

California Board of

**PSYCHOLOGY**

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## Administrative Procedure Manual

1625 NORTH MARKET BLVD., N-215, SACRAMENTO, CA 95834



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# Chapter 1: Introduction

## MISSION

The Board of Psychology (Board) advances quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the profession.

## VISION

A California with the best psychological services in the nation.

## VALUES

Transparency, Integrity, Consumer Protection, Inclusiveness, Excellence, Accountability

## STRATEGIC GOALS

### **Licensing**

The Board provides applicants, licensees, and registrants a method for providing psychological services in California.

### **Continuing Education**

The Board works to ensure qualified and competent individuals are licensed to provide psychological services in the state of California.

### **Policy and Advocacy**

The Board works to establish and maintain fair and just statutes and regulations that provide for the protection of consumer health and safety and reflect current and emerging, efficient, and cost-effective practices.

## **Enforcement**

The Board protects the health and safety of consumers of psychological services through the active enforcement of the statutes and regulations governing the safe practice of psychology in California.

## **Outreach**

The Board proactively educates, informs, and engages consumers, licensees, students, and other stakeholders about the practice of psychology and the laws that govern it.

## **Organizational Effectiveness**

The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.

## **OVERVIEW**

The Board was established in 1958 when the first psychologists were certified with the state. The Board is one of 40 boards, bureaus, commissions, committees, and programs that fall under the organizational structure of the Department of Consumer Affairs (Department). The Business, Consumer Services, and Housing Agency, under the auspices of the Governor, oversees the Department. The Department protects and serves California consumers while ensuring a competent and fair marketplace.

The Board:

- Licenses and renews licenses of individual psychologists
- Registers and renews registrations of psychological assistants
- Registers registered psychologists
- Investigates complaints and takes disciplinary action against licensees for violation of Board statutes and regulations

- Monitors licensees on probation
- Monitors compliance with continuing education requirements.

## COMPOSITION

### **Business and Professions Code Sections 103, 2920, 2921, and 2922**

The Board consists of nine members (five licensed psychologists and four public members) who are appointed to the Board for four-year terms. Each member may serve a maximum of two consecutive terms. The Governor appoints two public members and five licensed members. The Senate Rules Committee and the Speaker of the Assembly each appoint a public member. Board members serve in nonsalaried positions but are paid \$100 per diem for each day of a Board meeting, committee meeting, and other Board business as approved by the Board's President.

This procedure manual is updated as necessary and provided to Board members as a ready reference of important laws, regulations, Department policies, and Board policies. It is designed to help guide the actions of the Board members and to ensure effectiveness and efficiency.

# Chapter 2:

## Board Meeting Procedures

### FREQUENCY OF MEETINGS

#### **Business and Professions Code Sections 2926**

The Board of Psychology (Board) typically meets four times annually to make policy decisions, make decisions on disciplinary matters, and review committee recommendations. Special meetings may be called at any time by the President of the Board or at the written request of any two members of the Board.

The Board endeavors to hold meetings in different geographic locations throughout the state when possible as a convenience to the attending public and licensees.

### BOARD MEMBER ATTENDANCE AT BOARD MEETINGS

#### **Board Policy B-95-01**

Board members are expected to attend each Board meeting. If a member is unable to attend, he or she is asked to contact the Board President or the Executive Officer and ask to be excused from the meeting for a specific reason. All Board members are expected to attend all committee meetings for each committee to which the Board member has been assigned. All Board members shall attend the entirety of any Board or committee meeting unless excused by the President. The entirety of a meeting shall mean from the date and time of the beginning of the meeting as set forth on the official agenda for said meeting until the official adjournment of the meeting.

### BOARD MEMBER PARTICIPATION

#### **Board Policy B-95-01**

The Board President may contact a member who has missed three consecutive meetings to determine the reason he or she



has been absent and whether or not the member is able to continue serving as an active Board member. The President may suggest that the member consider resigning if, in the opinion of the President, the absences lack good cause.

The Board, by resolution, may request in writing to the appointing authority that a member be replaced. The member shall be notified in writing of such proposed action and be given the opportunity to present to the Board his or her written or oral arguments against such action prior to the Board adopting the resolution.

## PUBLIC NOTICE/INFORMATION AT BOARD MEETINGS

### **Government Code Section 11120 et seq.; Business and Professions Code Section 2927.5**

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This act governs meetings of state bodies. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda. Any general discussion of examinations or disciplinary procedures shall be held in public.

*See Appendix A.*

The Board may meet in closed session to discuss examinations, deliberate on enforcement cases, discuss pending litigation, and review personnel issues. If the agenda contains matters that, on advice of legal counsel, are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

## QUORUM

### **Business and Professions Code Section 2927**

Five members of the Board constitute a quorum for transaction of business at any meeting of the Board. At a meeting duly held at which a quorum of five members is present, a concurrence of three members of the Board present shall be necessary to constitute an act or decision of the Board.

## AGENDA ITEMS

### **Board Policy**

Agenda items are generally discussed and agreed upon at a full Board meeting. Additional agenda items for a Board meeting from any source, including Board members, must be submitted to the Executive Officer at least 30 days prior to the scheduled meeting. The Executive Officer may confer with the Board President prior to adding items to the meeting agenda.

## NOTICE OF MEETINGS

### **Government Code Section 11120 et seq.**

As mandated by the Bagley-Keene Open Meeting Act, meeting notices (including agendas for Board meetings) must be sent to persons who have requested to receive such notices and posted on the Board's website at least 10 calendar days in advance of the meeting. The notice must include a staff person's name, work address, and work phone number to provide further information prior to the meeting.

## RECORD OF BOARD MEETINGS

### **Board Policy**

The minutes are a summary of each Board meeting, not a transcript. Board minutes are approved at the next scheduled Board meeting. Once approved, the minutes serve as the official record of the meeting.

## WEBCASTING

The Board will webcast the Board meetings when webcasting staff is available from the Department of Consumer Affairs to do so. The webcast will be posted on the Board website.



## MEETING RULES

### **Board Policy**

The Board will be guided by, but not bound by, Robert's Rules of Order when conducting Board meetings, except to the extent where it conflicts with state law (e.g., Bagley-Keene Open Meeting Act).

# Chapter 3:

## Travel and Salary Policies/Procedures

### TRAVEL APPROVAL

#### **Board Policy**

Board of Psychology (Board) members must receive prior approval from the Board President and the Executive Officer for all travel except for regularly scheduled Board and committee meetings to which the Board member is assigned.

The Board President and the Executive Officer must use the Board's annual budget and *Department of Consumer Affairs Travel Guide* when considering travel requests.

*See Appendix B.*

### TRAVEL ARRANGEMENTS

#### **Board Policy**

Board members should attempt to make their own travel arrangements, including airfare, lodging, and rental cars. Board members should use the state contract airline, Southwest Airlines, whenever possible. The Department of Consumer Affairs (Department) provides instructions for Board members to establish a state travel account under the "SWABIZ" acronym to use when making all Board-related airfare arrangements.

### OUT-OF-STATE TRAVEL

#### **SAM Section 700 et seq.**

All out-of-state travel for persons representing the Board must be approved by the Board President and Executive Officer and is ultimately controlled and approved by the Governor and the Department of Finance. Once approved for out-of-state travel, Board members will be reimbursed actual lodging expenses, supported by receipts, and will be reimbursed for meal and supplemental expenses according to current reimbursement





rates. Travel prior to approval by the Governor restricts the member's ability to represent the Board and is at the individual Board member's own risk and reimbursement may be denied.

## TRAVEL CLAIMS

### **SAM Section 700 et seq.**

All expenses are claimed using the CalATERS (California Automated Travel Expense Reimbursement System) Global system. Each Board member will work with a designated member of the administrative team to set up a CalATERS Global account and designate a specified member of the administrative team as an authorized "preparer."

The Board member shall provide travel-related receipts and other necessary documentation to said "preparer" within 60 days of travel and/or work. After the expense claim has been prepared by the designated "preparer," the Board member will receive an e-mail from the CalATERS Global system indicating that they have a pending claim for their review and submission. The Board member shall then review and submit the expense claim. Expenses for travel claims submitted after the end-of-fiscal-year deadline may not be reimbursed.

The Department's travel unit uses websites to calculate standard mileage reimbursement. If travel includes side trips other than traveling directly from one point to another and returning, each stop must be itemized and an address included.

*See Appendix C.*

## SALARY PER DIEM

### **Business and Professions Code Section 103**

Compensation, salary per diem, and reimbursement of travel and other related expenses for Board members is regulated by Business and Professions 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. No public officer or employee shall receive per diem salary compensation for serving on those Boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment.”

*See Appendix D.*

## TRAVEL REIMBURSEMENT AND PAYMENT OF SALARY PER DIEM

### **Board Policy B-95-01**

The following general guidelines must be adhered to in the payment of salary per diem or reimbursement for travel:

Attendance at events such as hearings, conferences, or meetings other than official Board or committee meetings are to be approved in advance by the Board President and the Executive Officer. Board members attending meetings or events to perform a substantial official service are paid per diem and reimbursed for travel-related expenses.

The term “day actually spent in the discharge of official duties” means such time as is expended from the commencement of a Board meeting or committee meeting to the conclusion of that meeting. If it is necessary for a Board member to leave early from a meeting, the Board President 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.

Unless it is an emergency, Board members must get prior approval from the Board President to leave a meeting early. Because the Board only meets a few times a year, Board members are expected to stay for the duration of the meeting and make their travel arrangements accordingly.

For Board-specified work, Board members are compensated for actual time spent performing work authorized by the Board President. That work includes, but is not limited to, authorized attendance at events, meetings, hearings, or conferences; examination item writing; examination grading; and enforcement case review. Preparation time for Board or committee meetings is compensated when eight hours are accrued.

Members must submit timesheet summary forms for actual work performed outside a Board meeting in order to be compensated.

# Chapter 4: Other Policies/Procedures

## APPOINTMENT OF EXECUTIVE OFFICER

### **Business and Professions (B&P) Code Sections 107 and 2933**

The Board of Psychology (Board) may employ a person as an Executive Officer exempt from civil service.

Specific instructions for the Executive Officer from the Board members regarding implementing policy matters shall be coordinated through the Board President.

## STRATEGIC PLAN

### **Board Policy B-94-01**

The Board meets at least annually to review, evaluate, and update its strategic plan. The strategic plan shall include a mission statement, a vision statement, and strategies to achieve goals, objectives, and critical success factors for each Board program.

*See Appendix E.*

## IMPROPER/UNPROFESSIONAL BOARD MEMBER CONDUCT

A member may be censured by the Board if the Board determines that he or she has acted in an inappropriate manner while conducting Board business.

## REMOVAL OF BOARD MEMBERS

### **Board Policy**

The Board, by resolution, may request in writing to the appointing authority that a member be replaced. The member shall be notified in writing of such proposed action and be given the opportunity to present to the Board his or her written or oral arguments against such action prior to the Board adopting the resolution.

## **B&P Code Sections 106 and 2924**

The Governor has the power to remove from office any member of the Board for neglect of any required duty, for incompetency, or for unprofessional conduct.

## **B&P Code Section 106.5**

The Governor may also remove from office a Board member who directly or indirectly discloses examination questions to an applicant for examination for licensure, which may also constitute a misdemeanor.

## **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 by the resigning member 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 shall also be sent to the Director of the Department of Consumer Affairs (Department), the Board President, and the Executive Officer.

## **OFFICERS OF THE BOARD**

### **Business and Professions Code Section 2925; Government Code Section 1750**

The Board shall elect annually a President and Vice President from among its members.

## **ELECTION OF OFFICERS**

### **Board Policy**

Elections for the offices of President and Vice President shall be conducted at the last scheduled Board meeting of the year. The newly elected President and Vice President shall assume duties January 1.

## OFFICER VACANCIES

### **Board Policy**

If the office of the President becomes vacant, the Vice President assumes the office of the President on an interim basis and until election of officers at the next scheduled Board meeting.

## ACCESS TO BOARD FILES AND RECORDS

### **Board Policy**

No Board member may access a licensee, applicant, or complaint file without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records must not be removed from the Board's office.

## COMMUNICATIONS WITH OTHER ORGANIZATIONS/INDIVIDUALS

### **Board Policy**

The Executive Officer, his or her designee, or the Board President serve as spokesperson to the media or to any individual or organization on Board actions, policies, or any communication that is deemed sensitive or controversial. Any Board member who is contacted by any of the above should terminate the contact and inform the Executive Officer or the Board President.

## BOARD STAFF

### **Board Policy**

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, all authority and responsibility for management of the civil service staff is delegated to the Executive Officer. Individual Board members should not intervene or become involved in specific day-to-day Board office operations. However, the Board

must hold the Executive Officer accountable for supervising all day-to-day operations.

## BOARD ADMINISTRATION

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 Executive Officer under the supervision of the Board President.

## EXAMINATION PREPARATION

### **Board Policy**

Board members shall not perform any function of examination development for the Board or the Department during their term as Board members.

## CORRESPONDENCE

### **Board Policy**

Originals of any correspondence received by Board members regarding official Board business must be maintained in the Board's office files. Correspondence must be given to the Executive Officer.

## STATEMENT OF ECONOMIC INTERESTS

### **Government Code Section 81000 et seq.**

The Political Reform Act requires appointed Board members to publicly disclose their personal assets and income. The Fair Political Practices Commission (FPPC) is the agency responsible for maintaining the Statement of Economic Interests Form 700. Board members must complete a Statement of Economic Interests when appointed, annually, and upon leaving office. Your Form 700 must be filed annually on or before April 1, or you risk being sanctioned by the FPPC.

*See Appendix F.*

## ETHICS TRAINING

### **Government Code Section 11146 et seq.**

Board members 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, members may either complete the interactive training on the website of the Office of the Attorney General or view an interactive video available upon request. A Board administrative team member will coordinate with each Board member to ensure timely compliance.

## SEXUAL HARASSMENT PREVENTION TRAINING

### **Department Policy EEO 12-01**

Sexual harassment prevention training for all Board members will be accomplished in accordance with Departmental procedures.

*See Appendix G.*

## CONTACT WITH LICENSEES

### **Board Policy**

Board members must not intervene on behalf of a licensee for any reason. They must forward all contacts or inquires to the Executive Officer or Board staff.

## CONTACT WITH COMPLAINANT/RESPONDENT

Board members must not directly participate in complaint handling and resolution or investigations. To do so would subject the Board member to disqualification in any future disciplinary action against the licensee. If a Board member is contacted by a complainant/respondent or his or her attorney, he or she should refer the individual to the Executive Officer or Board staff.





## GIFTS FROM APPLICANTS, REGISTRANTS, OR LICENSEES OF THE BOARD

### **Board Policy**

Gifts of any kind to Board members from applicants, registrants, or licensees of the Board are not permitted.

## 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 himself 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 Executive Officer or Board President.

### **Board Policy B-96-02**

It is a conflict of interest for a Board member to seek office in a professional association or to actively sponsor or support others seeking office in such associations, to use his or her position as a Board member to further one's own personal interest or concerns, discuss confidential Board business with anyone except other Board members and Board staff, or to publically espouse opinions on behalf of the Board without specific Board approval to do so.

## PERFORMANCE APPRAISAL OF THE EXECUTIVE OFFICER

### **Government Code Section 11126(a) and Board Policy P-97-02**

The Board evaluates its Executive Officer on an annual basis. Approximately two months before the meeting, the Department's Office of Human Resources will direct that all Board members receive a copy of the evaluation form with instruction to complete their evaluations individually and forward them directly to the

Board President. The Board President will review all evaluations and collate the ratings and comments, for all Board members to review.

*See Appendix H.*

Each year, the matter of the Executive Officer evaluation will be placed on the agenda. The Board members will meet first in closed session to determine what action, if any, needs to be taken. The Board members will then meet with the Executive Officer to discuss the appraisal. Further actions will be taken in accordance with the Open Meetings Act.

### **Government Code Section 11126**

Matters relating to the performance of the Executive Officer are discussed by the Board in closed session unless the Executive Officer requests that it be discussed in open session.

## **BOARD MEMBER ORIENTATION TRAINING**

### **Business and Professions Code Section 453**

Every newly appointed Board member shall, within one year of assuming office, complete the training and orientation program offered by the Department regarding, among other things, his or her functions, responsibilities, and obligations as a Board member.

Objectives of the program are to understand:

- Separate roles of the Executive Officer, the Board, Board members, and Board staff;
- Conflicts of interest;
- Importance of completing and filing the annual Statement of Economic Interests Form 700 and taking mandatory training;
- Bagley-Keene Open Meeting Act;
- Board member roles in the policy-making process; and
- Discipline process and Board members' role as "judge."

# Chapter 5: Duties of the Board President and Vice President

## BOARD PRESIDENT

### **Board Policy B-2005-01**

It is the role of the President to:

- Preside at open or closed session Board meetings and official regulation hearings;
- Assure that agenda timeframes are followed;
- Appoint chairpersons of all committees, define the responsibilities of the chairpersons, and make committee appointments;
- Assure that all Board members adhere to all Board policies;
- Serve as delegate or alternate delegate to Association of State and Provincial Psychology Boards (ASPPB) or appoint another Board member to serve in such capacity;
- Represent the Board in communications relating to Board action or policy or designate another Board member to represent him or her if necessary;
- Approve or disapprove Board members' travel other than regularly scheduled Board meetings.
- Assume responsibilities usually vested in or customarily incident to the office of President and otherwise prescribed by law;
- Make decisions respecting emergency or urgent matters between meetings of the Board;
- Sign decisions and rulings of the Board and minutes after approval by the Board;

- Serve as liaison between the Board and Department of Consumer Affairs Deputy Director of Board Relations; and
- Serve as immediate supervisor of the Executive Officer.

*See Appendix I.*

## VICE PRESIDENT

If the President is temporarily unable or unwilling to perform his or her duties as President, the Vice President shall perform all of the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon, the President.

# Chapter 6: Executive Officer

## APPOINTMENT

The Board of Psychology (Board) appoints an Executive Officer who is exempt from civil service and serves at the pleasure of the Board.

## ROLE

The Executive Officer implements the policies developed by the Board.

## RECRUITMENT

The Board may institute an open recruitment plan to obtain a pool of qualified Executive Officer candidates. It may also utilize proven Equal Employment Opportunity and personnel recruitment procedures.

## SELECTION

A qualified candidate for Executive Officer must demonstrate the ability to supervise employees and handle conflict resolution and complaint mediation. The Executive Officer must also demonstrate effective written and verbal communication skills and have knowledge and expertise in the areas of legislation, regulations, administration, examination, licensing, enforcement, and budgets.

The selection of a new Executive Officer is included as an item of business, which must be included in a written agenda and transacted at a public meeting.

# Chapter 7: Board Committees

## STANDING COMMITTEES

The Board of Psychology (Board) has three standing committees:

- Outreach and Education Committee
- Policy and Advocacy Committee
- Licensing Committee

Internal organization of each committee is at the President's discretion except as specified in this manual.

Committee meetings are generally held in conjunction with regularly scheduled Board meetings and are fully within the scope of the Open Meeting Act.

## COMMITTEE APPOINTMENTS

The Board President determines committee composition, whether standing or ad hoc; however, committee members may make recommendations for new members.

Committee members' terms expire at the discretion of the Board President.

Ad hoc committees will be established by the Board President as needed. Members and the chairperson will be appointed by the President. Ad hoc committees may include the appointment of non-Board members.

## REPORT OF COMMITTEE MEETINGS

Each committee chair provides a report to the full Board at its regularly scheduled Board meeting. The Board can approve the committee report with any and all of the recommendations contained in the report, or approve a portion of the report and discuss certain items and vote on them separately.

## OUTREACH AND EDUCATION COMMITTEE

The goal of this committee is to provide critical information to all Californians regarding the evolving practice of psychology, relevant and emerging issues in the field of psychology, and the work of the Board.

## POLICY AND ADVOCACY COMMITTEE

The goal of this committee is to advocate and promote legislation that advances the ethical and competent practice of psychology in order to protect consumers of psychological services. The committee reviews and tracks legislation and regulations that affect the Board, consumers, and the profession of psychology, and recommends positions on legislation for consideration by the Board.

*See Appendix J.*

## LICENSING COMMITTEE

The goal of this committee is to ensure valid licensing, continuing education, and licensure renewal policies and procedures, making recommendations for changes as appropriate. The committee will also ensure a valid and reliable examination process to assess professional knowledge, as well as the laws and ethics governing the profession, working with such entities as the Association of State and Provincial Psychology Boards (ASPPB) and the Department of Consumer Affairs Office of Professional Examination Services.

*See Appendix K.*

# Chapter 8: Board Delegations

## PILOT LEGISLATIVE COMMITTEE GUIDELINE

The Board committees are advisory and may recommend actions to the Board. Recommendations and reports of committees shall be submitted to the full Board for consideration and approval. However, the Board hereby delegates to the Executive Officer and the Policy and Advocacy Committee Chair the authority to take action—only in the event that time constraints or quorum preclude Board action—on legislation that changes the Psychology Licensing Law, impacts a previously established Board policy, or affects the public’s health, safety, or welfare as it pertains to the mission of the Board. Before taking a position on legislation, the Executive Officer or Policy and Advocacy Committee Chair shall consult with the Board President. The Board shall be notified of such action as soon as possible.

## GUIDELINES FOR REVIEW OF REQUESTS FOR EXTENSION TO THE CALIFORNIA CODE OF REGULATIONS SECTIONS 1391.1(B) AND 1387(A)

The following are guidelines to assist Board staff in the review of requests for extensions to the 72-cumulative month limitation for psychological assistant registration and for the 30-consecutive month limit to accrue 1,500 hours of pre- or post-doctoral supervised professional experience (SPE).



### 72-Month Limitation for a Psychological Assistant Registration

Reason for Extension	Parameters	Approve	Length of Extension	Bring to Board
Disability under the ADA*	Impact ability to practice. Medical form		1 year or less	
Care of family member	Impact ability to practice. Medical form, documentation		1 year or less	
Injury or accident	Impact ability to practice. Medical form		1 year or less	
Parental leave	Impact ability to practice. Medical form, documentation		1 year or less	

### 30-Consecutive Month Limit to Accrue 1,500 Hours of SPE

Reason for Extension	Parameters	Approve	Length of Extension	Bring to Board
Disability under the ADA*	Impact ability to practice. Medical form		1 year or less	
Care of family member	Impact ability to practice. Medical form, documentation		1 year or less	
Injury or accident	Impact ability to practice. Medical form		1 year or less	
Parental leave	Impact ability to practice. Medical form, documentation		1 year or less	

\* Americans with Disabilities Act

## Chapter 9: Association Membership

The Board maintains membership in the Association of State and Provincial Psychology Boards (ASPPB). This organization is the alliance of state, provincial, and territorial agencies responsible for the licensure and certification of psychologists throughout the United States and Canada. ASPPB is the owner and developer of the national examination for licensure and certification in psychology. A national database of regulatory actions taken against licensed psychologists is maintained by ASPPB. Membership in the association aids the Board in staying current with relevant and emerging issues on a national level.

*See Appendix L.*

# APPENDICES

## APPENDIX A

Bagley-Keene Open Meeting Act

## APPENDIX B

Department of Consumer Affairs Travel Guide

## APPENDIX C

Department of Human Resources Mileage  
Reimbursement Rate

## APPENDIX D

Travel Expenses and Per Diem Form

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Strategic Plan

## APPENDIX F

Statement of Economic Interest Form 700

## APPENDIX G

Department of Consumer Affairs  
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## APPENDIX H

Executive Officer Performance Evaluations

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Board President Supervisory Expectations

## APPENDIX J

Overview of Legislative and Rulemaking Processes

## APPENDIX K

Application and Examination Flowcharts

## APPENDIX L

Complaint Review and Enforcement Flowcharts



# Appendix A: Bagley-Keene Open Meeting Act





## MEMORANDUM

<b>DATE</b>	February 6, 2017
<b>TO</b>	Executive Officers, Executive Directors, Registrar, Bureau Chiefs, Interested Parties
<b>FROM</b>	 Doreathea Johnson, Deputy Director & Chief Counsel Legal Affairs Division
<b>SUBJECT</b>	<b>Public Meetings</b> <b>Bagley-Keene Open Meeting Act Guide</b>

The attached guide includes all statutory amendments to the Bagley-Keene Open Meeting Act, through January 1, 2017. Please disregard all previous guides to the Bagley-Keene Act, issued by the Legal Affairs Division.

There are three changes that took effect during 2016:

1. Section 11121 was amended to include the State Bar of California as a "state body" subject to the Bagley Keene Open Meeting Act (Act), commencing April 1, 2016. Accordingly, the State Bar is subject to the Act, notwithstanding the exclusion provided for in section 11121.1.
2. To ensure that non-English speakers have the same opportunity to address the state body during public comment when state bodies place a time limit on the time for public comment, section 11125.7 was amended, to require the state body to allow additional time for a member of the public, who uses a translator, unless the state body utilizes simultaneous translation equipment.
3. Section 11125.8 was amended, effective June 27, 2016, to provide that any hearings, conducted pursuant to section 13963.1 are conducted by the California Victim Compensation Board, and neither the applicant nor the applicant's representative request that the hearing be open to the public, the applicant's identity is not required to be placed on the notice, agenda, announcement or report. However, in such hearing, the board shall disclose that the hearing is being held pursuant to section 13963.1. This disclosure will satisfy the disclosure requirements of section 11126.3(a).

We hope that this document is helpful to you in answering questions you may have regarding the requirements of the Open Meeting Act. Please let us know if you have questions or suggestions for improvements to the guide.

cc: Awet Kidane, Director  
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Attorneys – Legal Affairs Division

**GUIDE TO THE**  
**BAGLEY-KEENE OPEN MEETING ACT**  
(Includes Amendments through January 1, 2017)

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# BAGLEY-KEEN OPEN MEETING ACT

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**GUIDE TO THE  
BAGLEY-KEENE OPEN MEETING ACT  
(Includes Amendments through January 1, 2017)**

This guide is an update on the provisions of the public meetings law governing state agencies, officially called the Bagley-Keene Open Meeting Act. (Article 9 (commencing with Section 11120), Chapter 1, Part 1, Division 3, Title 2 of the Government Code). The Open Meeting Act closely parallels the Ralph M. Brown Act, which governs meetings of local government agencies. This guide includes all statutory changes through January 1, 2017. Please disregard all previous Guides to the Bagley-Keene Open Meeting Act (distributed prior to January 15, 2017) on this subject.

All statutory references are to the Government Code.

**I. PUBLIC POLICY TO CONDUCT PEOPLE'S BUSINESS OPENLY**

Section 11120 sets forth the purpose of the law:

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act."

Each board has essentially three duties under the Open Meeting Act. First, to give timely and sufficient public notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized. We use the terms "agency" and "board" to mean not only boards, but also commissions and any examining committees or boards within the jurisdiction of the Medical Board of California.

Section 11121 defines the "state body" that is subject to the Bagley Keene Act.

Unless specifically excluded by statute, a "state body" is defined as a state board, commission or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order; or a

board, commission committee or similar multimember body that exercises any authority, delegated to it by that state body; or an advisory commission, an advisory board, advisory committee, advisory subcommittee or similar multimember advisory body of a state body, if created by formal action of the state body or any member of the state body, and if the advisory body so created, consists of three or more persons. Effective April 1, 2016, the definition of "state body" was amended to include the State Bar of California, as described in Section 6001 of the Business and Professions Code. Notwithstanding subdivision (a) of section 11121.1, amended effective April 1, 2016, the State Bar is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act. (§ 11121(e))

## **II. BOARD, COMMITTEE, SUBCOMMITTEE, TASK FORCE MEETINGS**

### **A. Definition of a "Meeting"**

"Meeting" is defined in the Act as including "any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains." (§11122.5(a)) The law now prohibits use by a majority of the members of a state body of direct communications or a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as e-mails) to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. (§11122.5(b) (1)).

### **B. Exemptions from Definition of Meeting**

The law recognizes that not all gatherings of a majority of members of a state body at a single location constitute a meeting. Current law provides that the provisions of the Act do not apply to the following situations, **provided that** "a majority of the members do not discuss among themselves, other than as part of a scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body." (§11122.5(c))

- Individual contacts or conversations between a member of a state body and any other person. (§11122.5(c)(1))
- Attendance by a majority of members at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body. (§11122.5(c)(2))
- Attendance by a majority of members at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body. (§11122.5(c)(3))
- Attendance by a majority of members at an open and noticed meeting of another state body or of a legislative body of a local agency. (§11122.5(c)(4))
- Attendance by a majority of members at a purely social or ceremonial occasion. (§11122.5(c)(5))

- Attendance by a majority of members at an open and noticed meeting of a standing committee of that body, provided the members of the body who are not members of the committee attend only as observers. (§11122.5(c)(6))

The law does not, however, prevent an employee or official of a state agency from engaging in separate communications outside of a noticed meeting with members of the legislature to answer questions or provide information about a matter within the agency's subject matter jurisdiction – with the limitation that the person cannot communicate to members of the legislative body, the comments or position of any other member of the legislative body. (§11122.5(b)(2))

### **C. Board and Committee Meetings**

There are two basic types of meetings held by agencies in the Department of Consumer Affairs. The first type is a board meeting, where a quorum of the members of the board is present. The second type is a committee meeting consisting of less than a quorum of the members of the full board. Subcommittee and task force meetings are variations of committee meetings.

Board meetings have historically been required to be noticed and open to the public, except where a closed session is authorized. Committee and subcommittee meetings, where less than a quorum of the board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons and does not exercise any authority of a state body delegated to it by that state body. (NOTE – it is the number of persons on the committee [not the number of board members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the board should not attend the meeting, as such attendance would clearly be perceived as an Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

**[Restriction on Attendance at Committee Meetings]** The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the board, provided the members of the board who are not members of the committee attend only as observers. (§11122.5(c)(6)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a committee meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body 'as observers.'" The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)



Thus, under the provisions of section 11122.5(c)(6), and the opinion of the California Attorney General, if a majority of members of the full board are present at a committee meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The board members who are not committee members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a board schedules its committee meetings seriatim, and other board members are typically present to ultimately be available for their own committee meeting, your notice of the committee meeting should contain a statement to the effect that "Members of the board who are not members of this committee may be attending the meeting only as observers."

Subcommittees may be appointed to study and report back to a committee or the board on a particular issue or issues. If the subcommittee consists of three or more persons, the same provisions apply to its meetings as apply to meetings of committees.

Board chairpersons may occasionally appoint a task force to study and report on a particular issue. One or two board members typically serve as task force members, along with a number of other non-board members. When this is the case, the same Open Meeting Act rules that apply to committee meetings apply to task force meetings. Such a formally appointed task force falls under the definition of "state body" in Section 11121(c)."

### **III. TYPES OF MEETINGS; PURPOSE; NOTICE; OTHER REQUIREMENTS**

Boards and committees may hold several types of meetings, including a regularly scheduled meeting, a "special" meeting, or an "emergency" meeting under the provisions of section 11125.5. This section of the memorandum addresses who can hold certain types of meetings, the purposes for which the meetings can be held, notice requirements, and any other special requirements or prohibitions.

#### **A. Regularly Scheduled Meetings**

##### **1. Who May Hold a Regularly Scheduled Meeting**

A board, committee, subcommittee, or task force may hold a regularly scheduled meeting. These are the business meetings that are scheduled throughout the year to conduct the usual and customary business of the board. Such meetings may generally be called by the chairperson, or by a majority of the body. However, you must refer to your particular licensing act, which may contain different provisions as to who may call a meeting.

##### **2. Purposes for Which the Meeting May be Held**

These meetings are to conduct the usual and customary business of the board, or the business of a committee, subcommittee or task force as directed by the board. The subject matter of the meetings is essentially dictated by the jurisdiction of the board as found in the board's licensing act. There are no statutory restrictions in the Open Meeting Act on the purposes for which a regularly scheduled meeting may be held.

### **3. Notice Requirements for a Regularly Scheduled Meeting**

#### **a. Board Meetings**

An agency is required to give at least 10 calendar days written notice of each board meeting to be held. (§11125(a).) Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) The notice must include the name, address, and telephone number of a person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. The notice must also be posted on the Internet at least 10 calendar days before the meeting.

In addition to the website posting, effective January 1, 2003, the notice is required to be made available in appropriate alternate formats upon request by any person with a disability.

The notice of each board meeting must include an agenda that is prepared for the meeting. The agenda must include all items of business to be transacted or discussed at the meeting. " ... A brief general description of an item generally need not exceed 20 words. ... No item shall be added to the agenda subsequent to the provision of this notice." (§11125(b)) This provision does not, however, preclude amending an agenda provided the amended notice is distributed and posted on the Internet at least 10 calendar days prior to the meeting. Effective January 1, 2003, the notice must include information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related modification or accommodation, including auxiliary aids or services. (§11125(f)) We suggest the following as standard language:

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting \_\_\_\_\_ at (916) \_\_\_\_\_ or sending a written request to that person at the Board [Address], Sacramento, California, [zip code]. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The definition of "action taken" in Section 11122 is of some aid in determining what the Legislature intended by use of the words "items of business to be transacted."

"11122. As used in this article 'action taken' means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action."

General agenda items such as "New Business," "Old Business," "Executive Officer's Report," "Committee Reports," "President's Report," "Miscellaneous," etc., without specifying the particular matters thereunder, lack sufficient specificity to meet the standards of the Open Meeting Act and cannot be used to circumvent the notice requirement of a specific agenda. The Office of the Attorney General has opined that:

"... the purpose of subdivision (b) [of Government Code Section 11125] is to provide advance information to interested members of the public concerning the state body's anticipated business in order that they may attend the meeting or take whatever other action they deem appropriate under the circumstances.

\* \* \*

"We believe that Section 11125 was and is intended to nullify the need for . . . guesswork or further inquiry on the part of the interested public." (67 Ops.Cal.Atty.Gen. 85, 87)

Items not included on the agenda may not be acted on or discussed, even if no action is to be taken by the agency. However, we offer two suggestions so members of the public and board members may raise issues that are not on the agenda.

We strongly encourage boards to include an item on their agendas for "Public Comment on Matters Not on the Agenda." This gives persons who are attending a meeting an opportunity to raise any issues they may have, which may not be on the agenda, but which may be appropriate for future board discussion. Matters raised under this agenda item should be discussed only to the extent necessary to determine whether they should be made an agenda item at a future meeting. (§11125.7(a))

It must be reiterated that no action may be taken on any such item and discussion is limited to that which is necessary to make the determination as to whether the item will be added to a future board agenda.

While neither the California Victim Compensation Board nor the Government Claims Board are within the Department of Consumer Affairs, any hearing conducted by either of these boards, pursuant to Section 13963.1 and neither representative requests the hearing be open to the public, the notice, agenda, announcement or report need not identify the applicant. (§11125.8)

We also strongly encourage boards to include an item on their agenda for "Agenda Items for Future Meetings." This allows all board members an opportunity to request specific agenda items for a meeting. Again, these items should be discussed only to the extent necessary to determine whether they should be included as agenda items for a future meeting.

**[CAVEAT: If the regularly scheduled meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]**



The notice and the agenda must be provided to any person who requests it. A member of the public may request notice for a specific meeting, for all meetings at which a particular subject will be discussed or action taken thereon, or for all meetings of the agency. Mailing lists of persons who desire to be notified of more than one meeting must be maintained pursuant to Section 14911, which provides:

"14911. Whenever any state agency maintains a mailing list of public officials or other persons to whom publications or other printed matter is sent without charge, the state agency shall correct its mailing list and verify its accuracy at least once each year. This shall be done by addressing an appropriate postcard or letter to each person on the mailing list. The name of any person who does not respond to such letter or postcard, or who indicates that he does not desire to receive such publications or printed matter, shall be removed from the mailing lists. The response of those desiring to be on the mailing list shall be retained by these agencies for one year."

Effective 1/1/98, a sentence was added to subdivision (c) of Section 11125.1 to state that "Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication." (Stats. 1997, Chapt. 949; SB 95) The Legal Office interprets this provision to supersede any provisions in particular practice acts which require newspaper publication of board or committee meetings. Boards and committees, of course, retain the discretion to publish notices in newspapers if they so choose.

#### **b. Committee, Subcommittee or Task Force Meetings**

Each agency is required to give notice of committee, subcommittee or task force ("committee") meetings to be held. However, this requirement does not apply if the committee consists of less than three persons. It is the number of persons on the committee that is determinative, not how many of the persons are board members. Thus, if a committee consisted of two board members and two other interested persons, its meetings would have to meet all the requirements of the Open Meeting Act.

Notice of committee meetings must be provided and posted on the Internet at least 10 calendar days in advance of the meeting. (§11125(a)) The notice "shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice." (§11125(c)) The notice must also include the Website address where the notice can be accessed on the Internet. Although the law does not so specify, we would suggest also including in the notice the name, address, and telephone number of a contact person who can provide further information prior to the meeting. As with board meetings, there is no requirement that the notice be published in any newspaper or other periodical. However, the notice must be provided to any person or persons who have requested to be notified of the particular committee's meetings. Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) You may elect to send such notice to those persons on your regular mailing list.

Remember, you must post your notice on the Internet at least 10 calendar days in advance of the meeting and must make the notice available in appropriate alternate formats upon request by any person with a disability.

Provision is made for certain non-emergency, but sometimes necessary, committee meetings. Where, during the course of a regularly scheduled and properly noticed board meeting, the board desires that a committee presently discuss an item of business on the agenda, the committee may do so provided (a) the specific time and place of the committee meeting is announced during the public meeting of the board, and (b) the committee meeting is conducted within a reasonable time of, and nearby, the meeting of the board. (§11125(c))

#### **4. Specific Requirements for Regularly-Scheduled Meetings**

There are no specific requirements, other than those set forth above, for regularly scheduled board, committee, subcommittee or task force meetings.

#### **5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting**

There are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a regularly scheduled meeting.

We again remind you that, with respect to committee meetings, members of the board who are not members of the committee that is meeting may only attend the committee meeting as observers. This means these members may not sit on the dais with the committee, make any statements, or ask any questions during the committee meeting. (81 Ops.Cal.Atty.Gen. 156)

### **B. "Special" Meetings**

SB 95 of 1997 created a new category of meeting, identified as a "special" meeting.

#### **1. Who May Hold a Special Meeting**

A board, committee, subcommittee or task force may hold a special meeting.

#### **2. Purposes for Which a Special Meeting May be Held**

The only purposes for which a special meeting may be held are set forth in section 11125.4, and are drawn from the purposes for which an emergency meeting could be held under the prior law. In essence, the Legislature recharacterized those purposes as constituting "special" circumstances rather than "emergency" circumstances. Section 11125.4 provides in part that:

"(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider 'pending litigation' as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

\* \* \*

Department of Consumer Affairs licensing boards would most likely hold a special meeting for the purposes set forth in subdivisions (1), (2), (3), (4), and (6).

### **3. Notice Requirements for a Special Meeting**

A special meeting can be called at any time by the presiding officer or a majority of the members of the state body, provided the 10-day notice requirements of section 11125 "would impose a substantial hardship on the state body or where immediate action is required to protect the public interest." (§11125.4(a)) The only purposes for which the meeting can be held are those set forth above.

The normal 10-day advance notice is not required for special meetings. However, notice of the special meeting is required to be provided to each member of the state agency and to persons who have requested notice of the agency's meetings as soon as practicable after the decision to hold the meeting is made. Notice to members, newspapers of general circulation, and radio or television stations must be received at least 48 hours in advance of the meeting. Notice to newspapers, radio and television stations is satisfied by providing

notice to all national press wire services. Notices to the general public may be given via appropriate electronic bulletin boards or other appropriate mechanisms. (§11125.4(b)) The notice must also be posted on the Internet at least 48 hours in advance of the meeting.

The notice must specify the time and place of the special meeting and the business to be transacted. In essence, an agenda would be prepared. No business other than that noticed may be transacted. Notice is required even if no action is subsequently taken at the meeting. (§11125.4(b)) The notice must contain the Website address where the notice may be accessed on the Internet.

**[CAVEAT: If the special meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]**

#### **4. Specific Requirements During Special Meetings**

At the commencement of a special meeting, the agency must make a finding in open session that providing a 10-day notice of the meeting would pose a substantial hardship on the agency, or that immediate action is required to protect the public interest. The specific facts constituting the hardship or need for immediate action must be articulated. This finding must be adopted by a two-thirds (2/3) vote of the agency members present, or if less than two thirds of the members are present, by a unanimous vote of the members present. Failure to adopt the finding terminates the meeting. The agency's finding must be made available on the Internet. (§11125.4(c))

#### **5. Specific Prohibitions on Holding a Special Meeting**

As discussed above, a special meeting may only be held for the purposes set forth in section 11125.4(b). Other than the limitation on the purposes of the meeting, there are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a special meeting.

### **C. "Emergency" Meetings**

#### **1. Who May Hold an Emergency Meeting**

A board, committee, subcommittee or task force may hold an emergency meeting.

#### **2. Purposes for Which an Emergency Meeting May be Held**

As noted above, S.B. 95 of 1997 recharacterized a number of "emergency" situations as "special" situations. This resulted in the narrowing of situations for which an emergency meeting may be held. Section 11125.5 provides an emergency meeting may be held only in the case of an "emergency situation," defined as:

(1) Work stoppage or other activity that severely impairs public health or safety, or both.



"(2) Crippling disaster that severely impairs public health or safety, or both." (§11125.5(b))

### **3. Notice Requirements for an Emergency Meeting**

An emergency meeting may be held without complying with the 10-day notice requirement in Section 11125 or the 48-hour notice requirement in Section 11125.4. However, newspapers of general circulation, television and radio stations that have requested notice of meetings shall be notified of the emergency by telephone at least one hour before the meeting. If telephone services are not functioning, notice is deemed waived. The notice must be posted on the Internet as soon as practicable after the decision to call an emergency meeting has been made. However, newspapers, television and radio must be notified as soon as possible after the meeting of the fact of the meeting, its purpose, and any action taken. (§11125.5(c))

### **4. Specific Requirements for an Emergency Meeting**

The following are required to be posted in a public place and on the Internet for a minimum of 10 days, as soon as possible after the emergency meeting:

- \* Minutes of the meeting
- \* A list of persons notified, or attempted to be notified, of the meeting
- \* Any action taken at the meeting
- \* A copy of the rollcall vote on action taken (§11125.5(d))

### **5. Specific Prohibitions on Holding an Emergency Meeting**

As discussed above, an emergency meeting may only be held for the purposes set forth in section 11125.5(b).

