## BOARD OF PSYCHOLOGY **SUNSET REVIEW 2019** BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM

As of November 14, 2019









### Board of Psychology BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM As of November 14, 2019

#### Section 1 – Background and Description of the Board and Regulated Profession

Provide a short explanation of the history and function of the board.<sup>1</sup> Describe the occupations/profession that are licensed and/or regulated by the board (Practice Acts vs. Title Acts).

#### HISTORY AND FUNCTION OF THE BOARD

The California Board of Psychology (Board) regulates psychologists, registered psychologists, and registered psychological assistants. Only licensed psychologists can practice psychology independently in California. Registered psychologists are registered to work and train under supervision in non-profit agencies that receive government funding, and registered psychological assistants provide psychological services under the supervision of a qualified licensed psychologist or board-certified psychiatrist.

With the Certification Act of 1958, the psychology profession became regulated in California. While the Certification Act protected the title "psychologist," it did not take into consideration the interests of the consumers of psychological services. Later, the regulation of the profession evolved when the California Legislature recognized the potential for consumer harm by those practicing psychology and shifted the focus of the regulation of the profession to protection of the public.

This redirection resulted in legislation in 1967 that protected the "psychologist" title, defined the practice, and required licensure in order to practice legally. During these early licensing days, the Board was an "examining committee" under the jurisdiction of what was then the Division of Allied Health Professions of the Board of Medical Quality Assurance (BMQA). During the 1970s, the Psychology Examining Committee gradually became more independent and began taking responsibility for its own operations, including the authority to adopt regulations and administrative disciplinary actions without the endorsement of BMQA. The Psychology Examining Committee officially became the Board of Psychology in 1990 (Assembly Bill 858, Margolin, 1989).

The Mission of the Board is to protect consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession. The Board's Values are transparency, integrity, fairness, responsiveness, and professionalism. The Vision of the Board is a healthy California where our diverse communities enjoy the benefits of the highest standard of psychological services.

<sup>&</sup>lt;sup>1</sup> The term "board" in this document refers to a board, bureau, commission, committee, department, division, program, or agency, as applicable. Please change the term "board" throughout this document to appropriately refer to the entity being reviewed.

## 1. Describe the make-up and functions of each of the board's committees (cf., Section 12, Attachment B).

#### **Standing Committees**

<u>Outreach and Communications Committee</u> – The goal of the Outreach and Communications Committee is to engage, inform, and educate consumers, students, applicants, licensees, and other stakeholders regarding the evolving practice of psychology, the work of the Board, and their relevant laws and regulations.

<u>Legislative and Regulatory Affairs Committee</u> – The goal of this committee is to advocate for legislation and develop regulations that provide for the protection of consumer health and safety. The Committee reviews, monitors and recommends positions on legislation that affects the Board, consumers, and the profession of psychology. The Committee also recommends regulatory changes and informs the Board about the status of regulatory packages.

<u>Licensure Committee</u> – The goal of this committee is to create and maintain a clear and efficient framework for licensure, examination processes, and continuing professional development through the Board's statutes and regulations to ensure licensees meet the qualifications necessary to practice safely and ethically. The Committee communicates relevant information to its affected stakeholders.

#### Ad Hoc Committees (Active)

<u>Enforcement Committee</u> – The goal of this committee is to protect 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. The Committee reviews the Board's *Disciplinary Guidelines* and enforcement statutes and regulations and submits recommended amendments to the full Board for consideration.

<u>Sunset Review Committee</u> – The goal of this committee is to review staff's responses to the questions asked by the Assembly Business and Professions and the Senate Business, Professions and Economic Development Committees. The Committee formulates and reviews the responses before submission to the full Board.

<u>Telepsychology Committee</u> – The goal of this committee is to develop regulatory language for the practice of psychology that is conducted remotely within the State of California and interstate practice that is conducted remotely. This is a rapidly developing area of the profession, and technology has outpaced the current guidelines.

#### Ad Hoc Committees (Inactive)

The following committees are no longer active, but may be reactivated should the need arise.

<u>Applied Behavioral Analysis (ABA) Task Force</u> – This committee is comprised of two Board Members and relevant stakeholders.

EPPP2 Task Force - This committee is comprised of two Board Members and relevant stakeholders.

Below is a list of Board Member attendance at all noticed Board and Committee meetings since the last Sunset Review and dates that Board Members were appointed to the Board:

Table 1a. Attendance				
Lucille Acquaye-Baddoo				
Date Appointed:	June 12, 2009; Re-	appointed: June 18, 201	1; June 8, 2015	
Meeting Type	Meeting Date	Meeting Location	Attended?	
Board Meeting	11/12-13/2015	San Diego	Yes	
Board Meeting	11/28/2015	Sacramento	Yes	
Outreach and Education Committee Meeting	1/15/2016	Sacramento	Yes	
Board Meeting	2/25-26/2016	State Capitol (Sacramento)	Yes	
Lucille Acquaye-Baddoo (cont.)	·			
Board Meeting	4/4/2016	Teleconference	Yes	
Board Meeting	5/19-20-2016	Los Angeles	Yes	
Board Meeting	7/27/2016	Teleconference	Yes	
Board Meeting	8/18-19/2016	Berkeley	Yes	
Outreach and Education Committee Meeting	10/4/2016	Sacramento	Yes	
Board Meeting	11/17-18/2016	San Diego	Yes	
Board Meeting	2/9-10/2017	State Capitol (Sacramento)	Yes	
Outreach and Education Committee Meeting	3/21/2017	Sacramento	Yes	
Board Meeting	4/21/2017	Teleconference	Yes	
Board Meeting	6/15-16/2017	Ontario	Yes	
Board Meeting	8/9/2017	Teleconference	Yes	
Board Meeting	9/14-15/2017	Berkeley	Yes	
Enforcement Committee Meeting	10/20/2017	Sacramento	Yes	
Board Meeting	11/16-17/2017	San Diego	Yes	
Enforcement Committee Meeting	1/19/2018	/19/2018 Sacramento		
Board Meeting	2/15-16/2018 State Capitol (Sacramento)		Yes	
Enforcement Committee Meeting	3/8/2018	Sacramento	Yes	
Outreach and Education Committee Mtg	4/6/2018	Sacramento	Yes	
Board Meeting	5/10-11/2018	Los Angeles	Yes	
Enforcement Committee Meeting	6/22/2018	Sacramento	Yes	
Board Meeting	8/16-17/2018	Berkeley	Yes	
Enforcement Committee Meeting	9/21/2018	Sacramento	Yes	
Enforcement Committee Meeting	10/12/2018	Sacramento	Yes	
Board Meeting	11/15-16/2018	5-16/2018 San Diego		
Strategic Planning Session	12/3-4/2018	Napa	No	
Board Meeting	2/7-8/2019	State Capitol (Sacramento)	Yes	
Enforcement Committee Meeting	3/22/2019	Sacramento	Yes	
Board Meeting	3/29/2019	Teleconference	No	
Board Meeting	4/24-26/2019	Los Angeles	Yes	
Outreach and Education Committee Meeting	5/17/2019	Sacramento	Yes	

Table 1a. Attendance			
Johanna Arias-Bhatia			
Date Appointed:	August 10, 2012; R	e-appointed: June 3, 20 <sup>2</sup>	15
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meeting	11/12-13/2015	San Diego	Yes
Board Meeting	11/28/2015	Sacramento	Yes
Board Meeting	2/25-26/2016	State Capitol (Sacramento)	Yes
Board Meeting	4/4/2016	Teleconference	Yes
Board Meeting	5/19-20-2016	Los Angeles	Yes
Adelita "Alita" Bernal		·	
Date Appointed:	August 3, 2016		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meeting	8/18-19/2016	Berkeley	No
Outreach and Education Committee Meeting	10/4/2016	Sacramento	Yes
Board Meeting	11/17-18/2016	San Diego	Yes
Board Meeting	2/9-10/2017	State Capitol (Sacramento)	Yes
Outreach and Education Committee Meeting	3/21/2017	Sacramento	Yes
Board Meeting	4/21/2017	Teleconference	Yes
Board Meeting	6/15-16/2017 8/9/2017	Ontario	Yes Yes
Board Meeting		Teleconference	
Board Meeting	9/14-15/2017	Berkeley	Yes
Board Meeting	11/16-17/2017	San Diego	Yes
Board Meeting	2/15-16/2018	State Capitol (Sacramento)	No
Outreach and Education Committee Mtg	4/6/2018	Sacramento	Yes
Board Meeting	5/10-11/2018	Los Angeles	Yes
Board Meeting	8/16-17/2018	Berkeley	Yes
Board Meeting	11/15-16/2018	San Diego	Yes
Strategic Planning Session	12/3-4/2018	Napa	No
Board Meeting	2/7-8/2019	State Capitol (Sacramento)	Yes
Board Meeting	3/29/2019	Teleconference	No
Board Meeting	4/24-26/2019	Los Angeles	Yes
Outreach and Education Committee Mtg	5/17/2019	Sacramento	Yes
Board Meeting	8/15-16/2019	Berkeley	Yes
Board Meeting	10/3-4/2019	San Diego	No
Board Meeting	11/8/2019	Teleconference	Yes
Sheryll Casuga			
Date Appointed:		e-Appointed: October 2,	2019
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meeting	9/14-15/2017	Berkeley	Yes
Board Meeting	11/16-17/2017	San Diego	Yes
Board Meeting	2/15-16/2018	State Capitol (Sacramento)	Yes

Table 1a. Attendance			
Sheryll Casuga (cont.)			
EPPP2 Task Force Meeting	4/5/2018	Sacramento	Yes
Policy and Advocacy Committee Meeting	4/19/2018	Sacramento	Yes
Board Meeting	5/10-11/2018	Los Angeles	Yes
EPPP2 Task Force Meeting	6/29/2018	Sacramento	Yes
Board Meeting	8/16-17/2018	Berkeley	No
Board Meeting	11/15-16/2018	San Diego	Yes
Strategic Planning Session	12/3-4/2018	Napa	Yes
Board Meeting	2/7-8/2019	State Capitol (Sacramento)	Yes
Policy and Advocacy Committee Meeting	3/18/2019	Sacramento	Yes
Board Meeting	3/29/2019	Teleconference	Yes
Board Meeting	4/24-26/2019	Los Angeles	No
Legislative and Regulatory Affairs Committee Meeting	7/8/2019	Teleconference	Yes
Board Meeting	8/15-16/2019	Berkeley	Yes
Board Meeting	10/3-4/2019	San Diego	Yes
Board Meeting	11/8/2019	Teleconference	Yes
Marisela Cervantes			
Date Appointed:	April 29, 2019		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meeting	8/15-16/2019	Berkeley	Yes
Enforcement Committee	9/20/2019	Sacramento	Yes
Board Meeting	10/3-4/2019	San Diego	Yes
Board Meeting	11/8/2019	Teleconference	Yes
Michael Erickson			
Date Appointed:	August 6, 2010; Re	-Appointed: July 15, 201	4
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meeting	11/12-13/2015	San Diego	Yes
Board Meeting	11/28/2015	Sacramento	Yes
Board Meeting	2/25-26/2016	State Capitol (Sacramento)	Yes
Board Meeting	4/4/2016 Teleconference		Yes
Board Meeting	5/19-20-2016	Los Angeles	Yes
Board Meeting	7/27/2016	Teleconference	Yes
Board Meeting	8/18-19/2016	Berkeley	Yes
Telepsychology Committee Meeting	10/4/2016	Sacramento	Yes
Board Meeting	11/17-18/2016	San Diego	Yes
Telepsychology Committee Meeting	2/3/2017	Sacramento	Yes
Board Meeting	2/9-10/2017	State Capitol (Sacramento)	Yes
Delievend Asher an Osmarilla Martin a	3/13/2017	Sacramento	Yes
Policy and Advocacy Committee Meeting	3/13/2017	odordinionito	
Board Meeting	4/21/2017	Teleconference	Yes

Table 1a. Attendance			
Michael Erickson (cont.)			
Board Meeting	6/15-16/2017	Ontario	Yes
Board Meeting	8/9/2017	Teleconference	No
Board Meeting	9/14-15/2017	Berkeley	Yes
Board Meeting	11/16-17/2017	San Diego	Yes
Board Meeting	2/15-16/2018	State Capitol (Sacramento)	Yes
Policy and Advocacy Committee Meeting	4/19/2018	Sacramento	Yes
Board Meeting	5/10-11/2018	Los Angeles	Yes
Board Meeting	8/16-17/2018	Berkeley	Yes
Board Meeting	11/15-16/2018	San Diego	Yes
Strategic Planning Session	12/3-4/2018	Napa	Yes
Seyron Foo		·	·
Date Appointed:	May 17, 2017		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meeting	6/15-16/2017	Ontario	Yes
Board Meeting	8/9/2017	Teleconference	Yes
Licensing Committee Meeting	8/22/2017	El Segundo	Yes
Board Meeting	9/14-15/2017	Berkeley	Yes
Licensing Committee Meeting	10/13/2017	Sacramento	Yes
Board Meeting	11/16-17/2017	San Diego	No
Licensing Committee Meeting	1/22/2018	Sacramento	Yes
Board Meeting	2/15-16/2018	State Capitol (Sacramento)	Yes
EPPP2 Task Force Meeting	4/5/2018	Sacramento	Yes
Licensing Committee Meeting	4/24/2018	Sacramento	Yes
Board Meeting	5/10-11/2018	Los Angeles	Yes
EPPP2 Task Force Meeting	6/29/2018	Sacramento	Yes
Board Meeting	8/16-17/2018	Berkeley	Yes
Licensing Committee Meeting	10/25/2018	Sacramento	Yes
Board Meeting	11/15-16/2018	San Diego	Yes
Strategic Planning Session	12/3-4/2018	Napa	Yes
Licensing Committee Meeting	1/11/2019	Sacramento	Yes
Board Meeting	2/7-8/2019	State Capitol (Sacramento)	Yes
Policy and Advocacy Committee Meeting	3/18/2019	Sacramento	Yes
Board Meeting	3/29/2019	Teleconference	Yes
Board Meeting	4/24-26/2019	Los Angeles	Yes
Licensing Committee Meeting	6/13/2019	Sacramento	Yes
Legislative and Regulatory Affairs Committee Meeting	7/8/2019	Teleconference	Yes
Board Meeting	8/15-16/2019	Berkeley	Yes
Licensure Committee Meeting	9/12-13/2019	Sacramento	Yes

Table 1a. Attendance				
Seyron Foo (cont.)				
Sunset Review Committee Meeting	9/16/2019	Sacramento	Yes	
Board Meeting	10/3-4/2019	San Diego	Yes	
Board Meeting	11/8/2019	Teleconference	Yes	
Miguel Gallardo				
Date Appointed:	August 6, 2010; Re	-appointed: December 2	8, 2012	
Meeting Type	Meeting Date	Meeting Location	Attended?	
Board Meeting	11/12-13/2015	San Diego	Yes	
Board Meeting	11/28/2015	Sacramento	No	
Outreach and Education Committee Meeting	1/15/2016	Sacramento	Yes	
Board Meeting			No	
Board Meeting	4/4/2016	Teleconference	No	
Board Meeting	5/19-20-2016	Los Angeles	Yes	
Mary Harb Sheets			1	
Date Appointed:	December 7, 2018			
Meeting Type	Meeting Date	Meeting Location	Attended?	
Licensing Committee Meeting	1/11/2019	Sacramento	Yes	
Board Meeting	2/7-8/2019	State Capitol (Sacramento)	Yes	
Board Meeting	3/29/2019	Teleconference	Yes	
Board Meeting	4/24-26/2019	Los Angeles	Yes	
Licensing Committee Meeting	6/13/2019	Sacramento	Yes	
Board Meeting	8/15-16/2019	Berkeley	Yes	
Licensure Committee Meeting	9/12-13/2019	Sacramento	No	
Board Meeting	10/3-4/2019	San Diego	Yes	
Board Meeting	11/8/2019	2019 Teleconference		
Andrew Harlem				
Date Appointed:	August 10, 2012			
Meeting Type	Meeting Date	Meeting Location	Attended?	
Board Meeting	11/12-13/2015	San Diego	No	
Board Meeting	11/28/2015	Sacramento	No	
Licensing Committee Meeting	2/7/2016	Sacramento	Yes	
Licensing Committee Meeting	5/2/2016 Sacramento		Yes	
Board Meeting	2/25-26/2016	State Capitol (Sacramento)	Yes	
Board Meeting	4/4/2016	Teleconference	Yes	
Board Meeting	5/19-20-2016	Los Angeles	Yes	
Jacqueline Horn	•	-		
Date Appointed:	October 25, 2013; I	Re-appointed: June 3, 20	)15	
Meeting Type	Meeting Date	Meeting Location	Attended?	
Board Meeting	11/12-13/2015	San Diego	Yes	
Board Meeting	11/28/2015	Sacramento	Yes	
Licensing Committee Meeting	2/7/2016	Sacramento	Yes	

Table 1a. Attendance					
Jacqueline Horn (cont.)					
Board Meeting	2/25-26/2016	State Capitol (Sacramento)	Yes		
Licensing Committee Meeting	5/2/2016	Sacramento	Yes		
Board Meeting	4/4/2016	Teleconference	Yes		
Board Meeting	5/19-20-2016	Los Angeles	Yes		
Licensing Committee Meeting	6/30/2016	Sacramento	Yes		
Board Meeting	7/27/2016	Teleconference	Yes		
Board Meeting	8/18-19/2016	Berkeley	Yes		
Licensing Committee Meeting	9/19/2016	Sacramento	Yes		
Board Meeting	11/17-18/2016	San Diego	Yes		
Board Meeting	2/9-10/2017	State Capitol (Sacramento)	Yes		
Licensing Committee Meeting	3/16/2017	Sacramento	Yes		
Outreach and Education Committee Meeting	3/21/2017	Sacramento	Yes		
Board Meeting	4/21/2017	Teleconference	Yes		
Board Meeting	6/15-16/2017	Ontario	Yes		
Board Meeting	8/9/2017	Teleconference	Yes		
Licensing Committee Meeting	8/22/2017	El Segundo	Yes		
Board Meeting	9/14-15/2017	Berkeley	Yes		
Licensing Committee Meeting	10/13/2017	Sacramento	Yes		
Board Meeting	11/16-17/2017	San Diego	Yes		
Licensing Committee Meeting	1/22/2018	Sacramento	Yes		
Board Meeting	2/15-16/2018	State Capitol (Sacramento)	Yes		
Outreach and Education Committee Meeting	4/6/2018	Sacramento	Yes		
Licensing Committee Meeting	4/24/2018	Sacramento	Yes		
Board Meeting	5/10-11/2018	Los Angeles	Yes		
Board Meeting	8/16-17/2018	Berkeley	Yes		
Licensing Committee Meeting	10/25/2018	Sacramento	Yes		
Board Meeting	11/15-16/2018	San Diego	Yes		
Strategic Planning Session	12/3-4/2018	Napa	Yes		
Licensing Committee Meeting	1/11/2019 Sacramento		Yes		
Board Meeting	2/7-8/2019 State Capitol (Sacramento)		Yes		
Board Meeting	3/29/2019	Teleconference	Yes		
Board Meeting	4/24-26/2019	Los Angeles	Yes		
Licensing Committee Meeting	6/13/2019	Sacramento	Yes		
Board Meeting	8/15-16/2019	Berkeley	Yes		
Licensure Committee Meeting	9/12-13/2019	Sacramento	Yes		
Board Meeting	10/3-4/2019	San Diego	Yes		
Board Meeting	11/8/2019	Teleconference	Yes		

