

**SPECIAL REPORT TO THE SPEAKER
OF THE HOUSE OF REPRESENTATIVES
REGARDING COMPLAINT 2026-3**

I. Introduction

The Legislative Ethics Committee received three complaints in March of 2026, regarding the conduct of Representative James A. Spillane with respect to postings he made on the social media website "X." The complaints were made by Representative Paul S. Berch, Representative Cathryn A. Harvey and Representative Timothy Horrigan (the Complainants). The Complaints alleged that Representative Spillane violated certain provisions of the Ethics Guidelines.

Following an initial review of the complaints, the Committee conducted a preliminary investigation, in accordance with its procedural rules, and voted unanimously to initiate formal proceedings to inquire into the complaints. A formal statement of charges and notice of hearing was sent by certified mail to Representative Spillane on May 29, 2026, and a formal hearing was held before the Committee on June 24, 2026. Representative Spillane formally answered the statement of charges and appeared at the hearing represented by counsel.

II. Charges

The conduct alleged in the complaints and which formed the basis of the formal charges is as follows:

Making postings on the social media website "X" in which he identified himself as "Representative James Spillane," which included comments that were offensive and demeaning about other House members. More specifically, when Representative Horrigan responded to his posted description of Representative Harvey as a "liar," Representative Spillane referred to Representative Horrigan as "retarded," commented that his mother had "f----d (middle letters deleted) her cousin," and accused him of dropping acid in the 60's.

The Committee charged Representative Spillane with violations of the Ethics Guidelines, Section 1, Principles of Public Service, Paragraph III, Principle of Accountability, which provides that legislators “shall ensure that government is conducted openly, equitably and honorably in a manner that permits the citizenry to make informed judgments, have confidence in the integrity of the legislature, and hold government officials accountable” and Paragraph IV, Principle of Conduct, which provides that legislators “shall treat each other, legislative employees, and the public with dignity and respect.”

III. Defenses

The facts underlying the charges in this proceeding are undisputed. Representative Spillane (the “Respondent”) admits that he posted to the social media website the language referred to in the complaints and that the posts identified him as “Representative James Spillane.”

With respect to the specific charges, Representative Spillane’s answer, as well as his position as articulated at the hearing, is that his posts to the social media website were not made in the performance of his duties as a member of the legislature and, therefore, his conduct does not fall within the jurisdiction of the Committee. He also answered that the comments he made in the social media posts are protected speech under the federal and New Hampshire constitutions.

IV. Analysis

Counsel for Representative Spillane filed a Motion to Dismiss the charges, alleging that the Committee lacked jurisdiction because Representative Spillane was not acting in the performance of his duties as a legislator. The Committee denied the Motion to Dismiss. The Committee found that the authorization of jurisdiction specifically addresses conduct “related” to legislative duties. RSA 14-B:1, III defines “jurisdiction of the committee” as “those actions which allege a violation of law, guideline, rule, or regulation and relate to the conduct of

individuals in the performance of their duties as members, officers, or employees of the legislature.” In this case, the Respondent identified himself as “Representative James Spillane.” The email exchange specifically involved the participation of the Complainants on legislation sponsored by Representative Spillane, which the Complainants had opposed. The social media comments clearly relate to the performance of his duties as a legislator.

Representative Spillane alleges that he was free to make the comments included in his postings and any restriction would constitute a violation of his freedom of speech under both the state and federal constitutions. That is not at issue in this case. The Committee is not questioning Representative Spillane’s legal right to say what he said in the social media posts. While he may have a legal right to make offensive or demeaning comments about other members, the legislature also has the authority to establish standards and to regulate its membership, which includes the power to sanction legislators for violating those standards.

What must be considered by the Committee is whether Representative Spillane’s conduct is consistent with established ethical guidelines established by the General Court. The Committee will make a recommendation. Ultimately, it is up to the House of Representatives to decide whether Representative Spillane has violated its established ethical standards and, if so, should be accordingly sanctioned.

While the right of freedom of speech is fundamental, it is not absolute. Certain categories of speech, such as defamation and harassment, can be restricted. In this case, Representative Horrigan testified that the offensive statements made in the posts were not true. Representative Harvey testified that she had legitimate concerns about her safety.

It is not uncommon for legislators to disagree over the substance of legislation. Legislators may also express their disappointment or unhappiness over legislative outcomes. While that may even lead to unpleasant exchanges at times, it is expected that such matters will be resolved in a manner consistent

with the standards for legislative decorum and without the need to impose sanctions.

In ordinary circumstances, such matters do not rise to a level which warrants ethical intervention. They do not raise concern over confidence in the integrity of the legislature, nor do they demonstrate complete disrespect and indignity for other members of the legislature. But here, Representative Spillane has publicly made extremely offensive assertions about another member, calling him "retarded," alleging he "dropped acid in the 60's", and, perhaps most offensively, asserting that his mother engaged in sexual activity with her cousin. This is not an acceptable disagreement over a legislative outcome. It is a direct personal attack. It demonstrates a complete lack of respect and absolute lack of concern for the dignity of another representative. The public postings published by Representative Spillane are clearly defamatory of another member of the legislature, Representative Horrigan. His comments were demeaning and constituted harassment. His conduct cannot be viewed in a manner consistent with the established ethical guidelines established by the General Court.

While not considered in determining the merits of these complaints, the Committee notes that the Legislative Ethics Committee previously found Representative Spillane culpable of an ethical violation involving his use of social media. In its published admonishment, the Committee stated: "When you use your title or include your legislative position at the top or bottom of your social media postings, your postings should reflect the best principles of public service. When you put something on social media as a member of the General Court, you have a duty to know how it will affect others."

V. Conclusion

Based upon the evidence, the Committee has found by clear and convincing evidence that the charges are true. He publicly posted demeaning and offensive comments on social media that were defamatory and intended to harass another representative. The conduct of Representative Spillane is in violation of Ethics

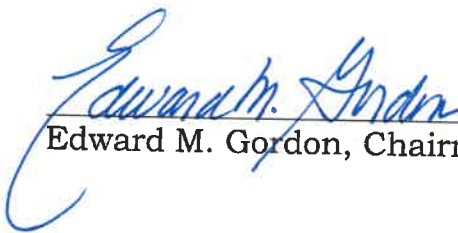
Guidelines, Section 1, Principles of Public Service, Paragraph III, Principle of Accountability, and Paragraph IV, Principle of Conduct.

VI. Recommendation

The Committee recommends that Representative Spillane be censured by the House of Representatives for his violation of the established Ethics Guidelines.

Dated at Concord, New Hampshire, this 1st day of July 2026.

Respectfully submitted,



Edward M. Gordon, Chairman