## **IV. CLOSED SESSIONS**

### **A. Purposes for Which Closed Session Can be Held**

"Closed" sessions were formerly called "executive" sessions. Since all references in the Open Meeting Act have been changed from "executive" session to "closed" session, throughout this memorandum we will refer to such sessions as "closed" sessions.

Section 11123 states that "All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article."

Section 11126 sets forth those specific items of business which may be transacted in closed session. Only those enumerated items of business may be conducted in closed session. An agency in the Department may convene a closed session pursuant to Section 11126 for the following purposes:

## **1. Personnel Matters**

A board may meet in closed session to "... consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person unless the employee requests a public hearing." In order to consider such disciplinary action or dismissal the "employee shall be given written notice of his or her right to have a public hearing . . . which notice shall be delivered to the employee personally or by mail at least 24 hours before the meeting." (§11126(a)) If such a notice is not given any action taken during a closed session for the above reason is null and void. Once the public hearing has been held, the agency may convene into closed session to deliberate on the decision to be reached. (§11126(a)(4))

Prior to January 1, 1995, section 11126(a) did not apply to employees who were appointed to their positions, such as executive officers, executive directors, and registrars (referred to as "executive officer" for convenience). For example, any decision or deliberations made in the selection or dismissal of an executive officer previously had to be conducted in open session. (68 Ops.Cal.Atty.Gen. 34.) However, with the enactment of SB 1316 (Stats. 1994, Chapt. 845) and SB 95 (Stats. 1997, Chapt. 949), a board can now meet in closed session to consider the appointment, employment, evaluation of, or dismissal of its executive officer, unless the executive officer requests a public hearing. (§11126(a)(1), (2)) SB 1316 supersedes the conclusion reached in 68 Ops.Cal.Atty.Gen. 34. As noted above, once the public hearing has been held, the state body may convene in closed session to deliberate on the decision to be reached. (§11126(a)(4))

If the executive officer does not request a public hearing, he or she must be given the opportunity for a hearing in closed session. After the hearing, the executive officer should be excused from the closed session, and the board may then continue in closed session to deliberate on the decision to be reached. (§11126(a)(4))

Section 11126(a) is not to be interpreted to mean that a board is required to handle civil service personnel matters itself. Normally, this function of an agency is administered by its executive officer in conjunction with the Director of Consumer Affairs, who shares authority with respect to civil service personnel.

## **2. Examination Matters**

A board may meet in closed session to "prepare, approve, grade or administer examinations." (§11126(c)(1)) Essentially, this includes any discussion regarding the actual content of examinations, and their reliability and validity. If an agency is perusing examination samples in order to choose one over the others, this may be done in closed session. On the other hand, if an agency is discussing, for example, the general logistics of administering an examination, then this would not be proper subject matter for a closed session. A basic rule is that if a meeting concerns the grading, specific content, validity of an examination, or examination security, then it can and should be conducted in closed session.

Also, an agency may hear appeals from examinees or re-review examinations in closed session as this would be included in the "grading" of the examination.

### **3. Matters Affecting Individual Privacy**

A committee, consisting of less than a quorum of the full board, may meet in closed session to:

" . . . discuss matters which the [committee] has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, . . . Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body." (§11126(c)(2))

Thus, review by a committee (or subcommittee of an examining committee) of an applicant's qualifications for licensure could properly be done in a closed session. Also, for example, an enforcement committee could convene in closed session to discuss an inquiry related to a particular licensee or licensees prior to any action being filed.

**CAVEAT:** This closed session provision does not authorize such a review by the full board. Nor does it generally authorize a committee of a board to review complaints, investigation reports, or other information to determine whether disciplinary or other action should be filed against a licensee.

To ensure that board members render an impartial and fair decision in considering an Administrative Law Judge's proposed decision, board members are precluded from involving themselves in the investigation or prosecution phase of an action. (§11430.10 *et seq.*) The board's role is that of judge in the case. If a particular board member has any significant involvement in the investigative or prosecution phases, he or she must disqualify himself/herself from participation in the board's action relative to the proposed decision, and not attempt to influence any other board member regarding the decision. Legal counsel should be consulted before any enforcement actions are discussed with individual licensees, as such discussions may impact participation by the member in a final decision on a case (§11430.60), and may require disclosures under the provisions of the state's Administrative Procedure Act. (§11430.50)

Even though these committee meetings may consist entirely of subject matter proper for closed session they are required to be noticed as discussed above.

### **4. Administrative Disciplinary Matters**

A board may meet in closed session to deliberate on a decision in an administrative disciplinary proceeding under the Administrative Procedure Act. (§11400, *et seq.*; §11126(c)(3)) In the closed session, the board may decide whether to adopt a Proposed Decision, review a transcript of a hearing and render a decision of its own, deliberate upon evidence heard by the agency itself, or consider a stipulation.

This section does not authorize an agency to convene into closed session for the purpose of assigning cases, *i.e.* deciding whether a case should be heard by a hearing officer alone or by the agency itself with a hearing officer. This section does not authorize an agency to convene into closed session to review investigation files or complaints. Members of boards that have the discretion to hear cases should not review pending complaints or investigation files for the reasons given above.

#### **5. Board of Accountancy Matters**

The enforcement advisory committee established by the State Board of Accountancy pursuant to Business and Professions Code Section 5020 may convene in a closed session to "consider disciplinary action against an individual accountant prior to the filing of an accusation." (§11126(f)(3)) And the qualifications examining committee established by that board pursuant to Business and Professions Code Section 5023 may convene in closed session to "interview an individual applicant or accountant regarding the applicant's qualifications."

As noted above, such administrative and examining committee meetings are required to be noticed as previously discussed in this memorandum.

#### **6. Pending Litigation**

A board may meet in closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation. (§11126(e)(1)) Again, please note the very specific notice requirements discussed below when a closed session is to be held to discuss "pending litigation". Litigation means an adjudicatory proceeding before a court, administrative body, hearing officer or arbitrator. Litigation is considered to be pending if, (1) it has been initiated formally (e.g. a complaint, claim or petition has been filed) or (2) based on existing facts and circumstances and on the advice of its legal counsel, the state body believes there is significant exposure to litigation against it, or it is meeting to decide whether a closed session is authorized because of significant exposure to litigation or (3) based on existing facts and circumstances, the state body has decided or is deciding whether to initiate litigation. (§11126(e)(2))

The agency's legal counsel must submit a memorandum which complies with the requirements of Section 11126(e)(2)(C)(ii) prior to the closed session if possible, but no later than one week after the closed session. This document is confidential until the pending litigation has been finally adjudicated or otherwise settled. (§6254.25)

#### **7. Response to Confidential Final Draft Audit Report**

Section 11126.2 (added effective January 1, 2005) permits an agency to meet in closed session to discuss its response to a confidential final draft audit report from the Bureau of State Audits. However, once that audit report becomes final and is released to the public, the agency may only discuss it in open session.



## **8. Threat of Criminal or Terrorist Activity**

Effective January 1, 2006, AB 277 (Chap. 288, Stats. 2005) authorizes an agency at a regular or special meeting to meet in closed session to consider "matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body," where disclosure of those considerations could compromise or impede the safety or security of the described subjects. The law (Section 11126(c)(18)) requires the agency to authorize the closed session by a two-thirds vote of the members present at the meeting.

## **9. Advisory Bodies/Committees May Meet in Closed Session**

To the extent a licensing board, which is defined as a "state body" in the Open Meeting Act, is authorized to meet in closed session, then committees, subcommittees, or other bodies advisory to the licensing board, which are also defined as "state bodies," may meet in closed session for the same purposes as the licensing board. (§11126(f), (4)-(6))

## **10. Open Session Otherwise Required**

Any other business transacted by an agency must be in open session. Only for the above-mentioned reasons may a board within the Department of Consumer Affairs meet in closed session. (§11132) A board may not meet in closed session for the purpose of electing officers or to discuss the proposal or adoption of rules and regulations. Further, a board may not convene in closed session to discuss testimony received during a hearing on proposed rules and regulations. Finally, an agency may not meet in closed session because it wants to have a frank and open discussion among only members on a matter of controversy. In order for an agency to meet in closed session, the closed session must be specifically authorized by statute.

## **B. Notice and Reporting Requirements for Closed Sessions**

### **1. Notice of Closed Session**

When a closed session will constitute part or all of a meeting, it is important to note Government Code Section 11126.3, which requires that:

"(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. [A provision applicable to the Public Utilities Commission is not included herein.] If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126 [litigation has already commenced], the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."

Thus, if the meeting will consist in part or in its entirety of a closed session, you must include on the notice of the meeting the above-described information. Pay particular attention to these very specific requirements if the closed session is to discuss pending litigation. Please note that to obtain legal advice in closed session concerning pending litigation, the notice must cite subdivision (e) of Section 11126 and your attorney must prepare a memorandum stating the specific reasons and legal authority for the closed session. Subdivisions of Government Code Section 11126, discussed under "Closed Sessions" above, will generally be the statutory authority cited.

If a closed session agenda to discuss pending litigation has been properly published, and an additional pending litigation issue subsequently arises, the state agency may discuss the new matter in closed session provided that postponement of the discussion would prevent the state agency from complying with any statutory, court-ordered, or other legally-imposed deadline. The state agency must publicly announce the title of, or otherwise identify, the litigation unless to do so would jeopardize the ability to effectuate service of process, or to do so would jeopardize the agency's ability to conclude existing settlement negotiations to its advantage. (§11126.3(d))

If you intend to have a closed session during your meeting, you should first contact your Legal Division attorney to ensure that a closed session is authorized and properly noticed.

## **2. Reporting After a Closed Session**

Section 11126.3(f), requires a state body to convene in open session after a closed session and to report as required in Section 11125.2, which states that:

"Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body."

## **C. Other Procedural Requirements for Closed Sessions**

There are certain additional requirements that must be met when closed sessions are to be held.

1. All closed sessions must be held during a regular or special meeting (§11128); they may not be scheduled independently of a noticed meeting of the board or committee. Where, for example, a board or committee meeting is scheduled to discuss only matters appropriate for a closed session, the meeting should be opened as a public meeting with an announcement immediately following that the agency will convene into closed session.

2. As discussed under "Notice Required," above, prior to holding the closed session the agency must announce the general reason(s) for the closed session and the specific statutory or other legal authority under which the session is held. (§11126.3 (a)) With respect to litigation that has already been initiated, it must announce the title of or otherwise identify the litigation. (§11126.3(a)) Other specific notice requirements, discussed above,

also apply to notices regarding pending litigation. In the closed session, only matters covered in the statement may be discussed. (§11126.3(b))

3. The agency is required to designate a staff person to attend the closed session and to record in a minute book a record of topics discussed and decisions made. (§11126.1)

4. The minute book referenced in (3) is available only to members of the agency, or if a violation of the Open Meeting Act is alleged, to a court of general jurisdiction. (§11126.1)

5. Information received and discussions held in closed session are **confidential** and must not be disclosed to outside parties by members or staff who attended the closed session. A recent opinion of the Office of the California Attorney General concluded that:

"A local school board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed." (80 Ops.Cal.Atty.Gen. 231)

That opinion also cited a previous opinion, in which the Attorney General stated that "We have ... routinely observed that it would be *improper* for information received during a closed session to be publicly disclosed." (76 Ops.Cal.Atty.Gen. 289, 290-291; Emphasis in the original.)

## V. MEETING BY TELECONFERENCING

Prior to January 1, 1995, the Bagley-Keene Open Meeting Act contained no provision for conducting meetings where the participating members were not physically present in one location.

Effective 1/1/95, subdivision (b) was added to Government Code section 11123 to authorize meetings by teleconference. (Stats. 1994, Chapt. 1153; AB 3467) That subdivision has been amended several times, most recently by AB 192 of 2001, and it currently provides:

"(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

"(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, 'teleconference' means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.\*

A method is thus available whereby meetings may be conducted by audio or video teleconferencing provided the criteria set forth in the statute have been met. Note the restriction in subdivision (b)(1)(E) that prohibits a closed session emergency meeting. Emergency meetings in open session may be conducted by teleconference.

Effective January 1, 2015, subdivision (c) was added to Government Code section 11123 to require that any action taken and the vote or abstention on that action of each member present for the action be publicly reported by the state body. (Stats. 2014, Chapt.510; AB 2720)

We emphasize that the law now requires every teleconference meeting location to be identified in the notice and agenda and to be open to the public. Most importantly, the members of the agency must attend the meeting at a public location. Members are no longer able to attend the meeting via teleconference from their offices, homes, or other convenient location unless those locations are identified in the notice and agenda, and the public is permitted to attend at those locations. Nothing prohibits additional locations, where only the public is connected to the teleconference meeting. (§11123(b)(2))



## **VI. DELIBERATIONS AND VOTING**

Keep in mind the Open Meeting Act declaration of legislative intent that actions of state agencies be taken openly and that their deliberation be conducted openly. (§11120) In this regard, there are a number of provisions in the Open Meeting Act which address deliberations and voting.

### **A. Seriatim Calls to Individual Agency Members Prohibited**

Except as authorized by the above-discussed teleconferencing statutes, telephone conference calls may not be used to avoid the requirements of the Open Meeting Act. A conference call including members of a board, committee, subcommittee or task force sufficient to constitute a majority of that state body is prohibited, except pursuant to an authorized teleconference meeting.

In a case involving the Ralph M. Brown Act, the court concluded that a series of one-to-one telephone calls between members of a local body, where the purpose of the calls was to obtain a collective commitment on an issue, constituted a violation of the Act. (*Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95) The Brown Act is the local agency counterpart to the Bagley-Keene Open Meeting Act, and decisions rendered on its provisions are frequently followed in Open Meeting Act cases.

Citing the *Stockton Newspapers, Inc.* case, the court in *Sutter Bay Associates v. County of Sutter* held that to prevent evasion of the Brown Act, a series of private meetings (known as serial meetings) by which a majority of the members of the legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. ((1997) 58 Cal.App.4<sup>th</sup> 860, 877, 68 Cal.Rptr.2d 492, 502)

Effective January 1, 2010, the Act now specifically prohibits serial communications between a majority of members "to discuss, deliberate, or take action on any item of business that is within the subject matter of the state agency." (Emphasis added.) (§11122.5(b))

### **B. E-Mail Prohibition**

Section 11122.5 was amended by Stats. 2009, c. 150 (A.B. 1494) to provide:

(b)(1) A majority of the members of the state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state

agency, if that person does not communicate to members of the legislative body the comments or position or any other member or members of the legislative body.

The enactment of subdivision (b) of section 11122.5, expands upon and confirms a recent opinion of the Attorney General prohibiting the use of e-mail to reach a collective decision outside a regularly scheduled meeting. In 84 Ops.Cal.Atty.Gen. 30, the Attorney General concluded that:

"A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board."

As noted above, interpretations of the Brown Act, which governs local public agencies, are often cited as authority in interpreting similar provisions of the Bagley-Keene Open Meeting Act.

Members of a board must refrain from calling or otherwise contacting other members on a one-to-one basis, or conducting serial meetings, in order to discuss, deliberate, or take action outside the meeting on a matter within the subject matter of the board.

#### **C. Secret Ballot Prohibited**

An agency may not vote by secret ballot in a public meeting nor vote in closed session on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

For example, the election of board officers may not be conducted by secret ballot or in closed session.

#### **D. Voting by Proxy Prohibited**

Voting by proxy is not authorized. (68 Ops.Cal.Atty.Gen. 65, 70)

#### **E. Use of Electronic Devices During Meeting**

Board members should not text or email each other during an open meeting on any matter within the board's jurisdiction. Using electronic devices to communicate secretly on such a matter would violate the law. Where laptops are used by board members at the meeting because the board provides board materials electronically, the board president should make an announcement at the beginning of the meeting as to the reason for the laptops. We suggest the following (or something similar):

"You may notice board members accessing their laptops during the meeting. They are using the laptops solely to access the board meeting materials which are in electronic format."

## **F. Voting by Mail on Administrative Disciplinary Matters**

As a general rule, all voting on items of business to be transacted must be done at a public meeting. However, the Administrative Procedure Act authorizes mail voting on all questions arising under that act. (Govt. Code §11526.) Thus, board members may vote by mail on proposed decisions, stipulated decisions, and other matters in connection with a formal disciplinary case. No other votes may be cast by mail. (68 Ops.Cal.Atty.Gen. 65, 69)

## **G. Recording and Reporting Votes**

Beginning January 1, 2015, for each item on which a vote is taken, the minutes must contain a record of how each member voted on that action item. (For example, Yes – Members A, B, & C; No – Members D & E; Abstain – Member F.)

## **VII. MISCELLANEOUS PROVISIONS**

There are several provisions governing public meetings which do not fit under any of the above headings, but of which you should be aware.

### **A. Conforming Board Member's Conduct**

Any person who has been appointed as a member of a state body, who has not yet assumed the duties of the office, must conform his or her conduct to the provisions of the Open Meeting Act. (§11125.95)

### **B. Providing Open Meeting Act to New Board Members**

A copy of the Bagley-Keene Open Meeting Act must be provided to each agency member upon his or her appointment to office. Each agency should insure that a copy is given to each new member. (§11121.9.)

### **C. Prohibition on Placing Conditions on Public's Attendance**

#### **1. Sign-in**

No person can be required to register or sign-in or fulfill any other condition in order to attend a public meeting of an agency. While a person who wishes to make public comment may be asked to identify himself or herself for the board's record or minutes, a commenter cannot be compelled to do so or prevented from speaking because the commenter refuses to identify himself or herself.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, "it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document." (§11124)

## **2. Discrimination in Admittance to Meeting Facility**

A meeting may not be held in any facility that prohibits the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry, or sex. (§11131)

## **3. Access for the Disabled**

All meetings must be accessible to the disabled. (§11131)

## **4. Charging a Fee or Requiring a Purchase for Access**

The Open Meeting Act prohibits holding a meeting in any location where the public is required to pay a fee or make a purchase to attend. (§11131)

## **D. Agency Recording of the Proceedings**

A tape or film record of an open and public meeting made by the agency must be made available for public inspection under the California Public Records Act, but may be erased or destroyed 30 days after the taping or recording. An inspection must be provided without charge on an audio or video tape player made available by the state agency. (§11124.1(b))

## **E. Public's Right to Record the Proceedings**

Persons attending a public meeting have a right to record the proceedings with an audio or video tape recorder or still or motion picture camera, in the absence of a reasonable finding by the agency that the recording could not continue without noise, illumination, or obstruction of view that constitutes, or would constitute a persistent disruption of the proceedings. (§11124.1(a))

## **F. Media Broadcast of the Proceedings**

A state body may not prohibit or otherwise restrict the broadcast of a public meeting in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings. (§11124.1(c))

## **G. Webcasting**

Whether or not webcasting is required, if your meeting is webcast, it is our recommendation that you place the following statement on your agenda:

"While the board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources."



## **H. Taking Agenda Items Out of Order**

Items listed on the agenda may be taken up out of order, provided the purpose of moving the agenda items is not to frustrate public or other input on the item. It is a good practice to note on either the top or the bottom of your agenda that "All times indicated and the order of business are approximate and subject to change," to alert members of the public this is a possibility.

If your agency schedules a multiple day meeting and may move items scheduled for a subsequent day to an earlier day, you should provide notice of this possibility on your agenda. Suggested language is that "Items scheduled for a particular day may be moved to an earlier day to facilitate the board's business." Again, the purpose may not be to frustrate public or other input.

## **I. Opportunity for Public Comment at Meetings**

Section 11125.7 addresses the subject of public comment at board meetings. With specified exceptions, that section requires state agencies to provide an opportunity for members of the public to directly address the state agency on each agenda item before or during the agency's discussion or consideration of the item. This opportunity for comment need not be made available if:

1. The agenda item has previously been considered at a public meeting by a committee comprised exclusively of board members, where members of the public were provided an opportunity to address the item. However, if the item has been substantially changed since the committee meeting, a new opportunity to address the agency would be required at the full board meeting.
2. The agenda item is one that may properly be considered in closed session, which would include deliberation and action on disciplinary proceedings under the Administrative Procedure Act. (§11125.7)

If a board wishes to establish a standing rule that discussion of agenda items will be given a specified amount of time, or that public comment will be limited to a certain amount of time, the board may do that by adopting an administrative regulation. (§11125.7(b))

Section 11125.7 was amended, effective June 27, 2016 to provide an equal time provision when the state body limits the time for public comment, by requiring the state body to provide at least twice the allotted time to a member of the public who uses a translator. This amendment is to ensure that non-English speakers receive an equal opportunity to address the state body when simultaneous translation equipment is not used. (Stats of 2016 chapt. 31 SB 836)

The law specifically provides that a state agency may not prohibit public criticism of its policies, programs, or services, or of the acts or omissions of the agency. (§11125.7(c))

## **VIII. DISCLOSURE OF DOCUMENTS**

### **A. Documents Distributed Prior to the Meeting**

When writings which are public records are distributed to all, or a majority of all, of the members of a board or committee for discussion or consideration at a public meeting, the writings must be made available for public inspection. Generally, the records must be made available for inspection at the time of distribution to agency members. (§11125.1(a)) Records exempt from disclosure under Sections 6253.5, 6254 or 6254.7 of the Public Records Act need not be disclosed even though the subject matter of the records may be considered or discussed at the meeting. This includes records which are drafts, notes or memoranda which will not be retained by the agency, attorney-client privileged communications, records of pending litigation and claims against the state, personnel, medical or similar files, complaint and investigation files, except for Accusations and Proposed Decisions, and any records or data relating to examinations.

### **B. Documents Distributed During the Meeting**

When public records pertaining to an agenda item are prepared by the state body or a member of the state body, and distributed to state body members during a meeting, the documents must be made available for public inspection at the meeting. If records are prepared by some other person, and distributed to members of the state body during a meeting, the documents must be made available for public inspection after the meeting. (§11125.1(b)) Records exempt from public disclosure under specified statutes are not required to be publicly disclosed. (§11125.1(a), (b))

### **C. Charging a Fee for Public Documents**

Under section 11126.7, an agency may not charge a fee for a notice, including the agenda, of a meeting, and may only charge those fees specifically authorized for public documents that are considered at the meeting

At its discretion, an agency may charge a fee to cover reproduction costs for providing the documents required to be made available, as discussed in paragraph (B), immediately above. If an agency charges a fee, it is limited to the direct costs of duplication authorized in Section 6257 for the reproduction of public records. (§11125.1(c))

Effective January 1, 2003, documents distributed prior to or during a meeting that are public records must be made available, upon request by a person with a disability, in appropriate alternative formats. No extra charge can be imposed for putting those documents into an alternative format.

## **IX. PENALTIES**

Under previous law, any interested person could commence court action (mandamus, injunction, declaratory relief) to stop or prevent violations or threatened violations of the Open

Meeting Act. SB 95, effective 1/1/98, added the Attorney General and the district attorney to the list of those who may commence such action. Court costs and reasonable attorney's fees may be awarded to a successful plaintiff to be paid from the funds of the agency. (§11130.5)

SB 95 also expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek court action "to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, ..." (§11130(a)) This appears to be a rather unique provision, and its implications are unknown at this time.

SB 95 further expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek a court action to compel a state agency to tape record its closed sessions. Upon a judgment of a violation of Section 11126, a court could so compel an agency. Discovery procedures for the tape recordings are also set forth. (§11130(b), and (c))

Section 11130.3 authorizes a person to institute a court action to obtain a judicial determination that an action taken in violation of the notice provisions or the provisions governing closed sessions of the Act is null and void. Court costs and reasonable attorney's fees may also be awarded to a successful plaintiff under this section. This section reinforces the need for a specific, informative agenda as required by Section 11125.

These remedies extend to past actions of an agency. The statute of limitations for bringing an action is 90 days. (§§11130(c) and 11130.3(a)).

Section 11130.7 of the Act provides:

"Each member of a state body who attends a meeting of such body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled, is guilty of a misdemeanor." (Emphasis added.)

**BAGLEY-KEENE OPEN MEETING ACT – 2017**  
**(CALIFORNIA GOVERNMENT CODE)**

**11120. Public policy; legislative finding and declaration; citation of article**

It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1980, c. 1284, p. 4333, § 4; Stats. 1981, c. 968, p. 3683, § 4.)

**11121. State body defined**

As used in this article, "state body" means each of the following:

- (a) Every state board, or commission,

or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

(e) Notwithstanding subdivision (a) of Section 11121.1, the State Bar of California, as described in Section 6001 of the Business and Professions Code, This subdivision shall become operative on April 1, 2016.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1980, c. 515, § 1; Stats.1981, c. 968, p. 3683, § 5; Stats.1984, c. 193, § 38. Amended by Stats.1996, c. 1023 (S.B.1497), § 88, eff. Sept. 29, 1996; Stats.1996, c. 1064 (A.B.3351), § 783.1.

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operative July 1, 1997; Stats.2001, c. 243 (A.B.192), § 1; Amended Stats. 2003 ch 62 § 117 (SB 600), Stats. 2015, c. 537 (S.B. 387), § 22, eff. January 1, 2016.)

**11121.1. State body; exclusions**

As used in this article, "state body" does not include any of the following:

(a) Except as provided in subdivision (c) of Section 11121, state agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).

(d) State agencies when they are conducting proceedings pursuant to Section 3596.

(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.

(f) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

(Added by Stats.2001, c. 243 (A.B.192), § 2. Amended by Stats. 2008, c. 344 (S.B. 1145), § 2, eff. Sept. 26, 2008; Stats. 2015, c. 537 (S.B. 387), § 23, eff. January 1, 2016.)

**11121.2. Repealed by Stats. 2001, c. 243 (A.B.192), § 3**

The repealed section, added by Stats.1981, c. 968, p. 3684, § 5.2, provided the additional definition of "state body" as a multimember body with authority of state body.

**§ 11121.5. Repealed by Stats.1984, c. 1158, § 3**

The repealed section, added by Stats.1994, c. 1179, § 1, amended by Stats.1981, c. 968, § 5.3; Stats.1983, c. 143, § 186, Stats.1983, c. 101, § 60, related to the treatment of state college and university student body organizations as state agencies. Similar provisions were added at Education Code § 89920 et. seq.

**11121.7. Repealed by Stats. 2001, c. 243 (A.B.192), § 4**

The repealed section, added by Stats.1980, c. 1284, p. 4333, § 5, amended by Stats.1981, c. 968, p. 3685, § 6, related to representatives of the state body.

**11121.8. Repealed by Stats. 2001, c. 243 (A.B.192), § 5**

The repealed section, added by



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Stats.1981, c. 968, p. 3684, § 7, related to advisory bodies.

**11121.9. Provision of copy of article to members of state body**

Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

(Added by Stats.1980, c. 1284, p. 4334, § 6.  
Amended by Stats.1981, c. 714, p. 2659, § 175;  
Stats.1981, c. 968, p. 3685, § 7.1.)

**11121.95. Appointees or elected officials not yet in office; conformity of conduct to article requirements**

Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

(Added by Stats.1997, c. 949 (S.B.95), § 1.)

**11122. Action taken**

As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity

upon a motion, proposal, resolution, order or similar action.

(Added by Stats.1967, c. 1656, p. 4026, § 122.  
Amended by Stats.1981, c. 968, p. 3685, § 7.3.)

**11122.5. Meeting defined; series of communications to discuss, deliberate, or take action prohibited; exceptions**

(a) As used in this article, "meeting" includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b)(1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

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(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person that do not violate subdivision (b).

(2)(A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body.

(B) Subparagraph (A) does not allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and

noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, if a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers.

(Added by Stats.2001, c. 243 (A.B.192), § 6.  
Amended by Stats.2009, c. 150 (A.B.1494), § 1.)

**11123. Meetings; attendance;  
teleconference option**

(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b)(1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall

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otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state

body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

*(Added by Stats.1967, c. 1656, p. 4026, § 122.  
Amended by Stats.1981, c. 968, p. 3685, § 7.5;  
Stats.1994, c. 1153 (A.B.3467), § 1; Stats.1997, c. 52  
(A.B.1097), § 1; Stats.2001, c. 243 (A.B.192), § 7;  
Stats.2014, c. 510 (A.B.2720), § 1, eff. Jan. 1, 2015.)*

**11123.1. State body meetings to  
meet protections and prohibitions of the  
Americans with Disabilities Act**

All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

*(Added by Stats. 2002, c. 300 (A.B. 3035), § 1.)*



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**11124. Conditions to attendance**

No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(Added by Stats.1967, c. 1656, p. 4026, § 122.  
Amended by Stats.1981, c. 968, p. 3685, § 8.)

**11124.1. Audio or video recording of proceedings; inspection of state's recording; broadcast restrictions**

(a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

(Added by Stats.1980, c. 1284, p. 4334, § 7.  
Amended by Stats.1981, c. 968, p. 3685, § 9;  
Stats.1997, c. 949 (S.B.95), § 2; Stats.2009, c. 88  
(A.B.176), § 42.)

**11125. Notice of meeting**

(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. 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 any 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 address of the

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Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request, by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1973, c. 1126, p. 2291, § 1; Stats.1975, c. 708, p. 1695, § 1; Stats.1979, c. 284, § 1, eff. July 24, 1979; Stats.1981, c. 968, p. 3685, § 10. Amended by Stats.1997, c. 949 (S.B.95), § 3; Stats.1999, c. 393 (A.B.1234), § 1; Stats.2001, c. 243 (A.B.192), § 8; Stats. 2002, c. 300 (A.B. 3035), § 2.)

**11125.1. Agendas and other writings distributed for discussion or consideration at public meetings; public records; Franchise Tax Board; inspection; availability on the Internet; closed sessions**

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to

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discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the American with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by the Franchise Tax Board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right

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to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

(Added by Stats.1975, c. 959, p. 2238, § 4, Amended by Stats.1980, c. 1284, p. 4334, § 8; Stats.1981, c. 968, p. 3686, § 10.1. Amended by Stats.1997, c. 949 (S.B.95), § 4; Stats.2001, c. 670 (S.B.445), § 1; Stats. 2002, c. 300 (A.B. 3035), § 3.5.; Stats. 2005, c. 188 (A.B. 780), § 1.)

**11125.2. Appointment, employment or dismissal of public employees; closed sessions; public report**

Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

(Added by Stats.1980, c. 1284, p. 4335, § 9. Amended by Stats.1981, c. 968, p. 3687, § 10.3.)

**11125.3. Action on items of business not appearing on agenda; notice**

(a) Notwithstanding Section 11125, a

state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

(1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

(Added by Stats.1994, c. 1153 (A.B.3467), § 2. Amended by Stats.2001, c. 243 (A.B.192), § 9.)



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**11125.4. Special meetings;  
authorized purposes; notice; required  
finding of hardship or need to protect  
public interest**

(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

- (1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.
- (2) To consider proposed legislation.
- (3) To consider issuance of a legal opinion.
- (4) To consider disciplinary action involving a state officer or employee.
- (5) To consider the purchase, sale, exchange, or lease of real property.
- (6) To consider license examinations and applications.
- (7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.
- (8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall deliver the notice in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet Web site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be

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dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

(Added by Stats.1997, c. 949 (S.B.95), § 5. Amended by Stats.1999, c. 393 (A.B.1234), § 2; Stats.2004, c. 576 (A.B.1827), § 1.; Stats. 2007, c. 92 (S.B. 519), § 1.)

**11125.5. Emergency meetings**

(a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, "emergency situation" means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

(1) Work stoppage or other activity that severely impairs public health or safety, or both.

(2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting

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shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

(Amended by Stats.1992, c. 1312 (A.B.2912), § 11, eff. Sept. 30, 1992; Stats.1997, c. 949 (S.B.95), § 6; Stats.1999, c. 393 (A.B.1234), § 3.)

**11125.6. Fish and Game  
Commission; emergency meetings;  
appeals of fishery closures or restrictions**

(a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a

finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

(Added by Stats.1998, c. 1052 (A.B.1241), S 21.)



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**11125.7. Agenda item discussion before state body; opportunity for public address; regulation by state body; freedom of expression; application of provisions**

(a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations

limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c)(1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the state body.

(2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.

(d) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(e) This section is not applicable to closed sessions held pursuant to Section 11126.

(f) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(g) This section is not applicable to hearings conducted by the California Victim Compensation and Government Claims

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Board pursuant to Sections 13963 and 13963.1.

(b) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

(Added by Stats.1993, c. 1289 (S.B.367), § 2. Amended by Stats.1995, c. 938 (S.B.523), § 13, operative July 1, 1997; Stats.1997, c. 949 (S.B.95), § 7; Stats.2006, c. 538 (S.B.1852), § 248; Stats.2012, c. 551 (S.B.965), § 1.; Stats. 2016, c. 31 (S.B. 836), § 71, eff. June 27, 2016.)

**11125.8. Hearings to consider crimes against minors or crimes of sexual assault or domestic violence; identification of applicant; disclosure of nature of hearing**

(a) Notwithstanding Section 11131.5, in any hearing that the State California Victim Compensation and Government Claims Board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

(Added by Stats.1997, c. 949 (S.B.95), § 9.; Amended by Stats. 2006, c. 538 (S.B. 1852, § 249; Stats. 2016, c. 31 (S.B. 836), § 72, eff. June 27, 2016.)

**11125.9. Regional water quality control boards; compliance with notification guidelines**

Regional water quality control boards shall comply with the notification guidelines in Section 11125 and, in addition, shall do both of the following:

(a) Notify, in writing, all clerks of the city councils and county boards of supervisors within the regional board's jurisdiction of any and all board hearings at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. Each clerk, upon receipt of the notification of a board hearing, shall distribute the notice to all members of the respective city council or board of

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supervisors within the regional board's jurisdiction.

(b) Notify, in writing, all newspapers with a circulation rate of at least 10,000 within the regional board's jurisdiction of any and all board hearings, at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting.

(Added by Stats.1997, c. 301 (A.B.116), § 1.)

**§ 11126. Closed sessions.**

(a)(1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any

disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (c) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of

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persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees,

or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7)(A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California

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Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications

and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 9 (commencing with Section 60850) of, Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the Department of Resources Recycling and Recovery or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed



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session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18)(A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular

or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d)(1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

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(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e)(1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B)(i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a

significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C)(i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3



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(commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding

the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public

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disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters

relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related

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to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

(Added by Stats.1967, c. 1656, p. 4026, § 122, Amended by Stats.1968, c. 1272, p. 2396, § 1; Stats.1970, c. 346, p. 741, § 5; Stats.1972, c. 431, p. 791, § 43; Stats.1972, c. 1010, p. 1872, § 63, eff. Aug. 17, 1972, operative July 1, 1972; Stats.1974, c. 1254, p. 2713, § 1; Stats.1974, c. 1539, p. 3525, § 1; Stats.1975, c. 197, p. 570, § 1; Stats.1975, c. 959, p. 2238, § 5; Stats.1977, c. 730, p. 2318, § 5, eff. Sept. 12, 1977; Stats.1980, c. 1197, p. 4043, § 1; Stats.1980, c. 1284, p. 4338, § 11; Stats.1981, c. 180, p. 1096, § 1; Stats.1981, c. 968, p. 3688, § 12; Stats.1982, c. 454, p. 1842, § 40; Stats.1983, c. 143, § 187; Stats.1984, c. 678, § 1; Stats.1984, c. 1284, § 4; Stats.1985, c. 186, § 1; Stats.1985, c. 1091, § 1; Stats.1986, c. 575, § 1; Stats.1987, c. 1320, § 2;

Stats.1988, c. 1448, § 29; Stats.1989, c. 177, § 2; Stats.1989, c. 882, § 2; Stats.1989, c. 1360, § 52; Stats.1989, c. 1427, § 1, eff. Oct. 2, 1989, operative Jan. 1, 1990; Stats.1991, c. 788 (A.B.1440), § 4; Stats.1992, c. 1050 (A.B.2987), § 17; Stats.1994, c. 26 (A.B.1807), § 230, eff. March 30, 1994; Stats.1994, c. 422 (A.B.2589), § 15.5, eff. Sept. 7, 1994; Stats.1994, c. 845 (S.B.1316), § 1; Stats.1995, c. 975 (A.B.265), § 3; Stats.1996, c. 1041 (A.B.3358), § 2; Stats.1997, c. 949 (S.B.95), § 8; Stats.1998, c. 210 (S.B.2008), § 1; Stats.1998, c. 972 (S.B.989), § 1; Stats.1999, c. 735 (S.B.366), § 9, eff. Oct. 10, 1999; Stats.2000, c. 1002 (S.B.1998), § 1; Stats.2000, c. 1055 (A.B.2889), § 30, eff. Sept. 30, 2000; Stats.2001, c. 21 (S.B.54), § 1, eff. June 25, 2001; Stats.2001, c. 243 (A.B.192), § 10; Stats.2002, c. 664 (A.B.3034), § 93.7; Stats.2002, c. 1113 (A.B.2072), § 1; Stats.2005, c. 288 (A.B.277), § 1; Stats.2007, c. 577 (A.B.1750), § 4, eff. Oct. 13, 2007; Stats.2008, c. 179 (S.B.1498), § 91; Stats.2008, c. 344 (S.B.1145), § 3, eff. Sept. 26, 2008; Stats.2010, c. 328 (S.B.1330), § 81; Stats.2010, c. 32 (A.B.1887), § 2, eff. June 29, 2010; Stats.2010, c. 618 (A.B.2791), § 124; Stats.2011, c. 357 (A.B.813), § 1; Stats.2013, c. 352 (A.B.1317), § 234, eff. Sept. 26, 2013, operative July 1, 2013.)

**11126.1. Record of topics discussed and decisions made at closed sessions; availability**

The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state

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body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

(Added by Stats.1980, c. 1284, p. 4340, § 12.  
Amended by Stats.1981, c. 968, p. 3691, § 13.)

**11126.2. Closed session; response to confidential final draft audit report; public release of report**

(a) Nothing in this article shall be construed to prohibit a state body that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a state body meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

(Added by Stats.2004, c. 576 (A.B.1827), § 2.)

**11126.3. Disclosure of nature of items to be discussed in closed session; scope of session; notice of meeting; announcement of pending litigation; unnecessary disclosures; disclosures at open session following closed session**

(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed

session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (c) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the

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Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (c) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to

be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

(Added by Stats.1980, c. 1284, p. 4341, § 13. Amended by Stats.1981, c. 968, p. 3692, § 14; Stats.1987, c. 1320, § 3. Amended by Stats.1997, c. 949 (S.B.95), § 10; Stats.1998, c. 210 (S.B.2008), § 2; Stats.2001, c. 243 (A.B.192), § 11.)

**11126.4. Closed sessions of  
Gambling Control Commission;  
information prohibited from being  
disclosed by law or tribal-state gaming  
compact; limitations; public notice**

(a) Nothing in this article shall be construed to prevent the California Gambling Control Commission from holding a closed session when discussing matters involving trade secrets, nonpublic financial data, confidential or proprietary information, and other data and information, the public disclosure of which is prohibited by law or a tribal-state gaming compact.

(b) Discussion in closed session authorized by this section shall be limited to the confidential data and information related to the agenda item and shall not include discussion of any other information or matter.

(c) Before going into closed session the commission shall publicly announce the type of data or information to be discussed in closed session, which shall be recorded upon the commission minutes.



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(d) Action taken on agenda items discussed pursuant to this section shall be taken in open session.

(Added by Stats. 2005, c. 274 (S.B. 919), § 1.)

**11126.5. Disorderly conduct of general public during meeting; clearing of room**

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

(Added by Stats.1970, c. 1610, p. 3385, § 1. Amended by Stats.1981, c. 968, p. 3692, § 15.)

**11126.7. Fees**

No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.

(Added by Stats.1980, c. 1284, p. 4341, § 14. Amended by Stats.1981, c. 968, p. 3692, § 16.)

**11127. Application of article**

Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1981, c. 968, p. 3692, § 17.)

**11128. Time of closed session**

Each closed session of a state body shall be held only during a regular or special meeting of the body.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1980, c. 1284, p. 4341, § 15; Stats.1981, c. 968, p. 3692, § 18.)

**11128.5. Adjournment; declaration; notice; hour for reconvened meeting**

The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from

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any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

(Added by Stats.1997, c. 949 (S.B.95), § 11.)

**11129. Continuance; posting notice**

Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours

after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

(Added by Stats.1967, c. 1656, p. 4026, § 122.  
Amended by Stats.1981, c. 968, p. 3692, § 19.  
Amended by Stats.1997, c. 949 (S.B.95), § 12.)

**11130. Actions to prevent violations or determine applicability of article; validity of rules discouraging expression; audio recording of closed sessions; discovery procedures for recordings**

(a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to audio record its closed sessions and preserve the audio



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recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c)(1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

(Added by Stats.1967, c. 1656, p. 4026, § 122.  
Amended by Stats.1969, c. 494, p. 1106, § 1;  
Stats.1981, c. 968, p. 3693, § 20; Stats.1997, c. 949  
(S.B.95), § 13; Stats.1999, c. 393 (A.B.1234), § 4;  
Stats.2009, c. 88 (A.B.176), § 43.)

**11130.3. Judicial determination  
action by state body in violation of §§  
11123 or 11125 null and void; action by  
interested person; grounds**

(a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null

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and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

(Amended by Stats.1999, c. 393 (A.B.1234), § 5.)

**11130.5. Court costs and attorney fees**

A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a

personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

(Added by Stats.1975, c. 959, p. 2240, § 6. Amended by Stats.1981, c. 968, p. 3693, § 21; Stats.1985, c. 936, § 2.)

**11130.7. Violations; misdemeanor**

Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

(Added by Stats.1980, c. 1284, p. 4341, § 16. Amended by Stats.1981, c. 968, p. 3693, § 22. Amended by Stats.1997, c. 949 (S.B. 95), § 14.)

**11131. Use of facility allowing discrimination; state agency**

No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry, or any characteristic listed or defined in Section 11135 or that is inaccessible to disabled persons, or where members of the

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public may not be present without making a payment or purchase. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

*(Added by Stats.1970, c. 383, p. 798, § 1. Amended by Stats.1981, c. 968, p. 3693, § 23. Amended by Stats.1997, c. 949 (S.B.95), § 15.; Stats. 2007, c. 568 (A.B. 14), § 32.)*

**11131.5. Identity of victims or alleged victims of crimes, tortious sexual conduct, or child abuse; public disclosure**

No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

*(Added by Stats.1997, c. 949 (S.B.95), § 16.)*

**11132. Closed session by state body prohibited**

Except as expressly authorized by this article, no closed session may be held by any state body.

