

Regular Session, 2012

HOUSE RESOLUTION NO. 46

BY REPRESENTATIVE ABRAMSON

LEGISLATIVE AFFAIRS: Provides procedures to discipline persons who attempt to intimidate members of the House

1 A RESOLUTION

2 To adopt Chapter 16 of the Rules of Order of the House of Representatives, to be comprised
3 of House Rules 16.1 through 16.14 of the Rules of Order of the House of
4 Representatives, to provide procedures for discipline and censure of nonmembers
5 for certain behavior directed at members of the House of Representatives.

6 BE IT RESOLVED by the House of Representatives of the Legislature of Louisiana
7 that Chapter 16 of the Rules of Order of the House of Representatives, comprised of House
8 Rules 16.1 through 16.14 of the Rules of Order of the House of Representatives, is hereby
9 adopted to read as follows:

10 CHAPTER 16. DISCIPLINE AND CENSURE OF NONMEMBERS

11 Rule 16.1. Applicability

12 This Chapter shall apply whenever a member of the House of Representatives
13 files with the Clerk of the House a written complaint regarding alleged behavior by
14 a nonmember which constitutes an attempt by the nonmember to compel, coerce, or
15 intimidate the member with the intent to influence the member's conduct in relation
16 to his position or duty.

17 Rule 16.2. Initiation of action; written complaint required

18 An action to discipline or censure a person by the House of Representatives
19 shall be initiated only by a written complaint, which shall set forth the causes and
20 grounds for which disciplinary action or censure by the House of Representatives is

1 sought, shall list each member of the House of Representatives who may be called
2 as a witness, and shall state the action sought to be taken by the House of
3 Representatives. Only one person shall be the subject of any such written complaint.

4 Rule 16.3. Referral of complaint to the Committee on House and Governmental
5 Affairs

6 When a written complaint seeking disciplinary action against or censure of
7 a person is filed with the Clerk of the House of Representatives, the written
8 complaint shall be forwarded immediately to the House Committee on House and
9 Governmental Affairs for consideration.

10 Rule 16.4. Notice to subject of complaint

11 A. The Clerk of the House shall give notice to the subject of the complaint
12 which shall include a copy of the written complaint, a copy of this Chapter and
13 Chapter 14 of these Rules, and written notice of the day and hour when the
14 committee will meet to commence its hearings.

15 B. The notice shall also inform the person of his right to appear before the
16 committee to address the allegations, to have legal counsel at all of the hearings, and
17 to submit to the committee contact information of any person he believes has
18 information relevant to the complaint.

19 Rule 16.5. Committee on House and Governmental Affairs; procedure; oath; duties

20 A. Except as otherwise provided in this Chapter, Chapter 14 shall govern the
21 procedure to be used and the actions to be taken by the committee.

22 B. Prior to consideration of any written complaint referred to the committee
23 or undertaking any business in connection therewith, except establishing a quorum,
24 the members of the committee shall subscribe to the following oath, which shall be
25 administered by the Clerk or, in his absence, by a person qualified to administer
26 oaths selected by the chairman:

27 "I do solemnly swear (affirm) that in all things pertaining to the matters
28 referred to this committee and contained in the complaint regarding _____, I
29 will do impartial justice according to the constitution and laws. I do solemnly swear

1 that I will support the constitution and laws of the United States and of this state, and
2 that I will faithfully and impartially discharge and perform all the duties incumbent
3 upon me as a member of the House and Governmental Affairs Committee in the
4 aforesaid matter, according to the best of my ability and understanding, so help me
5 God."

6 C. For hearings held pursuant to this Chapter, the Clerk of the House shall
7 serve as secretary of the committee and shall be its chief administrative officer. He
8 shall be responsible for taking, preserving, and certifying testimony, verbatim
9 proceedings, and minutes of the meetings of the committee. He shall be the
10 custodian of all its records and documents and shall perform such other duties in
11 connection with its work as are directed by the committee, its chairman, or the House
12 of Representatives.

13 D. The committee shall provide to the subject of the written complaint under
14 consideration all the rights of a person to due process of law and accordingly shall:

15 (1) Conduct all hearings as public hearings, and only after the person has
16 been informed in writing of the date and time of each meeting held for the purpose.

17 (2) Invite the subject of the hearing to attend all meetings of the committee
18 in person and to be accompanied by legal counsel or to be represented at the hearings
19 by legal counsel of his choice if he is unable to be present.

20 (3) Afford the person full opportunity to be heard and to present witnesses
21 on his behalf and extend to him the right to confront and to cross-examine witnesses
22 called by the committee.

23 Rule 16.6. Meetings; notice; recusal; quorum

24 A. Notice of meetings, insofar as practicable, shall be given in accordance
25 with applicable rules of the House of Representatives governing notice of meetings.

26 B. If the representative who filed the written complaint to be considered by
27 the committee is a member of the committee or if a member of the committee is
28 listed in the complaint as being a witness, such member is recused and shall not be
29 a member of the committee when it considers such written complaint.

