

KETCHIKAN GATEWAY BOROUGH SCHOOL DISTRICT
BOARD OF EDUCATION
AGENDA STATEMENT

No. 14 c.

MEETING OF April 12, 2023

DISCUSSION

c. Issuance of a letter of censure to a board member.

SUBMITTED BY: Board of Education

SUMMARY STATEMENT: At the meeting of March 22, 2023 the Board of Education unanimously approved the following: "Motion to have a discussion at the next meeting of April 12, 2023 on the issuance of a letter of censure to Diane Gubatayao for multiple violations of policy and authority."

ISSUE & BACKGROUND: KGBSD policies and by-laws do not specifically deal with disciplining a board member. However, the Board is also guided by Robert's Rules of Order which provides the Board the right to enforce its rules. Among the options available are censuring of officers. Robert's Rules of Order states the purpose of censure is "to reprimand the member with the hopes of reforming him or her so that he or she won't behave in the same way again."

AASB also affirms a Board's right to discipline its members and provides some guidance "regarding what boards can do when it comes time to reprimand or 'censure' a board member."

As stated in the information from AASB, and confirmed by the Board's counsel, if the board chooses to move forward with the censure of a member, a resolution must be drafted and presented to the Board for approval. The Resolution would set forth the reasons for the censure and would be drafted by counsel. The resolution would come back at a future meeting as an action item for approval. Such a resolution is debatable and amendable.

ATTACHMENT:

Robert's Rules of Order, Chapter 15 – Discipline
Information from AASB website



Chapter 15 - Discipline

Every organization has the right to enforce its rules and expect ethical and honorable conduct from its members. Most organizations have discipline problems from time to time. A discipline problem may be something as simple as a member misbehaving at a meeting or an officer overstepping the boundaries of his or her office. If the problem is not corrected when it arises, it can escalate into something more serious, requiring that someone be removed from office or membership. However, the organization can often solve discipline problems by taking the member or officer aside and talking with him or her about it, which saves both the member and the organization embarrassment.

This chapter explains common discipline problems that organizations encounter and how to handle them. Many problems that cause difficulties in organizations are the result of inflated egos, personality conflicts, or ignorance of proper procedures. If egos or personalities are the root cause, it takes diplomacy, patience, and skill to solve these problems.

THE UNRULY MEMBER AT MEETINGS

In meetings where controversial issues are debated, some members may get so excited that they talk out of turn and continually seek the floor to rebut those who don't agree with them. In a case like this, the chair should remain calm and firmly remind the member of the proper rules of debate. If the member is reasonable, nothing more may need to be said.

If the member doesn't heed the remarks of the chair and continues his or her behavior, the chair's next step is to call the member to order. The chair states, "The member is out of order and will be seated." If the member refuses to be seated and continues with his or her obnoxious behavior, the next step the chair can take is to name the offender. This action, in essence, prefers charges against the member and should be used as a last resort. Before this action is taken, the chair instructs the secretary to record the obnoxious behavior or words. In naming the offender, the chairman uses the member's name and states what he or she has done wrong.

President: Mr. Smith! The chair has asked you repeatedly not to speak after each speaker. The chair has ordered you to sit down four times and you have continued to speak.

If the member sits down at that point, the assembly can choose whether to drop the matter or ask for a penalty.

PENALTIES

The chair cannot impose a penalty for misbehavior; only the assembly can do so. A member can rise and make a motion proposing a penalty, or the chair can ask, "What penalty should be imposed on the member?" Possible motions that assemblies can make include:

- A motion that the member must apologize
- A motion that the member must leave the hall during the remainder of the meeting
- A motion to censure the member
- A motion to suspend the member's rights for a designated period of time
- A motion to expel the member from the organization

If the assembly wants the member to leave the hall while they discuss the penalty, someone must present this option in the form of a motion, which takes a majority to adopt. If the assembly does not ask the member to leave during the discussion, it should allow that person to speak briefly in his or her defense. If the member denies the charges, the secretary can read back what he or she has said or done.

Any penalty other than expulsion requires a majority vote to adopt; expulsion takes a two-thirds vote. At the request of a single member, the vote on a penalty motion must be taken by ballot.

Removing an Offender from the Assembly Hall

Anyone attending a meeting can be removed from the assembly hall. The chair has the power to remove a nonmember at any time during a meeting, and this person has no right to appeal the chair's decision. (However, a member can make an appeal on behalf of the nonmember.) An assembly vote is required to remove a member from the hall.

If a person is asked to leave the assembly and refuses, the chair should take the steps necessary to see that order is enforced. The chair must carefully appraise the situation and act wisely. The chair can either appoint a committee to escort the person to the door or ask the sergeant-at-arms to remove the person. (The sergeant-at-arms is the person who acts as a doorkeeper, maintains order at the direction of the presiding officer, and is responsible for the comfort of the assembly.) Those escorting someone to the door must be careful how much force they use, because they can be liable for damages or be sued. If those appointed to escort the person to the door can't persuade the person to leave, they should call the police. However, the police may not want to get involved unless the organization is willing to press charges.

