

IMPROPER CONDUCT OF BOARD MEMBERS

Scope

Board members are expected to conduct themselves in an appropriate manner which efficiently and effectively advances the mission and goals of the District and which is in compliance with applicable laws, rules, regulations, policies, rules and guidelines. Individual Board members should review their own conduct against this standard, and may offer voluntary apologies to the full Board, the District, and the community when necessary to correct inappropriate conduct. In rare circumstances when individual Board members exhibit a pattern of misconduct or engage in blatant misconduct, other Board members may attempt to counsel the individual Board member in private, including when appropriate in executive session of a Board meeting.

A Board member's conduct which may be the subject of a reprimand shall include without limitation blatant violations or a pattern of continuing violations of applicable laws, regulations, rules, the Board's policies, regulations, rules or guidelines, or conduct that is otherwise materially injurious to the best interests of the District. Reprimand should not be used for circumstances in which other Board members merely disagree with the lawful substance of a Board member's positions or statements, if such substance is expressed in an appropriate manner.

Motion to Reprimand

If an individual Board member engages in blatant misconduct or in a pattern of misconduct and other Board members do not believe that more private counseling will be effective to stop such misconduct, the Board may consider a motion to reprimand against the Board Member (the "Charged Board Member").

Reprimand Procedures

The following procedures shall apply to a formal reprimand (unless modified as expressly permitted herein):

1. The matter of reprimanding a Board member in accordance with this Policy shall first be added to a Board agenda as a non-action item in accordance with normal Board procedure for adding items to an agenda. When merely adding the item to the agenda, it is not necessary to name the Board member to be reprimanded or to share the Charge Document, but such information may be shared in the discretion of the Board member making the motion to add the item to the agenda.
2. The First Board Meeting - At the time for the matter to be discussed on the non-action agenda.
 - (a) One or more Board members shall distribute to all Board members a written statement of one or more charges (the "Charge Document") forming the basis of a proposed reprimand. The Charge Document should expressly indicate that the charges are allegations only, and the full extent of the truth of the allegations is not known. Because the Charge Document represents only allegations of improper conduct, the Board shall maintain it as confidential, unless the Charged Board Member consents to public release.
 - (b) The Board President (or in the case of a proposed reprimand of the Board President, such other Board member as may be presiding over that portion of the meeting) shall outline the procedures for considering the reprimand, which procedures shall be the procedures set forth in this Policy, with such reasonable additions, modifications, and clarifications as may be established by the Board President (in exercise of the President's discretion of deciding procedural matters relating to Board meetings and as the Board President may determine to be desirable to address the peculiarities of each individual circumstance), provided that:
 - (i) any such modifications which conflict with the procedure outlined in this Policy require the vote of two-thirds of the entire Board for approval, and
 - (ii) other additions and clarifications may be overruled by the vote of a majority of a quorum of the Board in the normal manner for appealing a procedural ruling of the Board President.
 - (c) Unless the applicable procedure does not call for the appointment of a subcommittee, the Board President shall propose the appointment of a limited purpose "Reprimand Subcommittee" to take action with respect to the Charge Document. The Board shall take action in the non-action portion of the agenda to appoint any Reprimand Subcommittee, which shall consist of two named Board members. In appointing members of the Reprimand

Subcommittee, Board members should take into consideration the desirability of appointing individual Board members who can fairly and objectively collect the relevant facts, regardless of personal opinions regarding the proposed reprimand. The motion appointing the subcommittee may, but shall not be required to, take the following form: "Motion, that a committee of Board members X and Y be appointed to investigate allegations regarding the actions of our member A, which, if true, suggest the possible appropriateness of the Board reprimand of such actions, and that the committee shall investigate such actions and report its findings, and any accompanying recommendations, to the full Board."

