

CHAPTER 4

Congressional Investigations

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§ 401. Purpose.

The purpose of this chapter is to establish procedures governing legislative investigating committees to provide for the creation and operation of such committees in a manner which will enable them to perform properly the powers and duties vested in them, including the conduct of hearings, in a fair and impartial manner, consistent with the protection of the rights of persons called to testify at such hearings and the preservation of the public good.

Source: COM PL 5-36 § 1; TT Code 1980, 2 TTC 261.

§ 402. Definitions.

As used in this chapter:

(1) "Hearing" means any meeting in the course of an investigatory proceeding, other than a preliminary conference or interview at which no testimony is taken under oath, conducted by an investigating committee for the purpose of taking testimony or receiving other evidence. A hearing may be open to the public or closed to the public.

(2) "Investigating committee" means any of the following bodies which are authorized to compel the attendance and testimony of witnesses or the production of books, records, papers, and documents for the purpose of securing information on a specific subject for the use of the Congress of the Federated States of Micronesia:

- (a) a standing or special committee or Committee of the Whole of the Congress;
- (b) an authorized subcommittee of a legislative committee; and
- (c) any body created by law, the members of which may include nonlegislators.

(3) "Public hearing" means any hearing open to the public, or the proceedings of which are made available to the public.

Source: COM PL 5-36 § 2; TT Code 1980, 2 TTC 262; PL 1-63 § 1(1).

Editor's note: Subsections rearranged in alphabetical order in the 1982 edition of this code.

§ 403. Establishment of investigating committees by Congress.

The resolution, statute, or rule of procedure establishing an investigating committee shall state the committee's purposes, powers, duties, and duration, the subject matter and scope of its investigatory authority, and the number of its members.

Source: COM PL 5-36 § 3; TT Code 1980, 2 TTC 263, PL 1-63 § 1(2).

§ 404. Adoption of rules.

Each investigating committee shall adopt rules, not inconsistent with any law or any applicable rules of the Congress, governing its procedures, including the conduct of hearings.

Source: COM PL 5-36 § 4; TT Code 1980, 2 TTC 264.

§ 405. Staff.

Each investigating committee may employ such professional, technical, clerical, or other personnel as may be necessary for the proper performance of its duties, to the extent of funds made available to it for such purpose and subject to such restrictions and procedures relating thereto as may be provided by law or any applicable rules of the Congress.

Source: COM PL 5-36 § 5; TT Code 1980, 2 TTC 265.

§ 406. Membership, quorum, and voting.

- (1) An investigating committee shall consist of not less than three members.
- (2) A quorum shall consist of a majority of the total authorized number of members of the committee.
- (3) No action shall be taken by a committee at any meeting unless a quorum is present. The committee may act by a majority vote of the members present and voting at a meeting at which there is a quorum unless the provisions of this chapter or any other statute require a greater number or proportion.

Source: COM PL 5-36 § 6; TT Code 1980, 2 TTC 266.

§ 407. Hearings.

An investigating committee may hold hearings appropriate for the performance of its duties at such times and places as the committee determines.

Source: COM PL 5-36 § 7; TT Code 1980, 2 TTC 267.

§ 408. Issuance of subpoenas.

(1) The Speaker or other Presiding Officer of the Congress may issue subpoenas requiring the attendance of witnesses and subpoenas *duces tecum* requiring the production of books, documents, or other evidence in any matter pending before a committee.

(2) Every investigating committee may issue, by majority vote of all its members, subpoenas requiring the attendance of witnesses and subpoenas *duces tecum* requiring the production of books, documents, or other evidence in any matter pending before the committee.

(3) Any subpoena, warrant of arrest, or other process issued under the authority of the Congress shall run in the name of Federated States of Micronesia and shall be addressed to the Sergeant at Arms of the Congress or any National police officer of the Federated States of Micronesia. The subpoena, warrant, or other process shall be signed by the officer authorized to issue it, shall set forth his official title, shall contain a reference to the rule or resolution, or other means, by which the taking of testimony or other evidence, or the issuance of such warrant or other process, was authorized, and shall, in the case of a summons or subpoena, set forth in general terms the matter or question with reference to which the testimony or other evidence is to be taken.

(4) Any officer to whom such process is directed shall forthwith serve or execute the same upon delivery thereof to him.