Making a Motion to Censure

To censure a member or an officer is to warn him or her that if a certain behavior continues, the next step is suspension or expulsion.

Censure

- Purpose: To reprimand the member with the hopes of reforming him or her so that he or she won't behave in the same way again.
- Needs a second.
- Amendable.
- Debatable.
- Requires a majority vote.
- Can't be reconsidered.
- Result: The member is put on notice that if he or she repeats the offense, he or she can be suspended or removed from membership or office.

This is an incidental main motion and can be made only when no business is pending. All subsidiary and incidental motions can be applied to this motion. The member or officer being censured may come to his own defense during the debate but can't vote. Taking the vote by ballot is wise. A member can not be censured twice for the same offense.

Censuring a member

Members can be censured for misconduct at meetings, violating confidentiality, moral misconduct outside the meeting, absenteeism, bribery, fraud, lying, disloyalty, working against the organization, conspiracy, and violating other values that an organization holds dear.

A motion to censure a member can occur in two circumstances. First, if the chair has named the person (as a result of that person's poor behavior), a member can make the motion to censure when the chair asks for a penalty. Second, if members know of another member's bad behavior and want to bring it to the attention of the assembly in the form of a motion to censure, that can be done under new business or under the part of the agenda called for the good of the order.

In the first situation, when the chairman asks for a penalty, a member rises and states:

Member: I move to censure Member Gates.

Member 2: I second the motion.

President: It is moved and seconded to censure Member

Gates. Is there any discussion?

After discussion, the chair takes a vote. If the members want to take the vote by ballot, a member makes a motion to do so, or the chair can ask, "Is there any objection to taking the vote by ballot?"

If the assembly votes to censure the member, the chair states:

President: The affirmative has it. The motion is carried. Member Gates, you have been censured by the assembly. A censure indicates the assembly's displeasure of your conduct at meetings. A censure is a warning. If you don't act according to the rules, you can be suspended or expelled from membership.

In the second situation, if a member knows of another member's serious misconduct, he or she can make the motion to censure during new business or under the good of the order. Here is an example:

Member: Mr. President, before I make the motion to censure, may I call to the attention of the assembly that Member Johnson has been telling members what has gone on in executive session of the board meetings, thereby breaking the rule that everything said in executive session is confidential. This is causing great harm in the organization and we must show our disapproval of this behavior. I therefore move that we censure Member Johnson.

Censuring officers

Officers can be censured as well for behavior such as not performing duties, doing things beyond what the bylaws or organization has assigned the officer to do, and fraud.

A presiding officer can also be censured for not following parliamentary rules in meetings, and for denying members their basic rights to make motions, participate in debate, and vote.

In censuring a presiding officer, a member informs the chair that he or she is going to do so, and then turns to the vice president to make the motion. If the vice president refuses to entertain it or is not present, the member then presents the motion to the secretary. If the secretary declines or is absent, the member can present the motion to the assembly from where he or she stands on the floor. If the vice president or secretary conducts the censure, they do so from where they are in the assembly and not from the president's position. The president can speak in his or her defense but cannot vote on the censure.

To censure the chair, a member presents the motion in the following fashion:

Member: Madam President, I am going to propose a motion to censure you, which I have a right to do. When a motion to censure the president is made, it is addressed to and entertained by the vice president. [The member turns to the vice president and presents it as a resolution.]

Mr. Vice President, I move the following resolution to censure:

"Whereas, The president has repeatedly denied members their right to make motions and debate; refused to entertain points of order and proper appeals; recognized only those who have upheld her views and denied the opposition the right to speak; and

Whereas, she has been obnoxious, rude, and arrogant; and

Whereas, such conduct is detrimental to the organization; now, therefore, be it

Resolved, that the president be censured.

This motion needs a second. The vice president places it before the assembly:

Vice President: It is moved and seconded to censure the president. Is there any discussion?

After discussion, the vice president takes a vote by ballot. If the affirmative has it, he or she states:

Vice President: There are 35 votes in the affirmative and 5 in the negative. The affirmative has it and the motion is carried.

The vice president then turns to the president and states:

Vice President: Madam Jones, you have been censured by the assembly for the reasons contained in the resolution. I now return control of the meeting to you.

If the president persists in the behavior, the next step is to remove him or her from office. Members must follow the bylaws for this procedure. If the bylaws contain a provision on how to remove someone from office, follow that procedure. If the bylaws state that someone is elected to office for _____ years or until their successor is elected, the members can then rescind the election. If the bylaws state "elected to office for _____ years or "elected to office for _____ years and until the successor is elected," the members must have a trial. The difference between "or" and "and" in this part of the bylaws is substantial.

Holding a Trial

Because a trial is a serious event for any organization and should rarely be used, there are specific procedures to follow to protect the rights of the accused:

- A trial is held in executive session.
- The accused has a right to due process - to be notified of the charges, given time to prepare a defense, and allowed the right to appear and defend himself or herself.

