

FEBRUARY 4, 2016
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

Executive
Committee Meeting





CONTRACTORS STATE LICENSE BOARD

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February 4, 2016
10:00 a.m. – 12:00 p.m.
CSLB Headquarters, John C. Hall Hearing Room
9821 Business Park Drive, Sacramento, CA 95827**

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AGENDA ITEM A

Call to Order, Roll Call and Establishment of a Quorum – Chair’s Introductory Remarks

Roll is called by the Committee Chair.

EXECUTIVE COMMITTEE MEMBERS:

ED LANG, CHAIR

AGUSTIN BELTRAN

LINDA CLIFFORD

DAVID DIAS

Committee Chair Ed Lang will review the scheduled Committee actions and make appropriate announcements.



AGENDA ITEM B

Public Comment Session for Items Not on the Agenda

(Note: Individuals may appear before the Committee to discuss items not on the agenda. However, the Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).



AGENDA ITEM C

FY 2015-16 Budget Update





CONTRACTORS STATE LICENSE BOARD

BUDGET UPDATE

❖ Fiscal Year (FY) 2015-16 CSLB Budget and Expenditures

Through November 30, 2015, CSLB spent or encumbered \$28.2 million, roughly 44 percent of its FY 2015-16 budget. This chart details the CSLB budget, including expenditures through November 2015:

EXPENDITURE DESCRIPTION	FY 2015-16 APPROVED BUDGET	NOVEMBER 2015 EXPENSES	BALANCE	% OF BUDGET REMAINING
PERSONNEL SERVICES				
Salary & Wages (Staff)	22,663,274	9,078,513	13,584,761	59.9%
Board Members	15,900	5,800	10,100	63.5%
Temp Help	860,000	179,077	680,923	79.2%
Exam Proctor	41,168	61,937	-20,769	-50.4%
Overtime	146,000	71,433	74,567	51.1%
Staff Benefits	10,519,121	4,371,336	6,147,785	58.4%
TOTALS, PERSONNEL	34,245,463	13,768,096	20,477,367	59.8%
OPERATING EXPENSES AND EQUIPMENT (OE&E)				
Operating Expenses	20,875,124	11,955,357	8,919,767	42.7%
Exams	435,882	76,072	359,810	82.5%
Enforcement	8,546,531	2,665,418	5,881,113	68.8%
TOTALS, OE&E	29,857,537	14,696,847	15,160,690	50.8%
TOTALS	64,103,000	28,464,943	35,638,057	55.6%
Scheduled Reimbursements	-353,000	-90,252	-262,748	
Unscheduled Reimbursements		-105,350	105,350	
TOTALS, NET REIMBURSEMENTS	63,750,000	28,269,341	35,480,659	55.6%

❖ Revenue

CSLB received the following revenue amounts through November 30, 2015:

Revenue Category	Through 11/30/2015	Percentage of Revenue	Change from prior year (11/30/2014)*
Duplicate License/Wall Certificate Fees	\$37,494	0.1%	-2.5%
New License and Application Fees	\$4,409,263	16.9%	8.1%
License and Registration Renewal Fees	\$19,845,589	75.9%	2.1%
Delinquent Renewal Fees	\$1,008,000	3.9%	-8.6%
Interest	\$7,893	0.0%	0.0%
Penalty Assessments	\$791,528	3.0%	12.9%
Misc. Revenue	\$45,058	0.2%	3.5%
Total	\$26,144,825	100.00%	2.9%

* License & Registration Renewal Fees are based on a 2-year cycle (comparative data is from FY 2013-14, a non-peak renewal year).



❖ **CSLB Fund Condition**

Below is the fund condition for the Contractors' License Fund, which shows the final FY 2014-15 reserve (\$24 million – approximately 4.5 months' reserve), along with the projected reversion amounts for current year (CY) 2015-16 through budget year (BY) 2017-18:

	Final FY 2014-15	Projected CY 2015-16	Projected BY 2016-17	Projected BY+1 2017-18
Beginning Balance	\$26,387	\$23,799	\$16,148	\$9,395
Prior Year Adjustment	\$557	\$0	\$0	\$0
Adjusted Beginning Balance	\$26,944	\$23,799	\$16,148	\$9,395
Revenues and Transfers				
Revenue	\$57,120	\$56,211	\$57,635	\$56,873
Totals, Resources	\$84,064	\$80,010	\$73,783	\$66,268
Expenditures				
Disbursements:				
Program Expenditures (State Operations)	\$60,211	\$63,750	\$64,388	\$65,031
State Controller (State Operations)	\$0			
Financial Info System Charges	\$54	\$112		
Total Expenditures	\$60,265	\$63,862	\$64,388	\$65,031
Fund Balance				
Reserve for economic uncertainties	\$23,799	\$16,148	\$9,395	\$1,237
Months in Reserve	4.5	3.0	1.7	0.2

Notes:

- 1) All dollars in thousands.
- 2) Revenue assumes 1% renewal license fee growth, based on prior 2-year cycle.
- 3) Assumes expenditure growth projected at 1% starting in FY 2016-17, and then ongoing.
- 4) Assumes workload and revenue projections are realized for FY 2015-16 and FY 2016-17.



CONTRACTORS STATE LICENSE BOARD

STATISTICS SUMMARY

Applications Received

	2012-13	2013-14	2014-15	2015-16
July	2,564	2,850	2,805	3,398
August	2,786	3,084	3,004	3,419
September	2,408	2,682	3,207	2,955
October	2,857	2,719	3,177	3,484
November	2,431	2,435	2,542	3,143
December	2,266	2,315	2,944	3,058
Total	15,312	16,085	17,679	19,457
			<i>% Change from Prior FY</i>	<i>10.1%</i>

Original Licenses Issued

	2012-13	2013-14	2014-15	2015-16
July	925	1,008	1,248	1,155
August	1,013	845	1,275	1,098
September	1,249	1,023	1,036	1,030
October	1,138	970	1,247	954
November	762	759	724	866
December	922	812	887	965
Total	6,009	5,417	6,417	6,068
			<i>% Change from Prior FY</i>	<i>-5.4%</i>

Licenses Renewed

	<i>PEAK</i> 2012-13	2013-14	<i>PEAK</i> 2014-15	2015-16
July	11,125	11,751	10,079	11,584
August	11,273	9,313	11,505	8,611
September	9,868	8,016	11,584	10,292
October	10,167	8,481	8,448	8,501
November	8,988	8,674	6,467	6,881
December	7,335	8,672	11,886	11,885
Total	58,756	54,907	59,969	57,754
			<i>% Change from Non-Peak FY 2013-14</i>	<i>5.2%</i>

HIS Registrations Issued

	2012-13	2013-14	2014-15	2015-16
July	324	328	520	894
August	339	323	605	658
September	324	300	497	624
October	415	287	635	533
November	291	280	583	580
December	299	274	476	596
Total	1,992	1,792	3,316	3,885
			<i>% Change from Prior FY</i>	<i>17.2%</i>

**HIS Registrations Renewed**

	2012-13	2013-14	2014-15	2015-16
July	115	150	158	167
August	180	150	147	140
September	130	101	187	133
October	136	152	158	152
November	104	143	117	111
December	100	124	143	175
Total	765	820	910	878
			<i>% Change from Prior FY</i>	<i>-3.5%</i>

License Population by Status

	December 2013	December 2014	December 2015
Active	223,786	222,824	223,973
Inactive	64,525	62,453	60,399
Subtotal	288,311	285,277	284,372
Other*	461,555	474,734	486,039
Expired	396,176	406,510	415,182
Expired % of Other	85.8%	85.6%	85.4%
Grand Total	749,866	760,011	770,411

* Other - includes the following license status categories: cancelled, cancelled due to death, expired no longer renewable, revoked.

HIS Registration Population by Status

	December 2013	December 2014	December 2015
Active	9,124	11,170	14,001
Other*	87,106	90,484	95,031
Total	96,230	101,654	109,032

* Other - includes the following license status categories: cancelled, cancelled due to death, expired no longer renewable, revoked.

Complaints By Fiscal Year

	2011-12	2012-13	2013-14	2014-15
Received	19,239	18,101	18,203	19,722
Reopened	1,094	844	786	820
Closed	20,366	19,118	18,875	20,016
Pending (As of June 30)	3,901	3,762	3,893	4,458



CSLB Position Vacancies		
	December 2014	December 2015
Administration	0.0	2.0
Executive/Public Affairs	1.0	1.0
IT	6.0	2.0
Licensing	8.5	7.0
Enforcement	19.0	21.5
Testing	1.0	1.5
Total	35.5	35.0

AGENDA ITEM D

Review, Discussion, and Possible Approval of FY 2016-18 Strategic Planning Process





Contractors State License Board Strategic Plan Schedule

Task		Due Date (2016)
Preliminary Meeting/Overview	SOLID will meet with the CSLB leadership to gather information about the Board and to outline the strategic planning process.	Jan. 8 th
Determine Stakeholders	CSLB to determine stakeholders and obtain stakeholder email addresses.	Jan. 19 th
Contact List	CSLB to provide SOLID with a contact list of Board member names, numbers and email addresses	Jan. 19 th
Board Member Email Invitation	SOLID will send an email invitation to each Board member to schedule the individual phone interviews.	Week of Jan. 25 th
Board Member Phone Interviews	SOLID will conduct individual phone interviews with Board members to determine the Board's strategic focus for the upcoming plan.	Feb. 1 st - 12 th
Approve Stakeholder Survey	SOLID will develop online stakeholder surveys _____. We will provide the survey draft(s) as well as the survey announcement(s) for your review by January 26 – Registrar (and assigned staff) to approve and email surveys by no later than January 29 for distribution.	Jan. 26 th draft/ Approved by Jan. 29 th
Survey Stakeholders	SOLID will use an online survey at surveymonkey.com to obtain input from your stakeholders.	Jan. 29 th - Feb. 12 th
Management Focus Groups / Staff Survey	SOLID will facilitate a series of 4 hour meetings with your management team and provide a survey link to distribute to staff using the above mentioned tools.	Week of Feb. 8 th
Compiled Results To Registrar for Review	Upon completion of interviews and surveys, SOLID will compile and analyze the data and produce an environmental scan document. This material will be sent to you for review and approval. The final document will be discussed during the planning session.	Draft: Feb. 22 nd Final: Mar. 1 st
Pre-Session Meeting With Executive Team	This meeting, usually held 1 week before the planning session, is designed for the facilitator and CSLB executive team to discuss the game plan for the planning session. The facilitator will review all planned materials and PowerPoint. All logistics and remaining details will be discussed and finalized as well.	Week of March 7
Strategic Planning Session	SOLID will facilitate the strategic plan development session with the Board. The workshop will review trends identified in the environmental scan and establish a Vision, Mission, Values, Goals and Objectives for the new plan. 3/14 1:30pm - 4:30pm - 3/15 9:00am – 3:00pm	March 14 - 15, 2016 San Diego, CA
Update Strategic Plan	SOLID will use the information gathered at the planning session to create the CSLB strategic plan. A comprehensive draft will be sent to you for review by the target due date.	March 28, 2016
Board Adopts Strategic Plan	Strategic plan is approved by the Board.	TBD
Action Planning Session	After the Board approves strategic plan, SOLID will facilitate a meeting with CSLB to create an action plan to guide completion of strategic objectives by establishing dates, major tasks, and assigning responsibility.	TBD

