

Legal Memorandum

**To: Cherise Imai, Executive Director
Rosemarie Kraeger, Chair Leadership Nomination Committee**

From: Rick Masters, General Counsel

Re: MIC3 Ex-Officio Authority to Address an Electoral Candidate During the Electoral Process of the Commission under Robert's Rules of Order

Date: July 16, 2021

The MIC3 Leadership Nomination Committee has requested a legal memorandum to analyze whether ex-officio members of the Commission are permitted to address or question an electoral candidate seeking an office during the electoral process at a meeting of the Commission.

References

1. Robert's Rules of Order - Art. IX. Committees and Boards, **51. Ex-Officio Members of Boards and Committees**. Frequently boards and committees contain some members who are members by virtue of their office, and, therefore, are termed ex-officio members. When such a member ceases to hold the office his membership of the board terminates automatically. If the ex-officio member is under the control of the society, there is no distinction between him and the other members except where the president is ex-officio member of all committees, in which case it is evidently the intention to permit, not to require, him to act as a member of the various committees, and therefore in counting a quorum he should not be counted as a member. The president is not a member of any committee except by virtue of a special rule, unless he is so appointed by the assembly. If the ex-officio member is not under the authority of the society, he has all the privileges, including the right to vote, but none of the obligations of membership; as when the governor of a state is, ex-officio, a manager, or a trustee of a private academy.
2. MIC3 Bylaws – Article VI, Section 3. Ex-Officio Members. The Commission will include ex-officio, **non-voting representatives who are members of interested organizations**. Military-oriented, military family, education-oriented, and parent and teacher organizations are welcome to petition the Commission for inclusion as an ex-officio member.
3. MIC3 Bylaws – Article VI, Section 4. Procedure: Matters of parliamentary procedure not covered by these By-laws shall be governed by Robert's Rules of Order.

Legal Analysis

As provided in Article VI, Section 4 of the MIC3 Bylaws “Matters of parliamentary procedure not covered by the Bylaws shall be governed by Robert’s Rules of Order.”

The above referenced section of Robert’s Rules of Order provides that members who serve as “ex-officio” members have all the privileges of other members of the governing body (MIC3 Commission), which includes the right to participate in discussions and debate. However, the MIC3 Bylaws clearly provide that Robert’s Rules of Order only apply to “**matters of parliamentary procedure not covered** by these Bylaws.” See Art. VI, Sec. 4. An examination of the MIC3 Bylaws unequivocally provide that “ex officio” members are also “non-voting” members of interested organizations.

However, while “ex-officio” members are not permitted to vote, no provisions of the MIC3 Bylaws appear to prohibit an ex-officio member from participating in discussion of matters coming before the Commission, including the ability to address or question a candidate seeking an office on the Commission during an appointed time on the agenda of a meeting of the Commission.

Conclusion

In conclusion, while the MIC3 Bylaws prohibit MIC3 ex-officio members from casting a ballot during the voting process, under Robert’s Rules of Order, these members are permitted to address or question a candidate seeking an office during the electoral process at a meeting of the Commission during which such matters are discussed.