

ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
FEBRUARY 16, 2024
10:30 AM

HOUSE SUBCOMMITTEE MEETING

[11:22:35 AM](#)

1. CALL THE MEETING TO ORDER

Chair Deb Fancher called together the House Subcommittee meeting at 11:22 AM on February 16, 2024. She directed Tamara Maddox to conduct roll call.

Roll Call

Representative Sara Hannan
Skip Cook
Conner Thomas
Chair Deb Fancher
Representative DeLena Johnson

Quorum present.

Others

Tamara Maddox
Jacqui Yeagle

2. APPROVAL OF AGENDA

Chair Deb Fancher entertained a motion to approve the agenda.

Motion made by Representative DeLena Johnson. There was no discussion and no objections. The agenda was approved.

[11:23:21 AM](#)

3. PUBLIC COMMENT

Chair Deb Fancher opened the floor to public comment with a reminder that public comment was limited to three minutes.

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Tom Hoffer, attorney for Representative David Eastman noted one committee member appeared to be attending the meeting telephonically. Committee Rule 6 [Rules of Procedure Section 6 Teleconference] requires that members of the committee participate in person and Representative David Eastman did not waive the in-person requirement.

Chair Deb Fancher verified one committee member was traveling and was not in attendance telephonically, and there was a quorum in the room.

Tom Hoffer asked if he would be limited to the three-minute limit on public comment.

Chair Deb Fancher replied yes, during public comment he would be limited to three minutes, but would have a second opportunity later in the meeting to address the committee.

Tom Hoffer stated he did not want to be limited to the three-minute comment allowed in the public comment period. He delayed commenting until he would have more time.

Patrick Martin of Wasilla said he was troubled by complaints [H 22-01 and H 22-02] initiated by Representative McCabe in 2022. He [Mr. Martin] reported he visited the capitol on April 14 and 15, [2022] to distribute petitions. On April 20, [2022] Representative McCabe made a floor speech denigrating him, Alaska Right to Life, and thousands of members, going so far as to call all of them corrupt and perverse. On April 25, [2022], The sequence of events in the text of the complaint shows the retaliatory nature of the complaint and what appears to be the weaponization of the Ethics Committee and the laws the committee should be enforcing. The complaint states it is unknown if he [Mr. Martin] was allowed [by the representatives] to use computers or phones. Mr. McCabe was not in a Capitol either of the two days that he [Mr. Martin] visited, which in his opinion throws that complaint into even greater question.

Patrick Martin said the complaint process took 18 months and the investigation was fumbled over and over to the point that Senator Wilson actually called for the termination of Representatives Eastman and Kurka's staff. Mr. Eastman and Mr. Kurka, of course, had to spend a lot of time and personal money on the completely frivolous and retaliatory complaints, with no recourse for Mr. Eastman or

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Mr. Kurka. There's no mechanism for them to have their legal expenses covered. It seems the Ethics Committee is absolutely committed to ensure that Mr. Eastman and Mr. Kurka bear the full financial weight of Mr. McCabe's completely fraudulent and frivolous complaint. He [Mr. Martin] thinks it is just an absolute abuse of justice. The Ethics Committee needs to be more transparent to the public and show exactly what is happening to legislators like Mr. Eastman and Mr. Kurka with complaints like what Mr. McCabe brought against them. It's absolutely shameful.

Representative DeLena Johnson asked how Patrick Martin knows the specific names he used in his statement.

Patrick Martin responded only two offices treated him poorly when he visited the capitol. Senator Shelley Hughes' office called Capitol Security on him twice and alleged that he was carrying a firearm in the capitol, a completely frivolous accusation. He [Patrick Martin] named Senator Hughes and Representative McCabe on social media as the likely accusers. Senator Hughes was quick to say, no, it wasn't me and it wasn't my office. Then, during the investigative interview, he mentioned multiple times his stance that Mr. McCabe was the complainant and the investigator confirmed that was the case. The investigator reminded him that under ethics rules he's bound to maintain the confidentiality of Mr. McCabe, and he asserted the committee has no authority over him.