AGENDA ITEM E

Review, Discussion, and Possible Recommendation for Board Approval of CSLB Board Member Administrative and Procedures Manual



Review, Discussion, and Possible Recommendation for Board Approval of CSLB Board Member Administrative and Procedures Manual

Staff annually reviews the Board Member Administrative and Procedures Manual to determine if any changes are needed. To identify proposed updates, staff reviewed administrative manuals from other Boards, as well as material provided by legal counsel at the Board Member training session in October 2015.

Proposed additions appear in underline text and deletions in ~~strike through~~ text. A summary of changes follows:

General – Various grammatical changes were made throughout the booklet.

Chapter 1. Introduction

Overview – The Board’s “Mission, Vision, and Values” were added.

General Rules of Conduct – Added language that Board Members may act or speak on behalf of the Board if authorized by the chair.

Chapter 2. Board Meeting Procedures

Bagley-Keene Open Meeting Act – Added this section, per the information provided at the Board Member training by legal counsel.

Frequency of Meetings – The first two bullet points were deleted from this section and added to the sections on Special Meetings that appear at the end of this chapter. The third bullet repeated information contained in the section on Quorum in this chapter and was deleted. The fourth bullet also was deleted because this information appears in the section on Notice of Meetings in this chapter. A new sentence was included to indicate that Board meeting dates will be established by fiscal year.

Location – This section was added to note Board meeting location compliance with ADA accessibility requirements, that meetings are held in cities throughout the State, and that CSLB is cognizant of the public’s concern about travel expenses when selecting meeting locations.

Public Attendance at Board Meetings – This section contained information more relevant to the Bagley-Keene Open Meeting Act, and now appears earlier in the

chapter. Information related to public attendance appears later in this chapter, between the sections on Meeting Rules and Public Comment.

Quorum – Added a clarifying sentence regarding the definition of a majority.

Agenda Items – Added a sentence regarding the preparation of the agenda and a reference to the Business and Professions Code.

Notice of Meetings – Made a grammatical change and added a sentence that clarifies the parties that will receive the meeting notice.

Notice of Meetings to be Posted on the Internet – Clarified and made consistent with Notice of Meetings that the 10-day period is based on calendar days.

Record of Meetings – Added language to reflect changes to the Bagley-Keene Open Meeting Act that require recording how each Board Member present voted on each item for which a vote was taken.

Voting on Motions – Added a section regarding voting that reflects Bagley-Keene Open Meeting Act requirements and describes voting options.

Audio/Visual Recording – Added a sentence regarding webcasts of meetings.

Public Attendance at Board Meetings – This section was moved from earlier in the chapter, and includes only one remaining sentence noting that meetings are open to the public.

Public Comment – Language was added to clarify how public comment is taken on items on the agenda and those not on the agenda.

Closed Session – Added this section to define and clarify how and when closed session can be held.

Other Types of Board Meetings – This new section includes teleconference, special, and emergency meeting requirements.

Chapter 3. Committee Meetings – This information previously appeared in Chapter 4, and was split into two chapters for better flow. Travel and Salary Policies and Procedures now appears in Chapter 5.

Standing Committees of the Board – Added this section to define the standing committees of the Board and the duties of committee chairs.

Committee Appointments – Added language to explain the selection process for committee members and to define the term of service. Also, deleted language regarding consultation with the vice-chair and secretary.

Committee Meetings Quorum – Added this section to define a quorum and the maximum number of Board Members on a committee.

Chapter 4. Selection of Officers – Deleted “committees” from the chapter title and relocated three paragraphs related to committee meetings to Chapter 3.

Chapter 5. Travel and Salary Policies and Procedures – The previous Chapter 5, Board Administration and Staff Responsibilities, is now Chapter 6.

Travel Approval – Removed reference to outdated DCA Memorandum.

Travel Arrangements – Updated language to reflect changes in how Board Member travel is arranged.

Concur – Added a section on Concur, the State’s new online travel reservations system.

Lodging – Added a section about how to arrange lodging for Board-related travel.

Out-of-State Travel – Deleted redundant information about out-of-state travel reimbursements.

Travel Reimbursements – Changed the title from Travel Claims and added updated information about how to submit for travel reimbursement.

Chapter 6. Board Administration and Staff Responsibilities – This chapter was formerly Chapter 5.

Strategic Planning – Noted that the strategic planning process occurs on a biennial, not annual, basis.

Legislation – Updated to reflect current Board policy.

Registrar Evaluation – Added more specific information about the process for the annual evaluation of the Registrar.

Chapter 7. Representations on Behalf of the CSLB – This new chapter was created from information previously contained in Chapter 5.

Business Cards – Added language that business cards will be provided to Board Members upon request, and deleted language that allowed Board Members to use their business address on such cards in order to comply with conflict of interest laws.

Chapter 8. Training – This new chapter was created from information previously contained in Chapter 6, and now includes an introductory section.

Board Member Orientation Training – Added a section explaining the mandatory Board Member orientation.

Board Member Ethics Training – Made a grammatical change.

Sexual Harassment Prevention Training – Clarified that the two-year cycle for the required sexual harassment training falls in odd-numbered years.

Defensive Drivers Training – Added a section on defensive drivers training, which is mandatory for anyone driving on official State business.

Chapter 9. Other Policies and Procedures – This chapter was formerly Chapter 6.

Conflict of Interest – Added language about potential financial conflicts of interest for greater clarity.

Financial Disclosure – Added a section that explains the requirements related to the mandatory filing by Board Members of financial disclosure statements.

Abbreviations and Acronyms Glossary – Added four abbreviations that now appear in the manual to the glossary: ACT, ADA, DDT, and DGS.

**CSLB Board Member Administrative
and Procedures Manual**

Updated February 2016

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(Page numbers will be added to table of contents after revisions are approved and final version of Board Member Administrative Procedure Manual is complete)

CHAPTER 1 INTRODUCTION

Overview

The Contractors State License Board (CSLB) was created by the California Legislature in 1929 as the Contractors License Bureau under the Department of Professional and Vocational Standards to safeguard the public's health, safety, and welfare. Today, CSLB is one of the boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the Business, Consumer Services and Housing Agency under the aegis of the Governor. The Department is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services. While DCA provides administrative oversight and support services, CSLB has policy autonomy and sets its own policies and procedures, and initiates its own regulations.

The Board is comprised of 15 members. By law, nine are public members (eight non-contractors and one local building official), five are contractors, and there is one labor representative. Eleven appointments are made by the Governor. The Senate Rules Committee and the Speaker of the Assembly each appoint two public members. Board members may serve up to two full four-year terms. Board members fill non-salaried positions, but are paid \$100 per day for each meeting day or day spent in the discharge of official duties (see Section entitled "Salary Per Diem") and are reimbursed for travel expenses.

This Board Member Administrative and Procedures Manual is provided to Board members as a ready reference of important laws, regulations, DCA policies, and Board policies to guide the actions of Board members and ensure Board effectiveness and efficiency.

Mission, Vision, and Values

Mission

CSLB protects consumers by regulating the construction industry through licensure, enforcement, and education.

Vision

CSLB is a model consumer protection agency, providing regulatory oversight of the construction industry as essential to the protection of consumers and licensed contractors.

Values

CSLB provides the highest quality throughout its programs by:

- Being responsive and treating all consumers and contractors fairly;
- Focusing on prevention and providing educational information to consumers and contractors;
- Embracing technology and innovative methods to provide services; and
- Supporting a team concept and the professional development of staff.

General Rules of Conduct

- Board Members shall not speak or act for the Board without proper authorization from the Board Chair.
- Board members shall maintain the confidentiality of confidential documents and information.
- Board members shall commit the time to prepare for Board responsibilities.

- Board members shall recognize the equal role and responsibilities of all Board members.
- Board members shall act fairly, be nonpartisan, impartial, and unbiased in their role of protecting the public.
- Board members shall treat all applicants and licensees in a fair and impartial manner.
- Board Members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.
- Board members shall not use their positions on the Board for personal, familial, or financial gain.

CHAPTER 2 BOARD MEETING PROCEDURES

Bagley-Keene Open Meeting Act

All meetings of the CSLB are subject to the Bagley-Keene Open Meeting Act (“Act”), which governs meetings of the state regulatory boards and committees of those boards. The Act specifies meeting notice and agenda requirements, and prohibits discussing or taking action on matters not included on the agenda.

If the agenda contains items that are appropriate for closed session, the agenda shall include a citation of the particular statutory section and subdivision authorizing the closed session.

This Act is summarized in the “Guide to the Bagley-Keene Open Meeting Act” developed by DCA’s Legal Affairs Division, available on-line at www.dca.ca.gov and distributed to Board Members at the beginning of each calendar year.

Frequency of meetings

(Business & Professions Code sections 7006, ~~7007~~)

- ~~Special meetings of the Board may be held as indicated in its bylaws.~~
- ~~Four members of the Board may call a special meeting at any time.~~
- ~~Eight members constitute a quorum at a Board meeting.~~
- ~~Due notice of each meeting and the time and place thereof shall be given to each member in the manner provided in the bylaws.~~

The Board shall meet at least once each calendar quarter for the purpose of transacting such business as may properly come before it. Regular Board Meeting dates are established by fiscal year (July 1 through June 30).

