue.
- (b) Once the respondent has concluded presentation of his or her case and the committee begins its deliberations, withdrawal of the petition will no longer be permitted.
- (c) Withdrawal of the petition shall be reported by the Ethics Committee to the President Pro Tempore of the Senate.

(3) Recusal and Replacement of Committee Members.

- (a) Committee Member is a Party to the Allegation. If any respondent or claimant is a majority party member of the Senate Ethics Committee, the President Pro Tempore, or his or her designee, shall serve in lieu of the majority party member of the committee who is the respondent or claimant. If any respondent or claimant is a minority party member of the Senate Ethics Committee, the Senate Minority Leader, or his or her designee, shall serve in lieu of the minority party member of the committee who is the respondent or claimant.
- (b) President Pro Tempore is a Party to the Allegation. If the President Pro Tempore is a party to the allegation (either claimant or respondent) and a majority party member of the Senate Ethics Committee is also a party to the allegation, the Senate Rules Committee shall select a Senator to fill the vacancy on the Senate Ethics Committee for the duration of the proceedings on the allegation.
- (c) Minority Party Leader is a Party to the Allegation. If the minority party leader is a party to the allegation (either respondent or claimant) and a minority party member of the Senate Ethics Committee is also a party to the allegation, the Senate Rules Committee shall select a Senator to fill the vacancy on the Senate

Ethics Committee for the duration of the proceedings on the allegation.

- (d) Committee Member Unable to Participate in Scheduled Committee Investigation.
  - (i) Prior to the start of the opening statements by the parties, if a member of the Senate Ethics Committee is aware that he or she will not be able to participate in the investigation of an allegation brought before the committee, either in person or by remote participation, he or she will notify the Chair of the Senate Ethics Committee.
  - (ii) The member will be automatically recused from the committee for purposes of that investigation, and a replacement member will be temporarily appointed to fill his or her position for the duration of the committee's investigation, voting, and deliberations concerning that allegation.
  - (iii) If the absent member is a member of the majority party, the President Pro Tempore, in consultation with the minority party leader, shall appoint a Senator of the majority party to serve temporarily on the Senate Ethics Committee.
  - (iv) If the absent member is a member of the minority party, the Minority Party Leader, in consultation with the President Pro Tempore, shall appoint a Senator of the minority party to serve temporarily on the Senate Ethics Committee.
  - (v) The President Pro Tempore or the Minority Party Leader may appoint themselves to fill a vacancy under this provision, provided that he or she is not a party to the allegations.

#### ***10.0 Hearing Procedures – Senate Ethics Committee Investigation and Hearing***

- (1) The Senate Ethics Committee shall conduct an investigation of the allegations contained in the petition. This procedure shall consist of an investigation, in which the committee will gather all relevant evidence, including documents, exhibits, and witness testimony; conduct private deliberations; and ultimately make a recommendation to the body of the Senate regarding whether there is enough valid evidence presented by the claimants to proceed with consideration of formal disciplinary action against a member for alleged ethical violations. The following procedures shall apply to the committee investigation and hearing:

(2) Executive Session.

- (a) The Senate Ethics Committee shall convene in public in order to state the purpose of the meeting and the procedures to be followed by the Committee, but shall take all evidence and hold all deliberations in executive session.
- (b) The committee shall reconvene in public meeting to take action on the allegations in the petition.
- (c) Members of the public shall be allowed to observe the public portions of the committee hearing.
- (d) During the presentation of the evidence to the committee, the following individuals will be permitted in the committee room:
  - (i) Senate Ethics Committee members;
  - (ii) Claimants;
  - (iii) Respondent;
  - (iv) Witnesses, only when providing his or her testimony; and
  - (v) Legislative Staff designated by the Chair.
- (e) During committee deliberations, the following individuals will be permitted in the committee room:
  - (i) Senate Ethics Committee members; and
  - (ii) Legislative Staff designated by the Chair.
- (f) In the event that there are multiple respondents with interrelated allegations against them being taken up by the committee in the same hearing process, the Chair may make a determination, subject to being overruled by a majority of the committee members, to allow all respondents to remain in the committee room during the presentation of evidence related to all respondents in the interrelated allegations.
- (g) The Chair shall instruct the claimants, respondent, witnesses, staff, and committee members not to discuss the evidence presented to the committee during the executive session.

(3) Witnesses and Exhibits.

- (a) The claimants and the respondent may call witnesses who shall be allowed to testify under oath.

