

Senate Resolution 465

By: Senators Miller of the 49th, Dugan of the 30th, Henson of the 41st, Butler of the 55th, Gooch of the 51st and others

## A RESOLUTION

1 Adopting the Rules of the Senate; and for other purposes.

2 BE IT RESOLVED BY THE SENATE that the Rules of the Senate are amended by  
3 repealing Rule 1-4.11 and inserting in lieu thereof a new Rule 1-4.11 to read as follows:

4 **"1-4.11 Ethics Complaints**

5 (a) Complaints Initiated by Individuals:

6 (1) Any person may file a complaint alleging that any Senator, officer of the Senate, or  
7 member of the Senate staff has engaged in improper conduct that reflects negatively upon  
8 the Senate, violated the law, or violated any Senate Rule under Part 3 or 4 of Section One  
9 of these Rules, provided that no complaint shall be filed against any person more than  
10 four years after the alleged conduct occurred or for conduct that was not prohibited by  
11 rule or law when the alleged conduct occurred.

12 (2) All complaints against a member of the Senate, an officer of the Senate, or a member  
13 of the Senate staff shall be filed according to this rule. A complaint shall be initiated by  
14 filing it with the Secretary of the Senate who shall ensure that the complaint is properly  
15 completed before it is accepted for filing. The Secretary shall retain the original  
16 complaint and all related documents as confidential material until such time as the  
17 Committee or the Senate has released such information. The Secretary shall prescribe a  
18 form for such complaints and shall provide for instructions necessary to properly submit  
19 a complaint. Failure to adhere to these rules may result in the dismissal of the complaint.

20 The complaint shall:

21 (A) Specifically describe the nature of the alleged violation and the party or parties  
22 involved;

23 (B) Include a statement by the complainant that he or she will abide by the Rules of the  
24 Senate and the rules of the Committee, including the rules related to confidentiality; and

25 (C) Be signed by the complainant and verified under oath.

26 (3) Upon the filing of a complaint, the Secretary of the Senate shall promptly refer the  
27 complaint as follows:

28 (A) If the complaint is against a member of the Senate or an officer of the Senate, to  
29 the Chairman of the Committee. A copy of the complaint shall be provided to the  
30 President of the Senate. If the subject of the complaint is the Chairman of the  
31 Committee, such complaint shall be delivered to the Vice-chairman of the Committee  
32 who shall oversee all matters pertaining to such complaint and shall act as Chairman  
33 of the Committee for such complaint. If the complaint is against the Secretary of the  
34 Senate, such complaint shall be filed with the President Pro Tempore of the Senate; and  
35 (B) If the complaint is against a member of the Senate staff, the Secretary of the Senate  
36 shall promptly deliver a copy of the complaint to the department director who  
37 supervises the respondent and to the General Assembly's Director of Human Resources.  
38 After initiation, any complaints against members of the Senate staff shall be addressed  
39 administratively in accordance with applicable policies of the Senate or General  
40 Assembly and not through the Committee and shall not be subject to the balance of the  
41 procedures provided herein.

42 (4) Conduct of Preliminary Inquiry After Referral of Individual Complaint by the  
43 Secretary of Senate shall be as follows:

44 (A) Service on Respondent: Upon receipt of the complaint, the Chairperson of the  
45 Committee shall promptly serve the named respondent with a copy of the complaint by  
46 personal service, by certified mail return receipt requested, or electronically, if agreed  
47 to by the respondent in writing;

48 (B) Answer of Respondent: The respondent shall respond to the complaint in writing  
49 and verified under oath within 30 days from service of the complaint;

50 (C) The Committee shall delegate to its Preliminary Inquiry Subcommittee the  
51 authority to conduct a preliminary inquiry to determine whether probable cause exists  
52 that a violation within the jurisdiction of the Committee has occurred. The 'probable  
53 cause' standard is met where there is a reasonable amount of suspicion, supported by  
54 circumstances and/or evidence to justify a cautious and prudent person to believe that  
55 certain facts are probably true;

56 (D) The Preliminary Inquiry Subcommittee of the Committee shall be made up of the  
57 Chairperson, the President Pro Tempore of the Senate, the Majority Leader, the  
58 Majority Whip, the Minority Leader, and the Minority Whip;

59 (E) After receipt of the initial complaint and the respondent's response, the Chairperson  
60 shall promptly convene a meeting of the Preliminary Inquiry Subcommittee to begin  
61 its inquiry. The Preliminary Inquiry Subcommittee may use all appropriate means of  
62 determining the fact of the matter under inquiry. The subcommittee may meet by  
63 teleconference. Meetings of the subcommittee shall not be open to the public, and all