Several steps must happen before a trial can take place. The first step when members hear of misconduct by another member is to choose a committee to investigate the validity of the reports and to see if charges should be made. The members of this committee should be chosen for their integrity and good judgment. To establish such a committee requires that a resolution be made, seconded, discussed, and voted on. This resolution should avoid as much detail as possible to protect the parties, who may be innocent.

In the second step, the committee should quietly conduct its investigation and make a sincere effort to get the facts.

Any information collected is confidential. The committee should also talk with the accused to hear his or her side of the story. If the committee members find that the reports of misconduct are untrue, they should prepare a report and resolution for clearing the accused. If they find substantial evidence that the report of misconduct is true, the next step is to report the findings and prefer charges.

Next, the investigating committee prepares several resolutions. The first resolution includes setting a date and time for the trial meeting. It states that member X is to appear to show why he or she should not be expelled from the organization; it also states the specific charges. A second resolution establishes the trial committee and its members. The trial committee should have different members than the investigating committee.

If the members adopt the resolutions to have a trial, the secretary immediately sends by registered mail a letter notifying the accused of the time, date, and place of the trial, as well as the charges against him or her. (The letter should include a copy of the exact charges.) At the trial, the secretary should have on-hand a copy of the letter that was sent to the accused and a signed return receipt to prove that he or she received the letter.

The trial is a hearing. Members of the organization appointed to present the evidence against the accused are called managers. They should not be thought of as prosecuting attorneys; their intent should be to get at the truth and see that the outcome is just. The accused has a right to be represented by counsel and to speak and present witnesses in his or her own defense. The defense counsel may be an attorney but must be a member of the organization, unless the organization agrees by a vote to allow a nonmember to represent the accused.

At the beginning of the trial, the charges are read and the accused is asked how he or she pleads. If the accused answers "guilty," there is no reason to proceed with the trial. If he or she pleads not guilty, the members proceed with opening statements by the managers and then by the accused. Next, witnesses are presented by the managers and then by the accused. Rebuttal of witnesses by the managers and then by the accused is followed by closing arguments on both sides.

After closing arguments, the accused leaves the room and the assembly discusses and takes a vote. Each charge is read, debated, and voted on. If the accused is found guilty, the next business in order is determining the penalty. Usually the managers propose the penalty, and the members can debate and amend that motion. One member can demand that the vote be taken by ballot. Removing the person on trial from membership requires a two-thirds vote. After the penalty is decided, the accused is brought back into the assembly and told the results.

A trial is an extreme measure. The best policy is to talk to the member and see what can be resolved before the situation ever reaches this proceeding.

SOME FINAL THOUGHTS

President Lyndon B. Johnson's favorite expression when trying to get opposing groups together was "Come let us reason together." Consider this expression when confronted with disruptive members and overbearing officers. Often the best solutions come when members try to resolve problems first by talking with the member or officer in question. One wise parliamentarian said, "If you're having a problem with someone, take him out to lunch." This man believed that gently talking with someone in a friendly atmosphere could resolve the difficulty without embarrassment to the person or the organization.

This method certainly isn't new. Jesus told his followers that when they had problems with their fellow church members, one member should go and talk to the troublemaker. If the troublemaker didn't change his ways, then two members should go and talk to that person. If there still wasn't a change, the matter should go before the entire church body to solve.

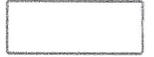
Keep in mind that members and officers make mistakes because of ignorance, lack of training, or miscommunications.

Censuring a person or using other disciplinary procedures may not solve the problem or may even make matters worse. By talking with the member or officer first, you may gain a friend and a good member.

"Come let us reason together" should be a motto for solving all organizational problems. This idea even works well in the middle of a meeting when tempers are running high. In this case, the chair can recess a meeting to let members cool down and to take the opportunity to speak with the disruptive members.

Westside Toastmasters is located in Los Angeles and Santa Monica, California





Ask AASB: What does it mean to censure a board member?

When would a board take such action?

Here is some general information regarding what boards can do when it comes time to reprimand or “censure” a board member. First, before you take any such action, which is usually considered a drastic measure, we highly recommend that you discuss this with your legal counsel and that you thoroughly review your board bylaws and policies. It is also recommended that you try to deal with the issue directly and see if “censure” can be avoided.

The board, even through censure, cannot limit the individual board member’s ability to carry out their duties as a publicly elected official. Therefore, “censure” is a very public reprimand which should specifically address the offenses concerning any violations of federal, state or local laws and regulations as well as board policies and bylaws including board conduct and ethics and/or the violation of board standards if your board has adopted those.

Censure can only take place through the action of the board voting to endorse a resolution concerning the matter. Again, we strongly recommend checking with you legal council to make sure of your authority and protocol if you have one.

For more answers to frequently asked questions, [visit the ASK AASB page.](#)

Got a question? Email [Timi Tullis](#) or [Lon Garrison.](#)

###