*(Added by Stats.1987, c. 1320, § 4.)*

# Appendix B: Department of Consumer Affairs (DCA) Travel Guide



# DEPARTMENT OF CONSUMER AFFAIRS TRAVEL GUIDE

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Office of Administrative Services Accounts Payable Travel Unit



**January  
2017**

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#### Disclaimer

*Bargaining Contracts, California Department of Human Resource (CalHR), Departmental Policy and the State Administrative Manual (SAM) sets forth the information contained in this Travel Guide. If any of the information within is in conflict with the most recent provisions set forth by the said mentioned above then those provisions will supersede this guide. Information provided in this guide is routinely updated by various control agencies. The traveler or user of this guide must always make sure they have the most current information. Click on the web links to view the most current information.*

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## CHAPTER 1 INTRODUCTION AND DEFINITIONS

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### *Introduction*

The purpose of this guide is to provide and define the basic travel reimbursement rules for employees who are required to travel on official State business, methods of travel that are available, and how to use them, in accordance with the State Bargaining Contracts, California Department of Human Resources (CalHR) Travel Rules for Represented Employees sections 599.615–599.638.1 of title 2 of the California Code of Regulations, and the *State Administrative Manual (SAM)* section 700. If any of the information herein is in conflict with the most recent provisions set forth by the bargaining contract or government code sections cited above, then those provisions will supersede this guide. In addition, information provided in this guide is routinely updated by various control agencies. The traveler or user of this guide must always make sure they have the most current information.

Note: The travel reimbursement program is subject to Internal Revenue Service (IRS) requirements. There are no flat reimbursement rates. All items claimed are to be for the actual amount of the expense, up to the maximum rates allowed for all State officers, employees, and agents of the State traveling on official State business.

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### *Who can file a claim?*

All Department of Consumer Affairs (DCA/Department) employees and any agent of the State (listed below) may request a travel advance and/or travel reimbursement using the appropriate Department forms and the CalATERS Global System. Certain restrictions may apply (see reference-related section for specific requirements).

**Statutory Board Members** are individuals appointed to serve on boards or commissions established by law. Members are appointed by the Governor, Legislature, or Department Head. Reimbursement for necessary travel expenses is based on the rates for nonrepresented employees.

**Nonstatutory Board Members** are individuals appointed to serve on boards, commissions, committees, or task forces that are created by agency secretaries, department directors, executive officers, or board members on an as-needed basis to fulfill the Department's mission. Reimbursement for necessary travel expenses is based on the rates for nonrepresented employees.

**Proctors** are intermittent hires through the State Personnel Board. Proctors administer written or physical agility exams for civil service classification. Reimbursement for necessary travel expenses is based on the rates for nonrepresented employees.

**Volunteers** are individuals who voluntarily perform services for the State without pay. The volunteer must sign an Oath of Allegiance, which is kept on file at the Department with the Volunteer Service Agreement. Volunteers will be reimbursed for necessary travel expenses at the rate negotiated for State employees performing comparable duties.

### *Terms*

**Short-Term Travel:** Expenses incurred at least 50 miles (one-way) from headquarters and/or residence when applicable, and is less than 31 consecutive days.

**Long-Term Travel:** Travel that is in excess of 30 consecutive days becomes long-term travel. Specific reimbursement rates and reporting requirements apply; contact your Travel Liaison.

**Per Diem Expenses:** Meals, lodging, and all appropriate incidental expenses incurred may be claimed when conducting State business while on travel status.

**Transportation Expenses:** Various modes of transportation used while on official State business; for example, airfare, vehicle, taxi, and shuttle expenses.

**Business Expenses:** Charges necessary to the completion of official State business, such as business phone calls, emergency clothing, and emergency supplies. All purchases shall be justified, and if the total business expense is more than \$25, the claim must be approved by the DCA Accounting Administrator II.

**Conference or Convention:** A meeting with a formal agenda of persons to discuss or consult on specific work-related subjects with the purpose of exchanging views, providing lectures or dialogue, or providing or gaining skills and/or information for the good of the State. Requires an approved conference attendance request prior to attending and must be attached to the [Travel Expense Claim \(TEC\)](#).

**Non-State Sponsored Conference:** Planned, arranged, and funded by an outside entity.

**State-Sponsored Conference:** Planned, arranged, and funded by State agencies for the benefit of the State and/or outside parties for the purpose of conducting State business.

#### *Policies*

**Official Established Headquarters:** Shall be designated for each State officer and employee and defined as the place where the officer or employee spends the largest portion of their regular workdays or working time, or the place to which they return upon completion of special assignments. In some instances, however, it may be in the best interest of the Department to designate either an employee's residence address or an assigned geographic area as his/her headquarters. Home-as-headquarters and geographic area designations will be based upon a determination of "economic merit" for geographic and logistical circumstances where the State benefits from such a determination, either in increased efficiencies or reduced costs.

**Signature Authority:** The signature of the approving officer certifies that the traveler is authorized to travel, the expenses incurred were to conduct official State business, and that the items claimed are appropriate and keeping within the rules that govern State business travel. Typically, the approving officer would be the traveling employee's immediate supervisor.

**The Deputy Director of Board Relations** approves Board Presidents' [TECs](#). Once they have been reviewed and initialed by the Executive Officer, the Board President shall approve the Executive Officers' and the Board Members' travel claims. In the absence of the Board President, the Board Vice President shall approve the Executive Officers' and the Board Members' travel claims.

**The Deputy Director of the Office of Administrative Services** approves Bureau and Board Presidents', Bureau Chiefs', Division Chiefs', and Deputy Directors' travel advances, expense claims, conference requests, and authorized signature forms. Also approves for all exception-to-travel status for board and bureau and Travel Advance Requests for nonsalaried employees. In the absence of the Board President, the Board Vice President shall approve the Executive Officers' and the Board Members' travel claims.

In the extended absence of either the Deputy Director of Board Relations or the Deputy Director of the Office of Administrative Services, either can approve the above for boards and bureaus.

All approving officers must have a signature card on file with the Accounting Office before approving a claim.

**Note:** See DCA policy, form, and procedures posted on the [DCA Intranet](#) regarding authorized signatures.

**CHAPTER 2  
PER DIEM ALLOWANCES**

*Introduction*

The State provides for reimbursement of actual and necessary out-of-pocket expenses while traveling on State business. When determining the appropriate amount of reimbursement allowed for meals, lodging, and incidentals, two criteria need to be considered: distance and time. Employees on travel status must be at least 50 miles from home/headquarters. The most direct route determines this distance.

For short-term travel status per diem (meals, lodging, and incidentals), several factors need to be considered, such as:

- The bargaining unit of the employee (represented or excluded).
- Geographical location of travel must be at least 50 miles (one-way) from where the trip begins at headquarters and/or home. Factors include: Which is the closest distance? Is travel during normal working hours or not? Is it a second worksite?
- The timeframe in which the trip started and stopped.
- The type and location of facilities used for lodging.

*Lodging Rates*

Short-term reimbursement rates for lodging expenses are as follows. Please review your Bargaining Unit Contract on [California Department of Human Resources \(CalHR\)](#) website for current rates.

<b>For BU1-6, 8-20</b>	
<b>Lodging Reimbursement</b>	<b>Reimbursement</b>
Statewide (except for those listed below)	\$90 room rate plus taxes
Napa, Riverside, Sacramento Counties	\$95 room rate plus taxes
Los Angeles, Orange, Ventura Counties and Edwards Air Force Base	\$120 room rate plus taxes
Monterey and San Diego Counties	\$125 room rate plus taxes
BU1, 3-6,8,11-20	
Alameda, San Mateo, and Santa Clara Counties	\$125 room rate plus taxes
BU2, 9-10	
Alameda, San Mateo, and Santa Clara Counties	\$140 room rate plus taxes
San Francisco County and City of Santa Monica	\$150 room rate plus tax

For Excluded/Exempt, BU 7 and BU21	
Lodging	Reimbursement
Statewide (except for those listed below.)	\$90.00 plus taxes on the entire cost of the lodging rate.
Napa, Riverside, Sacramento Counties	\$95.00 plus taxes on the entire cost of the lodging rate.
Marin County (BU7 and BU21 ONLY)	\$110.00 plus taxes on the entire cost of the lodging rate.
Los Angeles, Orange , Ventura Counties and Edwards AFB	\$120.00 plus taxes on the entire cost of the lodging rate.
Monterey, San Diego	\$125.00 plus taxes on the entire cost of the lodging rate.
Alameda, San Mateo & Santa Clara Counties.	\$140.00 plus taxes on the entire cost of the lodging rate.
City of Santa Monica	\$150.00 plus taxes on the entire cost of the lodging rate.
San Francisco County	\$250.00 plus taxes on the entire cost of the lodging rate

Lodging facilities include commercial hotels and motels, and residential property—short term rental, CalHR PML2015-039 Assembly Bill 229, 1/1/16–12/31/2018 (less than 30 days). All rates for reimbursement are limited to State-contracted lodging rates.  
[www.calhr.ca.gov/PML%20Library/2015039.pdf](http://www.calhr.ca.gov/PML%20Library/2015039.pdf)

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#### *Hotel Tax Waiver*

The [Hotel/Motel Transient Occupancy Tax Waiver, Form 236 \(New 9-91\)](#), is available on the [DCA Intranet](#) Travel Home Page and should be used whenever possible. This form must be completed in advance and given to the hotel for its records. In most cases, employees must ask for the exemption at time of reservation. Some hotels will not honor the tax waiver.

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#### *Acceptable Receipts*

Lodging receipt must indicate the establishment’s name, address, and check-in/check-out dates and times, number of occupancy, room rate, taxes, and method of payment.

In the rare event where an employee chooses to use a third-party vendor (such as Priceline.com, Expedia.com, Travelocity.com, Hotels.com, etc.) to make travel arrangements, the following instructions must be strictly adhered to:

- Employees who request reimbursement for receipts from third-party vendors for lodging expenses related to a State-approved relocation or for lodging expenses incurred while traveling on State business, must provide a valid receipt from the third-party vendor and the commercial lodging establishment where the employee stayed.

Both receipts are required in order to properly substantiate a valid business expense.

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#### *Sharing a Room*

When sharing a room with another State employee, each person can claim half the room rate or one employee can claim the entire amount and reference the other person in the comment section. Both employees should file their travel expense claims ([TECs](#)) at the same time and a copy of the other's claim should be attached to their own.

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### Meal Rates

There are no flat reimbursement rates. All items claimed are to be for the ACTUAL AMOUNT OF EXPENSE, up to the following maximum reimbursement amounts listed below. The employee (or agent of the State) shall not claim reimbursement for any meals provided by or included in the cost of the hotel stay, airfare, and conference or convention registration fee and/or provided by the terms stated in a State contract. Please review your Bargaining Unit Contract on [California Department of Human Resources \(CalHR\)](#) website for current rates.

*Excluded/exempt employees and represented employees in Bargaining Units (BU) 1–21, please review your existing MOU for current rates (see following table).*

Expense	Maximum Reimbursement	Expense	Maximum Reimbursement
Breakfast	\$7	Dinner	\$23
Lunch	\$11	Incidental	\$5

---

### Less Than 24 Hours

The following table shows conditions under which a represented or nonrepresented employee may be reimbursed for meals while on travel status, if the trip is less than 24 hours:

Starts Trip on OR Before	Returns from Trip on OR After	Entitled To
6 a.m.	9 a.m.	Breakfast
4 p.m.	7 p.m.	Dinner

**NOTE:** Board and committee members are entitled to meals, including lunch, on a one-day trip only when attending official scheduled board or committee meetings. These meal expenses are excused from the travel status mileage requirement, but all time requirements are applicable; for example, start trip at or before 11 a.m. and end at or after 2 p.m. to claim lunch. In addition, meals on trips of less than 24 hours will be reported as a taxable fringe benefit as required by the Internal Revenue Service (IRS).

---

### More Than 24 Hours

If a trip is more than 24 hours but less than 31 consecutive days, a represented or nonrepresented employee is entitled to breakfast, lunch, and dinner for every full 24-hour period of time while on travel status. The following table shows the meal entitlements for the last fractional period of time:

Starts Trip on OR Before	Returns from Trip on OR After	Entitled To
6 a.m.	8 a.m.	Breakfast
11 a.m.	2 p.m.	Lunch
5 p.m.	7 p.m.	Dinner

---

### Incidentals

Incidental reimbursement is allowed for every full 24 hours of travel up to the maximum amount allowed per Bargaining Unit Contract for actual necessary expenses. Incidentals include expenses for fees and tips for services such as porters, baggage carriers, and hotel staff. No other items may be claimed as an incidental. Department of Human Resources CalHR PML 2015-003 and Internal Revenue Service (IRS) in IRS Publication 463.

### Business-Related Meals

In rare instances, the cost of business-related meal expenses may be allowed. It must be clearly shown that it was impractical to conduct the State's business during working hours and that the meal took place in conditions beyond the employee's control. Justification should be provided on the [TEC](#).



The statement must include the purpose or goal of each business-related meal and the unusual conditions that justify payment. The employee may claim expenses not to exceed the breakfast, lunch, or dinner allowance, whichever meal was consumed. The amount must be supported by a voucher or receipt for represented employees. Claims must include the establishment, the persons in attendance, and the business conducted during the meal period. No reimbursement is allowed for the meal if the employee claims per diem for that day.

Allowable meals may include: Participants from different cities hold a luncheon to allow one or more of them to make connections on a scheduled flight; an employee is required to go to lunch as a member of a group, such as a board or commission where official business is conducted; the meeting does not adjourn during the lunch and the employee has no choice of place to eat.

Non-allowable meals include: Two or more employees go to lunch together and continue their business as an incidental to the meal; the meal is strictly for public relations purposes; departments call meetings with their own and/or other department employees to conduct State business; the meeting could have taken place during regular working hours.

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### Receipts

Although the Department of Consumer Affairs (DCA) does not require receipts for most meals or incidentals (except as noted above), the traveler must retain all their meal and incidental receipts for IRS purposes.

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### Overtime Meals and Rates

Overtime meal reimbursement is allowed when the employee works two excess hours either consecutive or contiguous to regular scheduled work hours. Rates and terms are defined by each bargaining unit contract as stated below. In determining the overtime hours worked for meal compensation, do not include any breaks for meals. Only one meal allowance may be claimed each day unless the employee has worked a minimum of 16 hours. For every six additional hours worked in excess of ten hours, another meal allowance may be claimed, not to exceed three overtime meals within 24 hours.

Bargaining Unit	Rate	Consecutive*	Contiguous*
7 & 10	\$7.50	X	
1, 4, 11 & 14	\$8.00		X
2, 9, 12, 16 & 19	\$8.00	X	
Excluded & 21 (exempt FLSA)	\$8.00	X	

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### Definitions

**Consecutive:** Works either two hours before or two hours after normal work hours on a regular scheduled workday; works two hours in excess of normal work hours on weekends, holidays, or regular scheduled day off (RDO).

**Contiguous:** Works two or more hours in excess of the number of hours worked on regular scheduled workday.

**Excluded:** Work Week Group Exempt (WWGE) and Represented Employees Exempt from Fair Labor Standards Act (FLSA) are only entitled to overtime meals for extended arduous work.

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### *Arduous Work OT Meal\**

**Meals for Extended Arduous Work:** On those rare occasions when an employee who is in a Work Week Group other than Work Week Group 2 would be required to physically or mentally work ten hours or more (not including any breaks for meals) for an extended period of time. The employee, with approval of the appointing authority, may claim the actual cost of an arduous work meal up to \$8. Such meals should only be approved when it is clear that the work schedule is consistently in excess of a normal full-time schedule. Occasional extra hours worked, consistent with the nature of other than a Work Week Group 2 schedule, do not meet the criteria for Extended Arduous Work Meals.

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### *Excess Lodging Policy and Procedure*

Request for reimbursement of lodging expenses in excess of the State-specified rates, excluding taxes, must be received ten days prior to the trip. Approval is required from the DCA Accounting Administrator II if less than \$150 and the CalHR if more than \$150. The [Excess Lodging Rate Request \(STD 255C\)](#) form located on [DCA Intranet](#) should be completed and contain the following:

- A list of at least three hotels contacted using the [Concur CalTravel Store](#) website to obtain State rate lodging. Contact additional hotels if no State rate hotels are found within the work area.
- Supporting documentation that a reasonable effort was made to locate lodging at State-specified rates. Using only higher-rate hotels in the documentation cannot be considered reasonable efforts.
- Explain any applicable reasons for the State business need for an exception to the State's standard lodging rate.
- Obtain all required signatures and submit the request to the DCA Travel Unit at least ten working days prior to the trip, when possible.
- Employees who incur expenses in excess of standard reimbursement will be responsible for the difference if the excess lodging request is denied.
- Attach agendas for any approved conference or convention that would assist in the travel justification.

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### *Reasonable Accommodation*

Reasonable Accommodation can be obtained with supporting documentation through DCA Human Resources Health & Safety Unit when travel requirements are a hardship to the employee for medical reasons. Please obtain the Reasonable Accommodation approval prior to the trip.

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### *Exception to Travel Status Policy*

It is the policy of the DCA to adhere to the rules and regulations as defined by the CalHR regarding the approval of requests for reimbursement within 50 miles of the employee's home or headquarters when conducting official State business. Extreme acts of God and nature that place the employee in harm's way are automatic and will be approved after the fact, when fully documented ([SAM section 0715 CALHR PML 93-28](#)).

**Note:** All exceptions to travel status reimbursements will be reported as a taxable fringe benefit as required by the IRS.

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### *Exception Authority, Limits and Criteria*

The CalHR delegated the exception to travel status authority to the Director of DCA, who delegated the authority to the Deputy Director. There is no other allowable signature authority for this delegation. This delegation is extended with the provision that it will be administered according to the criteria, considerations, and record-keeping requirements as stated below. All exceptions are subject to audit by CalHR. Exceptions are to be granted in advance of the occurrence by the appointing power.

This delegation does not extend to the approval of meals or lodging at either the home or headquarters location. There is no allowance for any increase in the standard short-term travel reimbursement rates for meals and lodging or partial exceptions, such as lodging allowance without meals. When exceptions meet all the requirements and are granted by the Deputy Director, the employee is entitled to full short-term travel reimbursement rates. This exception is not to be used in lieu of overtime for one-day travel.

Exception requests will be considered under a limited number of circumstances when the employee is required to be away from his/her home and headquarters locations for more than a single day, but less than 50 miles. These include the nature of the work performed, the hours of work, or the apparent road/weather conditions make it impractical for the employee to return home or to the headquarters location at night.

The CalHR has guidelines for an exception approval criterion that includes reasonable commute mileage. State departments are expected to demonstrate that every consideration has been given to minimize the cost to the State through responsible planning and scheduling.

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### *Exception Process*

A written request must be submitted in advance of the occurrence to the Accounting Office for review and submission to the Deputy Director. The Executive Officer or the Division/Bureau/Program Chief must approve all exception requests. Requests must contain the following information for each attendee:

- Name and classification of employee(s) requesting exception. If the time period and reason for expense are the same, submit a group request listing each employee's name, classification, the time period, and reason.
- Name and address of the location where expenses will be incurred.
- Name of the sponsor of the event.
- Reason(s) for the exception request; attempts made to reduce the costs.
- Amount of the anticipated expenses, including tax.
- For a conference or convention, with more than one attendee, explain why one employee could not achieve the goal and attach a training and development request with approval.

**Provide copies of the agenda, conference/convention announcements, and map/mileage printouts. Once the exception request has been processed, a copy will be forwarded to the requesting office by the DCA Accounting Office. The requesting office must maintain a record of each request for the standard five-year record retention schedule.**

**CHAPTER 3**  
**TRANSPORTATION**

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*Introduction*

The cost of transportation while on official State business should be accomplished by using the most economical means for the State, according to the [State Administrative Manual general travel policies](#). All transportation costs related to State business travel should be entered on all [travel expense claims TECs](#).

Transportation expenses consist of:

- Commercial airfares
- Private vehicle use
- Commercial rental car use
- Gasoline for State or rental cars
- Taxis, shuttles, or streetcar fares
- Transportation Network Companies (TNT) – Uber and Lyft
- Parking of State, rental, or privately owned vehicles
- Bridge and road tolls
- Emergency repairs (State cars only)
- Commuting transit/vanpool (employee benefit) use

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*Supervisor's Responsibility*

It is the supervisor's responsibility to ensure the method chosen for travel on State business is in the best interest of the State and not for the employee's convenience.

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*Determining the Most Economical Mode of Travel*

When determining the most economical mode of transportation, the following costs should be considered:

- Employee's time
- Expenses for transportation (airline, bus, train, parking, shuttle, tolls, etc.)
- Expenses for meals, incidentals, lodging, and any other State business expense
- Urgency of the situation
- If the employee must carry specialized equipment
- Number of stops and amount of equipment
- Number of people to be transported (is it more economical?)

- Driving time one-way (is it more than two hours?)
- Availability of transportation to and from the destination
- Overtime wages

### Cost Comparison

Reimbursement will be made for the mode of transportation which is in the best interest of the State, considering direct expenses as well as the employee's time. If the employee chooses a more expensive mode of transportation, reimbursement will be for the least expensive mode of travel. Expenses incurred at the travel destination will be reimbursed based on the actual business expenses incurred while at that location. A [cost comparison](#) must:

- Be completed and attached to the [TEC](#), showing both methods of travel.
- Include the least costly methods of travel for those expenses actually being substituted.
- Include only the expenses of traveling from one location to another. Do not include any worksite expenses. Expenses incurred onsite are to be claimed separately.
- An employee choosing to use a more expensive mode of transportation will only be reimbursed for the amount it would have cost for the most economical mode of travel.
- A [cost comparison](#) showing actual cost incurred vs. the most economical mode and cost must be submitted with an employee's [TEC](#). The [cost comparison form](#) is provided in Appendix A for your convenience.

### Example of Cost Comparison

The most common cost comparison is when the employee chooses to drive their personal vehicle vs. using normal air transportation. For example, when an employee drives (having obtained supervisor's prior approval) to Los Angeles from Sacramento, the comparison is computed from the point the employee would normally have left on travel status in Sacramento to the point of landing in Los Angeles. Please note all cost comparisons should be calculated using the current mileage rate and State rates for airfare if applicable.

Air Costs		Vehicle Costs	
Ticket roundtrip	\$216.00	Mileage: City-to-city roundtrip:	
Mileage to/from airport		720 miles x 54 cents per mile = <b><u>\$388.80</u></b>	
30 miles x 54 cents per mile=	\$16.20		
Parking	<u>\$10.00</u>		
<b>Total</b>	<b><u>\$242.20</u></b>		

### Reimbursement

The least expensive method of transportation will be reimbursed on the [TEC](#).

The time requirement for meals and lodging would be allowed for the time the employee would have left and returned had they flown. Additional meal and lodging expenses incurred as a result of using an alternative method of transportation is at the employee's own expense.

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### Exception

An exception to the least-expensive requirement would be if an employee has a reasonable accommodation approval through the Department of Consumer Affairs (DCA/Department) Health and Safety Office, which prevents the employee from specific modes of travel, such as air travel.

Request guidance from the Accounting Office Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) when special circumstances arise prior to commencing the trip.

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### Direct and Indirect Travel Arrangements

All travel arrangements for air, auto rental, and lodging for official State business must be made through the Department's approved travel agency, Concur CalTravelStore. See the [Management Memorandum](#) regarding the travel policy for all State agencies.

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### Air Travel

Before making airline reservations, be aware of the contract rates and where to book your flights. The State contracted rate includes airfare for origination and destination points known as city pairs for within California, out of State, and international destinations. The contract rates are unrestricted one-way fares and are not subject to limited seating.

When booking on Southwest Airlines, you should only select "Want to Get Away" and "Anytime" flights. You should never select Business Class-type flights; if selected, you will be responsible for the difference in cost.

The 2014–16 contract fares are with Alaska Airlines, Delta Air Lines, JetBlue, United Airlines, and Virgin America, and 2014–16 for Southwest Airlines. You must purchase your airline tickets through the CalTravelStore, the certified State travel agency, using your Department's centralized American Express Business Travel Account (BTA). The CalTravelStore website contains the online booking tool Concur Travel (formerly Cliqbook), the online booking tool for all airline travel.

All travel arrangements for official State business must be made through the Department's approved travel agency, CalTravelStore ([www.caltravelstore.com](http://www.caltravelstore.com)).

Current Airfare Contract: [www.travel.dgs.ca.gov](http://www.travel.dgs.ca.gov)

DGS Air Travel Services: **Air Travel Information**  
[www.dgs.ca.gov/travel/Programs/Airfare.aspx](http://www.dgs.ca.gov/travel/Programs/Airfare.aspx)

State Administrative Manual (SAM) section 741: **Air Travel**  
[www.documents.dgs.ca.gov/sam/SamPrint/new/sam\\_master/rev427sept14/chap700/741.pdf](http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap700/741.pdf)

SAM section 8422.115: **Airline Itinerary Requirements**  
[www.documents.dgs.ca.gov/sam/SamPrint/new/sam\\_master/rev427sept14/chap700/741.pdf](http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap700/741.pdf)

California Department of Human Resources (CalHR) Policy: **Method of Travel**  
[www.calhr.ca.gov/employees/Pages/travel-method.aspx](http://www.calhr.ca.gov/employees/Pages/travel-method.aspx)

### *Airport Parking*

Employees parking at the airport must use the most economical parking available. However, if the board, bureau, or division determines that additional parking costs above the lowest-cost option are in the best interest of the State, a justification explaining the necessity for the additional cost shall be submitted with the employee's [TEC](#). Without a receipt, reimbursement is limited to \$10. Please note: [TECs submitted without the required justification may be cut by the State Controller's Office \(CalHR PML 2007-024\)](#).

Agencies/departments may consider the following items when determining if additional parking costs are in the best interest of the State:

- The direct expense; and
- The officer's or employee's time.

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*Please contact your Department's Travel Liaison to initiate the start of your CalTravelStore profile. You must complete your registration before booking your travel.*

*Please use the links below for training and more information:*

For security reasons, every traveler will need to contact their board or bureau Travel Liaison to initiate their CalTravelStore profile. Your user ID is your Department e-mail address. You must use your Department e-mail address as your user ID to have access to our Department's company ID. This e-mail address will be your user ID for future access to the reservation system. After you receive your temporary password, you can complete your profile and book your trips. In addition, you'll need to change the temporary password to ensure your account is secure. Once you've established a user ID and password, the system will request that you complete the profile. After you've completed the profile, you must save the information before you attempt to book a trip. The CalTravelStore has a travel reservation guide and video to help; they are provided on the website and link below.

After the initial profile setup, you'll access the reservation system at [www.caltravelstore.com](http://www.caltravelstore.com). Click on "Concur Login" to complete your profile.

[Concur Travel demonstration](#) (video) and [Concur Interactive Training](#).

**Concur Travel FAQs:**

[www.caltravelstore.com/pages/concur-travel-faqs](http://www.caltravelstore.com/pages/concur-travel-faqs)

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### *Non-Employee Reservations*

You can make reservations for non-State employees conducting State business for your program, such as subject matter experts, volunteers, witnesses, or contractors, and receive State rates when using the DCA State-contracted travel service agency. One-time travelers should be booked as a guest traveler; no profile should or needs to be established.



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### *Frequent Flyer Programs*

Employees who earn travel premiums (frequent flier miles/points) while on official State business may now use these travel premiums for their personal use. The value of these premiums will not be reimbursed to the employee if used for State business.

See **Personnel Management Liaisons (PML) Memorandum 2005–051**

[www.calhr.ca.gov/PML%20Library/PML2005051.pdf](http://www.calhr.ca.gov/PML%20Library/PML2005051.pdf)

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### *Receipts*

Airline itinerary or passenger receipts should include the traveler's name, dates and times of travel, destination, and amount of airfare. This document must be submitted with the employee's [TEC](#). The cost should always be entered on the claim as "Commercial Airfare," and "Department Paid" should be selected for payment type.

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### *Privately Owned Aircraft Usage SAM 0743 and 0746*

[www.documents.dgs.ca.gov/sam/SamPrint/new/sam\\_master/rev427sept14/chap700/743.pdf](http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap700/743.pdf)

[www.documents.dgs.ca.gov/sam/SamPrint/new/sam\\_master/rev427sept14/chap700/746.pdf](http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap700/746.pdf)

Travel on official State business may be by privately owned/rented/leased aircraft whenever this is the least costly means or is in the best interest of the State.

Employees must first obtain supervisor and agency approval. Employee pilots shall certify at least yearly to their employing agency that they have the required liability insurance during the period of official travel. These required limits are shown on [STD 265](#). Use [STD 265](#) for certification and insurance: [http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam\\_master/rev427sept14/chap700/746.pdf](http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap700/746.pdf).

In all cases, the aircraft must be certified in accordance with Federal Aviation Administration regulations and properly equipped for the type of flying to be performed.

State employees who pilot aircraft on official State business must meet the requirements of [CalHR Rule 599.628](#) and [SAM 0747](#).

Reimbursement: **SAM 0744**

[www.documents.dgs.ca.gov/sam/SamPrint/new/sam\\_master/rev427sept14/chap700/744.pdf](http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap700/744.pdf)

The reimbursement rate for employee privately owned aircraft is \$1.15 per statute mile. Mileage is computed on the shortest air route from origin to destination, using airways whenever possible. Enter "Air Miles" and mileage on the [TEC](#). For expenses other than mileage, substantiate the expense with a voucher. Landing and parking fees are paid except at the site where the aircraft is normally stored.

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### *State-Owned, Privately Owned, and Commercially Owned Rental Vehicle Use*

Agencies determine who will drive on official State business and the vehicle type to be used: State-owned, privately owned, or commercially owned vehicles. The definition of "use of a State vehicle in the conduct of State business" includes the use of State vehicles "when driven in the performance of, or necessary to, or in the course of, the duties of State employment and shall include the operation of State-owned or leased vehicles as commute vehicles in a carpool or vanpool program authorized by a State agency." ([SAM 0750 Vehicle Use](#))

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**State vehicles** may be authorized when two or more employees are traveling together; the trip includes intermediate stops not feasible for public transportation; the schedule of public carriers does not fit the itinerary; transportation is not available at the destination; or an employee must carry specialized tools, books, etc.

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**Privately owned vehicles** may be used by employees on official State business if this is approved by the DCA. If the use is not less costly, the supervisor may authorize the use, but the payment will be for the less-costly alternative. No agency will require an employee to use their privately owned vehicle unless this is a formal condition for employment.

The following circumstances are prohibited uses of State vehicles:

- Using the State vehicle for anything other than conducting State business.
- Carrying in the vehicle non-Departmental employees, friends, or family members.
- Using the vehicle for private or recreational use.

**Commercially owned rental vehicles** may be rented when a State vehicle is not available and automobile travel is essential. The employee must return the rental car at the end of each work week State business is concluded. Refer to the [Department of General Services \(DGS\) website](#) to view the rental car contract and ensure adherence to State policy. (See Appendix.)

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#### *Commercial Rental Cars*

**Transportation Services: SAM Section 4100**

<http://sam.dgs.ca.gov/TOC/4100.aspx>

**CalHR Policies for Method of Travel**

[www.calhr.ca.gov/employees/Pages/travel-method.aspx](http://www.calhr.ca.gov/employees/Pages/travel-method.aspx)

**DGS Fleet Handbook (Page 5)**

[www.documents.dgs.ca.gov/ofa/handbook.pdf](http://www.documents.dgs.ca.gov/ofa/handbook.pdf)

**DGS Rental Car Policies and Procedures**

[www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx](http://www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx)

The State contract vendor for rental vehicles is Enterprise Rent a Car. The current contract is effective January 2015, per DGS Travel Bulletin 15-01. Click on [www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx](http://www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx) for more information.

Commercial Car Rental Car Rates as of January 2015: [www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx](http://www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx) for more information.

The rental of alternative fuel vehicles is encouraged and their rental rate should be the same.

For the complete rental car contract, click on [www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx](http://www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx).

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## Car Rental Reservation Information

Rental Car reservation must be made on [Concur CalTravelStore \(www.caltravelstore.com\)](http://www.caltravelstore.com).

In order to receive the contract rate, employees are required to provide a current driver license and a second form of ID to ensure a smooth delivery of service when renting a vehicle. Acceptable second forms of ID can be an employee issued identification badge, a business card, a copy of a travel itinerary booked through CALtravelstore or Concur (the online reservation tool), or an authorization letter on Department letterhead. Reservations are required to be made in advance on Concur.

Employees must NOT:

- Extend rental agreements for personal business and pay the difference. When extending business trips for personal reasons, the employee must stop the State rental agreement and initiate a new personal rental agreement. See more information regarding personal use on page XX.
- Agree to purchase insurance. Insurance is included in the State contracted rates.
- Agree to purchase the fuel service option or prepaid fuel (i.e., a flat refueling rate).
- Agree to purchase higher rate, non-economy cars.
- Carry unauthorized, non-State employees in a rental or State vehicle. If travel plans change, please cancel the reservation.

### Insurance

The State contract includes insurance and employees should not accept additional insurance. Employees using a noncontracted vendor may not have insurance included in their rental rate. The employee will be personally responsible for the insurance costs when choosing to use a noncontracted vendor.

In the event an at-fault accident occurs when renting a noncontract vehicle, the employee and the Department may be legally responsible for all damages sustained by others as well as property damage to the rental vehicle. More information on SAM Insurance and Surety Bonds is available at <http://sam.dgs.ca.gov/TOC/2400.aspx>.

### Receipts

DCA policy requires the final rental car receipt be attached to the expense reimbursement claim (STD 262 or CalATERS), whether charged to the Department or paid by the employee. The receipt must indicate the amount charged and payment method. Precalculations or reservation agreements are not acceptable. ([SAM section 8422.115](#), <http://sam.dgs.ca.gov/TOC.aspx>)

### Forms of Payment

The contract requires use of either the Corporate Rental Business Traveler Account (CRBTA) or the travelers Corporate American Express card. Use of cash or the traveler's personal credit card will not guarantee the State contract rate or the State's insurance coverage.

The following "exceptions" will required State departments to submit to the State Controller's Office (SCO) a [Short-Term Vehicle Justification Form](#) , signed by the employee's supervisor:

- Renting a vehicle larger than the intermediate size
- Renting a vehicle from a noncontracted vendor
- Needing physical or medical accommodations
- Refueling charges incurred at rental branches

All employees are required to refuel the rental car vehicle. When refueling the rental car, the employee must submit a detailed gasoline receipt for reimbursement. Gasoline receipts must show the date of purchase, method of payment, and an expense breakdown: number of gallons, price per gallon, and extended total purchased amount. Prepaid fuel receipts are not acceptable for reimbursement.

The SCO approval form should be attached to the invoice and travel expense claim associated with the justification. State departments are no longer required to receive approval from the DGS Statewide Travel Program. The Short-Term Vehicle Justification Form is available at [www.dgs.ca.gov](http://www.dgs.ca.gov).

Rates include unlimited mileage and are not subject to blackout dates. Contracted vehicle rates information is available at [www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx](http://www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx). Examples of vehicles are listed in parentheses shown on the list below. The Maximum Cap Rate (MCR) includes the base rate, all fees, all charges, in addition to airport fees, vehicle license fees and, State, city and county, or local surcharges that apply to the commercial car rental industry as a whole and identified by airport. Sales tax and refueling charges are not included in the contract rate.

**Short-Term Commercial Car Rental Cost Table**  
**Base Rate with \$300,000 Insurance for Short-Term Rentals**  
 (Effective March 1, 2016)

<b>Vehicle Class Type</b>	<b>Daily</b>	<b>Weekly</b>	<b>Max Cap Daily</b>
<b>Compact</b> (Nissan Versa, Toyota Yaris)	\$33.00	\$132.00	\$50.00
<b>Mid-Size/Intermediate</b> (Toyota Corolla, Nissan Sentra)	\$33.00	\$132.00	\$50.00
<b>Full-Size</b> (Chevy Impala, Nissan Altima)	\$35.00	\$140.00	\$53.00
<b>FWD/Sport Utility Vehicle</b> (Ford Escape, Jeep Liberty)	\$56.00	\$224.00	\$78.00
<b>Minivan</b> (Chrysler Town and Country, Dodge Grand Caravan)	\$56.00	\$224.00	\$78.00
<b>Pick-Up Trucks</b> (Chevy Silverado, Ford F150)	\$70.00	\$280.00	\$94.00
<b>Plug-In Hybrid Electric Vehicle/Zero Emission Vehicle</b>	\$42.00	\$168.00	\$62.00
<b>Hybrid Eclectic Vehicle</b>	\$42.00	\$168.00	\$62.00

**Note:** The State of New York is exempt from the Base Rate listed above. Such rates are subject to open market rates quoted at time of actual car rental.

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### Private Vehicle Authorization and Use

The SAM requires that before any employee (including a board member) uses a privately owned vehicle to conduct State business, that employee must obtain authorization in writing from his or her supervisor and certify that the vehicle will be operated in compliance with [SAM section 0753](#).

An Authorization to Use Privately Owned Vehicle form ([STD 261](#)) should be completed and on file with the immediate supervisor. The [STD 261](#) form must be updated and re-signed annually.

Employees should be aware that the insurance maintained by the State is for the liability above the amount of the employees' policies. All employees driving on State business must carry evidence of liability insurance coverage. Mileage rates paid to employees include an amount that reimburses employees for maintaining minimum insurance coverage.

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### Mileage Rate Reimbursement

The following table shows the mileage reimbursement rates for privately owned vehicles:

1/1/2013–12/31/2013	56.5 cents per mile
1/1/2014–12/31/2014	56 cents per mile
1/1/2015–12/31/2015	57.5 cents per mile
1/1/2016– 12/31/16	54 cents per mile
<b>1/1/2017– Current</b>	<b>.535 cents per mile</b>

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### Alternate Worksite Mileage

When an employee's regular work assignment requires reporting to a second location other than headquarters (e.g., a training site), mileage reimbursement is limited to the actual mileage incurred less their normal commute distance.

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### Airport Dropoff

When an employee is driven to a common carrier and no parking expenses are incurred during the employee's absence, they may claim mileage reimbursement at double the number of miles from headquarters or residence, whichever is less, while the employee actually rides in the vehicle.

If travel commences or terminates one hour before or after normal work hours, or on a regularly scheduled day off, mileage may be computed from the residence.

Minimal parking expenses for pickup will be allowed, with justification and/or notation on the [TEC](#).

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### Motor Vehicle Accident Reporting

All accidents involving a State-owned vehicle, or any vehicle being used on State business ([SAM section 0757](#)), must be reported. Report all accidents immediately to your manager and to the DCA Business Services Office. Accidents must be reported within 48 hours to the Office of Risk and Insurance Management on a [STD 270](#) form: <http://www.documents.dgs.ca.gov/ofa/CallCenter/DGSFleetFactsPamphlet.pdf>. State reporting requirements are in addition to a regular police report as required by law.

Accident reimbursement claims require special approval and processing. Therefore, contact the DCA Travel Unit for guidance.

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### *Overtime and Callback Mileage*

Callback or scheduled overtime mileage incurred on a normal day off, from your home to established headquarters, is reimbursable and the reimbursement is a reportable fringe benefit.

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### *State Vehicle Emergency Repairs*

Emergency State vehicle repairs can be reimbursed on a [TEC](#) with the appropriate receipt and written justification or explanation of the event. Repairs require Fleet Administration approval. For non-emergency car repairs, the employee should have the vendor bill the program directly.

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### *Taxis and Shuttles*

Taxis and shuttles should be used for trips within a reasonable distance (ten to 15 miles). Reimbursement can be made on a [TEC](#) for the actual cost of the expense with a receipt, or for no more than \$10 without a receipt. General Service charge cards are accepted for taxis and shuttle services within the Sacramento and Fresno areas. Tips or gratuities to drivers are not reimbursable since they are included in the incidental allowance. However, tips or gratuities for exceptional services, such as loading/unloading substantial luggage or multiple exam material, is allowable with written justification and receipt.

### *Uber and Lyft*

Per CalHR PML2015-039 Assembly Bill 229, effective 1/1/2016–12/31/2018, Uber and Lyft are acceptable State travel modes of transportation. An original detailed receipt is required to be attached to the claim for reimbursement. [www.calhr.ca.gov/PML%20Library/2015039.pdf](http://www.calhr.ca.gov/PML%20Library/2015039.pdf)

Zipcars are not authorized to use for State travel transportation.

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### *Parking and Tolls ([SAM section 0755](#))*

Parking and tolls in excess of \$10 require a receipt and may be paid for:

- Day parking when the trip is away from the headquarters office and residence.
- Overnight public parking when the traveler is on travel status.
- Callback or scheduled overtime on a normal day off.

---

### *Commuting Transit and Vanpool*

Employees who commute to and from work via public transportation or qualifying vanpools may be eligible for up to a 75-percent discount on public transit passes up to a maximum reimbursement of \$65 per month. Reimbursement is based on actual cost supported by a receipt or proof of purchase. Visit [www.calhr.ca.gov/employees/Pages/miscellaneous-programs.aspx](http://www.calhr.ca.gov/employees/Pages/miscellaneous-programs.aspx) for more information.

Part-time employees' reimbursement may be prorated to correspond to their appropriate work schedule. Daily passes may be utilized for part-time employee reimbursement.

The State will pay \$100 per month to the primary driver of a qualifying vanpool consisting of seven to 15 people in lieu of the vanpool/transit rider incentive. A qualifying vanpool must meet both [Internal Revenue Service \(IRS\) section 132](#) and [CalHR 509.936](#) criteria:

**CHAPTER 4  
BUSINESS EXPENSES AND RECEIPTS**

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*Business Expenses*

Business expenses are costs that are necessary for the completion of State business. Examples:

- Phone calls more than \$1 or calls totaling more than \$5. The Department of Consumer Affairs (DCA/Department) phone log can be used for logging calls when there is no official receipt provided (see “Justification for Reimbursement for Telephone Charges” in the Appendix).
- Approved training request for all out-service courses and in-State conferences and conventions. Reimbursement for training classes will be processed after completion of the training class.
- When physical examinations are required for pre-employment or as a condition of employment, the State will provide or pay for them. The applicant must pay for any services beyond the approved level for such services. For information on the current rate, see [SAM section 0191: www.documents.dgs.ca.gov/sam/SamPrint/new/sam\\_master/rev427sept14/chap100/191.pdf](http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap100/191.pdf).
- Excessive porter or baggage handling, such as for several boxes of exam materials, will be reimbursed with a receipt and justification.
- Professional licenses in occupational fields that may be required by the functions of a specific position, or is beneficial to the performance of an employee’s duties, for actual cost of the application or renewal fee.
- Each department, commission, board, or agency may reimburse an employee for up to the maximum allowed per BU Contract for membership dues in job-related professional societies or associations of the employee’s choice or for a job-related professional license fee, in recognition of the professional nature of employees. Both parties agree and understand that a different amount of reimbursement, if any, may be provided to employees in the same or similar situation.
- State Bar Dues – [CalHR Rule 599.921](#)
  - Employee designation: Manager, supervisor, confidential, and excluded.
  - References: [CalHR Rule 599.921](#) and PML2015-32.  
Upon certification by the appointing power that the actual practice of law is required for the performance of duties of a specific position, employees shall be reimbursed for up to \$380 of the State Bar membership fee of \$430 for the cost of annual membership fees and specialty fees of the State Bar Association.
  - The State does not pay:
    - The \$10 portion that funds the State Bar’s lobbying efforts or communications with voluntary bar associations.
    - The \$40 contribution for the Legal Services Assistance option, line 23 of the State Bar coupon.
    - Optional donations to the Conference of Delegates of California Bar Associations, Foundation of the State Bar, or the California Supreme Court Historical Society.
    - Penalties resulting from late payment of dues, unless the State is responsible for the late payment.