20:28

Representative Sara Hannan asked if public comment was limited to remarks about current agenda items.

Chair Deb Fancher replied no, during the public comment period, the public may speak to the committee about topics not related to the current agenda items.

Vince Guerra expressed support for Representative David Eastman and commented that Representative Eastman helps his constituents get help from government. His constituents appreciate it and they are not happy about the use of lawfare against him. The committee has stripped him of his committee chairmanship or committee seats and stripped him of his staff. Now he has to do twice as much work with hardly any help. The committee is trying to prevent him from defending himself by putting arbitrary amounts on the

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amount of money he can raise [for legal fees]. Mr. Guerra is disgusted with the whole process and he hopes the committee will let Representative David Eastman get back to work representing us in Wasilla. Mr. Guerra reported he has had many different legislative representatives in the different areas in which he has lived, and Representative David Eastman is one of the best representative he has ever had. Representative David Eastman is one of the good guys.

Representative McCabe stated he was representing himself as a member of the public, and not necessarily as any part of this proceeding. Representative McCabe read from Section 24.60.170 [Proceedings before the committee; limitations.] Section (c):

When the committee receives a complaint under (a) of this section, it may assign the complaint to a staff person. The staff person shall conduct a preliminary examination of the complaint and advise the committee whether the allegations of the complaint if true, constitute a violation of this chapter and whether there is credible information to indicate that a further investigation and proceeding is warranted.

Representative McCabe noted that further down in the paragraph, it says:

If the committee determines that the allegations, if proven, would not give rise to a violation, that the complaint is frivolous on its face, that there is insufficient credible information that can be uncovered to warrant further investigation by the committee, or that the committee's lack of jurisdiction is apparent on the face of the complaint, the committee shall dismiss the complaint and shall notify the complainant.

Representative McCabe read from section (d), which says

If the committee determines that some or all of the allegations of a complaint, if proven, constitute a violation of this chapter, or if the committee has initiated the complaint, the committee shall investigate the complaint on a confidential basis.

Representative McCabe continued: [Before] beginning an investigation of a complaint, the committee shall adopt a resolution defining the scope of the investigation. A copy of this resolution shall be provided to the complainant and the subject of the complaint. As part of its investigation,

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the committee shall afford the subject of the complaint an opportunity to explain the conduct alleged to be a violation of this chapter.

Representative McCabe read from section (f), which says
If the committee determines after investigation that there is not probable cause to believe that the subject of the complaint has violated this chapter, the committee shall dismiss the complaint. The committee may also dismiss portions of the complaint if it finds no probable cause to believe that the subject of the complaint has violated this chapter as alleged in those portions. The committee shall issue a decision explaining its dismissal. Committee deliberations, and vote on the dismissal, order, and decision are not open to the public or to the subject of the complaint. A copy of the dismissal order and decision shall be sent to the complainant and to the subject of the complaint.

[11:38:40 AM](#)

4. COMMENT BY SUBJECT OF COMPLAINTS

Chair Deb Fancher announced the committee would deliberate on Complaints H 23-01 and H 23-02. The subject of both complaints is Representative David Eastman. H 23-01 alleges the representative violated AS 24.60.030 by using government assets, specifically his legislative social media page, to solicit money for the private benefit of another. H 23-02 alleges the representative violated AS 24.60.031 by soliciting campaign contributions during session and AS 24.60.080 by receiving gifts of \$250 or more. Representative Eastman waived confidentiality in both complaints. The committee affords the subject of the complaint an opportunity to explain the conduct alleged to be a violation of this chapter. Chair Deb Fancher asked Representative Eastman if wanted to speak to the complaints.

Representative David Eastman replied he would let his attorney speak.