Table 1a. Attendance			
Nicole J. Jones			
Date Appointed:	August 10, 2012; R	e-appointed June 18, 20	14
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meeting	11/12-13/2015	San Diego	Yes
Board Meeting	11/28/2015	Sacramento	Yes
Licensing Committee Meeting	2/7/2016	Sacramento	Yes
Board Meeting	2/25-26/2016	State Capitol (Sacramento)	Yes
Board Meeting	4/4/2016	Teleconference	No
Licensing Committee Meeting	2/7/2016	Sacramento	Yes
Licensing Committee Meeting	5/2/2016	Sacramento	Yes
Board Meeting	5/19-20-2016	Los Angeles	Yes
Licensing Committee Meeting	6/30/2016	Sacramento	Yes
Board Meeting	7/27/2016	Teleconference	Yes
Board Meeting	8/18-19/2016	Berkeley	Yes
Licensing Committee Meeting	9/19/2016	Sacramento	Yes
Board Meeting	11/17-18/2016	San Diego	Yes
Board Meeting	2/9-10/2017	State Capitol (Sacramento)	Yes
Policy and Advocacy Committee Meeting	3/13/2017	13/2017 Sacramento	
Licensing Committee Meeting	3/16/2017	Sacramento	Yes
Board Meeting	4/21/2017	Teleconference	Yes
Policy and Advocacy Committee Meeting	5/15/2017	Sacramento	Yes
Board Meeting	6/15-16/2017	Ontario	Yes
Board Meeting	8/9/2017	Teleconference	Yes
Board Meeting	9/14-15/2017	Berkeley	Yes
Board Meeting	11/16-17/2017	San Diego	Yes
Board Meeting	2/15-16/2018	State Capitol (Sacramento)	Yes
Policy and Advocacy Committee Meeting	4/19/2018	Sacramento	Yes
Board Meeting	5/10-11/2018	Los Angeles	Yes
Board Meeting	8/16-17/2018	Berkeley	No
Board Meeting	11/15-16/2018	San Diego	No
Strategic Planning Session	12/3-4/2018	Napa	No
Board Meeting	2/7-8/2019	State Capitol (Sacramento)	Yes
Policy and Advocacy Committee Meeting	3/18/2019	Sacramento	No
Board Meeting	3/29/2019	Teleconference	No
Stephen Phillips			
Date Appointed:	September 30, 201	3; Reappointed June 10,	, 2016
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meeting	11/12-13/2015	San Diego	Yes
Board Meeting	11/28/2015	Sacramento	Yes
Licensing Committee Meeting	2/7/2016	Sacramento	Yes

Stephen Phillips (cont.)			
Board Meeting	2/25-26/2016	State Capitol (Sacramento)	Yes
Board Meeting	4/4/2016	Teleconference	Yes
Licensing Committee Meeting	2/7/2016	Sacramento	Yes
Licensing Committee Meeting	5/2/2016	Sacramento	Yes
Board Meeting	5/19-20-2016	Los Angeles	Yes
Licensing Committee Meeting	6/30/2016	Sacramento	Yes
Board Meeting	7/27/2016	Teleconference	Yes
Board Meeting	8/18-19/2016	Berkeley	Yes
Licensing Committee Meeting	9/19/2016	Sacramento	Yes
Telepsychology Committee Meeting	10/4/2016	Sacramento	Yes
Board Meeting	11/17-18/2016	San Diego	Yes
Telepsychology Committee Meeting	2/3/2017	Sacramento	Yes
Board Meeting	2/9-10/2017	State Capitol (Sacramento)	Yes
Licensing Committee Meeting	3/16/2017	Sacramento	Yes
Board Meeting	4/21/2017	Teleconference	Yes
Board Meeting	6/15-16/2017	Ontario	Yes
Board Meeting	8/9/2017	Teleconference	Yes
Licensing Committee Meeting	8/22/2017	El Segundo	Yes
Board Meeting	9/14-15/2017	Berkeley	Yes
Licensing Committee Meeting	10/13/2017	Sacramento	Yes
Enforcement Committee Meeting	10/20/2017	Sacramento	Yes
Board Meeting	11/16-17/2017	San Diego	Yes
Licensing Committee Meeting	1/22/2018	Sacramento	Yes
Board Meeting	2/15-16/2018	State Capitol (Sacramento)	Yes
Enforcement Committee Meeting	3/8/2018	Sacramento	Yes
Policy and Advocacy Committee Meeting	4/19/2019	Sacramento	Yes
Licensing Committee Meeting	4/24/2018	Sacramento	Yes
Board Meeting	5/10-11/2018	Los Angeles	Yes
Enforcement Committee Meeting	6/22/2018	Sacramento	Yes
Board Meeting	8/16-17/2018	Berkeley	Yes
Enforcement Committee Meeting	9/21/2018	Sacramento	Yes
Enforcement Committee Meeting	10/12/2018	Sacramento	Yes
Licensing Committee Meeting	10/25/2018	Sacramento	Yes
Board Meeting	11/15-16/2018	San Diego	Yes
Strategic Planning Session	12/3-4/2018	Napa	Yes
Licensing Committee Meeting	1/11/2019	Sacramento	Yes
Enforcement Committee Meeting	1/19/2019	Sacramento	Yes
Board Meeting	2/7-8/2019	State Capitol (Sacramento)	Yes
Policy and Advocacy Committee Meeting	3/18/2019	Sacramento	Yes
Enforcement Committee Meeting	3/2/2019	Sacramento	Yes

Table 1a. Attendance				
Stephen Phillips (cont.)				
Board Meeting	3/29/2019	Teleconference	Yes	
Telepsychology Committee Meeting	4/19/2019	Sacramento	Yes	
Board Meeting	4/24-26/2019	Los Angeles	Yes	
Legislative and Regulatory Affairs Committee Meeting	7/8/2019	Teleconference	Yes	
Board Meeting	8/15-16/2019	Berkeley	Yes	
Sunset Review Committee	9/16/2019	Sacramento	Yes	
Enforcement Committee	9/20/2019	Sacramento	Yes	
Board Meeting	10/3-4/2019	San Diego	Yes	
Board Meeting	11/8/2019	Teleconference	Yes	
Linda Starr				
Date Appointed:	January 9, 2013			
Meeting Type	Meeting Date	Meeting Location	Attended?	
Board Meeting	11/12-13/2015	San Diego	Yes	
Board Meeting	11/28/2015	Sacramento	Yes	
Outreach and Education Committee Meeting	1/15/2016	Sacramento	Yes	
Board Meeting	2/25-26/2016	State Capitol (Sacramento)	Yes	
Board Meeting	4/4/2016	Teleconference	Yes	
Board Meeting	5/19-20-2016	Los Angeles	Yes	
Lea Tate				
Date Appointed:	December 7, 2018			
Meeting Type	Meeting Date	Meeting Location	Attended?	
Board Meeting	2/7-8/2019	State Capitol (Sacramento)	Yes	
Board Meeting	3/29/2019	Teleconference	nce Yes	
Board Meeting	4/24-26/2019	Los Angeles	Yes	
Outreach and Education Committee Mtg	5/17/2019	Sacramento	Yes	
Board Meeting	8/15-16/2019	Berkeley	No	
Board Meeting	10/3-4/2019	San Diego	Yes	
Board Meeting	11/8/2019	Teleconference	Yes	

Table 1b. Board/Committee Member Roster							
Member Name (Include Vacancies)	Date First Appointed	Date Re- appointed	Date Term Expires	Appointing Authority	Type (public or professional)		
Adelita "Alita" Bernal	8/3/2016		6/1/2020	Senate	Public Member		
Sheryll Casuga, PsyD	8/18/2017	10/2/2019	6/1/2023	Governor	Licensed Member		
Marisela Cervantes	4/29/2019		6/1/2022	Assembly	Public Member		
Seyron Foo (Vice-President)	5/17/2017		6/1/2020	Governor	Public Member		
Mary Harb Sheets, PhD	12/7/2018		6/1/2020	Governor	Licensed Member		
Jacqueline Horn, PhD	10/23/2013	6/3/2015	6/1/2019	Governor	Licensed Member		

Table 1b. Board/Committee	Member Roste	r			
Member Name (Include Vacancies)	Date First Appointed	Date Re- appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Stephen Phillips, JD, PsyD (President)	9/25/2013	6/2/2016	6/1/2019	Governor	Licensed Member
Lea Tate, PsyD	12/7/2018		6/1/2022	Governor	Licensed Member
VACANT				Governor	Public Member

## 2. In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?

There have been no issues with establishing a quorum in the past four years.

- 3. Describe any major changes to the board since the last Sunset Review, including, but not limited to:
  - Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)
  - All legislation sponsored by the board and affecting the board since the last sunset review.
  - All regulation changes approved by the board the last sunset review. Include the status of each regulatory change approved by the board.

#### Internal Changes

Since the last Sunset Review, the Board has undertaken major reorganization within its internal structure, including the addition of one Staff Services Manager I (SSM I) and one Staff Services Manager II (SSM II), which has allowed the Board to establish a more effective organizational structure with a Licensing Unit, Enforcement Unit, and Central Services Unit. This reorganization was a result of the 2015 Cooperative Personnel Services (CPS) Human Resource Consulting analysis of the Board's programs.

The CPS analysis recommended a structural reorganization of the Board into three distinct units by function: Licensing, Enforcement, and Central Services (which includes legislative, regulatory, and cashiering functions, among others). The study also recommended that each of these units have an SSM I to directly supervise staff and recommended a reclassification of the Assistant Executive Officer to an SSM II position to perform higher level support for the Board. This new structure ensures that each unit has appropriate supervisory positions in order to adequately monitor staff performance and aid the Board's program improvement efforts.

The Board also has added one additional Associate Governmental Program Analyst (AGPA) to the Enforcement Unit to address increased complaint workload and enhance the Board's enforcement performance measures.

The Board adopted a new Strategic Plan in February 2019, which will direct the Board's activities over the next five years. This plan includes goals related to program efficiencies, process improvements, moving the Board to PaperLite processes, and updating statutes and regulations related to the Board's enforcement and licensing units.

PaperLite is the Board's initiative to reduce its carbon footprint by minimizing its use of paper in its forms, applications and processes. It is anticipated that this effort will result in cost reductions in coming years.

#### **Legislation**

Since the last Sunset Report, the following legislation was sponsored by the Board or affected the Board, its licensees, or consumers of psychological services. This information is provided in chronological order.

#### Legislation Sponsored by the Board:

#### AB 89 (Levine, Chapter 182, Statutes of 2017) Psychologists: Suicide Prevention Training.

This bill, commencing January 1, 2020, requires candidates for licensure as a psychologist to complete at least six hours of coursework or applied experience under supervision in suicide risk assessment and intervention. This bill also applied this same one-time requirement to current licensees as a condition of licensure renewal commencing January 1, 2020.

## AB 2968 (Levine, Chapter 778, Statutes of 2018) Psychotherapist-Client Relationship: Victims of Sexual Behavior and Sexual Contact: Informational Brochure.

This bill modified and modernized requirements for the Department of Consumer Affairs (Department) publication entitled "Professional Therapy Never Includes Sex" (brochure). Specifically, this bill: (1) eliminated the requirement that the Department develop the brochure in consultation with the Attorney General's office; (2) deleted the inclusion of civil and professional association complaint procedures in the brochure; (3) required the brochure to also be provided to victims of psychotherapist-client sexual behavior; (4) defined sexual behavior; and (5) deleted the requirement that the brochure include histories of victims and their families.

#### SB 275 (Pan, 2019) Psychologist: Prohibition Against Sexual Behavior.

This bill would have required an administrative law judge's proposed decision to include an order of licensure revocation when there is a finding that a licensee of the Board of Psychology has engaged in sexual behavior short of sexual contact with a client during therapy, or within two years of termination of therapy.

Disposition: This bill is a 2-year bill and will be taken up in January of 2020.

#### Legislation Affecting the Board, its Licensees, and Consumers of Psychological Services

## AB 796 (Nazarian, Chapter 493, Statutes of 2016) Health Care Coverage: Autism and Pervasive Developmental Disorders

This bill deleted the sunset date, thereby extending indefinitely the requirement that every health care service plan contract and every health insurance policy provide coverage for behavioral health treatment for pervasive developmental disorder or autism.

**Position:** Oppose **Disposition:** Signed by the Governor

#### AB 1715 (Holden, 2016) Healing Arts: Behavior Analysis: Licensing.

This bill would have: 1) established the Behavior Analyst Act (Act) and provided authority to the Board of Psychology (Board) to enforce the Act; 2) required a license as either a Behavior Analyst or an Assistant Behavior Analyst in order to practice behavior analysis, registration to act as a Behavior Analyst Intern, and approval to act as a Behavior Analysis Technician; 3) created the Behavior Analyst Committee (Committee) within the Board; 4) increased the size of the Board; 5) required that the Board begin issuing licenses on July 1, 2018 for Behavior Analysis Technicians and Behavior Analysis Interns, and July 1, 2019 for Behavior Analysts and Assistant Behavior Analysts; and 6) vested the Board with authority to enforce the Act until January 1, 2022, among other things.

Position: Support if Amended

**Disposition:** Held in the Senate Business, Professions and Economic Development Committee.

#### AB 2017 (McCarty, 2016) College Mental Health Services Program

This bill, until January 1, 2022, would have required the Mental Health Services Oversight and Accountability Commission, subject to appropriation by the Legislature, to create a grant program for public community colleges, colleges, and universities for purposes of improving access to mental health services on those campuses.

**Position:** Support **Disposition:** Vetoed by the Governor

#### AB 2086 (Cooley, 2016) Workers Compensation: Neuropsychologists

This bill would have authorized a licensed clinical psychologist meeting specified requirements to be appointed as a qualified medical evaluator in neuropsychology. Additionally, it provided that a medical doctor or osteopath who had successfully completed a residency or fellowship program accredited by a predecessor to the Accreditation Council for Graduate Medical Education would satisfy the residency training requirement for an evaluator under the Worker's Compensation Law.

**Position:** Support If Amended **Disposition:** Vetoed by the Governor

#### AB 2443 (Baker, 2016) Improving Mental Health Access for Students

This bill relates to a Local Control and Accountability Plan by the governing board of a school district. This bill would have required a description of the annual goals to be achieved for each of the state's delineated priorities for all pupils, and certain subgroups of pupils, and add to those factors the number of practicing school psychologists working on school climate issues.

**Position:** Support **Disposition:** Failed deadline, last location was in Assembly Committee on Appropriations

#### SB 1034 (Mitchell, 2016) Health Care Coverage: Autism

This bill would have modified requirements to be a qualified autism service professional to include providing behavioral health treatment, which would have included clinical management and case supervision under the direction and supervision of a qualified autism service provider. The bill

would have required that, unless a treatment plan was modified by a qualified autism service provider, utilization review would be conducted no more than once every six months. The bill would have also provided that coverage for behavioral health treatment for pervasive developmental disorder or autism would be dependent on medical necessity, subject to utilization review, and required to be in compliance with federal mental health parity requirements. The bill would have extended the operation of these provisions to January 1, 2022.

#### Position: Oppose

**Disposition:** Failed deadline, last location was in Assembly Committee on Appropriations

#### SB 1193 (Hill, Chapter 484, Statutes of 2016) Healing Arts.

This bill, among other things, extended the sunset date for the Board of Psychology four years from January 1, 2017, to January 1, 2021, as well as provided several policy changes. Specifically, this bill required an applicant to graduate from a regionally accredited institution; redefined continuing education as continuing professional development, and modified the requirements to satisfy the standard for continuing professional development before license renewal; established policies for posting licensee information on the Board's website; created a "retired" license category; and made technical changes to the psychological assistant registration.

**Position:** Support **Disposition:** Signed by the Governor

#### AB 244 (Cervantes, 2017) – Maternal Mental Health

This bill would have created a pilot program, in counties that elected to participate, to increase the capacity of health providers that serve pregnant and postpartum women up to one year after delivery to effectively prevent, identify, and manage postpartum depression and other mental health conditions. The pilot program could have included the following: a consultation program utilizing telehealth and e-consult technologies; training and toolkits on screening, assessment, and the range of treatment options; coordination of care for program participants; and access to perinatal psychiatric consultations for program participants.

Position: Support If Amended

Disposition: Failed deadline, last location was in Assembly Committee on Health

#### AB 1456 (Low, Chapter 151, Statutes of 2017) Professional Licensure.

This bill modifies existing waivers from licensure requirements allowed in specified facilities or settings under the California Department of Public Health, Department of Health Care Services, Department of State Hospitals, and the California Department of Corrections. This bill brings conformity to the various exemption waivers by making all waivers up to a maximum of five years and requires that individuals receiving the exemption waiver must be working to gain the supervised professional experience required for licensure.

### **Position:** Support **Disposition:** Signed by the Governor

## AB 1188 (Nazarian, Chapter 557, Statutes of 2017) Health Professions Development: Loan Repayment.

This urgency bill increases the fee collected from psychologists, marriage and family therapists, and clinical social workers at the time of licensure renewal for deposit into the Mental Health Practitioner Education Fund (Fund) from \$10 to \$20. This bill also adds licensed professional clinical counselors and associate professional clinical counselors to the list of mental health providers that can apply for grants from the Fund and establishes a \$20 fee for licensed professional clinical counselors at the time of licensure renewal for deposit into the Fund. Although this was an urgency bill, it did not take effect until July 1, 2018.

**Position:** Support **Disposition:** Signed by the Governor

## SB 547 (Hill, Chapter 429, Statutes of 2017) – Professions and Vocations: Weights and Measures (Board Omnibus Bill)

SB 547 removes the specification in statute as to who can pay the psychological assistant registration fee to the Board and specifies that the delinquency for Board licensees is 50 percent of the renewal fee for each license type, not to exceed one hundred and fifty dollars (\$150). This bill also makes various changes to provisions for the Board of Accountancy.

**Position:** Support **Disposition:** Signed by the Governor

#### SB 572 (Stone, 2017) – Healing Arts Licensees: Violations: Grace Period

This bill would have prohibited healing arts boards under the DCA from issuing a disciplinary action or otherwise penalizing a licensee who commits a violation that does not cause irreparable harm to a consumer and is remedied within 15 days.

**Position:** Oppose

**Disposition:** Failed deadline, last location was in Senate Committee on Business, Professions and Economic Development

## AB 282 (Jones-Sawyer, Chapter 245, Statutes of 2018) – Aiding, Advising, or Encouraging Suicide: Exemption from Prosecution

This bill codifies that any person whose actions are performed in compliance with the provisions in the End of Life Option Act cannot be prosecuted for those actions under Penal Code Section 401.

**Position:** Support **Disposition:** Signed by the Governor

#### AB 1436 (Levine, Chapter 527, Statutes of 2018) – Board of Behavioral Sciences: Licensees: Suicide Prevention Training

This bill, on or after January 1, 2021, requires an applicant for any license type under the Board of Behavioral Sciences (BBS), to complete a minimum of 6 hours of coursework or applied experience under supervision in suicide risk assessment and intervention. Additionally, the bill requires, on or after January 1, 2021, as a onetime requirement, any licensee under BBS to have

completed this suicide risk assessment and intervention training requirement prior to the time of his or her first renewal. Lastly, the bill also requires, on or after January 1, 2021, a person applying for reactivation or for reinstatement to have completed this suicide risk assessment and intervention training requirement.

**Position:** Support **Disposition:** Signed by the Governor

## AB 2138 (Chiu, Chapter 995, Statutes of 2018) – Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction

This bill amended various provisions of the Business and Professions Code relating to the Board's ability to deny a license or take disciplinary action in relation to criminal convictions based on various factors related to the crime, and revised requirements related to the criteria of rehabilitation that boards must consider when evaluating the denial of an application, a petition for reinstatement, or a petition for early termination of probation. This bill significantly limited when the Board can deny, revoke or suspend a license based on a conviction or other act.

**Position:** Oppose **Disposition:** Signed by the Governor

## AB 2143 (Caballero, 2018) – Mental Health: Licensed Mental Health Service Provider Education Program

This bill would have expanded the Licensed Mental Health Service Provider Education Program to apply to persons eligible under existing law who attain further education in order to practice as psychiatric-mental health nurse practitioners or physician assistants in psychiatric mental health settings, thereby allowing those practitioners to apply for grants under the program for reimbursement of those later-incurred educational loans, but paid for by the fund established for psychology licensees.

**Position:** Oppose **Disposition:** Vetoed by the Governor

## AB 2483 (Voepel, 2018) – Indemnification of Public Officers and Employees: Antitrust Awards

This bill would have expanded the Government Claims Act to require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the DCA for an act or omission occurring within the scope of the member's official capacity as a member of the regulatory board. The bill would have also specified that treble damages awarded pursuant to, and for violation of ,specified federal laws are not punitive or exemplary damages for purposes of the act.