3. Reprimand Subcommittee - During the period between the first meeting and the meeting at which the Board takes action on the reprimand proposal (the "final meeting"), the Reprimand Subcommittee will conduct the following activities:
 - (a) The Subcommittee will conduct an investigation of the allegations made in the Charge Document(s). The nature of the investigation would be determined in the judgment of the Subcommittee, taking into consideration the following:
 - (i) the investigation might include requests for written information from, and/or an interview of, any parties or witnesses to the matters stated in the Charge Document.
 - (ii) the Charged Board Member shall be given a reasonable opportunity to receive information on the Charge Document(s), and a reasonable opportunity to present the Charged Board Member's side of the issue to the Reprimand Subcommittee, either orally, in writing, or both. Oral interviews/communications with the Charged Board Member should be conducted with just one member of the Reprimand Subcommittee at a time to avoid violation of the Open Meetings Laws however with mutual agreement either party may have another person present. These interviews may be taped with mutual agreement of both parties.
 - (b) At the end of the investigation process, the Reprimand Subcommittee shall produce a written report indicating its findings of fact regarding the allegations, as well as any resulting recommendations to the full Board. If the Subcommittee members are unable to agree upon any aspect of the report, then the individual committee members may present separate, or part-joint, part-separate, reports. To facilitate Board consideration of the proposed reprimand, the Reprimand Subcommittee report shall include at least two proposed forms of motion; one approving a reprimand, and one that would not reprimand the Board Member.
 - (c) The Reprimand Subcommittee shall take appropriate steps to protect the confidentiality rights of any District employee, student, or other person in connection with such report. (It should be understood that much of this report will likely be a document open to the public once presented to the full Board for discussion at its meeting).
4. The final meeting. At the time the Board takes action:
 - (a) Action on the proposed reprimand shall be placed on the action portion of the agenda in the normal manner for placing items on the agenda.
 - (b) At the appropriate time for consideration of such agenda item, the Reprimand Subcommittee will present its report on the findings and recommendations to the Board. In the discretion of the Subcommittee, this presentation may be limited to the delivery of the written report, or may be accompanied by such summarizing or explanatory statements as the Subcommittee chooses to make. The written report shall be delivered to the Charged Board Member at least 5 business days prior to the delivery of the report to the full board. The Charged Board Member may submit a written rebuttal to the Reprimand Subcommittee to be included with their report. The report may be delivered to all Board members in advance of the meeting to facilitate a careful review of the report. Board members shall have the right to ask questions of the Reprimand Subcommittee only to the extent necessary to clarify the information in the report(s).
 - (c) Individual Board members (including the Subcommittee members) may make statements regarding or otherwise discuss the proposed reprimand, provided that each Board member other than the Charged Board Member shall be limited to a total of three minutes, and the Charged Board Member shall be limited to a total of five minutes. The Charged Board Member may designate a representative to speak on such Board member's behalf, provided that such representative observes all rules applicable to the Charged Board Member. As with any item of Board business, all statements and discussion shall be limited to matters germane to the Charge Document and the Reprimand Subcommittee report.

Resources Supporting Reprimand Process

Board members shall be entitled to assistance from District staff and District legal counsel in understanding the application of this Policy and to assure compliance with this Policy. Except as expressly otherwise authorized by a majority of a quorum of the Board, Board members should not ask District staff or District legal counsel to assist directly with the development of the Charge Document or in advocating for or against a reprimand. The Reprimand Subcommittee may seek assistance of District staff and legal counsel in investigating the Charge Document and preparing the Subcommittee's written report and recommendation, provided that the Subcommittee should give due consideration to the extent to which engagement of outside consultants will more likely lead to a perception of a fairer process and avoid injuring important relationships with Board members. Board members may incur certain reasonable out-of-pocket expenses in connection with a proposed reprimand for investigative assistance, legal or other consulting, travel, meals, and similar costs. The following provisions shall apply to reimbursement of such expenses, and any reimbursements authorized under this Policy shall be in addition to any other reimbursements authorized under any other policy of the District.

- (a) One or more Board members may incur expenses relating to the development of the Charge Document. Such expenses up to an aggregate maximum of \$2,000 for a particular Charge Document shall be reimbursed only upon the occurrence of the first of the following:
 - (i) the Board expressly approves such reimbursement by majority vote of a quorum, or
 - (ii) the Board votes to reprimand a Board member based at least in part on the Charge Document, unless the Board votes by a majority of a quorum to expressly deny such reimbursement. A Board member may seek express approval of such reimbursement at any time, whether before, at or after the first meeting at which the Charge Document is introduced.
- (b) The Reprimand Subcommittee may incur expenses on behalf of the District relating to the investigation of the charges, the development and preparation of the Subcommittee's report, or other activities consistent with the duties assigned to the Subcommittee. Unless otherwise approved by a majority of the quorum of the Board, such expenses shall not exceed \$5,000.
- (c) The Charged Board Member may incur expenses relating to defending the reprimand, provided that the reimbursement for such expenses shall not exceed \$5000. For this purpose, the activities of defending the reprimand shall be limited to contesting or clarifying the facts forming the basis of the reprimand, presenting written and oral information to the Subcommittee regarding the facts or the merits of the Charge Document, and presenting relevant information to the Board at the final meeting. Expenses related to other activities, e.g. lawsuits against the District relating to the reprimand, shall not be subject to reimbursement.

Unless otherwise determined by a majority of the entire Board, the procedures set forth in the policy shall apply to any motion to reprimand and shall take precedence; to the extent they are inconsistent, with any other procedures or policies of the Board. Nothing in the policy shall be interpreted to limit board action to address improper conduct at a board meeting in accordance with other applicable procedural rules.

Conclusion

If the Board votes to reprimand a Board member, such motion shall merely express the sentiment of a majority of the Board regarding the conduct of the Board member. The passage of a reprimand motion shall not automatically result in the deprivation of any right of the Charged Board Member, but also shall not prevent the Board from taking any other lawful action to address the issues that are the subject of the reprimand.

Adopted November 2005

REF.: BC, School Board of Education Member Conduct
BCA, Board of Education Member Code of Ethics
BCB, Board of Education Member Conflict of Interest
BE/BEA/BEB/BF-E, Guidelines for Board of Education Efficiency and Effectiveness