Tom Hoffer said AS 24.60.170 sets out a procedure governing how complaints are to be addressed and whether investigation is warranted. He asserted the procedures had not been followed. There is no allegation in the complaint

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of a violation of AS 24.60.080. That is problematic for a number of reasons, most importantly due process concerns, and of which the ultimate effect is significant prejudice not only to Representative Eastman but to Alaskans in general. As noted, Representative Eastman waived confidentiality in these proceedings. Section [AS 24.60.170(1)] talks about confidentiality and reads in part:

Proceedings of the committee relating to complaints before are confidential until the committee determines that there is probable cause to believe a violation of this chapter has occurred.

Tom Hoffer said the section includes a provision the confidentiality provisions of this subsection may be waived by the subject of the complaint. Representative Eastman has expressly waived the confidentiality protections. There are due process concerns here that flow both from AS 24.60.170, as well as the United States and Alaska constitutions. One should expect investigations under AS 24.60.170 should follow the framework set forth by statute, the statute that governs the committee's work. AS 24.60.170(b) affords the subject of a complaint, in this case Representative Eastman, to ask the complainant to testify at any stage of the proceeding as to the complainant's belief that the subject of the complaint has violated this chapter.

Tom Hoffer contended that the committee should know through correspondence, that Representative Eastman invoked the right of confrontation. It's not only a right afforded to Representative Eastman by statute; it is much more fundamental than that. It goes to the heart of American jurisprudence. By law the person who made these two complaints must come forward and testify. And that is what Representative Eastman has asked. He has asserted his rights under the governing statutes, and he is asking for that to happen today in a public setting. This is incredibly important, not only so that the committee and Representative Eastman can gauge the demeanor and the character of the complainant, which is vital any time you're taking someone's testimony, and it can't be adequately done outside of an in-person type setting.

More importantly, Tom Hoffer said, it allows the public to gauge the allegations that are made. Anyone can make allegations. Whether it be a formal court proceeding, a legislative proceeding such as this, an administrative

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proceeding, or quasi-judicial proceedings, they are all founded on the ability to have public input and in a public [setting]. Why is confrontation so important? It is the rule of law, and it is important to a free society to adhere to the principles that guide us, and that includes AS 24.60.170, as well as the Alaska and U.S. constitutions. It's even more important when you have situations where someone hides behind procedures instead of coming out to light. That allows someone to have significant power, and that power is ripe for abuse unless it is made public.

Tom Hoffer added: The whole idea behind public proceedings is to avoid things being done in secret. Those were fears of our forefathers and the fears today of many people. Government has historically been cautioned to be done in the public eye. He asserted the subject of a complaint should know what they are accused of doing; especially in this case because the complaints at issue do not reference the allegations the committee added as of three weeks ago. There are procedures in AS 24.60.170 allowing the committee to initiate investigations and complaints, but [undecipherable] has not been made clear to Representative David Eastman or himself [Hoffer]. That deprives Representative Eastman of due process, which at a minimum, requires notice and opportunity to be heard. That notice should include [a description] of what you are being accused.

Tom Hoffer said the committee did not disclose the purpose of today's meeting until Wednesday, which was problematic for preparation and a meaningful opportunity to be heard. The waiver of confidentiality provisions and due process concerns really work hand in hand. The waiver of confidentiality should have facilitated provision of information. At some point, the decision is made, presumably, information is considered, documents, reports of some sort, testimony perhaps. All of those things, when confidentiality is waived, should have been provided to Representative Eastman, yet it's not taken place. The waiver of confidentiality should have facilitated the provision of important information that Representative Eastman could use to allow him to evaluate the allegations and prepare to respond appropriately. A subject needs to know what it is they are being [unintelligible].