Source: COM PL 5-36 § 8; TT Code 1980, 2 TTC 268; PL 1-63 § 1(3).

§ 409. Subpoena – Notice to witnesses.

(1) Service of a subpoena requiring the attendance of a person at a hearing of an investigating committee shall be made at least five days prior to the date of the hearing unless a shorter period of time is authorized by majority vote of all the members of the committee in a particular instance when, in their opinion, the giving of five days' notice is not practicable; but if a shorter period of time is authorized, the person subpoenaed shall be given reasonable notice of the hearing, consistent with the particular circumstances involved.

(2) Any person who is served with a subpoena to attend a hearing of an investigating committee also shall be served with a general statement informing him of the subject matter of the committee's investigation or inquiry and with a notice that he may be accompanied at the hearing by counsel of his own choosing.

Source: COM PL 5-36 § 9; TT Code 1980, 2 TTC 269.

§ 410. Conduct of hearings.

(1) All hearings of an investigating committee shall be public unless the committee, by two-thirds vote of all of its members, determines that a hearing should not be open to the public in a particular instance.

(2) The chairman of an investigating committee, if present and able to act, shall preside at all hearings of the committee and shall conduct the examination of witness himself or supervise examination by other members of the committee, the committee's counsel, or members of the committee's staff who are so authorized. In the chairman's absence or disability, the vice chairman shall serve as presiding officer.

(3) No hearing, or part thereof, shall be televised, filmed, or broadcast except upon approval of the committee, by majority vote of all of its members.

Source: COM PL 5-36 § 10; TT Code 1980, 2 TTC 270.

§ 411. Right to counsel; Submission of questions.

(1) Every witness at a hearing of an investigating committee may be accompanied by counsel of his own choosing, who may advise the witness as to his rights, subject to reasonable limitations which the committee may prescribe to prevent obstruction of or interference with the orderly conduct of the hearing.

(2) Any witness at a hearing, or his counsel, may submit to the committee proposed questions to be asked of the witness or any other witness relevant to the matters upon which there has been any questioning or submission of evidence, and the committee shall ask such of the questions as are appropriate to the subject matter of the hearing.

Source: COM PL 5-36 § 11; TT Code 1980, 2 TTC 271.

§ 412. Testimony.

(1) An investigating committee may cause a record to be made of all proceedings in which testimony or other evidence is demanded or adduced, which record shall include rulings of the chair, questions of the committee and its staff, the testimony or responses of witnesses, sworn written statements submitted to the committee, and such other matters as the committee or its chairman may direct.

(2) Any testimony given or adduced at a hearing may be under oath or affirmation if the committee so requires.

(3) The presiding officer of an investigating committee may administer an oath or affirmation to a witness at a hearing of such committee.

(4) The presiding officer at a hearing may direct a witness to answer any relevant question or furnish any relevant book, paper, or other document, the production of which has been required by subpoena *duces tecum*. Unless the direction is overruled by majority vote of the committee members present, disobedience shall constitute a contempt.

(5) A witness at a hearing or his counsel, with the consent of a majority of the committee members present at the hearing, may file with the committee for incorporation into the record of the hearing any sworn written statements relevant to the purpose, subject matter, and scope of the committee's investigation or inquiry.

(6) A witness at a hearing, upon his request and at his own expense, shall be furnished a transcript of his testimony at the hearing, if a record of the same is kept.

(7) Testimony and other evidence given or adduced at a hearing closed to the public shall not be made public unless authorized by majority vote of all of the members of the committee, which authorization shall also specify the form and manner in which the testimony or other evidence may be released.

(8) All information of a defamatory or highly prejudicial nature received by or for the committee other than in an open or closed hearing shall be deemed to be confidential. No such information shall be made public unless authorized by a majority vote of all the members of the committee for legislative purposes, or unless its use is required for judicial purposes.

Source: COM PL 5-36 § 12; TT Code 1980, 2 TTC 272.

§ 413. Interested persons.

(1) Any person whose name is mentioned or who is otherwise identified during a hearing of an investigating committee and who in the opinion of the committee may be adversely affected thereby may, upon his own request or upon the request of any member of the committee, appear personally before the committee and testify in his own behalf, or, with the committee's consent, file a sworn written statement of facts or other documentary evidence for incorporation into the record of the hearing.

(2) Upon the consent of a majority of its members, an investigating committee may permit any other person to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record thereof. No request to appear, appearance, or submission of evidence shall limit in any

way the investigating committee's power of subpoena.