#### **Position:** Support

**Disposition:** Failed deadline, last location was on the Senate Committee on Judiciary

#### AB 2943 (Low, 2018) – Unlawful Business Practices: Sexual Orientation Change Efforts

This bill would have included, as an unlawful practice prohibited under the Consumer Legal Remedies Act, advertising, offering for sale, or selling services constituting sexual orientation change efforts to an individual.

This bill would have defined sexual orientation change efforts as follows:

(1) "Sexual orientation change efforts" means any practices that seek to change an individual's sexual orientation. This includes efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.
 (2) "Sexual orientation change efforts" does not include psychotherapies that: (A) provide acceptance, support, and understanding of clients or the facilitation of clients' coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices or to otherwise promote healthy sexual and romantic relationships; and (B) do not seek to change sexual orientation.

#### Position: Support Disposition: Failed deadline, last location was on the Assembly Floor SB 1125 (Atkins, 2018) – Federally Qualified Health Center and Rural Health Clinic Services

This bill would have allowed Medi-Cal reimbursement for a patient receiving medical services at a federally qualified health center or rural health clinic, to receive both medical services and also to obtain mental health services on the same day they receive the medical services.

**Position:** Support **Disposition:** Vetoed by the Governor

#### AB 1076 (Ting, Chapter 578, Statutes of 2019) Criminal Records: Automatic Relief

This bill requires the California Department of Justice (DOJ) to automatically seal specified arrest and conviction records that meet certain criteria and timeframes without requiring the individual to petition the court. This bill also prohibits DOJ from providing any licensing board under the DCA with information on arrests or convictions that have been sealed. Additionally, this bill prohibits the courts from disclosing any information concerning arrests that were granted relief pursuant to the bill's provisions or convictions that have been granted relief pursuant to multiple code sections, to any entity except for criminal justice agencies and California Department of Social Services licensing programs related to facilities and/or services for the elderly, chronically ill, or child day care. Additionally, this bill removes the Board's ability to deny an application for licensure based on a conviction, or the acts underlying the conviction, that has received relief under the provisions of AB 1076 by adding it to the other convictions that were provided relief that the Board cannot use pursuant to AB 2138 (Chapter 995, Statutes of 2018).

#### Position: Oppose

**Disposition:** Signed by the Governor

#### AB 1145 (Garcia, 2019) Child Abuse: Reportable Conduct

For the purposes of the Child Abuse Neglect Reporting Act (CANRA), this bill would have revised the definition of sexual assault to no longer include any acts under Penal Code Sections 286 (sodomy), 287 (oral copulation) or former Section 288a, and Section 289 (sexual penetration), if

committed voluntarily and if there are no indicators of abuse, unless the conduct is between a person 21 years of age or older and a minor who is under 16 years of age.

#### **Position:** Support

**Disposition:** Failed deadline, last location was on the Assembly Committee on Appropriations

#### SB 53 (Wilk) Open Meetings

This bill would have modified the Bagley-Keene Open Meeting Act to require two-member advisory committees of a "state body" to hold open, public meetings if at least one member of the advisory committee is a member of the larger state body, and the advisory committee is supported, in whole or in part, by funds provided by the state body.

Position: Oppose

**Disposition:** Failed deadline, last location was on the Assembly Committee on Appropriations

#### SB 66 (Atkins) Medi-Cal: Federally Qualified Health Center and Rural Health Clinic Services

This bill would have allowed Medi-Cal reimbursement for a patient receiving both medical and mental health services at a federally qualified health center or rural health clinic on the same day.

#### Position: Support

Disposition: Failed deadline, last location was on the Assembly Floor

## SB 425 (Hill, Chapter 849, Statutes of 2019) Health Care Practitioners: Licensee's File: Probationary Physician's and Surgeon's Certificate: Unprofessional Conduct

This bill requires any health care facility, or other entity that arranges for healing arts licensees to practice or provide care for patients at their institution (such as a college), to report any written allegation of sexual abuse or sexual misconduct made against a healing arts licensee by a patient, or the patient's representative, to the relevant state licensing agency within 15 days of receiving the written allegation. This bill also requires the relevant agency to investigate the circumstances underlying a received report. The bill requires such a report to be kept confidential and not subject to discovery or disclosure, except that it may be reviewed and disclosed in any subsequent disciplinary hearing conducted pursuant to the Administrative Procedure Act. Additionally, the bill makes a willful failure to file the report by a health care facility or other entity punishable by a civil fine not to exceed \$100,000 per violation and any other failure to make that report punishable by a civil fine not to exceed \$50,000 per violation.

## **Position:** Support **Disposition:** Signed by the Governor

#### **Regulatory Changes**

#### Approved Packages

Verification of Experience Package – Effective October 1, 2017. This regulatory
package amended regulations regarding criteria for the submission of Verification of
Experience and Supervision Agreement forms. Specifically, the regulation requires that the
Supervision Agreement and Verification of Experience forms be submitted to the Board at
the time of application for licensure or registration. This regulatory package also removed

the requirement that a training plan be submitted and pre-approved by the Board when a psychological assistant is in a private practice setting.

- Uniform Standards Related to Substance Abuse and Disciplinary Guidelines Effective January 1, 2017. In order to implement a 2008 legislation from Senate Bill (SB) 1441 (Ridley-Thomas, Chapter 548), which was designated to protect the public by monitoring psychologists (and other healing arts professionals) impaired by drug or alcohol abuse, the Board promulgated regulations which became effective January 1, 2017. The Board now utilizes the revised disciplinary guidelines entitled "Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees" (4/15), which have been incorporated into section 1397.12 (renumbered to 1395.2) of Title 16 of the California Code of Regulations (CCR). The new Guidelines are used when considering discipline against a substance abusing licensee and clarified and restructured existing guidelines used when considering disciplinary action.
- Filing of Addresses Effective July 1, 2016. This regulatory package requires a licensee to provide a physical address if their current address of record is a P.O. Box. This regulatory package also requires licensees to report their electronic mailing address (if they have one) and report any address of record changes to the Board within 30 days.

#### Current Regulatory Packages

In this section, "Initial Departmental Review" means review by the following entities:

- DCA Legal Affairs Division
- DCA Budget Office
- DCA Division of Legislative Affairs
- DCA Deputy Director of Legal Affairs
- DCA Director
- Secretary of Business, Consumer Services, and Housing Agency

## <u>Update on 16 CCR Sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Assistants</u>

Preparing	Initial	Notice with	Notice of	Preparation of	Final	Submission	OAL Approval
Regulatory	Departmental	OAL and	Modified Text	Final	Departmental	to OAL	and Board
Package	Review	Hearing	and Hearing	Documentation	Review	for Review	Implementation

The purpose of this proposed regulatory language is to conform to statutory changes, implementing the requirement that the person responsible for the initial registration, the registration renewal, and any changes in the registration status, is the psychological assistant, not the employer and/or primary supervisor.

This package is in the Initial Departmental Review Stage.

#### Addition to 16 CCR Sections 1391.13, and 1391.14 – Inactive Psychological Assistant Registration and Reactivating A Psychological Assistant Registration

Preparing	Initial	Notice with	Notice of	Preparation of	Final	Submission	OAL Approval
Regulatory	Departmental	OAL and	Modified Text	Final	Departmental	to OAL	and Board
Package	Review	Hearing	and Hearing	Documentation	Review	for Review	Implementation

16 CCR section 1391.1 limits the period of a psychological assistant registration to a cumulative total of six years (72 months). The period of registration counts towards the six-year limitation as long as the psychological assistant is holding a current registration. Currently, there is no mechanism available to place a registration on hold. This regulatory package would create an "inactive" status for registered psychological assistants that would be similar to the "inactive" status currently available for a psychologist licensee who is not engaging in the practice of psychology.

Staff is currently preparing this regulatory package and will submit it to Board Legal Counsel upon completion.

Update on 16 CCR Section 1396.8 – Standards of Practice for Telehealth

Preparing	Initial	Notice with	Notice of	Preparation of	Final	Submission	OAL Approval
Regulatory	Departmental	OAL and	Modified Text	Final	Departmental	to OAL	and Board
Package	Review	Hearing	and Hearing	Documentation	Review	for Review	Implementation

The Board regulates licensed psychologists, registered psychological assistants, and registered psychologists, all of whom are entitled to provide psychological services in California. BPC Section 2920.1 states that protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. BPC Sections 2290.5 and 2904.5 allow licensees of the Board to provide psychological health care services via telehealth. BPC Section 2930 authorizes the Board to adopt regulations as may be necessary to enable the Board to effectuate the Psychology Licensing Law. This regulatory package would add 16 CCR section 1396.8 to establish standards of practice for providing services via telehealth by licensed California psychologists and psychology trainees.

This package is in the Initial Departmental Review Stage.

<u>Update on 16 CCR Sections 1381.9, 1381.10, 1392 – Retired License, Renewal of Expired</u> <u>License, Psychologist Fees</u>

Preparing	Initial	Notice with	Notice of	Preparation of	Final	Submission	OAL Approval
Regulatory	Departmental	OAL and	Modified Text	Final	Departmental	to OAL	and Board
Package	Review	Hearing	and Hearing	Documentation	Review	for Review	Implementation

Senate Bill (SB) 1193 (Hill) (Chapter 484, Statutes of 2016) was signed by Governor Brown on September 22, 2016. This bill added BPC Section 2988.5, effective January 1, 2017, which gives the Board the authority to issue a retired license to a psychologist who holds a current license issued by the Board. Although SB 1193 gave the Board the statutory authority to issue retired licenses, it does not specify the provisions and procedures for obtaining such a license status. The purpose of this regulatory language is to specify the requirements for obtaining and maintaining a psychologist license in retired status.

This package is in the Initial Departmental Review Stage.

#### <u>Update on 16 CCR Sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing</u> <u>Professional Development</u>

Preparing	Initial	Notice with	Notice of	Preparation of	Final	Submission	OAL Approval
Regulatory	Departmental	OAL and	Modified Text	Final	Departmental	to OAL	and Board
Package	Review	Hearing	and Hearing	Documentation	Review	for Review	Implementation

Currently, the Board requires all licensees to accrue 36 hours of continuing education, including nine hours of live or live-interactive CE, each renewal cycle in order to maintain their license. This regulatory package would replace the current continuing education model with a broader Continuing Professional Development (CPD) model. This model will consist of fourteen continuing professional development activities grouped under four different categories. The four categories and fourteen learning activities include:

- 1) Professional (Peer Consultation, Practice Outcome Monitoring, Professional Activities, Conferences/Conventions, Examination Functions)
- 2) Academic (Academic Courses, Academic Instruction, Supervision, Publications)
- 3) Sponsored Continuing Education Coursework including Independent/Online Learning, and
- 4) Board Certification from the American Board of Professional Psychology (ABPP).

This package is in the Initial Departmental Review Stage.

<u>Update on 16 CCR Sections 1394, 1395, 1395.1, 1392 – Substantial Relationship Criteria,</u> <u>Rehabilitation Criteria for Denials and Reinstatements, Rehabilitation Criteria for</u> <u>Suspensions and Revocations</u>

Preparing	Initial	Notice with	Notice of	Preparation of	Final	Submission	OAL Approval
Regulatory	Departmental	OAL and	Modified Text	Final	Departmental	to OAL	and Board
Package	Review	Hearing	and Hearing	Documentation	Review	for Review	Implementation

As required under AB 2138 (Chapter 995, Statutes of 2018), the Board proposes to amend sections 1394, 1395, and 1395.1 of article 7 of division 13.1 of title 16 of the CCR to adhere to these mandates and revise its "substantial relationship" criteria and "rehabilitation" criteria for denials and reinstatements, and suspension and revocations.

This package is in the Initial Departmental Review Stage.

#### 4. Describe any major studies conducted by the board (cf. Section 12, Attachment C).

The Board has not conducted any major studies since the last Sunset Review.

#### 5. List the status of all national associations to which the board belongs.

• Does the board's membership include voting privileges?

#### Association of State and Provincial Psychology Boards (ASPPB)

The Board is currently a member of the ASPPB. This organization includes state, provincial, and territorial agencies responsible for the licensure and certification of psychologists throughout the United States (U.S.) and Canada. Currently, the psychology boards of all 50 states of the U.S., the District of Columbia, the U.S. Virgin Islands, Puerto Rico, Guam, and all 10 provinces of Canada are members of ASPPB. This membership includes voting privileges; however, attendance is required to exercise voting privileges in this association.

#### Council on Licensure, Enforcement and Regulation (CLEAR)

CLEAR is an association of individuals, agencies and organizations that comprise the international community of professional and occupational regulation, providing a forum for improving the quality and understanding of regulation to enhance public protection. The Board's membership is part of a Department of Consumer Affairs (DCA) organizational membership and does come with voting privileges represented by a single organization vote.

• List committees, workshops, working groups, task forces, etc., on which board participates.

#### <u>ASPPB</u>

The Board's Executive Officer is a standing member of ASPPB's Board Administrators and Regents Committee (BARC).

#### <u>CLEAR</u>

None.

• How many meetings did board representative(s) attend? When and where?

#### <u>ASPPB</u>

ASPPB conducts its Annual Meeting of Delegates in October of each year, and its Midyear Meeting in April of each year. Unfortunately, due to budget constraints, since the last Sunset Review, the Board has only been approved to participate in two of the last eight meetings. The meetings attended were in April 2018 in Savannah, Georgia and April 2019 in Santa Fe, New Mexico. Additionally, the Board attended the ASPPB Board of Director's luncheon meeting in San Francisco, CA in August 2018.

#### <u>CLEAR</u>

None.

• If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?

ASPPB is the owner and developer of the national licensing examination in psychology, the Examination for Professional Practice in Psychology (EPPP). Although the Board is not directly involved in the development and scoring of this examination, as a member of ASPPB, the Board's delegate can provide feedback and raise jurisdictional concerns to inform the development of future forms of the examination, when approved to attend the Annual or Midyear meetings. The Board contracts with ASPPB for the administration of the examination. The passing score for the EPPP in California is established by regulation. Currently, the Board applies a scaled score of 500 as recommended by ASPPB. The Board utilizes the services of the Department of Consumer Affairs' (DCA) Office of Professional Examination Services to conduct an audit of the national examination every seven years. The purpose of the audit is to determine whether the examination meets the professional guidelines and technical standards outlined in the Standards for Educational and Psychological Testing (Standards) and the California Business and Professions Code (BPC) Section 139. The ASPPB conducts a complete occupational analysis every seven to ten years. Its last occupational analysis was completed in 2016.

#### Section 2 – Performance Measures and Customer Satisfaction Surveys

6. Provide each quarterly and annual performance measure report for the board as published on the DCA website.

See attached quarterly and annual performance measure reports in Section 12, Attachment D. The reports are available on the DCA website and are current through FY 2017/18.

## 7. Provide results for each question in the board's customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.

See attached licensing customer satisfaction survey data broken down by fiscal year in section [Section 12 and Attachment E].

In the last four fiscal years, a total of 631 surveys were received by the Board:

The majority of customers first contacted the Board's Licensing/Registration Unit through its website/email. Over 50 percent of customers rated the ability of the analysts to address their questions or concerns, staff persons' courteousness and professionalism, and the timeliness of the response received at "Very Good" or above.

In FY 2015/16 and FY 2016/17, 75 percent of the survey responses were received from registration applicants while in FY 2017/18 and 2018/19, 85 percent of responses were received from licensure applicants.

Despite the difference in the type of applicants, over 55 percent of the respondents rated the level of ease to complete the application at "Very Good" or above, and over 60 percent reported that their applications were processed in a timely manner. Between 46 and 59 percent of respondents reported being contacted in a timely manner regarding any deficiencies in their application, and over 65 percent of them rated the courteousness, helpfulness and responsiveness of the staff person processing the application at "Very Good" or above. The overall average ratings for the last four fiscal years are provided below:

	Level of Ease to Complete Application	Courteousness, Helpfulness and Responsiveness of Staff						
Excellent	30%	56%						
Very Good	32%	15%						
Good	19%	8%						
Fair	9%	7%						
Poor	5%	8%						
NOTE: Percentages may not result in 100% due to incomplete responses by survey respondents.								

	Application was Processed in a Timely Manner	Contacted in a Timely Manner regarding Application Deficiencies						
Yes	72%	52%						
No	23%	18%						
Not Applicable	N/A	26%						
NOTE: Percentages may not result in 100% due to incomplete responses by survey respondents.								

The percentage of online applications for licensure nearly doubled from FY 2015/16 (26 percent) to FY 2016/17 (50 percent), and roughly half of the respondents reported applying online for licensure during FY 2017/18 (42 percent) and FY 2018/19 (47 percent).

Regarding the examination processes, nearly half of the respondents rated their experience with the examination vendor, Pearson VUE, and their scheduling process to sit for the Examination for Professional Practice of Psychology (EPPP), at "Very Good" or above in FY 2015/16 (46 percent) and FY 2016/17 (41 percent). An increase in respondents providing a "Very Good" or above rating was reported in FY 2017/18 (53 percent) and FY 2018/19 (54 percent). Some respondents also

rated the experience with the examination vendor, Psychological Services, Inc., and their scheduling process for the California Psychology Laws and Ethics Examination (CPLEE) at "Very Good" or above in FY 2015/16 (46 percent) and in FY 2016/17 (32 percent); an increasing trend of a "Very Good" or above rating was reported in FY 2017/18 (57 percent) and FY 2018/19 (63 percent). The overall average ratings of the experience with the examination vendors and their respective scheduling process for the last four fiscal years are provided below:

	Experience with Pearson VUE & Scheduling Process for EPPP	Experience with Psychological Services, Inc. & Scheduling Process for CPLEE							
Excellent	28%	28%							
Very Good	21%	23%							
Good	11%	9%							
Fair	4%	5%							
Poor	2%	5%							
NOTE: Percentages may not result in 100% due to incomplete responses by survey respondents.									

The Board received a "Very Good" or above rating on the overall experience with the Licensing/Registration Unit from 54 percent to 70 percent of the applicants over the last four fiscal years.

In addition, 139 additional comments were provided over the last four fiscal years. The Board received 57 positive responses regarding the professionalism and helpfulness of staff. Forty-nine respondents experienced long processing times in the review of additional documents and response times relating to applications. A small number of respondents experienced difficulties with the BreEZe system and would like to have the option for all examinations and licensure applications to be available online. Some also felt that the Board is understaffed which is what contributed to the long processing and response times.

#### Section 3 – Fiscal and Staff

#### **Fiscal Issues**

8. Is the board's fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.

The Board's fund is not continuously appropriated.

#### 9. Describe the board's current reserve level, spending, and if a statutory reserve level exists.

The Board is authorized to spend \$5,231,000 including \$402,000 direct to fund charges and projects to collect \$4,219,000 in 2019/20. The budget is structurally out of balance with a current reserve level of 20.4 months, which is slowly decreasing based on the structural imbalance.

The Board is in compliance with BPC Section 128.5 by ensuring its reserves do not exceed more than its operating budget for the next two fiscal years.

## 10. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the board.

Based on the latest fund condition analysis provided by the DCA, the Board is projected to have a fund condition by 2024/25 that would necessitate a fee increase should the projection be realized. If a fee increase is required, the Board has authority to seek a regulatory change to implement the increase.

Table 2. Fund Condition										
(Dollars in Thousands)	FY	FY	FY	FY	FY	FY				
(Dollars III Thousands)	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21				
Beginning Balance	\$5,237	\$4,777	\$4,297	\$3,399	\$7,557	\$9,843				
Revenues and Transfers	\$4,150	\$4,337	\$4,328	\$4,404	\$4,219	\$4,287				
Total Revenue	\$9,387	\$9,114	\$8,625	\$13,208	\$15,476	\$14,130				
Budget Authority	\$4,984	\$4,989	\$5,158	\$5,341	\$5,231	\$5,388*				
Expenditures	\$4,658	\$4,585	\$4,919	\$5,290	\$5,231*	\$5,388*				
Direct to Fund charges	\$8	\$232	\$307	\$361	\$402*	\$402*				
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0				
Accrued Interest, Loans to General Fund	\$0	\$0	\$0	\$1,605	\$3,700**	\$0				
Loans Repaid from General Fund	\$0	\$0	\$0	\$3,800	\$3,700	\$0				
Fund Balance	\$4,721	\$4,297	\$3,399	\$7,557	\$9,843	\$8,340				
Months in Reserve	11.8	9.9	7.2	16.1	20.4	16.8				

\*Projected figures

\*\*Interest payment amount pending report from DCA Budget Office

## 11.Describe the history of general fund loans. When were the loans made? When have payments been made to the board? Has interest been paid? What is the remaining balance?

