ASCA Statement Regarding Procedures Used to Resolve Complaints Against Elected or Appointed Leaders

As the leading voice for student conduct in higher education, ASCA is dedicated to cultivating student responsibility and accountability through prevention education, investigation and adjudication. ASCA members are trained and equipped to uphold the integrity of the student conduct process, resulting in the ability to build safer educational communities and positively impact the higher education experience.

Recently, ASCA has received requests for additional information pertaining to the procedures the Association uses when there are conflicts or reports of misconduct related to the Association’s elected or appointed leaders. We want to offer context and clarity about these procedures to our members and others who have questions.

Please keep in mind that with formal complaints pertaining to elected or appointed leaders, the scope of the Board's authority is limited to determining whether or not a leader fulfilled the expectations for leaders as outlined in ASCA's governing documents. While challenging to our daily lens as student conduct professionals, complaint resolution procedures involving non-profit Board members' conduct are different than the legal, Title IX, or student conduct proceedings our members use on their campuses. That said, the Board also recognizes that ASCA is a unique organization and that, given the nature of the work our members do on a daily basis, we hold ourselves to a higher standard when it comes to resolving complaints of reported misconduct.

In addition to the procedural requirements contained in the Association’s governing documents (available to its members on ASCA's website), the Board continues to operate with fundamental fairness and reasonable decision making as the guiding principles when assessing and resolving complaints. As individuals who work within policies and procedures on a daily basis on our home campuses, we recognize that no two situations are the same and not everything can be outlined in a policy, procedure, or governing document.

**Applicable Procedures from Governing Documents**

On November 13, 2015, the membership passed revisions to the ASCA Bylaws. These revisions effectively removed detailed procedures regarding complaints and their resolution and replaced them with a broader statement which is more appropriate for association bylaws: “The Board shall maintain policies related to conflict of interest, accountability, and complaints against officers, directors, and employees, external representation and advocacy, and other matters of importance and shall make them available to the members” (2015 Bylaws, Article VI, Section D). The intent from the Board and the Leadership Development Committee in recommending this revision was to provide more detailed policies and procedures in the Operating Policies and Procedures, in alignment with universal best practices for associations. As a complaint was received before the Operating Policies and Procedures had been updated, the procedures in the older Bylaws (See 2012 Bylaws, Article VI, Section B) have been followed since these were already published to members and were still available on the ASCA website. This will continue to be utilized until the Operating Policies and Procedures have been revised by Board, following consideration of any recommendation(s) from the Leadership Development Committee. As such, the procedures outlined in the governing documents regarding complaints against appointed or elected leaders include (from the 2012 Bylaws):
Complaints should be submitted in writing to the President by a member of the Association.

The Leadership Advisory Group (LAG, a subgroup of the Leadership Development Committee) is convened to determine if the complaint has merit to be heard.

If the complaint is determined to have merit, the person accused of the complaint is notified of it at least three days before the complaint is heard.

Fundamental fairness and reasonable decision-making are the guiding factors for determining an outcome.

Complaints are resolved in Executive Session of the Board of Directors.

Consequences for actionable complaints may include but are not limited to: verbal warning, warning, removal from office, and inability to be elected or appointed to an office in the future.

Decisions of the Board are final.

While the Bylaws and Operating Policies and Procedures do not address complaints regarding the conduct of members; the Ethical Principles and Standards of Conduct contain the following procedures to respond to alleged unethical member behavior:

- Self-regulation is preferred.
- Concerns should be brought to the attention of the person allegedly committing a breach of conduct.
- If improper conduct continues, it may be referred to the offender's home institution for appropriate action.

Practices
As there is limited information in the governing documents to address the resolution of complaints, the Parliamentarian as well as the Association's attorney, who specializes in non-profit Board management and misconduct cases, has been and will continue to be consulted with regards to complaints against the Association's elected or appointed leaders. Depending on the nature of a complaint, additional practices that may also be utilized include, but are not limited to:

- An independent investigation may be initiated;
- A hearing may occur by phone, Skype, in person, or through other means;
- There are opportunities for one or more parties to orally address the Board, and/or to provide a written statement for consideration;
- Executive Session to hear complaints involves only voting and ex-officio members of the Board;
- Updates may be provided to one or more parties regarding the status of the complaint resolution process;
- The preponderance of the evidence standard will be used;
- Confidentiality agreements for persons involved in the complaint resolution process may be required;
- Any Board member involved in the complaint may be recused or restricted from fulfilling Board duties until the complaint is resolved.

Conclusion
While any organization wishes it would not need to address reports of misconduct or complaints about its leaders or members, the Board recognizes the need to continually review our governing documents to ensure we have up to date policies and procedures in place regarding the conduct of our members and leaders. As such, these are some of ASCA’s action steps for the 2016-2017 years:
As part of its charge this year, the Leadership Development Committee, in collaboration with the Board, will conduct a review of the governing documents regarding expectations for members, expectations for leaders, and the procedures used to submit and resolve complaints. While the Board began work on revising the Operating Policies and Procedures following the membership's approval of the revisions to the Bylaws in November, this was put on hold while a complaint was being resolved.

The Board will conduct a self-study of the procedures used to resolve complaints, involving the Parliamentarian, attorney, and any others as appropriate.

An appointed Task Force will review the Ethical Principles and Standards of Conduct, discuss the role(s) of ASCA in addressing individual members' conduct, discuss the values of ASCA and what it means to live these values, and provide recommendations for revisions of these standards and other applicable governing documents.

Any additional questions about ASCA’s complaint resolution process should be directed to ASCA President Laura Bennett or Jennifer Waller, Executive Director of ASCA. ASCA members may access the governing documents in the Members Only section of the ASCA website.