

**RULES OF THE HOUSE SELECT COMMITTEE TO INVESTIGATE
ALLEGED MISCONDUCT AND OTHER MATTERS INCLUDED IN INDICTMENTS AGAINST
REPRESENTATIVE THOMAS E. WRIGHT**

(Adopted December 18, 2007)
(Amended January 9, 2008)

PART A. – GENERAL PROVISIONS.

1. All proceedings of the House Select Committee To Investigate Alleged Misconduct and Other Matters Included in Indictments Against Representative Thomas E. Wright (hereinafter referred to as the "Committee") shall be governed by Article 5A, *Committee Activity*, of Chapter 120 of the General Statutes; the authorization issued by the Speaker of the House of Representatives dated December 13, 2007 creating the Committee (hereinafter "Authorization"); and other applicable law. All other matters, not otherwise governed above, shall be subject to the procedures set forth in these Rules.

PART B. – [RESERVED]

PART C. - OUTLINE OF PROCEDURE FOR INVESTIGATIONS.

1. **Meetings. –**
 - (a) The Committee shall meet upon the call of the chair.
 - (b) A quorum of the Committee shall consist of four members.
2. **Committee votes. –** All votes of the Committee taken under Rules C.5.(b), C.5.(d), and C.15., shall be by roll call and included in the minutes.
3. **Investigation Authorization. —** The Committee shall conduct investigations into the matters contained in the Authorization.
4. **Investigation. –**
 - (a) The chair shall be responsible for the preliminary investigation of alleged unethical or unlawful conduct by a legislator.

- (b) The chair may do any of the following:
- (1) Ask the Attorney General to provide outside legal counsel for the Committee and to direct the State Bureau of Investigation to conduct the preliminary investigation.
 - (2) Request that the Legislative Services Officer facilitate the hiring of an investigator to conduct the preliminary investigation. The Legislative Services Officer shall forward the request to employ a hired investigator to the Speaker of the House of Representatives for approval of the request and the allocation of funds for that purpose. If requested by the chair, the Legislative Services Officer shall furnish the chair with a list of at least three qualified investigators from whom the chair may select an investigator or investigators. The Legislative Services Officer shall employ as the hired investigator the person or persons whom the chair selects subject to the approval of the Speaker of the House of Representatives.
 - (3) The chair shall request that the Legislative Services Officer facilitate the hiring of outside legal counsel at such time as the chair determines the assistance of outside counsel is necessary. Outside counsel services shall be used for the coordination of the investigation of alleged unethical or unlawful conduct by a legislator, preparation of proposed charges of alleged unethical or unlawful conduct by a legislator, and for presentment of evidence at hearings. The Legislative Services Officer shall forward the request to employ outside counsel to the Speaker of the House of Representatives for approval of the request and to allocate funds for that purpose. The Legislative Services Officer shall give the chair a list of at least three qualified attorneys willing to serve as outside counsel from whom the chair may select outside counsel. The Legislative Services Officer shall employ as the Committee's outside counsel the individual

whom the chair selects, subject to the approval of the Speaker of the House of Representatives.

- (d) The person or persons directed to conduct the investigation shall:
 - (1) Present to the Committee, at the direction of the chair, all information relevant to the Committee's investigation.
 - (2) Research, as directed by the chair, allegations relevant to the alleged unethical or unlawful conduct by a legislator.
 - (3) Interview potential witnesses having information relevant to the inquiry.
 - (4) Obtain sworn statements from persons willing to give them.
 - (5) Prepare the presentation of information and the investigative findings to the Committee.
 - (6) Present to the Committee a list of recommended witnesses to be called.
 - (7) Provide, as authorized by the chair, to the accused legislator or the legislator's private legal counsel, copies of documents or other evidence to be presented to the Committee and any documents or other evidence which a reasonable person would believe might exculpate the accused legislator.
 - (8) Carry out other duties as directed by the chair.

5. Presentment of preliminary investigation findings –

- (a) The chair shall arrange for the presentation to the Committee of the findings of the preliminary investigation and, if warranted, recommendations of specific charges of alleged unethical or unlawful conduct by a legislator.
- (b) After the presentation of the findings of the preliminary investigation, the Committee shall determine by majority vote of the Committee members present and voting whether there is probable cause to believe that the accused legislator has committed unethical or unlawful conduct by a legislator.
- (c) If at the end of its preliminary inquiry, the Committee determines by majority vote of the Committee members present and voting that probable cause does not

exist to proceed with further investigation, the Committee shall notify the accused legislator, the House of Representatives, and the Speaker of the House of Representatives of its findings.

