

MEMORANDUM

DATE	November 1, 2018
TO	Board of Psychology Members
FROM	Sandra Monterrubio, Enforcement Program Manager
SUBJECT	Agenda Item 20(e) Mail Ballot/ Hold for Discussion Policy

Background

In August 2018, the Board Members asked that the Enforcement Committee discuss the "Hold Policy" for disciplinary cases with enforcement staff.

At the October 2018 Enforcement Committee meeting, the Committee, DCA Legal Counsel and board staff discussed the purpose of the Mail Vote Ballot's option of voting to hold for discussion and the expectations of Board Members and board staff as to how the option should be used.

Further, the definitions page was revised to bring terms up to date.

Action Requested

Review and discuss the attached Hold for Discussion Policy and Mail Ballot Memo.

Attachments:

- A: Hold Policy
- B: Mail Vote Ballot

MEMORANDUM

DATE	November 2, 2018
TO	Board of Psychology Members
FROM	Enforcement Unit
SUBJECT	Hold for Discussion Policy

HOLD FOR DISCUSSION POLICY:

A vote to hold a decision for discussion means that you either 1) disagree with one or more portions of the proposed action and do not want it adopted as the Board's decision or 2) you have a question or concern about the Decision and would like to discuss the matter with fellow Board Members. This category should be used if you believe additional or different terms or conditions of probation should be added (or deleted), or that the penalty should be modified in any way.

If a majority of votes are received in this category, the Decision will be rejected. If the case is a **proposed decision**, the transcript will be ordered, and the case scheduled for argument according to Board policy. After reviewing the record, the Board will be able to adopt the Decision as originally presented or modify the decision as it deems appropriate, except that a cost recovery order may not be increased. If a **stipulated settlement** is rejected, the case will be set for hearing unless a counter offer is made during a closed session. If a **default decision** is rejected, the case will be set for hearing.

If at least one vote in this category is received, the case will be held for the Board to consider and discuss in closed session.

MEMORANDUM

DATE	Date
TO	All Board Members, Board of Psychology
FROM	Name, Enforcement Analyst
SUBJECT	Mail Ballot: Subject, Ph.D., PSY 11111, Case No. 600-2000-000000,

THIS MAIL BALLOT MUST BE RETURNED NO LATER THAN: January 6, 2016.

(If not timely returned, your vote may not count or the board may lose jurisdiction to act.)

Please review the attached documents and vote on the above case. **You may return your vote to me via e-mail (Analyst@dca.ca.gov) or via fax at (916) 574-8671 on or before the date noted above.** If you respond via e-mail, please be sure to include the name, license number, and case number involved along with your vote.

The decision presented is a:

- Proposed Decision
 The board will lose jurisdiction to act on _____. (Gov't Code §11517(d).)
 Stipulated Settlement
 Default Decision

An explanation of terms follows the ballot below.

BOARD MEMBER BALLOT (Choose one option)

I VOTE TO ADOPT. Choose this option if you accept the decision as written.

I VOTE TO HOLD FOR DISCUSSION at the next Board meeting. Choose this option if you have questions or concerns about the decision. Record your questions or concerns here to facilitate the discussion:

I RECUSE MYSELF from this case because _____

Date

[Board Member]

EXPLANATION OF MAIL BALLOT TERMS

PROPOSED DECISION:

Following a hearing, the administrative law judge drafts a proposed decision recommending an outcome based on the facts and the board's disciplinary guidelines. At its discretion, the Board may impose a lesser penalty than that in the proposed decision. If the Board desires to increase a proposed penalty, however, it must vote to reject or non-adopt the proposed decision, read the transcript of the hearing and review all exhibits prior to acting on the case.

DEFAULT DECISION:

If an accusation mailed to the last known address is returned by the post office as unclaimed, or if a respondent fails to file a Notice of Defense or fails to appear at the hearing, the respondent is considered in default. The penalty in a case resolved by default is generally revocation of the license. A default decision can be set aside and the case set for hearing if the respondent petitions for reconsideration before the effective date of the decision and the Board grants the petition.

STIPULATED SETTLEMENT:

At any time during the disciplinary process, the parties to the matter (the board and the respondent) can agree to a disposition of the case. With the consent of the Executive Officer or his/her designee, the Deputy Attorney General will negotiate a stipulated settlement (also referred to as a stipulated agreement) based on the board's disciplinary guidelines.

ADOPT:

A vote to adopt the proposed action means that you accept the action as presented.

HOLD FOR DISCUSSION:

A vote to hold a decision for discussion means that you either 1) disagree with one or more portions of the proposed action and do not want it adopted as the Board's decision, or 2) you have a question or concern about the decision and would like to discuss the matter with fellow Board's members. This category should be used if you believe an additional or a different term or condition of probation should be added (or deleted), or that the penalty should be modified in any way.

If a majority of votes are received in this category, the decision will be rejected if the board will otherwise lose jurisdiction. If the case is a **proposed decision**, the transcript will be ordered and the case scheduled for argument according to board policy. After reviewing the record, the Board will be able to adopt the decision as originally presented or modify the decision as it deems appropriate, except that a cost recovery order may not be increased. If a **stipulated settlement** is rejected, the case will be set for hearing unless a counter offer is made during a closed session. If a **default decision** is rejected, the case will be set for hearing.

If one vote to hold is received, the case will be held for the Board to consider and discuss in closed session.

RECUSAL:

Mark this box if you believe you cannot participate in making the decision because you have a specific conflict. Examples are if the person is a member of your family, a close personal friend, or business partner. If you are unsure if you should recuse yourself, you should contact the assigned board counsel.