- (b) The claimants and the respondent may provide and refer to exhibits during his or her presentation to the committee.
  - (c) During the course of the investigation and hearing, the committee members may also call witnesses they feel may provide testimony relevant to the allegations in the petition and introduce exhibits they feel are relevant to the allegations and will assist in making their determination.
  - (d) The Chair shall establish a deadline prior to the start of the hearing by which the parties shall submit a list of all witnesses he or she intends to call to testify at the hearing and copies of all exhibits he or she intends to refer to in his or her presentation to the committee.
  - (e) Witnesses may present a statement to the committee, but shall also submit to questioning, as follows:
    - (i) Direct examination by the party that called the witness;
    - (ii) Cross-examination by the other party to the allegation; and
    - (iii) Additional questioning by the members of the committee.
  - (f) Subject to being overruled by a majority of the membership of the committee, the Chair may rule that a question posed to a witness is out of order, but must state the reason why, and that question shall not be answered or further pursued by the party. A party or member of the committee may make an appeal to the chair that a question posed to a witness is out of order.
- (4) Oath to be Administered. The claimants, respondent, and any witnesses called to testify in front of the committee shall be placed under oath by the Chair prior to beginning his or her testimony to the committee.
- (5) Remote Participation.
- (a) (i) Committee members shall be permitted to participate, including voting, in the committee investigation and hearing either in person or via remote participation.
  - (ii) A Committee member wishing to participate remotely, shall make a request to the Chair for approval of remote participation.
  - (iii) Remote participation shall be by electronic medium such as Zoom that allows the member to be seen and heard in the committee room.
  - (iv) A committee member participating remotely will be counted for



purposes of determining a quorum and voting thresholds, but will not be eligible to receive mileage reimbursement or per diem for days when he or she is not physically present at the committee meeting.

- (b)
    - (i) If a witness is unable to attend the committee hearing in person, due to unavoidable reasons, such as previously scheduled travel or illness, he or she may be permitted to testify before the committee via Zoom.
    - (ii) When testifying via Zoom, the witness shall be administered the oath by the presiding officer prior to giving any testimony.
    - (iii) The witness shall be able to be seen and heard by the members of the committee at all times during his or her testimony.
- (6) Committee Hearing Proceedings. The hearing shall proceed as follows:
  - (a) The Chair shall administer the oath to the claimants and respondent.
  - (b) The claimants shall be permitted to present an opening statement to the committee.
    - (i) The claimants shall state why they asked for the hearing, including presentation of the allegations in the petition, and a statement regarding the section of the Code of Ethics they believe has been violated.
    - (ii) The committee members may ask questions of the claimants upon conclusion of the claimants' presentation of the opening statement. If the respondent wants to ask a question of the claimants, he or she shall ask the Chair for permission to ask the question, stating what the question will be. It will be the Chair's discretion, on a question by question basis, whether to allow the respondent's question.
  - (c) The respondent shall be permitted to present an opening statement to the committee.
    - (i) The respondent shall be asked by the presiding officer to answer any and all allegations in his or her opening statement. The respondent may decline to answer any allegations and his or her refusal to answer shall not be used against him or her in the proceedings.
    - (ii) If the respondent chooses to provide an opening statement, the committee members may ask questions of the respondent upon conclusion of the respondent's presentation of the opening statement. If

the claimants want to ask a question of the respondent, he or she shall ask the Chair for permission to ask the question, stating what the question will be. It will be the Chair's discretion, on a question by question basis, whether to allow the claimant's question.

- (d) (i) Upon conclusion of the presentation of opening statements and questions related to the opening statements, witnesses shall be called in the following order: claimant witnesses; respondent witnesses; additional witnesses called by the committee.
- (ii) The Chair shall administer the oath to each witness prior to his or her testimony.
- (iii) If the claimants or respondent ask to call a witness that was not included on the witness list provided by the parties prior to the hearing, the determination as to whether to allow the witness will be at the discretion of the Chair.
- (e) At the end of the hearing, the claimants and respondent may make closing statements. Committee members may ask any remaining questions of the claimants or respondent following presentation of the closing statements.

(7) Committee Findings and Recommendations.