- (d) If at the end of its preliminary inquiry, the Committee determines that probable cause exists to proceed with further investigation, the Committee by a majority vote of the Committee members present and voting shall specify the charges of unethical or unlawful conduct by a legislator to be considered against the accused legislator.
6. **Notification of charges and scheduling of hearings.** – The chair shall notify the accused legislator of the charges against the legislator and of the date of the hearing on the charges. The chair shall schedule a hearing on the matter as soon as is reasonable. The notice shall contain the time and place of the hearing on the matter, which shall be no less than 30 days after the date of the notice, unless waived by the accused legislator. The notice shall also inform the accused legislator of the legislator's right to respond to the Committee in writing to the charges against the accused legislator within a period of time specified by the Committee.
7. **Rights of accused legislator.** – The legislator against whom the charges are brought has the right to respond in writing to the charges within a period of time specified by the Committee, and to be present, present evidence, call and examine witnesses, cross-examine witnesses, introduce exhibits and be represented by private legal counsel paid for by the accused legislator at any evidentiary hearing. The Committee shall provide to the accused legislator, or the legislator's private legal counsel, copies of all documents or other evidence which are intended to be presented by the Committee's legal counsel to the Committee at the hearing, or which a reasonable person would believe might exculpate the accused legislator. All documents and other evidence to be provided to the accused legislator under this rule shall be furnished at least 10 days prior to the date of the hearing, except documents or other evidence discovered within 15 days of the hearing shall be furnished as soon as possible after discovery but prior to the hearing.

- 8. Ruling on Motions.** – The accused legislator, the accused legislator's legal counsel, and counsel for the Committee may submit motions to the Committee for consideration, including prehearing motions, by submitting the motions to the chair of the Committee. The chair will render a ruling on any motion and inform the accused legislator, the accused legislator's legal counsel, counsel for the Committee, and members of the Committee of the ruling as soon as reasonable. All prehearing motions and rulings shall be read into the record at the next meeting of the Committee after the motions and rulings are made. Motions and rulings made during a meeting of the Committee shall be read into the record when made. The ruling of the chair on any motion shall be sustained unless overruled by a majority vote of the Committee members present and voting.
- 8a. House Principal Clerk as repository of official notices and prehearing motions.** – Notices of the Committee and the response of the accused legislator to charges allowed under Rule C.6. and prehearing motions submitted by the accused legislator, the accused legislator's legal counsel, and counsel for the Committee allowed under Rule C.8., must be filed with the House Principal Clerk and served on opposing counsel. The House Principal Clerk will time date the notices and filings and serve as the custodian of the originals for the purpose of Chapter 132 - the Public Records Act.
- 9. Subpoenas.** – The forms for subpoenas and subpoenas duces tecum approved on November 2, 1973 by the Legislative Services Commission shall be the forms utilized by the Committee. The Committee may issue subpoenas to compel the attendance of witnesses or the production of documents, books or other records, as permitted by Article 5A of Chapter 120 of the General Statutes. The accused legislator may request that the Committee issue subpoenas and subpoenas duces tecum, and the chair shall issue subpoenas for witnesses requested by the accused legislator to be heard at the hearing as approved by the Committee in accordance with Rule C.10. The accused legislator shall notify the Committee of all requests for subpoenas at least ten days prior to the hearing, unless waived by the Committee.

10. Witnesses to take oath and all written statements to be sworn. –

- (a)** The chair shall notify the accused legislator of all witnesses who may appear at a hearing inquiring into alleged unethical or unlawful conduct by a legislator at least twenty days prior to the hearing, unless waived by the Committee. A copy of any affidavit of a witness setting forth matters on which the witness may testify shall be made available to the accused legislator at that time. If no affidavit of the witness exists, the Committee shall make available to the accused legislator a summary of the matters on which the witness may testify. Any information which would tend to clear or lessen from blame or fault the charges against the accused legislator shall be made available to the accused legislator or the legislator's private legal counsel as soon as is reasonable.
- (b)** The accused legislator shall notify the Committee chair of the names of the witnesses the accused legislator desires to have appear at a hearing inquiring into alleged unethical or unlawful conduct by a legislator at least ten days prior to the hearing, unless waived by the Committee. A copy of any affidavit of a witness setting forth matters on which the witness may testify shall be made available to the Committee at that time. If no affidavit of the witness exists, the accused legislator shall make available to the Committee a summary of the matters on which the witness may testify.
- (c)** The Committee shall determine by majority vote of the Committee members present and voting which witnesses shall be heard. All witnesses shall be sworn before testifying.
- (d)** All written statements to the Committee shall be by sworn affidavit before being considered by the Committee.

