

Draft Language for Review: City Council Protocols and Procedures Handbook

Section 8.2 Enforcement

8.2 Enforcement

- (a) Purpose: This policy provides the mechanism by which the City Council may adopt a resolution of censure or take other disciplinary action expressing the Council's disapproval of the conduct of a Council member if the Council finds, subject to the procedures set forth herein, that a Council member's conduct violates federal, state or local law, this Handbook, or any other document adopted by the Council.
- (b) Should two or more Council members believe that actions by a Council member are inconsistent with federal, state or local law, this Handbook, or any other document adopted by the Council, those Council members may use a Colleagues Memo to schedule public discussion of the matter at an upcoming City Council meeting. A Colleagues Memo may initiate a discussion of Councilmember conduct and Council expectations, may propose that Council protocols be clarified or a new protocol be included in this Handbook, or may propose initiation of disciplinary action. Proposed disciplinary actions may include:
 - (1) Admonition. An admonition may be directed to any or all members of the City Council, reminding them that a particular type of behavior is in violation of law or City policy, and that, if it occurs or is found to have occurred, could make a member subject to sanction or censure. An admonition may be issued in response to a particular alleged action or actions, although it would not necessarily have to be triggered by such allegations. An admonition may be issued by the City Council prior to any findings of fact regarding allegations, and because it is a warning or reminder, would not necessarily require an investigation or separate hearings to determine whether the allegation is true.
 - (2) Direction to Correct. The direction should be given to the subject Councilmember to correct the result of the particular behavior that violated law or City policy.
 - (3) Informal Reprimand. The reprimand should be directed to the subject member of the City Council based on a particular action (or set of actions) that is determined to be in violation of law or City policy, but is considered by the Council to be not sufficiently serious to require formal censure.
 - (4) Resolution of Censure. A resolution of censure may include the

imposition of sanctions against the Councilmember as a majority of the City Council deems appropriate, as allowed by law. Such sanctions may include removal from a committee and restrictions on City-related travel privileges.

- (c) If a Colleagues Memo proposes censure or other discipline of a Council member, the Memo must contain the specific charges on which the proposed discipline is based. Completed Council Colleagues Memos shall be provided to the City Clerk's staff by noon on the Thursday 11 days prior to the Council meeting that the memo is intended to be agendized, to provide time for the City Clerk to process for the Council packet. The City Clerk will deliver a copy of the Colleagues Memo to the Councilmember who is the subject of the memo no later than the Thursday 11 days prior to the meeting at which the memo is agendized.
- (d) The Council member who is the subject of the proposed disciplinary action may address the matter in writing or at the Council meeting or both. If the Council member submits written materials, those must be published in a supplemental packet, no later than 72 hours before the meeting.
- (e) During the Council meeting at which the Colleagues Memo is agendized, the Council will decide, by majority vote, whether:
 - (1) A formal disciplinary hearing should be agendized for a future City Council meeting;
 - (2) Further investigation of the charges is required;
 - (3) An admonition should be issued;
 - (4) Council protocol should be clarified or a new protocol should be introduced;
or
 - (5) No further action is necessary.
- (f) If the Council determines that further investigation is required, the Mayor (or the Vice Mayor if the mayor is the subject of the proposed disciplinary action) may designate an ad hoc committee to conduct the investigation. The Council may select an independent investigator to assist in conducting the investigation. The independent investigator would be managed by the committee or individual designated by Council to conduct the investigation. The Committee shall conduct an investigation and arrive at a recommendation regarding the request and report its conclusions, findings and a summary of its proceedings to the Council at its earliest opportunity.
- (g) Council Consideration: Upon receipt of the report of the ad hoc Committee, the City Clerk shall place the matter on the Council's next agenda in order for the Council to receive the Committee report and determine whether a censure

hearing is warranted. If the Council decides to set the matter for censure hearing, it shall schedule the hearing no sooner than three weeks after its determination to hear the matter. The Council shall not schedule the matter during any previously scheduled excused absence of the subject Councilmember.

- (1) The Mayor (or the Vice Mayor if the Mayor is the subject of the proposed disciplinary action) will designate a Council member responsible for preparing and submitting to the City Clerk a censure resolution and supporting materials by noon on the Thursday 11 days prior to the Council meeting that the hearing is intended to be agendized, to provide time for the City Clerk to process for the Council packet. The Council member will submit the draft resolution and supporting materials to the City Attorney's Office no later than the Thursday 18 days before the hearing, to give the City Attorney's Office adequate time to review the materials before publication. The City Clerk shall deliver written notice of the hearing, along with the report, proposed resolution, and supporting materials, to the Councilmember subject to the censure the Thursday 11 days prior to the Council meeting for which the hearing is agendized.
 - (2) The Council member who is the subject of the proposed disciplinary action may address the matter in writing or at the hearing or both. If the Council member submits written materials, those must be published in a supplemental packet no later than 72 hours before the hearing.
 - (3) At the disciplinary hearing, the Councilmember who is the subject of the request for disciplinary action shall have the opportunity to rebut the allegations in the censure resolution and to question any known accusers if they agree to be questioned. The member subject to the charges may be represented and may have the representative speak or question on their behalf. The questioning or cross-questioning of witness may be reasonably limited by the Mayor or Vice Mayor if the Mayor is the subject of the proposed disciplinary action. Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration. However, the rules of evidence and judicial procedure applicable in courts of law shall not be apply to this hearing, and the procedures shall be generally informal.
- (h) Disciplinary Action. If, at the close of the hearing, a majority of the City Council finds that the subject member's conduct violates federal, state or local law, this Handbook, or any other document adopted by the Council, the Council may take one or more of the following measures:
- (1) Admonition. An admonition may be directed to any or all members of the City Council, reminding them that a particular type of behavior is in

violation of law or City policy.

- (2) Direction to Correct. The direction should be given to the subject Councilmember to correct the result of the particular behavior that violated law or City policy.
- (3) Informal Reprimand. The reprimand should be directed to the subject member of the City Council based on a particular action (or set of actions) that is determined to be in violation of law or City policy, but is considered by the Council to be not sufficiently serious to require formal censure.
- (4) Resolution of Censure. The City Council may, by a majority vote, adopt a resolution of censure based on clear and convincing facts supporting the allegations of misconduct giving rise to the censure. A resolution of censure may include the imposition of sanctions against the Councilmember as a majority of the City Council deems appropriate, as allowed by law. Such sanctions may include removal from a committee and restrictions on City-related travel privileges.