- (a) Member Participation. A committee member shall only participate in deliberations and the vote on recommendations if he or she has been present, either in person or remotely, to hear substantially all testimony before the committee. Once the hearing proceeding has begun, if a member will not be available to participate either in person or remotely on the days anticipated for the committee hearing, he or she should notify the Chair of the anticipated absence, in order to allow for a change to the hearing schedule, if possible. Once the committee has begun its hearing procedure, if a member of the committee is unable to participate either in person or remotely, the absent member's position will not be filled, and the committee may proceed with its hearing and investigation as long as there is a quorum.
- (b) Committee Deliberations. Upon conclusion of the presentation of the respondent's evidence, the committee shall enter deliberations to review the evidence presented and to formulate its findings and recommendations to be provided to the full Senate. Prior to the conclusion of the respondent's presentation, committee members shall only deliberate regarding procedural matters.

- (c) Vote Threshold. All action by the committee shall require an affirmative vote of a majority of the membership of the committee.
- (d) Committee Report. Within twenty (20) calendar days of the conclusion of its hearing, the committee shall provide a written copy of its findings and recommendations to the President Pro Tempore for consideration by the full Senate. The twenty (20) calendar days will begin to run on the day when the committee takes its vote in a public meeting regarding the recommendations to the full Senate, and the day of the vote shall be considered day one. The report of the committee shall include recommendations regarding penalties to be imposed on the respondent, if any. The findings of the committee are not binding on the Senate, but are merely recommendations.

### **11.0 Senate Business Meeting Procedures**

- (1) Within ten (10) business days of receipt of the findings and recommendations of the committee, the President Pro Tempore shall call a business meeting of the Senate under this section to consider the findings and recommendations of the Senate Ethics Committee, resulting from the committee's hearing process under Section 10.0, and to make a final determination regarding the allegations in the petition.
- (2) Public Meeting. A business meeting of the Senate called to hear recommendations and findings related to an alleged violation of the Senate's Code of Ethics, shall be open to in-person attendance by the public and members of the press. The meeting shall be live streamed by the Senate.
- (3) Presiding Officer.
  - (a) In accordance with Senate Rule 2.3, the "President Pro Tempore shall have the authority to convene the members of the Senate between sessions for the purpose of addressing any matter that affects the business of the full Senate."
  - (b)
    - (i) If the President Pro Tempore is a party to the ethics matter that is the subject of the business meeting under these procedures, then without objection, he or she shall designate a Senator to serve as the presiding officer for the business meeting related to that matter.
    - (ii) The President Pro Tempore shall call the business meeting to order, prior to relinquishing the chair to his or her designee.
  - (c) The presiding officer shall have the authority, subject to being overridden by a majority of the members, to make determinations regarding germaneness of testimony,

presentations, closing statements, debate, and questions being presented to the Senate. If the presiding officer finds that testimony, presentations, closing statements, debate, or questions from a presenter, a witness, or a Senator participating in debate on a motion is not germane to the findings and recommendations of the Senate Ethics Committee that are the subject of the hearing or of the particular motion being debated, the following will apply:

- (i) The first ruling by the presiding officer that testimony or debate is not germane to the matter before the Senate, will result in the presiding officer advising the Senator to restrict his or her statements or questions to only those that are germane;
  - (ii) A second ruling by the presiding officer that testimony or debate is not germane, will result in the Senator being instructed to take his or her seat, and that Senator will be barred from participating in the remainder of the proceedings, but will still be allowed to vote on any motions. The presiding officer may direct staff to turn off the Senator's microphone if he or she does not comply.
- (d) The presiding officer may establish a deadline for submission of a list of witnesses to be called to testify and exhibits that will be presented at the business meeting by the Senate Ethics Committee Chair, or his or her designee, and the respondent.
- (4) Oath to be Administered. The Senate Ethics Committee Chair, or his or her designee, the respondent, and any witnesses called by the parties shall be placed under oath by the presiding officer prior to beginning his or her testimony to the Senate.
- (5) Presentation by Senate Ethics Committee Chair. Following opening comments by the presiding officer, the Chair of the Senate Ethics Committee, or his or her designee, shall present the findings and recommendations of the committee.
  - (a) The presentation shall not exceed one (1) hour in length.
  - (b) Senators will be permitted to ask questions of the Senate Ethics Committee chair, or his or her designee, upon conclusion of the presentation and calling of any witnesses by the presenter. The time for questions from Senators will not be included in the one (1) hour time limit.
- (6) Respondent Presentation. Following the conclusion of the presentation by the Senate Ethics Committee chair, or his or her designee, the Senator who is the subject of the committee's findings and recommendations (the "respondent") may make a presentation to the Senate.