1 C. A majority of the total members of the committee, excluding any recused
2 members, shall constitute a quorum.

3 Rule 16.7. Holding of meetings

4 Notwithstanding any provision of these rules, the committee may meet and
5 hold hearings on any day and at any time except when the House of Representatives
6 is in session unless the House has granted leave for the committee to meet while it
7 is in session.

8 Rule 16.8. Witnesses; subpoena power; punishment for contempt

9 A. Only those persons called by the committee shall be permitted to testify
10 as witnesses; however, the committee shall comply with Rule 16.5(D)(3). Before a
11 witness is permitted to testify, he shall be sworn or affirmed to speak the truth and
12 nothing but the truth.

13 B. The committee is hereby specifically and expressly granted the power and
14 authority, with the written approval of the chairman of the committee, to hold
15 hearings, subpoena witnesses, administer oaths, require the production of books and
16 records, and to do all other things necessary to accomplish the purposes of its
17 hearings and deliberations.

18 C. In the event a subpoena or subpoena duces tecum is not honored, the
19 committee also shall have the power to punish for contempt and to provide for the
20 prosecution of any individual for refusal to testify, false swearing, or perjury before
21 the committee in accordance with law.

22 Rule 16.9. Committee report

23 When the committee has concluded taking testimony regarding the
24 complaint, the committee shall make one of the following recommendations to the
25 House of Representatives regarding the complaint:

26 (1) That the complaint be dismissed.

27 (2) That the subject of the complaint be prohibited from appearing before the
28 House of Representatives or any committee thereof on any matter for a period of
29 time recommended by the committee.

1 (3) That the subject of the complaint be publicly censured.

2 Rule 16.10. Report privileged; House action

3 A. If the legislature is in session, the report of the committee shall be
4 privileged and may be received and acted upon at any time. If the committee
5 submits its report when the legislature is not in session, the Clerk of the House shall
6 cause the report to be sent to each member of the House of Representatives along
7 with a mail ballot relative to the concurrence of the member with the report of the
8 committee.

9 B. Concurrence with the report of the committee shall require the favorable
10 vote of a majority of the elected members of the House.

11 C. The Clerk of the House shall send a written notification of action of the
12 House of Representatives regarding the complaint to the subject of the complaint.

13 D. If the House concurs with the report of the committee and the report
14 recommended prohibiting the subject of the complaint from appearing before the
15 House of Representatives or any committee thereof on any matter for a period time
16 recommended by the committee, the officers, members, and employees of the House
17 of Representatives shall enforce such recommendations and shall report any violation
18 to the Speaker, the Clerk of the House, and the Sergeant at Arms who shall take
19 whatever action necessary to enforce the prohibition.

20 Rule 16.11. Employees

21 The chairman of the committee, subject to the approval of the Speaker, shall
22 have authority to assign any employees of the House, and in necessary cases, to
23 employ additional personnel, including but not limited to court reporters, to assist the
24 committee in carrying out its functions and duties.

25 Rule 16.12. Records

26 A verbatim record shall be made of all of the proceedings of the committee
27 at each meeting, including all testimony of witnesses, shall be transcribed without
28 delay, and shall be a public record. Written evidence presented shall be made a part

1 of the record. Copies shall be made available, as prepared, to the members of the
2 committee and its staff and to the subject of the proceeding and his legal counsel.

3 Rule 16.13. Referral to district attorney

4 If the committee concludes that any of the alleged conduct by the subject of
5 the complaint may violate any criminal law of this state, the committee shall forward
6 a copy of its findings to the appropriate district attorney.

7 Rule 16.14. Stay of Action

8 If the person who is the subject of the complaint is charged with a crime by
9 local, state, or federal authorities, the disciplinary proceedings in the House of
10 Representatives will automatically be stayed until the final disposition of said
11 criminal charges.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Abramson

HR No. 46

Abstract: Provides procedures for the House of Representatives to censure or discipline nonmembers for behavior which constitutes an attempt by the nonmember to compel, coerce, or intimidate the member with the intent to influence the member's conduct in relation to his position or duty.

Proposed House Rules provide for procedures for the House of Representatives to censure or discipline nonmembers for behavior which constitutes an attempt by the nonmember to compel, coerce, or intimidate the member with the intent to influence the member's conduct in relation to his position or duty. Requires complaints by a member to be in writing, to be filed with the Clerk, and to be referred for consideration to the House Committee on House and Governmental Affairs. Provides for notice to and due process for the subject of the complaint. Provides for public hearings and for recommendations of the House and Governmental Affairs Committee to the House of Representatives. Provides that the recommendation may be (1) that the complaint be dismissed; (2) that the subject of the complaint be prohibited from appearing before the House or any committee thereof on any matter for a period of time recommended by the committee; or (3) that the subject of the complaint be publicly censured. Requires concurrence of a majority of the elected members of the House in the recommendation.

(Adds House Rules 16.1-16.14)