A loan of \$5.0 million was made from the Board to the General Fund in Fiscal Year (FY) 2002/03, \$3.8 million was repaid to the Board in FY 2018/19, and \$1.2 million is scheduled for repayment in FY 2019/20. An interest payment of \$1.605 million was repaid to the Board in FY 2018/19. A loan of \$2.5 million was made from the Board to the General Fund in FY 2008/09 and is scheduled for repayment in FY 2019/20.

# 12. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the board in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

As of FY 2018/19, the Board operated on a budget of \$5.3 million, with approximately 33 percent of its budget devoted to enforcement activities, 24 percent to examination and licensing functions, 25 percent to administration, and 18 percent to DCA pro rata costs.

Table 3. Expend	Table 3. Expenditures by Program Component(list dollars in thousands)											
	FY 2015	5/16	FY 201	6/17	FY 2017	7/18**	8** FY 2018/19**					
	Personnel Perso		Personnel		Personnel		Personnel					
	Services	OE&E	Services	OE&E	Services	OE&E	Services	OE&E				
Enforcement	\$612	\$1,527	\$664	\$1,389	\$669	\$1,394	\$739	\$1,007				
Examination	\$0	\$132	\$0	\$138	\$0	\$71	\$0	\$298				
Licensing	\$812	\$344	\$976	\$264	\$697	\$228	\$770	\$215				
Administration*	\$438	\$148	\$470	\$103	\$957	\$281	\$1,051	\$265				
DCA Pro Rata	\$0	\$780	\$0	\$770	\$0	\$857	\$0	\$939				
Diversion (if applicable)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A				
TOTALS	\$1,862	\$2,931	\$2,110	\$2,664	\$2,323	\$2,831	\$2,560	\$2,724				

\*Administration includes costs for executive staff, board, administrative support, examination personnel, and fiscal services.

\*\*Figures are projected.

### 13. Describe the amount the board has contributed to the BreEZe program. What are the anticipated BreEZe costs the board has received from DCA?

Through FY 2017/18, the Board has paid \$1,068,689 for the BreEZe system. The Board is projected to spend \$206,000 towards BreEZe in FY 2018/19 and \$160,000 in FY 2019/20.

## 14. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the board.

Licensed psychologists renew their licenses biennially. Psychological assistants renew annually. There have been no changes to the renewal cycle in the last 10 years; however, for a license issued on or after January 1, 2016, the renewal cycle is two years from the date of issuance. For those licensed on or prior to December 31, 2015, the license continues to expire at 12 midnight of the last day of the month of the birthdate of the licensee.

- Effective January 1, 2013, the psychology license renewal fee was \$420, with the following breakdown in fees:
  - \$400 (16 CCR section 1392(e))
  - \$10 (BPC Section 2987.2)
  - \$10 (16 CCR section 1397.69)
- Since July 1, 2018, the psychology license renewal fee is \$430, with the following breakdown in fees:
  - \$400 (16 CCR section 1392(e))
  - o \$20 (BPC Section 2987.2)
  - \$10 (16 CCR section 1397.69)
- Effective January 1, 2018, the Delinquent Renewal for Psychologists changed from \$25 to \$150 and the Delinquent Renewal for Psychological Assistants changed from \$25 to \$20.

Table 4. Fee Schedule and Rev	venue			(lis	st revenue o	dollars in tho	usands)
Fee	Current Fee Amount	Statutory Limit	FY 2015/16 Revenue	FY 2016/17 Revenue	FY 2017/18 Revenue	FY 2018/19 Revenue	% of Total Revenue
LICENSING FEES							
Application Fee – Psychologist BPC § 2987/16 CCR § 1392	\$40	\$50	\$58	\$55	\$59	\$61	1%
Application Fee – Psych Assistant BPC § 2987/16 CCR § 1392.1	\$40	\$75	\$41	\$35	\$31	\$30	1%
Initial License Fee – Psychologist BPC § 2987/16 CCR § 1392	\$400	\$500	\$401	\$334	\$362	\$346	8%
California Psychology Laws and Ethics Examination (CPLEE) BPC § 2987/16 CCR § 1392	\$129	Actual Cost to Board	\$156	\$144	\$157	\$170	4%
CE Evaluation Fee BPC § 2915(j)/16 CCR § 1397.69	\$10	\$10	\$81	\$87	\$78	\$85	2%
Biennial Renewal Fee – Psychologist BPC § 2987	\$400	\$500	\$3,197	\$3,439	\$3,301	\$3,416	78%
Inactive License (Psychologists) BPC § 2987/16 CCR § 1392	\$40	\$40	\$50	\$58	\$58	\$55	1%
Annual Renewal Fee – Psychological Assts BPC § 2987/16 CCR § 1392.1	\$40	\$75	\$34	\$36	\$36	\$33	1%
Delinquent Fee – Psychologist BPC § 2987	\$150	\$150*	\$11	\$12	\$23	\$34	1%
Delinquent Inactive Renewal Fee – Psychologists BPC § 2987	\$20	50% of Renewal Fee	\$0	\$0	\$2	\$4	<1%
Delinquency Fee – Psychological Assts BPC § 2987	\$20	50% of Renewal Fee	\$1	\$1	\$1	\$1	<1%
Duplicate License Fee BPC § 2987	\$5	\$5	\$3	\$3	\$8	\$5	<1%
Certification / Letter of Good Standing	\$5	\$5	\$2	\$2	\$2	\$2	<1%
FINES & PENALITES							
Citations & Fines BPC § 125.9/16 CCR § 1397.51	Varies	\$5,000	\$58	\$64	\$148	\$53	1%
Franchise Tax Board Cite Fine Collection	Varies	N/A	\$0	\$0	\$3	\$1	<1%
OTHER							
Income from Surplus Money Investment	Variable	N/A	\$24	\$38	\$40	\$68	2%
Suspended Revenue	Variable	N/A	\$32	\$21	\$19	\$23	1%
Over/Short Fees	Variable	N/A	\$1	\$0	\$0	\$0	<1%

Table 4. Fee Schedule and Rev	(lis	(list revenue dollars in thousands)						
	Current	Statutory Limit	FY	FY	FY	FY	% of	
Fee	Fee		2015/16	2016/17	2017/18	2018/19	Total	
	Amount		Revenue	Revenue	Revenue	Revenue	Revenue	
OTHER (cont.)								
Miscellaneous**	Variable	N/A	\$1	\$1	\$4	\$1	<1%	

\*B&P 2987 mandates the delinquent fee be 50% of the renewal fee up to \$150.

\*\*Includes sales of publications, cancelled warrants revenue and dishonored check fee.

## 15. Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.

The Board of Psychology submitted three BCPs in the past four fiscal years.

In FY 2016/17, the Board received position authority for one Program Technician (PT) II position to address increased workload associated with new cashiering and mail processing responsibilities.

In FY 2017/18, the Board received position authority for one Staff Services Manager I (SSM I) and one Staff Services Manager II (SSM II). This BCP was related to a major reorganization in the Board's internal structure, which has allowed the Board to establish a more effective organizational structure with a Licensing Unit, Enforcement Unit, and Central Services Unit.

In FY 2019/20, the Board received position authority for one Associate Governmental Program Analyst (AGPA) in its Enforcement Unit. This AGPA has helped manage the increasing complaint volume.

Table	5. Budge	et Change Propos	als (BCPs)					
				OE&E				
BCP ID #	Fiscal Year*	Description of Purpose of BCP	# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Requested	\$ Approved	\$ Requested	\$ Approved
1111 -026	2015/ 16	PT II performs increased workload in mail processing and new cashiering duties.	1.0 PT II	1.0 PT II	\$0	\$0	\$0	\$0
1111 -012	2016/ 17	Transition temporary SSM II and SSM I to permanent status.	1.0 SSM II 1.0 SSM I	1.0 SSM II 1.0 SSM I	\$0	\$0	\$0	\$0
1111 -002	2018/ 19	Transition temporary Enforcement Analyst to permanent status.	1.0 AGPA	1.0 AGPA	\$0	\$0	\$0	\$0

\*Fiscal Year in which BCP was submitted

#### **Staffing Issues**

## 16. Describe any board staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.

The Board continues to monitor staffing issues and challenges by evaluating program data to identify staffing resource needs. The Board has experienced difficulty in recruiting and retaining qualified staff at the administrative level (e.g., Program Technician and Office Technician) due to the eligibility requirements established by CalHR. As a result, this has extended the recruitment timelines for these classifications, which in turn has had a detrimental effect on Board resources during lengthy vacancies. Otherwise, the Board has not experienced difficulties filling vacancies with qualified candidates.

The Board engaged the services of Cooperative Personnel Services (CPS) Human Resource Consulting to perform a training needs assessment and succession plan evaluation. CPS identified the training needs of all staff and provided a succession planning manual.

## 17. Describe the board's staff development efforts and how much is spent annually on staff development.

In addition to on-the- job training and cross-training measures, the Board utilizes the DCA's Strategic Organization, Leadership, and Individual Development (SOLID) for staff development purposes. SOLID provides a wide variety of options for staff to consider when seeking or recommending developmental opportunities.

In addition to SOLID, Board staff has participated in developmental opportunities offered by such entities as CPS, CalHR, Office of Administrative Law (OAL), and Council on Licensure, Enforcement, and Regulation (CLEAR), in the following amounts:

Expenditures	2015/16	2016/17	2017/18	2018/19
Staff Training	\$1,143	\$620	\$840	\$4,810

#### Section 4 – Licensing Program

## 18. What are the board's performance targets/expectations for its licensing<sup>2</sup> program? Is the board meeting those expectations? If not, what is the board doing to improve performance?

Previously, the Board's processing goals were established pursuant to 16 CCR section 1381.6, as follows:

Type of application:	Maximum time for notification
Licensed Psychologist:	60 days
Registered Psychologist:	60 days
Registered Psychological Assistant:	180 days

<sup>&</sup>lt;sup>2</sup> The term "license" in this document includes a license certificate or registration.

16 CCR section 1381.6 was repealed in 2018. The Board is meeting program expectations. The Board's current timeframes for initial application review and notification (identify deficiencies or next steps) to the applicant are as follows:

Type of application:	# of business days*
Licensed Psychologist:	25 days
Registered Psychologist:	19 days
Registered Psychological Assistant:	8 days

\*Data as of August 29, 2019

19. Describe any increase or decrease in the board's average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the board to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?

Over the past three fiscal years, the Board has observed a slight increase in the average time to process complete applications and a significant increase in the average time to process incomplete applications. Additionally, the number of pending applications has outpaced completed applications over the last three fiscal years. The Board made enhancements to the BreEZe system to more accurately reflect the actual number of pending applications in early 2019, and the number of pending applications by 14 percent for licensure and registration. The number of pending applications for examinations also exceeds that of completed applications on an average of 13 percent.

While the Board has maintained reasonable application processing timeframes, the Board aims to identify any performance barriers in the licensing process through the Organizational Change Management (OCM) process.

The Board has developed the following improvement plans:

- Pathways to Licensure The Board has conducted a comprehensive review of its statutes and regulations addressing how licensure can be obtained. Amendments identified will remove barriers to licensure and program inefficiencies in the steps to licensure. The Board will be pursuing statutory and regulatory changes to accomplish this goal.
- OCM The Board will be working with the Department of Consumer Affairs (DCA) through OCM to identify and evaluate program and process efficiencies.
- Once the review with OCM is complete, the Board will submit a BCP to seek authorized positions to improve performance.

#### 20. How many licenses or registrations does the board issue each year? How many renewals does the board issue each year?

Table 6. Licensee Popu	lation				
License Type	License Status	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
	Active	17,434	17,828	18,255	18,719
	Delinquent	1,023	1,062	1,144	1,146
Psychologist	Retired	N/A N/A		N/A	N/A
	Out of State***	N/A	N/A	N/A	N/A
	Out of Country***	N/A	N/A	N/A	N/A
	Active	262	232	177	129
Degistered	Delinquent**	N/A	N/A	N/A	N/A
Registered Psychologist	Retired	N/A	N/A	N/A	N/A
Fsychologist	Out of State*	N/A	N/A	N/A	N/A
	Out of Country*	N/A	N/A	N/A	N/A
	Active	1,580	1,442	1,355	1,378
	Delinquent	95	78	100	87
Psychological Assistant	Retired	N/A	N/A	N/A	N/A
	Out of State*	N/A	N/A	N/A	N/A
	Out of Country*	N/A	N/A	N/A	N/A

Note: 'Out of State' and 'Out of Country' are two mutually exclusive categories. A licensee should not be counted in both. \*Registered Psychologists and Psychological Assistants are not registered outside of California.

\*\*Registered Psychologists do not renew so there is no delinquent status

\*\*\*Licensed Psychologists who reside outside of California hold the same active or inactive status code as those who are located in California. Therefore, BreEZe does not distinguish this data.

Table 7a	a. Licensing	g Data by	Туре								
						Pending Applications			Cycle Times		
	Application Type	Received	Approved	Closed	Issued	Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	Combined, IF unable to separate out
	(Exam)**	2,617	2,347	N/A	N/A	320	-	-	N/A	N/A	N/A
FY 2016/17	(License)***	2,416	1,735	N/A	1,735	2,949	-	-	24	41	N/A
2010/17	(Renewal)	9,626	9,327	N/A	9,327	N/A	-	-	N/A	N/A	N/A
	(Exam)**	2,818	2,523	N/A	N/A	408	-	-	N/A	N/A	N/A
FY 2017/18	(License)***	2,322	1,687	N/A	1,687	3,072	-	-	36	62	N/A
2017/10	(Renewal)	9,975	9,520	N/A	9,520	N/A	-	-	N/A	N/A	N/A
FY 2018/19	(Exam)**	2,816	2,437	N/A	N/A	404	-	-	N/A	N/A	N/A
	(License)***	2,361	1,616	N/A	1,616	1,840 ****	-	-	35	87	N/A
	(Renewal)	9,970	9,838	N/A	9,838	N/A	-	-	N/A	N/A	N/A

Optional. List if tracked by the board.

\* Exam applications include initial EPPP and CPLEE applications.

\*\*\* License applications include Initial Application for Licensure across all three types of license and registrations (psychologist, registered psychological assistant and registered psychologist).

\*\*\*\* In early 2019, a data patch closed invalid Initial Application for Psychology Licensure to align with 16 CCR section 1381.4, which resulted in a lower but more accurate number of pending Initial Applications for Psychology Licensure compared to previous fiscal years.

	FY	FY	FY
	2016/17	2017/18	2018/19
Initial Licensing Data:			
Initial Exam Applications Received**	2,617	2,818	2,816
Initial Exam Applications Approved**	1,735	1,687	1,616
Initial Exam Applications Closed**	N/A	N/A	N/A
License Issued***	1,735	1,687	1,616
Initial License/Initial Exam Pending Application Data:****			
Pending Applications (total at close of FY)	320	408	404
Pending Applications (outside of board control)*	N/A	N/A	N/A
Pending Applications (within the board control)*	N/A	N/A	N/A
Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE)	****		
Average Days to Application Approval (All - Complete/Incomplete)	29	31	40
Average Days to Application Approval (incomplete applications)*	46	58	81
Average Days to Application Approval (complete applications)*	23	26	34
License Renewal Data:			
License Renewed	9,327	9,520	9,838
Note: The values in Table 7b are the aggregates of values contained in * Optional. List if tracked by the board. ** Exam applications include initial EPPP and CPLEE applications.	Γable 7a.		

(psychologist, registered psychological assistant and registered psychologist).

\*\*\*\* This reflects only initial examination data. Exam Cycle Time Data includes only CPLEE applications

21. How many licenses or registrations has the board denied over the past four years based on criminal history that is determined to be substantially related to the qualifications, functions, or duties of the profession, pursuant to BPC Section 480? Please provide a breakdown of each instance of denial and the acts the board determined were substantially related.

Denials based on criminal history:

- FY 2015/16: 5
- FY 2016/17: 5
- FY 2017/18: 6
- FY 2018/19: 2

Circumstances based on applicant:

- FY 2015/16
  - Applicant 1 denied based on conviction(s) of: DUI convictions (2)
  - Applicant 2 denied based on conviction(s) of: DUI convictions (2)
  - Applicant 3 denied based on conviction(s) of: DUI convictions (2)
  - Applicant 4 denied based on conviction(s) of: DUI convictions (3)
  - Applicant 5 denied based on conviction(s) of: DUI convictions (2)

- FY 2016/17
  - Applicant 1 denied based on conviction(s) of: DUI, fighting in public, and driving with a suspended license
  - Applicant 2 denied based on conviction(s) of: Felony making a false statement
  - Applicant 3 denied based on conviction(s) of: DUI, disorderly conduct, public intoxication, improper lane change, and hit and run
  - Applicant 4 denied based on conviction(s) of: DUI
  - Applicant 5 denied based on conviction(s) of: Indecent exposure, disturbing the peace, and battery
- FY 2017/18
  - Applicant 1 denied based on conviction(s) of: Driving with a suspended license, providing false identity to a peace officer, and felony false evidence
  - Applicant 2 denied based on conviction(s) of: Petty theft, fictitious checks, and felony grand theft
  - Applicant 3 denied based on conviction(s) of: Contributing to the delinquency of a minor
  - Applicant 4 denied based on conviction(s) of: DUI, and reckless driving
  - Applicant 5 denied based on conviction(s) of: DUI, and reckless driving
  - Applicant 6 denied based on conviction(s) of: Felony medical fraud
- FY 2018/19
  - Applicant 1 denied based on conviction(s) of: Theft by swindle
  - Applicant 2 denied based on conviction(s) of: DUI, trespassing, prostitution, and wet and reckless

#### 22. How does the board verify information provided by the applicant?

a. What process does the board use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant? Has the board denied any licenses over the last four years based on the applicant's failure to disclose information on the application, including failure to self-disclose criminal history? If so, how many times and for what types of crimes (please be specific)?

#### **Process**

The Board requires every applicant for a registration or license to be fingerprinted for a criminal history background check. Once the applicant has completed the fingerprinting process, the Department of Justice (DOJ)/Federal Bureau of Investigation (FBI) provides the background information directly to BreEZe. Authorized Board staff retrieve the applicant's background report. Applicants with a clear criminal history report continue with the application review process. Applicants with a conviction history are requested to provide court certified documentation regarding the arrest and the conviction. Enforcement staff review the criminal history documentation to determine if the conviction is substantially related to the practice of psychology. If a substantial relationship exists, the application may be denied.

Prior to the issuance of a license or registration, Board staff check BreEZe to determine if any disciplinary action has been filed against the applicant by another DCA entity. Additionally, the Board accesses the ASPPB Disciplinary Data Bank to determine if an applicant has ever been disciplined by another jurisdiction.

Once an applicant is licensed or registered, the Board receives subsequent arrest information from the DOJ via a secure portal. Staff checks the secure portal daily for subsequent arrest or

conviction records and forwards any applicable records to the Board's Enforcement Unit for further review.

#### <u>Denials</u>

The Board has denied licensure applications over the last four years based on the applicant's failure to disclose information on the application, including failure to self-disclose criminal history.

- FY 2015/16: 1
- FY 2016/17: 1
- FY 2017/18: 2
- FY 2018/19: 0

#### b. Does the board fingerprint all applicants?

Every applicant for a license or registration must complete the fingerprint process.

#### c. Have all current licensees been fingerprinted? If not, explain.

Since the last Sunset Review, the Board identified individuals who did not have fingerprint results on file and required them to be fingerprinted. All current and active licensees are in compliance with the fingerprint requirement.

## d. Is there a national databank relating to disciplinary actions? Does the board check the national databank prior to issuing a license? Renewing a license?