Location

(Board Policy)

CSLB chooses meeting locations that are ADA (The Americans with Disabilities Act) compliant and easily accessible to the public. CSLB will hold board meetings in different locations throughout the state. CSLB also recognizes its responsibility regarding the public’s concern for the judicious use of public funds when choosing meeting facilities and overnight accommodations.

Board Member Attendance at Board Meetings

(Board Policy)

Board Members shall attend each meeting of the Board. If a member is unable to attend, he or she must contact the Board Chair or the Registrar and ask to be excused from the meeting for a specific reason. Should a member miss two consecutive meetings, the CSLB Chair may notify the Director of the DCA.

Public Attendance at Board Meetings

(Government Code section 1110 et seq.)

~~Meetings are subject to all provisions of the Bagley-Keene Open Meetings Act. This act governs meetings of the state regulatory boards and meetings of committees of those boards where the committee consists of more than two members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda.~~

~~If the agenda contains matters which are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing closed session.~~

Quorum

(B&P Code section 7007)

Eight Board members constitute a quorum for the transaction of business. The concurrence of a majority (more than one-half of the entire body) who are present and voting at a meeting shall be necessary to constitute an act or decision of the Board.

Agenda Items

(Board Policy)

The CSLB Chair, with the assistance of the Registrar, shall prepare the agenda and tentative meeting timeframe. Any Board member may submit items for a Board meeting agenda to the Registrar 15 days prior to the meeting.

Notice of Meetings

(Government Code section 11120 et seq.; Business and Professions Code section 101.7)

~~According to the Bagley Keene Open Meeting Act, m~~Meeting notices (including agendas for Board meetings) shall be sent to persons on the Board's mailing or email list at least 10 calendar days in advance. The agenda mailing list shall include a staff person's name, work address, and work telephone number who can provide further information prior to the meeting. The mailing list shall include all CSLB Board Members, as well as those parties who have requested notification.

Notice of Meetings to be Posted on the Internet

(Government Code Section 11125 et seq.)

Unless the meeting meets the requirements for a special or emergency meeting under the Act, Nnotice shall be given and also made available on the Internet at least 10 calendar days in advance of the meeting, and shall include the name, address, and telephone number of a staff person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the Internet address where notices required by ~~this article~~ the Act are made available.

Record of Meetings

(Board Policy)

The minutes are a summary, not a transcript, of each Board meeting. They shall be prepared by Board staff and submitted for review by Board members before the next Board meeting. The minutes must contain a record of how each member present voted for each item on which a vote was taken. Board minutes shall be approved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting.

Voting on Motions

All votes must be taken publicly. Secret ballots and proxy votes are prohibited. A majority of the board or committee vote is determined by the votes actually cast. Abstentions are recorded, but not counted, unless a law provides otherwise.

Options for Board members:

- 1) Support/in Favor/Yes/Aye
- 2) Oppose/No/Nay
- 3) Abstain (not counted as a vote)
- 4) Recused (not counted as a vote)

Audio/Visual Recording

(Board Policy)

The meeting may be audio/video recorded and/or broadcast live via the Internet. Recordings may be disposed of upon Board approval of the minutes; broadcasts may be available in perpetuity. If a webcast of the meeting is intended, it shall be indicated on the agenda notice.

Meeting Rules

(Board Policy)

The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act), as a guide when conducting the meetings.

Public Attendance at Board Meetings

(Government Code section 11120 et seq.)

~~All meetings are open for public attendance. This act governs meetings of the state regulatory boards and meetings of committees of those boards where the committee consists of more than two members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda.~~

~~If the agenda contains matters which are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.~~

Public Comment

(Board Policy)

Discussion of items not on a noticed agenda violates the Act's advance notice provision. However, the Board may accept public testimony on an item not on the agenda, provided that the Board takes no action or does not discuss the item at the same meeting. For items not on the agenda that the Board wishes to address, the Chair may refer a member of the public to staff or the Registrar, or refer the matter for placement on a future agenda. The Board cannot prohibit public criticism of the Board's policies or services. The Chair may set reasonable time limitations.

Public comment must be allowed on open session agenda items before or during discussion of each item and before a vote, unless the public was provided an opportunity to comment at a previous committee meeting of the Board, where the committee consisted exclusively of Board members. If the item has been substantially changed since the Committee meeting, the Board must provide another opportunity for comment at a later meeting.

Due to the need for the Board to maintain fairness and neutrality when performing its adjudicative function, the Board shall not receive any substantive information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending or criminal administrative action.

1. If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person shall be instructed to refrain from making such comments. The Board may ask or direct a staff member to speak with the person directly outside the confines of the meeting room.
2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:
 - a. Where the allegation involves errors of procedure or protocol, the Board may designate either its Registrar or a Board employee to review whether the proper procedure or protocol was followed and to report back to the Board.
 - b. Where the allegation involves significant staff misconduct, the Board may designate one of its members to review the allegation and to report back to the Board.
3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting.

Closed Session

(Government Code Section 11126)

Examples of types of Closed Session meetings include:

- Discuss and vote on disciplinary or enforcement matters under the Administrative Procedure Act (APA);
- Prepare, approve, or grade examinations;
- Discuss pending litigation; or;
- Discuss the appointment, employment, or dismissal of the Registrar unless the Registrar requests that such action be taken in public.

If the agenda contains matters which are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

No members of the public are allowed to remain in the meeting room for closed sessions. At least one staff member must be present at all closed sessions to record topics discussed and decisions made. Closed session must be specifically noticed on the agenda (including the topic and legal authority). Before going into closed session the Board Chair should announce in open session the general nature of the item or items to be discussed. If the item involves the Registrar's employment, appointment, or dismissal, and action is taken in closed session, CSLB must report that action and any roll call vote that was taken at the next public meeting.

Other types of Board Meetings

Teleconference Meetings

(Government Code Section 11123)

Special Rules for Notice of Teleconference Meetings are as follows:

- Same 10-day notice requirement as in-person meetings.
- Notice and agenda must include teleconference locations.
- Every teleconference location must be open to the public and at least one Board Member must be physically present at every noticed location. All Board Members must attend the meeting at a publicly noticed location.
- Additional locations may be listed on the agenda that allow the public to observe or address the Board by electronic means.

Special Meetings

(Government Code Section 11125.4; Business and Professions Code Section 7006)

Four members can call a special meeting held with 48 hours' notice in specified situations (e.g., consideration of proposed legislation) and a meeting can be held where two-thirds of the Board members find that there is a "substantial hardship on the state body or immediate action is required to protect the public interest."

Emergency Meetings

(Government Code Section 11125.5)

An emergency meeting may be held after finding by a majority of the Board at a prior meeting or at the emergency meeting that an emergency situation exists due to work stoppage or crippling disaster. [A quorum is required for the Board to meet in the event of emergency, such as a work stoppage or crippling disaster.] Emergency meetings require a one hour notice.

CHAPTER 3 COMMITTEE MEETINGS

Standing Committees of the Board:

- Enforcement
- Licensing
- Legislative
- Public Affairs
- Executive

The Board Chair appoints each Committee Member, with the exception of the Executive Committee, which shall be comprised of the current Board Chair, the Vice Chair, the Secretary, and the immediate past Board chair.

Each Committee shall have a Chairperson, designated by the Board Chair, and who is tasked with:

- Running committee meetings
- Opening and adjourning committee meetings
- Coordinating the creation of the summary reports with staff
- Presenting committee meeting reports and minutes to the Board

Committee Appointments

(Board Policy)

At the beginning of each fiscal year, the newly appointed Board Chair will ask CSLB Board Members if they wish to participate on a committee for the following year. The Registrar's Executive Assistant will compile a list of interested parties and supply it to the Chair. The Chair shall establish or abolish additional committees, whether standing or special, as he or she deems necessary. Composition of the committees and the appointment of the members shall be determined by the Board Chair in consultation with the Vice Chair, Secretary, and Registrar. When committees include the appointment of non-Board members, all interested parties should be considered. Officers shall serve a term of one year, beginning July 1 of the next fiscal year.

Attendance at committee meetings

(Board Policy)

If a board member wishes to attend a committee meeting of which he or she is not a member, the Board member shall obtain permission to attend from the Board Chair and shall notify the committee chair and staff. Board members who are not members of the committee that is meeting cannot vote during the committee meeting. If there is a quorum of the Board at a committee meeting, Board members who are not members of the committee must sit in the audience and cannot participate in committee deliberations.

Participation at Committee Meetings

(Government Code section 11122.5 et seq.)

When a majority of the members of the Board are in attendance at an open and noticed meeting of a standing committee, members of the Board who are not members of the standing committee may attend only as observers. Board members who are members of a committee where a majority of the members of the Board are present, cannot ask questions, talk or sit with the members of the committee at the meeting table.

Committee Meetings Quorum

A quorum is majority (more than one-half) of those committee members appointed by the Board Chair. Committees can include no more than seven members in order to avoid a full quorum of the Board, which would constitute a full Board meeting.

CHAPTER 4 SELECTION OF OFFICERS ~~and committees~~

Officers of the Board

(B&P Code section 7005)

The Board shall elect from its members a Chair, a Vice Chair, and a Secretary to hold office for one year or until their successors are duly elected and qualified.

Nomination of Officers

(Board Policy)

The Board Chair shall appoint a Nominations Committee prior to the last meeting of the fiscal year and shall give consideration to appointing a public and a professional member of the Board to the Committee. The Committee's charge will be to recommend a slate of officers for the following year. The Committee's recommendation will be based on the qualifications, recommendations, and interest expressed by the Board members. A survey of Board members may be conducted to obtain interest in each officer position. A Nominations Committee member is not precluded from running for an officer position. If more than one Board member is interested in an officer position, the Nominations Committee will make a recommendation to the Board and others will be included on the ballot for a runoff if they desire. The results of the Nominations Committee's findings and recommendations will be provided to the Board members. Notwithstanding the Nominations Committee's recommendations, Board members may be nominated from the floor at the meeting.

Election of Officers

(B&P Code section 7005)

The Board shall elect the officers at the last meeting of the fiscal year. Officers shall serve a term of one year, beginning July 1 of the next fiscal year. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board member is running per office. An officer may be re-elected and serve for more than one term.

Officer Vacancies

(Board Policy)

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the Chair becomes vacant, the Vice Chair shall assume the office of the Chair. Elected officers shall then serve the remainder of the term.