64 information and documents in possession of the subcommittee shall remain confidential  
65 except as provided by subsection (d) of this rule;

66 (F) Upon completion of its preliminary inquiry, the subcommittee shall prepare a  
67 written report and make one of the following findings:

68 (i) The Committee does not have jurisdiction over the complaint, in which case the  
69 Preliminary Inquiry Subcommittee shall dismiss the complaint and all records and  
70 information related to such complaint shall remain confidential;

71 (ii) No probable cause exists to believe that a violation occurred, in which case the  
72 Preliminary Inquiry Subcommittee shall dismiss the complaint and all records and  
73 information related to such complaint shall remain confidential; or

74 (iii) There is probable cause to believe that a violation occurred, in which case the  
75 complaint shall proceed to the adjudicatory phase for consideration by the full  
76 Committee;

77 (G) For the findings of the report to be binding, the report shall be adopted by a  
78 majority vote of the Preliminary Inquiry Subcommittee's members, one vote of which  
79 shall be from a member of the minority party. If the report is adopted by the  
80 subcommittee and the report finds that either there is no jurisdiction or that no probable  
81 cause exists, the subcommittee shall dismiss the complaint and forward a copy of its  
82 report to the Committee. If the report is adopted by the subcommittee and the report  
83 finds that there is probable cause, the subcommittee shall forward a copy of its report  
84 and any documentation to the Committee so that the Committee can proceed to  
85 adjudicatory phase. If the report fails to be adopted, the subcommittee shall forward  
86 a copy of its report and any documentation to the Committee so that the Committee can  
87 proceed to adjudicatory phase; and

88 (H) Any report of the subcommittee shall remain confidential except as provided by  
89 subsection (d) of this rule. The subcommittee shall provide a copy of any report to both  
90 the complainant and the respondent.

91 (b) Complaints Initiated by the Committee:

92 (1) The Committee may initiate an ethics investigation on its own initiative by majority  
93 vote of the Committee after the Committee has determined that there is probable cause  
94 that a violation has occurred within the jurisdiction of the Committee.

95 (2) If the Committee files a complaint, it shall do so within a reasonable time following  
96 the Committee's initiation of such investigation by a majority of the Committee signing  
97 a complaint that specifically describes the nature of the alleged violation and identifies  
98 the party or parties involved.

99 (3) The Committee shall promptly serve the respondent with a copy of the complaint and  
100 service of such complaint shall be by personal service, by certified mail return receipt  
101 requested, or electronically, if agreed to by the respondent in writing.

102 (c) Adjudication of Complaints by the Committee:

103 (1) Once the Committee or the Preliminary Inquiry Subcommittee has determined that  
104 there is probable cause, the Committee shall proceed to conduct an adjudicatory hearing  
105 or hearings. Prior to conducting any adjudicatory hearing, the Committee may negotiate  
106 a settlement with the respondent. Any negotiated settlement shall be a matter of public  
107 record and shall be filed with the Secretary of the Senate. If a negotiated settlement is not  
108 reached, the Committee shall proceed to the adjudicatory hearing phase.

109 (2) Adjudicatory Hearing: If the Committee proceeds to the adjudicatory hearing phase,  
110 it can consider any relevant evidence that addresses the allegations of the complaint. In  
111 the event the Committee votes to proceed to an adjudicatory hearing and no negotiated  
112 settlement is reached, the Chairman shall set the matter for an adjudicatory hearing which  
113 shall be open to the public unless the Committee decides by a majority vote to hold part  
114 or all of the adjudicatory hearing in executive session. The Committee may require the  
115 attendance and testimony of witnesses and the production of documents and materials  
116 which the Committee deems advisable and may administer oaths and affirmations. The  
117 complainant and respondent shall receive reasonable notice of any hearing and shall be  
118 entitled to receive within a reasonable time before the hearing access to all relevant  
119 material before the Committee that is not otherwise exempt from disclosure under  
120 Article 4 of Chapter 18 of Title 50 of the O.C.G.A.

121 (3) The complainant and respondent shall be entitled to secure counsel of his or her  
122 choosing and to examine any witnesses who may be called by the Committee to appear  
123 at any hearing. The complainant and respondent shall also have the right to call witnesses  
124 and present evidence at any adjudicatory hearing. The Committee shall assure that all  
125 hearings are recorded.