11. Counsel for witnesses permitted. – Any witness testifying before the Committee may have private legal counsel present. Participation by a witness's counsel at a hearing and while the witness is testifying is limited to advising the witness of the witness's legal

rights. Counsel's failure to abide by these procedures is grounds for counsel's exclusion from the hearing.

12. Propounding of questions. –

- (a)** Committee members and staff, if requested by the chair or Committee, may question any witness. The chair shall recognize Committee members who wish to question a witness for a series of questions. The Committee member may ask the witness all questions without interruption so long as permitted by the chair. Upon completion of a series of questions by a Committee member, the chair may recognize another Committee member for questions in the order recognized. After all Committee members desiring to ask questions have been given an opportunity to ask a series of questions, the chair may give members additional opportunities to ask a series of questions in the same order.
- (b)** After receiving permission from the chair, all questions to be asked of any witness shall be directed to the witness. The chair may permit a series of questions to be asked without requiring specific consent for each individual question.
- (c)** A member of the Committee, the accused legislator, or the accused legislator's private legal counsel, may object to any question before the question is answered. All objections shall be directed to the chair. If an objection is raised, the chair shall determine whether the question is relevant and has probative value as to a substantive issue, and is not a waste of time or redundant, and whether the witness will be allowed to answer. The ruling of the chair, without objection from a member of the Committee, shall stand.
- (d)** If the chair's ruling is objected to by a member of the Committee, the motion shall be, "That the ruling of the chair be overruled." The chair's ruling shall be overruled if the motion is adopted by majority vote of the members of the Committee present and voting.

13. Meetings of Committee. –

- (a) The Committee's meetings shall be held in open session, except for matters that could otherwise be considered in closed session under G.S. 143-318.11.
- (b) All proceedings of any evidentiary hearings shall be transcribed.
- (c) The accused legislator and the legislator's private legal counsel shall be permitted to attend any closed session held for the purpose of the presentation of evidence or taking testimony from a witness testifying as to matters related to allegations against the accused legislator.
- (d) Private legal counsel of any witness shall be permitted in a closed session during the period of the witness's testimony. The parents or legal guardian of a minor witness shall be permitted in a closed session during the period of the minor witness's testimony.

14. Division of issues. – After hearing evidence on the substantive issues of the alleged unethical or unlawful conduct by the accused legislator, the Committee shall address the following issues:

- (1) Whether, by clear and convincing evidence, one or more of the charges against the accused legislator is true.
- (2) If so, what action will be taken by the Committee.
- (3) Whether, by a preponderance of the evidence, the accused legislator should be exonerated of the charges.

15. Disposition of cases. – When the Committee has concluded its inquiries into alleged violations, the Committee, by majority vote of those present and voting, shall do one of the following:

- (1) If the Committee fails to find the alleged violations are established by clear and convincing evidence, the Committee shall report this to the House of Representatives and to the accused legislator. If the Committee finds by a preponderance of the evidence that the accused legislator should be exonerated of the charges, the chair shall transmit

this finding in writing to the accused legislator and to the House of Representatives.

- (2)** If the Committee finds the alleged violations are established by clear and convincing evidence, the Committee shall do one or both of the following:
 - a.** Refer the matter to the Attorney General for investigation and referral to the district attorney for possible prosecution if the Committee finds substantial evidence of a violation of a criminal law that is not already the subject of an indictment.
 - b.** Refer the matter to the House or Representatives for appropriate action, which may include admonishment, censure and expulsion.

16. Role of Committee members and staff. –

- (a)** The duties of staff assigned to the Committee shall be directed by the chair.
- (b)** Legislative staff may be authorized to do the following:
 - (1)** Research any legal issues arising from the investigation.
 - (2)** Help Committee members prepare for meetings.
 - (3)** Consult with the Attorney General's staff or other outside legal counsel on matters arising from the investigation as necessary.
 - (4)** Carry out other duties as directed by the chair.
- (c)** Other staff:
 - (1)** All investigations, at the chair's discretion, may be performed by an investigator designated in accordance with the procedures set forth in Rule C.4.
 - (2)** Outside counsel designated in accordance with the procedures set forth in Rule C.4. of these procedures shall be authorized to oversee the investigation in preparation for hearings and shall prepare and present evidence to the Committee, including the initial presentation of the evidence through the questioning of witnesses.