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Janice,

This will respond to your request for my Opinion as County Counsel as to whether the Charter contains a provision relating to "Excessive Absence" and, if so, whether the County has taken legal action to create such a policy. Additionally, you inquire as to whether the provisions of Section 9-5, entitled "Loss of Office, Excessive Absence" are applicable to elected officials.

My Opinion follows.

Section 2-11 of the Charter applies specifically to the Assembly of Delegates. This section provides that if a member of the Assembly fails to attend regular or Committee meetings of the Assembly or fails to represent the municipality that elected the Delegate "for a significant period of time" without filing a "reasonable excuse with the clerk of the assembly," the Assembly of Delegates shall notify the Selectmen in the Town, or the Town Council in Barnstable of this finding. However, the determination as to what constitutes failure to attend "regular" meetings of the Assembly and its Committees or failure to "represent" a community is subject to definitions to be adopted by the County through the Ordinance process. Additionally, the definition of what constitutes a "reasonable excuse" should likewise be defined through the Ordinance process.

Research into the Ordinances adopted by the County establishes that the County has not utilized the Ordinance process to establish standards to implement the policy objectives of Section 2-11 of the Charter.

It is therefore my Opinion that the County does not currently have a specific policy on "Excessive Absence" and that implementation of Section 2-11 awaits action through the Ordinance procedures of the Charter. Even when that is accomplished, the ultimate decision on whether a member of the Assembly has violated this section is vested in the local governance of the municipality (through its Board of Selectmen or Town Council.)

You also inquire as to whether the provisions of Section 9-5 entitled "Loss of Office, Excessive Absence" applies to elected County Officials. This section clearly is limited to persons "appointed" to "multiple member" bodies. It does not apply to any elected officials in County government.

If you have any additional questions, please do not hesitate to contact me.

Bob Troy  
County Counsel