126 (4) Upon completion of such hearing, the Committee shall issue a report of its findings  
127 and recommendations of action. The Committee's report and recommended actions shall  
128 be a matter of public record and shall be filed with the Secretary of the Senate.

129 (5) The Committee shall base its findings on that more likely than not a violation within  
130 the jurisdiction of the Committee has occurred.

131 (6) If the Committee finds that a violation within the jurisdiction of the Committee has  
132 occurred, it may recommend to the Senate any appropriate sanction authorized by these  
133 Rules or by the Georgia Constitution under Article III, Section IV, Paragraph VII.

134 (7) Any person who reports to the Committee or offers any relevant evidence regarding  
135 an alleged violation, or any other government entity regarding such violation, shall not

136 be subjected to reprisal, retaliation, harassment, discrimination, or ridicule by Senators  
 137 or staff.

138 (d) Confidentiality:

139 (1) Preliminary Inquiry: Any complaint brought by or before the Committee and the  
 140 Preliminary Inquiry Subcommittee and all records and information related to such  
 141 complaint shall remain confidential until the Committee or the Preliminary Inquiry  
 142 Subcommittee has determined that probable cause exists to believe that a violation within  
 143 the jurisdiction of the committee has occurred. The Committee, by a majority vote of  
 144 those present at any proceeding, may waive the confidentiality requirements of this  
 145 subparagraph upon the request of both the respondent and complainant or on its own  
 146 initiative. Once probable cause has been found by either the Committee or the  
 147 Preliminary Inquiry Subcommittee, any requirements of confidentiality are vitiated.

148 (2) Settlement: Any settlement reached between the Committee and the respondent shall  
 149 be a matter of public record and filed with the Secretary of the Senate.

150 (3) Adjudicatory Hearing: Any adjudicatory hearing to determine whether a violation  
 151 within the jurisdiction of the Committee has occurred shall be open to the public.

152 (4) Access to Confidential Information: Each member of the Committee and other  
 153 persons as authorized by the Committee shall have access to all confidential information  
 154 and materials. The Committee shall establish such procedures as may be appropriate and  
 155 necessary to prevent the unauthorized disclosure of such confidential information and  
 156 material. Such procedures may include the designation of a secure location at which  
 157 members of the Committee and others as authorized by the Committee can review  
 158 confidential information and materials.

159 (5) The Committee may investigate all alleged breaches of confidentiality under this  
 160 subparagraph."

161 BE IT FURTHER RESOLVED that the Rules of the Senate are amended further by revising  
 162 Rule 9-4.16 as follows:

163 **"9-1.16 Gallery and Senate Environs**

164 (a) Expressions of approval or disapproval are not permitted in the Senate gallery or the  
 165 Senate environs. The Senate environs include the chamber, anteroom, and the cloakroom.

166 (b) Applause, hisses, shouting, or other disruptive noise in the gallery, ~~lobbies, or hallways~~  
 167 ~~in the immediate~~ or the Senate environs of the Senate during any legislative proceeding  
 168 shall be promptly suppressed. Placards, ~~displays,~~ banners, and signs in these areas are  
 169 prohibited and shall be removed promptly.

170 (c) The use of cameras, including cell phone cameras and similar devices, is prohibited in  
 171 the Senate gallery unless expressly authorized by the President of the Senate.

172 (d) The President of the Senate shall ~~have power to~~ take any action deemed necessary to  
173 maintain decorum in the Senate ~~chamber, the Senate lobbies, the Senate gallery; and the~~  
174 ~~immediate~~ Senate environs of the Senate. Such actions shall include, but ~~are~~ shall not be  
175 not limited to, causing these areas to be cleared by any authorized agent of the President  
176 of the Senate, including, but not limited to, the Sergeant at Arms in the case of disturbance  
177 or disorderly conduct therein ~~in case of disturbance or disorderly conduct therein, and to~~  
178 ~~cause any person or persons so offending to be arrested and brought before the bar of the~~  
179 ~~Senate to be dealt with for contempt of the Senate.~~

180 (e) These rules supplement any rights afforded by Code Section 16-11-34.1 to the General  
181 Assembly to prevent any disruption of session or other meetings of its members within the  
182 state capitol or certain Capitol Square buildings.

183 ~~(e)~~(f) The Committee on Administrative Affairs may establish guidelines, under these  
184 rules, addressing appropriate conduct and activity in the Senate ~~lobbies, the Senate~~  
185 ~~galleries, gallery and the immediate environs of the Senate.~~"