- (a) The presentation shall not exceed one (1) hour in length.
  - (b) Senators will be permitted to ask questions of the respondent upon conclusion of his or her presentation. The time for questions from Senators will not be included in the one (1) hour time limit.
  - (c) During the hearing, the respondent shall be seated at the table designated for the respondent rather than in his or her regular seat in the Senate chamber. The respondent may return to his or her regular seat for the purpose of voting.
  - (d) A respondent may bring his or her own legal counsel to the Senate business meeting at which the Senate Ethics Committee recommendations regarding the respondent are being heard. Respondent's legal counsel will only be allowed in the Senate chamber in an advisory capacity to the respondent, and shall not address the Senate, question witnesses, be a witness, or make objections to the presiding officer. Respondent's legal counsel shall be seated next to respondent at the table designated for the respondent only.
- (7) Witnesses. Each presenter—the Senate Ethics Committee Chair, or his or her designee, and the respondent—are permitted to call witnesses relevant to the recommendations and arguments that he or she is presenting to the Senate.
- (a) The presenter may call witnesses following his or her initial presentation to the Senate.
  - (b) (i) A presenter shall not call a witness who was not previously designated as a witness to provide testimony at the hearing before the Senate Ethics Committee during its investigation of the allegations that are the subject of the business meeting.
  - (ii) If a presenter desires to call a witness who was not called previously, he or she may make a motion to allow the witness. As part of the motion, the presenter shall provide information to the Senate regarding how the witness' testimony will further his or her case before the Senate and why the witness was not called during committee process.
  - (iii) If eighteen (18) or more Senators vote to allow the testimony of the witness, the witness shall be called and placed under oath.
  - (c) A Senator may be called as a witness; however, no Senator shall be compelled to testify.
  - (d) (i) If a witness is unable to attend the business meeting in person, due to unavoidable reasons such as previously scheduled travel or illness, he or she may be permitted to testify before the Senate virtually via Zoom.

- (ii) When testifying via Zoom, the witness shall be administered the oath by the presiding officer prior to giving any testimony.
  - (iii) The witness shall be able to be seen and heard by the Senators in the Senate chamber at all times during his or her testimony.
- (8) Exhibits and Documents.
  - (a) Each presenter – the Senate Ethics Chair or his or her designee and the respondent – may provide and refer to exhibits during his or her presentation relevant to the recommendations and arguments he or she is presenting to the Senate.
  - (b)
    - (i) A presenter shall not present or refer to an exhibit that was not provided to the Senate Ethics Committee during its investigation of the allegations that are the subject of the business meeting.
    - (ii) If a presenter desires to introduce an exhibit that was not previously provided, he or she may make a motion to allow introduction of the exhibit. As part of the motion, the presenter shall provide information to the Senate regarding how the exhibit will further his or her case before the Senate and why the exhibit was not provided during the committee process.
    - (iii) If eighteen (18) or more Senators vote to allow the introduction of the exhibit, copies of the exhibit shall be provided to all Senators.
- (9) Closing Statements. The Senate Ethics Committee Chair, or his or her designee, and the respondent shall each be permitted to make closing statements.
  - (a) The respondent shall make his or her closing statement upon conclusion of questions from Senators following his or her presentation and calling of any witnesses.
  - (b) The Senate Ethics Committee chair, or his or her designee, shall make his or her closing statement upon conclusion of the respondent's closing statement.
  - (c) Each party shall have a maximum of fifteen (15) minutes to present his or her closing statement to the Senate.
- (10) Determination of Ethics Violation. Upon completion of his or her closing statement, the Senate Ethics Committee Chair, or his or her designee, shall make a motion that the Senate finds a violation of the Senate's Code of Ethics. The motion shall name the Senator who is alleged to have violated the Code of Ethics and the provision of the Code of Ethics alleged to have been violated. A separate motion shall be made for each provision of the Senate's Code of Ethics alleged to have been violated and a vote taken on each motion separately.