Through a letter Tom Hoffer wrote to the committee about two weeks ago, Representative Eastman asked about 10

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questions, including the specific allegations related to the alleged violation of a social media guideline; the specific provisions of the guideline that he's alleged to have violated; a complaint setting forth a violation that is signed under oath and in writing, which is required by AS 24.60.170(b); any resolutions authorizing the committee to investigate an alleged violation of a social media guideline; the name of the complainant who made the allegation that Representative Eastman violated the social media guidelines; the specific allegations related to his alleged violation of AS 24.60.080; a complaint signed in writing that he violated that provision; the name of the complainant who made the allegation that he violated AS 24.60.080, and all other information or documents related to such allegations. And yet nothing has been provided as to those alleged allegations in violations that do not appear in a complaint. In sum, that equates to a deprivation of Representative Eastman's due process rights. It not only prejudices him, but it also prejudices all Alaskans.

11:51

AS 24.60.170 is designed to facilitate due process and that includes the right to have the complainant provide testimony. It's codified and should be allowed. The practical consideration here in -- in closing, is that if Representative Eastman violated provision of law, then he needs to know what he's violated so he can consider his response. Essentially, what is he accused of doing? The request today is that the committee put that on record so he can be informed about how to proceed. Will the committee tell Representative Eastman what he's alleged to have done and what law did he break? How did he break it? Those should have been provided as part of a complaint, but they were not. It's very difficult to expect Representative Eastman to respond and afford him the due process considerations that are codified in AS 24.60.170 as well as those given to him by the constitutions of Alaska and United States. And finally, is the committee going to require the complainant to appear in a public setting and provide testimony?

Representative Sara Hannan asked for clarification of the additional complaint/s referred to in Tom Hoffer's comment.

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Chair Deb Fancher directed Tamara Maddox to respond to Representative Sara Hannan's question.

Tamara Maddox replied there is no additional complaint. She said she believes Tom Hoffer is referring to an addition to the scope of investigation. Representative David Eastman was provided that information in June of last year. There is no additional complaint and there are no additional allegations.

Tamara Maddox added the recent letters to which Tom Hoffer referred is the letter sent on January 22, 2024, informing Tom Hoffer about this meeting and welcoming Representative David Eastman to come and comment on the record as he had requested multiple times.

Conner Thomas asked Tom Hoffer for confirmation that he [Hoffer] understood the committee was still in the investigation stage in the process as outlined in statute [AS 24.60.170]. Conner Thomas also confirmed with Tom Hoffer that he [Hoffer] was aware of a provision in that section of statute that deals with a formal charge. Conner Thomas then confirmed with Tom Hoffer that he [Hoffer] was aware the provision includes a number of due process procedures.

Tom Hoffer agreed there was some due process procedures under the statute, but countered that due process applies throughout the investigative stage.

Conner Thomas asked Tom Hoffer if Representative David Eastman had received a copy of the complaints. Tom Hoffer confirmed that Representative David Eastman had received copies of the complaints.

Conner Thomas asked Tom Hoffer if the complaints did not adequately explain the allegations. Tom Hoffer replied the complaints referenced two allegations, but the committee had added a third allegation that was not part of the [original] complaints. The allegation added by the committee was not adequately explained.

Conner Thomas confirmed with Tom Hoffer that he had received a copy of the scope of investigation, and he [Hopper] understood it.

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Conner Thomas asked Tom Hoffer if Representative David Eastman had refused to respond to a subpoena. Tom Hoffer replied that the committee had sent an unlawful subpoena.

Conner Thomas asked Tom Hoffer to confirm that Representative David Eastman had refused to sit for a deposition based on a subpoena. Tom Hoffer replied he would not agree with that statement because the subpoena was unlawful.

Conner Thomas asked if Representative David Eastman had refused to sit for a deposition even without a subpoena. Tom Hoffer replied that was not true. Conner Thomas asked Tom Hoffer if Representative David Eastman would sit for a deposition. Tom Hoffer replied depositions are not lawful and they are not authorized under statute. Representative David Eastman is prepared to make a statement as is afforded to him by statute, but the committee has not offered that. Conner Thomas asked if Representative David Eastman was willing to sit for an interview with the investigator. Tom Hoffer replied he would not speak for Representative David Eastman but he [Hoffer] imagines so.

