



# COUNTY OF HUMBOLDT

For the meeting of: 4/4/2022

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File #: 22-390

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**To:** Board of Supervisors

**From:** County Administrative Office

**Agenda Section:** Departmental

**SUBJECT:**

Amendment to the Board of Supervisors Code of Conduct and Ethics Rules of the Board of Supervisors and Consideration of a Complaint Received Against Supervisor Bushnell

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Consideration of a complaint received against Supervisor Bushnell; and
2. Approve an amendment to the Board of Supervisors Code of Conduct and Ethics Rules of the Board of Supervisors;
3. Adopt the Amended 2021 Code of Conduct and Ethics and Rules of the Board of Supervisors;
4. Repeal Resolution No. 21-78 adopted on July 20, 2021;
5. Adopt Resolution No. \_\_\_\_\_ upon adoption of the Amended 2021 Code of Conduct and Ethics and Rules of the Board of Supervisors; and
6. Provide direction as needed.

**SOURCE OF FUNDING:**

General Fund

**DISCUSSION:**

On July 20, 2021, your Board approved through resolution the Board of Supervisors Code of Conduct and Ethics Rules of the Board of Supervisors. This policy states “If County officials or staff become aware of any improper behavior by a Board member, they are encouraged to report such behavior to the County Administrative Officer and Director of Human Resources. An allegation of violation of this Code of Conduct and Ethics by a Board member will be agendaized for open session consideration, which will include notifying the Board member subject to the allegation(s) of the allegation(s) and providing the Board member an opportunity to present information. If directed by a majority vote of the Board members not subject to the allegation(s), Director of Human Resources will conduct an impartial investigation (through a third party). Following completion of the investigation process resulting in sustained allegations against a Board member, Board action is limited to public censure, and such action shall require the affirmative vote of at least two-thirds of the Board members present and voting.”

On Dec. 30, 2021, the County Administrative Officer (CAO) and the Interim Human Resources (HR) Director received a formal complaint regarding Supervisor Bushnell. This complaint detailed interactions surrounding a meeting related to a constituent's permit evaluation and potential rejection of the same. Attached is a redacted version of said complaint and a timeline of events.

On Jan. 7, 2022, the CAO and the Interim HR Director met with the complainant to discuss the interactions between the complainant and Supervisor Bushnell and potential remediation. The complainant cited processes memorialized in the Code of Conduct, however agreed to a meeting with Supervisor Bushnell prior to escalation of the matter.

In response to this complaint, Supervisor Bushnell participated in an Effective Communication, and Board Roles and Responsibilities training on Jan. 12, 2022. This training, facilitated by Robert Bendorf of Municipal Resource Group, was a one-on-one session spanning approximately 7 hours with the intention to improve on communication strategies and effectiveness as a Board member. The CAO also participated to discuss communication options for operational issues encountered by Board members. In addition, Mr. Bendorf has remained available to provide additional guidance as needed.

On Jan. 24, 2022, the CAO, Supervisor Bushnell, the complainant, the employee's union representative and the employee's department head met to discuss the interaction. The meeting was viewed by all as productive and focused on problem solving and improved communications. Following this meeting, the CAO met with the complainant and the union representative to discuss next steps. All parties, including the complainant, agreed that the policy as written was flawed and that the policy should be revised to follow a path similar to that which has been followed for other employees and elected officials. The CAO and union representative held a subsequent meeting and agreed that the complainant and Supervisor Bushnell had participated in effective conflict resolution and that no further action was needed, other than to return with amendments to the Code of Conduct. Those amendments are before your Board today for consideration.

It should be noted that the process as stated in the Code of Conduct presents unique challenges related to maintaining complainant confidentiality, which must be protected. Discussing a complaint in open session prior to conducting fact-finding and interviewing potential witnesses, in combination with the timing of agendaizing the allegation, presents an unwarranted risk to identifying the complainant and also presents a risk to deter others who may wish to submit future complaints. Pursuing an investigation or other methods of conflict resolution more securely protects employees and their rights to object to behavior of Board members.

The attached policy is amended to have complaints reviewed by a committee comprised of the CAO, HR Director and County Counsel to evaluate the complaint and determine if a formal investigation through a neutral third party is necessary. Should an investigation be pursued and found to have substantiated findings, those findings would be presented to the Board of Supervisors in open session for consideration of a Vote of Censure. In addition, the revised policy offers an appeal process, should the complainant disagree with the committee's determination of next steps. It is proposed that the appeal be considered by the Foreman of the Grand Jury.

While the complainant previously agreed that this matter had been settled, on March 24, 2022, a Public Records Request was received asking for documentation pertaining to this complaint. Due to the public interest in this issue, Supervisor Bushnell has asked to follow the current policy in place and for the complaint to be agendized for a public discussion amongst the full Board. Accordingly, a redacted version of the complaint is attached and available for your Board to consider ordering a formal investigation.

FINANCIAL IMPACT:

Costs associated with a formal complaint will be dependent upon the investigator used and the amount of time involved to interview all involved parties. Complaints can range from \$10,000 to more than \$50,000.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by providing community-appropriate levels of service and investing in county employees.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

At the discretion of the Board.

ATTACHMENTS:

Redacted complaint  
Amended Code of Conduct  
Resolution

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A  
Meeting of: July 20, 2021  
File No.: 21-964