

## MEMO

**From:** Director Syed and Director Walsh

**To:** Aimee Steele, General Counsel

Thank you for your engagement on the proposed revisions to Board Policy No. 455. Attached are redlines from Director Walsh and myself, including a few clarifying edits intended to tighten the distinction between official, attributable District statements and individual speech by elected Board members. The goal is to preserve coordinated institutional communications while reducing constitutional risk by anchoring obligations in accuracy and attribution rather than compelled endorsement.

We believe these refinements strengthen the policy's legal defensibility without altering its operational intent, and welcome any feedback you may have.

### Purpose

To recommend minor revisions to proposed Board Policy No. 455 that strengthen legal defensibility, preserve effective media coordination, and clearly distinguish between official District speech and individual Board member speech.

### Background

The proposed Media and Public Statement Policy appropriately designates authorized spokespersons and establishes processes for issuing official District communications. However, certain phrases — particularly those suggesting that Board members must “uphold” final Board decisions — could be read as limiting the protected speech of elected officials.

Courts consistently recognize that:

- Agencies may regulate **institutional speech**
- Elected officials retain independent First Amendment rights
- Requirements of **accuracy and non-misrepresentation** are permissible, while compelled agreement is not

### Recommended Clarifications

The suggested revisions:

- Replace “respect and uphold” language with a requirement that Board members **accurately represent Board actions**
- Explicitly protect the right of Board members to criticize or seek reconsideration of adopted actions

- Limit mandatory media coordination to **official Board or District statements**
- Clearly separating **official/attributable statements** from individual speech

These changes do not weaken governance or message discipline. Instead, they:

- Reduce litigation risk
- Align the policy with public-agency best practice
- Reinforce public trust through accuracy and transparency

## **Conclusion**

The proposed edits preserve the intent of the policy while ensuring it does not inadvertently abridge constitutional rights. Adoption of these clarifications will strengthen both governance and legal resilience.