- For employees who work less than full time, or less than one year, the Department may prorate the reimbursement.

### *Valid Receipts*

A valid receipt consists of the establishment's name, address, itemized expenses, including the total amount due and method of payment. When submitting a travel expense claim ([TEC](#)), the claimant is required to include original, itemized receipts for all State business expenses, unless specifically noted and accepted in another section of this *Travel Guide*.

Reimbursement requires proof of payment by the employee. If the receipt does not show the employee paid for the expense, attach other viable information such as the canceled check, bank, or credit card statement. For security purposes, blacken out all nonrelated charges and only retain the employee's name, bank name, and the specific charge you are claiming.

### *Required Receipts*

Receipts shall be submitted for every item of expense of \$1 or more, except as noted in this chapter.

DCA policy is for all receipts to be attached to the [TEC](#), whether paid directly (to the vendor or establishment) by the State or paid by the employee. Examples are airline itineraries, final rental car expense receipts, etc.

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### *Not Required*

The employee must retain copies of all receipts, including those original receipts not required for reimbursement by the Department, for Internal Revenue Service (IRS) purposes.

Receipts are NOT required for reimbursement of actual expenses as a result of conducting State business for the following expenses:

- Per diem meals and incidentals
- Overtime meals
- Up to the published railroad and bus fares of less than \$10 when travel is within the State
- Street car, ferry fares, bridge and road tolls, local rapid transit system, taxi shuttle or hotel bus fares, and parking fees of \$10 or less for each continuous period of parking or each separate transportation expense.

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### *Lost Receipts*

In the absence of a receipt, reimbursement will be limited to the nonreceipted amount or the published expense, when lower than the nonreceipted amount.

### *Odd-Size Receipts*

If receipts are small, tape them to an 8 ½-inch x 11-inch sheet of paper so they will be the same size as the travel claim. More than one receipt can be on a sheet of paper as long as they do not overlap. Do not tape the receipts to both sides of the paper.

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## CHAPTER 5 REPORTABLE TAX ITEMS

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### *Introduction*

Various reimbursements of State business expenses and fringe benefits are subject to Federal and State income taxes and applicable Social Security and Medicare taxes. The Department of Consumer Affairs (DCA/Department) is required to report qualifying business expense reimbursements as income to the State Controller's Office each month.

Note: It is the State and Department's policy to adhere to all Internal Revenue Service (IRS) reporting requirements.

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### *Reportable Items*

The following items are the most common reportable employer-provided benefits:

- Overtime meals
- Callback mileage, including overtime mileage
- Meals on a one-day trip where there is no sleep period
- Department-approved exceptions to the 50 miles travel status radius rule
- Long-term assignments that exceed 30 consecutive days at one location for a period of more than one year. Contact the DCA Travel Unit for details when appropriate
- The personal use of State vehicles for commute miles
- Personal use of a State-provided electronic device
- Travel advances that are not cleared within 30 days of the travel date
- Relocation: Contact the DCA Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) for details when appropriate

Note: Any nonreceipted expense, such as meals and incidentals, becomes reportable *if* the IRS conducts an audit and finds no receipts in the employee's file.

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### Reportable Withholdings

Below is a grid showing the percentages of taxes withheld from each agency, along with an example of the withholdings based on a \$66 reporting item. The actual total amount withheld from the \$66 item is \$26.58 for a represented employee. This amount would be deducted from the employee's next available pay warrant.

W-2s

Type of Tax	Withholding Rate	Monthly Value	Actual Withholding
Federal	25.0%	\$66	\$16.50
State	6.6%	\$66	\$4.36
*SSI	6.2%	\$66	\$4.10
Medicare	1.45%	\$66	.96
**SDI	1.0%	\$66	.66

\*Supplemental Security Income: Not applicable to Safety or Peace Officer Retirement.

\*\*State Disability Insurance: Applicable to Service Employees International Union (SEIU)-represented employees only. Click on [http://SCO.ca.gov/ppsd\\_ppm.html](http://SCO.ca.gov/ppsd_ppm.html) for the Payroll Procedure Manual (PPM) Long Term Travel Section N141 to see most recent rates.

The reportable reimbursements will be listed under "Other Income," or will be noted as "Included in Box 1" on the employee's W-2 form.

It is the employee's responsibility to maintain all reportable receipts with their records for IRS audit purposes.

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### Capturing Reportable Items

There are many ways of capturing and reporting reportable items each month. Examples:

- Overtime meals, callback mileage, and meals on a one-day trip are captured at the time of the Travel Expense Claim ([TEC](#)) audit, and reimbursement is made.
- Department-approved exemptions to the "50 miles travel status radius" rule and long-term assignments that exceed 30 consecutive days are captured at the time that paperwork is submitted for approval to the Executive Office and the reimbursement of the [TEC](#) is made.
- Reporting personal mileage and/or use of a State vehicle is the responsibility of the employee. The IRS has determined that normal commute miles to and from work in a State vehicle are to be considered personal use. Only employees whose primary responsibilities are investigative law enforcement activities while they are performing law enforcement duties fit the IRS guidelines for exemption from reporting personal use of State vehicles. However, when these employees commute to and from the office for their office days or do not perform qualifying law enforcement activities on the way to or from work, the commute is reportable. All other employees who are permanently or temporarily assigned State vehicles must report personal use and/or their normal commute use. Each employee who drives a State vehicle is required to submit a monthly Employee Certification, Personal Use of State Provided Vehicles Form, to the DCA Accounting Office by the fifth day of the following month in which the personal use was incurred. Note: This requirement applies to all employees who drive a State vehicle; it is not limited to those employees whose assigned cars are stored at home or in off-site parking.

- Reporting personal use of a State-provided electronic device is the responsibility of the employee. Each employee who uses State-provided equipment for any personal use should prepare a memo stating the type of usage and the actual or estimated cost of the usage to be reported. To avoid the reporting of this type of fringe benefit, the employee can submit a personal check with the memo to reimburse the Department for their personal use.
- All travel advances are to be temporary. Any outstanding travel advances over 90 days are considered long term and should be treated as wages or compensation; therefore, reported as taxable income.
- Reporting “relocation” taxable items varies depending on the type of expenses that occur; i.e., moving of household goods, sale of residence, etc. For actual reporting requirements, contact the DCA Accounting Office’s Travel Unit ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) for details.
- Continuing Medical Education (CME) expense reimbursement is a taxable fringe benefit for part time, full time, and intermittent Bargaining Unit (BU) 16 represented employees. CME expense reimbursement has been considered a taxable fringe benefit by the IRS since the program was established by the California Department of Human Resource and BU 16 representatives. This program does not meet the criteria to be non-taxable business expenses under Internal Revenue Code (IRC) 127. All reimbursements made under this program will be issued in advance as payroll checks near the beginning of each fiscal year.”

## CHAPTER 6

### OUT-OF-STATE, OUT-OF-COUNTRY, AND AMENDED CLAIMS

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#### *Introduction*

There are additional requirements and/or approvals when filing out-of-State, out-of-country, or amended Travel Expense Claims ([TECs](#)).

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#### *Out-of-State Travel (OST)*

Before any State employee may travel out of State on official State business, specific written approval must be given by the Director, the Agency Secretary, the Department of Finance, and the Governor’s Office. Click on the link below for more information about *State Administrative Manual (SAM)* section 0710: [www.documents.dgs.ca.gov/sam/SamPrint/new/sam\\_master/rev427sept14/chap700/710.pdf](http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap700/710.pdf). Approval must be obtained if either one of the following conditions exist:

1. The employee is on State time.
2. The employee is representing the State in an official capacity or is acting in such a capacity that it will be perceived that he or she is representing the State.

If either of these two criteria exist, approval is necessary regardless of whether the State is paying for the employee’s travel expenses. The trips are limited to the approved number of persons, days, and funds as specified for each blanket request. Expenses exceeding the blanket limits will require an approved blanket substitution request to cover the overages prior to travel. Any cost incurred prior to the blanket approval will be at the employee’s own expense.

OST expenses must be submitted separately from in-State travel and note the approved blanket number on the claim. Actual lodging expense, supported by a receipt and the standard meal and incidental reimbursement, may be claimed for travel outside of California. Contact the DCA Budget (go to [DCA Intranet](#), under Office of Administrative Services) or Accounting Office ([calaters@dca.ca.gov](mailto:calaters@dca.ca.gov)) if you do not know the blanket number or require additional information. Refer to SAM 0760–0765 at <http://sam.dgs.ca.gov/TOC/700.aspx>.

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### *Out-of-Country Travel*

Employees will be reimbursed for actual lodging expenses, supported by a receipt, and will be reimbursed for actual meal and incidental expenses subject to maximum rates in accordance with the published government rates for foreign travel for the dates of travel. Failure to furnish lodging receipts will limit reimbursement to meals only. The government rates change monthly. Click on [aoprals.state.gov](http://aoprals.state.gov) for current reimbursement rates.

There is no allowance for blanket substitution of funds or authority for out-of-country trips. Any expenses that exceed the individual trip authority or funds will be at the traveler's expense. Claims must be submitted separately with the (approved) individual out-of-country trip request number written on the claim. Contact the [DCA Budget Office](#) if you do not know the trip number or require additional information.

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### *Amended Claims*

When filing an amended claim, the following steps should be taken:

1. Submit a new claim.
2. Write "AMENDED CLAIM" in uppercase letters at the top of the claim.
3. Claim only the amount not submitted on the original claim.
4. Attach a copy of the original claim to the new claim.
5. Attach any required information, receipts, or justification not submitted with the original claim.
6. Obtain all required approval signatures and submit the claim to Accounting Office Travel Unit for payment.

## CHAPTER 7 TRAVEL AND EVIDENCE ADVANCES

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### *Travel Advances*

Short-term advances may be issued prior to the time travel is actually performed, to employees who must travel on State business. Refer to SAM [8116](#) and 8117.

- Submit the travel advance request on CalATERS Global. In the event of non-access to CalATERS Global, please complete the [Request for Travel Advance \(AISD-008\)](#) form and send it to the DCA Accounting Office within 10 to 15 working days prior to the date of travel. Original signatures are required.
- Per the Governor's order, all departments are to keep outstanding travel advance balances (accounts receivables) to a minimum (<http://gov.ca.gov/news.php?id=16991>). Because of this order, DCA has limited travel advance amounts to lodging, meals, and airport parking that are fixed expenses in an effort to keep the outstanding receivables amount at a minimum. The employee will receive reimbursement for other expenses after the processing of their [Travel Expense Claim \(TEC\)](#).
- If the trip is canceled, the advance must be returned immediately to the Accounting Office. If the travel advance check is cashed, a personal check or cashiers must be submitted as payment.

- For employees who are not required to travel on more than one trip per month, additional advances will not be issued for future travel unless the outstanding advances have been cleared. Departments may issue additional travel advances for employees who are required to travel on multiple trips within a month. Additional advances will not be allowed if the employee does not submit a [TEC](#) or return the excess advance amount within ten days of each trip.
- All advances must be cleared by submitting a [TEC](#) within ten days after the date of travel. If the advance exceeds the expense claim, to clear the advance, the employee must submit a check with the claim, money order (payable to DCA), or cash for the difference. If the claim exceeds the advance, the employee will receive the balance due them by check within ten to 15 working days.
- Add a notation regarding the advance information in section 11 or in the Note Section on CalATERS Global of the [TEC](#). (Example: March travel advance \$200.) Do not deduct the advance amount from your claim total; the auditor will make the adjustment when the claim is processed for payment.
- Any outstanding advances of more than 15 days may be deducted from your next month's salary warrant per [SAM 8116.1](#). The DCA Accounting Office will notify the employee before this process occurs. The notification letter will allow the employee time to clear the advance balance. Failure to clear advances may preclude future advances being issued until the outstanding advances are cleared. Direct deposit will be canceled for those employees with uncleared balances to collect any advance balances not cleared within a reasonable time.
- Travel advances that are not cleared within 15 days must be reported as taxable income ([SAM 8116.3](#)) Taxes due will be withheld from the next available payroll warrant and reported as taxable income on the employee's W-2. When the advance is cleared, there is no method to refund the withheld taxes to the employee.
- Some restrictions apply to seasonal or part-time employees (including board and committee members) who may not be issued travel advances. Exception requests are granted, by approval of the Deputy Director, on a limited basis.

## CHAPTER 8 FILING REQUIREMENTS

### *Claim Form and Correction Instructions*

All Travel Expense Claims must be submitted on the [CalATERS Global](#) System. A [CalATERS Global Training Request](#) form should be completed and sent as an attachment to [CalATERS@dca.ca.gov](mailto:CalATERS@dca.ca.gov) to establish a [CalATERS Global](#) User ID and temporary password. There are two types of claims that can be submitted on the [CalATERS Global](#) System.

1. **Regular Travel Expense Claim**—Only one trip per claim should be entered on a Regular Travel Expense Claim (TEC). These claims consist of per diem, lodging, and mode of transportation cost to and from destinations. Expense reimbursements are determined by the date and time the trip started/ended, therefore this information must be entered for each trip. If a traveler traveled on more than one trip, each trip must be

entered on a separate claim. The claim will be returned to the traveler or travel liaison for correction if more than one trip is entered on this type of claim.

2. **Non-Travel Expense Claim**—Consists of multiple days and months, up to a full fiscal year (July 1, 2014–June 30, 2015). These claims consist of only parking, mileage, airfare, rental car/gas for rental car, business expenses, training, etc. This claim **would not include** meals, incidentals, or lodging. Please make sure when submitting this type of claim the amount is \$10 or more for budget and department cost efficiency.

The [CalATERS Global](#) TEC Transmittal should have the proper report name, index number, month and year of travel, original signature of the approver, dates, times, amounts, mode of transportation, purpose, normal work hours, etc. Original detailed receipts showing proof of payment and justifications, when necessary, are required documentation for the claim. The original [CalATERS Global](#) Travel Expense Claim and required receipts should be sent to the Accounts Payable/Travel Unit for processing.

In the event the employee is new to the Department of Consumer Affairs and does not have a [CalATERS Global](#) User ID established, a [Travel Expense Claim \(TEC\) \(std262\) Form](#) (Rev. 09/2007) can be completed to submit their first request for reimbursement of State-related travel expenses. The original and one legible copy should be submitted to the Accounts Payable/Travel Unit for processing. Keep a third copy for your records with any non-required original receipts. All [TEC \(std262\) Forms](#) should be completed in ink or typewritten. The original signature of the claimant and the approving officer are required to be completed in ink in the appropriate area of the form. For minor corrections, line-out the incorrect information and write in the corrected information. The claimant must initial all corrections. Travel claims with correction fluid or correction tape in critical areas of the form (affecting the reimbursement amount) will not be accepted. Travel claims may be returned as auditable if submitted with numerous changes or if it is difficult to read.

*When to Submit Travel Expense Claims*—TECs should be filed at least once a month, but not more than twice in one month. If the amount claimed for any one month does not exceed \$10, filing can be deferred until the next month's travel or until June 30, whichever comes first. Several trips may be entered on one [TEC STD 262 Form](#). Only one Regular Trip at a time can be submitted on [CalATERS Global](#). When more than one trip is being listed on the [TEC STD 262 Form](#), a blank line should be left between each trip. Trips that start at the end of one month and extend into the next month should be submitted after the trip has concluded. Although it is acceptable to put several trips on one claim, the following expenses must be submitted on a separate [TEC](#): Out of State, out of country, long-term assignment, evidence and relocation expenses. Please label the [TEC](#) header when filing reimbursement claims for other than short-term travel.

All claims for the current fiscal year must be submitted by the published year-end deadline. Do not combine fiscal years. If a trip overlaps June and July, two separate [TEC STD 262](#) or [CalATERS Global](#) claims must be completed and submitted, one for each month. However, they should be submitted together for audit purposes.

#### *Required Information*

The [TEC STD 262](#) must be completed in its entirety, including heading, dates, time, amounts, mode of transportation, purpose, normal work hours, etc., and have the claimant's and the authorized approving officer's original signatures. Itemized expenses and original receipts showing proof of payment and justifications, when necessary, are required documentation for the claim. The original [TEC STD 262](#) and required receipts should be sent to the Accounts Payable/Travel Unit for processing.



**CHAPTER 9**  
**COMPLETING A TRAVEL EXPENSE CLAIM**

**Introduction**

The [Travel Expense Claim \(TEC\)](#) Form, STD 262, requires various information, including employee information, trip information, reimbursement amounts, authorizations, and justifications be provided. This chapter provides a step-by-step description of what is required to complete a [TEC](#).

**Employee Information**

This information describes to whom, classification, bargaining unit, and where expenses should be charged.

Field	Enter Into Field
<b>Claimant's Name</b>	First name, middle initial, last name
<b>Social Security Number or Employee Number*</b>	13-digit position number or write "on file"
<b>Department</b>	Department of Consumer Affairs
<b>Position</b>	Civil service classification (title)
<b>CB/ID Number</b>	Bargaining unit number for represented employees OR Confidential, exempt, board/committee member, volunteer, or other specific title
<b>Division or Bureau</b>	Board, committee, program, division, or unit name
<b>Index Number</b>	Index/PCA number (contact the Department of Consumer Affairs [DCA] Accounting Office for assistance if you do not know your Index/PCA number)
<b>Residence Address* (including city, state, and ZIP code)</b>	Home address (do not use P.O. Box) <i>If confidential, contact the DCA Accounting Office for guidance.</i>
<b>Headquarters Address (city, state, and ZIP code)</b>	Complete headquarters (work) address
<b>Phone Number</b>	Office phone number (include area code)

\* Refers to the Privacy Statement provided on the reverse side of the form.

*Trip Information, Miscellaneous Information and Justifications, and Authorized Signatures*

This section requests information regarding the when, where, and why the expenses occurred.

Field	Enter into Field																		
1	<b>Normal Work Hours:</b> Use the 24-hour clock																		
2	<b>Private Vehicle License Number:</b> Enter the license number of the private vehicle used on State business																		
3	<b>Mileage Rate Claimed:</b> Enter the rate claimed for private vehicle use																		
4	<b>Month/Year:</b> Month number (January = 1, December = 12) and four-digit year																		
5	<b>Date:</b> Day of the month (one day per line) <b>Time:</b> Departure and return (using the 24-hour clock)																		
6	<b>Location Where Expenses Were Incurred:</b> (A brief statement describing the purpose may be entered immediately below the last entry for each trip.)																		
7	<b>Lodging:</b> Enter actual cost of lodging, plus tax (up to the maximum reimbursement)																		
8	<b>Meals:</b> Enter actual cost of meals (up to the maximum reimbursement)																		
9	<b>Incidentals:</b> Enter actual cost of incidentals (up to the maximum reimbursement)																		
10 (A)	<b>Transportation:</b> Enter the cost of transportation, if paid by employee																		
10 (B)	<b>Transportation:</b> Enter the method of transportation, using the following codes: <table border="1" style="width: 100%; margin-top: 5px;"> <thead> <tr> <th>Type</th> <th>Code</th> </tr> </thead> <tbody> <tr> <td>Railway</td> <td>R</td> </tr> <tr> <td>Bus, air porter, light rail, Bay Area Rapid Transit (BART)</td> <td>B</td> </tr> <tr> <td>Commercial airline</td> <td>A</td> </tr> <tr> <td>Privately owned vehicle (motorcycles not allowed)</td> <td>PC</td> </tr> <tr> <td>Private air</td> <td>PA</td> </tr> <tr> <td>State car</td> <td>SC</td> </tr> <tr> <td>Rental car</td> <td>RC</td> </tr> <tr> <td>Taxi</td> <td>T</td> </tr> </tbody> </table>	Type	Code	Railway	R	Bus, air porter, light rail, Bay Area Rapid Transit (BART)	B	Commercial airline	A	Privately owned vehicle (motorcycles not allowed)	PC	Private air	PA	State car	SC	Rental car	RC	Taxi	T
Type	Code																		
Railway	R																		
Bus, air porter, light rail, Bay Area Rapid Transit (BART)	B																		
Commercial airline	A																		
Privately owned vehicle (motorcycles not allowed)	PC																		
Private air	PA																		
State car	SC																		
Rental car	RC																		
Taxi	T																		
10 (C)	<b>Transportation:</b> Enter carfare, bridge road tolls, or parking expenses																		
10 (D)	<b>Transportation:</b> Enter the number of miles driven with private and State vehicles, and then enter the amount due for private vehicles only																		
11	<b>Business Expense:</b> Enter any other expenses necessary for completion of State business, with justification as required. <u>Note:</u> Expenses more than \$25 require Office of Administrative Services authorization. The DCA Accounting Office will obtain signatures.																		
12	<b>Total Expenses for Day:</b> Enter the total expenses for that day																		
13	<b>Subtotals:</b> Enter the total expenses for each column																		
14	<b>Purpose of Trip, Remarks, and Details:</b> Enter the justification and miscellaneous information, such as: Explanation of business expenses Phone expenses, including place, party, and number called Receipt justification, if needed Justification for obtaining rental cars, other than a compact, or use of a noncontract vendor Travel advances received																		

15	Claimant's original signature and date signed
16	Approving Officer's original signature and date signed
17	Special expense signatures are obtained by the DCA Accounting Office

**APPENDIX  
RESOURCE MATERIALS AND FORMS**

*Resource Materials*

Subject	Issue Date	Expires	Number
Approval of Excess Lodging Rates	12/19/2013		California Department of Human Resources (CalHR) (Personnel Management Liaisons [PML] 2013-044) <a href="http://www.calhr.ca.gov/PML%20Library/2013044.pdf">www.calhr.ca.gov/PML%20Library/2013044.pdf</a>
FLSA Guidelines	04/16/2004		DCA DPM-PERS 02-06 <a href="http://inside.dca.ca.gov/offices/oas/hr/labor_rel.html">http://inside.dca.ca.gov/offices/oas/hr/labor_rel.html</a>
Travel and Relocation—Lodging Receipts	07/01/2014		<a href="http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx">www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx</a> CalHR PML 2013-022 <a href="http://www.calhr.ca.gov/PML%20Library/2013026.pdf">www.calhr.ca.gov/PML%20Library/2013026.pdf</a>
Vanpool Incentives	10/22/2002		DPA PML 2002-069 <a href="http://www.dpa.ca.gov/textdocs/freepmls/PML2002069.txt">www.dpa.ca.gov/textdocs/freepmls/PML2002069.txt</a>
	09/27/2002		CalHR PML 2002-064 <a href="http://www.dpa.ca.gov/textdocs/freepmls/PML2002064.txt">www.dpa.ca.gov/textdocs/freepmls/PML2002064.txt</a>
	04/02/2002		CalHR PML 2002-021 <a href="http://www.dpa.ca.gov/textdocs/freepmls/PML2002021.txt">www.dpa.ca.gov/textdocs/freepmls/PML2002021.txt</a>

The list below includes memos, policies, procedures, and websites with information regarding travel reimbursement rules and regulations.

*Useful Websites and Addresses*

Useful Websites	Internet Addresses
Department of General Services State Administrative Manual Forms	<a href="http://www.dgs.ca.gov">www.dgs.ca.gov</a> <a href="http://sam.dgs.ca.gov/TOC/700.aspx">http://sam.dgs.ca.gov/TOC/700.aspx</a> <a href="http://www.dgs.ca.gov/osp/Forms.aspx">www.dgs.ca.gov/osp/Forms.aspx</a>
California Department of Human Resources Bargaining Unit Contracts Personnel Management Letters (PMLs)	<a href="http://www.calhr.ca.gov/Pages/home.aspx">www.calhr.ca.gov/Pages/home.aspx</a> <a href="http://www.calhr.ca.gov/Pages/home.aspx">www.calhr.ca.gov/Pages/home.aspx</a>
Travel Agency	<a href="http://www.caltravelstore.com">www.caltravelstore.com</a>

*List of Related Forms*

The travel forms mentioned in this Travel Guide are available on the [Department of Consumer Affairs \(DCA\) Intranet](http://inside.dca.ca.gov/forms/subject.html#travel) at <http://inside.dca.ca.gov/forms/subject.html#travel> and in this Appendix.

Form	Number	<a href="http://inside.dca.ca.gov/forms/subject.html#travel">DCA Intranet</a> and/or Internet Links
Authorization to Use Privately Owned Vehicles on State Business	STD 261	<a href="http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std261.pdf">www.documents.dgs.ca.gov/dgs/fmc/pdf/std261.pdf</a>
Cost Comparison Page	N/A	<a href="http://inside.dca.ca.gov/forms/oas/cost_comparison.pdf">http://inside.dca.ca.gov/forms/oas/cost_comparison.pdf</a>
Excess Lodging Rate Request/Approval	STD 255C	<a href="http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std255C.pdf">www.documents.dgs.ca.gov/dgs/fmc/pdf/std255C.pdf</a>
Conference Attendance Request	N/A	<a href="http://inside.dca.ca.gov/forms/oas/conf_attend.pdf">http://inside.dca.ca.gov/forms/oas/conf_attend.pdf</a>
Hotel/Motel Transient Occupancy Tax Waiver	STD 236	<a href="http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std236.pdf">www.documents.dgs.ca.gov/dgs/fmc/pdf/std236.pdf</a>
Justification for Reimbursement for Postage Charges	AISD 12	<a href="http://inside.dca.ca.gov/forms/oas/postal_charges.pdf">http://inside.dca.ca.gov/forms/oas/postal_charges.pdf</a>
Justification for Reimbursement for Telephone Charges	AISD 11	<a href="http://inside.dca.ca.gov/forms/oas/phone_charges.pdf">http://inside.dca.ca.gov/forms/oas/phone_charges.pdf</a>
Request for Travel Advance	AISD 008	<a href="http://inside.dca.ca.gov/forms/oas/travel_advance.pdf">http://inside.dca.ca.gov/forms/oas/travel_advance.pdf</a>
Travel Advances and Travel Expenses Policy	SAM Chapter 8100	<a href="http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap8100/8116.pdf">www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap8100/8116.pdf</a> <a href="http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap8100/8116.1.pdf">www.documents.dgs.ca.gov/sam/SamPrint/new/sam_master/rev427sept14/chap8100/8116.1.pdf</a>
Travel Expense Claim	STD 262	<a href="http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std262.pdf">www.documents.dgs.ca.gov/dgs/fmc/pdf/std262.pdf</a>

# Appendix C: Department of Human Resources Mileage Reimbursement Rate



**Department of Human Resources  
Memorandum**

**TO: Personnel Management Liaisons (PML)**

<b>SUBJECT:</b> Travel/Relocation Programs – 2016 Mileage Reimbursement Rate for Use of Personal Vehicle	<b>REFERENCE NUMBER:</b> 2015-041
<b>DATE ISSUED:</b> December 30, 2015	<b>SUPERSEDES:</b>

This memorandum should be forwarded to:

**Accounting Officers  
Budget Officers  
Claims Coordinators  
Employee Benefit Officers  
Labor Relations Officers  
Personnel Officers  
Personnel Transactions Staff  
Travel and Relocation Liaisons**

**FROM:** Department of Human Resources  
Benefits Division

**CONTACT:** Ray Asbell, Statewide Travel/Relocation Program Manager  
Phone: (916) 324-0526  
Fax: (916) 324-3213  
Email: Ray.Asbell@calhr.ca.gov

Effective January 1, 2016, the personal vehicle mileage reimbursement rate for employees will be 54 cents per mile (CPM). The relocation/moving mileage reimbursement rate will be 19 CPM.

The California Department of Human Resources uses the same rates as those published by the Internal Revenue Service (IRS). Departments will be notified of any subsequent changes to the IRS rates.

Employee questions about the mileage reimbursement rates should be addressed on the department level. If departments have questions or need assistance, please contact Ray Asbell.

/s/Belinda Collins

Belinda Collins, Chief  
Benefits Division





## Appendix D: Travel Expenses and Per Diem Form



Complete this form for each month in which you perform Board member duties. This form must then be sent to the Board's Administrative Technician at the address at the bottom of this form before the 15th of the following month that the expenses were incurred. The Per Diem section allows you to be paid for each eight-hour increment in a month that you perform Board member functions. *Please be specific about the duties you perform by utilizing the Comments section of this form.* The Travel Expense section allows for you to be reimbursed for the expenses you incurred while traveling on Board business. Receipts must accompany this form, and all sections must be filled out if applicable. Keep in mind that departure and return times refer to time you actually spent traveling for Board business. Do not extend return time for personal business. Failure to complete this form properly and timely may result in inadequate reimbursement and delays in receiving your pay. If you have any questions regarding the completion of this form, please contact the Board's Administrative Technician at (916) 574-7176.

Name \_\_\_\_\_ Month/Year Expenses Incurred \_\_\_\_\_

Address \_\_\_\_\_

**PER DIEM:**

- |                          |                                 |   |                         |
|--------------------------|---------------------------------|---|-------------------------|
| B - Board Meeting        | I - Item Writers Workshop       | D - Reviewing Credentials                             | T - Travel              |
| C - Committee Meeting    | X - Attending Board Examination | V - Convention  | H - Attending a Hearing |
| R - Reviewing Exam Tapes | E - Reviewing Enforcement Case  | M - Miscellaneous (specify duties in Comment section) |                         |

Comments \_\_\_\_\_

Enter the appropriate letter in the top box and number of hours in the bottom box that corresponds with the date that duties were performed.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31

I certify that on the above noted dates I was engaged in performing the above duties and that no part of the above claim has been paid and that all services herein rendered were in accordance with the laws, rules, and regulations of the agency of the State from which compensation is claimed.

Board Member Signature \_\_\_\_\_

**TRAVEL EXPENSE:**

<b>FIRST TRIP</b>			
REASON FOR TRIP:			
LOCATION:			
DEPARTURE DATE:	DEPARTURE TIME:	RETURN DATE:	RETURN TIME:
<i>TRANSPORTATION COSTS</i>			
AIRLINE:	STATE CAR?	BUS?	OTHER:
PRIVATE CAR?	PRIVATE CAR LICENSE:	MILEAGE (ROUND TRIP):	
<i>MISCELLANEOUS</i>			
PARKING:	TAXI:	TOLLS:	OTHER:

<b>SECOND TRIP</b>			
REASON FOR TRIP:			
LOCATION:			
DEPARTURE DATE:	DEPARTURE TIME:	RETURN DATE:	RETURN TIME:
<i>TRANSPORTATION COSTS</i>			
AIRLINE:	STATE CAR?	BUS?	OTHER:
PRIVATE CAR?	PRIVATE CAR LICENSE:		MILEAGE (ROUND TRIP):
<i>MISCELLANEOUS</i>			
PARKING:	TAXI:	TOLLS:	OTHER:

<b>THIRD TRIP</b>			
REASON FOR TRIP:			
LOCATION:			
DEPARTURE DATE:	DEPARTURE TIME:	RETURN DATE:	RETURN TIME:
<i>TRANSPORTATION COSTS</i>			
AIRLINE:	STATE CAR?	BUS?	OTHER:
PRIVATE CAR?	PRIVATE CAR LICENSE:		MILEAGE (ROUND TRIP):
<i>MISCELLANEOUS</i>			
PARKING:	TAXI:	TOLLS:	OTHER:

<b>FORTH TRIP</b>			
REASON FOR TRIP:			
LOCATION:			
DEPARTURE DATE:	DEPARTURE TIME:	RETURN DATE:	RETURN TIME:
<i>TRANSPORTATION COSTS</i>			
AIRLINE:	STATE CAR?	BUS?	OTHER:
PRIVATE CAR?	PRIVATE CAR LICENSE:		MILEAGE (ROUND TRIP):
<i>MISCELLANEOUS</i>			
PARKING:	TAXI:	TOLLS:	OTHER:

Additional Comments \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# Appendix E: Strategic Plan





Cali i  
**PSYCHOLOGY**  
Strategic Plan  
2014-2018

Adopted: May 16, 2014

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Edmund G. Brown Jr.  
Governor

Anna M. Caballero  
Secretary, Business, Consumer Services, and Housing Agency

Awet Kidane  
Director, Department of Consumer Affairs

Antonette Sorrick  
Executive Officer, Board of Psychology





# BOARD MEMBERS

Michael Erickson, Ph.D., President

Miguel Gallardo, Psy.D, Vice President

Lucille Acquaye-Baddoo, Public Member

Johanna Arias-Bhatia, Public Member

Andrew Harlem, Ph.D.

Jacqueline Horn, Ph.D.

Nicole J. Jones, Public Member

Stephen Phillips, J.D., Psy.D.

Linda L. Starr, Public Member



## MESSAGE FROM BOARD PRESIDENT



As President of the California Board of Psychology (Board), it is a privilege to introduce the 2014–2018 Strategic Plan and to express appreciation for the work and contribution of all Board members and staff in developing our current Strategic Plan, which includes a number of areas for increased emphasis and change in 2014 and forward.

The Board will continue its primary focus on the following areas:

- **Protecting the health, safety, and welfare of consumers;**
- **Advocating for the highest principles of professional psychological service; and**
- **Empowering consumers through education on licensee/registrant discipline actions and through providing the best available information on current trends in psychological service options.**

In addressing these areas, we intend to continue protecting the public while also looking for additional ways to advocate the highest principles



for the profession and empowering the consumer through information and education. Additional areas of focus will include:

- **Increased emphasis on reducing licensing times, greater transparency about the disciplinary process, and additional outreach and education to licensees, stakeholders, and the public;**
- **Continuing the process of developing and adopting regulations on telepsychology;**
- **Greater involvement in the legislative process with proactive involvement on issues affecting the Board and psychology;**
- **Promulgating and codifying new regulations for continuing professional development; and**
- **Understanding the value of providing excellent customer service in all we do.**

I would like to thank the reader of this document for helping to achieve our goals and look forward to our continued communications over the next five years.


Michael Erickson, Ph.D.  
Board President

## ABOUT THE BOARD

The California Board of Psychology (Board) dates back to 1958 when the first psychologists were certified in the State. The Board is one of 30 regulatory entities that falls under the organizational structure of the Department of Consumer Affairs (DCA). Historically, the Board has been closely affiliated with the Medical Board of California.

The Board consists of nine members (currently five licensed psychologists and four public members) who are appointed to the Board for four-year terms. Each member may serve a maximum of two consecutive terms. The five licensed members and two public members are appointed by the Governor. One public member is appointed by the Senate Rules Committee, and one public member is appointed by the Speaker of the Assembly. Public members cannot be licensed by the Board or by any other DCA healing arts board.





The Board's Executive Officer is appointed by the Board to ensure that the Board functions efficiently and serves solely in the interests of the consumers of psychological services in the State of California.

The Board is funded totally through license, application, and examination fees, and receives absolutely no tax money from the general revenue fund of the State of California.

The Board exists solely to serve the public by:

- **Protecting the health, safety, and welfare of consumers of psychological services with integrity, honesty, and efficiency;**
- **Advocating the highest principles of professional psychological practice; and**
- **Empowering the consumer through education on licensee/registant disciplinary actions and through providing the best available information on current trends in psychological service options.**

# HOW DOES THE BOARD ACCOMPLISH ITS MISSION?

The California Board of Psychology (Board) accomplishes its mission by working to ensure that psychologists provide consumers appropriate and ethical psychological services and do not exploit consumers by abusing the power advantage inherent in any professional relationship. The Board also works to ensure:

- **Those entering the profession of psychology possess the competencies deemed necessary to practice psychology independently and safely. This is achieved by requiring candidates for a license to possess an appropriate doctorate degree from a State-approved or accredited university and by requiring the completion of a minimum of 3,000 hours of supervised professional experience. Each license applicant must also pass a national written examination and a California examination. In addition, in order to renew a license, a psychologist must complete 36 hours of approved continuing education every two years.**
- **The Board's enforcement efforts are focused on protecting the public from exploitative, unscrupulous, and/or otherwise incompetent licensed psychologists.**
- **Through outreach and education efforts, the Board can provide targeted messaging for its direct and indirect stakeholders.**





## WHO DOES THE BOARD REGULATE?

The California Board of Psychology (Board) regulates licensed psychologists, psychological assistants, and registered psychologists.

Licensed psychologists may practice independently in any private or public setting.

Psychological assistants must possess a qualifying master's degree and are registered to a licensed psychologist or to a Board-certified psychiatrist as employees who may provide limited psychological services to the public under the direct supervision of the psychologist or psychiatrist to whom they are registered.

Registered psychologists must possess a doctoral degree that meets licensure requirements and have completed at least 1,500 hours of qualifying supervised professional experience. Registered psychologists are registered to engage in psychological activities at nonprofit community agencies that receive a minimum of 25 percent of their funding from some governmental source. Registered psychologists may not engage in psychological activities outside the approved nonprofit community agency where they are registered.

# 2010 STRATEGIC PLAN ACCOMPLISHMENTS

The California Board of Psychology (Board) has accomplished the following since the adoption of the 2010 Strategic Plan:

- 1.** The Board participated in the development, implementation, and testing for the Department of Consumer Affairs' (DCA's) new licensing and enforcement database system, BreEZe. The Board was part of the first rollout of the BreEZe system in 2013. This new system will improve the functionality of the Board's core functions.
- 2.** The Board worked with stakeholders to establish new continuing education (CE) requirements for licensees that provide a competency-based continued professional development model.
- 3.** The Board implemented new CE regulations to redefine the Board's CE provider approval system and transfer the auditing system for CE hours from the Mandatory Continuing Education for Psychologists Accrediting Agency (MCEPAA) to the Board.
- 4.** Pursuant to the Consumer Protection Enforcement Initiative (CPEI), the Board established draft Uniform Standards Related to Substance-Abusing Licensees. These standards will guide all disciplinary decisions brought before the Board.





**5.** In order to be more transparent and accessible to the Board's stakeholders, the Board used webcasting technology for meetings and posted all meeting materials on its website prior to each meeting.

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**6.** In an effort to meet the needs of the Board's consumers, the Board's enforcement staff completed a comprehensive training program including the following: Basic and Advanced Investigative Training by the Council for Licensing Enforcement and Regulation (CLEAR), and the DCA's Enforcement Academy.

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## MISSION

The Board of Psychology advances quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the profession.

## VISION

A California with the best psychological services in the nation.

## VALUES

- Transparency
- Integrity
- Consumer Protection
- Inclusiveness
- Excellence
- Accountability

# STRATEGIC GOALS

## 1 LICENSING

The Board of Psychology (Board) provides applicants, licensees, and registrants a method for providing psychological services in California.

## 2 CONTINUING EDUCATION

The Board works to ensure qualified and competent individuals are licensed to provide psychological services in the State of California.

## 3 POLICY AND ADVOCACY

The Board works to establish and maintain fair and just statutes and regulations that provide for the protection of consumer health and safety and reflect current and emerging, efficient, and cost-effective practices.

## 4 ENFORCEMENT

The Board protects the health and safety of consumers of psychological services through the active enforcement of the statutes and regulations governing the safe practice of psychology in California.

## 5 OUTREACH

The Board proactively educates, informs, and engages consumers, licensees, students, and other stakeholders about the practice of psychology and the laws that govern it.

## 6 ORGANIZATIONAL EFFECTIVENESS

The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.

## **GOAL 1: LICENSING**

The Board of Psychology (Board) provides applicants, licensees, and registrants a method for providing psychological services in California.

- 1.1** Perform a process analysis (to include an analysis of staff time, resources, and equipment) to ensure the Board is using and/or asking for resources that are needed to identify methods to reduce licensing processing times.
- 1.2** Establish and implement a plan to address current and future licensing backlogs.
- 1.3** Submit a budget change proposal to establish a full-time licensing manager position and/or additional full-time licensing positions, if needed as determined by the licensing process analysis (goal 1.1).
- 1.4** Establish communication tools to facilitate the licensing process for applicants.
- 1.5** Evaluate the effectiveness of the BreEZe system, and work with the Department of Consumer Affairs (DCA) to identify and implement system improvements to the licensing process.
- 1.6** Provide customer service training to licensing staff to enhance service to stakeholders.
- 1.7** Review statutes and regulations regarding psychological assistant, supervised professional experience, and exempt settings, and make changes to clarify the initial intent of the law.
- 1.8** Provide “hard-card” pocket licenses for licensed psychologists and registered psychological assistants.
- 1.9** Create “retired” status for licensed psychologists.

# 2

## GOAL 2: CONTINUING EDUCATION

The Board works to ensure qualified and competent individuals are licensed to provide psychological services in the State of California.

- 2.1 Promulgate continuing education/continuing professional development (CE/CPD) regulations, and ensure Board staff and licensees are educated about the new requirements.

# 3

## GOAL 3: POLICY AND ADVOCACY

The Board works to establish and maintain fair and just statutes and regulations that provide for the protection of consumer health and safety and reflect current and emerging, efficient, and cost-effective practices.

- 3.1 Create a greater presence in the legislative arena to more proactively address issues affecting the Board and the practice of psychology.
- 3.2 Adopt regulations to clarify and strengthen the Board's position on the practice of telepsychology.

## GOAL 4: ENFORCEMENT

The Board protects the health and safety of consumers of psychological services through the active enforcement of the statutes and regulations governing the safe practice of psychology in California.

- 4.1 Educate consumers and licensees by providing transparent information about enforcement processes and outcomes.
- 4.2 Identify and seek clarification to strengthen statutory and regulatory language regarding Statement of Issues and public reprimands.
- 4.3 Modify the Board's website to include dedicated information and resources on license probation and to include probationer forms.
- 4.4 Establish standardized training and educational resources for Expert Reviewers to improve effectiveness and consistency.
- 4.5 Improve probation monitoring by using HIPAA-compliant technology.
- 4.6 Evaluate the effectiveness of the BreZE system, and work with DCA to identify and implement improvements for the enforcement process.
- 4.7 Perform a comprehensive process analysis of the Board's enforcement program to identify and implement improvements that will decrease processing times.
- 4.8 Submit a budget change proposal to establish additional full-time enforcement positions, if needed, as determined by the enforcement process analysis (goal 4.7).

