

RESOLUTION NO. 2024-30**RESOLUTION OF THE BOARD OF DIRECTORS OF THE RODEO-HERCULES FIRE PROTECTION DISTRICT BOARD OF DIRECTORS TO APPROVE THE BOARD OF DIRECTORS INTERNAL DISCIPLINE POLICY, ADDING SECTION 1.39 OF THE BOARD OF DIRECTORS POLICY**

WHEREAS, the Rodeo Hercules Fire Protection District (“District”) currently lacks a discipline policy for members of the Board of Directors; and

WHEREAS, the Board of Directors Policy lacks an enforcement mechanism for violations; and

WHEREAS, a policy will allow for discipline with violations and opportunities for the offender to correct the offending behavior; and

WHEREAS, the Board of Directors of the Rodeo Hercules Fire Protection District desires to approve a discipline policy to establish procedures for discipline of members of the Board of Directors.

NOW, THEREFORE, the Rodeo Hercules Fire Protection District Board of Directors does **RESOLVE** as follows:

SECTION 1. Recitals. The above recitals are true and correct, and hereby made a part of this Resolution by this reference.

SECTION 2. Discipline Policy. The Internal Discipline Policy, attached as Exhibit “A” to this Resolution and incorporated herein, is approved and adopted by the Board of Directors of the District. It shall be incorporated into the Board of Directors Policy as Section 1.39.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Resolution, or its application to any other person or circumstance. The Board of Directors of the District hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 4. Effective Date. This Resolution shall take effect immediately. The foregoing Resolution was duly adopted at a regular meeting of the Rodeo-Hercules Fire Protection District Board of Directors held on the 13th day of November 2024, by the following vote of the Board:

AYES:
NOES:
ABSENT:
ABSTAIN:

Delano Doss, Board Chair

ATTEST:

Kimberly Corcoran, Clerk of the Board

EXHIBIT A

BOARD OF DIRECTORS POLICY SECTION 1.39 INTERNAL DISCIPLINE

§ 1.39.100 PREAMBLE.

It is the intent of the Board of Directors of the District in enacting this policy to achieve fair, ethical, and accountable local government for the District; to assure that individuals and interest groups in our society have a fair and equal opportunity to participate in government; to embrace clear and unequivocal standards of disclosure and transparency in government; to help reinforce public trust in governmental institutions; and to assure that this policy is vigorously enforced to achieve fair, ethical, and accountable local government for the District. The people of the District expect their public officials to comply with both the letter and the spirit of the laws of the United States of America, the State of California, and established policies of the District affecting the operations of local government. All persons covered by this policy shall aspire to meet the highest ethical standards in the conduct of their responsibility as a public official of the District.

§ 1.39.105 APPLICABILITY AND PURPOSE.

This Discipline Policy applies to the Board of Directors of the Rodeo Hercules Fire Protection District (“District”) and provides directives for efficient and consistent administration of complaints against individual Board of Directors members by or from members of the public, third party consultants, District staff, and appointed District officials, and other Board members (together, “Complainants”). It also provides for disciplinary actions for a violation of federal, state, or local law, or any by-law, standing order, or policy of the Board of Directors, including but not limited to the Board of Directors Policy. This policy does not apply to complaints against District employees or third-party consultants acting in a District Department Head or managerial capacity, because such complaints are already addressed by State law, or the District’s employment policies, bulletins, or by contract, or District Departmental policies, or separate policies promulgated by the Fire Chief. This policy must be construed and executed in coordination, and not in conflict with, all applicable State and Federal laws, and all District policies, including all whistleblower statutes, complainant and victim privacy and confidentiality statutes, and the California Public Records Act. Investigations conducted under this policy shall not commence before the completion of, or interfere with, any investigations related to or required for criminal prosecutions, administrative enforcement, or any Government Code claims, litigation, or other civil actions.

§ 1.39.110 PROCEDURE.

- (a) **Public’s Right to Submit Complaint.** Any member of the public who would like to submit facts or allegations pertaining to an alleged violation by a Board member of federal, state, or local law, or District policy, including but not limited to the Board of Directors Policies, shall submit such facts or allegations in a signed letter, with a return receipt, addressed to the District Board of Directors, 1680 Refugio Valley Road, Hercules CA 94547. The statute of limitations for the public’s right to submit a complaint under this policy shall be six months from the date of the alleged violation.

- (b) **Consultation with District Counsel.** A Board member seeking to submit a request for discipline or to make a statement regarding specific complaints or allegations is advised to meet with the District's Counsel before doing so.
- (c) **Request for Discipline.** A request for discipline or censure may be submitted by any Board member in writing to the Fire Chief. Any Board member's request for discipline or censure is a matter of public record subject to the California Public Records Act's requirements, including all applicable exemptions. A request for discipline or censure must be submitted within six months of the date of the alleged violation. A Board member seeking to provide information to the Board concerning the specific conduct for which discipline is requested must submit written information to the Fire Chief for distribution to the whole Board. The request must contain the specific charges on which the proposed discipline or censure is based, and sufficiently specific facts and allegations as to the charges. The request may include or append a public complaint referenced in subsection (a) of Section 1.39.110.
- (d) **Board Consideration.** Upon receipt of a request for discipline or censure, the Fire Chief, or District Administrative Services Officer shall forward the request to the Chair of the Board of Directors. If the Chair is the subject of the complaint, then it shall be forwarded to the Vice-Chair.

The Chair (or Vice-Chair, depending on if the Chair is the subject of the request for discipline or censure), shall appoint an ad hoc committee to conduct a preliminary review and recommendation on the request for discipline or censure to the full Board for the next regularly scheduled meeting.

