

§ 145. District Court Appellate Panels

“(a) The judicial council of each circuit may establish a district court appellate panel service composed of district judges of the circuit, in either active or senior status, who are assigned by the judicial council to hear and determine appeals in accordance with subsection (b). Judges assigned to the district court appellate panel service may continue to perform other judicial duties.

“(b) An appeal heard under this section shall be heard by a panel composed of 2 district judges assigned to the district court appellate panel service, and 1 circuit judge as designated by the chief judge of the circuit, the circuit judge shall preside. A district judge serving on an appellate panel shall not participate in the review of decisions of the district court to which the judge has been appointed. The clerk of the court of appeals shall serve as the clerk of the district court appellate panels. A district court appellate panel may sit at any place within the circuit, pursuant to rules promulgated by the judicial council, to hear and decide cases, for the convenience of parties and counsel.

“(c) In establishing a district court appellate panel service, the judicial council shall specify the categories or types of cases over which district court appellate panels shall have appellate jurisdiction. In such cases specified by the judicial council as appropriate for assignment to district court appellate panels, and notwithstanding sections 1291 and 1292, the appellate panel shall have exclusive jurisdiction over district court decisions and may exercise all of the authority otherwise vested in the court of appeals under sections 1291, 1292, 1651, and 2106. A district court appellate panel may transfer a case within its jurisdiction to the court of appeals if the panel determines that disposition of the case involves a question of law that should be determined by the court of appeals. The court of appeals shall thereupon assume jurisdiction over the case for all purposes.

“(d) Final decisions of district court appellate panels may be reviewed by the court of appeals, in its discretion. A party seeking review shall file a petition for leave to appeal in the court of appeals, which that court may grant or deny in its discretion. If a court of appeals is organized into adjudicative divisions, review of a district court appellate panel decision shall be in the division to which an appeal would have been taken from the district court had there been no district court appellate panel.

“(e) Procedures governing review in district court appellate panels and the discretionary review of such panels in the court of appeals shall be in accordance with rules promulgated by the court of appeals.

“(f) After a judicial council of a circuit makes an order establishing a district court appellate panel service, the chief judge of the circuit may request the Chief Justice of the United States to assign 1 or more district judges from another circuit to serve on a district court appellate panel, if the chief judge determines there is a need for such judges. The Chief Justice may thereupon designate and assign such judges for this purpose.”.

(a) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 5 of title 28, United States Code, is amended by adding after the item relating to section 144 the following:

“145. District court appellate panels.”.

(c) **MONITORING IMPLEMENTATION.**—The Federal Judicial Center shall monitor the implementation of section 145 of title 28, United States Code (as added by this section) for 8 years following the date of enactment of this Act and report to the Judicial Conference such information as the Center de-

termines relevant or that the Conference requests to enable the Conference to assess the effectiveness and efficiency of this section.●

cret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Paragraph 5(b) of rule XXVI of the Standing Rules.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least 3 days in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business and committee business will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

5. Any witness who is to appear before the committee in any hearing shall file with the clerk of the committee at least 3 business days before the date of his or her appearance, a written statement of his or her proposed testimony and an executive summary thereof, in such form as the chairman may direct, unless the chairman and the ranking minority member waive such requirement for good cause.

TITLE II—QUORUMS

1. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 9 members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 6 members shall constitute a quorum for the transaction of business, including action on amendments to measures prior to voting to report the measure to the Senate.

3. Pursuant to paragraph 7(a)(2) of rule XXVI of the Standing Rules, 4 members of the committee shall constitute a quorum for the purpose of taking testimony under oath and 2 members of the committee shall constitute a quorum for the purpose of taking testimony not under oath; provided, however, that in either instance once a quorum is established, any one member can continue to take such testimony.

4. Under no circumstances may proxies be considered for the establishment of a quorum.

TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by rollcall.

3. The results of rollcall votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report or announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Paragraph 7(b) and (c) of rule XXVI of the Standing Rules.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded. (Paragraph 7(a)(3) of rule XXVI of the Standing Rules.)

RULES OF THE COMMITTEE ON RULES AND ADMINISTRATION

● Mr. McCONNELL. Mr. President, Senate Standing Rule XXVI requires each committee to adopt rules to govern the procedures of the Committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On February 25, 1999, the Committee on Rules and Administration held a business meeting during which the members of the committee unanimously adopted the rules to govern the procedures of the committee.

Consistent with Standing Rule XXVI, today I am submitting for printing in the CONGRESSIONAL RECORD a copy of the rules of the Senate Committee on Rules and Administration.

The rules follow:

RULES OF PROCEDURE OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION
TITLE I—MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the committee shall be the second and fourth Wednesdays of each month, at 9:30 a.m., in room SR-301, Russell Senate Office Building. Additional meetings may be called by the chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the committee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee on the same subject for a period or no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a recorded vote in open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept se-

TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session.