# 5

## GOAL 5: OUTREACH

The Board proactively educates, informs, and engages consumers, licensees, students, and other stakeholders about the practice of psychology and the laws that govern it.

- 5.1** Develop and implement a communications plan—identifying stakeholders, messages to communicate, and message communication methods.
- 5.2** Increase Board visibility at schools, professional conferences, public events, etc., to better educate consumers and licensees about the Board.

# 6

## GOAL 6: ORGANIZATIONAL EFFECTIVENESS

The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.

- 6.1** Cross-train staff to ensure Board-wide understanding of all intradepartmental functions to improve Board effectiveness.
- 6.2** Provide professional development for staff to facilitate opportunities for advancement and professional growth.
- 6.3** Perform a program analysis of the Board's operational procedures to streamline Board staff functions and processes.
- 6.4** Develop procedure manuals for Board and DCA policies and make available for all Board staff in a centralized location.
- 6.5** Identify and implement tools and communication methods to improve Board member understanding of Board staff activities between meetings.







# STRATEGIC PLANNING PROCESS

To understand the environment in which the California Board of Psychology (Board) operates and identify factors that could impact the Board's success, the California Department of Consumer Affairs' SOLID unit conducted an environmental scan of the internal and external environments by collecting information through the following methods:

- **An online survey sent to 5,000 stakeholders, comprised of psychology professionals, professional associations, California colleges, and others who expressed interest in the strategic direction of the Board. The online survey received 794 responses.**
- **Telephone interviews with Board members in February 2014.**
- **Focus group discussion with Board staff in February 2014.**

The most significant themes and trends identified from the environmental scan were discussed by the Board during a strategic planning session facilitated by SOLID on March 14 and March 15, 2014. This information guided the Board in the development of its mission, vision, and values, while directing the strategic goals and objectives outlined in this 2014–2018 Strategic Plan.

*This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the California Board of Psychology in January and February 2014. Subsequent amendments may have been made after Board adoption of this plan.*

# Appendix F: Statement of Economic Interest Form 700



2016/2017  
Statement of  
Economic Interests



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# Form 700

A Public Document

*Also available on the FPPC website:*

- **Form 700 in Excel format**
- **Reference Pamphlet for Form 700**

California Fair Political Practices Commission  
Email Advice: [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov)  
Toll-free advice line: 1 (866) ASK-FPPC • 1 (866) 275-3772  
Telephone: (916)322-5660 • Website: [www.fppc.ca.gov](http://www.fppc.ca.gov)

December 2016

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## What's New

### Gift Limit Increase

The gift limit increased to \$470 for calendar years 2017 and 2018. The gift limit during 2016 was \$460.

### Gifts of Travel

If an individual receives a payment that is a reportable gift for travel taken on or after January 1, 2016, he or she must disclose the travel destination. (See Schedule E instructions for other details that must be disclosed.)

### Who must file:

- Elected and appointed officials and candidates listed in Government Code Section 87200
- Employees, appointed officials, and consultants filing pursuant to a conflict of interest code ("code filers"). **Obtain your disclosure categories, which describe the interests you must report, from your agency;** they are not part of the Form 700
- Candidates running for local elective offices that are designated in a conflict of interest code (e.g., county sheriffs, city clerks, school board trustees, and water board members)

**Exception:** Candidates for a county central committee are not required to file the Form 700.

- Members of newly created boards and commissions not yet covered under a conflict of interest code
- Employees in newly created positions of existing agencies

See Reference Pamphlet, page 3, at [www.fppc.ca.gov](http://www.fppc.ca.gov).

### Where to file:

#### 87200 Filers

State offices	↪	Your agency
Judicial offices	↪	The clerk of your court
Retired Judges	↪	Directly with FPPC
County offices	↪	Your county filing official
City offices	↪	Your city clerk
Multi-County offices	↪	Your agency

#### Code Filers — State and Local Officials, Employees, and Consultants Designated in a Conflict of Interest Code:

File with your agency, board, or commission unless otherwise specified in your agency's code (e.g., Legislative staff files directly with FPPC). In most cases, the agency, board, or commission will retain the statements.

#### Members of Boards and Commissions of Newly Created Agencies:

File with your newly created agency or with your agency's code reviewing body.

#### Employees in Newly Created Positions of Existing Agencies:

File with your agency or with your agency's code reviewing body. See Reference Pamphlet, page 3.

**Candidates:** File with your local elections office.

### How to file:

The Form 700 is available at [www.fppc.ca.gov](http://www.fppc.ca.gov). Form 700 schedules are also available in Excel format. All statements must have an original "wet" signature or be duly authorized by your filing officer to file electronically under Government Code Section 87500.2. Instructions, examples, FAQs, and a reference pamphlet are available to help answer your questions.

### When to file:

#### Annual Statements

##### ↪ March 1, 2017

- Elected State Officers
- Judges and Court Commissioners
- State Board and State Commission Members listed in Government Code Section 87200

##### ↪ April 3, 2017

- Most other filers

Individuals filing under conflict of interest codes in city and county jurisdictions should verify the annual filing date with their local filing officers.

Statements postmarked by the filing deadline are considered filed on time.

#### Assuming Office and Leaving Office Statements

Most filers file within 30 days of assuming or leaving office or within 30 days of the effective date of a newly adopted or amended conflict of interest code.

**Exception:**

If you assumed office between October 1, 2016, and December 31, 2016, and filed an assuming office statement, you are not required to file an annual statement until March 1, 2018, or April 2, 2018, whichever is applicable. The annual statement will cover the day after you assumed office through December 31, 2017. See Reference Pamphlet, pages 6 and 7, for additional exceptions.

#### Candidate Statements

File no later than the final filing date for the declaration of candidacy or nomination documents.

#### Amendments

Statements may be amended at any time. You are only required to amend the schedule that needs to be revised. It is not necessary to amend the entire filed form. Obtain amendment schedules at [www.fppc.ca.gov](http://www.fppc.ca.gov).

#### There is no provision for filing deadline extensions unless the filer is serving in active military duty.

Statements of 30 pages or less may be faxed by the deadline as long as the originally signed paper version is sent by first class mail to the filing official within 24 hours.

## Introduction

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The Political Reform Act (Gov. Code Sections 81000-91014) requires most state and local government officials and employees to publicly disclose their personal assets and income. They also must disqualify themselves from participating in decisions that may affect their personal economic interests. The Fair Political Practices Commission (FPPC) is the state agency responsible for issuing the attached Statement of Economic Interests, Form 700, and for interpreting the law's provisions.

### Gift Prohibition

Gifts received by most state and local officials, employees, and candidates are subject to a limit. During 2015 and 2016, the gift limit was \$460 from a single source per calendar year. For years 2017-2018, the limit increased to \$470 from a single source during a calendar year.

In addition, state officials, state candidates, and certain state employees are subject to a \$10 limit per calendar month on gifts from lobbyists and lobbying firms registered with the Secretary of State. See Reference Pamphlet, page 10.

State and local officials and employees should check with their agency to determine if other restrictions apply.

### Disqualification

Public officials are, under certain circumstances, required to disqualify themselves from making, participating in, or attempting to influence governmental decisions that will affect their economic interests. This may include interests they are not required to disclose (i.e., a personal residence is often not reportable, but may be disqualifying). Specific disqualification requirements apply to 87200 filers (e.g., city councilmembers, members of boards of supervisors, planning commissioners, etc.). These officials must publicly identify the economic interest that creates a conflict of interest and leave the room before a discussion or vote takes place at a public meeting. For more information, consult Government Code Section 87105, Regulation 18707, and the Guide to Recognizing Conflicts of Interest at [www.fppc.ca.gov](http://www.fppc.ca.gov).

### Honorarium Ban

Most state and local officials, employees, and candidates are prohibited from accepting an honorarium for any speech given, article published, or attendance at a conference, convention, meeting, or like gathering. See Reference Pamphlet, page 10.

### Loan Restrictions

Certain state and local officials are subject to restrictions on loans. See Reference Pamphlet, page 14.

### Post-Governmental Employment

There are restrictions on representing clients or employers before former agencies. The provisions apply to elected state officials, most state employees, local elected officials, county chief administrative officers, city managers, including the chief administrator of a city, and general managers or chief administrators of local special districts and JPAs. The FPPC website has fact sheets explaining the provisions.

### Late Filing

The filing officer who retains originally-signed or electronically filed statements of economic interests may impose on an individual a fine for any statement that is filed late. The fine is \$10 per day up to a maximum of \$100. Late filing penalties may be reduced or waived under certain circumstances.

Persons who fail to timely file their Form 700 may be referred to the FPPC's Enforcement Division (and, in some cases, to the Attorney General or district attorney) for investigation and possible prosecution. In addition to the late filing penalties, a fine of up to \$5,000 per violation may be imposed.

**For assistance** concerning reporting, prohibitions, and restrictions under the Act:

- Email questions to [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov).
- Call the FPPC toll-free at (866) 275-3772.

### Form 700 is a Public Document Public Access Must Be Provided

Statements of Economic Interests are public documents. The filing officer must permit any member of the public to inspect and receive a copy of any statement.

- Statements must be available as soon as possible during the agency's regular business hours, but in any event not later than the second business day after the statement is received. Access to the Form 700 is not subject to the Public Records Act procedures.
- No conditions may be placed on persons seeking access to the forms.
- No information or identification may be required from persons seeking access.
- Reproduction fees of no more than 10 cents per page may be charged.

FPPC Form 700 (2016/2017)

FPPC Advice Email: [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov)

FPPC Toll-Free Helpline: 866/275-3772 [www.fppc.ca.gov](http://www.fppc.ca.gov)

Introduction

## Types of Form 700 Filings

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### Assuming Office Statement:

If you are a newly appointed official or are newly employed in a position designated, or that will be designated, in a state or local agency's conflict of interest code, your assuming office date is the date you were sworn in or otherwise authorized to serve in the position. If you are a newly elected official, your assuming office date is the date you were sworn in.

- Investments, interests in real property, and business positions held on the date you assumed the office or position must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date you assumed the office or position is reportable.

For positions subject to confirmation by the State Senate or the Commission on Judicial Performance, your assuming office date is the date you were appointed or nominated to the position.

### Example:

Maria Lopez was nominated by the Governor to serve on a state agency board that is subject to state Senate confirmation. The assuming office date is the date Maria's nomination is submitted to the Senate. Maria must report investments, interests in real property, and business positions she holds on that date, and income (including loans, gifts, and travel payments) received during the 12 months prior to that date.

If your office or position has been added to a newly adopted or newly amended conflict of interest code, use the effective date of the code or amendment, whichever is applicable.

- Investments, interests in real property, and business positions held on the effective date of the code or amendment must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the effective date of the code or amendment is reportable.

### Annual Statement:

Generally, the period covered is January 1, 2016, through December 31, 2016. If the period covered by the statement is different than January 1, 2016, through December 31, 2016, (for example, you assumed office between October 1, 2015, and December 31, 2015 or you are combining statements), you must specify the period covered.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2016.

- If your disclosure category changes during a reporting period, disclose under the old category until the effective date of the conflict of interest code amendment and disclose under the new disclosure category through the end of the reporting period.

### Leaving Office Statement:

Generally, the period covered is January 1, 2016, through the date you stopped performing the duties of your position. If the period covered differs from January 1, 2016, through the date you stopped performing the duties of your position (for example, you assumed office between October 1, 2015, and December 31, 2015, or you are combining statements), the period covered must be specified. The reporting period can cover parts of two calendar years.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2016.

### Candidate Statement:

If you are filing a statement in connection with your candidacy for state or local office, investments, interests in real property, and business positions held on the date of filing your declaration of candidacy must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date of filing your declaration of candidacy is reportable. Do not change the preprinted dates on Schedules A-1, A-2, and B.

Candidates running for local elective offices (e.g., county sheriffs, city clerks, school board trustees, or water district board members) must file candidate statements, as required by the conflict of interest code for the elected position. The code may be obtained from the agency of the elected position.

### Amendments:

If you discover errors or omissions on any statement, file an amendment as soon as possible. You are only required to amend the schedule that needs to be revised; it is not necessary to refile the entire form. Obtain amendment schedules from the FPPC website at [www.fppc.ca.gov](http://www.fppc.ca.gov).



# Instructions Cover Page

Enter your name, mailing address, and daytime telephone number in the spaces provided. **Because the Form 700 is a public document, you may list your business/office address instead of your home address.**

## Part 1. Office, Agency, or Court

- Enter the name of the office sought or held, or the agency or court. Consultants must enter the public agency name rather than their private firm's name. (Examples: State Assembly; Board of Supervisors; Office of the Mayor; Department of Finance; Hope County Superior Court)
- Indicate the name of your division, board, or district, if applicable. (Examples: Division of Waste Management; Board of Accountancy; District 45). **Do not use acronyms.**
- Enter your position title. (Examples: Director; Chief Counsel; City Council Member; Staff Services Analyst)
- If you hold multiple positions (i.e., a city council member who also is a member of a county board or commission), you may be required to file statements with each agency. To simplify your filing obligations, you may complete an expanded statement.
- To do this, enter the name of the other agency(ies) with which you are required to file and your position title(s) in the space provided. **Do not use acronyms.** Attach an additional sheet if necessary. Complete one statement covering the disclosure requirements for all positions. Each copy must contain an original signature. Therefore, before signing the statement, make a copy for each agency. Sign each copy with an original signature and file with each agency.

If you assume or leave a position after a filing deadline, you must complete a separate statement. For example, a city council member who assumes a position with a county special district after the April 1 annual filing deadline must file a separate assuming office statement. In subsequent years, the city council member may expand his or her annual filing to include both positions.

### Example:

Scott Baker is a city council member for the City of Lincoln and a board member for the Camp Far West Irrigation District – a multi-county agency that covers Placer and Yuba counties. Scott will complete one Form 700 using full disclosure (as required for the city position) and covering interests in both Placer and Yuba counties (as required for the multi-county position) and list both positions on the Cover Page. Before signing the statement, Scott will make a copy and sign both statements. One statement will be filed with City of Lincoln and the other will be filed with Camp Far West Irrigation District. Both will contain an original signature.

## Part 2. Jurisdiction of Office

- Check the box indicating the jurisdiction of your agency and, if applicable, identify the jurisdiction. Judges, judicial candidates, and court commissioners have statewide jurisdiction. All other filers should review the Reference Pamphlet, page 13, to determine their jurisdiction.
- If your agency is a multi-county office, list each county in which your agency has jurisdiction.

- If your agency is not a state office, court, county office, city office, or multi-county office (e.g., school districts, special districts and JPAs), check the "other" box and enter the county or city in which the agency has jurisdiction.

### Example:

This filer is a member of a water district board with jurisdiction in portions of Yuba and Sutter Counties.

<b>Office, Agency, or Court</b>	
Agency Name (Do not use acronyms) Foothill River Irrigation District	
Division, Board, Department, District, if applicable N/A	Your Position Board Member
* If filing for multiple positions, list below or on an attachment. (Do not use acronyms)	
Agency N/A	Position
<b>2. Jurisdiction of Office (Check at least one box)</b>	
<input type="checkbox"/> State	<input type="checkbox"/> Judge or Court Commissioner (Statewide Jurisdiction)
<input checked="" type="checkbox"/> Multi-County Yuba & Sutter Counties	<input type="checkbox"/> County of _____
<input type="checkbox"/> City of _____	<input type="checkbox"/> Other _____

## Part 3. Type of Statement

Check at least one box. The period covered by a statement is determined by the type of statement you are filing. If you are completing a 2016 annual statement, **do not** change the pre-printed dates to reflect 2017. Your annual statement is used for reporting the **previous year's** economic interests. Economic interests for your annual filing covering January 1, 2017, through December 31, 2017, will be disclosed on your statement filed in 2018. See Reference Pamphlet, page 4.

Combining Statements: Certain types of statements may be combined. For example, if you leave office after January 1, but before the deadline for filing your annual statement, you may combine your annual and leaving office statements. File by the earliest deadline. Consult your filing officer or the FPPC.

## Part 4. Schedule Summary

- Complete the Schedule Summary after you have reviewed each schedule to determine if you have reportable interests.
- Enter the total number of completed pages including the cover page and either check the box for each schedule you use to disclose interests; **or** if you have nothing to disclose on any schedule, check the "No reportable interests" box. Please **do not** attach any blank schedules.

## Part 5. Verification

Complete the verification by signing the statement and entering the date signed. All statements must have an original "wet" signature or be duly authorized by your filing officer to file electronically under Government Code Section 87500.2. Instructions, examples, FAQs, and a reference pamphlet are available to help answer your questions. **When you sign your statement, you are stating, under penalty of perjury, that it is true and correct.** Only the filer has authority to sign the statement. An unsigned statement is not considered filed and you may be subject to late filing penalties.

**STATEMENT OF ECONOMIC INTERESTS  
COVER PAGE**

Date Initial Filing Received  
*Official Use Only*

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) (MIDDLE)

**1. Office, Agency, or Court**

Agency Name *(Do not use acronyms)*

Division, Board, Department, District, if applicable Your Position

► If filing for multiple positions, list below or on an attachment. *(Do not use acronyms)*

Agency: Position:

**2. Jurisdiction of Office *(Check at least one box)***

- State  Judge or Court Commissioner (Statewide Jurisdiction)
- Multi-County County of
- City of Other

**3. Type of Statement *(Check at least one box)***

- Annual:** The period covered is January 1, 2016, through December 31, 2016.  
*-or-* The period covered is / / , through December 31, 2016.
- Assuming Office:** Date assumed / /
- Candidate:** Election year and office sought, if different than Part 1: \_\_\_\_\_
- Leaving Office:** Date Left / / *(Check one)*
  - The period covered is January 1, 2016, through the date of leaving office.
  - or-*  The period covered is / / , through the date of leaving office.

**4. Schedule Summary (must complete) ► Total number of pages including this cover page: \_\_\_\_\_**

**Schedules attached**

- Schedule A-1 - Investments** – schedule attached  **Schedule C - Income, Loans, & Business Positions** – schedule attached
- Schedule A-2 - Investments** – schedule attached  **Schedule D - Income – Gifts** – schedule attached
- Schedule B - Real Property** – schedule attached  **Schedule E - Income – Gifts – Travel Payments** – schedule attached

- or-*  
 **None - No reportable interests on any schedule**

**5. Verification**

MAILING ADDRESS STREET CITY STATE ZIP CODE  
*(Business or Agency Address Recommended - Public Document)*

DAYTIME TELEPHONE NUMBER E-MAIL ADDRESS  
( )

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed (month, day, year) Signature *(File the originally signed statement with your filing official.)*

**Clear Page**

**Print**

## Which Schedule Do I Use?

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### Common Reportable Interests

Schedule A-1	Stocks, including those held in an IRA or a 401K
Schedule A-2	Business entities (including certain independent contracting), sole proprietorships, partnerships, LLCs, corporations, and trusts
Schedule B	Rental property in the jurisdiction, or within two miles of the boundaries of the jurisdiction
Schedule C	Non-governmental salaries of public official and spouse/registered domestic partner
Schedule D	Gifts from businesses (such as tickets to sporting or entertainment events)
Schedule E	Travel payments from third parties (not your employer)

### Common Non-Reportable Interests

Schedule A-1	Insurance policies, government bonds, diversified mutual funds, certain funds similar to diversified mutual funds (such as exchange traded funds) and investments held in certain retirement accounts. See Reference Pamphlet, page 13, for detailed information. (Regulation 18237)
Schedule A-2	Savings and checking accounts and annuities
Schedule B	A residence used exclusively as a personal residence (such as a home or vacation cabin)
Schedule C	Governmental salary (such as a school district)
Schedule D	Gifts from family members
Schedule E	Travel paid by your government agency

#### Remember:

- ✓ Mark the "No reportable interests" box on Part 4 of the Schedule Summary on the Cover Page if you determine you have nothing to disclose and file the Cover Page only. **Make sure you carefully read all instructions to ensure proper reporting.**
- ✓ The Form 700 is a public document.
- ✓ **Most individuals must consult their agency's conflict of interest code for reportable interests.**
- ✓ Most individuals file the Form 700 with their agencies.

## Questions and Answers

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### General

- Q. What is the reporting period for disclosing interests on an assuming office statement or a candidate statement?
- A. On an assuming office statement, disclose all reportable investments, interests in real property, and business positions held on the date you assumed office. In addition, you must disclose income (including loans, gifts and travel payments) received during the 12 months prior to the date you assumed office.
- On a candidate statement, disclose all reportable investments, interests in real property, and business positions held on the date you file your declaration of candidacy. You must also disclose income (including loans, gifts and travel payments) received during the 12 months prior to the date you file your declaration of candidacy.
- Q. I hold two other board positions in addition to my position with the county. Must I file three statements of economic interests?
- A. Yes, three are required. However, you may complete one statement listing the county and the two boards on the Cover Page or an attachment as the agencies for which you will be filing. Report your economic interests using the largest jurisdiction and highest disclosure requirements assigned to you by the three agencies. Make two copies of the entire statement before signing it, sign each copy with an original signature, and distribute one original to the county and to each of the two boards. Remember to complete separate statements for positions that you leave or assume during the year.
- Q. I am a department head who recently began acting as city manager. Should I file as the city manager?
- A. Yes. File an assuming office statement as city manager. Persons serving as "acting," "interim," or "alternate" must file as if they hold the position because they are or may be performing the duties of the position.
- Q. As a designated employee, I left one state agency to work for another state agency. Must I file a leaving office statement?
- A. Yes. You may also need to file an assuming office statement for the new agency.
- Q. My spouse and I are currently separated and in the process of obtaining a divorce. Must I still report my spouse's income, investments, and interests in real property?
- A. Yes. A public official must continue to report a spouse's economic interests until such time as dissolution of marriage proceedings is final. However, if a separate property agreement has been reached prior to that time, your estranged spouse's income may not have to be reported. Contact the FPPC for more information.

### Investment Disclosure

- Q. I have an investment interest in shares of stock in a company that does not have an office in my jurisdiction. Must I still disclose my investment interest in this company?
- A. Probably. The definition of "doing business in the jurisdiction" is not limited to whether the business has an office or physical location in your jurisdiction. See Reference Pamphlet, page 13.
- Q. My spouse and I have a living trust. The trust holds rental property in my jurisdiction, our primary residence, and investments in diversified mutual funds. I have full disclosure. How is this trust disclosed?
- A. Disclose the name of the trust, the rental property and its income on Schedule A-2. Your primary residence and investments in diversified mutual funds registered with the SEC are not reportable.
- Q. I am required to report all investments. I have an IRA that contains stocks through an account managed by a brokerage firm. Must I disclose these stocks even though they are held in an IRA and I did not decide which stocks to purchase?
- A. Yes. Disclose on Schedule A-1 or A-2 any stock worth \$2,000 or more in a business entity located in or doing business in your jurisdiction.

## Questions and Answers Continued

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Q. I am the sole owner of my business, an S-Corporation. I believe that the nature of the business is such that it cannot be said to have any "fair market value" because it has no assets. I operate the corporation under an agreement with a large insurance company. My contract does not have resale value because of its nature as a personal services contract. Must I report the fair market value for my business on Schedule A-2 of the Form 700?

A. Yes. Even if there are no *tangible* assets, intangible assets, such as relationships with companies and clients are commonly sold to qualified professionals. The "fair market value" is often quantified for other purposes, such as marital dissolutions or estate planning. In addition, the IRS presumes that "personal services corporations" have a fair market value. A professional "book of business" and the associated goodwill that generates income are not without a determinable value. The Form 700 does not require a precise fair market value; it is only necessary to check a box indicating the broad range within which the value falls.

Q. I own stock in IBM and must report this investment on Schedule A-1. I initially purchased this stock in the early 1990s; however, I am constantly buying and selling shares. Must I note these dates in the "Acquired" and "Disposed" fields?

A. No. You must only report dates in the "Acquired" or "Disposed" fields when, during the reporting period, you initially purchase a reportable investment worth \$2,000 or more or when you dispose of the entire investment. You are not required to track the partial trading of an investment.

Q. On last year's filing I reported stock in Encoe valued at \$2,000 - \$10,000. Late last year the value of this stock fell below and remains at less than \$2,000. How should this be reported on this year's statement?

A. You are not required to report an investment if the value was less than \$2,000 during the **entire** reporting period. However, because a disposed date is not required for stocks that fall below \$2,000, you may want to report the stock and note in the "comments" section that the value fell below \$2,000. This would be for informational purposes only; it is not a requirement.

Q. We have a Section 529 account set up to save money for our son's college education. Is this reportable?

A. If the Section 529 account contains reportable interests (e.g., common stock valued at \$2,000 or more), those interests are reportable (not the actual Section 529 account). If the account contains solely mutual funds, then nothing is reported.

### Income Disclosure

Q. I reported a business entity on Schedule A-2. Clients of my business are located in several states. Must I report all clients from whom my pro rata share of income is \$10,000 or more on Schedule A-2, Part 3?

A. No, only the clients located in or doing business on a regular basis in your jurisdiction must be disclosed.

Q. I believe I am not required to disclose the names of clients from whom my pro rata share of income is \$10,000 or more on Schedule A-2 because of their right to privacy. Is there an exception for reporting clients' names?

A. Regulation 18740 provides a procedure for requesting an exemption to allow a client's name not to be disclosed if disclosure of the name would violate a legally recognized privilege under California or Federal law. This regulation may be obtained from our website at [www.fppc.ca.gov](http://www.fppc.ca.gov). See Reference Pamphlet, page 14.

Q. I am sole owner of a private law practice that is not reportable based on my limited disclosure category. However, some of the sources of income to my law practice are from reportable sources. Do I have to disclose this income?

A. Yes, even though the law practice is not reportable, reportable sources of income to the law practice of \$10,000 or more must be disclosed. This information would be disclosed on Schedule C with a note in the "comments" section indicating that the business entity is not a reportable investment. The note would be for informational purposes only; it is not a requirement.

## Questions and Answers Continued

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Q. I am the sole owner of my business. Where do I disclose my income - on Schedule A-2 or Schedule C?

A. Sources of income to a business in which you have an ownership interest of 10% or greater are disclosed on Schedule A-2. See Reference Pamphlet, page 8, for the definition of "business entity."

Q. My husband is a partner in a four-person firm where all of his business is based on his own billings and collections from various clients. How do I report my community property interest in this business and the income generated in this manner?

A. If your husband's investment in the firm is 10% or greater, disclose 100% of his share of the business on Schedule A-2, Part 1 and 50% of his income on Schedule A-2, Parts 2 and 3. For example, a client of your husband's must be a source of at least \$20,000 during the reporting period before the client's name is reported.

Q. How do I disclose my spouse's or registered domestic partner's salary?

A. Report the name of the employer as a source of income on Schedule C.

Q. I am a doctor. For purposes of reporting \$10,000 sources of income on Schedule A-2, Part 3, are the patients or their insurance carriers considered sources of income?

A. If your patients exercise sufficient control by selecting you instead of other doctors, then your patients, rather than their insurance carriers, are sources of income to you. See Reference Pamphlet, page 14, for additional information.

Q. I received a loan from my grandfather to purchase my home. Is this loan reportable?

A. No. Loans received from family members are not reportable.

Q. Many years ago, I loaned my parents several thousand dollars, which they paid back this year. Do I need to report this loan repayment on my Form 700?

A. No. Payments received on a loan made to a family member are not reportable.

### Real Property Disclosure

Q. During this reporting period we switched our principal place of residence into a rental. I have full disclosure and the property is located in my agency's jurisdiction, so it is now reportable. Because I have not reported this property before, do I need to show an "acquired" date?

A. No, you are not required to show an "acquired" date because you previously owned the property. However, you may want to note in the "comments" section that the property was not previously reported because it was used exclusively as your residence. This would be for informational purposes only; it is not a requirement.

Q. I am a city manager, and I own a rental property located in an adjacent city, but one mile from the city limit. Do I need to report this property interest?

A. Yes. You are required to report this property because it is located within 2 miles of the boundaries of the city you manage.

Q. Must I report a home that I own as a personal residence for my daughter?

A. You are not required to disclose a home used as a personal residence for a family member unless you receive income from it, such as rental income.

Q. I am a co-signer on a loan for a rental property owned by a friend. Since I am listed on the deed of trust, do I need to report my friend's property as an interest in real property on my Form 700?

A. No. Simply being a co-signer on a loan for property does not create a reportable interest in real property for you.

### Gift Disclosure

Q. If I received a reportable gift of two tickets to a concert valued at \$100 each, but gave the tickets to a friend because I could not attend the concert, do I have any reporting obligations?

A. Yes. Since you accepted the gift and exercised discretion and control of the use of the tickets, you must disclose the gift on Schedule D.

## Questions and Answers Continued

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- Q. Mary and Joe Benson, a married couple, want to give a piece of artwork to a county supervisor. Is each spouse considered a separate source for purposes of the gift limit and disclosure?
- A. Yes, each spouse may make a gift valued at the gift limit during a calendar year. For example, during 2016 the gift limit was \$460, so the Bensons may have given the supervisor artwork valued at no more than \$920. The supervisor must identify Joe and Mary Benson as the sources of the gift.
- Q. I am a Form 700 filer with full disclosure. Our agency holds a holiday raffle to raise funds for a local charity. I bought \$10 worth of raffle tickets and won a gift basket valued at \$120. The gift basket was donated by Doug Brewer, a citizen in our city. At the same event, I bought raffle tickets for, and won a quilt valued at \$70. The quilt was donated by a coworker. Are these reportable gifts?
- A. Because the gift basket was donated by an outside source (not an agency employee), you have received a reportable gift valued at \$110 (the value of the basket less the consideration paid). The source of the gift is Doug Brewer and the agency is disclosed as the intermediary. Because the quilt was donated by an employee of your agency, it is not a reportable gift.
- Q. My agency is responsible for disbursing grants. An applicant (501(c)(3) organization) met with agency employees to present its application. At this meeting, the applicant provided food and beverages. Would the food and beverages be considered gifts to the employees? These employees are designated in our agency's conflict of interest code and the applicant is a reportable source of income under the code.
- A. Yes. If the value of the food and beverages consumed by any one filer, plus any other gifts received from the same source during the reporting period total \$50 or more, the food and beverages would be reported using the fair market value and would be subject to the gift limit.
- Q. I received free admission to an educational conference related to my official duties. Part of the conference fees included a round of golf. Is the value of the golf considered informational material?
- A. No. The value of personal benefits, such as golf, attendance at a concert, or sporting event, are gifts subject to reporting and limits.

## Instructions – Schedules A-1 and A-2 Investments

“Investment” means a financial interest in any business entity (including a consulting business or other independent contracting business) that is located in, doing business in, planning to do business in, or that has done business during the previous two years in your agency’s jurisdiction in which you, your spouse or registered domestic partner, or your dependent children had a direct, indirect, or beneficial interest totaling \$2,000 or more at any time during the reporting period. See Reference Pamphlet, page 13.

### Reportable investments include:

- Stocks, bonds, warrants, and options, including those held in margin or brokerage accounts and managed investment funds (See Reference Pamphlet, page 13.)
- Sole proprietorships
- Your own business or your spouse’s or registered domestic partner’s business (See Reference Pamphlet, page 8, for the definition of “business entity.”)
- Your spouse’s or registered domestic partner’s investments even if they are legally separate property
- Partnerships (e.g., a law firm or family farm)
- Investments in reportable business entities held in a retirement account (See Reference Pamphlet, page 15.)
- If you, your spouse or registered domestic partner, and dependent children together had a 10% or greater ownership interest in a business entity or trust (including a living trust), you must disclose investments held by the business entity or trust. See Reference Pamphlet, page 15, for more information on disclosing trusts.
- Business trusts

### You are not required to disclose:

- Government bonds, diversified mutual funds, certain funds similar to diversified mutual funds (such as exchange traded funds) and investments held in certain retirement accounts. See Reference Pamphlet, page 13, for detailed information. (Regulation 18237)
- Bank accounts, savings accounts, money market accounts and certificates of deposits
- Insurance policies
- Annuities
- Commodities
- Shares in a credit union
- Government bonds (including municipal bonds)
- Retirement accounts invested in non-reportable interests (e.g., insurance policies, mutual funds, or government bonds) (See Reference Pamphlet, page 15.)

### Reminders

- Do you know your agency’s jurisdiction?
- Did you hold investments at any time during the period covered by this statement?
- Code filers – your disclosure categories may only require disclosure of specific investments.

- Government defined-benefit pension plans (such as CalPERS and CalSTRS plans)
- Certain interests held in a blind trust (See Reference Pamphlet, page 16.)

**Use Schedule A-1** to report ownership of less than 10% (e.g., stock). Schedule C (Income) may also be required if the investment is not a stock or corporate bond. See second example below.

**Use Schedule A-2** to report ownership of 10% or greater (e.g., a sole proprietorship).

### To Complete Schedule A-1:

Do not attach brokerage or financial statements.

- Disclose the name of the business entity.
- Provide a general description of the business activity of the entity (e.g., pharmaceuticals, computers, automobile manufacturing, or communications).
- Check the box indicating the highest fair market value of your investment during the reporting period. If you are filing a candidate or an assuming office statement, indicate the fair market value on the filing date or the date you took office, respectively.
- Identify the nature of your investment (e.g., stocks, warrants, options, or bonds).
- An acquired or disposed of date is only required if you initially acquired or entirely disposed of the investment interest during the reporting period. The date of a stock dividend reinvestment or partial disposal is not required. Generally, these dates will not apply if you are filing a candidate or an assuming office statement.

### Examples:

John Smith holds a state agency position. His conflict of interest code requires full disclosure of investments. John must disclose his stock holdings of \$2,000 or more in any company that is located in or does business in California, as well as those stocks held by his spouse or registered domestic partner and dependent children.

Susan Jones is a city council member. She has a 4% interest, worth \$5,000, in a limited partnership located in the city. Susan must disclose the partnership on Schedule A-1 and income of \$500 or more received from the partnership on Schedule C.



# SCHEDULE A-1 Investments

**Stocks, Bonds, and Other Interests**  
(Ownership Interest is Less Than 10%)  
*Do not attach brokerage or financial statements.*

Name \_\_\_\_\_

▶ NAME OF BUSINESS ENTITY \_\_\_\_\_

GENERAL DESCRIPTION OF THIS BUSINESS \_\_\_\_\_

FAIR MARKET VALUE  
 \$2,000 - \$10,000       \$10,001 - \$100,000  
 \$100,001 - \$1,000,000       Over \$1,000,000

NATURE OF INVESTMENT  
 Stock       Other \_\_\_\_\_ (Describe)  
 Partnership       Income Received of \$0 - \$499  
     Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:  
 \_\_\_\_/\_\_\_\_/16      \_\_\_\_/\_\_\_\_/16  
 ACQUIRED                      DISPOSED

▶ NAME OF BUSINESS ENTITY \_\_\_\_\_

GENERAL DESCRIPTION OF THIS BUSINESS \_\_\_\_\_

FAIR MARKET VALUE  
 \$2,000 - \$10,000       \$10,001 - \$100,000  
 \$100,001 - \$1,000,000       Over \$1,000,000

NATURE OF INVESTMENT  
 Stock       Other \_\_\_\_\_ (Describe)  
 Partnership       Income Received of \$0 - \$499  
     Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:  
 \_\_\_\_/\_\_\_\_/16      \_\_\_\_/\_\_\_\_/16  
 ACQUIRED                      DISPOSED

▶ NAME OF BUSINESS ENTITY \_\_\_\_\_

GENERAL DESCRIPTION OF THIS BUSINESS \_\_\_\_\_

FAIR MARKET VALUE  
 \$2,000 - \$10,000       \$10,001 - \$100,000  
 \$100,001 - \$1,000,000       Over \$1,000,000

NATURE OF INVESTMENT  
 Stock       Other \_\_\_\_\_ (Describe)  
 Partnership       Income Received of \$0 - \$499  
     Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:  
 \_\_\_\_/\_\_\_\_/16      \_\_\_\_/\_\_\_\_/16  
 ACQUIRED                      DISPOSED

▶ NAME OF BUSINESS ENTITY \_\_\_\_\_

GENERAL DESCRIPTION OF THIS BUSINESS \_\_\_\_\_

FAIR MARKET VALUE  
 \$2,000 - \$10,000       \$10,001 - \$100,000  
 \$100,001 - \$1,000,000       Over \$1,000,000

NATURE OF INVESTMENT  
 Stock       Other \_\_\_\_\_ (Describe)  
 Partnership       Income Received of \$0 - \$499  
     Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:  
 \_\_\_\_/\_\_\_\_/16      \_\_\_\_/\_\_\_\_/16  
 ACQUIRED                      DISPOSED

▶ NAME OF BUSINESS ENTITY \_\_\_\_\_

GENERAL DESCRIPTION OF THIS BUSINESS \_\_\_\_\_

FAIR MARKET VALUE  
 \$2,000 - \$10,000       \$10,001 - \$100,000  
 \$100,001 - \$1,000,000       Over \$1,000,000

NATURE OF INVESTMENT  
 Stock       Other \_\_\_\_\_ (Describe)  
 Partnership       Income Received of \$0 - \$499  
     Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:  
 \_\_\_\_/\_\_\_\_/16      \_\_\_\_/\_\_\_\_/16  
 ACQUIRED                      DISPOSED

▶ NAME OF BUSINESS ENTITY \_\_\_\_\_

GENERAL DESCRIPTION OF THIS BUSINESS \_\_\_\_\_

FAIR MARKET VALUE  
 \$2,000 - \$10,000       \$10,001 - \$100,000  
 \$100,001 - \$1,000,000       Over \$1,000,000

NATURE OF INVESTMENT  
 Stock       Other \_\_\_\_\_ (Describe)  
 Partnership       Income Received of \$0 - \$499  
     Income Received of \$500 or More (Report on Schedule C)

IF APPLICABLE, LIST DATE:  
 \_\_\_\_/\_\_\_\_/16      \_\_\_\_/\_\_\_\_/16  
 ACQUIRED                      DISPOSED

Comments: \_\_\_\_\_

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## Instructions – Schedule A-2

### Investments, Income, and Assets of Business Entities/Trusts

---

Use Schedule A-2 to report investments in a business entity (including a consulting business or other independent contracting business) or trust (including a living trust) in which you, your spouse or registered domestic partner, and your dependent children, together or separately, had a 10% or greater interest, totaling \$2,000 or more, during the reporting period and which is located in, doing business in, planning to do business in, or which has done business during the previous two years in your agency's jurisdiction. See Reference Pamphlet, page 13. A trust located outside your agency's jurisdiction is reportable if it holds assets that are located in or doing business in the jurisdiction. Do not report a trust that contains non-reportable interests. For example, a trust containing only your personal residence not used in whole or in part as a business, your savings account, and some municipal bonds, is not reportable.

Also report on Schedule A-2 investments and real property held by that entity or trust if your pro rata share of the investment or real property interest was \$2,000 or more during the reporting period.

#### To Complete Schedule A-2:

**Part 1.** Disclose the name and address of the business entity or trust. If you are reporting an interest in a business entity, check "Business Entity" and complete the box as follows:

- Provide a general description of the business activity of the entity.
- Check the box indicating the highest fair market value of your investment during the reporting period.
- If you initially acquired or entirely disposed of this interest during the reporting period, enter the date acquired or disposed.
- Identify the nature of your investment.
- Disclose the job title or business position you held with the entity, if any (i.e., if you were a director, officer, partner, trustee, employee, or held any position of management). A business position held by your spouse is not reportable.

**Part 2.** Check the box indicating **your pro rata** share of the **gross** income received **by** the business entity or trust. This amount includes your pro rata share of the **gross** income **from** the business entity or trust, as well as your community property interest in your spouse's or registered domestic partner's share. Gross income is the total amount of income before deducting expenses, losses, or taxes.

**Part 3.** Disclose the name of each source of income that is located in, doing business in, planning to do business in, or that has done business during the previous two years in your agency's jurisdiction, as follows:

- Disclose each source of income and outstanding loan **to the business entity or trust** identified in Part 1 if your pro rata share of the **gross** income (including your community property interest in your spouse's or registered domestic partner's share) to the business entity or trust from that source was \$10,000 or more during the reporting

period. See Reference Pamphlet, page 11, for examples. Income from governmental sources may be reportable if not considered salary. See Regulation 18232. Loans from commercial lending institutions made in the lender's regular course of business on terms available to members of the public without regard to your official status are not reportable.

- Disclose each individual or entity that was a source of commission income of \$10,000 or more during the reporting period through the business entity identified in Part 1. See Reference Pamphlet, page 8, for an explanation of commission income.

You may be required to disclose sources of income located outside your jurisdiction. For example, you may have a client who resides outside your jurisdiction who does business on a regular basis with you. Such a client, if a reportable source of \$10,000 or more, must be disclosed.

Mark "None" if you do not have any reportable \$10,000 sources of income to disclose. Using phrases such as "various clients" or "not disclosing sources pursuant to attorney-client privilege" may trigger a request for an amendment to your statement. See Reference Pamphlet, page 14, for details about requesting an exemption from disclosing privileged information.

**Part 4.** Report any investments or interests in real property held or leased **by the entity or trust** identified in Part 1 if your pro rata share of the interest held was \$2,000 or more during the reporting period. Attach additional schedules or use FPPC's Form 700 Excel spreadsheet if needed.

- Check the applicable box identifying the interest held as real property or an investment.
- If investment, provide the name and description of the business entity.
- If real property, report the precise location (e.g., an assessor's parcel number or address).
- Check the box indicating the highest fair market value of your interest in the real property or investment during the reporting period. (Report the fair market value of the portion of your residence claimed as a tax deduction if you are utilizing your residence for business purposes.)
- Identify the nature of your interest.
- Enter the date acquired or disposed only if you initially acquired or entirely disposed of your interest in the property or investment during the reporting period.