The ASPPB maintains a national databank of disciplinary actions taken against licensees in every state, Canadian province, and U.S. territory. Licensing staff conducts a manual check of the databank for each of its applicants prior to the issuance of every license or registration. Renewing licensees and registrants are required to disclose on their renewal application, under penalty of perjury, whether or not, since their last renewal, they have had any license disciplined by a government agency or other disciplinary body.

The Board does not check the national databank for disciplinary action as a condition of renewal; however, the Board does cross-reference data from the ASPPB for out-of-state discipline on a quarterly basis for all licensees.

#### e. Does the board require primary source documentation?

The Board requires primary source verification for the following:

- Official transcripts
- Verification of supervised professional experience
- Certified court-related documents

## 23. Describe the board's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.

#### Out-of-State

BPC Section 2914(b) requires each applicant for licensure to possess a doctoral degree in psychology, educational psychology, or in education with a field of specialization in counseling

psychology or educational psychology from a regionally accredited educational institution in the U.S. or Canada, or from an educational institution in California that is approved by the Bureau for Private Postsecondary Education (BPPE).

Pursuant to changes made from the Board's last sunset review (SB 1193, Chapter 484, Statutes of 2016), the following educational requirements apply for those enrolled or who graduated from a BPPE approved school:

- Applicants for licensure that are enrolled as of December 31, 2016, in a doctoral program in psychology, educational psychology, or education with a field of specialization in counseling psychology or educational psychology at a nationally accredited institution, or an approved institution that meets the requirements of Section 2914 (h), will be able to apply for licensure at any time, and this requirement will not apply.
- Applicants for licensure that enroll in a doctoral program on or after January 1, 2017, in psychology, educational psychology, or education with a field of specialization in counseling psychology or educational psychology at a nationally accredited institution, or an approved institution that meets the requirements of Section 2914 (h), will need to meet the requirements for and apply for licensure on or before December 31, 2019.
- Applicants for licensure that apply on or after January 1, 2020, must possess an earned doctorate degree in psychology, educational psychology, or education with the field of specialization in counseling psychology or educational psychology from a college or institution of higher education that is accredited by a regional accrediting agency recognized by the U.S. Department of Education.

BPC Section 2914(c) also requires each applicant to have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist. 16 CCR Section 1387.4(a) requires that all out-of-state supervised professional experience be supervised by a psychologist licensed at the doctoral level in the State, U.S. territory or Canadian province in which the experience is taking place, in compliance with all laws and regulations of the jurisdiction in which the experience was accrued, and in substantial compliance with all the supervision requirements of section 1387. SPE can be accrued at a U.S. military installation so long as the experience is supervised by a qualified psychologist licensed at the doctoral level in the U.S. or Canada.

16 CCR section 1388(b) sets forth the examination requirements for all applicants for licensure. The licensing examination shall consist of the EPPP, and the CPLEE.

16 CCR section 1388.6 sets forth a waiver of the EPPP for applicants for licensure as a psychologist who have been licensed in another state, Canadian province or U.S. territory for at least five years. Although the EPPP is waived under this section, an applicant must file a complete application and meet all current licensing requirements, including payment of any fees, take and pass the CPLEE, and not have been subject to discipline. Those out-of-state applicants who have been licensed for at least five years and who hold a Certificate of Professional Qualification (CPQ) issued by the ASPPB, are credentialed as a Health Service Provider in Psychology by the National Register of Health Service Psychologists, or are certified by the American Board of Professional Psychology (ABPP) are deemed to have met the educational and experience requirements of subdivisions (b) and (c) of BPC Section 2914.

#### Out-of-Country

BPC Section 2914(b) provides that applicants for licensure trained in an educational institution outside the U.S. or Canada shall demonstrate to the satisfaction of the Board that they

possess a doctorate degree in psychology that is equivalent to a degree earned from a regionally accredited university in the U.S. or Canada. These applicants must provide the Board with a comprehensive evaluation of their degree by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services, and any other documentation the Board deems necessary.

BPC Section 2914(c) also requires each applicant to have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist. 16 CCR section 1387.4(b) allows for SPE to be accrued at a U.S. military installation so long as the experience is supervised by a qualified psychologist licensed at the doctoral level in the U.S. or Canada. Additionally, section 1387.4(c) provides that supervised professional experience can be accrued in countries outside the U.S. or Canada that regulate the profession of psychology pursuant to the same requirements as set forth in BPC section 2914. Supervision accrued outside the U.S., its territories, or Canada must comply with all the supervision requirements of section 1387, and the burden is on the applicant to provide the necessary documentation and translation that the Board may require to verify the qualification of the experience.

16 CCR section 1388(b) sets forth the examination requirements for all applicants for licensure. The licensing examination shall consist of the EPPP and the CPLEE.

- 24. Describe the board's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.
  - a. Does the board identify or track applicants who are veterans? If not, when does the board expect to be compliant with BPC § 114.5?

The Board requires applicants to identify if they have served in the military as required by BPC Section 114.5. Since the last Sunset Review, the DCA added a tracking mechanism in BreEZe for the Board to be in compliance with this section.

# b. How many applicants offered military education, training or experience towards meeting licensing or credentialing requirements, and how many applicants had such education, training or experience accepted by the board?

Supervised professional experience can be accrued at a U.S. military installation if the experience is supervised by a doctoral level psychologist who is licensed in the U.S. or Canada. The Board does not make a distinction between applicants with military education, training or experience from those with education, training or experience accrued in other settings.

## c. What regulatory changes has the board made to bring it into conformance with BPC § 35?

16 CCR section 1387.4(b) permits supervised professional experience to be accrued at a U.S. military installation so long as the experience is supervised by a qualified psychologist who is licensed at the doctoral level in the U.S. or Canada.

## d. How many licensees has the board waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on board revenues?

The Board has received and processed two waivers from renewal fees and continuing education requirements pursuant to BPC Section 114.3 since the last Sunset Review. The fiscal impact of these waivers has been negligible.

#### e. How many applications has the board expedited pursuant to BPC § 115.5?

The Board has expedited 125 applications pursuant to BPC Section 115.5 since the last Sunset Review.

# 25. Does the board send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.

The Board sends No Longer Interested (NLI) notifications to DOJ on a regular and ongoing basis. The NLI's are submitted electronically to the DOJ through the DCA BreEZe interface. At the current time, there is no known backlog.

#### Examinations

#### Table 8. Examination Data

California Examination (include mu	ltiple language) if any:	
	License Type	PSY
	Exam Title	CPLEE
FY 2015/16	# of 1 <sup>st</sup> Time Candidates	953
FT 2015/16	Pass %	98.11%
FY 2016/17	# of 1 <sup>st</sup> Time Candidates	860
FT 2010/17	Pass %	78.02%
EV 2017/19	# of 1 <sup>st</sup> Time Candidates	899
FY 2017/18	Pass %	80.42%
FY 2018/19	# of 1 <sup>st</sup> time Candidates	918
F f 2018/19	Pass %	70.70%
	Date of Last OA	2012
	Name of OA Developer	OPES
	Target OA Date	2019
ational Examination (include multi	ple language) if any:	
	License Type	PSY
	Exam Title	EPPP
EV 2015/16	# of 1 <sup>st</sup> Time Candidates	694
FY 2015/16	Pass %	87.75%
EV 2040/47	# of 1 <sup>st</sup> Time Candidates	901
FY 2016/17	Pass %	69.70%
EV 2047/49	# of 1 <sup>st</sup> Time Candidates	912
FY 2017/18	Pass %	68.20%

Table 8. Examination Data						
National Examination (i	National Examination (include multiple language) if any: (cont.)					
FY 2018/19	# of 1 <sup>st</sup> time Candidates	859				
FT 2010/19	Pass %	69.27%				
	Date of Last OA	2016				
Name of OA Developer ASPPB						
	Target OA Date 2021-2023					

# 26. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required? Are examinations offered in a language other than English?

The national examination required for licensure is the EPPP administered by ASPPB, and the California examination required for licensure is the CPLEE, which is administered by the Board. The EPPP is available in French; however, this version is available only to applicants for licensure in Canada.

Pursuant to 16 CCR 1388(h), an applicant for whom English is the second language may be eligible for additional time when taking the licensing examinations.

## 27. What are pass rates for first time vs. retakes in the past 4 fiscal years? Are pass rates collected for examinations offered in a language other than English?

Below are the pass rates for first time vs. retakes in the past four fiscal years:

Fiscal Year	EPPP				CP	LEE		
	Total First Timers	Pass Rate	Total Retakes	Pass Rate	Total First Timers	Pass Rate	Total Retakes	Pass Rate
2015/2016	694	88%	688	23%	953	98%	375	48%
2016/2017	901	70%	587	28%	860	78%	209	62%
2017/2018	912	68%	692	30%	899	80%	269	71%
2018/2019	859	69%	732	28%	918	71%	348	69%

#### BOARD OF PSYCHOLOGY EXAMINATION PASS RATE OF FIRST TIME VS. RETAKES

Neither examination is offered in another language for California examination candidates. No data is collected for pass rates in a language other than English.

## 28. Is the board using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?

The EPPP and CPLEE are both computer-based examinations. Applicants approved for the EPPP and CPLEE are notified of their eligibility via email by the Board, as well as by the examination vendor. Applicants are instructed to visit a secure website to schedule their examinations. Both examinations are available six days a week at secure testing locations throughout the state. The EPPP is developed and maintained by ASPPB and administered by Pearson VUE at Pearson VUE owned and operated locations. Pearson VUE currently owns 27 examination site locations in California, 283 locations throughout the rest of the U.S. and 24 locations in Canada. The CPLEE

is administered by Psychological Services, Inc. There are 19 California examination site locations and 19 out-of-state examination sites. Applicants taking the EPPP are allowed to take the examination four times within a 12-month period. The CPLEE has a new examination version available every three months, making the examination available to candidates four times per year.

## 29. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.

Since the last Sunset Review, the Board has completed its review of all statutes and regulations that affect the pathways to licensure and registration by identifying sections that create undue barriers and those that are inconsistent with the current training environments, education, and new technologies. The Board will be pursuing legislation, including recommendations made in this report, to address said sections.

#### **School approvals**

#### 30. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?

BPC Section 2914(h) requires that until January 1, 2020, an applicant holding a doctoral degree in psychology from an approved institution is deemed to have met the requirements of this section if both of the following are true: (1) The approved institution offered a doctoral degree in psychology designed to prepare students for a license to practice psychology and was approved by the former Bureau for Private Postsecondary and Vocational Education on or before July 1, 1999; (2) The approved institution has not, since July 1, 1999, had a new location, as described in Section 94823.5 of the Education Code. School approvals are conducted solely by the Bureau for Private Postsecondary Education (BPPE).

Applicants for licensure that apply on or after January 1, 2020, must possess an earned doctorate degree in psychology, educational psychology, or education with the field of specialization in counseling psychology or educational psychology from a college or institution of higher education that is accredited by a regional accrediting agency recognized by the U.S. Department of Education.

## 31. How many schools are approved by the board? How often are approved schools reviewed? Can the board remove its approval of a school?

The Board does not approve schools and has no authority to do so. There are currently five (5) schools approved by the BPPE that meet the criteria listed above.

#### 32. What are the board's legal requirements regarding approval of international schools?

The Board does not approve international schools. However, BPC Section 2914 provides that an applicant for licensure trained in an educational institution outside the U.S. or Canada shall demonstrate to the satisfaction of the Board that he or she possesses a doctorate degree in psychology that is equivalent to a degree earned from a regionally accredited university in the U.S. or Canada. These applicants must provide the Board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services, and any other documentation the Board deems necessary. The Board will be seeking legislation to expand the options and requirements for

foreign degree evaluation services to include the National Register of Health Service Psychologists.

#### **Continuing Education/Competency Requirements**

## 33. Describe the board's continuing education/competency requirements, if any. Describe any changes made by the board since the last review.

Currently, the Board requires all licensees to accrue 36 hours of continuing education, including nine hours of live or live-interactive CE, each renewal cycle in order to maintain their license. Since the last Sunset Review, the Board has initiated the rulemaking process to implement regulatory changes that would replace the current continuing education model with a broader CPD model. This model will consist of fourteen continuing professional development activities grouped under four different categories. The four categories and fourteen learning activities include:

- 1) Professional (Peer Consultation, Practice Outcome Monitoring, Professional Activities, Conferences/Conventions, Examination Functions)
- 2) Academic (Academic Courses, Academic Instruction, Supervision, Publications)
- 3) Sponsored Continuing Education Coursework including Independent/Online Learning, and
- 4) Board Certification from the American Board of Professional Psychology (ABPP).

# a. How does the board verify CE or other competency requirements? Has the Board worked with the Department to receive primary source verification of CE completion through the Department's cloud?

The Board's renewal application requires licensees to self-certify under penalty of perjury that they have met the CE requirements. The Board then conducts random CE audits of licensees renewing each month to verify that the licensees have obtained the required 36 approved hours as certified on their renewal application. While the Board is not working with the Department's cloud-based system, we anticipate the launch of CE audit functionality in the BreEZe system.

## b. Does the board conduct CE audits of licensees? Describe the board's policy on CE audits.

The Board conducts random CE audits of its licensees renewing each month. Selected licensees are mailed and emailed an initial audit notice and are given 60 days from the date of the notice to submit CE course certificates to verify completion of the required CE. If the Board does not receive a response within 30 days, a final notice of the audit deadline is mailed to the licensee. If a licensee passes the audit, the licensee is sent a compliance letter.

#### c. What are consequences for failing a CE audit?

If a licensee does not submit verification of enough hours or submits certificates that do not meet the Board's requirements, the licensee is sent a deficiency letter and is issued a citation and fine. The citation requires the licensee to comply with an order of abatement to accrue the hours the licensee is deficient, and to pay a fine. Fines range from \$250 to \$2,500 depending on the number of hours short and the number of audits the licensee has previously failed. Any licensee who wants to contest a citation or fine can request an informal conference or an administrative hearing. If the licensee fails to provide any response to the audit, the licensee may be subject to discipline.

## d. How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?

In the past four fiscal years, 2,485 licenses have been audited. Of the 2,485 licensees audited, 322 have failed (13%).

#### e. What is the board's course approval policy?

Pursuant to 16 CCR section 1397.61(c), the Board recognizes and accepts for continuing education credit courses that are provided by entities approved by:

- American Psychological Association
- California Psychological Association
- Association of Black Psychologists
- California Medical Association / Accreditation Council for Continuing Medical Education (courses must be specifically applicable and pertinent to the practice of psychology)

## f. Who approves CE providers? Who approves CE courses? If the board approves them, what is the board application review process?

The Board does not approve CE providers or CE courses. CE courses and providers are currently approved by the CE approvers cited above.

## g. How many applications for CE providers and CE courses were received? How many were approved?

The Board does not approve CE providers or CE courses; therefore, the Board did not receive any applications.

#### h. Does the board audit CE providers? If so, describe the board's policy and process.

The Board does not audit CE providers.

## i. Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensee's continuing competence.

The Board's effort to revise its CE policy can be seen through its development of the CPD model. Rather than relying entirely on more passive means of demonstrating competency, it includes and encourages that a portion of CPD be earned by performance-based activities. As competency is not a fixed quality, this ensures a more active participation in maintaining competence.

ASPPB recommended the CPD model and the Board developed and adopted a framework based on this model in order to provide additional avenues for maintaining competence. These additional options are meant to expand the ways licensees can increase their learning and maintain competency and to include avenues for performance-based assessments of licensees' competence. The use of peer consultation is an example of CPD that accomplishes performance-based competency. The Board has initiated the rulemaking process to move forward with the implementation of this model as authorized by statute. 34. What are the board's performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?

Performance Measure (PM)	Definition	Performance Target
PM 1 Volume	Number of complaints and convictions received.	*
PM 2 Intake	Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.	9 days
PM 3 Intake/ Investigation	Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation).	80 days
PM 4 Formal Discipline	Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline (includes intake, investigation, and transmittal outcome).	540 days
PM 5 Efficiency (cost)	Average cost of intake and investigation for complaints not resulting in formal discipline.	**
PM 6 Customer Satisfaction	Consumer satisfaction with the service received during the enforcement process.	***
PM 7 Probation/ Intake	Average number of days from monitor assignment, to date the monitor makes first contact with the probationer.	7 days
PM 8 Probation Violation Response	Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.	10 days
** Data not collected	is counted and not considered a performance measure	15

\*\* The DCA-wide average for all participating programs has been between 80-85% since 2015.

The Board has consistently met all of its performance measures with the exception of Performance Measure 4 (Formal Discipline). The DCA set the performance measure at 540 days; however, this measure includes case involvement outside of the Board's control. For example, cases referred to the Office of the Attorney General and the Office of Administrative Hearings are included in Performance Measure 4 (Formal Discipline). Since the last Sunset Review, the Board has limited the amount of time given to the respondent during settlement negotiations and requested that Accusations/Statement of Issues be filed within 30 days of transmittal to the Office of the Attorney General to improve this performance measure.

35. Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

The Board's volume of complaints and arrests has increased by 27% since the last Sunset Review. Over the past four fiscal years, the Board received the largest number of complaints and arrests totaling 1,232 cases in FY 2018/19 (see Table 9a) as compared to 972 complaints and arrests reported in the last Sunset Review.

The Board continues to meet its performance targets as identified by the Consumer Protection Enforcement Initiative (CPEI), with the exception of Performance Measure 4 (Formal Discipline) (see Attachment 12D). There have been no recognizable trends that the Board has identified to explain the continued increase in complaint volume.

	FY	FY	FY	FY	FY
Ratio of Closure to Pending Cases	2014/15	2015/16	2016/17	2017/18	2018/19
Prior Year Pending (AG Pending Cases and Pending					
Intake or Investigation Cases)	275	415	274	376	488
Complaints and Arrests Received	972	1,038	1,232	1,183	1,232
Closed at Intake	92	210	274	351	336
Closed at Investigation	736	768	918	882	837
Closed at AG	15	15	13	9	11
Closed with Discipline	20	34	53	33	29
Case Workload	1,247	1,453	1,506	1,559	1,720
Case Closure	863	1,027	1,258	1,275	1,213
Pending Cases	384	426	248	284	507
Closure to Pending Ratio	2.25:1	2.41:1	5.07:1	4.49:1	2.39:1

The performance barriers identified by the Board are as follows:

• Increased number of complaints and enforcement workload

Since the last Sunset Review, the Board has experienced an increase in the number of desk investigations due to a growing number of complaints and applicant file reviews where there is a history of convictions or discipline from another state or jurisdiction. Additionally, the Board has experienced an increase in the number of administrative subpoenas and petitions for early termination of probation and reinstatement. In addition to performing desk investigations, enforcement analysts are also responsible for updating forms and procedure manuals, responding to Public Records Act (PRA) requests, preparing statistical data reports, facilitating and organizing expert training, and preparing and issuing administrative subpoenas.

In FY 2017/18, the Board added a full-time permanent Associate Governmental Program Analyst (AGPA) to address case load issues and staff processing times. Although we have added a full-time position, each analyst is responsible for 120 to 130 cases at any given time. Since our last Sunset Review, the Board no longer uses the Division of Investigation (DOI) to perform background investigations for petitions for reinstatement. Internal use of the Board's Special Investigator (SI) has helped improve investigative time frames for investigations of petitions for reinstatement. The Board no longer performs background investigations for petitions for early termination of probation because the Board is actively monitoring these individuals through its probation program, which makes background investigations unnecessary. Lastly, the enforcement staff attended subpoena training through DCA to streamline the process for preparing and issuing administrative subpoenas, instead of referring these to DOI.

• Limited pool of Subject Matter Experts (SMEs)

Currently, the Board has 42 SMEs, which is down from 100 SMEs from the prior Sunset Review. The Board utilizes licensed psychologists as SMEs to review and opine on complaints to determine if there has been a departure from the standard of care. Experts must be licensed by the Board for a minimum of three years, have not had any disciplinary action, and have three or more years of experience in a specific area of practice. Factors leading to this decrease include, but are not limited to, the following: amount paid in relation to the prevailing hourly rate, availability, potential conflicts of interest with respondents, complainants, or opposing counsel, and limited pools of experts in certain fields such as child custody evaluations, neuropsychology, and forensic psychology.