CHAPTER 5 TRAVEL AND SALARY POLICIES AND PROCEDURES (MOVED FROM CHAPTER 3)

Travel Approval

(DCA Memorandum 96-01)

Board Members shall have Board Chair approval for all travel except for regularly scheduled Board and Committee Meetings to which the Board Member is assigned.

Travel Arrangements

(Board Policy)

Board Members ~~should attempt to make their own travel arrangements and~~ are encouraged to coordinate with the Registrar's Executive Assistant for lodging accommodations any Board-related travel arrangements, including air or train transportation, car rental, and lodging through Cal Travel Store's online booking tool, Concur. The Registrar's Executive Assistant will setup Board Members' Concur accounts.

CSLB Board Members must also utilize the most economic source of transportation available. For example, if the hotel provides a shuttle from the airport to the hotel it is not fiscally responsible to rent a car or take a taxi. Reimbursements may be reduced or denied if the most economical sources are not used.

Concur

All Board-related travel must be booked using Cal Travel Store's self-service reservation system, Concur, if a Board member seeks reimbursement.

Lodging

In advance of Board and Committee Meetings, the Registrar's Executive Assistant will provide Members information detailing the name and address of the chosen hotel where a room block has been established for lodging. The Registrar's Executive Assistant is available to assist in making these travel reservations, or Board Members may coordinate them on their own.

Out-of-State Travel

(SAM Section 700 et seq.)

~~For out of state travel, Board members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses.~~ Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office.

Travel Claims Reimbursements

(SAM section 700 et seq. and DCA Memorandum 96-01)

Rules governing reimbursement of travel expenses for Board Members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. Board members must submit the originals of all receipts, with the exception of meals, and, when applicable, a copy of the airline itinerary and hotel receipt showing the balance paid, to the Registrar's Executive Assistant. Reimbursement requests for personal vehicle mileage must include where the trip originated from, where it ended, and the license plate number of the vehicle driven. All travel must be booked through Concur if the Board Member seeks reimbursement.

The Registrar's Executive Assistant completes Travel Expense Claim reimbursements in CalATERS Global and maintains copies of these reports and submitted receipts. forms and completes them as needed. It is advisable for Board Members to submit their travel expenses forms immediately after returning from a trip and not later than two weeks following the trip.

~~For expenses to be reimbursed, Board Members shall follow procedures contained in DCA Departmental Memoranda, which periodically are disseminated by the Director and are provided to Board Members.~~

Salary Per Diem

(B&P Code section 103)

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board Members is regulated by B&P Code section 103.

In relevant part, this section provides for the payment of salary per diem for Board members "for each day actually spent in the discharge of official duties," and provides that the Board member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board members except for attendance at official Board or committee meetings, unless a substantial official service is performed by the Board Member. Attendance at gatherings, events, hearings, conferences or meetings other than official Board or committee meetings in which a substantial official service is performed shall be approved in advance by the Board Chair. The Registrar shall be notified of the event and approval shall be obtained from the Board Chair prior to Board Member's attendance.
2. The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board Meeting or Committee Meeting to the conclusion of that meeting. Where it is necessary for a Board Member to leave early from a meeting, the Board Chair shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

For Board-specified work, Board Members will be compensated for actual time spent performing work authorized by the Board Chair. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, and NASCLA or CLEAR committee work. That work does not include preparation time for Board or committee meetings. Board Members cannot claim salary per diem for time spent traveling to and from a Board or Committee Meeting.

CHAPTER 6 BOARD ADMINISTRATION AND STAFF RESPONSIBILITIES (MOVED FROM CHAPTER 5)

Board Administration

(DCA Reference Manual)

Board members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board members to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the Registrar.

Board Budget

(Board Policy)

The Secretary shall serve as the Board's budget liaison with staff and shall assist staff in the monitoring and reporting of the budget to the Board. Staff will conduct an annual budget briefing with the Board with the assistance of the Secretary.

The Registrar or the Registrar's designee will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.

Strategic Planning

(Board Policy)

The Executive Committee shall have overall responsibility for the Board's Strategic Planning Process. The Vice Chair shall serve as the Board's strategic planning liaison with staff and shall assist staff in monitoring and reporting of the strategic plan to the Board. The Board will conduct a biennial annual strategic planning session and may utilize a facilitator to conduct the strategic planning process.

Legislation

(Board Policy)

In the event that time constraints preclude Board action, the Board delegates to ~~the Registrar and the~~ Chair of the Legislative Committee for the authority to take action on legislation that would change Contractors State License Law that impacts a previously established Board policy or affects the public's health, safety, or welfare. Prior to taking a position on legislation, the Registrar shall consult with the ~~Board Chair~~ Chair of the Legislative Committee. The Board shall be notified of such action as soon as possible.

Registrar Evaluation

(Board Policy)

Board members shall evaluate the performance of the Registrar of Contractors on an annual basis. The Board Chair will use surveys to complete a written summary of the evaluations and then meet with the Registrar to discuss his/her performance during a closed session of a Board Meeting. The original evaluation is signed by the Board Chair and the Registrar and sent to the DCA Human Resources Office for placement in the Registrar's Official Personnel File.

Board Staff

(DCA Reference Manual)

Employees of the Board, with the exception of the Registrar, are civil service employees. Their employment, pay, benefits, advancement, discipline, termination, and conditions of employment are governed by civil service laws, regulations, and collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Registrar. Board Members shall not intervene or become involved in specific day-to-day personnel transactions or matters.

CHAPTER 7 REPRESENTATIONS ON BEHALF OF THE CSLB (FORMERLY PART OF CHAPTER 5)

Communication, Other Organizations and Individuals

(Board Policy)

All communication relating to any Board action or policy to any individual or organization, including, but not limited to, NASCLA and CLEAR, shall be made only by the Chair of the Board, his or her designee, or the Registrar. Any Board member who is contacted by any of the above should immediately inform the Board Chair or Registrar of the contact. All correspondence shall be issued on the Board's standard letterhead and will be created and disseminated by the Registrar's office.

Public or News Media Inquiries

(Board Policy)

All technical, licensing, or disciplinary inquiries to a CSLB Board or committee member from applicants, licensees, or members of the public should be referred to the Registrar. Contact of a Board or committee member by a member of the news media should be referred to the Chief of Public Affairs.

Stationery

(Board Policy)

- **Business Cards**

Business cards will be provided to each Board Member with the Board's name, address, telephone and fax number, and website at the Board Member's request. ~~A Board member's own business address, telephone number, fax number, and e-mail address may be listed on the card if the Board Member prefers.~~

- **Letterhead**

Only correspondence that is transmitted directly by the CSLB office may be printed or written on CSLB letterhead stationery. Any correspondence from a Board or committee member requiring the use of CSLB stationery or the CSLB logo should be transmitted to the CSLB office for finalization and distribution.

CHAPTER 8 TRAINING (MOVED FROM CHAPTER 6)

Once a Board Member is appointed, the Registrar's Executive Assistant will send an email containing a list of all the required trainings, their due dates, and instructions about their completion. Board Members should send the certificate of completion or signature page to the Registrar's Executive Assistant who maintains Board Members records. For additional information, Board Members may refer to DCA's online Board Member Resource Center which may be found at: www.dca.boardmembers.ca.gov

Board Member Orientation Training

(Business and Professions Code section 453)

Newly appointed and reappointed Board Members must attend a Board Member orientation training course offered by DCA within one year of assuming office. The orientation covers information regarding required training, in addition to other topics that will ensure a members' success, including an overview of DCA.

Board Member Ethics Training

(AB 2179)

With the passage of AB 2179 (1998 Chapter 364), state appointees and employees in exempt positions are required to ~~receive~~ take an ethics orientation within the first six months of their appointment and every two years thereafter. To comply with that directive, Board or committee members may take the interactive course provided by the Office of the Attorney General, which can be found at www.oag.ca.gov/ethics.

Sexual Harassment Prevention Training

(Government Code section 12950.1)

Board members are required to undergo sexual harassment prevention training and education once every two years, in odd years. Staff will coordinate the training with the Department of Consumer Affairs.

Defensive Drivers Training

(SAM section 0751)

All state employees, which includes board and committee members, who drive a vehicle (state vehicle, vehicles rented by the state, or personal vehicles for state business) on official state business must complete the Department of General Services (DGS) approved defensive driver training (DDT) within the first six months of their appointment and every four years thereafter.

CHAPTER 9 OTHER POLICIES AND PROCEDURES (MOVED FROM CHAPTER 6)

Board Member Disciplinary Actions

(Board Policy)

A member may be censured by the Board if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner.

The Chair of the Board shall sit as chair of the hearing unless the censure involves the Chair's own actions, in which case the Vice Chair of the Board shall sit as hearing chair. In accordance with the Bagley-Keene Open Meetings Act, the censure hearing shall be conducted in open session.

Removal of Board Members

(Business and Professions Code sections 106, 106.5, 7005)

The Governor has the power to remove from office at any time any member of any board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct. The Governor also may remove from office a Board member who directly or indirectly discloses examination questions to an applicant for examination for licensure.

Resignation of Board Members

(Government Code section 1750)

In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter also shall be sent to the director of the Department, the Board Chair, and the Registrar.

Conflict of Interest

(Government Code section 87100)

No Board Member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any Board member who has a financial interest shall disqualify him- or herself from making or attempting to use his or her official position to influence the decision. Any Board Member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Registrar or the Board's legal counsel. The question of whether or not a CSLB Member has a financial interest that would present a legal conflict of interest is complex and must be decided on a case-by-case review of the particular facts involved. For more information on disqualifying yourself because of a possible conflict of interest, please refer to the Fair Political Practice Committee's manual on their website: www.fppc.ca.gov/index.php?id=37.

Financial Disclosure

The Conflict of Interest Code also requires CSLB Board Members to file annual financial disclosure statements by submitting a Form 700 – Statement of Economic Interest. New CSLB Board Members are required to file a disclosure statement within 30 days after assuming office or, if subject to Senate confirmation, 30 days after being appointed or nominated. Annual financial statements must be filed no later than April 1 of each calendar year.

A "leaving of office statement" must be filed within 30 days after an affected CSLB Board Member or other official leaves office.

