

June 17, 2021

21-206

BP 2356 GOVERNANCE STANDARD AND CENSURE
POLICY (SECOND READING)

PREPARED BY: Jeannie Moton, Executive Coordinator, Board of Directors

APPROVED BY: Mark Mitsui, President

REPORT: The PCC Board of Directors ("Board") finds that its primary responsibility is to act in the best interests of every student who is part of the College community. The Board expects its members to work with each other and the College president to ensure that the College provides high quality education to each student. To maximize Board effectiveness and public confidence in College governance, Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.

Censure Policy and Procedure

It is the policy of the Board that all of its members shall abide by BP 2715 "Code of Ethics/Standards of Practice" and other adopted Board Policies, faithfully carry out the powers and duties set forth in Oregon Revised Statutes Chapter 341, comply with state and federal laws pertaining to public education and community colleges in Oregon, and obey criminal laws on Federal, state, and local levels of government. Violation of such laws and policies can undermine the reputation of the College and the effectiveness of the Board as a whole and could expose the college to liability and/or legal penalties, fines, or costs. Such conduct is deemed to be a dereliction of duty. It is intended that the sanctions listed in this Policy be imposed and enforced for the protection of the College community and for the maintenance of the reputation and integrity of the College.

When Appropriate

Censure is a formal resolution of the Board officially reprimanding one of its members. Censure is an appropriate punitive measure when the violation of law or policy is deemed by the Board to be a serious offense and in the Board's judgement, substantially undermines the reputation of the college and the Board, the effectiveness of the Board, and/or exposes the college to liability, penalties, or other costs. The Board shall not consider censure of any of its members for the violation of any law while criminal charges are pending. However, when the

criminal proceedings are final, the Board is not bound by the conclusions of the court and may hold a censure hearing.

When Prohibited

Members of the College community enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section 8 of the Oregon Constitution. This Policy is intended to protect the reputation and integrity of the College, not to regulate or discourage protected speech. No provision of this Policy shall be interpreted in a manner that results in a violation of any person's rights of free speech and association or other fundamental rights.

This Policy shall not apply to the student representative.

Censure Procedure

1. A request for a censure hearing must be submitted to the president in writing by three members of the Board. The request must contain the specific charge(s) on which the proposed censure is based and any written material(s) which are the basis for the charge(s). If the request includes conduct that could constitute unlawful discrimination, sexual harassment, sexual misconduct a Title IX violation, or a potential crime, the president shall consult with legal counsel and the College's Title IX Officer, as appropriate, to determine whether there is a more appropriate or legally required alternative procedure for addressing the request. If the request involves a potential violation of the Oregon Government Ethics Law (ORS Chapter 244), the Board may refer the request to the Oregon Government Ethics Commission for investigation under the statute.
2. A copy of the request for censure and the charge(s) shall be sent by the president to all Board members at least five business days prior to the Board meeting at which it will be considered. The request shall be considered in executive session under ORS 192.660(2)(b), unless the Board member subject to the request asks that it be considered in open session.
3. The Board shall determine that either:
 - a. Further investigation of the charges is required;
 - b. The matter is to be set for public hearing; or
 - c. No action is required.
4. Further investigation, if required, shall be governed by an

ad hoc Committee appointed by the Board Chair. If the Board Chair is the subject of the request, the Board Vice-Chair shall form the Committee. The Committee may retain the services of an independent third-party investigator if the Committee deems it necessary or beneficial to do so.

5. If the matter is set for public hearing, it must be set no sooner than the next regularly scheduled Board meeting following the Board's determination under Section 3 of these procedures in order to give the member subject to the request adequate time to respond to the request.
6. At the public hearing, the Board member subject to the request shall be given the opportunity to respond to the request and to provide the Board information and material(s) relevant to the charge(s). The proponents of the request may also respond to the presentation and members of the Board may ask questions pertaining to the matter at hand. The member subject to the charge(s) may be represented at his or her own personal expense and may have the representative speak on his or her behalf.
7. A decision to censure requires the adoption of a resolution making findings with regard to the specific charge(s), based on substantial evidence, and must be approved by not less than four affirmative votes of the Board.

Other Sanctions

In addition to or in lieu of censure, the Board may remove a Board member who fails to comply with the Governance and Conduct standards from a Board committee or a Board office or may informally reprimand a Board member.

RECOMMENDATION: The Board approve BP 2356 for a second reading as presented.