1. The District Administrative Services Officer shall deliver a copy of the request for discipline or censure and the charges or complaint to each member of the Board of Directors at least 72 hours prior to the ad hoc committee meeting providing preliminary consideration of the request.
2. Notice of any meeting providing preliminary review of the request shall be provided to the public no less than 72 hours before the meeting. Meetings of the Ad Hoc Committee formed for this purpose shall be subject to the Brown Act and shall be open and public. The public shall be provided with an opportunity to comment on the subject matter of the meeting.
3. The Ad Hoc Committee shall consider the request together with any evidence or testimony submitted by the Board member making the request and the Board member subject to the request and shall determine whether:
 - i. The Board of Directors should authorize further investigation of the charges; or
 - ii. The charges should be brought back for consideration by the full Board for discipline or censure; or

- iii. No action is required.
- 4. If the Ad Hoc Committee determines that no further action is required regarding the request, or that the charges should be forwarded to a future meeting for discipline, the Ad Hoc Committee shall make such a report at the earliest opportunity but no later than the time provided in subsection 6. below. The report may be oral or in writing.
- 5. If the Board determines that further investigation is required, the Board shall authorize an investigation. If the Board of Directors authorizes an investigation, it would be overseen by the Fire Chief for the Board. The Board may coordinate with the Fire Chief on the retention of an independent investigator to conduct the investigation.
- 6. If, within 45 days of the receipt of the complaint, the Ad Hoc Committee does not make a recommendation that an investigation commence, or that discipline or a censure hearing should be scheduled, or that no further action should be taken, then the matter shall automatically be set on the Board's next regularly scheduled meeting for consideration.

§ 1.39.115 BOARD CONSIDERATION OF DISCIPLINE SHORT OF CENSURE.

Upon receipt of the Ad Hoc Committee's report, or at the expiration of the time for the Ad Hoc Committee to report back to the full Board, the District Administrative Services Officer shall place the matter on a Board regular or special meeting agenda for the Board to receive the Ad Hoc Committee's report on no further action, or determine whether further investigation is required, or whether discipline short of censure is warranted, or to move towards censure. Discipline short of censure may be one or a combination of the items in subsections (a) through (d) below. This discussion is a matter of public record and must take place during an open, noticed, and public meeting of the Board of Directors.

- (a) **Consultation with Chair.** At the direction of the Board of Directors, an informal consultation with the Chair may be required of the member who is the subject of the request. If the subject of the request is the Chair, the consultation shall be with the Vice-Chair.
- (b) **Letter of Reprimand from the Board of Directors.** At the direction of the Board of Directors, the Chair, or Vice-Chair if the Chair is the subject of the discipline, shall coordinate with the Fire Chief and/or District Counsel on issuing a letter of reprimand to the subject Board member. The reprimand shall be based on a particular action (or set of actions) that is determined to be in violation of law or District policy but is considered by the Board to be not sufficiently serious to require formal censure. The letter of reprimand may include recommendations for corrective actions or behaviors.
- (c) **Statement of Disapproval.** By a resolution of the Board of Directors, the Board may adopt a statement expressing disapproval or displeasure with the conduct of a Board

member including recommendations for corrective action or behavior.

- (d) **Admonition.** By a resolution of the Board of Directors, an admonition may be issued, reminding the member or the whole Board that a particular type of behavior or action may become or is a violation of law or District policy.

§ 1.39.120 CENSURE PROCEDURE.

If the Board decides to set the matter for censure hearing, it shall schedule the hearing no sooner than two weeks after its determination to hear the matter. The Board shall not schedule the matter during any previously scheduled excused absence of the subject Board member. A Board member who is the subject of an alleged violation shall be ineligible to vote on any matter related to a disciplinary action including, but not limited to, agendaing the hearing and adopting a resolution of censure. Censure hearings may take place at regular or special Board of Directors meetings and are open to the public.

- (a) **Written Notice.** Written notice of the hearing shall be delivered in person to the Board member subject to the censure hearing at least ten (10) days in advance of the scheduled hearing.
- (b) **Hearing procedures.** At the censure hearing, the Board member who is the subject of the request for censure shall be given the opportunity to make an opening and a closing statement, to call witnesses on his or her behalf and to question his or her accusers. The subject Board member may be represented by a person or persons of his or her choice and may have that representative speak or question witnesses on his or her behalf. The questioning or cross-questioning of witnesses may be reasonably limited by the Chair, or Vice Chair if the Chair is the subject of the censure. 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 apply to this hearing, and the procedures shall be generally informal.

§ 1.39.125 CENSURE ACTION.

If, at the close of the censure hearing, a majority of the Board of Directors finds that the subject member's conduct violates federal, state or local law, or any by-law, standing order, or policy of the Board of Directors, the Board may take one or more of the following measures in addition to or in combination with the actions in subsections (a) through (d) of Section 1.39.115:

- (a) **Direction to Correct.** The direction shall be given to the subject Board member to correct the result of the behavior that violated law or District policy.
- (b) **Direction to Attend Training.** Direction shall be given to the subject Board member to attend training related to the behavior that violated law or District policy. The Board could also find that Board privileges shall be withheld or unavailable until evidence or independent certification is provided by the subject Board member to the Board of

Directors that the training was completed.

Resolution of Censure. The Board of Directors may 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 Board member as the Board of Directors deems appropriate. Such sanctions may include removal from internal standing or ad hoc committees, removal from an external committee to which the member had been appointed, and/or restrictions on District-related travel privileges.