# SCHEDULE A-2

## Investments, Income, and Assets of Business Entities/Trusts

(Ownership Interest is 10% or Greater)

**CALIFORNIA FORM 700**  
FAIR POLITICAL PRACTICES COMMISSION

Name \_\_\_\_\_

**▶ 1. BUSINESS ENTITY OR TRUST**

Name \_\_\_\_\_

Address (Business Address Acceptable) \_\_\_\_\_

Check one  
 Trust, go to 2     Business Entity, complete the box, then go to 2

**GENERAL DESCRIPTION OF THIS BUSINESS**

FAIR MARKET VALUE                      IF APPLICABLE, LIST DATE:

<input type="checkbox"/> \$0 - \$1,999 <input type="checkbox"/> \$2,000 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> \$100,001 - \$1,000,000 <input type="checkbox"/> Over \$1,000,000	_____ / ____ / <b>16</b> _____ / ____ / <b>16</b> ACQUIRED                      DISPOSED
---	---

NATURE OF INVESTMENT  
 Partnership     Sole Proprietorship     \_\_\_\_\_ Other

YOUR BUSINESS POSITION \_\_\_\_\_

**▶ 1. BUSINESS ENTITY OR TRUST**

Name \_\_\_\_\_

Address (Business Address Acceptable) \_\_\_\_\_

Check one  
 Trust, go to 2     Business Entity, complete the box, then go to 2

**GENERAL DESCRIPTION OF THIS BUSINESS**

FAIR MARKET VALUE                      IF APPLICABLE, LIST DATE:

<input type="checkbox"/> \$0 - \$1,999 <input type="checkbox"/> \$2,000 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> \$100,001 - \$1,000,000 <input type="checkbox"/> Over \$1,000,000	_____ / ____ / <b>16</b> _____ / ____ / <b>16</b> ACQUIRED                      DISPOSED
---	---

NATURE OF INVESTMENT  
 Partnership     Sole Proprietorship     \_\_\_\_\_ Other

YOUR BUSINESS POSITION \_\_\_\_\_

**▶ 2. IDENTIFY THE GROSS INCOME RECEIVED (INCLUDE YOUR PRO RATA SHARE OF THE GROSS INCOME TO THE ENTITY/TRUST)**

<input type="checkbox"/> \$0 - \$499 <input type="checkbox"/> \$500 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000	<input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> OVER \$100,000
---	--

**▶ 2. IDENTIFY THE GROSS INCOME RECEIVED (INCLUDE YOUR PRO RATA SHARE OF THE GROSS INCOME TO THE ENTITY/TRUST)**

<input type="checkbox"/> \$0 - \$499 <input type="checkbox"/> \$500 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000	<input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> OVER \$100,000
---	--

**▶ 3. LIST THE NAME OF EACH REPORTABLE SINGLE SOURCE OF INCOME OF \$10,000 OR MORE (Attach a separate sheet if necessary)**

None    or     Names listed below

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**▶ 3. LIST THE NAME OF EACH REPORTABLE SINGLE SOURCE OF INCOME OF \$10,000 OR MORE (Attach a separate sheet if necessary)**

None    or     Names listed below

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**▶ 4. INVESTMENTS AND INTERESTS IN REAL PROPERTY HELD OR LEASED BY THE BUSINESS ENTITY OR TRUST**

Check one box:  
 INVESTMENT                       REAL PROPERTY

Name of Business Entity, if Investment, or Assessor's Parcel Number or Street Address of Real Property \_\_\_\_\_

Description of Business Activity or City or Other Precise Location of Real Property \_\_\_\_\_

FAIR MARKET VALUE                      IF APPLICABLE, LIST DATE:

<input type="checkbox"/> \$2,000 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> \$100,001 - \$1,000,000 <input type="checkbox"/> Over \$1,000,000	_____ / ____ / <b>16</b> _____ / ____ / <b>16</b> ACQUIRED                      DISPOSED
---	---

NATURE OF INTEREST  
 Property Ownership/Deed of Trust     Stock     Partnership

Leasehold \_\_\_\_\_ Yrs. remaining     Other \_\_\_\_\_

Check box if additional schedules reporting investments or real property are attached

**▶ 4. INVESTMENTS AND INTERESTS IN REAL PROPERTY HELD OR LEASED BY THE BUSINESS ENTITY OR TRUST**

Check one box:  
 INVESTMENT                       REAL PROPERTY

Name of Business Entity, if Investment, or Assessor's Parcel Number or Street Address of Real Property \_\_\_\_\_

Description of Business Activity or City or Other Precise Location of Real Property \_\_\_\_\_

FAIR MARKET VALUE                      IF APPLICABLE, LIST DATE:

<input type="checkbox"/> \$2,000 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> \$100,001 - \$1,000,000 <input type="checkbox"/> Over \$1,000,000	_____ / ____ / <b>16</b> _____ / ____ / <b>16</b> ACQUIRED                      DISPOSED
---	---

NATURE OF INTEREST  
 Property Ownership/Deed of Trust     Stock     Partnership

Leasehold \_\_\_\_\_ Yrs. remaining     Other \_\_\_\_\_

Check box if additional schedules reporting investments or real property are attached

Comments: \_\_\_\_\_

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## Instructions – Schedule B Interests in Real Property

Report interests in real property located in your agency's jurisdiction in which you, your spouse or registered domestic partner, or your dependent children had a direct, indirect, or beneficial interest totaling \$2,000 or more any time during the reporting period. Real property is also considered to be "within the jurisdiction" of a local government agency if the property or any part of it is located within two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency. See Reference Pamphlet, page 13.

### Interests in real property include:

- An ownership interest (including a beneficial ownership interest)
- A deed of trust, easement, or option to acquire property
- A leasehold interest (See Reference Pamphlet, page 14.)
- A mining lease
- An interest in real property held in a retirement account (See Reference Pamphlet, page 15.)
- An interest in real property held by a business entity or trust in which you, your spouse or registered domestic partner, and your dependent children together had a 10% or greater ownership interest (Report on Schedule A-2.)
- Your spouse's or registered domestic partner's interests in real property that are legally held separately by him or her

### You are not required to report:

- A residence, such as a home or vacation cabin, used exclusively as a personal residence (However, a residence in which you rent out a room or for which you claim a business deduction may be reportable. If reportable, report the fair market value of the portion claimed as a tax deduction.)
- Please note: A non-reportable residence can still be grounds for a conflict of interest and may be disqualifying.
- Interests in real property held through a blind trust (See Reference Pamphlet, page 16, for exceptions.)

### To Complete Schedule B:

- Report the precise location (e.g., an assessor's parcel number or address) of the real property.
- Check the box indicating the fair market value of your interest in the property (regardless of what you owe on the property).
- Enter the date acquired or disposed only if you initially acquired or entirely disposed of your interest in the property during the reporting period.
- Identify the nature of your interest. If it is a leasehold, disclose the number of years remaining on the lease.

### Reminders

- Income and loans already reported on Schedule B are not also required to be reported on Schedule C.
- Real property already reported on Schedule A-2, Part 4 is not also required to be reported on Schedule B.
- Code filers – do your disclosure categories require disclosure of real property?

- If you received rental income, check the box indicating the gross amount you received.
- If you had a 10% or greater interest in real property and received rental income, list the name of the source(s) if your pro rata share of the gross income from any single tenant was \$10,000 or more during the reporting period. If you received a total of \$10,000 or more from two or more tenants acting in concert (in most cases, this will apply to married couples), disclose the name of each tenant. Otherwise, mark "None."
- Loans from a private lender that total \$500 or more and are secured by real property may be reportable. **Loans from commercial lending institutions made in the lender's regular course of business on terms available to members of the public without regard to your official status are not reportable.**

When reporting a loan:

- Provide the name and address of the lender.
- Describe the lender's business activity.
- Disclose the interest rate and term of the loan. For variable interest rate loans, disclose the conditions of the loan (e.g., Prime + 2) or the average interest rate paid during the reporting period. The term of a loan is the total number of months or years given for repayment of the loan at the time the loan was established.
- Check the box indicating the highest balance of the loan during the reporting period.
- Identify a guarantor, if applicable.

If you have more than one reportable loan on a single piece of real property, report the additional loan(s) on Schedule C.

### Example:

Joe Nelson is a city planning commissioner. Joe received rental income of \$12,000 during the reporting period from a single tenant who rented property Joe owned in the city's jurisdiction. If Joe had received the \$12,000 from two or more tenants, the tenants' names would not be required as long as no single tenant paid \$10,000 or more. A married couple would be considered a single tenant.

ASSESSOR'S PARCEL NUMBER OR STREET ADDRESS 4600 24th Street	
CITY Sacramento	
FAIR MARKET VALUE IF APPLICABLE, LIST DATE	
<input type="checkbox"/> \$0 - \$10,000	
<input type="checkbox"/> \$10,001 - \$100,000	ACQUIRED <u>11</u> / <u>15</u> / <u>16</u>
<input checked="" type="checkbox"/> \$100,001 - \$1,000,000	DISPOSED
<input type="checkbox"/> OVER \$1,000,000	
NATURE OF INTEREST	
<input checked="" type="checkbox"/> Ownership/Deed of Trust	<input type="checkbox"/> Easement
<input type="checkbox"/> Leasehold	<input type="checkbox"/> Other
IF RENTAL PROPERTY, GROSS INCOME RECEIVED	
<input type="checkbox"/> \$0 - \$499	<input type="checkbox"/> \$500 - \$1,000
<input type="checkbox"/> \$1,001 - \$100,000	<input type="checkbox"/> OVER \$100,000
SOURCE(S) OF RENTAL INCOME: If you own a 10% or greater interest, list the name of each tenant that is a single source of income of \$10,000 or more.	
<input checked="" type="checkbox"/> None	
Henry Wells	
NAME OF LENDER*	
Sophia Petrollo	
ADDRESS (Business/Personal Address)	
2121 Blue Sky Parkway, Sacramento	
BUSINESS ACTIVITY IF ANY OF LENDER	
Restaurant Owner	
INTEREST RATE	TERM (Month/Years)
<u>8</u> %	<u>15</u> Years
HIGHEST BALANCE DURING REPORTING PERIOD	
<input type="checkbox"/> \$000 - \$1,000	<input type="checkbox"/> \$1,001 - \$10,000
<input type="checkbox"/> \$10,001 - \$100,000	<input type="checkbox"/> OVER \$100,000
<input type="checkbox"/> Unreported, if applicable	



**Instructions – Schedule C**  
**Income, Loans, & Business Positions**  
**(Income Other Than Gifts and Travel Payments)**

---

**Reporting Income:**

Report the source and amount of gross income of \$500 or more you received during the reporting period. Gross income is the total amount of income before deducting expenses, losses, or taxes and includes loans other than loans from a commercial lending institution. See Reference Pamphlet, page 11. You must also report the source of income to your spouse or registered domestic partner if your community property share was \$500 or more during the reporting period.

The source and income must be reported only if the source is located in, doing business in, planning to do business in, or has done business during the previous two years in your agency's jurisdiction. See Reference Pamphlet, page 13, for more information about doing business in the jurisdiction. Reportable sources of income may be further limited by your disclosure category located in your agency's conflict of interest code.

**Reporting Business Positions:**

You must report your job title with each reportable business entity even if you received no income during the reporting period. Use the comments section to indicate that no income was received.

**Commonly reportable income and loans include:**

- Salary/wages, per diem, and reimbursement for expenses including travel payments provided by your employer
- Community property interest (50%) in your spouse's or registered domestic partner's income - **report the employer's name and all other required information**
- Income from investment interests, such as partnerships, reported on Schedule A-1
- Commission income not required to be reported on Schedule A-2 (See Reference Pamphlet, page 8.)
- Gross income from any sale, including the sale of a house or car (Report your pro rata share of the total sale price.)
- Rental income not required to be reported on Schedule B
- Prizes or awards not disclosed as gifts
- Payments received on loans you made to others
- An honorarium received prior to becoming a public official (See Reference Pamphlet, page 10, concerning your ability to receive future honoraria.)
- Incentive compensation (See Reference Pamphlet, page 12.)

**Reminders**

- Code filers – your disclosure categories may not require disclosure of all sources of income.
- If you or your spouse or registered domestic partner are self-employed, report the business entity on Schedule A-2.
- Do not disclose on Schedule C income, loans, or business positions already reported on Schedules A-2 or B.

**You are not required to report:**

- Salary, reimbursement for expenses or per diem, or social security, disability, or other similar benefit payments received by you or your spouse or registered domestic partner from a federal, state, or local government agency.
- Stock dividends and income from the sale of stock unless the source can be identified.
- Income from a PERS retirement account.

**See Reference Pamphlet, page 11, for more exceptions to income reporting.**

**To Complete Schedule C:**

**Part 1. Income Received/Business Position Disclosure**

- Disclose the name and address of each source of income or each business entity with which you held a business position.
- Provide a general description of the business activity if the source is a business entity.
- Check the box indicating the amount of gross income received.
- Identify the consideration for which the income was received.
- For income from commission sales, check the box indicating the gross income received and list the name of each source of commission income of \$10,000 or more. See Reference Pamphlet, page 8. **Note: If you receive commission income on a regular basis or have an ownership interest of 10% or more, you must disclose the business entity and the income on Schedule A-2.**
- Disclose the job title or business position, if any, that you held with the business entity, even if you did not receive income during the reporting period.

**Part 2. Loans Received or Outstanding During the Reporting Period**

- Provide the name and address of the lender.
- Provide a general description of the business activity if the lender is a business entity.
- Check the box indicating the highest balance of the loan during the reporting period.
- Disclose the interest rate and the term of the loan.
  - For variable interest rate loans, disclose the conditions of the loan (e.g., Prime + 2) or the average interest rate paid during the reporting period.
  - The term of the loan is the total number of months or years given for repayment of the loan at the time the loan was entered into.
- Identify the security, if any, for the loan.

# SCHEDULE C

## Income, Loans, & Business Positions

(Other than Gifts and Travel Payments)

Name \_\_\_\_\_

▶ 1. INCOME RECEIVED	▶ 1. INCOME RECEIVED
<p>NAME OF SOURCE OF INCOME _____</p> <p>ADDRESS <i>(Business Address Acceptable)</i> _____</p> <p>BUSINESS ACTIVITY, IF ANY, OF SOURCE _____</p> <p>YOUR BUSINESS POSITION _____</p> <p>GROSS INCOME RECEIVED <input type="checkbox"/> No Income - Business Position Only</p> <p><input type="checkbox"/> \$500 - \$1,000      <input type="checkbox"/> \$1,001 - \$10,000</p> <p><input type="checkbox"/> \$10,001 - \$100,000      <input type="checkbox"/> OVER \$100,000</p> <p>CONSIDERATION FOR WHICH INCOME WAS RECEIVED</p> <p><input type="checkbox"/> Salary    <input type="checkbox"/> Spouse's or registered domestic partner's income <i>(For self-employed use Schedule A-2.)</i></p> <p><input type="checkbox"/> Partnership <i>(Less than 10% ownership. For 10% or greater use Schedule A-2.)</i></p> <p><input type="checkbox"/> Sale of _____ <i>(Real property, car, boat, etc.)</i></p> <p><input type="checkbox"/> Loan repayment</p> <p><input type="checkbox"/> Commission or    <input type="checkbox"/> Rental Income, <i>list each source of \$10,000 or more</i></p> <p>_____ <i>(Describe)</i></p> <p><input type="checkbox"/> Other _____ <i>(Describe)</i></p>	<p>NAME OF SOURCE OF INCOME _____</p> <p>ADDRESS <i>(Business Address Acceptable)</i> _____</p> <p>BUSINESS ACTIVITY, IF ANY, OF SOURCE _____</p> <p>YOUR BUSINESS POSITION _____</p> <p>GROSS INCOME RECEIVED <input type="checkbox"/> No Income - Business Position Only</p> <p><input type="checkbox"/> \$500 - \$1,000      <input type="checkbox"/> \$1,001 - \$10,000</p> <p><input type="checkbox"/> \$10,001 - \$100,000      <input type="checkbox"/> OVER \$100,000</p> <p>CONSIDERATION FOR WHICH INCOME WAS RECEIVED</p> <p><input type="checkbox"/> Salary    <input type="checkbox"/> Spouse's or registered domestic partner's income <i>(For self-employed use Schedule A-2.)</i></p> <p><input type="checkbox"/> Partnership <i>(Less than 10% ownership. For 10% or greater use Schedule A-2.)</i></p> <p><input type="checkbox"/> Sale of _____ <i>(Real property, car, boat, etc.)</i></p> <p><input type="checkbox"/> Loan repayment</p> <p><input type="checkbox"/> Commission or    <input type="checkbox"/> Rental Income, <i>list each source of \$10,000 or more</i></p> <p>_____ <i>(Describe)</i></p> <p><input type="checkbox"/> Other _____ <i>(Describe)</i></p>

**▶ 2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PERIOD**

\* You are not required to report loans from commercial lending institutions, or any indebtedness created as part of a retail installment or credit card transaction, made in the lender's regular course of business on terms available to members of the public without regard to your official status. Personal loans and loans received not in a lender's regular course of business must be disclosed as follows:

<p>NAME OF LENDER* _____</p> <p>ADDRESS <i>(Business Address Acceptable)</i> _____</p> <p>BUSINESS ACTIVITY, IF ANY, OF LENDER _____</p> <p>HIGHEST BALANCE DURING REPORTING PERIOD</p> <p><input type="checkbox"/> \$500 - \$1,000</p> <p><input type="checkbox"/> \$1,001 - \$10,000</p> <p><input type="checkbox"/> \$10,001 - \$100,000</p> <p><input type="checkbox"/> OVER \$100,000</p>	<p>INTEREST RATE _____ TERM (Months/Years) _____</p> <p>_____ %    <input type="checkbox"/> None</p> <p>SECURITY FOR LOAN</p> <p><input type="checkbox"/> None    <input type="checkbox"/> Personal residence</p> <p><input type="checkbox"/> Real Property _____ <i>Street address</i></p> <p>_____ <i>City</i></p> <p><input type="checkbox"/> Guarantor _____</p> <p><input type="checkbox"/> Other _____ <i>(Describe)</i></p>
--	--

Comments: \_\_\_\_\_

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## Instructions – Schedule D Income – Gifts

A gift is anything of value for which you have not provided equal or greater consideration to the donor. A gift is reportable if its fair market value is \$50 or more. In addition, multiple gifts totaling \$50 or more received during the reporting period from a single source must be reported.

It is the acceptance of a gift, not the ultimate use to which it is put, that imposes your reporting obligation. Except as noted below, you must report a gift even if you never used it or if you gave it away to another person.

If the exact amount of a gift is unknown, you must make a good faith estimate of the item's fair market value. Listing the value of a gift as "over \$50" or "value unknown" is not adequate disclosure. In addition, if you received a gift through an intermediary, you must disclose the name, address, and business activity of both the donor and the intermediary. You may indicate an intermediary either in the "source" field after the name or in the "comments" section at the bottom of Schedule D.

### Commonly reportable gifts include:

- Tickets/passes to sporting or entertainment events
- Tickets/passes to amusement parks
- Parking passes not used for official agency business
- Food, beverages, and accommodations, including those provided in direct connection with your attendance at a convention, conference, meeting, social event, meal, or like gathering
- Rebates/discounts not made in the regular course of business to members of the public without regard to official status
- Wedding gifts (See Reference Pamphlet, page 16)
- An honorarium received prior to assuming office (You may report an honorarium as income on Schedule C, rather than as a gift on Schedule D, if you provided services of equal or greater value than the payment received. See Reference Pamphlet, page 10, regarding your ability to receive future honoraria.)
- Transportation and lodging (See Schedule E.)
- Forgiveness of a loan received by you

### You are **not** required to disclose:

- Gifts that were not used and that, within 30 days after receipt, were returned to the donor or delivered to a charitable organization or government agency without

being claimed by you as a charitable contribution for tax purposes

- Gifts from your spouse or registered domestic partner, child, parent, grandparent, grandchild, brother, sister, and certain other family members (See Regulation 18942 for a complete list.). The exception does not apply if the donor was acting as an agent or intermediary for a reportable source who was the true donor.
- Gifts of similar value exchanged between you and an individual, other than a lobbyist registered to lobby your state agency, on holidays, birthdays, or similar occasions
- Gifts of informational material provided to assist you in the performance of your official duties (e.g., books, pamphlets, reports, calendars, periodicals, or educational seminars)
- A monetary bequest or inheritance (However, inherited investments or real property may be reportable on other schedules.)
- Personalized plaques or trophies with an individual value of less than \$250
- Campaign contributions
- Up to two tickets, for your own use, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The ticket must be received from the organization or committee holding the fundraiser.
- Gifts given to members of your immediate family if the source has an established relationship with the family member and there is no evidence to suggest the donor had a purpose to influence you. (See Regulation 18943.)
- Free admission, food, and nominal items (such as a pen, pencil, mouse pad, note pad or similar item) available to all attendees, at the event at which the official makes a speech (as defined in Regulation 18950(b)(2)), so long as the admission is provided by the person who organizes the event.
- Any other payment not identified above, that would otherwise meet the definition of gift, where the payment is made by an individual who is not a lobbyist registered to lobby the official's state agency, where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made to suggest the donor had a purpose to influence you.

### To Complete Schedule D:

- Disclose the full name (not an acronym), address, and, if a business entity, the business activity of the source.
- Provide the date (month, day, and year) of receipt, and disclose the fair market value and description of the gift.

### Reminders

- Gifts from a single source are subject to a \$460 limit during 2016. See Reference Pamphlet, page 10.
- Code filers – you only need to report gifts from reportable sources.

### Gift Tracking Mobile Application

- FPPC has created a gift tracking app for mobile devices that helps filers track gifts and provides a quick and easy way to upload the information to the Form 700. Visit FPPC's website to download the app.



## SCHEDULE D Income – Gifts

<b>CALIFORNIA FORM 700</b> <small>FAIR POLITICAL PRACTICES COMMISSION</small>
Name _____ _____

▶ NAME OF SOURCE *(Not an Acronym)*

\_\_\_\_\_

ADDRESS *(Business Address Acceptable)*

\_\_\_\_\_

BUSINESS ACTIVITY, IF ANY, OF SOURCE

\_\_\_\_\_

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

\_\_\_\_\_

ADDRESS *(Business Address Acceptable)*

\_\_\_\_\_

BUSINESS ACTIVITY, IF ANY, OF SOURCE

\_\_\_\_\_

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

\_\_\_\_\_

ADDRESS *(Business Address Acceptable)*

\_\_\_\_\_

BUSINESS ACTIVITY, IF ANY, OF SOURCE

\_\_\_\_\_

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

\_\_\_\_\_

ADDRESS *(Business Address Acceptable)*

\_\_\_\_\_

BUSINESS ACTIVITY, IF ANY, OF SOURCE

\_\_\_\_\_

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

\_\_\_\_\_

ADDRESS *(Business Address Acceptable)*

\_\_\_\_\_

BUSINESS ACTIVITY, IF ANY, OF SOURCE

\_\_\_\_\_

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

\_\_\_\_\_

ADDRESS *(Business Address Acceptable)*

\_\_\_\_\_

BUSINESS ACTIVITY, IF ANY, OF SOURCE

\_\_\_\_\_

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____
_/_/___	\$ _____	_____

Comments: \_\_\_\_\_

\_\_\_\_\_

Clear Page

Print

## Instructions – Schedule E Travel Payments, Advances, and Reimbursements

Travel payments reportable on Schedule E include advances and reimbursements for travel and related expenses, including lodging and meals.

Gifts of travel may be subject to the gift limit. In addition, certain travel payments are reportable gifts, but are not subject to the gift limit. To avoid possible misinterpretation or the perception that you have received a gift in excess of the gift limit, you may wish to provide a specific description of the purpose of your travel. See the FPPC fact sheet entitled "Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans" at [www.fppc.ca.gov](http://www.fppc.ca.gov).

### You are **not** required to disclose:

- Travel payments received from any state, local, or federal government agency for which you provided services equal or greater in value than the payments received, such as reimbursement for travel on agency business from your government agency employer.
- A payment for travel from another local, state, or federal government agency and related per diem expenses when the travel is for education, training or other inter-agency programs or purposes.
- Travel payments received from your employer in the normal course of your employment that are included in the income reported on Schedule C.
- A travel payment that was received from a non-profit entity exempt from taxation under Internal Revenue Code Section 501(c)(3) for which you provided equal or greater consideration, such as reimbursement for travel on business for a 501(c)(3) organization for which you are a board member.

**Note: Certain travel payments may not be reportable if reported on Form 801 by your agency.**

### To Complete Schedule E:

- Disclose the full name (not an acronym) and address of the source of the travel payment.
- Identify the business activity if the source is a business entity.
- Check the box to identify the payment as a gift or income, report the amount, and disclose the date(s).
  - **Travel payments are gifts** if you did not provide services that were equal to or greater in value than the payments received. You must disclose gifts totaling \$50 or more from a single source during the period covered by the statement.

When reporting travel payments that are gifts, you must provide a description of the gift and the **date(s)** received. If the travel occurred on or after January 1, 2016, you must also disclose the **travel destination**.

- **Travel payments are income** if you provided services that were equal to or greater in value than the payments received. You must disclose income totaling \$500 or more from a single source during the period covered by the statement. You have the burden of proving the payments are income rather than gifts. When reporting travel payments as income, you must describe the services you provided in exchange for the payment. You are not required to disclose the date(s) for travel payments that are income.

### Example:

City council member Rick Chandler is the chairman of a 501 (c)(6) trade association and the association pays for Rick's travel to attend its meetings. Because Rick is deemed to be providing equal or greater consideration for the travel payment by virtue of serving on the board, this payment may be reported as income. Payments for Rick to attend other events for which he is not providing services are likely considered gifts.

<small>▶ NAME OF SOURCE (Not an Acronym)</small>	
Health Services Trade Association	
<small>ADDRESS (Business Address Acceptable)</small>	
1230 K Street, Suite 610	
<small>CITY AND STATE</small>	
Sacramento, CA	
<input type="checkbox"/> 801 (c)(3) or DESCRIBE BUSINESS ACTIVITY IF ANY, OF SOURCE	
Association of Healthcare Workers	
<small>DATES: ____/____/____ (if gift) AMT: \$ 150.00</small>	
<small>▶ MUST CHECK ONE: <input type="checkbox"/> Gift <input checked="" type="checkbox"/> Income</small>	
<small>Made a Speech/Participated in a Panel</small>	
<input checked="" type="radio"/> Other - Provide Description <u>Travel reimbursement for board meeting</u>	

Name \_\_\_\_\_

**SCHEDULE E**  
**Income – Gifts**  
**Travel Payments, Advances,**  
**and Reimbursements**

- Mark either the gift or income box.
- Mark the “501(c)(3)” box for a travel payment received from a nonprofit 501(c)(3) organization or the “Speech” box if you made a speech or participated in a panel. These payments are not subject to the gift limit, but may result in a disqualifying conflict of interest.
- For gifts of travel, provide the travel destination.

▶ NAME OF SOURCE *(Not an Acronym)* \_\_\_\_\_

ADDRESS *(Business Address Acceptable)* \_\_\_\_\_

CITY AND STATE \_\_\_\_\_

501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE \_\_\_\_\_

DATE(S): \_\_\_\_/\_\_\_\_/\_\_\_\_ - \_\_\_\_/\_\_\_\_/\_\_\_\_ AMT: \$ \_\_\_\_\_  
*(If gift)*

▶ MUST CHECK ONE:  Gift **-or-**  Income

Made a Speech/Participated in a Panel

Other - Provide Description \_\_\_\_\_

▶ If Gift, Provide Travel Destination \_\_\_\_\_

▶ NAME OF SOURCE *(Not an Acronym)* \_\_\_\_\_

ADDRESS *(Business Address Acceptable)* \_\_\_\_\_

CITY AND STATE \_\_\_\_\_

501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE \_\_\_\_\_

DATE(S): \_\_\_\_/\_\_\_\_/\_\_\_\_ - \_\_\_\_/\_\_\_\_/\_\_\_\_ AMT: \$ \_\_\_\_\_  
*(If gift)*

▶ MUST CHECK ONE:  Gift **-or-**  Income

Made a Speech/Participated in a Panel

Other - Provide Description \_\_\_\_\_

▶ If Gift, Provide Travel Destination \_\_\_\_\_

▶ NAME OF SOURCE *(Not an Acronym)* \_\_\_\_\_

ADDRESS *(Business Address Acceptable)* \_\_\_\_\_

CITY AND STATE \_\_\_\_\_

501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE \_\_\_\_\_

DATE(S): \_\_\_\_/\_\_\_\_/\_\_\_\_ - \_\_\_\_/\_\_\_\_/\_\_\_\_ AMT: \$ \_\_\_\_\_  
*(If gift)*

▶ MUST CHECK ONE:  Gift **-or-**  Income

Made a Speech/Participated in a Panel

Other - Provide Description \_\_\_\_\_

▶ If Gift, Provide Travel Destination \_\_\_\_\_

▶ NAME OF SOURCE *(Not an Acronym)* \_\_\_\_\_

ADDRESS *(Business Address Acceptable)* \_\_\_\_\_

CITY AND STATE \_\_\_\_\_

501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE \_\_\_\_\_

DATE(S): \_\_\_\_/\_\_\_\_/\_\_\_\_ - \_\_\_\_/\_\_\_\_/\_\_\_\_ AMT: \$ \_\_\_\_\_  
*(If gift)*

▶ MUST CHECK ONE:  Gift **-or-**  Income

Made a Speech/Participated in a Panel

Other - Provide Description \_\_\_\_\_

▶ If Gift, Provide Travel Destination \_\_\_\_\_

Comments: \_\_\_\_\_



Appendix G:  
Department of Consumer Affairs  
Sexual Harassment Prevention Policy





<b>TITLE</b>	SEXUAL HARASSMENT PREVENTION (SHP) POLICY		
<b>POLICY OWNER</b>	EQUAL EMPLOYMENT OPPORTUNITY (EEO) OFFICE		
<b>POLICY NUMBER</b>	EEO 12-01	<b>SUPERSEDES</b>	EEO 09-02
<b>ISSUE DATE</b>	AUGUST 15, 2012	<b>EFFECTIVE</b>	IMMEDIATELY
<b>DISTRIBUTE TO</b>	ALL EMPLOYEES		
<b>ORIGINAL APPROVED BY</b>	<b>Original signature on file</b> Denise D. Brown Director		
<b>NUMBER OF PAGES</b>	10	<b>ATTACHMENTS</b>	A-E

**POLICY**

It is the policy of the Department of Consumer Affairs (DCA) that all employees and non-employees assume responsibility for maintaining a work environment free from all forms of sexually harassing conduct and/or behavior.

**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 and the term employees includes all employees, governmental officials, contractors, consultants, and temporary staff of DCA. If any provisions of this policy are in conflict with a Memorandum of Understanding (MOU), the applicable sections of the MOU shall be controlling.

**PURPOSE**

The purpose of this policy is to provide all DCA employees, applicants, licensees, and consumers with a uniform method of to addressing allegations and complaints of sexual harassment in the DCA workplace. The DCA affirms its moral and legal obligation to ensure that all employees are provided a harassment free environment to realize their goals and function effectively in the workplace.

All employees should be made aware of the seriousness of violations of the Sexual Harassment Prevention Policy. All Employees are expected to adhere to a standard of conduct, and understand their responsibility to maintain a sexual harassment free work environment. Managers and supervisors will understand their responsibility to enforce conduct that is respectful of all persons within the work environment.

## **ZERO TOLERANCE**

It is the policy and intent of the DCA to provide employees a safe work environment free from sexual harassment. Sexual harassment and any form of sex discrimination including harassment based on gender or sexual orientation will not be tolerated by the DCA. Therefore, for the purposes of this policy, "Zero Tolerance" means: 1) inappropriate behavior and policy violations will be addressed seriously and 2) appropriate corrective action(s) or disciplinary action(s) will be taken when policy violations occur, even if violations are not so serious as to be unlawful. For example, even though a sexual comment does not in itself rise to the level of creating a hostile work environment under the law, such a comment is unacceptable in the workplace, violates the DCA's Zero Tolerance Policy, and will be subject to a corrective action.

A program to eliminate sexual harassment from the workplace is not only required by law, but it is the most practical way to avoid or limit damages if harassment should occur despite preventative efforts.

## **AUTHORITY**

- Title VII of the Civil Rights Act of 1964
- California Government Code Sections 12925-12928
- California Government Code Sections 12940-12951
- California Government Code Section 19572(w)
- California Government Code Sections 19700-19706
- California Fair Employment and Housing Act, commencing with Government Code Section 12900 et seq.
- California Code of Regulations, Title 2, Sections 7287.6 and 7291.1
- California Civil Code Sections 51.9 and 52
- California Executive Order B-54-79
- 29 Code of Federal Regulations Section 1604.11
- Penal Code Section 422.76

Government Code Section 12926 has been amended to expand the prohibition on sexual discrimination and harassment by including gender, as defined, in the Sex and Gender section of this policy.

Government Code Section 12949 provides that an employer shall allow an employee to appear or dress consistently with the employee's gender identity. Nothing in this part relating to gender-based discrimination affects the ability of an employer to require an employee to adhere to reasonable workplace appearance, grooming and dress standards not precluded by other provisions of state or federal law.

## **DEFINITION OF SEXUAL HARASSMENT**

Sexual harassment is defined as unsolicited, unwanted and unwelcome sexual advances, requests for sexual favors, sexual demands and or other verbal, physical, visual or written conduct of a sexual nature directed to persons of the same or opposite sex, when it unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment.



Such acts are considered sexual harassment when:

1. Submission to such conduct is either an explicit or implicit term or condition of employment.
2. Submission to, or rejection of, such conduct is used as a basis for an employment decision affecting the individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The courts have defined two forms of sexual harassment:

1. **Quid Pro Quo** (Latin, meaning "this for that") or conditional sexual harassment: This form of sexual harassment occurs when a supervisor or manager:
  - Demands, as an explicit or implied term or condition of employment decisions, a subordinate submit to sexual advances (this may include situations which began as reciprocal relationships, but which later ceased to be reciprocal): and/or
  - Makes requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature that is an explicit or implied term or condition of employment decisions.

Examples of quid pro quo harassment include:

- Requests for sexual favors in exchange for a promotion or raise;
  - Express or implied statement that a person will be demoted or fired if he or she does not submit to a sexual request or actually carrying out a threat.
2. **Hostile Work Environment** – This form of sexual harassment occurs when an individual is subjected to unwelcome sexual advances or other gender based conduct that is sufficiently severe or pervasive to interfere with an individual's work performance or creates an intimidating, hostile, or offensive work environment. The courts look at the totality of the circumstances surrounding the alleged incidents of harassment to determine whether unlawful conduct has occurred. A single incident involving unwelcome sexual behavior is harassment, but may not necessarily serve as a basis for a hostile work environment complaint unless it is either severe or repeated, and management does nothing to stop the behavior.

The Fair Employment and Housing Commission, California appellate courts, and the Ninth Circuit Court apply the standard of a **reasonable person of the same gender** as the complainant to their evaluation of whether the conduct is severe or pervasive enough to create a hostile work environment. This standard, known as the Ellison Standard after the precedential court case of this name, recognizes that men and women react differently to unwanted sexual conduct. It acknowledges that conduct that many men consider harmless is often objectionable and offensive to the "reasonable woman." The Ellison Standard instructs the fact-finder to evaluate the unwanted sexual conduct in light of the gender-specific experiences and perspective of the victim.

A consensual relationship may lead to claims by non-involved employees who believe that they were disadvantaged when favoritism is shown to a paramour, but is not shown to an employee who did not have a romantic relationship with the employee granting the favors. If such sexual favoritism is widespread, it can create an atmosphere where employees believe they must consent to such relationships as a term or condition of employment.

Any employee, who initiates or persists in conduct that is viewed by another as being of a sexual nature, assumes the risk of liability and the possible penalties for such conduct. An employee who violates the DCA Sexual Harassment Prevention Policy may face a range of disciplinary actions, including dismissal. Furthermore, offending employees, including supervisors and non-supervisors, can be held personally liable for monetary damages (and may be required to pay for their own attorney) if an offended employee files a lawsuit.

**Intent vs. Impact** – Whether the conduct is considered unwelcome is determined by the recipient of the behavior. The intent of the alleged harasser is irrelevant. Therefore, it is the **impact** of the behavior and the victim’s perception of the situation, not the **intent** of the alleged harasser that determines if sexual harassment has occurred.

## **TYPES OF SEXUAL HARASSMENT**

Sexual harassment is behavior that threatens, intimidates, humiliates, embarrasses, or irritates. Types of prohibited sexual harassment include, but are not limited to the following:

- Written:** Sexually aggressive or obscene letters, notes, email messages, or invitations.
- Visual:** Leering, or making sexual gestures. Displaying sexually suggestive objects, pictures, cartoons, posters or drawings in hard copy or on-line.
- Verbally:** Using sexually patronizing terms such as “honey,” “doll,” or “babe,” using sexually derogatory comments, slurs, jokes, remarks, invitations, epithets, or making verbal sexual advances or propositions.

Note: In addition to using graphic or sexually explicit language, other gender-neutral language, spoken in a suggestive tone of voice or accompanied by visual or physical harassment, can also be considered sexual harassment.

- Physical:** Sexual assault, attempted rape, impeding or blocking movements, touching or indecent exposure, such conduct, even in a single incident, may constitute actionable sexual harassment or criminal conduct. Criminal violations should be reported immediately to the proper law enforcement authorities. Common physical gestures like hugging or other physical contact can be properly taken in context with other comments and/or behaviors.
- Other:** Sexual advances which are unwanted. This may include situations that began as reciprocal attractions, but later ceased to be reciprocal. Reprisals or threats after a negative response to sexual advances; implying or actually withholding support for appointment, promotion, transfer or change of assignment; initiating a rejection on probation, an adverse action, or suggesting that a poor performance report will be prepared, if requests for sexual favors are not met. Hazing employees in the work environment; this may include being dared or asked to perform unsafe work practices, or having tools and equipment stolen, moved, etc. because of a person's gender or sexual orientation; causing an employee to feel stressed about a situation involving unwelcome behavior of a sexual nature.

**DEFINITION OF SEX AND GENDER**

Sex includes, but is not limited to pregnancy, childbirth, or medical conditions related to pregnancy, or childbirth. Sex also includes, but is not limited to, a person’s gender.

Gender is defined as the employee’s or applicant’s actual sex or the employer’s perception of the employee or applicant’s sex, and includes the employer’s perception of the employee’s or applicant’s identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the employee or applicant’s sex at birth.

Sexual orientation means heterosexuality, homosexuality, and bisexuality.

**ROLES AND RESPONSIBILITIES**

Government Code Section 12940(j) requires an entity to take “all reasonable steps to prevent harassment from occurring.” If an employer has failed to take such preventative measures, the employer can be held liable for the harassment. DCA managers and supervisors who do not enforce a work environment free of sexual harassment, or who do not provide adequate guidance and assistance to employees are subject to disciplinary action.

**Employees are responsible for:**

Under State law, any person (employee) may be personally liable for his/her own acts of unlawful harassment, including harassment based on sex or gender per Government Code Section 12940. This means that a co-worker who harasses his or her colleagues may have a judgment levied against his or her own assets. Therefore, each employee has the responsibility not to engage in sexually harassing conduct.

All employees who perceive they are victims of sexually harassing behavior should understand the importance of promptly informing the individual(s) that his/her behavior is unwelcome, offensive, in poor taste, or highly inappropriate. Any employee who perceives the comments, gestures, or actions of another employee or supervisor to be sexually harassing should communicate to that person that such behavior is unwelcome. However, failure to express opposition to the unwelcomed behavior does not prevent the employee from filing a complaint nor does it in any way exonerate the harasser.

Any employee, including a supervisor, who believes he/she has been sexually harassed or asked to perform a sexual favor, should immediately report the incident to a supervisor. If the harasser is the employee’s supervisor or if the employee does not feel that the situation was adequately resolved, he/she should report the incident(s) to a higher-level supervisor or to the EEO Office. Any employee who witnesses this type of behavior is strongly encouraged to report it to an appropriate supervisor. If the harasser is an employee’s immediate supervisor, the witness should report the incident to another supervisor or to the EEO Office.

If the harasser is an employee of a another department in State government, a non-employee, contractor, or vendor, the harassed employee, and any employee witnessing the incident, is strongly encouraged to report the incident to their supervisor or the EEO Office.

**All managers and supervisors have a responsibility to:**

- Follow the procedures for reporting a Sexual Harassment Complaint listed in this document when employees report complaints of sexual harassment;
- On an annual basis, ensure that all employees are given DCA's *Discrimination Policy and Complaint Procedures* and *Sexual Harassment Prevention Policy* prior to the need to know.
- After each annual review of the policies, ensure that each employee reads and signs the "Acknowledgement of Receipt and Understanding" forms for each EEO policy and sends the forms to the EEO Office;
- Ensure that all subordinate managers/supervisors and employees attend mandatory sexual harassment prevention training;
- Establish and maintain a working environment that is free from discrimination, intimidation, ridicule, and insult;
- Take immediate and appropriate corrective action to prevent or stop sexual harassment. This responsibility applies even if the complaint is withdrawn or if the complainant requests that no action be taken. Once a manager/supervisor has knowledge of an alleged act of sexual harassment, he/she has a duty to follow through with a preliminary investigation and immediately notify the EEO Office for direction;
- Make best efforts to ensure that complaints (formal or informal) are investigated in a timely, thorough, and confidential manner and are immediately reported to the EEO Office.

Under State law, managers/supervisors who engage in sexual harassment may be held personally liable for harassment.

**The Department is responsible for:**

- The actions of managers and supervisors, and for acts of other employees and non-employees if management knew, or should have known, of such acts and failed to take immediate and appropriate action.
- Ensuring that all employees are informed of the DCA's discrimination complaint process and sexual harassment prevention policy prior to the need to know, and again when a complaint is brought forth.
- Providing complainants an opportunity to discuss the matter with a trained EEO Counselor/Specialist.
- Investigating complaints of sexual harassment in a timely, thorough and confidential manner.
- Taking appropriate action against the harasser where a violation of the policy has occurred or sexual harassment is found.
- Taking action to remedy the situation in a manner, which protects potential future victims.
- Protecting the employee(s) complaining of harassment from any form of reprisal/retaliation.
- Annually providing all employees with a copy of the *Sexual Harassment Prevention Policy*, and *Non-Discrimination Policy*, and *Complaint Procedures* in a manner that ensures receipt of the notice.

- Conducting or sponsoring mandatory sexual harassment prevention training, such as interactive classroom or on-line computer based training. As part of Assembly Bill (AB) 1825 (Reyes, Chapter 933, Statutes of 2004), supervisors and managers are required to attend training every two years. Rank and file employees are mandated by departmental policy to attend similar training in the same training year as supervisors and managers. The EEO Office will determine the training cycle and announce the mandatory classes for all employees.

## **PROCEDURES FOR REPORTING A SEXUAL HARASSMENT COMPLAINT**

### **Filing a Complaint**

All Sexual Harassment complaints are considered formal complaints and will be investigated. Any employee, consumer, applicant or licensee who believes he/she has been sexually harassed may file a written complaint with the DCA's EEO Office in accordance with the Non-Discrimination Policy and Complaint Procedures, (EEO 11-01), using the attached Sexual Harassment/ Discrimination Complaint Form (DCA 99K-60). The EEO Office has jurisdiction over a complaint if the last incident occurred within 365 days of filing.

