



## **Board Policy No. 160**

### **Board Officers: Performance Evaluations, Employment Agreements, and Leave Notification**

**ADOPTED:** 05/1990

**RECENT AMENDMENT:** 7/22/2020

**SEE ALSO:** N/A

**SUBJECT CATEGORY:** SECTION 100, GOVERNANCE & ADMINISTRATION

**SUBSECTION:** BOARD OFFICERS

**CONTROL DEPARTMENT:** DISTRICT SECRETARY, GENERAL COUNSEL

#### **I. PURPOSE**

Recognizing the sound management practice of regular communication and feedback to Board Officers regarding their work performance, the purpose of this Policy is to establish guidelines for formal performance evaluations of Board Officers by the Board of Directors. This policy also addresses requirements for employment agreements and leave notifications.

#### **II. PERSONS AFFECTED**

Board Officers, namely the District Secretary, General Counsel and General Manager.

#### **III. DEFINITIONS**

“**Leave**” means vacations, trips out of town, or illness of one full workday or more.

#### **IV. POLICY**

##### **A. Performance Evaluations**

It is the general policy of the AC Transit Board of Directors that it will complete a performance evaluation of the General Manager, District Secretary and General Counsel at least once annually. Such evaluations may be more frequent than once annually during an Officer’s first year of service and otherwise as requested by the Board or by a Board Officer. The evaluation process outlined in Subsection 2. shall serve as a general guideline for conducting performance evaluations and is not intended to be prescriptive or limit the Board’s discretion to abbreviate the process when deemed appropriate. Each evaluation will be presented and discussed by the Board in Closed Session. The rights of privacy of the Board Officers shall be respected and, within legal limits, the evaluation shall be kept confidential. In order to effectively plan for the evaluation process, the District Secretary shall notify the Board President three (3) months prior to each Officer’s anniversary date.

##### **1. Purpose of Evaluations**

- a. To develop a mutual understanding of responsibilities and operational objectives for each position that helps to clarify what the Board of Directors needs from each Board Officer and communicate the Board’s expectations to each Board Officer.

- b. To recognize positive performance and delineate areas that need focus and/or strengthening.
- c. To establish a basis for adjusting compensation.

## 2. Evaluation Process

The Board of Directors may act as a committee of the whole or a special Board committee will be appointed by the Board President to prepare an Evaluation Questionnaire based on the responsibilities and operational objectives for each position to be evaluated. Responsibilities defined in State Statutes shall serve as a framework for the questionnaire. The development of the questionnaire shall begin 45 days prior to the Officer's anniversary date and shall not take longer than 15 days to prepare.

- a. The committee will provide the Evaluation Questionnaire to each Board Officer for a response. The Board Officer will be given 15 days to submit responses to the Committee.
- b. Upon receipt of the completed Evaluation Questionnaire from the Officer, the Committee will meet to review the Officer's responses and to develop goals for the coming rating period, including measures of performance that reflect the responsibilities of each position and the operational objectives for each area of responsibility. Individual Board members will assess the Officer's performance in a narrative format. Questions to be addressed may include:
  - i. In what areas of responsibility have there been improvements in performance? What areas have been neglected or performed poorly? In what areas has there been no change? Progress toward meeting operational objectives shall be taken into account in assessing the Officer's performance in each area of responsibility.
  - ii. For each area of responsibility, do you have confidence in this Officer's job performance in this area? Why or why not?

(Additional questions may be specified by the Board or discussed by an individual Board member as part of the evaluation.)

In addition, each Board member will rate the Officer using a single, overall rating on the following scale:

- A=Exceptional Performance
- B=Superior Performance
- C=Average Performance
- D=Acceptable Performance
- E=Needs Improvement

A Board Officer's progress toward meeting operational objectives should be measured primarily by evaluating how well the job has been done, and not primarily in terms of what specific activities have been undertaken.

The Board recognizes that some areas of a Board Officer's responsibilities cannot be directly evaluated by the Board. For example, Board members often cannot directly evaluate the effectiveness of a Board Officer's supervision of employees. Nevertheless, since Board members' assessments are to be based primarily on the results of an Officer's work, rather than on the methods of work, it will often be possible to evaluate areas of work that have not been directly observed. Board members may, however, decline to evaluate any aspect of an Officer's work for which they are unable to make an informed judgment.

- iii. The Board of Directors shall meet in Closed Session to discuss individual Director's performance assessments and scores, which shall be used to reach a consensus for the overall evaluation and for the evaluation of each area of responsibility, and shall be returned to the Directors following the development of the overall evaluation by the Board. If a consensus cannot be reached, the range of ratings should be reported to the respective Board Officer without identifying the Board Members responsible for the ratings.
- iv. Following this meeting, the Board President, or his/her designee, shall be responsible for preparing the final evaluation document and submitting a copy to Board Members and the Board Officer in advance of the time set for the meeting with the Officer.
- v. The Committee, shall meet with the respective Board Officer to (1) review the performance evaluation and (2) to reach a preliminary agreement about the areas of responsibility, objectives and measures for the upcoming rating period, based on the Board's recommendation.
- vi. The Board Officer may, within 30 days of meeting with the committee, submit a written response to the performance evaluation. A copy of such written response shall be submitted to each Board member and the original filed with the original performance evaluation.
- vii. The final evaluation form, signed by both the Board President and Officer, along with any written responses, shall be maintained in the official personnel file maintained in the District Secretary's Office. The evaluation file shall be confidential within legal limits. Once the final evaluation is completed, the Board President and Directors shall discard all working draft copies used to prepare the final evaluation form.
- viii. The final evaluation form will serve as baseline for evaluations in future years.

- ix. A Director who has served on the Board for less than six months may not participate in a performance evaluation unless the affected Board Officer waives this limitation.

## **B. Employment Agreements**

An employment agreement detailing the duties, responsibilities, authority, compensation and evaluation for each of the three appointed officers of the District, namely, the General Manager, the General Counsel and the District Secretary, shall be required. The duration of the General Manager's contract is expressly governed by Transit District Law, which is silent on the duration of the General Counsel's contract and the District Secretary's contract. The duration of the employment agreement of each of the three appointed officers of the District shall be indefinite. With the exception of duration, the conditions of each of the three appointed officer's contracts will be negotiated at the time of hire. Said conditions may be changed by mutual agreement. This policy does not affect the appointive or the removal authority provided to the Board in Transit District Law. All final employment agreements and subsequent amendments shall be presented to the Board of Directors in open session. Prior to taking final action, the Board President shall orally report a summary of the recommendation for a final action on the salary or compensation paid in the form of fringe benefits during the open meeting in which final action is to be taken. (Ref: GC 54953(4)(c)(3))

## **C. Leave Notification**

Board appointed officers shall provide written notice to the Board of Directors and other Board Officers of all leaves of one full day or more up to three days. Notice shall include the individual who is authorized to act on the officer's behalf during said leave. For partial day leaves, notice need only be given to the other Board Officers.

For leaves of more than three days that are planned in advance, such notice shall be given two weeks in advance. Notice of all other leaves shall be provided within a reasonable period of time depending on the circumstances.

If a Board Officer is unable to provide written notice due to a medical emergency (self or family member) or technological reasons, written notice may be given by another Board Officer who shall promptly notify the Board.

The Board of Directors retains the authority to appoint an acting officer, upon consideration of the absent officer's recommendation, where the appointment of an acting officer will be in effect for more than three weeks or where the best interests of the District dictate the Board's selection of the acting officer.