



MEMORANDUM

FC 14

TO: Board Policy and Monitoring Committee

FROM: Shiloh Ballard

SUBJECT: Feedback on Item 4.3 Audit of BAO
Complaint Process

DATE: May 15, 2026

Due to a conflict with our legislative visits, I'll be missing the BPMC meeting on May 19th. Below are some comments about the item related to the investigative process.

As I noted in previous meetings, I feel a bit like we're putting the cart before the horse. Sure, let's provide something to the auditor to help guide their thinking. But I don't feel I have enough information about the pros and cons of different ways of handling things to get into the level of detail the committee has gotten into. I believe the flow chart is fine as is and the questions Director Nai Hsueh outlined at the first meeting in a memo, and supplemented by committee conversation, are good guidance for the auditor.

Overall, I believe it would be worthwhile for the auditor to look at other investigative processes at the executive level, to help us understand the pros and cons of different approaches. The auditor would also take our current Board investigation process, the employee process, the questions generated by Director Hsueh and

Key to figuring that out is understanding the differences between a Board Appointed Officer (BAO), a board member and an employee and why a BAO might be treated differently. For example, it is my understanding that with an employee investigation, any report or documents remain confidential. However, a BAO falls more in line with a board member, they are considered a "public official" meaning information can be subjected to the Public Records Act. What are the implications of this on a process?

I also wanted to reiterate something I said at the previous two meetings.

A flow chart is good. By design, it can help avoid pitfalls. But it's not enough to say WHO makes a decision. We need to know HOW.

For example, if the flow chart says that the Chair decides which process to pursue (informal or not) or if the flow chart says a committee decides whether to proceed with an investigation or not, what ensures that the people in those positions make consistent decisions across complaints and when the people in those positions change? We need policies and guidance to help the person in that role make a decision that ensures fairness and consistency as people, circumstances, and complaints change over time.

At the end of the day, the Board audit of our investigative process is meant to resolve several things:

1. Help us put in place an investigative process for BAOs
2. Help us reflect on and learn from the investigative processes we've been through
3. Answer specific questions
4. It could also look at our Board investigative process since it's relatively new and it could identify improvements

On #3, for me some of the most important questions are:

-How do we investigate at the Board and BAO level in a way that ensures integrity of the investigation and is timebound?

-How do we protect the privacy and health of all who are involved, complainants, BAOs, witnesses, etc?

-How do we ensure confidential information is not leaked?

-What information is released, to who, and when?

-How do we ensure impartiality?

-Are there things that can/should be done to resolve issues before an investigation?

-How do we hold people accountable to the rules around an investigation?

-What does communications look like to those involved during the process in order to minimize stress and anxiety?

-Once findings are sustained, are there models to learn from around workplace restorative justice, as opposed to a transactional check to those harmed that might not solve the problem?

-Who and how do we determine who gets to participate in closed sessions and/or is involved in the investigation?

-What kind of allowance is there for a back and forth between the investigator and the board?

-What can be communicated publicly during an investigation to make sure the public and employees are not kept in the dark?