In order to address this barrier, since the last Sunset Review, the Board has made an adjustment to its hourly rate and will continue to monitor rates in comparison to other DCA entities. Additionally, the Board has increased its outreach efforts to licensees by publishing articles, sending targeted emails to licensees to encourage participation and recruit qualified candidates, and leveraged all Board in-person outreach opportunities to inform and engage licensees about the SME Program.

• Timeframes for formal investigations

The Board no longer utilizes the Health Quality Investigative Unit (HQIU) due to lengthy timeframes of approximately 24 months for investigations. To reduce investigative timeframes to between 12 to 16 months, the Board engaged DOI's Investigative Enforcement Unit (IEU) in 2017 to take over investigative workload. Additionally, the Board supported DOI's efforts to augment investigative resources through the BCP process.

• Statutory barriers to obtain necessary documentation

Through the Child Custody Stakeholder Meeting held in September 2018, the Board has identified statutory barriers to obtaining necessary documentation in its investigations of child custody-related complaints. The Board will be working with the Office of the Attorney General and the State Legislature to make changes to the Evidence Code sections identified in the meeting to remedy this barrier.

• Timeframes for administrative hearings

Currently, the Office of Administrative Hearings (OAH) takes an average of 12 months to hear a disciplinary matter, once scheduled. This barrier is outside of the Board's control.

	FY 2016/17	FY 2017/18	FY 2018/19
COMPLAINT	112010/11	112011/10	112010/10
Intake			
Received	1,191	1,130	1,192
Closed	274	351	336
Referred to INV	854	805	862
Average Time to Close	10	18	9
Pending (close of FY)	146	120	114
Source of Complaint	110	120	
Public	861	871	909
Licensee/Professional Groups	6	5	19
Governmental Agencies	288	190	166
Other	36	64	98
Conviction / Arrest			
CONV Received	41	53	40
CONV Received	39	48	31
Average Time to Close	8	8	9
CONV Pending (close of FY)	2	5	9
LICENSE DENIAL	۷	5	9
License Applications Denied	10	8	3
SOIs Filed	7	7	6
SOIs Withdrawn	3	2	0
SOIs Dismissed	1	0	0
SOIs Declined	0	0	0
	733	128	160
Average Days SOI ACCUSATION	733	120	160
	21	10	20
Accusations Filed Accusations Withdrawn	31	19 2	29 3
Accusations Dismissed		N/A	
	N/A2	N/A 3	N/A 4
Accusations Declined		-	
Average Days Accusations	860	1,088	830
Pending (close of FY)	54	78	84
DISCIPLINE		-	-
Disciplinary Actions			
Proposed/Default Decisions	8	9	5
Stipulations	45	24	24
Average Days to Complete	1,005	1,111	1,220
AG Cases Initiated	55	72	55
AG Cases Pending (close of FY)	57	78	84
Disciplinary Outcomes			
Revocation	2	10	0
Voluntary Surrender	26	10	9
Suspension	1	2	0
Probation with Suspension <sup>1</sup>	0	0	0
Probation <sup>2</sup>	19	10	18
Probationary License Issued	1	0	0
Other	0	0	0
PROBATION		I	
New Probationers	15	9	15
Probations Successfully Completed	3	8	13
Probationers (close of FY)	52	53	38

	FY 2016/17	FY 2017/18	FY 2018/19
PROBATION (cont.)			
Petitions to Revoke Probation	0	7	3
Probations Revoked	0	2	0
Probations Modified	1	2	4
Probations Extended	1	1	3
Probationers Subject to Drug Testing	25	22	24
Drug Tests Ordered	653	832	780
Positive Drug Tests	146	149	42
Petition for Reinstatement Granted	1	0	1
DIVERSION	÷	•	-
New Participants	N/A	N/A	N/A
Successful Completions	N/A	N/A	N/A
Participants (close of FY)	N/A	N/A	N/A
Terminations	N/A	N/A	N/A
Terminations for Public Threat	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A
	÷		-
Table 9b. Enforcement Statistics (continued)			
	FY 2016/17	FY 2017/18	FY 2018/19

	FY 2016/17	FY 2017/18	FY 2018/19
INVESTIGATION	·		
All Investigations			
First Assigned	892	996	898
Closed	918	882	837
Average days to close	46	62	86
Pending (close of FY)	173	290	428
Desk Investigations			
Closed	881	882	910
Average days to close	46	62	101
Pending (close of FY)	173	290	428
Non-Sworn Investigation			
Closed	24	27	14
Average days to close	38	373	56
Pending (close of FY)	15	62	23
Sworn Investigation			
Closed	143	57	48
Average days to close	373	363	488
Pending (close of FY)	70	72	107
COMPLIANCE ACTION			
ISO & TRO Issued	1	2	0
PC 23 Orders Requested	0	0	0
Other Suspension Orders	0	0	0
Public Letter of Reprimand	3	4	3
Cease & Desist/Warning	N/A	N/A	N/A
Referred for Diversion	N/A	N/A	N/A
Compel Examination	0	3	0
CITATION AND FINE			
Citations Issued	165	198	75
Average Days to Complete	79	138	77

Table 9b. Enforcement Statistics (continued)						
	FY 2016/17	FY 2017/18	FY 2018/19			
CITATION AND FINE (cont.)						
Amount of Fines Assessed	\$123,000	\$143,750	\$60,500			
Reduced, Withdrawn, Dismissed	33	29	10			
Amount Collected	\$100,250	\$119,882	\$38,050			
CRIMINAL ACTION						
Referred for Criminal Prosecution	0	0	0			

Table 10. Enforcement Aging							
	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19	Cases Closed	Average %	
Attorney General Cases (Avera	ge %)						
Closed Within:							
0 - 1 Year	1	1	1	2	5	10%	
1-2 Years	3	4	2	2	11	23%	
2-3 Years	2	3	2	3	10	21%	
3-4 Years	4	3	2	2	11	23%	
Over 4 Years	5	2	2	2	11	23%	
Total Attorney General Cases Closed	15	13	9	11	48		
Investigations (Average %)							
Closed Within:							
90 Days	603	760	601	525	2,489	78%	
91 - 180 Days	84	74	67	103	328	10%	
181 - 1 Year	46	35	51	66	198	6%	
1-2 Years	25	43	40	40	148	4%	
2 - 3 Years	10	16	11	13	50	2%	
Over 3 Years	0	0	1	0	1	<1%	
Total Investigation Cases Closed	768	918	771	747	3,204		

## 36. What do overall statistics show as to increases or decreases in disciplinary action since last review?

Since the last Sunset Review, the overall statistics do not reflect a significant change in the number of disciplinary actions the Board has taken. Stipulated Settlements and Voluntary Surrenders have increased from the last Review.

# 37. How are cases prioritized? What is the board's complaint prioritization policy? Is it different from DCA's *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009)? If so, explain why.

The Board prioritizes cases in accordance with the DCA August 2009 memorandum, "Complaint Prioritization for Health Care Agencies." There are three levels of prioritization: urgent, high, and routine. Each complaint is reviewed and placed in one of the three categories. Complaints involving sexual misconduct are immediately placed in the "urgent" priority and forwarded to IEU for formal investigation. All other complaints are opened in the order received and assigned to an analyst. Analysts perform a desk investigation of the complaint and determine prioritization and appropriate action.

38. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the board actions taken against a licensee. Are there problems with the board receiving the required reports? If so, what could be done to correct the problems?

The mandatory reporting requirements are as follows:

- BPC Section 801(a) requires that every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency specified in subdivision (a) of Section 800 send a complete report to that agency as to any settlement of an arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering unauthorized professional services.
- BPC Section 802(a) requires a person who holds a license, certificate, or other similar authority from an agency specified in subdivision of Section 800, to report any settlement, judgment or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error or omission in practice, or by his or her rendering unauthorized professional services.
- BPC Section 803(a) requires the clerk of the court, within 10 days after a judgment by a court of this state, to report if any person who holds a license, certificate, or other similar authority from the Board has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars (\$30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services.
- BPC Section 803.5 requires the district attorney, city attorney, or other prosecuting agency to notify the Board of any filings against a licensee charging a felony immediately upon obtaining information that the defendant is a licensee of the board. The notice must identify the licensee and describe the crimes charged and the facts alleged.
- BPC Section 805(b) requires peer review bodies, such as health care service plans, and committees that review quality of care, to report to the Board whenever a licensee's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason, a licensee's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason or, restrictions are imposed, or voluntarily accepted, on staff privileges, membership of employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary reason.

While the Board primarily receives violation reports via BPC Section 801(a), we have not had difficulty retrieving reports from any other mandatory reporting entity.

#### a. What is the dollar threshold for settlement reports received by the board?

BPC Section 803(a) requires the clerk of the court, within 10 days after a judgment by a court of this state, to report if any person who holds a license, certificate, or other similar authority from the Board has committed a crime, or Is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars (\$30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services.

#### b. What is the average dollar amount of settlements reported to the board?

The average dollar amount of settlements reported to the Board is \$110,499.00.

## 39. Describe settlements the board, and Office of the Attorney General on behalf of the board, enter into with licensees.

Stipulations are legal documents that typically contain admissions by the licensee to one or more violations of law and set forth a proposal for appropriate discipline. Appropriate discipline is based on the Board's Disciplinary Guidelines and Uniform Standards which outline both minimum and maximum penalties for every violation of the Psychology Licensing Act. Discipline comes in many forms and, depending on the admission(s) of misconduct, may include probation with terms and conditions, suspension, surrender of license, or even revocation. Stipulations are negotiated between the licensee or their attorney and the Board's legal representative from the Office of the Attorney General. Once a stipulation is agreed upon and signed by the licensee and the Board's legal representative, the document is voted upon by the Board members. The Board votes to either adopt the stipulation, reject it, or offer a counterproposal. If the licensee does not agree with the counterproposal, they have the right to request a formal hearing before an Administrative Law Judge.

## a. What is the number of cases, pre-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?

The Board does not enter into settlement agreements with licensees prior to the filing of an accusation.

b. What is the number of cases, post-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?

	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Settled	38	45	24	24
Hearing	2	6	5	4

- c. What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?
  - FY 2015/16: 95%
  - FY 2016/17: 88%
  - FY 2017/18: 82%
  - FY 2018/19: 76%

# 40. Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the board's policy on statute of limitations?

The Board operates within a statute of limitations. BPC Section 2960.05 provides, in pertinent part, that any accusation filed against a licensee pursuant to Section 11503 of the Government Code be filed within three years from the date the Board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first. If an alleged act or omission involves a minor, the seven-year limitation period provided for by subdivision (a) and the 10-year limitation period provided for by subdivision (e), is tolled until the minor reaches the age of majority. Since the last Sunset Review, the Board did not have or lost jurisdiction due to statute of limitations in 37 cases.

#### 41. Describe the board's efforts to address unlicensed activity and the underground economy.

The Board continues to investigate all unlicensed activity cases. The Board has the authority to issue a Citation and Fine for unlicensed activity or for false or misleading advertising. Through DOI, the Board can refer cases to local District Attorney offices for criminal prosecution.

#### **Cite and Fine**

# 42. Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the board increased its maximum fines to the \$5,000 statutory limit?

A Citation and Fine is a tool the Board can use to take action against an unlicensed person or a licensee who is found to be in violation of Psychology Laws and Regulations. For licensees, a Citation and Fine is used to address relatively minor violations that typically do not warrant formal discipline.

Since the last Sunset Review, the Board has not amended its regulations regarding its Citation and Fine authority. The Board increased its fine authority to the statutory limit of \$5,000 in 2005.

#### 43. How is cite and fine used? What types of violations are the basis for citation and fine?

A Citation and Fine is used for cases that do not warrant formal discipline. The types of violations that are the basis for Citation and Fine include, but are not limited to, the following:

- Failure to comply with the continuing education requirements;
- False or misleading advertising;
- Unlicensed practice;
- Failure to maintain proper record keeping; and
- Failure to comply with an investigation.

## 44. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?

The Board of Psychology does not have a Disciplinary Review Committee. In the last four fiscal years, the Board held 45 enforcement-related and 87 CE-related informal conferences and three enforcement-related and four CE-related Administrative Procedure Act appeals.

#### 45. What are the 5 most common violations for which citations are issued?

The five most common violations for which citations are issued are as follows:

- Failure to comply with the continuing education requirements;
- Failure to disclose conviction information on renewal application;
- False or misleading advertising;
- Unlicensed practice; and
- Violation of the terms and conditions of probation.

#### 46. What is average fine pre- and post- appeal?

The average pre-appeal fine for enforcement citation orders is \$1,950 and the average postappeal fine is \$1,125. The average pre-appeal fine for CE citation orders is \$772 and the average post-appeal fine is \$573.

#### 47. Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.

In instances of failure to pay a fine within the required time, the licensee or non-licensee's information is forwarded to the DCA for referral to Franchise Tax Board for collection through its Interagency Intercept Collection Program.

#### **Cost Recovery and Restitution**

## 48. Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.

BPC Section 125.3 states, in part, that the Board may request the administrative law judge direct any licensee found to have committed a violation or violations of the licensing act, to pay the Board a sum not to exceed reasonable costs of the investigation and enforcement of the case. Cost Recovery is a standard term and condition specified in the Board's disciplinary guidelines for all proposed decisions and stipulations. There have been no changes in this policy since the last review.

## 49. How many and how much is ordered by the board for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.

There is no specific amount of cost recovery ordered for revocations, surrenders, and probationers. Each discipline case has its own amount of cost recovery ordered depending on the investigation and prosecution costs incurred. Most cost recovery is due within 12 months of the order's effective date. During negotiations, a probationer can request a payment plan if he or she needs additional time to reimburse the Board. All cost recovery must be paid six-months prior to the completion of probation. If cost recovery is determined to be unrecoverable, the Board uses the Franchise Tax Board's Interagency Intercept Collection Program to collect the amount due. Generally, licensees pay cost recovery as it is a term and condition of probation, and to not pay could result in the revocation of the license.

Table 11. Cost Recovery       (list dollars in thousands)							
FY 2015/16 FY 2016/17 FY 2017/18 FY 2018/							
Total Enforcement Expenditures	\$1,268	\$953	\$1,149	\$784**			
Potential Cases for Recovery *	37	31	25	33			
Cases Recovery Ordered***	29	41	26	21			
Amount of Cost Recovery Ordered	\$264	\$410	\$222	\$225			
Amount Collected	\$107	\$114	\$53	\$29			

\* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the License Practice Act.

\*\* Total based on preliminary yearly expenditures provided by DCA

\*\*\*Cost recovery ordered may be from other accusations in different fiscal years

#### 50. Are there cases for which the board does not seek cost recovery? Why?

The Board does not seek cost recovery in cases where it has denied an application for a license or registration and a Statement of Issues has been filed. BPC Section 125.3, which authorizes the collection of cost recovery, applies only to licensees and not applicants.

#### 51. Describe the board's use of Franchise Tax Board intercepts to collect cost recovery.

Failure to pay cost recovery is generally a violation of probation, so it is not common for a licensee to fail to pay cost recovery. The Board uses the Franchise Tax Board (FTB) to collect outstanding monies due if not paid within the agreed upon timeframe.

# 52. Describe the board's efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.

The Board may impose a probation term compelling restitution. The Board can order restitution in cases involving Medi-Cal or other insurance fraud. One example of when restitution would be ordered is in cases where a patient or client paid for services that were never provided. Evidence relating to the amount of restitution would be introduced at the administrative hearing. Failure to pay the ordered restitution would be deemed a violation of probation and further discipline or revocation would be sought.

Table 12. Restitution(list dollars in thousands)			thousands)	
	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Amount Ordered	0	0	1,508	0
Amount Collected	0	0	1,508	0

#### Section 6 – Public Information Policies

# 53. How does the board use the internet to keep the public informed of board activities? Does the board post board meeting materials online? When are they posted? How long do they remain on the board's website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?

The Board continually updates its website to reflect upcoming Board activities, changes in laws, regulations, licensing and/or registration, and other relevant information of interest to stakeholders. Agendas are posted on the Board's website at least 10 days prior to meeting dates. Meeting materials are also made available on the website. These items remain available on the website for as long as permitted by policy. Draft minutes are posted online only as agenda item materials for an upcoming meeting. Minutes from each Board meeting are posted on the Board's website once they have been formally approved and adopted by the Board at a subsequent meeting. Minutes remain available on the Board's website for as long as permitted by policy.

## 54. Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings? How long do webcast meetings remain available online?

The Board has been webcasting its meetings since 2011 and will continue to request that the DCA webcast future Board and Committee meetings. Webcast meetings remain on the website along with the meeting agendas and materials for as long as permitted by policy.

#### 55. Does the board establish an annual meeting calendar, and post it on the board's web site?

The Board posts an annual calendar of Board meetings to its website and updates this calendar as various committee and task force meetings are scheduled.

#### 56. Is the board's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the board post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions* (May 21, 2010)?

The Board's disclosure policy is consistent with the DCA Recommended Minimum Standards for Consumer Complaint Disclosure as well as the Department's Web Site Posting of Accusations and Disciplinary Actions. The Board posts discipline documents on the licensee's verification page on the website and sends a monthly email of all disciplinary actions initiated or finalized in that month to persons who have requested to receive such information.

# 57. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

The Board provides license number, license status, issue date of license, expiration date of license, address of record, school name and graduation year used as the qualifying degree for licensure, and history of disciplinary actions. The Board also provides the option to include a professional website address on the DCA License Search page.

#### 58. What methods are used by the board to provide consumer outreach and education?

The Board has a standing Outreach and Communications Committee. The goal of this Committee is to engage, inform, and educate consumers, students, applicants, licensees, and other stakeholders regarding the evolving practice of psychology, the work of the Board, and their relevant laws and regulations. Since the last Sunset Review, the Board updated its consumer brochure *Therapy Never Includes Sexual Behavior* (formerly, Professional Therapy Never Includes Sex), which required collaboration with the Medical Board of California, Osteopathic Medical Board of California, and the Board of Behavioral Sciences on the revisions and statutory changes required for this update. The Board maintains its website with current, relevant information for consumers. Consumers can also sign up on the Board's website to receive email notifications on a variety of topics. The Board also provides consumer updates on Facebook and Twitter. The public also has access to view Board of Psychology meeting webcasts. Annually, the Board holds at least two Board Meetings in Northern California, and two in Southern California to increase consumer access to board meetings. The Board looks forward to future opportunities to enhance its outreach and education efforts.

# 59. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the board regulate online practice? Does the board have any plans to regulate internet business practices or believe there is a need to do so?

The Board receives numerous inquiries about online practice but receives very few complaints directly related to online practice. The Board defines online practice as one method of delivery of psychological services pursuant to BPC Section 2290.5 on telehealth. Since the last Sunset Review, the Telepsychology Committee recommended a new regulatory section to address issues with the mode of delivery of psychological services. This regulatory package is currently in the Initial Review Phase with the Department of Consumer Affairs and the Board hopes that this package will be formally noticed by 2020.

#### Section 8 – Workforce Development and Job Creation

#### 60. What actions has the board taken in terms of workforce development?

The Board strives to achieve streamlined internal processes for the issuance of initial licenses and registrations. Since the last Sunset Review, the Board has reviewed its statutes and regulations to identify barriers to licensure and to increase efficiencies in the licensure application process. As part of the Board's current Strategic Plan, the Board will be working to implement statutory and regulatory changes to reduce barriers to licensure, eliminate confusion, and streamline its processes. By reducing barriers, the Board aims to get qualified individuals into the profession more efficiently.

In addition, from 2015 to 2017, the Board engaged in a two-year campaign regarding access to mental health care in the State of California in an effort to increase the number of mental health providers working in California's underserved and un-served communities. The campaign included a presentation on access to care before the Senate Select Committee on Mental Health; presentations at Board Meetings regarding the health of the Health Professions Education Foundation (HPEF) fund, under the Office of Statewide Health Planning and Development (OSHPD); and has produced targeted newsletter articles on topics such as the number of mental health care professionals per county and the aging demographics of the licensed workforce, which have been shared with legislative offices and the media. As a result of the campaign, the Board advocated for and received an increase in the HPEF fee, paid by Board licensees via the biennial renewal process. The fee increased from a statutory amount of \$10, to \$20 per renewal. The HPEF offers a number of scholarship and loan repayment programs for eligible health professional students and graduates. All program recipients are required to provide direct patient care in a medically underserved area of California as designated by OSHPD. This program aims to increase access to mental health services in California by increasing the number of licensed providers in those identified areas.

