

**POLICY BCE** **Board of Education**  
**Las Cruces Public Schools**

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**Related Entries:** BCA, BCB, BCD

**Responsible Office:** Board of Education

**SCHOOL BOARD CENSURE**

**I. PURPOSE**

To provide an avenue in which the Board can self-regulate its members whose actions are determined to be a violation of the policies set forth by the Board of Education.

**II. BACKGROUND**

A. The Board of Education is committed to upholding the Policies of the Las Cruces Public Schools. Each member is equally committed to ensuring their actions as individual members do not violate any tenet of such Policies. The Board of Education has in place Policies that regulate the Board actions and those of individual Board members, whether based upon state statute or upon standards self-imposed as the governing body of the Las Cruces Public Schools.

B. Board policies which relate to possible Board censure include but are not limited to Code of Ethics (BCA), Conflict of Interest (BCB), and Confidential Information (BCD). Board members shall strive to uphold all principles outlined in these policies, as well as the Board's other policies, which may apply to individual Board members.

**III. POSITION**

**A. Complaints of a Violation of Board Policy**

This Policy shall not be applied if the Complaint of a Violation of Board Policy is lodged by a member of the public against more than two (2) Board members or if Complaint of a Violation of Board Policy is lodged by a Board Member against more than one (1) Board member. In all other situations, when a claim of an alleged violation of Board policy against a Board member is brought to the Board in writing and is signed by another Board member or by a member of the public, and the Board member against whom the alleged violation is made does not concur that violation in policy in fact exists, the following Board procedures will be followed:

1. Upon a majority vote of the remaining Board members, the Board may:
  - a. take official action to cure the alleged violation when allowed by law or Board policy. Such as in the case of a conflict of interest, the Board may formally take action to waive the conflict as provided by law, or
  - b. agree to address the alleged violation.

2. If the Board determines that the allegation should be addressed, the Board will hold an informal hearing on the alleged violation, giving both the Board member and the individual/group/Board Member bringing the allegation an opportunity to be heard. The Board shall meet to conduct the informal hearing in no less than five (5) nor more than fifteen (15) working days from the date that the Board voted to address the alleged violation. The meeting will be conducted informally in accordance with the New Mexico Open Meetings Act.

The hearing shall be informal and presided over by the highest office holding member of the Board not implicated in the alleged violation. The hearing can be conducted with the assistance of the Board's legal counsel acting as a hearing official. No record shall be made of the hearing except for the Board's minutes as would be kept for an open meeting of the Board.

At the hearing, the Board member who is in question and the individual bringing the alleged violation charge may each be accompanied by a person of their choice. If the representative is legal counsel, the costs of such representation shall be borne by the individuals, and under no circumstances shall the Board's Legal Counsel represent any of the individuals. The individuals shall provide sufficient prior written notification to the Board if they intend to have legal representation at the scheduled hearing and if they intend to present evidence at the hearing.

3. At the conclusion of the informal hearing, the remaining Board members will determine by majority vote to take one of the following actions:
  - a. Issue a public finding that the alleged violation is not supported by the evidence and is therefore dismissed.
  - b. Issue a public finding that there has been a violation of policy supported by the evidence and that the member should disqualify him or herself from

voting or otherwise participating in the Board deliberations or decision related to that issue in the future.

- c. Issue a public finding that there has been a violation of policy supported by the evidence and, in addition to requesting that the Board member disqualify him or herself from voting or otherwise participating in the Board deliberations or decision, the Board member should be formally censured or subjected to such other action as may be allowed by law.

## **B. Censure**

At the conclusion of the informal hearing, and if the remaining Board members determined by majority vote to take action of censure, one of the following actions will be selected:

1. **Admonition:** Give an oral statement of warning during an open board meeting regarding the actual or perceived violation of one or more of the Board's policies. The specific actions or conduct constituting the violation or the perceived violation should be cited during the oral statement.
2. **Censure:** Provide a written and oral reprimand for violation of one or more of the Board policies. The reprimand would be given through a Resolution of Censure with respect to any board member who violates the provisions of the Board's policy (ies). The censure must be discussed during an open meeting of the Board and must specify the actions or conduct constituting the violation.
  - a. In order to censure, the Resolution must be approved by a majority of the remaining Board members.
  - b. Nothing in this Policy shall require nor prevent the Board from issuing an admonition as a warning to a Board member prior to the issuance of censure.

## **IV. REVIEW**

This policy shall be reviewed on an ongoing basis in accordance with the Board of Education policy review process.

*Bonnie L. Votaw*

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*Board of Education, President*

Dec. 16, 2008

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*Date Approved*

**History:** New Policy, Draft-Cuddy; approved 12.16.08

**Legal Reference:** N.M. Stat. Ann. § 10-15-1 thru -4; 22-5-4; 22-5-5; 22-21-1; 22-21-2 (1978)