CSLB Board Members are not required to disclose all of their financial interests. Government Code Section 87302 (b) explains when an item is reportable:

An investment, interest in real property, or income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.

Refer to DCA's Conflict of Interest Code to determine what investments, interests in property, or income must be reported by a CSLB Member. Questions concerning particular financial situations and related requirements should be directed to DCA's Legal Office.

Incompatible Activities

(Government Code Section 19990)

Following is a summary of the employment, activities, or enterprises that might result in or create the appearance of being inconsistent, incompatible, or in conflict with the duties of state officers:

- Using the prestige or influence of a state office or employment for the officers or employees private gain or advantage, or the private gain or advantage of another.
- Using state time, facilities, equipment, or supplies for the officers or employees private gain or advantage, or the private gain or advantage of another.
- Using confidential information acquired by the virtue of state employment for the officer's or employee's private gain or advantage or advantage of another.
- Receiving or accepting money, or any other consideration, from anyone other than the state for the performance of an act which the officer or employee would be required or expected to render in the regular course or hours of his or her state employment or as a part of his or her duties as a state officer or employee.
- Performance of an act other than in his or her capacity as a state officer or employee knowing that such an act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by such officer or employee of the agency by which he or she is employed. (This would not preclude an "industry" member of CSLB from performing normal functions of his or her occupation.)
- Receiving or accepting, directly or indirectly, any gift, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is seeking to do business of any kind with the state or whose activities are regulated or controlled in any way by the state, under circumstances from which it reasonably could be inferred that the gift was intended to influence him or her in his or her official duties or was intended as a reward for any official action on his or her part.

The aforementioned limitations do not attempt to specify every possible limitation on employee activity that might be determined and prescribed under the authority of Section 19990 of the Government Code. DCA's Incompatible Work Activities Policy and Procedure OHR 10-01 are included in Appendix A.

Contact with License Applicants

Board Members shall not intervene on behalf of an applicant for licensure for any reason; they should forward all contacts or inquiries to the Registrar.

Gifts from License Applicants

Gifts of any kind to Board Members or staff from license applicants shall not be permitted.

Request for Records Access

No Board Member may access the file of a licensee or applicant without the Registrar's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from CSLB's office.

Ex Parte Communications

(Government Code section 11430.10 et seq.)

The Government Code contains provisions prohibiting ex parte communications. An "ex parte" communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

"While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication."

Board members are prohibited from ex parte communications with Board enforcement staff while a proceeding is pending.

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board members.

If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Chief of Enforcement.

If a Board member receives a telephone call from an applicant or licensee against whom an action is pending, he or she should immediately tell the person that discussion about the matter is not permitted; that he or she will be required to recuse him or herself from any participation in the matter; and continued discussion is of no benefit to the applicant or licensee. The Board member should end the conversation in a firm and cordial manner.

If a Board member believes that he or she has received an unlawful ex parte communication, he or she should contact the Board's assigned legal office counsel.

Abbreviations and Acronyms Glossary

ALJ	Administrative Law Judge
ACD	Automated Call Distribution system
<u>ACT</u>	<u>Bagley-Keene Open Meeting Act</u>
<u>ADA</u>	<u>The Americans with Disabilities Act</u>
ADR	Alternative Dispute Resolution
AG	Office of the Attorney General
AGENCY	Business, Consumer Services and Housing Agency
AMCC	Arbitration Mediation Conciliation Center
APA	Administrative Procedure Act
APP	Application for contractor license or Home Improvement Salesperson registration
App Fee	Application Fee Number
ASB	Asbestos Certification
B&P	Business and Professions Code
BCP	Budget Change Proposal
BQI	Bond of Qualifying Individual
Cal/OSHA	DIR Division of Occupational Safety & Health
CAT	Computer Assisted Testing CB Contractor's Bond
CCCP	California Code of Civil Procedure
CCR	California Code of Regulations Cite Citation
CLC	<i>California Licensed Contractor</i> newsletter
CLEAR	Council on Licensure Enforcement and Regulations
CP/CORP	Corporation
CSLB	Contractors State License Board
CSR	Consumer Services Representative
DAG	Deputy Attorney General
DB	Disciplinary Bond
DBA	Doing Business As
DCA	Department of Consumer Affairs
<u>DDT</u>	<u>Defensive Drivers Training</u>
<u>DGS</u>	<u>Department of General Services</u>
DIR	Department of Industrial Relations
DLSE	Division of Labor Standards Enforcement
DOI	Department of Insurance
DOL	Department of Labor
DOSH	DIR Division of Occupational Safety & Health (also referred to as Cal/OSHA)
EDD	Employment Development Department
EO	Executive Officer / Registrar of Contractors
ER	Enforcement Representative
ES	Enforcement Supervisor
FSR	Feasibility Study Report

FTA	Failure to Appear
FTB	Franchise Tax Board
HAZ	Hazardous Substances Removal Certification
HIS	Home Improvement Salesperson
IC	Investigative Center
IE	Industry Expert
IEP	Industry Expert Program
IMC	Intake and Mediation Center
IT	Information Technology
IVR	Interactive Voice Response system (automated telephone system)
JV	Joint Venture
LEG	State Legislature, legislative
LETF	Labor Enforcement Task Force
MARB	Mandatory Arbitration Program
MOU	Memoranda(um) of Understanding MSC Mandatory Settlement Conference
NASCLA	National Association of State Contractors Licensing Agencies
NTA	Notice to Appear
OA	Occupational Analysis
OSN	On-Site Negotiation Program
PAO	Public Affairs Office
PD	Proposed Decision
PT	Partnership
QPT	Qualifying Partner
RFP	Request for Proposal
RME	Responsible Managing Employee
RMO	Responsible Managing Officer
SAM	State Administrative Manual
SCIF	State Compensation Insurance Fund
SME	Subject Matter Expert
SOI	Statement of Issues
SSN	Social Security Number
SWIFT	Statewide Investigative Fraud Team
TVDS	Test Validation and Development Specialist
VARB	Voluntary Arbitration Program

2014

BOARD MEMBER ADMINISTRATIVE
PROCEDURE MANUAL



**CONTRACTORS STATE
LICENSE BOARD**

Members of the Board

JOAN HANCOCK, *Contractor Member, Chair*

DAVID DIAS, *Labor Member, Vice Chair*

ED LANG, *Public Member, Secretary*

KEVIN J. ALBANESE, *Contractor Member*

AGUSTIN BELTRAN, *Public Member*

LINDA CLIFFORD, *Contractor Member*

PASTOR HERRERA JR., *Public Member*

ROBERT LAMB, *Public Member*

JOHN O'ROURKE, *Public Member*

BRUCE RUST, *Public Member*

FRANK SCHETTER, *Contractor Member*

PAUL SCHIFINO, *Contractor Member*

NANCY SPRINGER, *Building Official*

Registrar of Contractors

STEPHEN P. SANDS

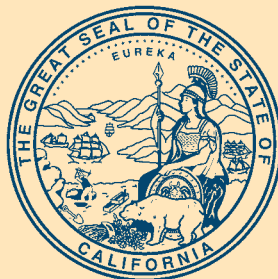
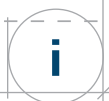


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CHAPTER 1. Introduction

Overview

The Contractors State License Board (CSLB) was created by the California Legislature in 1929 as the Contractors License Bureau under the Department of Professional and Vocational Standards to safeguard the public's health, safety, and welfare. Today, CSLB is one of the boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the Business, Consumer Services and Housing Agency under the aegis of the Governor. The Department is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services. While DCA provides administrative oversight and support services, CSLB has policy autonomy and sets its own policies and procedures, and initiates its own regulations.

The Board is comprised of 15 members. By law, nine are public members (eight non-contractors and one local building official), five are contractors, and there is one labor representative. Eleven appointments are made by the Governor. The Senate Rules Committee and the Speaker of the Assembly each appoint two public members. Board members may serve up to two full four-year terms. Board members fill non-salaried positions, but are paid \$100 per day for each meeting day and are reimbursed for travel expenses.

This procedure manual is provided to Board members as a ready reference of important laws, regulations, DCA policies, and Board policies to guide the actions of Board members and ensure Board effectiveness and efficiency.

General Rules of Conduct

- Board members shall not speak or act for the Board without proper authorization.
- Board members shall maintain the confidentiality of confidential documents and information.
- Board members shall commit the time to prepare for Board responsibilities.
- Board members shall recognize the equal role and responsibilities of all Board members.
- Board members shall act fairly, be nonpartisan, impartial, and unbiased in their role of protecting the public.

- Board members shall treat all applicants and licensees in a fair and impartial manner.
- Board members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.
- Board members shall not use their positions on the Board for personal, familial, or financial gain.

Chapter 2. Board Meeting Procedures

Frequency of Meetings

(Business & Professions Code sections 7006, 7007)

- The Board shall meet at least once each calendar quarter for the purpose of transacting such business as may properly come before it.
- Special meetings of the Board may be held as indicated in its bylaws.
- Four members of the Board may call a special meeting at any time.
- Eight members constitute a quorum at a Board meeting.
- Due notice of each meeting and the time and place thereof shall be given to each member in the manner provided in the bylaws.

Board Member Attendance at Board Meetings

(Board Policy)

Board members shall attend each meeting of the Board. If a member is unable to attend, he or she must contact the Board Chair or the Registrar and ask to be excused from the meeting for a specific reason.

Public Attendance at Board Meetings

(Government Code section 11120 et seq.)

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This act governs meetings of the state regulatory boards and meetings of committees of those boards where the committee consists of more than two members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda.

If the agenda contains matters which are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Quorum

(B&P Code section 7007)

Eight Board members constitute a quorum for the transaction of business. The concurrence of a majority who are present and voting at a meeting shall be necessary to constitute an act or decision of the Board.

Agenda Items

(Board Policy)

Any Board member may submit items for a Board meeting agenda to the Registrar 15 days prior to the meeting.

Notice of Meetings

(Government Code section 11120 et seq.)

According to the Bagley-Keene Open Meeting Act, meeting notices (including agendas for Board meetings) shall be sent to persons on the Board's mailing list at least 10 calendar days in advance. The notice shall include a staff person's name, work address, and work telephone number who can provide further information prior to the meeting.

Notice of Meetings to be Posted on the Internet

(Government Code section 11125 et seq.)

Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of a staff person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the Internet address where notices required by this article are made available.