#### 61. Describe any assessment the board has conducted on the impact of licensing delays.

The Board regularly monitors its licensing timeframes for licensure and registration applications. At this point of time, the Board is not seeing any significant licensing delays; therefore, the Board has not conducted any formal assessment of the impacts of licensing delays since the last Sunset Review.

## 62. Describe the board's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.

Schools are identified stakeholders of the Board and as such are consulted on statutory and regulatory changes that may impact students and future applicants to the Board. For example, in February 2018, surveys were sent to solicit stakeholder input regarding a proposal relating to the standardization of trainee categories. The aim of the proposal was to enhance consumer protection and transparency by creating a single pathway to licensure that would standardize the process for trainees to gain experience towards licensure as a psychologist. The proposal would have required all trainees to register as psychological assistants with the Board to ensure accountability while providing psychological services to the public and while accruing supervised professional experience.

Additionally, whenever policy changes are made that affect applicants, the Board disseminates an advisory on changes to licensing requirements and processes. Due to travel restrictions, the Board is unable to travel to schools to present this information directly to their students.

#### 63. Describe any barriers to licensure and/or employment the board believes exist.

BPC Section 2914 requires applicants for licensure who received their degree from an educational institution outside of the U.S. or Canada to provide the Board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services. At a recent ASPPB meeting, one of the topics discussed was the evaluation of foreign-trained applicants. One of the presenters on the topic was a representative from the National Register of Health Service Psychologists (NRHSP), which is a national organization that also performs this service. As a result of this meeting, the NRHSP was invited to present their credentials review processes and criteria to the Board's Licensure Committee. As a result of the presentation, the Board approved draft statutory amendments to add the NRHSP as an additional credentials evaluation service. This additional credentials evaluation service will provide foreign-trained applicants another avenue to obtain the credentials evaluation required for licensure.

#### 64. Provide any workforce development data collected by the board, such as:

#### a. Workforce shortages

Since the last Sunset Review, DCA has not collected data regarding workforce shortages.

#### b. Successful training programs.

Since the last Sunset Review, DCA has not collected data regarding successful training programs.

## 65. What is the status of the board's implementation of the Uniform Standards for Substance Abusing Licensees?

In order to implement SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008), which was designated to protect the public by monitoring psychologists (and other healing arts professionals) impaired by drug or alcohol abuse, the Board promulgated regulations which became effective January 1, 2017. These regulations provide guidelines which are followed when considering discipline against a substance abusing licensee.

## 66. What is the status of the board's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

The Board completed implementation of the CPEI regulations in 2012.

## 67. Describe how the board is participating in development of BreEZe and any other secondary IT issues affecting the board.

a. Is the board utilizing BreEZe? What Release was the board included in? What is the status of the board's change requests?

The Board is utilizing BreEZe and was included in the first Release of the system. Board staff continuously identifies and submits change requests to the DCA to enhance the functionalities of the BreEZe system to meet the Board's needs. As required by DCA, the Board submits weekly prioritization reports regarding its change requests. The Board's change requests are completed by the DCA based upon the Board's prioritization of these requests, the capacity of the DCA BreEZe team, and the availability of release dates.

b. If the board is not utilizing BreEZe, what is the board's plan for future IT needs? What discussions has the board had with DCA about IT needs and options? What is the board's understanding of Release 3 boards? Is the board currently using a bridge or workaround system?

Not applicable.

#### Section 10 – Board Action and Response to Prior Sunset Issues

#### Include the following:

- 1. Background information concerning the issue as it pertains to the board.
- 2. Short discussion of recommendations made by the Committees during prior sunset review.
- 3. What action the board took in response to the recommendation or findings made under prior sunset review.
- 4. Any recommendations the board has for dealing with the issue, if appropriate.

#### **ISSUE # 1**: Lack of mental health providers in certain communities.

**Background:** According to the Office of Statewide Health Planning and Development (OSHPD), approximately 16 percent of Californians live in a Mental Health Professional Shortage Area, which is designated based on the availability of psychiatrists and other mental health professionals, including psychologists.

There are several programs administered by OSHPD to encourage licensees to work in these areas:

#### Mental Health Loan Assumption Program (MHLAP)

MHLAP was created by Proposition 63, the Mental Health Services Act (Act), passed by California voters in November 2004. The Act provided funding to develop a loan forgiveness program in order to retain qualified professionals working within the Public Mental Health System (PMHS). Through the Workforce Education and Training component of the Act, \$10 million is allocated yearly to loan assumption awards. An award recipient may receive up to \$10,000 to repay educational loans in exchange for a 12-month service obligation in a hard-to-fill or retain position within the County PMHS.

#### Mental Health Practitioner Education Fund

The Board collects a \$10 fee as part of license renewals to support the Mental Health Practitioner Education Fund that is administered by OSHPD. An awardee may receive up to \$15,000 to repay educational loans over a 24-month period in exchange for a 24-month commitment to practicing and providing direct care in a publicly funded or public mental health facility, a non-profit mental health facility, or a mental health professions shortage area.

The Board does not formally track data regarding workforce shortages, but it has many occasions to solicit and communicate opportunities to its licensees.

# <u>Staff Recommendation</u>: The Board should inform the Committee what it is doing to promote service in underserved areas and evaluate whether \$10 is sufficient to fund the Mental Health Practitioner Education Fund.

#### Board Response

In February 2015, the Board of Psychology embarked on a two-year access to mental healthcare in the State of California campaign. To date, the Board has done the following:

- Produced an article in the winter 2015 *Journal* identifying licensed mental health professionals per county, per capita. This *Journal* has a distribution of more than 15,000 per publication. This data has been shared with the Department of Consumer Affairs, the Health Professions Education Foundation, the Senate Business, Professions and Economic Development Committee and other interested Members of the state legislature.
- Produced an article in the spring 2015 *Journal* entitled, "Educational Loan Opportunities for Mental Health Providers".
- In August 2015, the Health Professions Education Foundation (HPEF) gave the Board an overview of the program at the Board Meeting, an update on the fiscal health of the program, and an overview of the process for application for loan repayment. The Foundation agreed to present to the Board annually.
- Summer 2015 recipient profile of HPEF (Jaseon Outlaw, PhD) in the Board's summer *Journal*. Going forward, the Board will include a recipient profile in the quarterly *Journal* as awards are given.

- Inserts will be included in all license renewals packets promoting the HPEF. The inserts will instruct licensees how to apply for loan forgiveness and how to contribute additional funds to the program.
- Additionally, the Board plans to do the following:
  - Develop outreach to high schools and community colleges to encourage individuals to enter into the profession.
  - Develop telepsychology regulations that will instruct licensees how to provide telehealth to Californians, giving psychologists additional opportunities to provide care to underserved populations.
  - Engage stakeholders to help the Board promote entering the profession and the availability of the loan repayment program.
  - o Increase awareness regarding other loan repayment programs.

According to a recent survey conducted by the American Psychological Association of Graduate Students (APAGS), the median loan debt of a recent graduate of a doctoral program is between \$90,000-200,000 plus (depending on the program and institution from which they graduated) <a href="http://www.apa.org/monitor/2015/06/datapoint.aspx">http://www.apa.org/monitor/2015/06/datapoint.aspx</a>. The size of available awards under existing state programs are small by comparison thereby reducing the potential incentive to locate in underserved areas.

• The average award amount varies from \$2,558 to \$13,910 depending on profession of awardee.

Renewal fees are authorized for the specified professions listed under the statutory definition of a licensed mental health service provider (LMHSP).

- Per Health and Safety Code section 128454 (1) "Licensed mental health service provider" means a psychologist licensed by the Board of Psychology, registered psychologist, postdoctoral psychological assistant, postdoctoral psychology trainee employed in an exempt setting pursuant to BPC Section 2910, or employed pursuant to a State Department of Health Care Services waiver pursuant to Section 5751.2 of the Welfare and Institutions Code, marriage and family therapist, marriage and family therapist intern, licensed clinical social worker, and associate clinical social worker."
- The majority of mental health practitioners who apply for the loan repayment program do not receive any award due to limitations in financial resources. Please see the table below, which reflects the Licensed Mental Health Services Provider Education program application numbers. Specifically, the table reflects how many applications were received, eligible, awarded and not awarded in FY 2012-13, 2013-14, and 2014-15.
- The Mental Health Loan Assumption Program (MHLAP) is funded by Proposition 63 funds. Licensees of the Board are also eligible for awards through this program. Applicants can receive up to \$10,000 from this Program.

Board of Psychology Fund				
LMH	2012/13	2013/14	2014/15	
Total applications received	31	63	49	
Total eligible applications	29	61	40	
Did not score high enough for award	NA	5	19	
Awarded through Grant funding	NA	22	NA	

Board of Psychology Fund			
LMH	2012/13	2013/14	2014/15
Awarded through Board of Psychology Funding	8	7	10
Total not awarded	21	27	11

It appears that the financial resources of the HPEF fund cannot meet the demands of applicants who wish to work in underserved communities.

#### UPDATE:

The Board advocated for AB 1188 (Nazarian), which increased the psychologist renewal fee for deposit into the Mental Health Practitioner Education Fund. This bill became operative July 1, 2018.

See the table below for an update on the LMH program.

Board of Psychology Fund					
LMH	2015/16	2016/17	2017/18	2018/19	
Total applications received	89	78	64	62	
Total eligible applications	89	78	64	26	
Did not score high enough for award	24	32	26	9	
Awarded through Grant funding	4	5	5	0	
Awarded through Board of Psychology Funding	8	4*	8*	6	
Total not awarded	53	37	25	11	

**ISSUE # 2**: California remains the only state that allows licensure of psychologists from unaccredited schools. Should the Psychology Act be amended to require accreditation of institutions offering degrees intended to lead to licensure by the Board?

**Background:** California is the only state that allows students from unaccredited schools to sit for psychology licensing examinations. Current law requires the Board to accept doctoral degrees in psychology from either accredited or approved institutions. An institution is deemed approved if it is not a franchise, was approved by the BPPVE on or before 1999, and has not moved to a new location since 1999. There are six schools meeting these criteria, and approvals and oversight are conducted solely by the BPPE.

This issue was raised during the previous review of the Board. The Board was concerned that there is little quality control over the schools' operations or curriculum and students have a low pass rate on the national exam, among other issues. At that time, the Board stated that the students from these schools should not be eligible for licensure and expressed their preference for a change in law to prohibit applicants from approved schools. This law was not changed.

In an effort to increase the quality of educational programs in California, the California Private Postsecondary Education Act of 2009 was amended in 2014 (SB 1247, Lieu, Chapter 840, Statutes of 2014) to require degree granting institutions to be accredited by an agency recognized by the U.S. Department of Education by July 1, 2020 in order to receive BPPE approval. AB 2099 (Frazier, Chapter 676, Statutes of 2014) also established requirements for unaccredited degree granting programs participating in Title 38, the program that provides educational awards for eligible active duty military members and veterans.

While the Board recognizes recent Legislative actions as significant progress, there remains a concern that these changes may be insufficient to raise California's psychologists to the national standard. The main barrier is that the ASPPB requires member states to have regionally accredited schools to participate in their Agreement of Reciprocity for licensure – U.S. Department of Education allows national accreditation. Further, California psychologists may not be able to join the American Psychological Association, the largest professional psychology organization in the nation, as full members; participate in certain pre-doctoral or post-doctoral programs necessary for some types of employment, including the U.S. Department of Veterans' Affairs Health and Medical Centers -- the largest employer of psychologists in the U.S; or be eligible for licensure in some states.

Unaccredited degree granting institutions are extremely concerned about the requirement to obtain accreditation and have been working through the legislative process to create exemptions to the new requirements set forth by SB 1247 and AB 2099. It would be helpful for the Committees to better understand the barriers to schools becoming accredited, particularly for schools offering degrees.

<u>Staff Recommendation</u>: The Committees should remove current language authorizing graduates with degrees from unaccredited institutions to sit for licensure by the Board, and ensure that timeframes for this change accommodate current students. The Board should provide information to the Committees as to whether regional accreditation may be preferable to other types of accreditation, and the Committees should specify the type of accreditation that should be required of institutions offering degrees intended to lead to licensure.

#### **Board Response**

The Board of Psychology believes that institutions offering degrees eligible for licensure should be regionally accredited. A requirement of regional accreditation would accomplish the following:

Greater protection of the consumer of psychological services is better ensured by regionally accredited institutions offering applied psychology graduate programs. Such institutions offer substantially greater opportunities for placement in rigorous training sites accredited by the American Psychological Association, the Association of Psychological Postgraduate and Internship Programs and the California Psychology Internship Council, all of which require that graduate and postgraduate students be enrolled in, or have received their degree from, regionally accredited institutions.

Greater protection of the consumer of psychological services and the psychology graduate students attending graduate programs at regionally accredited institutions is better ensured due to the more rigorous curriculum requirements and the careful monitoring of the administrative and financial stability of the institutions offering psychology doctoral programs. This is particularly important to the student consumers in that they incur on average six figures in student debt for the graduate portion of their education alone (See Doran, J. M., Kraha, A., Marks, L. R., Ameen, E. J., & El-Ghoroury, N. H. (2016)). Graduate debt in psychology: A quantitative analysis. Training and Education in Professional Psychology, 10(1), 3-13, http://dx.doi.org/10.1037/tep0000112.) Such debt would appear to be particularly onerous for those graduates whose ability to successfully traverse the pathways to licensure in this or another jurisdiction is compromised due to the lack of regional accreditation. Students and graduates of regionally accredited institutions will not only be eligible for the most rigorous and respected predoctoral and postdoctoral internships but also enjoy greater future job opportunities, such as employment by the Veterans Administration and other federal governmental institutions, as well as appointment to faculty and research positions at major academic institutions.

In addition to the primary concern for the consumer of psychological services and the efficacy and cost effectiveness to student consumers of applied psychology graduate education, regional accreditation would afford benefits to licensees of the Board by better ensuring the increased geographic portability of a California psychology license should the licensee ultimately wish to practice in other or additional jurisdictions. At present, the equivalency of a California license in applying for out of state licensure has been often viewed as inferior due to the Board's licensing of graduates of institutions that are not regionally accredited. Many types of licensees of the Board, such as forensic psychologists, industrial/organizational psychologists and consulting psychologists, benefit from licensure in multiple jurisdictions to practice in order to better provide for their family or to take advantage of career opportunities. They are sometimes hampered in these efforts due to the less rigorous requirements for accreditation of the California institutions from which they received their doctoral degrees.

The Board looks forward to working with the Committees to amend BPC Section 2914 to address this issue.

#### UPDATE:

As a result of the provisions made in the last Sunset Bill (SB 1193 (Hill)), BPC Section 2914 was amended to remove language authorizing graduates with degrees from unaccredited institutions to sit for licensure by the Board and ensured the timeframes for this change accommodated current students from these institutions. Therefore, students enrolling after January 1, 2020 are required to enroll in a regionally accredited institution in order to meet the degree qualifications for licensure as a psychologist.

#### **ISSUE # 3**: Continuing Education.

**Background:** Traditional models of CE entail formal learning activities conducted in classroom or workshop settings. As referenced earlier in the report, the Board is considering changes to their CE program to accommodate a broader competency model called continuing professional development (CPD). The model was developed by the ASPPB and provides additional avenues for maintaining competence. These options are meant to expand the ways licensees can increase their learning and to include performance-based assessments of licensees' competence.

The Board is seeking to amend existing continuing education statutes and regulations to accommodate this new approach. Changes should include:

- Redefining "Continuing Education" requirements as "Continuing Professional Development" requirements;
- Removing specific course requirements found in the BPC; and,
- Enabling the Board to approve specific organizations that provide continuing professional development activities.

## <u>Staff Recommendation</u>: The Board should provide recommendations to the Committee for updating continuing education statutes.

#### **Board Response**

The Board has submitted a legislative proposal to the Senate Business, Professions, and Economic Development Committee to amend BPC Section 2915. This change would redefine continuing education with a continuing professional development model. The Committee has graciously agreed to include this change in the Board's sunset legislation. This model will allow licensees alternative ways to maintain competence, decrease isolation, and enhance the probability that ongoing professional competence can be demonstrated.

#### UPDATE:

As a result of the provisions made in the last Sunset bill (SB 1193 (Hill)), BPC Section 2915 was amended to replace the current continuing education model with a broader continuing professional development model. Continuing professional development is defined as certain continuing education learning activities approved in four different categories:

- 1. Professional
- 2. Academic
- 3. Sponsored Continuing Education Coursework
- 4. Board Certification from the American Board of Professional Psychology

The Board has initiated the formal rulemaking process to implement these statutory changes in regulation. This regulatory package is currently in the Initial Departmental Review phase with the DCA. The Board hopes that this package will be formally noticed by 2020.

#### **ISSUE # 4**: Expansion of Psychological Assistant practice areas.

**Background:** In order to become a licensed psychologist, applicants must accrue 3,000 hours of supervised professional experience. Individuals who have a Master's degree and are admitted into a doctoral program may obtain these hours by registering with the Board as a psychological assistant. A psychological assistant provides psychological services to individuals or groups while under the supervision of a licensed psychologist or a board certified psychiatrist.

Current law requires that a psychological assistant be employed only by a psychological or medical corporation, a California licensed psychology clinic, a Bronzan-McCorquodale contract clinic, a licensed psychologist, or a board certified psychiatrist.

The Board recognizes that these statutes are outdated and do not reflect the employment, contract, or volunteer opportunities available in settings beyond current limitations, such as hospitals, nursing homes, and rehabilitation centers.

# <u>Staff Recommendation</u>: The Board should provide recommendations to the Committee for updating psychological assistant statutes to focus on appropriate supervision, rather than physical setting.

#### **Board Response**

The Board has submitted a legislative proposal to the Senate Business, Professions, and Economic Development Committee to amend BPC Section 2913. This change would address the following two issues:

1. Eliminating the restrictions of the current work settings required of a psychological assistant.

2. Receiving the application directly from the psychological assistant instead of the supervisor.

UPDATE:

As a result of the provisions made in the last Sunset bill (SB 1193 (Hill)), BPC Section 2913 was amended to remove the restriction on the types of settings in which a psychological assistant can work. The Board has implemented these changes through its statutory authority and is seeking additional conforming changes via regulations. This regulatory package is currently in the Initial Departmental Review phase with the DCA. The Board hopes that this package will be formally noticed by 2020.

#### ISSUE # 5: Retired license.

**<u>Background</u>**: The Psychology Act does not authorize a retired license. Under existing law, a retired licensee may choose only between "inactive" status, which costs \$25 per year, or "delinquent" status. These have negative connotations and may not respect a long and honorable career.

The Board is seeking to establish a "retired" licensure category, similar to many other healing arts programs such as the Medical Board, Professional Fiduciaries Bureau, Board of Behavioral Sciences, and Board of Optometry. The creation of this license would require a one-time fee and would provide a means for a retired licensee to return to active status under certain circumstances.

Adding this license designation is a consistent request from licensees and is included in the Board's 2014-2018 Strategic Plan.

## <u>Staff Recommendation</u>: The Board should provide recommendations to the Committee for establishing a retired license.

#### Board Response

The Board has submitted a legislative proposal to the Senate Business, Professions, and Economic Development Committee to add a section to the Psychology Licensing Law in the BPC creating a retired license category for psychologists.

#### UPDATE:

As a result of the provisions made in the last Sunset bill (SB 1193 (Hill)), BPC Section 2988.5 was added to create the statutory authority for the Board to create a retired license status. The Board has initiated the formal rulemaking process to implement these statutory changes in regulation. This package is in the Initial Departmental Review Stage with the DCA. The Board hopes that this package will be formally noticed by 2020.