- (11) Penalties. If a Senator is found to have violated one or more provisions of the Senate's Code of Ethics, the Senate shall proceed to discipline the member.
- (a)(i) Immediately following the vote determining a violation has occurred, the Senate Ethics Committee Chair, or his or her designee, shall move that the Senate discipline the member in accordance with the Ethics Committee recommendation.
- (ii) This motion is subject to substitution or amendment.
- (b) If a letter of caution or letter of reprimand is authorized, the letter shall be authored by the presiding officer.
- (12) Debate. Following a motion made during the business meeting, Senators will have the opportunity to speak either for or against the motion. A Senator participating in debate shall limit his or her comments to only those that are germane to the motion and shall be subject to the rulings regarding germaneness by the presiding officer, as set forth in Section 11.0 (3)(c).
- (13) Voting.
- (a) The membership of the Senate, including the respondent and the claimants, shall vote in public on whether the respondent has violated the Senate's Code of Ethics.
- (b) Eighteen (18) or more votes are required to find a Senator in violation of the Senate's Code of Ethics.
- (c) The pairing of votes shall not be recognized.
- (d) (i) The roll shall be called by the Secretary of the Senate, the Assistant Secretary of the Senate, or a legislative staff person designated by the presiding officer.
- (ii) Each Senator shall respond at the time his or her name is called by voting yea, nay, present or abstain. Failure to respond will be documented as abstaining from the vote. A Senator shall not be allowed to pass during the roll call.
- (e) A member may only be suspended or expelled by an affirmative vote of two thirds (2/3) of the membership of the Senate.
- (14) Senators Physically Present at Senate Chamber. A Senator must be physically present in the chamber in order to cast his or her vote in the proceedings. Senators shall not be allowed to participate in these proceedings via Zoom or other virtual means.
- (15) Senate Rules Applicable. Provisions of the Rules of the Senate related to parliamentary

procedures, to the extent that they are not in conflict with these procedures, shall apply during a Senate Business Meeting called for the purpose of consideration of findings and recommendations of the Senate Ethics Committee.

## **12.0 Penalties**

If a Senator has been found to have violated the Senate's Code of Ethics, the Senate shall proceed to discipline the member. Immediately following the vote determining that a violation occurred, the Chair of the Senate Ethics Committee or his or her designee shall move that the Senate discipline a member by one or more of the following penalties:

- (a) letter of caution or reprimand;
- (b) loss of committee assignment(s);
- (c) loss of leadership assignment(s);
- (d) loss of seniority;
- (e) temporary suspension;
- (f) expulsion;
- (g) financial penalties, including without limitation loss of salary, imposition of punitive damages, and loss of per diem and mileage reimbursements; and
- (h) other measures to be determined by the members of the Senate.

The motion shall be subject to substitution and amendment. Any letter of caution or letter of reprimand shall be authored by the presiding officer of the hearing. It shall take a two-thirds (2/3) majority of the membership to suspend or expel a member.

## **13.0 Ineligibility to Retain Office**

- (1) A Senator under a felony criminal indictment in any federal or state court shall immediately be ineligible to retain any leadership position in the Senate, including without limitation committee chairmanships and party leadership positions.
  - (a) If a Senator surrenders his or her position as Chair of a committee, the Vice-chair of the committee shall serve in his or her place until the issue of the indictment is resolved.
  - (b) During the General Assembly in which the Senator held the leadership position, if the indictment is dropped or the Senator is acquitted, he or she shall resume the leadership position.
  - (c) During the General Assembly in which the Senator held the leadership position,



if he or she enters a guilty plea or is found guilty of the charges against him or her, the leadership position shall be filled in the manner provided for in these rules.

- (2) If a Senator under a felony criminal indictment in any federal or state court is subsequently found guilty of the charges against him or her or enters a guilty plea, the Senator shall immediately be ineligible to retain or her office under authority of Article 5, Section 9 of the Constitution of Arkansas and a vacancy shall be immediately declared by the President Pro Tempore with notification given to the convicted Senator, all members of the Senate, the Secretary of the Senate, the Governor, the Secretary of State and the Auditor of State.

#### **14.0 *Spurious or Frivolous Accusations***

- (1) Senate Ethics Committee. The Senate Ethics Committee may consider the issue of spurious or frivolous accusations in the following manner:
  - (a)
    - (i) Upon conclusion of its consideration of the petition, including without limitation withdrawal of the petition by claimants, the committee may then take up consideration of findings and recommendations related to whether the claimants' petition contained spurious or frivolous accusations.
    - (ii) The committee may also convene to consider whether claimants' petition contained spurious or frivolous accusations upon referral of that issue by the full Senate, under Section 14.0 (2)(b)(i).
  - (b)
    - (i) Prior to taking a vote on the recommendation regarding whether the claimants' petition contained spurious or frivolous accusations, the committee shall call the claimants before it to answer questions of the committee members.
    - (ii) Claimants shall be permitted to present to the committee regarding the specific issue of spurious or frivolous accusations, including, at the discretion of the Chair, the ability to provide additional evidence in the form of witnesses and exhibits to the committee supporting his or her defense.
  - (c) The committee shall deliberate on the issue of spurious or frivolous accusations.
  - (d) The hearing and committee deliberations regarding spurious or frivolous accusations shall be conducted in executive session.
  - (e) Action taken by the committee regarding a recommendation of spurious or frivolous accusations shall be in a public meeting and shall be included in the

committee's report to the President Pro Tempore for consideration by the Senate.