TITLE V—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN AND RANKING MINORITY MEMBER

The chairman and ranking minority member, acting jointly, are authorized to approve on behalf of the committee any rule or regulation for which the committee's approval is required, provided advance notice of their intention to do so is given to members of the committee.●

RULES OF THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

• Mr. THOMPSON. Mr. President, Senate Standing Rule XXVI requires each committee to adopt rules to govern the procedures of the Committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On January 20, 1999, the Committee on Governmental Affairs held a business meeting during which the members of the Committee unanimously adopted the rules to govern the procedures of the Committee. In addition, a majority of members of the Committee's Permanent Subcommittee on Investigations adopted subcommittee rules of procedure on February 12, 1999.

Consistent with Standing Rule XXVI, today I am submitting for printing in the CONGRESSIONAL RECORD a copy of the rules of the Senate Committee on Governmental Affairs and its Permanent Subcommittee on Investigations.

The Rules follow:

RULES OF PROCEDURE OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS PURSUANT TO RULE XXVI, SEC. 2, STANDING RULES OF THE SENATE

RULE 1. MEETINGS AND MEETING PROCEDURES OTHER THAN HEARINGS

A. Meeting dates. The Committee shall hold its regular meetings on the first Thursday of each month, when the Congress is in session, or at such other times as the chairman shall determine. Additional meetings may be called by the chairman as he deems necessary to expedite Committee business. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

B. Calling special Committee meetings. If at least three members of the Committee desire the chairman to call a special meeting, they may file in the offices of the Committee a written request therefor, addressed to the chairman. Immediately thereafter, the clerk of the Committee shall notify the chairman of such request. If, within 3 calendar days after the filing of such request, the chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Committee members may file in the of-

fices of the Committee their written notice that a special Committee meeting will be held, specifying the date and hour thereof, and the Committee shall meet on that date and hour. Immediately upon the filing of such notice, the Committee clerk shall notify all Committee members that such special meeting will be held and inform them of its date and hour. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

C. Meeting notices and agenda. Written notices of Committee meetings, accompanied by an agenda, enumerating the items of business to be considered, shall be sent to all Committee members at least 3 days in advance of such meetings, excluding Saturdays, Sundays, and legal holidays in which the Senate is not in session. The written notices required by this Rule may be provided by electronic mail. In the event that unforeseen requirements or Committee business prevent a 3-day notice of either the meeting or agenda, the Committee staff shall communicate such notice and agenda, or any revisions to the agenda, as soon as practicable by telephone or otherwise to members or appropriate staff assistants in their offices.

D. Open business meetings. Meetings for the transaction of Committee or Subcommittee business shall be conducted in open session, except that a meeting or series of meetings on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) below would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the Committee or Subcommittee members when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of foreign relations of the United States;

(2) will relate solely to matters of Committee or Subcommittee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.)

Notwithstanding the foregoing, whenever disorder arises during a Committee or Subcommittee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the chairman to enforce order on his

own initiative and without any point of order being made by a member of the Committee or Subcommittee; *provided, further*, that when the chairman finds it necessary to maintain order, he shall have the power to clear the room, and the Committee or Subcommittee may act in closed session for so long as there is doubt of the assurance of order. (Rule XXVI, Sec. 5(d), Standing Rules of the Senate.)

E. Prior notice of first degree amendments. It shall not be in order for the Committee, or a Subcommittee thereof, to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless a written copy of such amendment has been delivered to each member of the Committee or Subcommittee, as the case may be, and to the office of the Committee or Subcommittee, at least 24 hours before the meeting of the Committee or Subcommittee at which the amendment is to be proposed. The written copy of amendments in the first degree required by this Rule may be provided by electronic mail. This subsection may be waived by a majority of the members present. This subsection shall apply only when at least 72 hours written notice of a session to mark-up a measure is provided to the Committee or Subcommittee.

F. Meeting transcript. The Committee or Subcommittee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting whether or not such meeting or any part thereof is closed to the public, unless a majority of the Committee or Subcommittee members vote to forgo such a record. (Rule XXVI, Sec. 5(e), Standing Rules of the Senate.)

RULE 2. QUORUMS

A. Reporting measures and matters. A majority of the members of the Committee shall constitute a quorum for reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

B. Transaction of routine business. One-third of the membership of the Committee shall constitute a quorum for the transaction of routine business, provided that one member of the minority is present.

For the purpose of this paragraph, the term "routine business" includes the convening of a meeting and the consideration of any business of the Committee other than reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

C. Taking testimony. One member of the Committee shall constitute a quorum for taking sworn or unsworn testimony. (Rule XXVI, Sec. 7(a)(2) and 7(c)(2), Standing Rules of the Senate.)

D. Subcommittee quorums. Subject to the provisions of sections 7(a)(1) and (2) of Rule XXVI of the Standing Rules of the Senate, the Subcommittees of this Committee are authorized to establish their own quorums for the transaction of business and the taking of sworn testimony.

E. Proxies prohibited in establishment of quorum. Proxies shall not be considered for the establishment of a quorum.

RULE 3. VOTING

A. Quorum required. Subject to the provisions of subsection (E), no vote may be taken by the Committee, or any Subcommittee thereof, on any measure or matter unless a quorum, as prescribed in the preceding section, is actually present.

B. Reporting measures and matters. No measure, matter or recommendation shall be reported from the Committee unless a majority of the Committee members are actually present, and the vote of the Committee to report a measure or matter shall require the