(3) Any person who appears before an investigating committee pursuant to this section shall have all the rights, privileges, and responsibilities of a witness provided by this chapter.

Source: COM PL 5-36 § 13; TT Code 1980, 2 TTC 273.

§ 414. Contempt.

(1) A person shall be in contempt if he:

(a) fails or refuses to appear in compliance with a subpoena or, having appeared, fails or refuses to testify under oath or affirmation;

(b) fails or refuses to answer any relevant question or fails or refuses to furnish any relevant book, paper, or other document subpoenaed by or on behalf of an investigating committee; or

(c) exhibits disrespect of an investigating committee by unlawfully, knowingly, and willfully interfering directly with the operation and function of such committee by open defiance of an order in or near the meeting place of such committee, by disturbing the peace in or near such meeting place, by interfering with an officer of such committee in the lawful performance of his official duties, or by unlawfully detaining or threatening any witness of such committee because of that person's duty as a witness.

(2) An investigating committee may, by majority vote of all its members, report to the Congress any instance of alleged contempt. The Speaker shall certify a statement of such contempt under his signature as Speaker to the Attorney General who shall prosecute the offender in a court of competent jurisdiction in the Federated States of Micronesia. If the Congress is not in session, a statement of the alleged contempt shall be certified by the chairman or acting chairman of the committee concerned, under his signature, to the Attorney General who shall prosecute the offender as aforesaid. An instance of alleged contempt shall be considered as though committed in or against the Congress itself.

Source: COM PL 5-36 § 14; TT Code 1980, 2 TTC 274; PL 1-63 § 1(4).

§ 415. Penalties.

(1) A person guilty of contempt under this chapter shall upon conviction be fined not more than \$1,000, or imprisoned not more than one year, or both.

(2) If any investigating committee fails in any material respect to comply with the requirements of this chapter, any person subject to a subpoena or a subpoena *duces tecum* who is injured by such failure shall be relieved of any requirement to attend the hearing for which the subpoena was issued or, if present to testify or produce evidence therein; and such failure shall be a complete defense in any proceeding against the person for contempt or other punishment.

(3) Any witness shall have only those privileges against testifying or producing other evidence under subpoena *duces tecum* which are:

(a) authorized by the Supreme Court of the Federated States of Micronesia Rules of Evidence; or

(b) required by the Declaration of Rights of the Federated States of Micronesia, or other law applicable to the Federated States of Micronesia.

(4) Any person other than the witness concerned or his counsel who violates the provisions of subsections (7) or (8) of section 412 of this chapter shall upon conviction be fined not more than \$500, or imprisoned not more than six months, or both. The Attorney General, on his own motion or on the application of any person claiming to have been injured or prejudiced by an unauthorized disclosure, may institute proceedings for trial of the issue and imposition of the penalties provided herein. Nothing in this subsection shall limit any power which the Congress may have to discipline a member or employee or to impose a penalty in the absence of action by a prosecuting officer or court.

Source: COM PL 5-36 § 15; TT Code 1980, 2 TTC 275; PL 1-63 § 1(5); PL 7-89 § 2.

Cross-reference: The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code. The statutory provisions on Judicial Procedures are found in title 6 of this code.

The constitutional provisions making up the Declaration of Rights are found in FSM Const., art. IV. The provisions of the Constitution are found in Part I of this code.

The official website of the Congress of the Federated States of Micronesia is found at <http://www.fsmcongress.fm/>.

The FSM Supreme Court Rules of Evidence and other court information can be found on the FSM Supreme Court website at <http://www.fsmsupremecourt.org/>.

§ 416. Government officers and employees to cooperate.

The officers and employees of the Federated States of Micronesia, and of each political subdivision thereof shall cooperate with any investigating committee or committees or with their representatives and furnish to them or to their representatives such information as may be called for in connection with the research activities of the committees.

Source: COM PL 5-36 § 16; TT Code 1980, 2 TTC 276; PL 1-63 § 1(6); PL 7-89 § 3.

§ 417. Acquisition of evidence or information by other lawful means.

Nothing contained in this chapter shall be construed to limit or prohibit the acquisition of evidence or information by an investigating committee by any lawful means not provided for herein.

Source: COM PL 5-36 § 17; TT Code 1980, 2 TTC 277.