Record of Meetings

(Board Policy)

The minutes are a summary, not a transcript, of each Board meeting. They shall be prepared by Board staff and submitted for review by Board members before the next Board meeting. Board minutes shall be approved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting.

Audio/Video Recording

(Board Policy)

The meeting may be audio/video recorded and/or broadcast live via the Internet. Recordings may be disposed of upon Board approval of the minutes; broadcasts may be available in perpetuity.

Meeting Rules

(Board Policy)

The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act), as a guide when conducting the meetings.

Public Comment*(Board Policy)*

Due to the need for the Board to maintain fairness and neutrality when performing its adjudicative function, the Board shall not receive any substantive information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending or criminal administrative action.

1. If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person shall be instructed to refrain from making such comments. The Board may ask or direct a staff member to speak with the person directly outside the confines of the meeting room.
2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:
 - a. Where the allegation involves errors of procedure or protocol, the Board may designate either its Registrar or a Board employee to review whether the proper procedure or protocol was followed and to report back to the Board.
 - b. Where the allegation involves significant staff misconduct, the Board may designate one of its members to review the allegation and to report back to the Board.
3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting.

CHAPTER 3. Travel and Salary Policies and Procedures

Travel Approval

(DCA Memorandum 96-01)

Board members shall have Board Chair approval for all travel except for regularly scheduled Board and committee meetings to which the Board member is assigned.

Travel Arrangements

(Board Policy)

Board members should attempt to make their own travel arrangements and are encouraged to coordinate with the Registrar's Executive Assistant for lodging accommodations.

Out-of-State Travel

(SAM Section 700 et seq.)

For out-of-state travel, Board members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office.

Travel Claims

(SAM section 700 et seq. and DCA Memorandum 96-01)

Rules governing reimbursement of travel expenses for Board members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Registrar's Executive Assistant maintains these forms and completes them as needed. It is advisable for Board members to submit their travel expense forms immediately after returning from a trip and not later than two weeks following the trip.

For expenses to be reimbursed, Board members shall follow procedures contained in DCA Departmental Memoranda, which periodically are disseminated by the Director and are provided to Board members.

Salary Per Diem

(B&P Code section 103)

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board members is regulated by B&P Code section 103.

In relevant part, this section provides for the payment of salary per diem for Board members “for each day actually spent in the discharge of official duties,” and provides that the Board member “shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.”

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board members except for attendance at official Board or committee meetings, unless a substantial official service is performed by the Board member. Attendance at gatherings, events, hearings, conferences or meetings other than official Board or committee meetings in which a substantial official service is performed shall be approved in advance by the Board Chair. The Registrar shall be notified of the event and approval shall be obtained from the Board Chair prior to Board member’s attendance.
2. The term “day actually spent in the discharge of official duties” shall mean such time as is expended from the commencement of a Board meeting or committee meeting to the conclusion of that meeting. Where it is necessary for a Board member to leave early from a meeting, the Board Chair shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

For Board-specified work, Board members will be compensated for actual time spent performing work authorized by the Board Chair. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, and NASCLA or CLEAR committee work. That work does not include preparation time for Board or committee meetings. Board members cannot claim salary per diem for time spent traveling to and from a Board or committee meeting.

Chapter 4. Selection of Officers and Committees

Officers of the Board

(B&P Code section 7005)

The Board shall elect from its members a Chair, a Vice Chair, and a Secretary to hold office for one year or until their successors are duly elected and qualified.

Nomination of Officers

(Board Policy)

The Board Chair shall appoint a Nominations Committee prior to the last meeting of the fiscal year and shall give consideration to appointing a public and a professional member of the Board to the Committee. The Committee's charge will be to recommend a slate of officers for the following year. The Committee's recommendation will be based on the qualifications, recommendations, and interest expressed by the Board members. A survey of Board members may be conducted to obtain interest in each officer position. A Nominations Committee member is not precluded from running for an officer position. If more than one Board member is interested in an officer position, the Nominations Committee will make a recommendation to the Board and others will be included on the ballot for a runoff if they desire. The results of the Nominations Committee's findings and recommendations will be provided to the Board members. Notwithstanding the Nominations Committee's recommendations, Board members may be nominated from the floor at the meeting.

Election of Officers

(B&P Code section 7005)

The Board shall elect the officers at the last meeting of the fiscal year. Officers shall serve a term of one year, beginning July 1 of the next fiscal year. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board member is running per office. An officer may be re-elected and serve for more than one term.

Officer Vacancies

(Board Policy)

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the Chair becomes vacant, the Vice Chair shall assume the office of the Chair. Elected officers shall then serve the remainder of the term.

Committee Appointments

(Board Policy)

The Chair shall establish committees, whether standing or special, as he or she deems necessary. Composition of the committees and the appointment of the members shall be determined by the Board Chair in consultation with the Vice Chair, Secretary, and Registrar. When committees include the appointment of non-Board members, all interested parties should be considered.

Attendance at Committee Meetings

(Board Policy)

If a Board member wishes to attend a committee meeting of which he or she is not a member, the Board member shall obtain permission to attend from the Board Chair and shall notify the committee chair and staff. Board members who are not members of the committee that is meeting cannot vote during the committee meeting. If there is a quorum of the Board at a committee meeting, Board members who are not members of the committee must sit in the audience and cannot participate in committee deliberations.

Participation at Committee Meetings

(Government Code section 11122.5 et seq.)

When a majority of the members of the Board are in attendance at an open and noticed meeting of a standing committee, members of the Board who are not members of the standing committee may attend only as observers. Board members who are not members of a committee where a majority of the members of the Board are present, can not ask questions, talk, or sit with the members of the committee at the meeting table.

Chapter 5. Board Administration and Staff

Board Administration

(DCA Reference Manual)

Board members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board members to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the Registrar.

Board Budget

(Board Policy)

The Secretary shall serve as the Board's budget liaison with staff and shall assist staff in the monitoring and reporting of the budget to the Board. Staff will conduct an annual budget briefing with the Board with the assistance of the Secretary.

The Registrar or the Registrar's designee will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.

Strategic Planning

(Board Policy)

The Executive Committee shall have overall responsibility for the Board's Strategic Planning Process. The Vice Chair shall serve as the Board's strategic planning liaison with staff and shall assist staff in the monitoring and reporting of the strategic plan to the Board. The Board will conduct an annual strategic planning session and may utilize a facilitator to conduct the strategic planning process.

Legislation

(Board Policy)

In the event that time constraints preclude Board action, the Board delegates to the Registrar and the Chair of the Legislative Committee the authority to take action on legislation that would change Contractors State License Law that impacts a previously established Board policy or affects the public's health, safety, or welfare. Prior to taking a position on legislation, the Registrar shall consult with the Board Chair. The Board shall be notified of such action as soon as possible.

Communication, Other Organizations and Individuals*(Board Policy)*

All communication relating to any Board action or policy to any individual or organization, including, but not limited to, NASCLA and CLEAR, shall be made only by the Chair of the Board, his or her designee, or the Registrar. Any Board member who is contacted by any of the above should immediately inform the Board Chair or Registrar of the contact. All correspondence shall be issued on the Board's standard letterhead and will be created and disseminated by the Registrar's office.

Public or News Media Inquiries*(Board Policy)*

All technical, licensing, or disciplinary inquiries to a CSLB Board or committee member from applicants, licensees, or members of the public should be referred to the Registrar. Contact of a Board or committee member by a member of the news media should be referred to the Chief of Public Affairs.

Stationary*(Board Policy)***• Business Cards**

Business cards will be provided to each Board member with the Board's name, address, telephone and fax number, and website. A Board member's business address, telephone and fax number, and e-mail address may be listed on the card at the member's request.

• Letterhead

Only correspondence that is transmitted directly by the CSLB office may be printed or written on CSLB letterhead stationary. Any correspondence from a Board or committee member requiring the use of CSLB stationary or the CSLB logo should be transmitted to the CSLB office for finalization and distribution.

Registrar Evaluation*(Board Policy)*

Board members shall evaluate the performance of the Registrar of Contractors on an annual basis.

Board Staff

(DCA Reference Manual)

Employees of the Board, with the exception of the Registrar, are civil service employees. Their employment, pay, benefits, advancement, discipline, termination, and conditions of employment are governed by civil service laws, regulations, and collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Registrar. Board members shall not intervene or become involved in specific day-to-day personnel transactions or matters.

Chapter 6. Other Policies and Procedures

Board Member Ethics Training

(AB 2179)

With the passage of AB 2179 (1998 Chapter 364), state appointees and employees in exempt positions are required to receive an ethics orientation within the first six months of their appointment and every two years thereafter. To comply with that directive, Board or committee members may take the interactive course provided by the Office of the Attorney General, which can be found at oag.ca.gov/ethics.

Board Member Disciplinary Actions

(Board Policy)

A member may be censured by the Board if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner.

The Chair of the Board shall sit as chair of the hearing unless the censure involves the Chair's own actions, in which case the Vice Chair of the Board shall sit as hearing chair. In accordance with the Bagley-Keene Open Meetings Act, the censure hearing shall be conducted in open session.

Removal of Board Members

(B&P Code section 7005)

The Governor has the power to remove from office at any time any member of any board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct. The Governor also may remove from office a Board member who directly or indirectly discloses examination questions to an applicant for examination for licensure.

Resignation of Board Members

(Government Code section 1750)

In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter also shall be sent to the director of the Department, the Board Chair, and the Registrar.

Conflict of Interest

(Government Code section 87100)

No Board member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any Board member who has a financial interest shall disqualify him- or herself from making or attempting to use his or her official position to influence the decision. Any Board member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Registrar or the Board's legal counsel.

Incompatible Activities

(DCA Policy)

Following is a summary of the employment, activities, or enterprises that might result in or create the appearance of being inconsistent, incompatible, or in conflict with the duties of state officers:

- Using the prestige or influence of a state office or employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Using state time, facilities, equipment, or supplies for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Using confidential information acquired by the virtue of state employment for the officer's or employee's private gain or advantage or advantage of another.
- Receiving or accepting money, or any other consideration, from anyone other than the state for the performance of an act which the officer or employee would be required or expected to render in the regular course or hours of his or her state employment or as a part of his or her duties as a state officer or employee.
- Performance of an act other than in his or her capacity as a state officer or employee knowing that such an act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by such officer or employee of the agency by which he or she is employed. (This would not preclude an "industry" member of CSLB from performing normal functions of his or her occupation.)
- Receiving or accepting, directly or indirectly, any gift, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is seeking to do business of any kind with the state or whose activities are regulated or controlled in any way by the state, under circumstances from which it

reasonably could be inferred that the gift was intended to influence him or her in his or her official duties or was intended as a reward for any official action on his or her part.