Conner Thomas asked Tom Hoffer why Representative David Eastman has not [spoken with the investigator]. Tom Hoffer replied that his [Hoffer] understanding is the investigator never followed up with Representative David Eastman. Chair Deb Fancher asked Representative David Eastman if he would like to make a statement.

Tom Hoffer interjected the complainant should speak first and make the allegations.

Chair Deb Fancher replied that the complainant's identity would remain confidential until executive session; the complainant was willing at that time to make a statement.

Tom Hoffer asked what provision of law provides for that [plan]. Representative David Eastman waived confidentiality; the proceedings should be public. Tom Hoffer asked why the complainant is not required to participate in a public hearing.

Chair Deb Fancher replied for their protection the committee keeps the identity of complainants confidential.

50:56

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Tom Hoffer replied he understood but he thinks that [policy] needs to be looked at. Hoffer asked if executive sessions are recorded and are transcriptions available for Representative David Eastman to review.

Chair Deb Fancher replied that the deliberations would not be recorded but that special provisions had been made to record the complainant's statement in executive session.

Tom Hoffer asserted he believed that action to be outside Alaska law. Representative David Eastman's position is that the complainant should be required to provide public testimony to support of the complaint.

Chair Deb Fancher asked where in statute the identity of the complainant needs to be public.

Tom Hoffer responded that AS 24.60.170 states that proceedings of the committee related to complaints are confidential unless the confidentiality provisions of the subsection are waived by the subject of the complaint.

Tamara Maddox replied that AS 24.60.170 also says proceedings of the committee relating to complaints before it are confidential until the committee determines that there is a probable cause to believe that a violation of this chapter has occurred. And as member Thomas has already advised, the committee is on the investigation portion of this complaint. Representative David Eastman has insisted he make his statements in public.

Tom Hoffer responded that later in AS 24.60.170(1) it says the confidentiality provisions of this entire subsection may be waived by the subject of the complaint - to include the sentence referenced by Ms. Maddox. It's creative reading, it's committee's practice, but it's unlawful.

Chair Deb Fancher asked Representative David Eastman if he would like to make a statement.

Representative David Eastman's response was unintelligible.

Chair Deb Fancher asked Tom Hoffer if he would give Representative David Eastman permission to comment.

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Tom Hoffer replied yes, but the committee still needs to decide if it will provide him the information about what he is accused of and whether the committee will require the complainant to testify in an open setting as the law requires.

Chair Deb Fancher said to her knowledge the complaint has not changed, and she begged Tom Hoffer to bring to her attention what changed.

Tom Hoffer replied that neither H 23-01 nor H 23-02 contains a violation of AS 24.60.080. Representative David Eastman needs to know of what he is accused.

56:44

Tamara Maddox replied that the scope of investigation in H 23-02 included AS 24.60.080 because Representative David Eastman had filed related disclosures demonstrating a violation of AS 24.60.080. Representative David Eastman was informed at that time that he was in violation of that section, he was provided copies of the disclosures, and he was made aware the committee would be asking about those disclosures. Tom Hoffer was provided a copy of the disclosures.

Tom Hoffer submitted the committee exists to investigate complaints, but the committee cannot enact scopes and resolutions that go beyond the complaints and investigate further. There has never been a complaint against Representative David Eastman that alleges violation of AS 24.60.080.

Chair Deb Fancher repeated that the committee was in the initial stages of the complaint, Representative David Eastman has been invited to speak numerous times, the committee hired an investigator who apparently could not make contact. The conversation keeps covering ground using different words, which is pointless. She again asked Representative David Eastman if he wanted to speak to the committee.

1:00

Representative David Eastman began by saying that AS 24.60.170(b) is where in the Ethics Act it addresses an accuser coming forward and testifying publicly. That

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section spells out for anyone considering filing an ethics complaint, that they would be potentially required to come forward and testify publicly. It says,

Upon receiving a complaint, the committee shall advise the complainant that the committee or the subject of the complaint may ask the complainant to testify at any stage of the proceeding as to the complainant's belief that the subject of the complaint has violated this chapter.