- (2) Senate Business Meeting. During the Senate Business Meeting to consider the findings and recommendations of the Senate Ethics Committee, the membership may take up consideration of whether the accusations made by the claimants were spurious or frivolous.
  - (a) If the Senate Ethics Committee has made a recommendation that the Senate consider whether the accusations in the petition were spurious or frivolous, this recommendation of the committee shall be taken up following the vote of the Senate to absolve the respondent, or as the first order of business by the Senate when the petition has been withdrawn but the committee has made a recommendation that the accusations in the petition were spurious or frivolous. Consideration by the Senate of whether the accusations in a petition were spurious or frivolous shall follow the same rules and format as consideration of the committee's recommendations regarding the allegations against the respondent, as set out in Section 11.0.
  - (b) If the Senate Ethics Committee has not made a recommendation regarding spurious or frivolous accusations by the claimants, the Senate may proceed with consideration of this issue upon a motion from a Senator that the claimants be found to have made spurious or frivolous accusations against the respondent. The Senate may:
    - (i) (A) Refer consideration of the issue of spurious or frivolous accusations to the Senate Ethics Committee for a hearing and recommendations to be taken up by the full Senate in a business meeting at a later date.
    - (B) Upon receipt of the report of the Senate Ethics Committee's findings and recommendations regarding consideration of the issue of spurious or frivolous accusations, the President Pro Tempore shall call the Senate into a business meeting, and the Senate shall follow the procedures set forth for consideration of the committee's recommendations under Section 11.0; or
    - (ii) (A) Determine to move forward with hearing the issue of whether the accusations in the petition were spurious or frivolous in the Senate Business Meeting without additional recommendations from the Senate Ethics Committee.
    - (B) The procedure to be followed by the Senate when considering the

issue of spurious or frivolous accusations under this section shall follow the same rules and format as consideration of the committee's recommendations, as set out in Section 11.0. However, rather than the Senate Ethics Committee Chair presenting to the Senate, it shall be the member who made the motion to the Senate under Section 14.0 (2)(b) of this rule.

- (c) In the event that the Senate makes a determination to hear allegations regarding spurious or frivolous accusations under Section 14.0 (2)(a) or (b) of these rules, the claimant alleged to have made the spurious or frivolous accusations becomes the respondent with all rights and responsibilities allotted to a respondent under the procedures in Section 11.0.
- (3) Imposition of Penalties. If by an affirmative vote of eighteen (18) or more Senators, a claimant is found to have made spurious or frivolous accusations in a petition filed under Section 9.0 of this rule, the Senate may levy against the claimant one (1) or more of the penalties as described in Section 12.0.

### ***15.0 Annual Ethics Acknowledgement***

A member of the Senate shall publicly acknowledge his or her understanding of the Senate Code of Ethics and shall renew his or her commitment to the code by signing an Annual Ethics Acknowledgement Form by January 31<sup>st</sup> of each year during his or her term. If a member takes office or is elected in a special election, he or she shall sign an Annual Ethics Acknowledgement Form within 30 days of being sworn into office.

### ***16.0 Legislative Ethics Course***

Each Senator shall complete a legislative ethics course approved by the Senate Ethics Committee between the date of the general election and January 31<sup>st</sup> of the regular session of each General Assembly. If the Senator first takes office or begins service after January 31<sup>st</sup> of that session, he or she shall complete the legislative ethics course within thirty (30) days after he or she takes office or begins service. The committee may grant a Senator additional time to complete the course required by this section.

### ***17.0 Ethics Amendments***

Once adopted, the Senate Code of Ethics shall not be amended without a two-thirds (2/3) vote of the membership of the Senate (24 votes). Any proposed amendments to the Senate Code of Ethics shall first be referred to the Senate Ethics Committee. The Ethics Committee shall review all proposed amendments and report the Committee's recommendation to the full Senate for consideration.