Employees may also concurrently file a complaint with the California Department of Fair Employment and Housing (365-day filing period), and/or the Federal Equal Employment Opportunity Commission (300-day filing period).

Employees who believe they are or have been the victims of sexual harassment should report the incident promptly to their supervisors. The employee's supervisor will follow the DCA procedures to conduct a preliminary investigation of the incident and report it immediately to the EEO Office for direction.

If the alleged harasser is the employee's supervisor, the employee should immediately contact either a higher-level manager/supervisor or the EEO Office.

All criteria, including timelines and the appeal process, as specified in the Non-Discrimination Policy and Complaint Procedures, will be followed to investigate and resolve complaints of sexual harassment.

The EEO Office is responsible for providing leadership in resolving informal and formal complaints of discrimination by working with complainants, providing EEO counseling, and/or investigating complaints as necessary. A complaint can be received formally or informally, directly from the complainant, with or without the supervisor's knowledge. A supervisor must forward a complaint of sexual harassment to the EEO Office for investigation after his/her initial review or preliminary investigation. A third party (a witness to an incident who is offended by the conduct) can also bring a complaint to the attention of the EEO Office.

### **Responding to Complaints:**

The EEO Office is responsible for developing and implementing a plan to resolve discrimination complaints. Based on the nature of the allegations, the plan can include: (1) EEO counseling, (2) informal complaint resolution procedures, or (3) formal complaint investigation and findings. Throughout the investigation, only people who have a business need to know will be informed of the investigation and everyone with whom the investigator talks will be required to keep the investigation confidential.

### **Role of the Manager/Supervisor in Complaints of Sexual Harassment:**

When a complaint of sexual harassment is brought to the attention of a manager/ supervisor, it is the manager /supervisor's responsibility to:

- Listen to the complaint as soon as it is brought to your attention. Do not postpone the meeting with the alleged victim.
- Do not promise confidentiality or anonymity, although you can promise discretion. Inform the employee that the Department must take appropriate action even if the employee insists that no investigation occur or that nothing be done.
- Permit the employee to tell his/her story without interruption.
- Listen objectively. Do not judge the employee or imply that the employee may have "asked for it" or invited the alleged advances or conduct.
- Document the incident. Obtain the details of the alleged harassment, the names of possible witnesses, and a description of how the alleged harassment affected the employee's well being and work environment. Ask for any documentation from the complainant to support the allegations.
- Ask the employee to describe his/her current, and/or former relationship with the alleged harasser, and whether that person is a co-worker, supervisor, subordinate, or friend. Determine if the parties have had any other difficulties working together.
- Ask the employee if he/she objected verbally to the alleged conduct or indicated to the alleged harasser that the conduct was unwanted or unwelcome.
- Determine the remedy sought by the employee.
- Assure the employee that you take the matter seriously and will make an immediate inquiry into the allegation. Notify the employee that you will contact and seek the assistance of the DCA's EEO Office.
- Advise the employee of his/her right to file a discrimination complaint. Provide the employee with a copy of the Department's *Sexual Harassment Prevention Policy* and the *Non-Discrimination Policy & Complaint Procedures*, including the *Statement of Rights (99K-70)*.
- Remind the employee of his/her right to be free from reprisal/retaliation for complaining. Advise the employee that he/she should immediately bring any incidents of reprisal/retaliation to your attention.
- Advise the employee of his/her right to use the services of the Employee Assistance Program (EAP). Document the reminder.
- Record and document the complaint and perform an immediate preliminary investigation to determine the validity of the complaint. Document all reminders that the employee has a right to file a discrimination complaint, the right to be free from retaliation, and the right to a harassment free work environment.

- **Contact the EEO Office immediately** to discuss the incident and your actions to date. You may be advised to meet with the alleged harasser and to put him/her on notice to immediately stop the alleged behavior. Give the alleged harasser copies of the EEO policies.
- Provide a copy of your preliminary investigation report to the EEO Office, regardless of the findings.
- Cooperate fully with the EEO Office if an investigation is initiated to determine the pervasiveness or severity of the alleged harassment.
- In conjunction with the EEO Office, initiate appropriate and immediate action against the alleged harasser (respondent) where sexual harassment is found.

**CONSEQUENCES / VIOLATIONS**

Violators of this policy will be subject to immediate disciplinary action, which may include letters of reprimand, suspension, demotion, and/or dismissal. The violator may also be subject to civil and/or personal liability.

The Department also recognizes that false accusations of sexual harassment can have a serious effect on an innocent person’s reputation and character and, therefore, any individual found to have filed a false accusation/complaint may be subject to disciplinary action. Each complaint will be evaluated on a case-by-case basis.

All employees who testify in EEO investigations are required to cooperate with the investigation and to tell the truth. Employees who do not cooperate or who compromise the integrity of the investigation by violating confidentiality may be subject to disciplinary action.

Supervisors/managers may be subject to disciplinary action for failure to take appropriate and expedient corrective action to ensure a safe work place.

**PROVISIONS**

To ensure that DCA employees are aware of the laws that protect them from discrimination and the process involved in reporting discrimination based on sexual harassment.

**REVISIONS**

Determination of the need for revision of this policy is the responsibility of the Manager of the Equal Employment Opportunity (EEO) Office. Questions about specific sexual harassment issues should be directed to the EEO Office at (916) 574-8281. Policy information can also be found on the EEO Office’s Intranet webpage at <http://inside.dca.ca.gov/eoo/index.html>

Specific questions regarding the status or maintenance of this policy should be directed to the Policy & Publications Development (PPD) Office at (916) 574-7370.

## ATTACHMENTS

- Attachment A: *Annual Acknowledgement of Receipt and Understanding of the Sexual Harassment Prevention Policy Form, DCA 99K-80 (Rev. 12/11)*
- Attachment B: *Discrimination Complaint Process Statement of Rights Form, DCA 08K-70, (Rev 11/10)*
- Attachment C: *Equal Employment Opportunity Office Sexual Harassment/Discrimination Complaint Form, DCA 08K-60 (Rev. 12/11)*
- Attachment D: *Sexual Harassment/ Discrimination Complaint Form Instructions; DCA 99K-61 (Rev. 12/11)*
- Attachment E: *California Department of Consumer Affairs Privacy Policy Statement*

Every employee must acknowledge that he/she has read and understood this policy **on an annual basis**. Please complete, sign, date the acknowledgement form, and return it to the EEO Office as indicated on the form.



**ANNUAL  
ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING OF  
SEXUAL HARASSMENT PREVENTION (SHP) POLICY**

This is to acknowledge receipt of the Department's Sexual Harassment Prevention Policy

I have read this policy and understand that:

- 1) Every employee has the right to work in an environment free from sexual harassment;
- 2) I have a responsibility not to engage in behaviors that constitute sexual harassment;
- 3) If I feel I am being harassed, I have the right, and understand that the Department strongly encourages me, to either communicate this directly to the harasser, to my supervisor, to a non-involved supervisor/manager, or the Department's Equal Employment Opportunity (EEO) Office;
- 4) I have the right to file a sexual harassment complaint without threat of reprisal or retaliation.

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature) Please complete in Ink

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Board/Bureau/Division/Program

**COMPLETED FORM SHOULD BE RETURNED TO:**

Department of Consumer Affairs  
Equal Employment Opportunity (EEO) Office  
1625 North Market Blvd., Suite N-330  
Sacramento, CA 95834

Note: This document will be inserted into your Official Personnel File

***DISCRIMINATION COMPLAINT PROCESS  
STATEMENT OF RIGHTS***

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With regard to complaints of discrimination, all employees are assured of the following rights:

1. The right to an informal, confidential presentation of the complaint to a qualified Equal Employment Opportunity (EEO) Counselor, using a reasonable amount of State time.
2. The right to a confidential complaint until:
  - Such time as the complainant gives permission to release information in order to bring the complaint to the appropriate authority for remedy; or
  - Such time as a formal complaint is filed; or
  - Such time as appropriate action must be taken to resolve the situation.

*In some cases, (i.e., sexual harassment), the Complainant should be aware that complete confidentiality cannot be assured because of the legal obligation to take immediate and corrective action.*

3. The right to a full, impartial, and prompt investigation by a trained EEO Investigator, if a formal complaint is filed.
4. The right to a notification of the findings.
5. The right to a timely decision from the appointing power or authority designated by the appointing power after full consideration of all relevant facts and circumstances.
6. The right to representation by a person of the complainant's own choosing at each step of the process.
7. The right to file concurrent complaints with the Equal Employment Opportunity Commission (EEOC), the Department of Fair Employment and Housing (DFEH), and the State Personnel Board (SPB), or other appropriate State and Federal compliance agencies; or to file a civil action in the appropriate court.
8. The right to appeal the appointing power's decision to the Executive Officer of the SPB.
9. Freedom from influence to refrain from filing a complaint, and freedom from reprisal for opposing discrimination and filing a complaint. Complaints of reprisal may be filed directly with the SPB.

*A Complainant is obligated to provide accurate and factual information during all phases of the complaint process.*

**I have read and understand these rights.**

*Complainant's Signature* \_\_\_\_\_

*Date:* \_\_\_\_\_ *Board/Bureau/Division/Program* \_\_\_\_\_



DAY \_\_\_\_\_ MONTH \_\_\_\_\_ YEAR \_\_\_\_\_

**VI. DESCRIPTION OF DISCRIMINATION:** *Describe fully the alleged discriminatory act and/or violation. Provide what reason or evidence you have to support your feeling that discrimination occurred. Please include dates. (Attach additional pages, if necessary.)*

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**VII. PERSON (S) WHO HAVE INFORMATION OR KNOWLEDGE OF THE ALLEGED DISCRIMINATION:** *List name (s) of witness (es).*

NAME	WORK LOCATION	PHONE NUMBER

**VIII. REMEDY REQUESTED:** *Describe your desired outcome.*

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**IX. COMPLAINANT SIGNATURE:**

*I believe the foregoing to be true and correct to the best of my knowledge.*

\_\_\_\_\_  
Complainant's Signature

\_\_\_\_\_  
Date



**SEXUAL HARASSMENT/ DISCRIMINATION COMPLAINT FORM  
INSTRUCTIONS**

**PLEASE NOTE:** The Sexual Harassment/Non-Discrimination Complaint Form must be filed with the Department of Consumer Affairs (DAC) Equal Employment Opportunity Office within 365 days of the last incident of discrimination. Please submit the Sexual Harassment/Non-Discrimination Complaint Form to the DCA EEO Office, at 1625 North Market Blvd., Suite N-330, Sacramento, CA 95834.

**I. COMPLAINANT INFORMATION:** Please Print Legibly

- Name:** Complainant's first and last name
- Email Address:** Complainant's email address
- Work Address:** Complainant's full address, include city, state and zip code
- Home Address:** Complainant's full address, include city, state and zip code
- Classification:** Complainant's classification
- Office Unit or Section:** Complainant's Board, Bureau, Program Unit or Section
- Work Telephone:** Complainant's office telephone number
- Home Telephone:** Complainant's home telephone number
- Immediate Supervisor:** Complainant's immediate supervisor

**II. BASIS OF DISCRIMINATION:** Please check appropriate box (es).  
Check the area (s) on the EEO Complaint Form in which you have been discriminated against based on:

<input type="checkbox"/> Age (40 years or older)	<input type="checkbox"/> Medical Condition <input type="checkbox"/> Genetic Information	<input type="checkbox"/> Pregnancy	<input type="checkbox"/> Sexual Harassment/ Quid Pro Quo or Hostile Work Environment
<input type="checkbox"/> Ancestry	<input type="checkbox"/> Marital Status	<input type="checkbox"/> Race	<input type="checkbox"/> Sex (Gender)
<input type="checkbox"/> Color	<input type="checkbox"/> National Origin	<input type="checkbox"/> Religion	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Disability	<input type="checkbox"/> Political Affiliation/Opinion	<input type="checkbox"/> Retaliation	<input type="checkbox"/> Vietnam Era Veteran <input type="checkbox"/> Other Military Status
<input type="checkbox"/> Harassment (Specify Basis) <u>insert protected group category.</u> *See also, the attachment entitled "Basis of Discrimination" for more information and examples of protected group categories.			

**III. PERSON (S) RESPONSIBLE FOR THE ALLEGED ACTION:**

Please enter all available information. Provide the name (s), work location and phone number of the person (s) that have discriminated against you.

**IV. DATE OF FIRST INCIDENT OF DISCRIMINATION:**

Please enter day, month, and year.

**V. DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE:**

Please enter day, month, and year.

**VI. DESCRIPTION OF DISCRIMINATION:**

Please provide an explanation of how you were discriminated against and describe fully the alleged discriminatory act and/or violation. Provide the reason(s) and/or evidence you have to support your allegation that discrimination occurred. Please include dates. (Attach additional pages, if necessary.)

It is important to note that treatment that may be perceived as "unfair" may not necessarily be unlawful under the law or violate the Department's Non-Discrimination policies. Certain employment actions may be harsh, insensitive or unjust, but they do not become unlawful under the law or violate the Department's policies unless the unfair treatment is motivated in part because of a person's protected status.

**VII. PERSON (S) WHO HAVE INFORMATION OR KNOWLEDGE OF THE ALLEGED DISCRIMINATION:** List name (s) of witness (es).

Please enter all available information.

**VIII. REMEDY REQUESTED:** Describe your desired outcome.

**IX. COMPLAINANT SIGNATURE:**

I believe the foregoing to be true and correct to the best of my knowledge.

Complainant's signature and the date that the complaint was filed.

**Please submit the Sexual Harassment/Discrimination Complaint Form to DCA EEO Office, 1625 North Market Blvd., Suite N-330, Sacramento, CA 95834.**

# California Department of Consumer Affairs

## Privacy Policy Statement

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The California Department of Consumer Affairs (DCA) is committed to the free flow of information that can help consumers make good marketplace decisions. The DCA is also committed to promoting and protecting the privacy rights of individuals, as enumerated in Article 1 of the California Constitution, the Information Practices Act of 1977, and other state and federal statutes.

It is the policy of the DCA and its constituent agencies to limit the collection and safeguard the privacy of personal information collected or maintained by the DCA or by any of its constituent agencies. The DCA's information management practices are consistent with the Information Practices Act (Civil Code section 1798 et seq.), the Public Records Act (Government Code section 6250 et seq.), Government Code sections 11015.5 and 11019.9, and with other applicable laws pertaining to information privacy.

The DCA follows these principles in collecting and managing personal information:

- **We collect personal information on individuals only as allowed by law.** We limit the collection of personal information to what is relevant and necessary to accomplish a lawful purpose of the DCA. For example, we need to know someone's address, telephone number, and social security number, among other things, to properly identify the person before issuing a professional license. Personal information, as defined in the Information Practices Act, is information that identifies or describes an individual including, name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history.
- **We do not collect home, business or e-mail addresses, or account information from individuals who simply browse our Internet websites.** The information that we automatically collect includes your domain name or Internet Protocol address, the type of browser and operating system you used, date and time you visited the site, web pages you visited, and any forms you downloaded. Cookies are simple text files stored on your computer by your web browser. We do not use cookies to collect or store personal information. We collect personal information about you through our website only if you provide it to us voluntarily through e-mail, registration forms, or surveys.
- **We inform individuals who provide personal information to the DCA the purpose for which the information is collected.** We inform individuals who are asked to provide personal information about the general uses that we will make of that information. We do this at the time of collection. With each request for personal information, we provide information on the authority

under which the request is made, the principal uses we make of the information and the possible disclosures we are obligated to make to other government agencies and to the public.

- **We inform individuals who provide personal information about their opportunity to review that information.** The DCA allows individuals who provide personal information to review the information and contest its accuracy or completeness.
- **We use personal information only for the specified purposes, or purposes consistent with those purposes, unless we get the consent of the subject of the information, or unless required by law or regulation.** The Public Records Act exists to ensure that government is open and that the public has a right to have access to appropriate records and information possessed by state government. At the same time, there are exceptions in both state and federal law to the public's right to access public records. These exceptions serve various needs, including maintaining the privacy of individuals. In the event of a conflict between this Policy and the Public Records Act, the Information Practices Act or other law governing the disclosure of records, the applicable law will control.
- **We use information security safeguards.** We take reasonable precautions to protect the personal information on individuals collected or maintained by the DCA against loss, unauthorized access, and illegal use or disclosure. On our websites, we protect the security of your personal information during transmission by using Secure Sockets Layer (SSL) software, which encrypts the information you type in. Personal information is stored in secure locations. Our staff are trained on procedures for the release of information, and access to personal information is limited to those staff whose work requires it. Confidential information is destroyed according to the DCA's Records Retention Schedule. The DCA conducts periodic audits to ensure that proper information management policies and procedures are being followed.
- **We will provide additional explanations of our Privacy Policy, if requested.** If you have further questions about the DCA's Privacy Policy, you may contact the Information Security Office at 1625 North Market Boulevard, Sacramento, CA 95834, or by e-mail: [dca@dca.ca.gov](mailto:dca@dca.ca.gov).



# Appendix H: Executive Officer Performance Evaluations





# PERFORMANCE APPRAISAL

FOR

## EXECUTIVE OFFICER (including Executive Director and Registrar)

*Prepared by  
Department of Consumer Affairs  
Office of Human Resources  
1625 N. Market Blvd. Suite N-321  
Sacramento, CA 95834  
(Revised February 2015)*

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## Executive Officer PERFORMANCE APPRAISAL

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### INSTRUCTIONS

1. The DCA Performance Appraisal process system is based on the principle that performance should be evaluated on a regular basis in order to provide recognition of effective performance and as a tool to provide guidance in improving future performance.
2. If the Executive Officer (hereafter, "EO", which includes Executive Director and Registrar) is not at the maximum range of salary, the Board, Committee or Commission (hereafter, "Board") may recommend a salary increase for the EO. To qualify for such increases, the EO must meet or exceed performance expectations, as determined by the Board. This form is used to document the Board's recommendation for a salary increase.
3. To indicate the rating of any performance factor, an "X" mark should be placed in the appropriate rating column and in the "Overall Rating" column on each page. Additional spaces have been provided to accommodate other critical performance factors identified by the Board.
4. Comments to the Executive Officer should:
  - Be constructive and provide guidance for future performance;
  - Include factual examples of work especially well or poorly done, and
  - Give specific suggestions for performance improvement.
5. The Overall Ratings must be consistent with the factor ratings and comments, but there is no prescribed formula for computing the Overall Rating.
6. Overall Comments may consist of a summary of comments from specific categories, general comments or comments on other job-related factors which the rater wishes to discuss. Additional pages may be attached.
7. The Board President/Chairperson will discuss the appraisal with the EO and give him or her a signed copy. In signing the appraisal, the EO merely acknowledges that s/he has reviewed the appraisal and has discussed it with the rater. His/her signature does not indicate agreement with the ratings or comments.
8. The original copy of the appraisal, signed by both the Board President/Chairperson and the EO, will be maintained by the Department of Consumer Affairs, in the Executive Officer's Official Personnel File.



## EXECUTIVE OFFICER PERFORMANCE APPRAISAL RATING SYSTEM

The rating system consists of five (5) Ratings Categories, as defined below:

### ***Outstanding***

Performance significantly exceeds the Board's expectations due to the efforts and ability of the Executive Officer when considering the job in its entirety. Significantly above-standard performance may be exhibited by consistently completing assignments in advance of deadlines; implementing plans and/or procedures to increase efficiency or effectiveness of work; working independently with little direction; and consistently meeting Board goals.

### ***Above Average***

Performance exceeds the Board's expectations due to the efforts and ability of the Executive Officer when considering the job in its entirety. Performance is beyond what is expected of an Executive Officer in this position.

### ***Average***

Performance of the Executive Officer meets the minimum expectations of the Board. The Executive Officer adequately performs the duties and responsibilities of the position.

### ***Needs Improvement***

The Executive Officer's performance fails to meet the Board's minimum expectations due to lack of effort and/or ability when considering the job in its entirety. Performance requires improvement in numerous and/or important aspects of the position.

### ***Not Applicable***

Rater is unable to assess the Executive Officer in this area, or the area is not applicable to the employee's job.



**Executive Officer**  
**PERFORMANCE APPRAISAL**  
**OVERALL RATING**

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**NAME OF EO:**

**NAME OF BOARD:**

**DATE OF BOARD MEETING WHEN RATING OCCURRED:**

The overall rating must be consistent with the factor rating and comments, but there is no prescribed formula for computing the overall rating. The rating system is described on page 2.

- OUTSTANDING**
  - ABOVE AVERAGE**
  - AVERAGE**
  - NEEDS IMPROVEMENT**
- 

**OVERALL COMMENTS** *(Attach additional pages, if necessary)*

**I HAVE PARTICIPATED IN A DISCUSSION OF OVERALL JOB PERFORMANCE**

EO Signature: \_\_\_\_\_

Date:

Chairperson/President Signature: \_\_\_\_\_

Date:

Salary Increase recommendation (if applicable):

- No increase    No increase (at maximum)    Recommended Increase: \_\_\_\_\_%

Effective Date of Salary Increase: \_\_\_\_\_



**Executive Officer  
PERFORMANCE APPRAISAL**

**Performance Factor**

**Rating**

1. Relationship with the Board	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
1 Maintains respect and trust of Board members.					
2 Provides Board with advice during consideration of issues.					
3 Keeps Board informed of progress of Board programs on a regular basis.					
4 Remains impartial and treats all Board members in a professional manner.					
5 Functions as an effective liaison between Board and Board Staff.					
6 Provides Board with complete, clear, and accurate reports, minutes, etc.					
7 Responds promptly to requests for information from Board members.					
8 Is readily available to Board members.					
9 Responds appropriately to constructive suggestions from Board members.					
<b>OVERALL RATING:</b> Relationship with the Board					

**Comments:** (Attach additional pages, if necessary)

Executive Officer  
**PERFORMANCE APPRAISAL**

Performance Factor

Ratings

2. Execution of Board Policy	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
1 Understands and complies with the overall policies, laws and regulations of the Board.					
2 Implements Board policies.					
3 Efforts lead toward successful accomplishment of goals.					
<b>OVERALL RATING:</b> Execution of Board Policy					

**Comments:** (Attach additional pages, if necessary)





**Executive Officer  
PERFORMANCE APPRAISAL**

**Performance Factor**

**Ratings**

	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
<b>3. Board Programs</b>					
1 Ensures effective and efficient management of enforcement programs.					
2 Keeps Board apprised of enforcement program and process developments.					
3 Maintains security of examination process.					
4 Monitors validity/defensibility of examinations and provides appropriate recommendations for action.					
5 Monitors and identifies trends in candidate qualifications, pass/fail rates, etc.					
6 Resolves problems which arise in the exam process.					
7 Keeps Board apprised of exam program and process developments.					
8 Keeps Board apprised of licensing program and process developments.					
<b>OVERALL RATING: Board Programs</b>					

**Comments:** (Attach additional pages, if necessary)



**Executive Officer**  
**PERFORMANCE APPRAISAL**

**Performance Factor**

**Ratings**

	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
<b>4. Governmental Relations</b>					
1 Keeps the Department of Consumer Affairs informed of Board issues, problems, and accomplishments.					
2 Maintains a positive working relationship with other State Agencies.					
3 Manages Board legislative program and efforts.					
4 Manages sunset review process.					
5 Acts a liaison and participates in national organizations, federations or alliances.					
6 Represents the Board effectively before the Legislature.					
<b>OVERALL RATING:</b> <b>Governmental Relations</b>					

**Comments:** (Attach additional pages, if necessary)



**Executive Officer  
PERFORMANCE APPRAISAL**

**Performance Factor**

**Ratings**

	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
<b>5. Administrative Functions</b>					
1 Plans, organizes and directs Board administrative functions and staff.					
2 Provides oversight, direction and management of the Board's annual budget, expenditures and revenues.					
3 Keeps Board apprised of budget developments.					
4 Identifies, recommends and, as directed, seeks necessary changes to laws and regulations through proposed legislation and/or the Office of Administrative Law (OAL).					
5 Ensures compliance and enforcement of departmental, state and federal policies and procedures.					
6 Develops and executes sound personnel practices and procedures.					
<b>OVERALL RATING: Administrative Functions</b>					

**Comments:** (Attach additional pages, if necessary)



**Executive Officer  
PERFORMANCE APPRAISAL**

**Performance Factor**

**Ratings**

	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
<b>6. Public Liaison</b>					
1 Represents the Board before the public.					
2 Directs consumer outreach programs.					
3 Manages Board's public relations effort.					
4 Directs liaison with educational institutions.					
5 Solicits and gives attention to problems and opinions of all groups and individuals.					
6 Represents the Board before industry associations to provide information regarding the Board's laws, regulations, programs and policies.					
<b>OVERALL RATING: Public Liaison</b>					

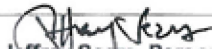
**Comments:** (Attach additional pages, if necessary)

Appendix I:  
Board President/Executive Officer  
Supervisory Expectations





## MEMORANDUM

DATE	September 5, 2013
TO	Board Presidents/Chairpersons
FROM	 Jeffrey Sears, Personnel Officer Office of Human Resources
SUBJECT	BOARD CHAIR / EXECUTIVE OFFICER SUPERVISORY EXPECTATIONS

In an effort to foster effective management and business operations, the Department of Consumer Affairs is providing some guidance to Board Presidents and Chairpersons (hereafter, "Chair") in the expectations for providing oversight to his or her board's Executive Officer or equivalent (hereafter, "EO") in the performance of the EO duties. This document describes departmental "best practices" for interactions between the Chair and the EO for specified supervisory activities.

### Administrative Oversight of EO Activities

1. Review job duties with the EO. The Chair should be familiar with the job description and duties of the EO, as well as the delegations of functions to the EO either by regulation or by policy.
2. Approve leave for the EO. The EO earns leave credits each month and the State requires that leave to be requested, approved and accounted for when used. A typical expectation would be for the EO to obtain permission from the Chair in advance of all time off and advise the Chair who will be in charge in the EO's absence. The Chair may deny time off if operational needs require the EO's attendance.
3. Approve EO timesheets and verify accuracy. At the end of each pay period, all State employees, including EOs, are required to submit a timesheet (Std. 634) to a reviewer who verifies the accuracy and signs for approval. If the EO and the Chair are following #2 above, this function should follow naturally, although there may be sick or another type of leave that was used that was not approved in advance. A typical expectation would be for the EO to fax his or her timesheet to the Chair for signature at the conclusion of each pay period. The Chair must review and fax back to the EO with his or her approval signature within a few days.

**BOARD PRESIDENT / EXECUTIVE OFFICER SUPERVISORY EXPECTATIONS**  
**SEPTEMBER 5, 2013**

The Chair may question the EO regarding any time off recorded that was not previously requested or approved. Similarly, the Chair should question the EO regarding leave that was taken that is not recorded on the timesheet.<sup>1</sup> While it may be policy to get approval for significant leave of less than a full day, because of their salary category, an EO's leave of less than a full day is not recorded on the timesheet.<sup>2</sup>

4. Approve travel and travel expense claims (TECs) consistent with DCA policies and State travel guidelines. Currently, significant travel other than for Board meetings requires advance approval from the Executive Office. When the EO travels on State business, he or she is eligible for reimbursement of specified expenses in accordance with State travel guidelines and DCA policies. The Chair should make sure that the travel is approved and sign the TEC for the EO's reimbursement. The Chair's own TEC should be signed by the Deputy Director for Board and Bureau relations within the Executive Office.

*This process can be handled similarly to the approval of timesheets, with the understanding that the Chair must be aware of any internal DCA policies regarding travel and/or external travel restrictions and consider those requirements before approving travel or travel claims.*

5. Review Family and Medical Leave Act (FMLA), Reasonable Accommodation (RA), and other employment laws and policies in order to be able to comply with legal requirements of supervisors. A typical expectation is that the Chair knows when to provide, or when to ask HR to provide, the required paperwork if the EO needs, or should be asked about needing, leave or an accommodation.

Effective Communication between the Chair and the EO

1. Regular Meetings. Effective communication between the EO and the Chair is essential to maintaining a highly functioning working relationship. To ensure this occurs, a typical expectation would be for the EO to set up regular meetings or communication with the Chair to discuss on-going or high profile issues. The communication can be more effective if the Chair has reviewed the duty statement or job description of and the delegations to his or her EO, so the Chair can appropriately review the duties with the EO with respect to Board issues.

---

<sup>1</sup> Each Board has a staff person designated as a Personnel Liaison who can answer questions related to attendance and other human resources issues. In addition, HR office staff is available for general questions.

<sup>2</sup> The Chair should be aware of whether Board policies call for the Vice-Chair, if any, to take over these duties in the absence of the Chair.



**BOARD PRESIDENT / EXECUTIVE OFFICER SUPERVISORY EXPECTATIONS  
SEPTEMBER 5, 2013**

2. Annual Evaluation. Each Board is expected to provide the EO with an annual written evaluation of his or her performance. To ensure this occurs, a typical expectation would be for the issue of the EO evaluation to be placed on the agenda for board discussion annually, at a regular time of year.

**Ensuring Effective Management of Board Operations**

1. Staff Leave Requests. Ensuring that the board office has adequate coverage to conduct board operations effectively requires the EO to manage leave requests from both management and staff. In addition, the EO must also ensure appropriate supervision of the office in his or her absence. A typical expectation would be for the EO to establish minimum coverage standards and a chain of command for office supervision in his or her absence, and communicate that information to the Chair and provide timely notice to the Chair of changes.
2. Leave Balance Management. Ensuring fiscal responsibility requires effective management of the unfunded liability of high leave balances, including the EO's own leave balance. A typical expectation would be for the EO to advise the Chair if a high leave balance situations occur and ensure reduction plans are in place to diminish the balances to an acceptable level. If the EO has a high leave balance (over 640 hours), the Chair may require the EO to complete a reduction plan.

In addition to the FMLA and RA policies referenced above, there are other policies that are relevant to the supervisory relationship between the EO and the Chair, including the Non-Discrimination Policy, Sexual Harassment Prevention Policy, and Violence in the Workplace.

If you have any questions regarding these guidelines or any guidelines referenced, please contact the Deputy Director for Board and Bureau Relations at (916) 574-8200.

cc: Denise Brown, Director  
Awet Kidane, Chief Deputy Director  
Sandra Mayorga, Deputy Director for Administration  
Christine Lally, Deputy Director, Board/Bureau Relations  
All Executive Officers



## Appendix J: Overview of Legislative Process and Rulemaking Process



## Legislative Positions

- **Support:** Legislation considered important and beneficial. A support position is appropriate only if there are no issues with the bill and the Board wants to express a greater level of supporting the enactment of the bill as it currently reads.
- **Support if Amended:** Legislation the Board considers important, except it contains a part (or parts) that the Board would like changed. If the bill is amended to accommodate the Board's concern(s) or recommendation(s), the Board will change its position to Support.
- **Neutral:** Legislation that may be relevant to the Board but does not rise to the level of a support or oppose position. A neutral position is appropriate if the bill either does not affect any aspect of the Board or there are not major changes to the bill that the Board would like to request.
- **Oppose Unless Amended:** Legislation that contains some provisions in conflict with established Board positions. An oppose-unless-amended position is appropriate when the bill is unacceptable in its current form, but the Board has amendments that could remedy the objectionable provisions. The Board will work with the bill's author to amend the bill. If the bill is amended so that it no longer is objectionable, the Board will change its position. The Board should take an oppose position if the changes are not made as the session moves forward.
- **Oppose:** Legislation considered harmful. An oppose position is appropriate if there is a fundamental concern with the bill and there is no desire to fix it or allow it to move further in the process.
- **Watch:** Legislation that may be important, but the bill is not complete or the author intends to work further on the bill through amendments. The Board will monitor the progress of the bill. Future amendments to the bill could result in the Board taking an active position.

**HOW TO PARTICIPATE IN THE RULEMAKING  
PROCESS**

**THE STATUTES, REGULATIONS AND CASE LAW YOU  
NEED TO MAKE YOUR VOICE HEARD IN THE  
CALIFORNIA RULEMAKING PROCESS**

# HOW TO PARTICIPATE IN THE RULEMAKING PROCESS

**A CALIFORNIA STATE AGENCY MUST CONSIDER RECOMMENDATIONS AND OBJECTIONS FROM THE PUBLIC BEFORE IT ADOPTS OR CHANGES ANY REGULATION NOT EXPRESSLY EXEMPTED FROM THE CALIFORNIA ADMINISTRATIVE PROCEDURE ACT (APA). A “REGULATION” IS A POLICY OR PROCEDURE AFFECTING THE PUBLIC OR ANY SEGMENT OF THE PUBLIC THAT IMPLEMENTS, INTERPRETS, OR MAKES SPECIFIC A STATUTE THE STATE AGENCY ENFORCES OR ADMINISTERS.**

- The procedure for rulemaking ..... 2
- The California Code of Regulations ..... 2
- Pre-notice involvement ..... 2
- Commenting on the initial proposal ..... 2
- Commenting on modifications to the initial proposal..... 2
- Effective comments ..... 3
- Standards for regulations ..... 3
- Emergency regulations ..... 3
- An overview of the rulemaking process ..... 3
- A delegation of rulemaking authority ..... 4
- Preliminary activities ..... 4
- Special considerations ..... 5
- Issuing the notice ..... 5
- Availability of the proposed text and the initial statement of reasons ..... 5
- Rulemaking Graphic ..... 6
- The 45 day comment period ..... 8
- The public hearing ..... 8
- Consideration of public input on the initial proposal ..... 8
- Assessing the nature of modifications to the initial proposal ..... 8
- Making changes available for public comment ..... 8
- Opportunity for public comment based upon new material relied upon ..... 9
- Summary and response to comments ..... 9
- Submission of a rulemaking action to OAL for review ..... 9
- What must be adopted pursuant to the APA? ..... 10
- Express statutory exemptions are found in the APA and in other statutes ..... 14
- OAL review for compliance with the Authority and Reference Standards ..... 16
- Express and implied rulemaking authority ..... 17
- OAL review for Authority ..... 17
- Judicial review of authority to adopt a particular regulation ..... 18
- OAL review for compliance with the Consistency standard ..... 19
- OAL review for compliance with the Clarity standard ..... 19
- OAL review for compliance with the Nonduplication standard ..... 21
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**THE PROCEDURE FOR RULEMAKING** Every department, division, office, officer, bureau, board or commission in the executive branch of California state government must follow the rulemaking procedures in the Administrative Procedure Act (Government Code § 11340 *et seq.*) The Government Code is available at <http://www.leginfo.ca.gov/calaw.htm>. Rulemaking must also comply with regulations adopted by the Office of Administrative Law (OAL) (California Code of Regulations, Title 1, §§ 1-120; <http://ccr.oal.ca.gov/>) unless expressly exempted by statute from some or all of these requirements. OAL’s publication, *California Rulemaking Law Under the Administrative Procedure Act*, is an annotated compilation of the California statutes and regulations governing rulemaking and is available from OAL for a nominal fee. The checklists used by OAL in its review of regulation filings are available online at <http://www.oal.ca.gov/rulemaking.htm>.

**THE CALIFORNIA CODE OF REGULATIONS** Regulations are printed in the California Code of Regulations after they are adopted by the rulemaking agency, approved by OAL and filed with the Secretary of State. You may access regulations in the California Code of Regulations at <http://ccr.oal.ca.gov>.

**PRE-NOTICE INVOLVEMENT** An agency may involve the public in workshops or other preliminary activities well before the start of the formal rulemaking process. Government Code section 11346.46 requires an agency proposing to adopt complex proposals or a large number of proposals to involve the public. You can contact the agency and request to be added to their regulations mailing list to ensure you are notified of this opportunity. Also, agency websites often provide information on upcoming rulemaking actions. For websites, go to the State Agency Index under “Quick Hits” at: <http://www.ca.gov>.

**COMMENTING ON THE INITIAL PROPOSAL** A 45 day opportunity to submit written, faxed, or e-mail comments on all or any part of a proposed rulemaking action starts when the notice of proposed rulemaking is published in the California Regulatory Notice Register. The Notice Register may be accessed online at <http://www.oal.ca.gov/notice.htm>. The notice of proposed rulemaking is also mailed to those who have asked to be on the agency’s notice mailing list, and is posted on the rulemaking agency’s website. The notice tells you how to obtain access to the proposed regulation text and the initial statement of reasons and who to call if you have questions. The notice may also schedule a public hearing at which you may comment on the proposal orally and/or in writing.



**COMMENTING ON MODIFICATIONS TO THE INITIAL PROPOSAL** You will receive a notice of any 15 day opportunity to comment (1) on proposed modifications or (2) new material relied upon if you commented on the initial proposal or have requested such notice. The rulemaking agency also posts a copy of the notice of opportunity to comment on proposed modifications on its website.

**MAKING AN EFFECTIVE COMMENT** Effective comments are based on an understanding of the statutes and factual material the agency relies on in proposing the regulation, on an understanding of what the proposed regulation is intended to do, and on an understanding of the standards the regulation must satisfy. The Authority and Reference citations that follow the text of each regulation section identify the statutes on which the section is based. The initial statement of reasons describes the purpose and rationale of each regulation and identifies the factual material upon which the agency relies in proposing it. The response to comments in the final statement of reasons must demonstrate that each relevant, timely comment has been considered.

**STANDARDS FOR REGULATIONS** A regulation must be easily understandable, have a rationale, and be the least burdensome, effective alternative. A regulation cannot alter, amend, enlarge, or restrict a statute, or be inconsistent or in conflict with a statute.

**EMERGENCY REGULATIONS** An emergency regulation takes effect immediately, before the regular public opportunity for notice and comment. A state agency may adopt an emergency regulation if it can show that the regulation is necessary for the immediate preservation of public peace, health and safety, or general welfare, or if a statute deems the regulation to be an emergency for purposes of the APA. The public may comment directly to OAL on emergency regulations within 5 days after the regulation is submitted to OAL for review, if OAL has not taken action on the regulations before that time. The state agency may submit a rebuttal to any comments made on an emergency regulation up to eight days after the regulation is submitted to OAL. OAL has up to 10 calendar days to review an emergency regulation. You will find additional information about emergency regulations and how to comment on them at <http://www.oal.ca.gov/emergency.htm>. OAL reviews emergency regulations to determine whether an emergency has been demonstrated, or deemed by statute and whether the regulation satisfies the Authority, Reference, Consistency, Clarity, Nonduplication, and Necessity standards. Once approved, an emergency regulation remains in effect for 120 days, unless the state agency has a special statute allowing more or less time. During the time the emergency is effective, the rulemaking agency must conduct

the regular rulemaking process to permanently adopt the regulation. If, however, the agency is unable to complete the rulemaking process within that time, the agency may request permission from OAL to readopt the emergency regulation for another 120 days.

**AN OVERVIEW OF THE RULEMAKING PROCESS** Administrative Procedure Act requirements are designed to provide the public with a meaningful opportunity to participate in the adoption of regulations by California state agencies and to ensure the creation of an adequate record for the public and for OAL and judicial review. Every California state agency must satisfy the basic minimum procedural requirements established by the APA for the adoption, amendment or repeal of an administrative regulation unless the agency is expressly exempted by statute. (Graphic on pages 6 and 7 illustrates the rulemaking process.)

**A DELEGATION OF RULEMAKING AUTHORITY** How can a state agency in the executive branch adopt rules and regulations that have the force of law? The California Constitution separates the powers of the state government into legislative, executive, and judicial powers, and provides that persons charged with the exercise of one power may not exercise either of the others except as permitted by the Constitution. The Constitution also vests the legislative power of the State in the Legislature, but reserves to the people the powers of initiative and referendum.

California courts have long recognized that under the Constitution the Legislature may by statute delegate quasi-legislative powers to a state agency in the executive branch, so long as adequate standards are provided to guide the agency. The adequacy of such a delegation is virtually never an issue in a rulemaking because all state agencies, including OAL, must presume that any California statute, including one delegating rulemaking authority, is constitutional unless an appellate court has made a determination to the contrary. (California Constitution, Article 3, Section 3.5.) Thus every rulemaking action must be based upon a statutory delegation of rulemaking authority from the Legislature to a state agency.

**PRELIMINARY ACTIVITIES** What does a state agency do once it decides to conduct a rulemaking action? It makes the decisions and develops the documents required to conduct a formal APA rulemaking proceeding. Some agencies involve the public during this stage. Others do not. The APA in Government Code section 11346.45 provides that an agency must engage in pre-notice public discussions regarding complex proposals or large proposals. A decision to engage or not engage in such discussions, however, is not subject to review by OAL or the

courts. The agency develops four documents during the preliminary activity stage, which are needed to initiate the formal rulemaking process: the express terms of the proposed regulation (the proposed text), the initial statement of reasons, the STD 399 Fiscal Impact Statement, and the notice of proposed rulemaking.

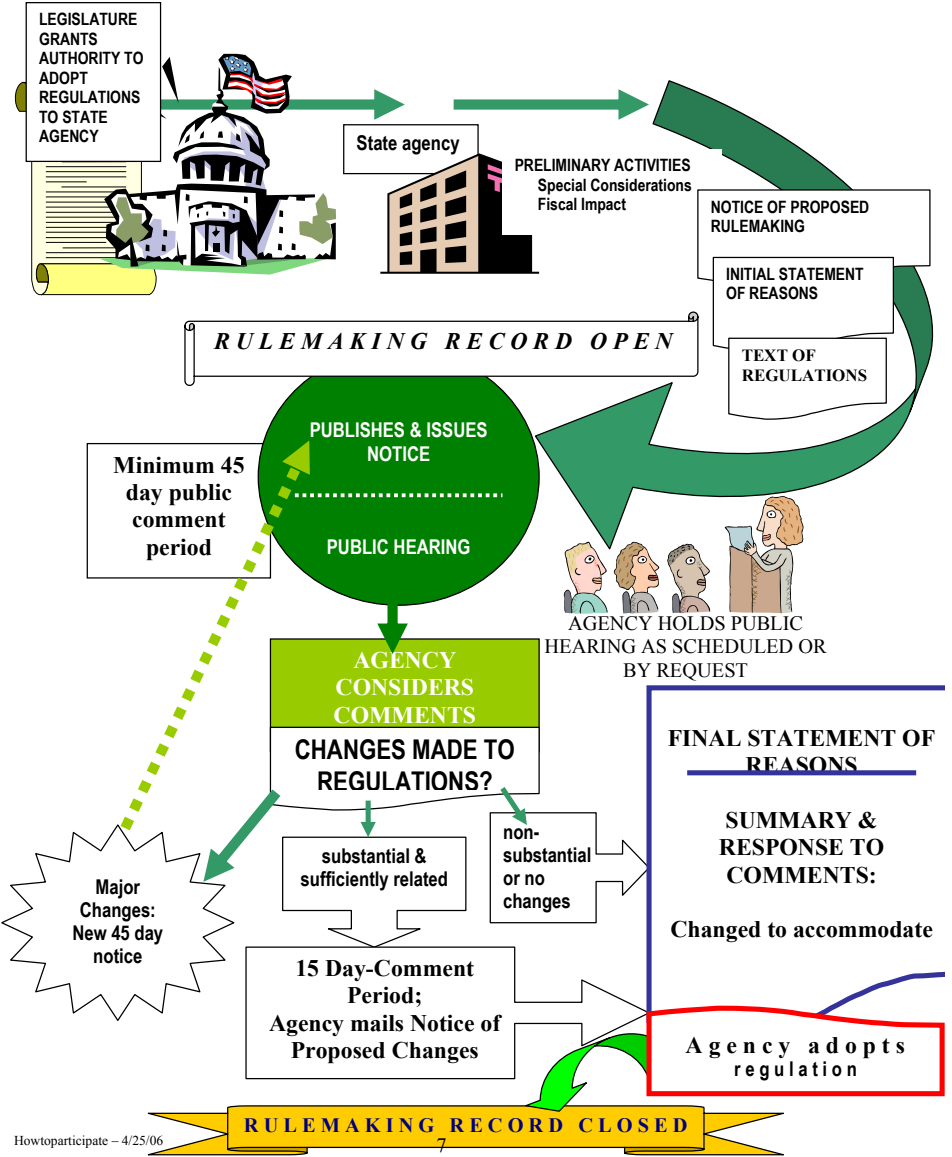
**SPECIAL CONSIDERATIONS** The APA requires a rulemaking agency to make specified determinations and findings with regard to a proposed action.