Representative David Eastman said he is asking the person accusing me to come forward and testify specifically and clearly about the accusation. That should happen before he, as the defendant in this situation, makes any statements or responds to the accusation. Then he will respond. It's not fair to have me make my defense and then [the committee] go into executive session and privately behind doors, for me and my constituents, to hear the accusations from the accuser.

Conner Thomas asked if Representative David Eastman was saying he did not know of what he is accused.

Representative David Eastman said he asked for very specific information about the allegations and he has received very little response to those specific questions.

Conner Thomas asked if Representative David Eastman had received the complaints.

Representative David Eastman said he received the complaints from last year and he was prepared to talk with the investigator about those complaints.

Conner Thomas noted he had not spoken to the investigator.

Representative David Eastman said when he asked what he was to be interviewed about, the investigator said she would be giving me a list of questions so my attorney could review them before I went to the interview. Representative David Eastman reported he never received those questions so he was never invited to schedule the interview.

Conner Thomas asked Representative David Eastman if he was unwilling to talk to the investigator without a previous list of questions?

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Representative David Eastman said no, that was not it at all.

Conner Thomas asked if Representative David Eastman was willing to schedule an interview right now.

Representative David Eastman replied that he would.

Conner Thomas asked if a date could be picked.

Representative David Eastman said he would be glad to talk with the investigator about the complaints that have been made against me. He is not prepared to talk to the investigator about a complaint that's never been made.

Conner Thomas asked Representative David Eastman if he [Eastman] was aware of complaints made against him.

Representative David Eastman replied that he was aware of two complaints.

Conner Thomas asked when Representative David Eastman was available for an interview.

Representative David Eastman responded he could be available as early as the next week.

1:03:46

[12:15:23 PM](#)

5. MOTION TO GO INTO EXECUTIVE SESSION into Executive Session

Chair Deb Fancher entertained a motion to go into EXECUTIVE SESSION *to discuss matters which by law must remain confidential under AS 24.60.160, Uniform Rule 22(b) regarding executive sessions, and Rules of Procedure Section 5: Executive Sessions and discussion of matters, the immediate knowledge of which would adversely affect the finances of a governmental unit, and discussion of subjects that tend to prejudice the reputation and character of a person.*

Chair Deb Fancher added that under the committee's rules of

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procedure, section 5, executive session, attendance is limited to members of the committee with the following exceptions. The committee can request certain people to be present in executive session, a witness, a person providing clarifying information, the subject of the complaint is included in the exceptions pursuant to the requirements and stipulations outlined in the [committee rules of procedure]. She asked that the following people go into executive session: Tamara Maddox, Jacqui Yeagle Joyce Anderson, Investigator Monique Rapuzzi, Brent Cole, Representative Eastman, Mr. Hoffer, Representative Eastman's attorney, our complainant, and Tom Lucas from APOC (phonetic).

Conner Thomas so moved. There were no objections.

[12:16:43 PM](#)

6. EXECUTIVE SESSION

[12:37:53 PM](#)

7. PUBLIC SESSION

Chair Deb Fancher called the house subcommittee meeting back to order on February 16, 2024, at 2:24 PM.

Conner Thomas moved to dismiss Complaint H 23-01. There were no objections.

Chair Deb Fancher asked Tamara Maddox if the committee needed to do a roll call vote.

Tamara Maddox replied it was not.

Joyce Anderson added the decision was by majority vote.

Representative Sara Hannan added "without objection."

Chair Deb Fancher repeated [the decision was] approved by majority vote without objection.

8. OTHER BUSINESS

Chair Deb Fancher entertained other business. Hearing none, she announced next meeting date is undecided at this time.

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9. ADJOURN

Chair Deb Fancher entertained a motion to adjourn the meeting.

Skip Cook so moved.

Chair Deb Fancher asked if there were objections or other discussion. There was none. She adjourned the meeting.

[2:26:13 PM](#)