

A rather 'Long Fable' brought to you by:

DISCIPLINE MASTER BERG

(The names have been changed to avoid embarrassment of the author)

Keep in mind Director Berg wrote this fable before he was sued, with the intention of getting this published in The National Parliamentarian's Quarterly News Letters. I would expect Director Berg was hoping for a 'payday' for his efforts. A payday at the expense of the reputation of the other members of the South Kitsap School District Board and the School District. Apparently Mr. Berg did not adequately follow his own advice of being cognizant of the negative impacts on 'The Organization'.



Repercussions of Disciplinary Action By John R. Berg, PRP

While the disciplinary procedures in Chapter 61 of *Robert's Rules of Order Newly Revised* (12th ed.) (RONR) may seem straightforward, there can be repercussions and unintended consequences to implementing them. The negative impact on the organization, as well as on innocent persons that may result from disciplinary proceedings must be weighed against the damage caused by the actions which prompt the discipline. Will the discipline prevent further damage to the organization or will it only be for retribution, which, if the latter, can further damage the image or morale of the organization?

Following is an account of an ongoing situation occurring in a school district in the state of Washington. The names of the parties involved have been thinly veiled for purposes of literary style.

Directors Brown and Dean were elected to the school board in 2019, joining the other three incumbent board members. Dir. Dean immediately took an adversarial position with the remainder of the board. Dir. Dean referred to the board as “you” while the remainder of the board members referred to the board as “we”. Dir. Dean would visit the schools unannounced rather than coordinate through the superintendent, as was the established custom. Assuming a role similar to Delores Umbridge as a Grand Inquisitor in J. K. Rowling’s *Harry Potter* series, Dir. Dean’s intimidation of staff even included requesting all copies of emails of staff members who appeared critical of Dir. Dean.

Dir. Dean expressed an open disdain for parliamentary procedure and *RONR* in particular and routinely ignored rulings of the chair. When the approval of 40 pages with hundreds of individual expenditures were on the consent agenda, Dir. Dean would insist on raising questions on individual expenditures. The raising of the questions suggested that the expenditures were somehow improper, but there was never any follow-up to the insinuations. The result was that the insinuations of impropriety were left hanging in the minds of the public, thus damaging public confidence in the school district.

In a public board meeting in October of 2020, Dir. Dean and the superintendent openly disagreed on specific facts and, in effect, called each other liars in the meeting. Dir. Brown attempted to resolve the dispute by asking each of them by email to provide documentation for their statement of the facts. The superintendent responded with references to source documents, while Dir. Dean not only failed to supply source documents, but responded with a 1400-word tirade about how Dir. Brown had no authority to conduct an investigation and intimidate the superintendent. (The superintendent was not intimidated, but appreciated the fact that Dir. Dean was called out on the false statement.)

Dir. Dean, with an associate, Mr. Kern, manage an anonymous website critical of the school district. The website purports to represent an actual committee supporting the schools, but no one is named on the website as being responsible for it.

When the board approved a school tax levy in November of 2020 by a vote of 4-1, Dir. Dean not only opposed it, but publicly campaigned against it on the ballot, even publicly addressing the city council to oppose the levy that had been approved by the board. This was a clear violation of a board member’s fiduciary duty of obedience to the decision of a majority of the board. The board later addressed this violation with Dir. Dean in executive session.

The last straw came after the district conducted a survey of the staff, parents and community in April of 2021. Many of the comments came back referring to dysfunction on the board but the only director mentioned by name in the comments was Dir. Dean.

Dir. Brown prepared a motion to appoint an investigating committee to consider censure of Dir. Dean in accordance with RONR 63:11.

Because the law specified that any meeting of three directors constituted a public meeting, the motion appointed two committees of two members each to work in parallel and report back. At the April 21 board meeting, Dir. Reticent moved to have the proposed motion removed from the agenda. Dir. Dean insisted that it be left on the agenda and addressed in public. When the main motion to refer came up on the agenda, Dir. Dean introduced a substitute motion to censure Dir. Dean for unspecified offenses. It failed. Had that motion been adopted, there would have been no investigation. The motion to appoint the committee was adopted 3-1.

Later in that same meeting, Dir. Dean handed the chair a large manila envelope with charges against Dir. Brown, demanding that the chair investigate the charges.

At the next meeting on May 5th, upon the advice of the district's legal counsel, the motion to establish the investigating committee was amended to specify an outside investigator, rather than the original two committees.

Prior to the May 19th meeting, Dir. Brown provided a 70-page response to the charges made by Dir. Dean and an executive session was scheduled to discuss them. Dir. Dean chose not to attend the executive session. After the executive session, the board voted to dismiss the charges against Dir. Brown as "baseless, without merit, and dilatory."

Later in that meeting, Dir. Dean attempted to also make similar accusations against Dir. Surry and Dir. Gold, with envelopes delivered to the Board President, Dir. Gold, as was done at the April 21st meeting. (Dir. Surry and Dir. Gold had joined Dir. Brown in adopting the original motion to investigate Dir. Dean.) This time Dir. Dean's action was ruled out of order under the previously mentioned RONR 63:11, which states, If a member introduces a resolution preferring charges unsupported by an investigating committee's recommendation, the chair must rule the resolution out of order, informing the member that it would instead be in order to move the appointment of such a committee...

Dir. Dean declined to take the appropriate action to move to appoint an investigating committee when offered the opportunity. Dir. Dean ignored the chair's ruling that the presentation of the charges was out of order and insisted that the chair must investigate the charges made in a public meeting. The chair took no action on the envelopes presented. However, Dir. Dean published the charges through Mr. Kearn on their website.

No report back had yet been made on the investigation of Dir. Dean by the July 21 meeting. Dir. Dean there introduced a motion to recognize that allegations of misconduct were brought by Dir. Dean against two members at the May 19th meeting, and to require action in response to them. That motion failed. Had that motion passed, it would have effectively reversed the chair's ruling that the original charges were out of order.

The charges against Dr. Brown and other board member were clearly in retaliation for the original motion to investigate possible censure of Dir. Dean. The contention escalated. In the meantime, additional personal attacks have been made against Dir. Brown. Mr. Kern filed charges against Dir. Brown with the Washington State Public Disclosure Commission through Mr. Kern's and Dir. Dean's dummy organization. Another supporter of Dir. Dean, a Mr. Maroon, also filed charges against Dir. Brown with the Professional Standards Committee of the National Association of Parliamentarians. Both sets of charges have little merit and will most likely be dismissed.

The next issue is how to proceed when the investigation into possible censure of Dir. Dean is completed. Without any penalties attached to a motion to censure, the intent and effect of such a motion has already been accomplished. Other than the personal attacks on other board members, the actions of Dir. Dean have been toned down. The board has now shown how it can quickly shut down such improper attacks.

However, defiance of rulings of the chair cannot be tolerated. Not even someone publicly elected to a board has the right to defy a ruling of the chair, particularly when the ruling has been sustained by a majority of the board. When Dir. Brown was presiding in the absence of the board president, security had been alerted to the possibility of needing to escort Dir. Dean from the room for defying a sustained ruling of the chair and continuing to disrupt the meeting. Luckily, that was not necessary, as things would have gotten ugly rather quickly.

Dir. Brown expects to become board president after the election in November, assuming Dir. Dean's supporters don't get elected to the two open positions. With the support of the new board members, any improper actions from Dir. Dean can be quickly and efficiently stopped, thus minimalizing extensive public displays of board dysfunction. A supermajority of four should be able to function with only one voice in opposition.



**Consequences of
Attempted Discipline**