

CITY COUNCIL POLICY: CENSURE POLICY

Adopted 2018

1. Purpose

The City of Lake Forest is committed to the ethical practice of government in service of the residents and community. This commitment is reflected in the City's Ethics Policy, which every elected and appointed City representative acknowledges and agrees to abide by. While the Ethics Policy shows a voluntary commitment to abide by the highest ethical standards, from time to time situations may arise that require affirmative action by the City Council making clear the City's position on certain ethical issues. This Censure Policy includes the standards and procedures for the City Council to take a clear stand on certain ethical issues.

2. Censure Process

If a member of the City Council is found guilty or liable by any court of law, enforcement agency, administrative hearing officer, or public agency investigation, of violating a Law or Regulation, as that term is defined in this policy, he or she may also be subject to potential censure pursuant to the procedures of this Censure Policy.

a. *Law or Regulation*

The following constitute the Laws and Regulations which may give rise to a request for censure:

- California Political Reform Act of 1974 (Gov. Code § 81000 *et seq.*)
- Regulations of the Fair Political Practices Commission (2 CCR § 18109 *et seq.*)
- Statutes concerning conflicts in government contracts (Gov. Code § 1090 *et seq.*)
- Statutes concerning political activity of city officers (Gov. Code § 3201 *et seq.*)
- Statutes concerning unlawful use of government resources (Gov. Code § 8314)
- Title 7 of the Civil Rights Act or the Fair Employment and Housing Act (finding of harassment or abuse of a City employee by an independent investigator)

b. *Complaint and Hearing Procedures*

Step 1. Within 90 calendar days of the final determination of violation of a Law or Regulation, complainant must file a request for censure online or in person with the City Clerk's Office, 100 Civic Center Drive, Lake Forest, CA 92630. Request for Censure forms are available online at www.lakeforestca.gov and at the City's Clerk's office.

Step 2. Within 10 business days after receipt of the complaint, the City Clerk provides a copy of the complaint to all City Council Members and to the Council Member against whom the complaint is made.

Step 3. Within 10 business days after receiving a copy of the complaint, the Council Member may file a written reply to the complaint, which may include copies of documents, photographs, recordings, or other tangible materials that rebut the complaint.

Step 4. The City shall hire a hearing officer and send to the hearing officer a copy of the complaint and any response to the complaint from the Council Member against whom the complaint is made. The hearing officer shall be selected from the panel of hearing officers hired by the City. That panel shall consist of individuals with specialized training in the field of ethics, which may include law professor specializing in ethics. Hearing officers shall be assigned to matters on a rotating basis to assure fair and impartial review and analysis of requests for censure.

Step 5. Within 15 business days of receiving copies of the complaint and response, the hearing officer shall provide a written recommendation to the City Council regarding whether the public official who is the subject of the complaint should be censured. The recommendation shall include, without limitation, a summary of the complaint and the public official's response, and the reasons why the hearing officer supports his or her recommendation.

Step 6. Within 30 business days of receiving the hearing officer's recommendation, or as soon as practicable, the City Clerk shall set the matter for hearing before the City Council and shall notify the complainant and Council Member against whom the complaint is filed of the date, time, and location of the hearing. At the time that the City Clerk sets the matter for hearing, the City Council shall be provided with the complaint, the Council Member's reply, and the hearing officer's recommendation.

Step 7. The City Council shall hold a public hearing to determine whether to censure the Council Member. At the beginning of the City Council hearing, each Council Member shall publicly disclose if they have had *ex parte* communications with either party or have discussed

the complaint with any third party. The complainant shall first provide the City Council with a statement regarding the nature of the complaint. Such statement shall not exceed ten minutes and shall not be interrupted by questions from the Council. The Council Member shall then be permitted to provide an opening statement, including his or her response to the complaint. Such statement shall not exceed ten minutes and shall not be interrupted by questions from the Council. At any other time during the hearing, City Council Members may ask questions of the parties. The City Council shall also receive public comment on the item. The complainant shall have three minutes to make closing remarks, then the Council Member shall have three minutes to make closing remarks.

Step 8. After deliberation, the City Council votes on whether to censure the Council Member. A censure *may* include removal from Council appointment(s), but should not include elimination of statutory rights or constitutional rights, including Council salary.

Step 9. In the event the City Council votes to censure the Council Member, the City Attorney shall draft a resolution which shall include the reasons for the City Council's decision, the facts relied upon, and any findings supporting the decision. The resolution shall be placed on the next City Council agenda immediately following the date of the censure hearing.

Step 10. Within five business days of the City Council adopting the censure resolution, the City Clerk notifies the parties in writing of the City Council's decision.



City of Lake Forest, California Request for Censure Form

Name of Person Submitting Form:

Street Number and Name:

City:

State:

Zip Code:

Phone Number:

Email Address:

Please list the name of the Councilmember proposed to be censured:

Please describe the specific reasons on which the proposed censure is based.

If a member of the City of Lake Forest City Council is found guilty or liable by any court of law, enforcement agency, administrative hearing officer, or public agency investigation of violating an ethics law or regulation, he or she may also be subject to potential censure by the City Council.

This form must be submitted to the City Clerk within 90 days of a Councilmember's final determination of guilt or liability. Upon submission, the City Clerk will initiate the censure process pursuant to the City's Censure Policy. The censure determination will be informed by the initial finding of guilt or liability and by the recommendation of an independent hearing officer. The City Council retains ultimate discretion for the censure determination.