The aforementioned limitations do not attempt to specify every possible limitation on employee activity that might be determined and prescribed under the authority of Section 19990 of the Government Code. DCA's Incompatible Work Activities Policy and Procedure OHR 10-01 is included in Appendix A.

Contact with License Applicants

(Board Policy)

Board members shall not intervene on behalf of an applicant for licensure for any reason; they should forward all contacts or inquiries to the Registrar or Board staff.

Gifts from License Applicants

(Board Policy)

Gifts of any kind to Board members or staff from license applicants shall not be permitted.

Request for Records Access

(Board Policy)

No Board member may access the file of a licensee or applicant without the Registrar's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from CSLB's office.

Ex Parte Communications

(Government Code section 11430.10 et seq.)

The Government Code contains provisions prohibiting ex parte communications. An "ex parte" communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

"While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication."

Board members are prohibited from ex parte communications with Board enforcement staff while a proceeding is pending.

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board members.

If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Chief of Enforcement.

If a Board member receives a telephone call from an applicant or licensee against whom an action is pending, he or she should immediately tell the person that discussion about the matter is not permitted; that he or she will be required to recuse him or herself from any participation in the matter; and continued discussion is of no benefit to the applicant or licensee. The Board member should end the conversation in a firm and cordial manner.

If a Board member believes that he or she has received an unlawful ex parte communication, he or she should contact the Board's assigned legal office counsel.

Sexual Harassment Prevention Training

(Government Code section 12950.1)

Board members are required to undergo sexual harassment prevention training and education once every two years. Staff will coordinate the training with the Department of Consumer Affairs.





Abbreviations and Acronyms Glossary

ALJ	Administrative Law Judge
ACD	Automated Call Distribution system
ADR	Alternative Dispute Resolution
AG	Office of the Attorney General
AGENCY	Business, Consumer Services and Housing Agency
AMCC	Arbitration Mediation Conciliation Center
APA	Administrative Procedure Act
APP	Application for contractor license or Home Improvement Salesperson registration
App Fee	Application Fee Number
ASB	Asbestos Certification
B&P	Business and Professions Code
BCP	Budget Change Proposal
BQI	Bond of Qualifying Individual
Cal/OSHA	DIR Division of Occupational Safety & Health
CAT	Computer Assisted Testing
CB	Contractor's Bond
CCCP	California Code of Civil Procedure
CCR	California Code of Regulations
Cite	Citation
CLC	<i>California Licensed Contractor</i> newsletter
CLEAR	Council on Licensure Enforcement and Regulations
CP/CORP	Corporation
CSLB	Contractors State License Board
CSR	Consumer Services Representative
DAG	Deputy Attorney General
DB	Disciplinary Bond
DBA	Doing Business As
DCA	Department of Consumer Affairs
DIR	Department of Industrial Relations
DLSE	Division of Labor Standards Enforcement
DOI	Department of Insurance
DOL	Department of Labor
DOSH	DIR Division of Occupational Safety & Health (also referred to as Cal/OSHA)
EDD	Employment Development Department
EO	Executive Officer / Registrar of Contractors
ER	Enforcement Representative

ES	Enforcement Supervisor
FSR	Feasibility Study Report
FTA	Failure to Appear
FTB	Franchise Tax Board
HAZ	Hazardous Substances Removal Certification
HIS	Home Improvement Salesperson
IC	Investigative Center
IE	Industry Expert
IEP	Industry Expert Program
IMC	Intake and Mediation Center
IT	Information Technology
IVR	Interactive Voice Response system (automated telephone system)
JV	Joint Venture
LEG	State Legislature, legislative
LETF	Labor Enforcement Task Force
MARB	Mandatory Arbitration Program
MOU	Memoranda(um) of Understanding
MSC	Mandatory Settlement Conference
NASCLA	National Association of State Contractors Licensing Agencies
NTA	Notice to Appear
OA	Occupational Analysis
OSN	On-Site Negotiation Program
PAO	Public Affairs Office
PD	Proposed Decision
PT	Partnership
QPT	Qualifying Partner
RFP	Request for Proposal
RME	Responsible Managing Employee
RMO	Responsible Managing Officer
SAM	State Administrative Manual
SCIF	State Compensation Insurance Fund
SME	Subject Matter Expert
SOI	Statement of Issues
SSN	Social Security Number
SWIFT	Statewide Investigative Fraud Team
TVDS	Test Validation and Development Specialist
VARB	Voluntary Arbitration Program
Chair	Where the term "Chair" is used in this manual, it will be assumed to include his or her designee

APPENDIX A

DCA Incompatible Work Activities Policy and Procedure

  			
DEPARTMENTAL POLICY			
TITLE	INCOMPATIBLE WORK ACTIVITIES		
POLICY OWNER	LEGAL AFFAIRS AND OFFICE OF HUMAN RESOURCES		
POLICY NUMBER	OHR 10-01	SUPERSEDES	ADM 99-02
ISSUE DATE	April 8, 2010	EFFECTIVE	IMMEDIATELY
DISTRIBUTE TO	ALL EMPLOYEES		
ORIGINAL APPROVED BY	 Brian Siger, Director Department of Consumer Affairs		
PAGE	1 of 9	ATTACHMENT	

POLICY

It is the policy of the Department of Consumer Affairs (DCA) to promote and adhere to all policy directives and all laws, rules, and regulations concerning Incompatible Work Activities.

APPLICABILITY

This policy applies to all employees, governmental officials, contractors, consultants, and temporary staff of DCA, and any of its divisions, bureaus, boards, programs, and other constituent agencies. Within this policy, the generic acronym "DCA" applies to all of these entities.

PURPOSE

The purpose of this policy is to outline the State laws set forth in the standards of conduct with which State civil service officers and employees are expected to comply. All of the employees of the DCA have a responsibility to their employer, their fellow employees, and the people of California to conduct themselves in an ethical manner so as not to bring discredit to themselves or the State and the department.

AUTHORITY

- Government Code Section 19990
- Executive Order 66-2, "Standards of Ethical Conduct"
- Penal Code Section 502
- DPA Rule 599.859

PROVISIONS

Responsibility of Employees

Employees of the DCA have a responsibility to their employer, their fellow employees, and the people of California to conduct themselves in an ethical manner so as not to bring discredit to themselves or the State and the department.

The policy in this statement must be observed by each employee of the DCA in order to avoid activities which are clearly inconsistent, incompatible, or in conflict with his [or her] official duties. Employees must review this policy with a view toward their particular job duties and responsibilities.

This policy specifically relates to incompatible activities and does not include all provisions of law or regulations with which employees must comply.

If an employee is uncertain as to whether certain activity, employment, or enterprise is in violation of this policy, the employee should immediately consult with his [or her] supervisor who will indicate in writing whether the activity, employment or enterprise is prohibited.

State Law Prescribed Standards of Conduct

Civil Service Employees: To protect the integrity of the California State Civil Service, State law sets forth standards of conduct with which State civil service officers and employees are expected to comply. Although Government Code Section 19990 is not applicable to those persons exempt from the civil service system, they are also subject to standards of ethical conduct, discussed below. Section 19990 of the Government Code requires that:

A state officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his [or her] duties as a state officer or employee.

Each appointing power shall determine, subject to approval of the Department of Personnel Administration (DPA), those activities which, for employees under its jurisdiction, are inconsistent, incompatible or in conflict with their duties as State officers or employees. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all the following:

Using Prestige or Influence and Examples

- (a) **Using the prestige or influence of the State or the appointing authority** for the officer's or employee's private gain or advantage or the private gain of another.

Examples of such activities include:

- (1) *Soliciting business from persons licensed by the employee's agency (Board or Bureau) under the guise that the licensee may receive special benefits from the employee's agency.*

- (2) *Soliciting money from a licensee or from other departmental employees for the employee's private gain.*
- (3) *Providing or using the names and/or addresses of licensees, vendors, or other entities subject to regulation by the Department for mailing lists or solicitation unless authorized to do so as part of the employee's duties.*
- (4) *Using the badge, uniform, or identification card of a State position for private gain or advantage.*

Use of State Time, Facilities, etc., and Examples

- (b) **Using State time, facilities, equipment, or supplies** for private gain or advantage.

Examples of such activities include:

- (1) *Using State vehicles or credit cards for personal gain; using State letterhead stationery for private correspondence; using State office supplies, State postage stamping facilities, State copy machines, or computer equipment and software for home or personal business.*
- (2) *Selling products such as cosmetics, jewelry, stationery plastics, etc., at times other than regularly scheduled breaks and lunch periods, or to other employees when they are not on such breaks.*

Using Confidential Information and Examples

- (c) **Using, or having access to, confidential information** available by virtue of State employment for private gain or advantage or providing confidential information to persons to whom issuance has not been authorized.

Examples of such activities include:

- (1) *Disclosing confidential investigative reports or confidential examination materials or information.*
- (2) *Providing or using, unless authorized to do so by the department or by someone to whom that responsibility has been delegated, licensee social security numbers, birth dates, gender, and/or complaint activity reports.*
- (3) *Requesting, acquiring, examining, or disseminating confidential or employee personnel records or personal information maintained by the Department unless authorized in the assignment of related duties.*
- (4) *Willfully misusing, misplacing or destroying confidential information, including but not limited to, the disclosure of passwords or permitting access to computer information systems, programs or other data to unauthorized personnel.*

Accepting Money or Other Consideration and Examples

- (d) **Receiving or accepting money, or any other consideration**, from anyone other than the State for the performance of his [or her] duties as a State officer or employee.

Examples of such activities include:

- (1) *Requesting or accepting money, or other consideration, from applicants or licensees for the priority processing of license applications.*
- (2) *Charging a fee for helping an applicant complete documents for licensure.*

Performance of an Activity and Examples

- (e) **Performance of an activity, in other than his [or her] capacity as a State officer or employee**, which is subject directly or indirectly, to the control, inspection, review, audit, or enforcement by the officer or employee.

