



Memorandum

**TO: BLUE RIBBON TASK FORCE
ON ETHICS**

FROM: Peter Jensen

**SUBJECT: SUMMARY OF TREATMENT
OF POINTS RAISED BY MEMO
FROM COUNCILMEMBER CORTESE
IN DRAFT COUNCIL CONDUCT POLICY**

DATE: November 15, 2004

At its meeting of November 10, the Task Force directed staff to produce a summary of how the draft Council Conduct Policy addresses the points raised in Councilmember Cortese's memo to the Task Force of November 10. The table below provides this information.

Issue raised by Memo	Treatment in Draft Policy
Censure and admonition are both forms of reprimand, so a distinct punishment called reprimand could be confusing. The midlevel punishment could be called a reprove.	The midlevel action is proposed to be called a sanction.
The course of punishment is decided in advance of the investigation, which raises a number of problems.	The draft policy suggests that an investigation be conducted prior to going forward with an admonition, sanction, or censure action.
Proceeding (in the case of a reprimand) on the written record is not efficient – the Council should hear both sides, and both sides should have an opportunity for due process, including confronting and cross examining witnesses.	The draft policy provides due process at the level of censure, but allows the Council to proceed based on the written record in the case of admonition or sanction, because neither of those actions constitutes punishment.
Let a complaint be initiated, let the process work through and then let the Council decide what level of punishment best fits the circumstances.	The draft policy contemplates this approach by encouraging an investigation prior to initiating any of the three processes.
The existing censure policy is restrictive because it requires Council to wait on an investigation while criminal charges are pending.	The draft policy allows an investigation to go forward whether or not criminal charges are pending, but suggests some considerations for Council in deciding to proceed.

Peter Jensen
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ITEM #VI.

