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Snippet #174 Removal from Office

“. . . and after the installation, speeches, and reception, they lived happily ever after.” Have you ever had high hopes for the term of an officer, only to be disappointed as time goes by? What can be done? What if the continued service of that officer is injurious to the association’s mission?

Robert’s Rules does not contain a motion called “divorcing the chair.” There are some remedies available, but there may be a catch. For example, the motion to censure (sometimes called a motion of no confidence) represents the collective judgment or opinion of the performance of an officer. It doesn’t change the officer’s status, but it can be embarrassing and might lead to resignation. In some cases, this disciplinary action might be enough to correct a bad situation.

Any movement to actually remove someone from office is going to be messy. The offenses must be strong enough to overcome the tremendous need many people have to avoid confrontation and the resulting inevitable counterattacks. Often those who are trying to protect the good name of the association are vilified as trying to destroy it. Explaining the need for such drastic action might be dicey because of confidential information or concerns about the appearance of a character attack.

To some extent, the question of removal is covered in the association’s bylaws. If the bylaws state that the term of office is a period of time OR until a successor is elected and assumes office, an officer can be removed at any point during the term for any reason. The “or” is interpreted to mean the term might end before the designated time. However, if the bylaws state that the term is for a period of time AND until a successor is elected and assumes office, an officer first serves the term, then the time before a successor is elected and assumes office. Both conditions must be present for the term to end. Removing an officer before the term ends under this second condition requires full disciplinary procedures: charges, investigation, hearing (at which the officer is allowed to speak), establishing guilt, and setting a penalty (removal from office).

State law might also play a role here; it might be that only those having the power to put someone into office have the power to remove. Thus, if the president is elected by the members, there might be a legal requirement that only the members can vote for the removal. If the officers are elected by the board and the board is elected by the members, the officers serve at the pleasure of the board and can be removed by the board. In this case the board could remove someone from office but not from the board.

It is impossible to create a list of all the offenses that might trigger removal; generally the generic offense is “conduct injurious to the association,” which could include bullying, failure to perform required duties, unethical conduct, or criminal offenses. Having a functioning ethics committee to determine the efficacy of complaints and to perform a confidential investigation is an important part of any disciplinary process. Always check with an attorney to assist with the requirements of the state of incorporation, which may differ in significant respects from the requirements of other states. Not all election fairy tales end with happily ever after.