Each board should evaluate its own mission and job classifications to determine what activities are covered by this category. Specific applications may vary by board or bureau. The following examples are provided for guideline purposes only:

- (1) *Engaging in a personal medical practice or activity, which is regulated by the employee's licensing board, when the employee's duties are to review, inspect, audit, or enforce the regulated activity.*
- (2) *Engaging in a nursing practice or activity, which is regulated by the employee's licensing board, when the employee's duties are to review, inspect, audit, or enforce the regulated activity.*
- (3) *Engaging in a construction business or activity, which is regulated by the employee's licensing board, when the employee's duties are to review, inspect, audit, or enforce the regulated activity.*
- (4) *Engaging in an automobile related business or activity which, is regulated by the employee's bureau, when the employee's duties are to review, inspect, audit, or enforce the regulated activity.*
- (5) *Engaging in a private legal practice where the employee represents clients in any matter or venture subject to the regulation of an agency in DCA, or represents any licensee in any enforcement matter before an agency in the Department.*

Exception: to Prohibition in paragraph (e)

A board, bureau, commission, or other employment unit in the DCA may determine that it is in the interests of the agency to allow specified employees to engage in activities, which would otherwise be prohibited under the above guidelines. Examples may include allowing employees holding professional or vocational licenses to engage in the licensed business or profession in order to maintain current skills.

Any agency deciding to allow such employment or activities shall develop criteria to evaluate whether requests to engage in such employment or activities will be approved. The criteria must include, but need not be limited to: the time-base of the employee, the benefit to the organization of the employment or activity, a policy to avoid an actual conflict of interest or the appearance of a conflict of interest, and periodic review of the employment or activity.

Any employee currently engaged in, or desiring to engage in, such employment or activities shall submit a written request to his [or her] supervisor, describing the type and scope of outside employment or activity. The supervisor shall review the request and make a recommendation to approve or disapprove the request, based on the criteria developed by the agency. The request and recommendation shall be submitted through the supervisory chain to the program manager, division chief or executive officer, or designee who will make the determination. The approving officer may review the matter with the DCA's Legal Office and request legal review and a legal opinion regarding the proposed activity. The decision of the approving officer shall be in writing with reasons set forth for the decision.

Gratuities, other things of value

- (f) **Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or other thing of value** from anyone who is doing or seeking to do business of any kind with the officer's or employee's appointing authority, or whose activities are regulated or controlled by the appointing authority under circumstances from which it could reasonably be substantiated that the gift was intended to influence the officer or employee in his [or her] official duties, or was intended as a reward for any official action performed by the officer or employee.

Although this section does not preclude acceptance of gifts, it clearly establishes that if the intent of the giver is to influence future, or reward past, official actions, the gift cannot be accepted. Since determining intent may be difficult, the following guidelines are provided:

- (1) *Does the value of the gift, in itself, suggest an intent other than routine hospitality or gratuity? It may be useful to apply the Fair Political Practices laws as a general guide. These laws require certain employees (**only those who meet specific "Designated Employee" criteria**) to report gifts worth more than \$50 and also specify that gifts totaling more than \$300 during any twelve-month period from any one source establish a financial interest between the source and the recipient. Thus, it follows that gifts approaching these value limits could raise questions under Government Code Section 19990. In addition, gifts considerably below these limits can also be inappropriate if they raise concern under any of the following standards:*
- (2) *Do the circumstances surrounding the gift suggest an improper intent? For example, a gift given on the eve of an important decision involving the donor is of much greater concern than a routine holiday gift or an invitation to an annual*

reception. Gifts directly or indirectly identified as a reward for specific past decisions or actions usually raise questions of improper relationships.

- (3) *Is the gift characteristic of the gratuities, hospitalities, or other items typically received from organizations and/or individuals, similar to the donor? The key here is to not accept a gift from one party, which could be viewed as an attempt to gain an advantage over others who have a similar relationship with the recipient.*
- (4) *How strongly does the form of the gift suggest that it is a routine part of an on-going business relationship as opposed to something more? For example, occasional business lunches or the receipt of mementos bearing the name or insignia of the donor raise fewer questions than gifts of cash, merchandise, extraneous travel or entertainment that have value beyond the business relationship.*

Not Devoting Full Time Efforts to State Office

- (g) Subject to any other laws, rules, or regulations as pertained thereto, **not devoting his [or her] full time, attention, and efforts to his or her State office or employment** during his or her hours of duty as a State officer or employee.

An example of such activity would be conducting a private business during employee's regular hours of duty.

Exempt Appointees/Employees

Appointees/Employees exempt from Civil Service: Pursuant to Executive Order 66-2, please be advised that there exists a code of ethical standards, which is applicable to gubernatorial appointees, not including judicial or county board of supervisor employees. This code of ethical standards is to be followed in addition to any and all other statutes and executive orders (i.e. the Fair Political Practices Act) which might affect questions of conflict of interest, incompatibility or ethics relating to gubernatorial appointees.

Applicable portions of the Executive Order are set out below. You are requested to carefully read these sections and to comply with both their letter and spirit.

Standards of Ethical Conduct for Exempt appointees/employees

"Standards of Ethical Conduct"

"No employment, activity, or enterprise shall be engaged in by any officer or employee of the Executive Department of the State which might result in, or create the appearance of resulting in any of the following:

- (1) **Using the prestige or influence of a State office or employment** for the officer's or employee's private gain or advantage, or the private gain or advantage of another.

- (2) **Using State time, facilities, equipment, or supplies** for the officer's or employee's private gain or advantage, or the private gains or advantage of another.
- (3) **Using confidential information** acquired by virtue of State employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- (4) **Receiving or accepting money or any other consideration** from anyone other than the State for the performance of an act which the officer or employee would be required or expected to render in the regular course or hours of his [or her] State employment or as a part of his [or her] duties as a State officer or employee.
- (5) **Performance of an act in other than his [or her] capacity as a State officer or employee** knowing that such an act may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by such officer or employee or the agency by which he or she is employed. [This, of course, would not preclude an "industry" member of a board or commission from performing the normal functions of his or her occupation.]
- (6) **Receiving or accepting, directly or indirectly, any gift**, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the State or whose activities are regulated or controlled in any way by the State, under circumstances from which it reasonably could be inferred that the gift was intended to influence him [or her] in his [or her] official duties or was intended as a reward for any official action on his [or her] part." (Emphasis added.)

Other Acts that maybe Incompatible

The aforementioned limitations do not attempt to specify every possible limitation on employee activity that might be determined and prescribed under the authority of Section 19990 of the Government Code. If later experience shows a need for additions to, deletions from, or clarification of the aforementioned limitations, the DCA will request the approval of the Department of Personnel Administration (DPA) in making changes it determines necessary. Upon such approval, the listing will be amended. Nothing in this statement or listing should be construed by any employee as the sole provisions of law and administrative rules, which should be observed by each State officer, and employee of this department.

Procedures for Determining Incompatible Work Activity

This procedure applies to all requests to engage in outside employment or activity other than a request for an exemption from the prohibitions contained in Government Code Section 19990(e), which procedure is set forth above.

Any officer or employee who is engaging, or intends to engage, in outside employment or an activity or enterprise which may be in conflict with the provisions of this policy shall submit a written request for review of the matter to his [or her] immediate supervisor.

The written request from the employee shall include the following information:

- (1) The name of the officer or employee.
- (2) The name of the board, unit or office by which the person is employed.
- (3) The classification of the officer or employee.
- (4) The collective bargaining unit representing the officer or employee, if applicable.
- (5) The officer's or employee's duty statement, along with a statement describing the extent to which the employee's duties pertain to any confidential information that would come under his [or her] direct review.
- (6) A detailed description of the specific activity in which the officer or employee intends to engage.

The immediate supervisor shall review the request and discuss it with the administrative head of the board, office or unit, as applicable. The administrative head may review the matter with the DCA's Legal Office and request a legal opinion on whether the proposed activity is prohibited by the DCA's Incompatible Work Activity Statement. If the supervisor approves the employee's request, then, upon written approval of the employee's first line supervisor, the employee may continue to, or proceed to, engage in the activity or business. If the supervisor denies the employee's request, a written statement detailing the reason(s) for the denial will be provided to the employee.

Represented employees may appeal a denial in accordance with the terms of the employee's collective bargaining agreement. Non-represented employees may appeal under DPA Rule 599.859 to the Director. In all cases, the Director's decision shall be final.

State Attorney and Administrative Law Judges; Service on Governmental Bodies

Service on a local appointed or elected governmental board, commission, committee, or other body or as a local elected official by an attorney employed by the state in a nonelected position or by an administrative law judge, as defined in Section 11475.10, shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to, the duties of the attorney or administrative law judge as a state officer or employee and shall not result in the automatic vacation of either office.

Nothing in this section shall be construed to prohibit an administrative law judge, as defined in Section 11475.10, or an attorney employed by the state in a nonelected position from serving on any other appointed or elected governmental board, commission, committee, or other body, consistent with all applicable conflict-of-interest statutes and regulations and judicial canons of ethics.

Violation of Policy

Failure to follow any of the provisions of this policy is cause for discipline, which may include termination of employment.

In addition, any tampering, interference, damage, or unauthorized access to computer data or computer systems may constitute a criminal violation of Penal Code Section 502.

Revision of Policy

Determination of the need for revisions to this policy is the responsibility of the Legal Affairs Division and the Office of Human Resources (916) 574-8300.

Specific questions regarding the status or maintenance of this policy should be directed to the Division of Legislative and Policy Review at (916) 574-7800.

Security Agreement and Language Attachment

Incompatible Work Activity Security Agreement is attached.

RECOMMENDED IMPLEMENTATION STRATEGY

This policy is distributed to all new employees in the new employee packets or transfer packets.

The department may wish to implement this policy on an annual basis and distribute to all employees to ensure everyone has read and signed the "Incompatible Work Activity Security Agreement."

My signature on this acknowledgement for does not modify my employment relationship with DCA as set forth in the most current Memorandum of Understanding (MOU) appropriate to my employee bargaining unit.

(Printed Name)

(Signature)

(Date)

(Board/Bureau/Committee/Commission/Program/Division/Office)

Original: Office of Human Resources (Official Personnel File)
Copies: Employee, Supervisor



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AGENDA ITEM F

Adjournment

