

MINUTES  
LEGISLATIVE ETHICS COMMITTEE  
MAY 22, 2018 MEETING  
{Approved: June 6, 2018}

The Legislative Ethics Committee (RSA 14-B:2) met on Tuesday, May 22, 2018, at 10:30 A.M. in Room 104 of the Legislative Office Building.

The following members were present: the Honorable Donna Sytek, Chairman, Senator Sharon M. Carson, Vice Chairman, Representative Janet G. Wall, Representative David A. Welch, Attorney David H. Bradley, and the Honorable David W. Hess. Senator Martha Fuller Clark was unable to attend. Also present: Richard M. Lambert, Executive Administrator.

The Committee's meeting consisted of the following items:

ITEM#1

Consideration of the draft *Minutes* from the Committee's meeting held on May 1, 2018.

Following review, Senator Carson moved to approve the *Minutes* as presented. Attorney Bradley seconded the motion and the Committee voted 5 to 0 to approve the *Minutes*.

ITEM #2

Update on the status of 2018 Senate Bill 343, "An Act relative to legislative ethics guidelines."

{House Chief of Staff Terry Pfaff, Senate Legal Counsel Richard Lehmann, and House Legal Counsel James Cianci were in attendance during, and participated in, this part of the meeting.}

Senator Carson updated the Committee on the bill's status, saying that the bill had gone to a committee of conference (which she chaired) where "each side gave a little." She said the committee agreed to a proposed House amendment that changed the definition of "expense reimbursement" to say: "'Expense reimbursement' shall not include any expense reimbursement made by the general court to a legislator, legislative officer, or legislative employee." The language, she said, was a compromise with the language in the House-passed version. She said the committee also accepted a shortened version of the language regarding acceptance of free legal advice than was in the Senate-passed version by adopting new language that says: "For purposes of this section, 'service' shall not include acceptance of legal services on an individual basis when the legislator enters into an attorney-client relationship with the attorney for the purposes of addressing a complaint or petition if the attorney is not a registered lobbyist." She said: "by including this language we start to get some clarification on the issue, which I think is what we needed more than anything else." She concluded by saying that the committee reached "a good compromise that is going to provide some good guidance for legislators and future ethics committees."

Chairman Sytek pointed out that clarification was what the Legislative Ethics Committee asked for when it issued *Interpretive Ruling 2017-1*.

Chairman Sytek then referred section 1 of the bill. (The section reads: “‘Rule’ means any rule adopted pursuant to this chapter and shall not include any rule of proceeding adopted by the house of representatives or the senate.”) She asked what the effect of the new language would be. She noted the section was never discussed in any hearing on SB 343 and asked where it came from.

Senator Carson said the idea originated with former House Speaker Shawn Jasper who felt there was a need to clarify between an operational rule the House or Senate adopts and ethics rules.

Chairman Sytek noted that Speaker Jasper had served on the Ethics Study Commission that recommended adding a paragraph to the Ethics Guidelines reinforcing that the Committee has jurisdiction over violations of rules and wondered why he would recommend that it be undone.

Mr. Lambert read to the Committee the provision of the Ethics Guidelines Chairman Sytek had referenced (Section 3, paragraph III: “Legislators shall not: \*\*\* (h) Violate any policy or rule adopted by the House or Senate relating to the conduct of individuals in the performance of their duties as members of the legislature.”) and asked how the language in the bill would affect it.

Mr. Pfaff said the House and the Senate are the only ones who can adopt their rules and do anything to a member.

Mr. Lambert pointed out that that is true with any complaint as the Committee only makes a recommendation for discipline of a legislator.

Chairman Sytek said the Ethics Guidelines paragraph says “violate any policy or rule adopted by the House or Senate” and asked if violations of policies, like the sexual harassment policy, would still come before the ethics committee.

Mr. Pfaff said “yes” and referenced Ethics Guidelines Section 3, paragraph III (g) (“Legislators shall not: \*\*\* (g) Engage in conduct that constitutes sexual harassment as defined in RSA 14-B:1, IV.”)

Chairman Sytek asked if there is anything in House Rules about outside conduct and referred to the hearings in 2017 before the House Legislative Administration Committee about conduct outside the legislature.

Mr. Pfaff said there are some proposed rules in waiting to form a “Member Conduct” subcommittee of the Legislative Administration Committee and said he expected those to be proposed for next year’s legislature.

Chairman Sytek asked if the complaints the Committee currently receives about conduct that takes place outside of the legislative buildings would no longer be within the jurisdiction of the Legislative Ethics Committee.

Mr. Pfaff said, “That’s an interesting question. That wasn’t the intent of it, I don’t think. I think there could be two dual paths like when something gets referred to (the Speaker’s) office and I refer it to the Attorney General and you folks pick it up.”

Senator Carson said she would imagine that, if a member of the legislative bodies was disrespectful or did something to a member of the public, the new House subcommittee might hear a complaint and the ethics committee might as well.

Attorney Cianci said: “I think that this committee would still have jurisdiction over any violation of the ethics law. It’s just that if we have this proposed rule regarding member conduct, we would want to make sure that that would be within the purview of the bodies to determine member conduct under House Rules (inaudible) ... but this committee would still have jurisdiction over violation of the ethics rules.”

Mr. Lambert asked what else will need to be changed in the Ethics Guidelines if the bill becomes law. He referenced Ethics Guidelines Section 1, paragraph IV (“Principle of Conduct, Legislators shall treat each other, legislative employees, and the public with dignity and respect.”)

After further brief discussion, Chairman Sytek suggested that Mr. Lambert and “interested parties” could sit down and figure out what amendments to the Ethics Guidelines are needed for the Committee to consider for adoption at a future meeting.

ITEM #3

Preliminary Investigation of *Complaint 2018-4*. {Confidential}

Senator Carson moved to enter nonpublic session pursuant to RSA 14-B:3, I(d) to conduct a Preliminary Investigation of *Complaint 2018-4*. Representative Wall seconded the motion and the Committee voted as follows:

Attorney Bradley	Yea
Chairman Sytek	Yea
Senator Carson	Yea
Representative Wall	Yea
Representative Welch	Yea
Mr. Hess	Yea

{MOTION ADOPTED}

{NONPUBLIC SESSION}

Representative Welch moved to exit nonpublic session. Senator Carson seconded the motion and the Committee voted as follows:

Attorney Bradley	Yea
Chairman Sytek	Yea
Senator Carson	Yea
Representative Wall	Yea
Representative Welch	Yea
Mr. Hess	Yea

{MOTION ADOPTED}

Chairman Sytek announced that the Committee in its nonpublic session voted to resolve *Complaint 2018-4* by an Informal Resolution.

ITEM #4

New/Other Business.

{There was no new or other business.}

ITEM #5

Scheduling of the next meeting.

The Committee scheduled its next meeting on Wednesday, June 6, at 10:30 A.M.

The Committee’s meeting adjourned at approximately 11:50 A.M.

{Prepared by: Richard M. Lambert, Executive Administrator}