- An agency must find that no alternative would be more effective in carrying out the purpose for which a regulation is proposed or would be as effective as and less burdensome to affected private persons than the adopted regulation.
- A rulemaking agency must determine whether the regulation “may have,” or “will not have” a significant, statewide adverse impact directly affecting business. The agency must solicit alternatives if it “may have.”
- A rulemaking agency must describe the potential cost impact of a regulation on a representative private person or business, if known.
- A rulemaking agency must assess whether and to what extent the regulation will create or eliminate jobs and businesses. A rulemaking agency must find that any business reporting requirement is necessary for the public health, safety, or welfare.
- A rulemaking agency must consider the substitution of performance standards for prescriptive standards.
- A rulemaking agency must state whether a regulation affects small business.
- A rulemaking agency must state whether a regulation differs from a federal statute or regulation and avoid unnecessary duplication or conflict.
- If a rulemaking agency makes a determination regarding significant effect on housing costs it must include the determination in the notice.

**ISSUING THE NOTICE** To initiate a rulemaking action, an agency issues a notice of a proposed rulemaking by having the notice published in the California Regulatory Notice Register, by mailing the notice to those persons who have filed a request for notice of regulatory actions, and by posting the notice, text, and statement of reasons on its website, if it has one. Once the notice is issued, the APA rulemaking process is officially under way.

**AVAILABILITY OF THE PROPOSED TEXT AND THE INITIAL STATEMENT OF REASONS** Agencies that have websites must make notice, the proposed text and the initial statement of reasons available there. The proposed text and the initial statement of reasons are also available on request to the agency contact person identified in the notice.

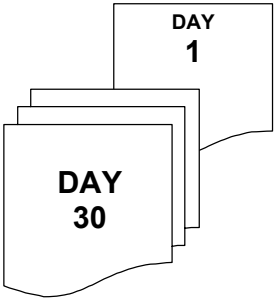
# The Rulemaking Process



# OAL REVIEW

State agency must submit rulemaking record within 1 year of notice publication

OAL has 30 WORKING days to review a regulation

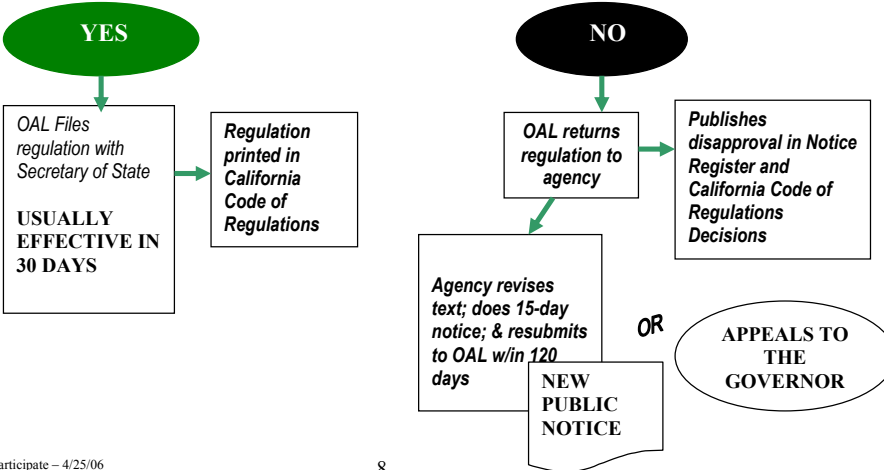


**APA STANDARDS:**

**AUTHORITY**  
**REFERENCE**  
**CONSISTENCY**  
**CLARITY**  
**NON-DUPLICATION**  
**NECESSITY**

**& PROCEDURAL REQUIREMENTS**

## DOES THE RULEMAKING SATISFY THE APA?



**THE 45 DAY COMMENT PERIOD** The APA requires, at minimum, a 45 day opportunity to comment in writing, by fax, or e-mail on the regulation changes as initially proposed by the agency. The notice of proposed rulemaking specifies where the comments must be directed and when this opportunity to comment in writing on the initial proposal closes.

**THE PUBLIC HEARING** Under the APA, an agency has an option as to whether it wishes to hold a public hearing on a proposed rulemaking action. (An agency's enabling statutes may eliminate this option by requiring a public hearing.) However, if an agency doesn't schedule a public hearing, and any interested person submits a written request for one within 15 days prior to the close of the written comment period, the agency must give notice of, and hold a public hearing. Because of this requirement, a rulemaking agency usually schedules a public hearing unless it is confident that one will not be requested.

**CONSIDERATION OF PUBLIC INPUT ON THE INITIAL PROPOSAL** The APA requires a rulemaking agency to consider all relevant matter presented to it during a comment period before adopting, amending, or repealing any regulation.

**ASSESSING THE NATURE OF MODIFICATIONS TO THE INITIAL PROPOSAL** After the initial public comment period, a rulemaking agency will often decide to change its initial proposal either in response to public comments or on its own. The agency must then decide whether a change is: (1) nonsubstantial, (2) substantial and sufficiently related, or (3) substantial and *not* sufficiently related.

**MAKING CHANGES AVAILABLE FOR PUBLIC COMMENT** The APA provides that a rulemaking agency must make each substantial, sufficiently related change to its initial proposal available for public comment for at least 15 days before adopting such a change. Thus, before a rulemaking agency adopts such a change, it must mail a notice of opportunity to comment on proposed changes along with a copy of the text of the proposed changes to each person who has submitted written comments on the proposal, testified at the public hearing, or asked to receive a notice of proposed modification. The agency must also post the notice on its website. No public hearing is required. The public may comment *on the proposed modifications* in writing. The agency must then consider comments received during the comment period, which are directed at the proposed changes. An agency may conduct more than one 15 day opportunity to comment on a large, complicated, or sensitive rulemaking action before the final version is adopted.

**OPPORTUNITY FOR PUBLIC COMMENT BASED UPON NEW MATERIAL RELIED UPON** A rulemaking agency must specifically identify in the initial statement of reasons and include in the rulemaking record the material it relies upon in proposing a rulemaking action. If during a rulemaking proceeding an agency decides to rely on material that it did not identify in the initial statement of reasons or otherwise identify or make available for public review prior to the close of the public comment period, the agency must make the document available for comment for 15 days.

**SUMMARY AND RESPONSE TO COMMENTS** A rulemaking agency must summarize and respond on the record to timely comments that are directed at the rulemaking proposal or at the procedures followed. The summary and response to comment demonstrates that the agency has understood and considered all relevant material presented to it before adopting, amending, or repealing a regulation. An agency may respond to a comment in one of two ways. The agency must either (1) explain how it has amended the proposal to accommodate the comment, or (2) explain the reasons for making no change to the proposal. An agency's summary and response to comments is included as part of the final statement of reasons.

**SUBMISSION OF A RULEMAKING ACTION TO OAL FOR REVIEW** A rulemaking agency must transmit a rulemaking action to OAL for review within a year from the date that the notice of proposed rulemaking action was published in the California Regulatory Notice Register. OAL then has 30 working days in which to review the rulemaking record to determine whether it demonstrates that the rulemaking agency satisfied the procedural requirements of the APA, and to review regulations for compliance with the six standards: Authority, Reference, Consistency, Clarity, Nonduplication, and Necessity. OAL may not substitute its judgment for that of the rulemaking agency with regard to the substantive content of the regulations.

## WHAT MUST BE ADOPTED PURSUANT TO THE APA?



Not every statute requires the adoption of an implementing regulation. In this regard, it is useful to think about three types of statutory provisions:

### *self-executing--wholly-enabling--susceptible to interpretation.*

A self-executing provision is so specific that no implementing or interpreting regulation is necessary to give it effect. An example is a statutory provision that provides: “The annual licensing fee is \$500.”

In contrast, a wholly-enabling statutory provision is one that has no legal effect without the enactment of a regulation. An example is a statute that provides: “The department may set an annual licensing fee up to \$500.” This type of statute cannot be legally enforced without a regulation setting the fee.

The third type, a statutory provision that is susceptible to interpretation, may be enforced without a regulation, but may need a regulation for its efficient enforcement. An example is a statute that provides: “There shall be adequate space between hospital beds.” Conceptually, this statute could be enforced on a case-by-case basis, but such enforcement would probably present significant difficulties. *(It does not violate the APA to enforce or administer a statute on a case-by-case basis so long as no rule or standard of general application is used that should have been adopted pursuant to the APA.)*



**Every “regulation” is subject to the rulemaking procedures of the APA unless expressly exempted by statute.**

**Government Code Section 11346**

**IT’S MANDATORY** Compliance with the rulemaking requirements of the Administrative Procedure Act is mandatory. (*Armistead v. State Personnel Board.*) All regulations are subject to the APA, unless expressly exempted by statute. (*Engelmann v. State Board of Education.*) Any doubt as to the applicability of the APA should be resolved in favor of the APA. (*Grier v. Kizer.*) If a rule looks like a regulation, reads like a regulation, and acts like a regulation, it will be treated by the courts as a regulation whether or not the issuing agency so labeled it. (*SWRCB v. OAL.*)

**“Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.**

**Government Code section 11342.600**

**A GENERAL RULE** A standard or procedure of general application (general rule) is a standard or procedure that applies to an open class. (*Roth v. Department of Veterans Affairs.*) An open class is one whose membership could change. *This broad definition includes many classes of rules that are exempt from notice and comment under the federal Administrative Procedure Act.*

**THE PROHIBITION** The APA specifically prohibits any state agency from making any use of a state agency rule which is a "regulation" as defined in Government Code section 11342.600, that should have, but has not been adopted pursuant to the APA (unless expressly exempted by statute). Such a rule is called an “underground regulation” and its efficacy may be challenged to OAL or to a court.

**No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a “regulation” under the APA unless it has been adopted as a regulation and filed with the Secretary of State pursuant to the APA. Government Code section 11340.5(a)**

### **ARMISTEAD V. STATE PERSONNEL BOARD**

In 1978, the California Supreme Court made it clear that compliance with the rulemaking requirements of the Administrative Procedure Act is mandatory. (*Armistead v. State Personnel Board.*) In doing so, the court quoted a 1955 legislative report finding that noncompliance with APA rulemaking requirements was common.

"The committee is compelled to report to the Legislature that it has found many agencies which avoid the mandatory requirements of the Administrative Procedure Act of public notice, opportunity to be heard by the public, filing with the Secretary of State, and publication in the Administrative Code.

"The committee has found that some agencies did not follow the act's requirements because they were not aware of them; some agencies do not follow the act's requirements because they believe they are exempt; at least one agency did not follow the act because it was too busy; some agencies feel the act's requirements prevent them from administering the laws required to be administered by them; and many agencies . . . believe the function being performed was not in the realm of quasi-legislative powers.

"The manner of avoidance takes many forms, depending on the size of the agency and the type of law being administered, but they can all be briefly described as 'house rules' of the agency.

"They consist of rules of the agency, denominated variedly as 'policies,' 'interpretations,' 'instructions,' 'guides,' 'standards,' or the like, and are contained in internal organs of the agency such as

manuals, memoranda, bulletins, or are directed to the public in the form of circulars or bulletins." [First Report of the Senate Interim Committee on Administrative Regulations (1955) as cited in *Armistead*, p. 205.]

**HOW TO DETERMINE WHETHER AGENCY'S POLICY OR PROCEDURE SHOULD BE ADOPTED PURSUANT TO THE APA** Preliminarily determine whether the particular policy or procedure is already set out in an applicable statute or duly adopted regulation. (Generally, duly adopted regulations are printed in the California Code of Regulations.) The adoption of a policy or procedure as a "regulation" pursuant to the APA is not required if you find the specific policy or procedure in an applicable statute or duly adopted regulation.

If you determine that the policy or procedure (i.e., rule) is not set out in an applicable statute or duly adopted regulation, use the following three-step analysis to determine whether the policy or procedure must be adopted as a regulation pursuant to the requirements and procedures of the APA:

**First**, is the policy or procedure either:

- a rule or standard of general application, *or*
- a modification or supplement to such a rule?

**Second**, has the policy or procedure been adopted by the agency to either:

- implement, interpret, or make specific the law enforced or administered by the agency, *or*
- govern the agency's procedure?

**Third**, has the policy or procedure been expressly exempted by statute from the requirement that it be adopted as a "regulation" pursuant to the APA?

If the policy or procedure satisfies steps one and two, then it is a "regulation" as defined in the APA and must be adopted pursuant to the APA unless it falls within an express statutory exemption from the requirements of the APA. Generally, all "regulations" issued by state agencies are required to be adopted pursuant to the APA, unless *expressly* exempted by statute. (Government Code section 11346.) If

the policy or procedure does not fall within an express statutory exemption, then it is subject to the rulemaking requirements of the APA.

**EXPRESS STATUTORY EXEMPTIONS ARE FOUND IN THE APA AND IN OTHER STATUTES. THE FOLLOWING ARE SOME OF THE EXPRESS EXEMPTIONS SET OUT IN THE APA.**

- **INTERNAL MANAGEMENT:** “A regulation that relates only to the internal management of the state agency.” (Government Code Section 11340.9(d).)

The internal management exception to the APA is narrow. A regulation is exempt as internal management if it:

- (1) directly affects only the employees of the issuing agency, and
- (2) does not address a matter of serious consequence involving an important public interest. (*Armistead, Stoneham, Poschman, and Grier.*)

- **FORMS:** “A form prescribed by a state agency or any instructions relating to the use of the form, but this provision is not a limitation on any requirement that a regulation be adopted pursuant to this chapter when one is needed to implement the law under which the form is issued.” (Government Code Section 11340.9(c).)

This legislative language creates a limited statutory exemption relating to forms. A regulation is *not* needed if the form's contents consist only of existing, specific legal requirements.

By contrast, if an agency *adds any language which satisfies the definition of “regulation” to the existing legal requirements*, then, under Government Code section 11340.9(c), a formal regulation is “needed to implement the law under which the form is issued.” Section 11340.9(c) cannot be interpreted as permitting state agencies to avoid mandatory APA rulemaking requirements by simply typing regulatory language into a form because this interpretation would allow state agencies to ignore the APA at will.

- **AUDIT GUIDELINES:** “A regulation that establishes criteria or guidelines to be used by the staff of an agency in performing an audit, investigation, examination, or inspection, settling a commercial dispute, negotiating a commercial arrangement, or in the defense, prosecution, or settlement of a

case, if disclosure of the criteria or guidelines would do any of the following:

“(1) Enable a law violator to avoid detection.

“(2) Facilitate disregard of requirements imposed by law.

“(3) Give clearly improper advantage to a person who is in an adverse position to the state.” (Government Code Section 11340.9(e).)

- **ONLY LEGALLY TENABLE INTERPRETATION:** “A regulation that embodies the only legally tenable interpretation of a provision of law.” (Government Code Section 11340.9(f).)
- **RATE, PRICE, TARIFF:** “A regulation that establishes or fixes rates, prices, or tariffs.” (Government Code Section 11340.9(g).)
- **LEGAL RULING OF TAX COUNSEL:** “A legal ruling of counsel issued by the Franchise Tax Board or State Board of Equalization.” (Government Code Section 11340.9(b).)
- **PRECEDENT DECISION:** A quasi-judicial decision by a state agency that is designated pursuant to Government Code Section 11425.60 as a precedent decision is expressly exempt from being adopted as a "regulation" pursuant to the APA.



## **AUTHORITY-REFERENCE-CONSISTENCY CLARITY-NONDUPLICATION-NECESSITY**

### **OAL REVIEW FOR COMPLIANCE WITH THE AUTHORITY AND REFERENCE STANDARDS**

Each regulation must satisfy the Authority and Reference standards. Complying with the Authority and Reference standards involves a rulemaking agency in two activities: picking appropriate Authority and Reference citations for the note that follows each regulation section to be printed in the California Code of Regulations, and adopting a regulation that is within the scope of the rulemaking power conferred on the agency.

**"Authority" means the provision of law which permits or obligates the agency to adopt, amend, or repeal a regulation. Government Code Section 11349(b).**

**"Reference" means the statute, court decision, or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation. Government Code Section 11349(e).**

Each regulation section printed in the California Code of Regulations must have a citation to the specific statutory authority under which it was enacted and a citation to the specific statute or other provision of law that the regulation is implementing, interpreting, or making specific. As an example the Authority and Reference Citations for Section 55 of Title 1 of the California Code of Regulations reads as follows: "Authority cited: Sections 11342.4 and 11349.1, Government Code. Reference: Sections 11346.1, 11349.1, 11349.3 and 11349.6, Government Code."

The statutes and other provisions of law cited in Authority and Reference notes are the agency's interpretation of its power to adopt a particular regulation. A rulemaking agency initially selects Authority and Reference citations when it is drafting the proposed regulation text and may revise and refine the citations during

the course of a rulemaking proceeding. The goal is to have accurate, precise, and complete Authority and Reference citations printed in the California Code of Regulations with each regulation.

**EXPRESS AND IMPLIED RULEMAKING AUTHORITY** A statutory delegation of rulemaking authority may be either express or implied. In an express delegation, the statute expressly states that the state agency may or shall “adopt rules and regulations necessary to carry out this chapter” or some variation on that phrase. Thus, an express delegation *expressly* specifies that regulations shall or may be adopted by the agency.

In contrast, in an implied delegation of rulemaking authority, the applicable statutes do not expressly state that the agency may or shall adopt rules or regulations. Instead, a statute expressly gives a duty or power to a specified state agency, but makes *no* express mention of the authority to adopt rules or regulations. In similar circumstances, courts tell us that agencies which have expressly been given a duty or power by statute have implicitly been delegated the authority to adopt those rules and regulations necessary for the due and efficient exercise of a duty or power expressly granted.

#### **OAL REVIEW FOR**

**AUTHORITY** OAL reviews regulations to ensure that they are authorized under controlling statutes. The statutes (and other provisions of law) the agency cites as Authority and Reference identify the sources of the rulemaking power that the agency is drawing on in promulgating a particular regulation. A regulation that is not within the scope of an agency's express or implied rulemaking authority is void and cannot become effective.

**Each regulation adopted, to be effective, shall be *within the scope of authority conferred* and in accordance with standards prescribed by other provisions of law.  
Government Code Section 11342.1.**

In determining whether a rulemaking agency is empowered to adopt a particular regulation, OAL applies the same analytical approach employed by the California Supreme Court and the California Court of Appeal, as evidenced in published opinions of those courts.

## JUDICIAL REVIEW OF AUTHORITY TO ADOPT A PARTICULAR REGULATION

When reviewing a quasi-legislative regulation, courts consider whether the regulation is within the scope of the authority conferred, essentially a question of the validity of an agency's statutory interpretation. The courts must determine whether the rulemaking agency has exercised its authority within the bounds established by statute.

**Whenever by the express or implied terms of any statute a state agency has authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of the statute, no regulation adopted is valid or effective unless consistent and not in conflict with the statute and reasonably necessary to effectuate the purpose of the statute. Government Code Section 11342.2.**

The courts apply the following principle to determine whether a rulemaking agency has exercised its authority within the bounds established by statute.

**An administrative regulation may not alter or amend a statute or enlarge or impair its scope. Such a regulation is void and must be struck down by a court.**

In deciding whether a regulation alters, amends, enlarges, or restricts a statute, or merely implements, interprets, makes specific, or otherwise gives effect to a statute often a court must interpret the meaning of the statute. In so doing, courts apply principles of statutory interpretation developed primarily in case law. It examines the language of the statute, and may consider appropriate legislative history materials to ascertain the will of the Legislature so as to effectuate the purpose of the statute. In making this determination, a court may consider, but is not bound by the rulemaking agency's interpretation of the statute at issue. As the California Supreme Court explained in *Yamaha v State Board of Equalization*, "Whether judicial deference to an agency's interpretation is appropriate and, if so, its extent—the 'weight' it should be given is ... fundamentally situational." The court identified factors to be considered relating to (1) the possible interpretive advantage of the agency and (2) to the likelihood that the agency is correct and suggested the following. "The deference due an agency interpretation ... 'will depend upon the



*thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control."*

## **OAL REVIEW FOR COMPLIANCE WITH THE CONSISTENCY STANDARD**

Each regulation must satisfy the Consistency standard. In reviewing for compliance with the Consistency standard, OAL uses the same analytical approach used in judicial review of a regulation. This approach includes the principles discussed above regarding deference to an agency's interpretation of a statute.

**"Consistency" means being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law. Government Code, Section 11349(d).**

Commenters on proposed regulations often comment that a proposed regulation is inconsistent with a statute because it requires certain tasks not specifically set out in statute. This situation does not present a Consistency problem so long as the tasks specified in the regulation are reasonably designed to aid a statutory objective, do not conflict with or contradict (or alter, amend, enlarge or restrict) any statutory provision.

In other words, no conflict is presented if the statute says "Thou shall do A" and the regulation says "Thou shall do B," if one can do both A and B, and B is reasonably necessary to effectuate the purpose of A, and does not alter, amend, enlarge, or restrict A. In contrast, a conflict is presented if the statute says "Thou shall do A" and the regulation says "Thou shall not do A."

## **OAL REVIEW FOR COMPLIANCE WITH THE CLARITY STANDARD**

Each regulation must satisfy the Clarity standard. Regulations are frequently unclear and unnecessarily complex, even when the technical nature of the subject matter is taken into account. They are often confusing to persons who must comply with them. The performance goal for drafting a regulation is the following. A rulemaking agency must draft regulation text in plain, straightforward language avoiding technical terms as much as possible using

coherent and easily readable language. The measure of compliance with the performance goal is the Clarity standard. OAL has a duty to ensure that each regulation can be easily understood.

**Clarity means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.  
Government Code Sec. 11349(c).**

**Persons presumed to be "directly affected" by a regulation are those who: (a) must comply with the regulation; or (b) must enforce the regulation; or (c) derive a benefit from the enforcement of the regulation that is not common to the public in general; or (d) incur from the enforcement of the regulation a detriment that is not common to the public in general. California Code of Regulations, Title 1, Sec. 16(b).**

**Situations in which OAL may presume a regulation is unclear.**

1. The regulation has more than one meaning.
2. The language of the regulation conflicts with the description of its effect.
3. The regulation uses an undefined term which does not have a meaning generally familiar to those who are "directly affected."
4. The regulation uses language incorrectly, including incorrect spelling, grammar, or punctuation.
5. The regulation presents information in a format not readily understandable.
6. The regulation does not use citations which clearly identify published material cited in the regulation.

**The following regulation drafting tips are drawn from Drafting Legislation and Rules in Plain English, by Robert J. Martineau, (West, 1991) pp 65-105.**

1. Use only necessary words.
2. Use common words.
3. Avoid lawyerisms.
4. Be consistent.
5. Use short sentences.
6. Arrange words properly.
7. Tabulate to simplify.
9. Look for omissions and ambiguities.
10. Think through common application situations.

#### **OAL REVIEW FOR COMPLIANCE WITH THE NONDUPLICATION STANDARD**

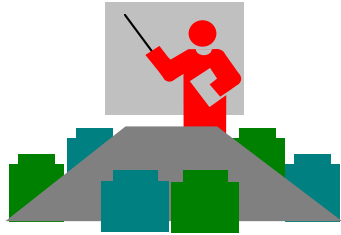
**Nonduplication means a regulation does not serve the same purpose as a state or federal statute or another regulation.  
Government Code Section 11349(f)**

Each regulation must satisfy the Nonduplication standard. A regulation that repeats or rephrases a statute or regulation "serves the same purpose" as that statute or regulation. Any overlapped or duplicated statute or regulation must be identified and the overlap or duplication must be justified. Citing the overlapped or duplicated statute or regulation in the authority or reference note satisfies the identification requirement. Overlap or duplication is justified if information in the rulemaking record establishes that the overlap or duplication is necessary to satisfy the Clarity standard.

## OAL REVIEW FOR COMPLIANCE WITH THE NECESSITY STANDARD

**An agency conducting a rulemaking action under the APA must compile a complete record of a rulemaking proceeding including all of the evidence and other material upon which a regulation is based.**

In the record of the rulemaking proceeding (record), the agency must state the specific purpose of each regulatory provision and explain why the provision is reasonably necessary to accomplish that purpose. It must also identify and include in the record any materials relied upon in proposing the provision and any other information, statement, report, or data the agency is required by law to consider or prepare in connection with the rulemaking action. The agency does this first in the initial statement of reasons. During the rulemaking proceeding, the agency may add new material on which it relies by notifying the public and providing a 15 day opportunity to comment on the proposal in light of the new material relied upon. The agency then states in the final statement of reasons what material has been added during the proceeding.



In addition, during the rulemaking, the public may submit recommendations or objections to the proposed regulation and submit material, including studies, reports, data, etc. for consideration by the agency and inclusion in the record. In the final statement of reasons, the agency must respond to all relevant input and explain a reason for rejecting each recommendation or objection directed at the proposed action, or explain how the proposal has been amended to accommodate the input. All of these materials constitute the record.

At the end of a rulemaking proceeding, the rulemaking agency must certify under penalty of perjury that the rulemaking record is complete and closed. The rulemaking agency then submits the complete record to OAL for review. In reviewing for compliance with the Necessity standard, OAL is limited to applicable provisions of law and the record of the rulemaking proceeding. Once OAL review is complete and the record is returned to the rulemaking agency, the file is the agency's permanent record of the rulemaking proceeding. No item in the file may be removed, altered or destroyed. Any judicial review of the regulation is based only on the evidence included in the rulemaking record.

**What must be addressed in the record?** Each regulation must satisfy the Necessity standard. OAL reviews the rulemaking record to ensure that each provision of regulation text that is adopted, amended, or repealed satisfies the Necessity standard.

**“Necessity” means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific taking into account the totality of the record. For purposes of this standard, evidence includes, but is not limited to facts, studies, and expert opinion. Government Code Section 11349(a).**

**What is “substantial evidence”?** The “substantial evidence” standard used by OAL is the same as the “substantial evidence” standard used in judicial review of regulations. The following is a definition of "substantial evidence" drawn from the legislative history of the Necessity standard.

**Such evidence as a reasonable person reasoning from the evidence would accept as adequate to support a conclusion.**

A number of principles and limitations are involved in the application of this standard. Clearly, “substantial evidence” is more than “any evidence,” but is nowhere near “proof beyond a reasonable doubt.” A key characteristic of the standard is its deferential nature. The “substantial evidence” test was added to the Necessity standard by Chapter 1573, Statutes of 1982 (AB 2820). The following letter from Assemblyman Leo McCarthy to Speaker Willie Brown summarized the "substantial evidence" test as used in the Necessity standard:

*"The principal addition AB 2820 makes to what we approved in AB 1111 in 1979 is a specific level of evidence that an agency must meet to demonstrate the need for a particular regulation. The standard is substantial evidence taking the record as a whole into account.*

*"That standard is a familiar one in the law and has been given a definite interpretation by the courts in the past. Our intent is that an agency must include in the record facts, studies or testimony that are specific, relevant, reasonable,*

*credible and of solid value, that together with those inferences that can rationally be drawn from such facts, studies or testimony, would lead a reasonable mind to accept as sufficient support for the conclusion that the particular regulation is necessary. Suspicion, surmises, speculation, feelings, or incredible evidence is not substantial.*

*"Such a standard permits necessity to be demonstrated even if another decision could also be reached. This standard does not mean that the particular regulation necessarily be 'right' or the best decision given the evidence in the record, but that it be a reasonable and rational choice. It does not mean that the only decision permitted is one that OAL or a court would make if they were making the initial decision. It does not negate the function of an agency to choose between two conflicting, supportable views.*

*"The proposed standard requires the assessment to determine necessity to be made taking into account the totality of the record. That means the standard is not satisfied simply by isolating those facts that support the conclusion of the agency. Whatever in the record that refutes the supporting evidence or that fairly detracts from the agency's conclusion must also be taken into account. In other words, the supporting evidence must still be substantial when viewed in light of the entire record." (California, Assembly Daily Journal, 208th Sess. 13, 663-34 (1982).)*

## CITATIONS

*Armistead v. State Personnel Board* (1978) 22 Cal.3d 198, 149 Cal.Rptr.1

*Engelmann v. State Bd. of Education* (1991) 2 Cal.App.4<sup>th</sup> 47, 3 Cal.Rptr.2d 264

*Grier v. Kizer* (1990) 219 Cal.App.3d 422, 268 Cal.Rptr. 244

*Poshman v. Dumke* (1973) 31 Cal.App.3d 932, 107 Cal.Rptr. 596

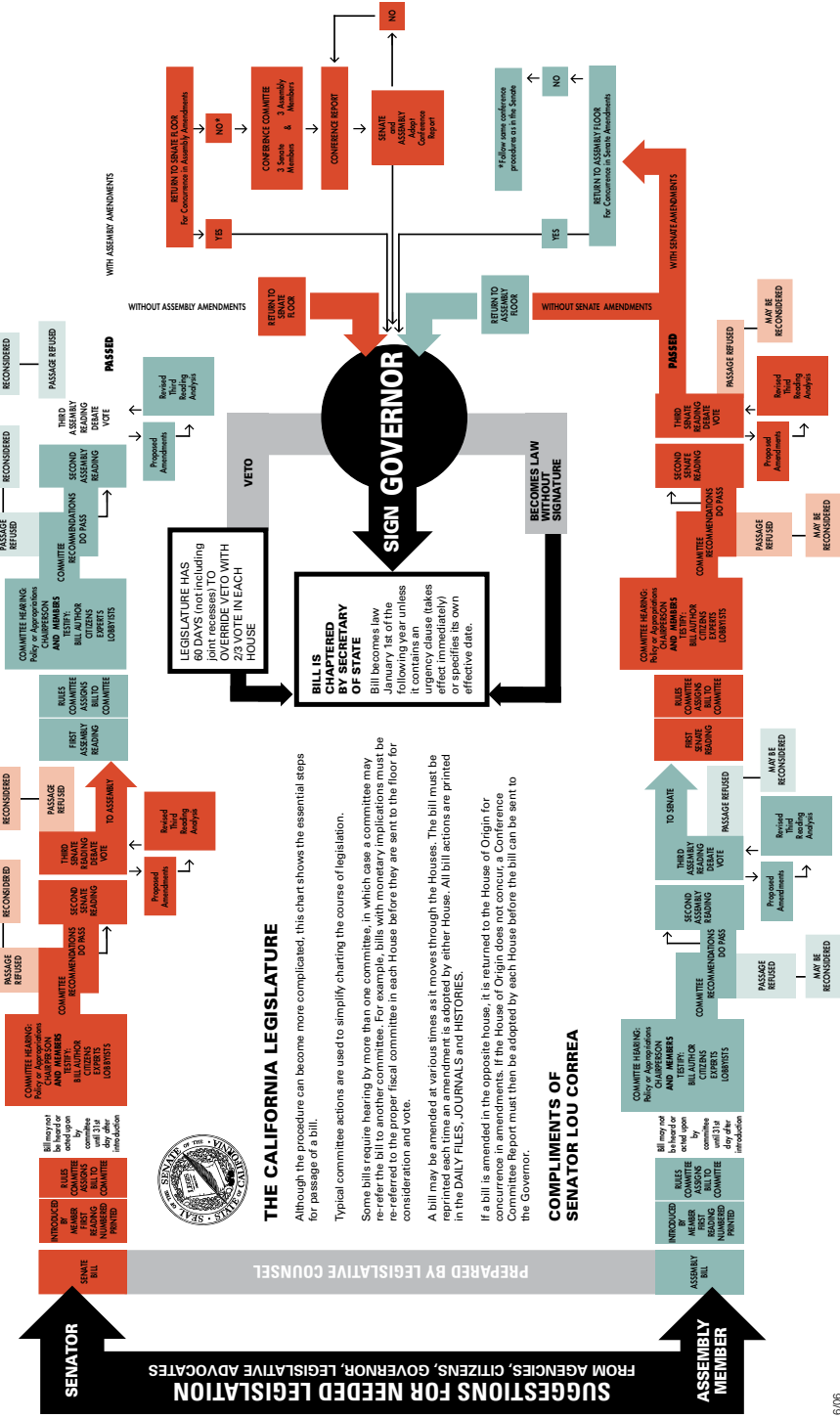
*Roth v. Dept. of Veteran Affairs* (1980) 110 Cal.App.3d 622, 167 Cal.Rptr. 552

*State Water Resources Control Board v. OAL* (1993) 12 Cal.App.4<sup>th</sup> 697, 16 Cal.Rptr.2d 25

*Stoneham v. Rushen (Stoneham I)* (1982) 137 Cal.App.3d 729, 188 Cal.Rptr. 130

*Yamaha v. State Board of Equalization* (1998) 19 Cal.4<sup>th</sup> 1, 78 Cal.Rptr.2d

# THE LIFE CYCLE OF LEGISLATION – From Idea Into Law



## THE CALIFORNIA LEGISLATURE

Although the procedure can become more complicated, this chart shows the essential steps for passage of a bill.

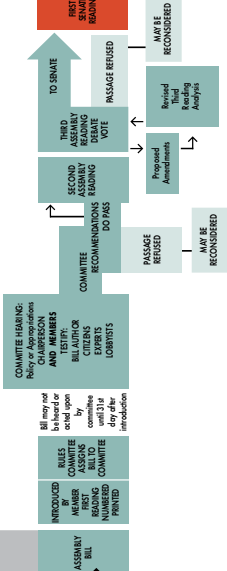
Typical committee actions are used to simplify charting the course of legislation.

Some bills require hearing by more than one committee, in which case a committee may re- refer the bill to another committee. For example, bills with monetary implications must be referred to the proper fiscal committee in each House before they are sent to the floor for consideration and vote.

A bill may be amended at various times as it moves through the Houses. The bill must be reprinted each time an amendment is adopted by either House. All bill actions are printed in the DAILY FILES, JOURNALS and HISTORIES.

If a bill is amended in the opposite house, it is returned to the House of Origin for concurrence in an amendment if the House of Origin does not occur a Conference Committee Report must then be adopted by each House before the bill can be sent to the Governor.

## COMPLIMENTS OF SENATOR LOU CORREA







# Appendix K: Application and Examination Flowcharts



# PATHWAYS TO LICENSURE FLOWCHART

**PRE-DOCTORAL SUPERVISED PROFESSIONAL EXPERIENCE (SPE):**  
 (1387(a)(1)(A)-(D) of Title 16, California Code of Regulations (CCR))  
 Maximum 1,500 Hours  
 (within 30 consecutive months)

**No Registration With the Board**

**Registration With the Board**

- Pre-Doctoral Internship (2911 BPC\*)** Accredited by the American Psychological Assn., Association of Psychology Postdoctoral and Internship Centers, or the CA Psychology Internship Council
- Exempt Setting (2910 BPC)** Academic Institution, Public School, Governmental Agency
- Department of Mental Health Waiver (5751.2 Welfare and Institution Code (WIC))** Issued by the county and not to exceed 5 years
- Registered Psychological Assistant (2913 BPC)** Issued by the Board and not to exceed 72 consecutive months

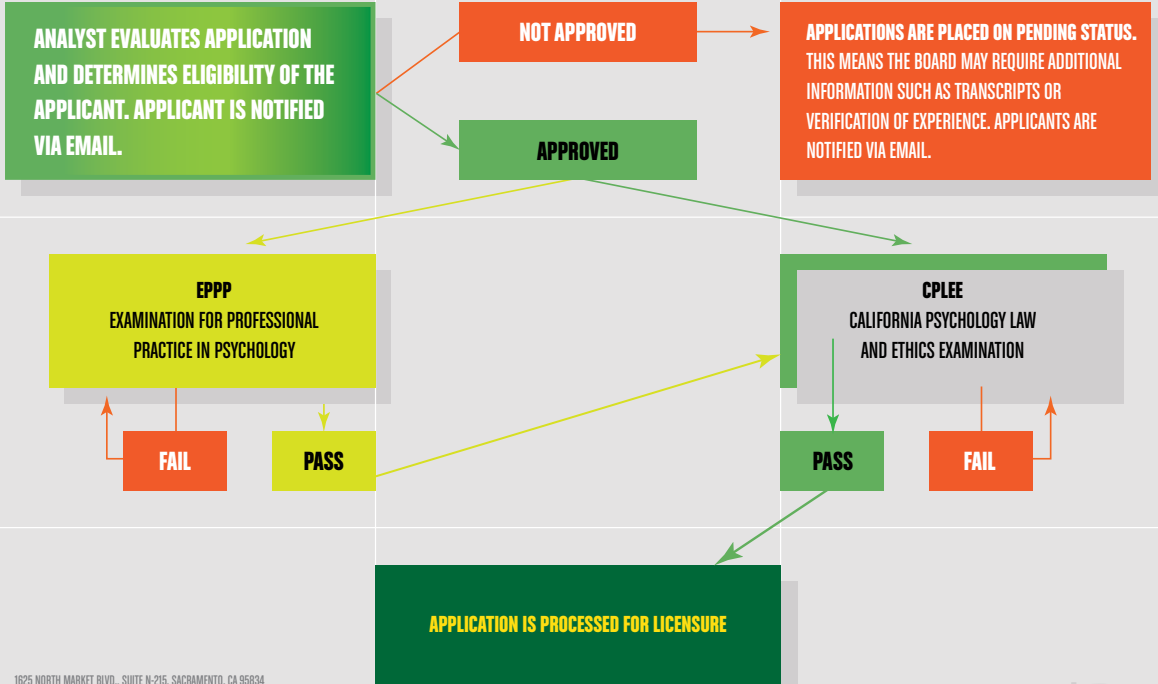
**POST-DOCTORAL SPE:**  
 (1387(a)(2)(A)-(E) CCR)  
 Minimum 1,500 Hours  
 (within 30 consecutive months)

**No Registration With the Board**

**Registration With the Board**

- Formal Post-Doctoral Internship (2911 BPC)** Accredited by American Psychological Assn., Association of Psychology Postdoctoral and Internship Centers, or the CA Psychology Internship Council
- Exempt Setting (2910 BPC)** Academic Institution, Public School, Governmental Agency
- Department of Mental Health Waiver (5751.2 Welfare and Institution Code (WIC))** Issued by the county and not to exceed 5 years
- Registered Psychological Assistant (2913 BPC)** Issued by the Board and not to exceed 72 consecutive months
- Registered Psychologist (29109.5 BPC)** Issued by the Board, non-renewable and not to exceed 30 consecutive months



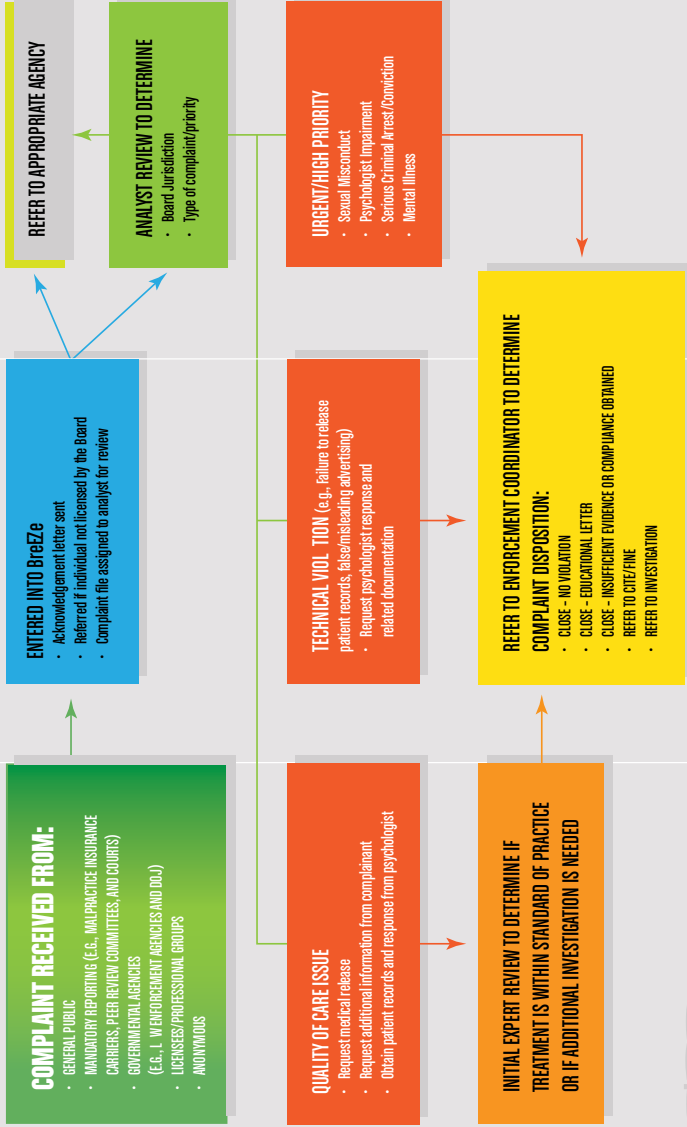




## Appendix L: Complaint Review and Enforcement Flowcharts







# ENFORCEMENT FLOWCHART







STATE OF CALIFORNIA



DEPARTMENT OF CONSUMER AFFAIRS

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