#### **ISSUE # 6**: Web Site information.

**<u>Background</u>**: The Board has been very active in providing information to consumers, and seeks legislative authority to post historical information on existing and past licensees' approved graduate and post-graduate education on its Web site. This will enable consumers to make informed decisions when selecting a psychology provider.

## <u>Staff Recommendation</u>: The Board should provide recommendations to the Committee for updating its public information policies.

#### **Board Response**

The Board has submitted a legislative proposal to the Senate Business, Professions, and Economic Development Committee to add a section to the Psychology Licensing Law in the BPC establishing a mechanism for posting historical information on existing and past licensees. This information will include:

1. Institutions that awarded the qualifying educational degree and type of degree awarded.

2. A link to the licensee's professional website.

3. Historical enforcement activity including Statements of Issues, Accusations, Proposed Decisions, and Stipulated Settlements.

#### UPDATE:

As a result of the provisions made in the last Sunset bill (SB 1193 (Hill)), BPC Section 2934.1 was added to clarify the Board's authority to post enforcement-related actions and documents and to add the following licensee information on current and former licensees:

- 1. Institutions that awarded the qualifying educational degree and type of degree awarded
- 2. A link to the licensee's professional internet website

The Board worked with the DCA to implement these changes to the Board's website and the BreEZe system.

#### <u>CONTINUED REGULATION OF THE PROFESSION BY THE CURRENT MEMBERS OF THE</u> <u>BOARD</u>

## **ISSUE # 7**: Should the licensing and regulation of the practice of psychology be continued and be regulated by the current Board membership?

**Background:** The health, safety, and welfare of consumers are protected by a well-regulated psychologist profession. The Board has shown a strong commitment to improve the Board's overall efficiency and effectiveness and has worked cooperatively with the Legislature and this Committee to bring about necessary changes. The Board should be continued with a four-year extension of its sunset date so that the Committee may review once again if the issues and recommendations in this Paper and others of the Committee have been addressed.

# <u>Staff Recommendation</u>: Recommend that the practice of psychology continue to be regulated by the current Board members in order to protect the interests of the public and be reviewed once again in four years.

#### Board Response

The Board appreciates the confidence the Committees have demonstrated in recommending the continuance of the regulation of the practice of psychology by the Board in its current configuration. In the next four years the Board is committed to addressing the following issues:

- 1. Ensuring greater access to mental health care in California.
- 2. Establishing higher criteria for applicants for licensure to ensure consistency with other licensing jurisdictions across the nation.

- 3. Establishing continuing professional development to ensure competence for its licensees
- 4. Redefining the psychological assistant statute to focus on appropriate supervision rather than physical setting.
- 5. Developing a mechanism to provide licensees an alternative license status at the end of their career.
- 6. Increasing transparency to the consumers of psychological services in California by providing expanded educational and disciplinary data on its licensees.
- 7. Continuing to review and amend the statutes and regulations in order to be more transparent, more understandable to consumers and evolve with the field.

#### UPDATE:

In order to protect the consumers of psychological services in the State of California, the Board strongly urges the Legislature to continue the regulation of the practice of psychology by the Board of Psychology under its current membership.

#### Section 11 – New Issues

This is the opportunity for the board to inform the Committees of solutions to issues identified by the board and by the Committees. Provide a short discussion of each of the outstanding issues, and the board's recommendation for action that could be taken by the board, by DCA or by the Legislature to resolve these issues (i.e., policy direction, budget changes, legislative changes) for each of the following:

#### 1. Issues that were raised under prior Sunset Review that have not been addressed.

There are no issues that were raised under the prior Sunset Review report that have not been addressed.

#### 2. New issues that are identified by the board in this report.

#### **Foreign Degree Evaluation**

As discussed in questions 32 and 63, BPC Section 2914 requires applicants for licensure who received their degree from an educational institution outside of the U.S. or Canada to provide the Board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services. At an ASPPB meeting, one of the topics discussed was the evaluation of foreign-trained applicants. One of the presenters on the topic was a representative from the National Register of Health Service Psychologists (NRHSP), which is a national organization that also performs this service. As a result of this meeting, the NRHSP was invited to present their credentials review processes and criteria to the Board's Licensure Committee. As a result of the presentation, the Board approved draft statutory amendments to add NRHSP as an additional credentials evaluation service. This additional credentials evaluation service will provide foreign-trained applicants an additional avenue to obtain the credentials evaluation required for licensure.

#### Statutory Changes for Pathways to Licensure

As discussed in questions 19 and 29, the Board has conducted a comprehensive review of its statutes and regulations addressing how licensure can be obtained. In part, amendments to BPC Sections 2911, 2915.7, and 2946 have been identified with the goal of removing barriers to licensure and improving program efficiencies. The Board will be pursuing statutory and regulatory changes to accomplish this goal.

#### 3. New issues not previously discussed in this report.

#### **Temporary Practice Provisions**

Through input from various stakeholders, the Board was made aware of confusion regarding temporary practice provisions set forth in BPC Section 2912 for those who are licensed at the doctoral level in another state or jurisdiction in the U.S. or Canada. These provisions have been interpreted in multiple ways overtime. The Board would like to clarify that the 30 calendar days of practice allowed in statute do not need to be consecutive but instead any 30 consecutive or non-consecutive days in any calendar year, where practice for any part of a day is considered a day.

#### Reinstatement After Non-Disciplinary Voluntary Surrender

Based on the Board's analysis of its aging licensee demographic and input from its stakeholders about discipline related to a licensee's cognitive impairment, the Board has reevaluated its approach to investigation and discipline of complaints where there is no consumer harm involved. The Board has experienced instances where licensees have diminished cognitive capacity due to diseases such as Alzheimer's and the licensee's family or a fellow licensee reported that the licensee is starting to experience cognitive issues due to their impairment but have no consumer complaints filed against them. Currently, the Board has implicit statutory authority to accept a non-disciplinary surrender of a license under BPC Section 118(b). However, the Board does not have a mechanism for reinstatement of such a surrendered license in circumstances where medication or surgery could restore cognitive function. As such, the Board would like to clarify the process for voluntary surrender and to establish a mechanism for such individuals to petition the Board for reinstatement of their license.

#### **Delegating Final Authority to the Licensure Committee**

Currently, requests from individual applicants or licensees related to the licensing process are discussed in closed session pursuant to Government Code section 11126(c)(2) at the Licensure Committee meetings. For example, the Committee reviews requests from applicants for additional time to accrue the supervised professional experience required for licensure due to personal or health-related reasons. Often, the Committee is presented with very personal medical information that accompanies these requests. The Committee then brings its recommendations to the full Board for final decision in open session at a Board Meeting, where the requests must be substantially redacted. This process creates unnecessary and long delays for those seeking licensure, where these individuals may be unable to practice while awaiting a final decision from the Board. The Board would like to be able to delegate the final authority to review and decide these requests to the Licensure Committee, and still have the Committee be allowed to meet in closed session notwithstanding Government Code section

11126(c)(2) in the interests of fairness and privacy protection for these applicants and licensees.

#### 4. New issues raised by the Committees.

As of the date of this report, the Board has received no additional issues from the Committee and has addressed all issues raised in the last Sunset Review.

#### Section 12 – Attachments

Please provide the following attachments:

- A. Board's administrative manual.
- B. Current organizational chart showing relationship of committees to the board and membership of each committee (cf., Section 1, Question 1).
- C. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).
- D. Quarterly and Annual Performance Measures reports from the Department of Consumer Affairs website.
- E. Customer Satisfaction Survey Results

## Department of Consumer Affairs Board of Psychology

# Sunset Review Form Attachments

 Section 12 – Attachment A – Board's Administrative Manual

# Califor ia Board of

## Califor ia Board of PSYCHOLOGY

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-offiscal-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;

ADMINISTRATIVE PROCEDURE MANUAL 19

- 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

### **APPENDIX E**

Strategic Plan

## APPENDIX F

Statement of Economic Interest Form 700

## APPENDIX G

Department of Consumer Affairs Sexual Harassment Prevention Policy

## **APPENDIX H**

**Executive Officer Performance Evaluations** 

## **APPENDIX I**

**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

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

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:

 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 Jeff Mason, Chief Deputy Director Attorneys – Legal Affairs Division

## GUIDE TO THE

## BAGLEY-KEENE OPEN MEETING ACT

(Includes Amendments through January 1, 2017)

Prepared by:

DIVISION OF LEGAL AFFAIRS Department of Consumer Affairs 1625 N. Market Blvd., Suite S 309 Sacramento, CA 95834 (916) 574-8220

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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 <u>persons</u> 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 <u>upon request</u> 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 <u>number of persons on the committee</u> <u>that is determinative</u>, 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 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:

 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.

### <u>CAVEAT</u>: 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 gr (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 <u>open</u> 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 legallyimposed 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.

All closed sessions must be held <u>during a regular or special meeting</u> (§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 <u>announce the general reason(s)</u> for the closed session <u>and</u> the specific statutory or other <u>legal authority</u> 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))

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

 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)

 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 rolicall.

(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 oneto-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 <u>discuss</u>, 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 email 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 <u>any</u> 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:

 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.

 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, <u>upon request</u> 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 <u>misdemeanor</u>." (Emphasis added.)

#### 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.

(c) Not withstanding 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, 351), § 783, 1,

operative July 1, 1997; Suis.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

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 Suts.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.

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

 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

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.)

### 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

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. (c) 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. 1095, § 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

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:

 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:

 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.

(c) 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

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 twothirds 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.)

### 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:

 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

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:

 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

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.)

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.

(c) 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

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 <u>State</u> <u>California Victim Compensation and</u> <u>Government Claims Board</u> 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

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 (e) 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

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 (c).

(8) Prevent the California

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 <u>Department of</u> <u>Resources Recycling and Recovery or its</u> 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

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.

(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 inemorandum 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

(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

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 <u>Director</u> of Emergency <u>Services</u> 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

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. 1985, c. 186, § 1; Stats. 1984, c. 1284, § 4; Stats. 1985, c. 186, § 1; Stats. 1984, c. 1284, § 2; Stats. 1985, 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; Stais.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

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

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.

(c) 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 date 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 agendized 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.

(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. 4025, § 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

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

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

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:

 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

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

# Office of Administrative Services Accounts Payable Travel Unit



January 2017

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

#### 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. <u>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.</u>

#### 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 <u>Travel Expense Claim</u> (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' <u>TECs</u>. 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 <u>must have a signature card on file</u> with the Accounting Office before approving a claim.

Note: See DCA policy, form, and procedures posted on the <u>DCA Intranet</u> 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 <u>must be at least 50 miles from home/headquarters</u>. 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 <u>California Department of Human Resources (CalHR)</u> website for current rates.

For BU1-6, 8-20		
Lodging Reimbursement Reimbursement		
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	

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For Excluded/Exempt, BU 7 and BU21		
Lodging	Reimbursement	
Statewide (except for those listed	\$90.00 plus taxes on the entire cost of the lodging	
below.)	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	\$120.00 plus taxes on the entire cost of the	
and Edwards AFB	lodging rate.	
Monterey, San Diego	\$125.00 plus taxes on the entire cost of the	
	lodging rate.	
Alameda, San Mateo & Santa Clara	\$140.00 plus taxes on the entire cost of the	
Counties.	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

## Hotel Tax Waiver

The <u>Hotel/Motel Transient Occupancy Tax Waiver, Form 236 (New 9-91)</u>, is available on the <u>DCA</u> <u>Intranet</u> 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.

#### 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.

Sharing a Room

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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 (<u>TECs</u>) at the same time and a copy of the other's claim should be attached to their own.

## Meal Rates

There are no flat reimbursement rates. All items claimed are to be for the <u>ACTUAL AMOUNT OF</u> <u>EXPENSE</u>, 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 <u>California Department of</u> <u>Human Resources (CalHR)</u> 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).

	Maximum		Maximum
Expense	Reimbursement	Expense	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 <u>board or committee meetings</u>. 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 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 <u>TEC</u>.

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.

#### 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.

#### **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	Х	
1, 4, 11 & 14	\$8.00		Х
2, 9, 12, 16 & 19	\$8.00	Х	
Excluded & 21 (exempt FLSA)	\$8.00	Х	

#### 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.

## 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.

#### **Excess Lodging Policy and Procedure**

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

- A list of at least three hotels contacted using the <u>Concur CalTravel Store</u> 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.

#### 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.

#### 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 (<u>SAM section 0715 CALHR PML</u> 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 meed 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.

#### **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

## Introduction

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

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

## 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 <u>n o t for t he e m p loyee's convenience</u>.

## 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

- 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 <u>cost comparison</u> must:

- Be completed and attached to the <u>TEC</u>, 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 <u>TEC</u>. 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 C	osts	Vehicle Costs
Ticket roundtrip \$216.00 Mileage to/from airport		Mileage: City-to-city roundtrip:
30 miles x 54 cents per mile= \$16.20           Parking         \$10.00           Total         \$242.20		720 miles x 54 cents per mile  = <b>\$388.80</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 (<u>calaters@dca.ca.gov</u>) when special circumstances arise prior to commencing the trip.

#### 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 <u>Management</u> <u>Memorandum</u> regarding the travel policy for all State agencies.

#### 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 oneway fares and are not subject to limited seating.

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

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 (<u>www.caltravelstore.com</u>).

Current Airfare Contract: www.travel.dgs.ca.gov

DGS Air Travel Services: Air Travel Information 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

SAM section 8422.115: Airline Itinerary Requirements www.documents.dgs.ca.gov/sam/SamPrint/new/sam master/rev427sept14/chap700/741.pdf

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

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#### Airport Parking

Employees parking at the airport <u>must use the most economical parking available</u>. 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 <u>TEC</u>. Without a receipt, reimbursement is limited to \$10. Please note: <u>TECs submitted without the required justification may be cut by the State Controller's Office (CalHR PML 2007-024)</u>.

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.

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 <u>www.caltravelstore.com</u>. 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-fags

#### 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 <u>guest</u> <u>traveler</u>; no profile should or needs to be established.

#### 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

#### 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 <u>TEC</u>. The cost should always be entered on the claim as "Commercial Airfare," and "Department Paid" should be selected for payment type.

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

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 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 <u>STD 265</u>. Use <u>STD 265</u> for certification and insurance: <u>http://www.documents.dgs.ca.gov/sam/SamPrint/new/sam\_master/rev427sept14/chap700/746.pdf</u>.

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 <u>CalHR</u> <u>Rule 599.628</u> and <u>SAM 0747</u>.

#### Reimbursement: SAM 0744

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 <u>TEC</u>. 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.

#### 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: Stateowned, 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) **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.

**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 <u>Department of General Services (DGS) website</u> to view the rental car contract and ensure adherence to State policy. (See Appendix.)

#### 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

#### DGS Fleet Handbook (Page 5)

www.documents.dgs.ca.gov/ofa/handbook.pdf

#### DGS Rental Car Policies and Procedures

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 <a href="https://www.dgs.ca.gov/travel/Programs/">www.dgs.ca.gov/travel/Programs/</a> <u>RentingaVehicle.aspx</u> for more information.

Commercial Car Rental Car Rates as of January 2015: <u>www.dgs.ca.gov/travel/Programs/</u> <u>RentingaVehicle.aspx</u> 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.

#### Car Rental Reservation Information

Rental Car reservation must be made on Concur CalTravelStore (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 <a href="http://sam.dgs.ca.gov/TOC/2400.aspx">http://sam.dgs.ca.gov/TOC/2400.aspx</a>.

#### 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 <u>Short-Term Vehicle Justification Form</u>, 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. <u>Prepaid fuel receipts are not acceptable for reimbursement</u>.

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 <u>www.dgs.ca.gov</u>.

Rates include unlimited mileage and are not subject to blackout dates. Contracted vehicle rates information is available at <a href="www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx">www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx</a>. 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)

Vehicle Class Type	Daily	Weekly	Max Cap
Compact	\$33.00	\$132.00	Daily \$50.00
(Nissan Versa, Toyota Yaris)	<i>\$</i> 55.00	<b>\$152.00</b>	\$30.00
Mid-Size/Intermediate	\$33.00	\$132.00	\$50.00
(Toyota Corolla, Nissan Sentra)			
Full-Size	\$35.00	\$140.00	\$53.00
(Chevy Impala, Nissan Altima)			
FWD/Sport Utility Vehicle	\$56.00	\$224.00	\$78.00
(Ford Escape, Jeep Liberty)			
Minivan	\$56.00	\$224.00	\$78.00
(Chrysler Town and Country, Dodge Grand Caravan)			
Pick-Up Trucks	\$70.00	\$280.00	\$94.00
(Chevy Silverado, Ford F150)			
Plug-In Hybrid Electric Vehicle/Zero Emission	\$42.00	\$168.00	\$62.00
Vehicle			
Hybrid Eclectic Vehicle	\$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.

#### 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 <u>SAM section 0753</u>.

An Authorization to Use Privately Owned Vehicle form (<u>STD 261</u>) should be completed and on file with the immediate supervisor. The <u>STD 261</u> 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.

#### Mileage Rate Reimbursement

The following table shows the mileage reimbursement rates for privately owned vehicles:

1/1/2017- Current	.535 cents per mile
1/1/2016- 12/31/16	54 cents per mile
1/1/2015-12/31/2015	57.5 cents per mile
1/1/2014-12/31/2014	56 cents per mile
1/1/2013-12/31/2013	56.5 cents per mile

#### 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.

#### 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.

#### 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 <u>STD 270</u> 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.

#### 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.

#### State Vehicle Emergency Repairs

Emergency State vehicle repairs can be reimbursed on a <u>TEC</u> with the appropriate receipt and written justification or explanation of the event. Repairs require Fleet Administration approval. For nonemergency car repairs, the employee should have the vendor bill the program directly.

#### 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 <u>TEC</u> 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. <a href="https://www.calhr.ca.gov/PML%20Library/2015039.pdf">www.calhr.ca.gov/PML%20Library/2015039.pdf</a>

Zipcars are not authorized to use for State travel transportation.

#### 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 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

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#### CHAPTER 4 BUSINESS EXPENSES AND RECEIPTS

#### **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 <u>SAM section 0191</u>: 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: <u>CalHR Rule 599.921</u> 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.

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 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 (<u>TEC</u>), the claimant is required to include <u>original, itemized receipts for all State business expenses</u>, 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 <u>\$1</u> or more, except as noted in this chapter.

DCA policy is for all receipts to be attached to the <u>TEC</u>, 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.

#### 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.

#### 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 <u>8 ½-inch x 11-inch sheet of paper</u> 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.

#### CHAPTER 5 REPORTABLE TAX ITEMS

#### 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.

#### 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 (<u>calaters@dca.ca.gov</u>) 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 <u>http://SCO.ca.gov/ppsd\_ppm.html</u> 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.

#### 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 <u>TEC</u> 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 (<u>calaters@dca.ca.gov</u>) 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

#### Introduction

There are additional requirements and/or approvals when filing out-of-State, out-of-country, or amended Travel Expense Claims (<u>TECs</u>).

#### 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: <u>www.documents.dgs.ca.gov/sam/SamPrint/new/sam\_master/rev427sept14/chap700/710.pdf.</u> Approval must be obtained if either one of the following conditions exist:

- 1. The employee is on State time.
- 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 <u>DCA Intranet</u>, under Office of Administrative Services) or Accounting Office (<u>calaters@dca.ca.gov</u>) if you do not know the blanket number or require additional information. Refer to SAM 0760–0765 at <u>http://sam.dgs.ca.gov/TOC/700.aspx</u>.

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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 <u>aoprals.state.gov</u> 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 <u>DCA Budget Office</u> if you do not know the trip number or require additional information.

#### 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.

Obtain all required approval signatures and submit the claim to Accounting Office Travel Unit for payment.

#### CHAPTER 7 TRAVEL AND EVIDENCE ADVANCES

#### 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 <u>8116</u> and 8117.

- Submit the travel advance request on CalATERS Global. In the event of non-access to CalATERS Global, please complete the <u>Request for Travel Advance (AISD-008)</u> 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 (<u>http://gov.ca.gov/news.php?id=16991</u>).
   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 <u>Travel Expense Claim (TEC</u>).
- 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 <u>TEC</u> or return the excess advance amount within ten days of each trip.
- All advances must be cleared by submitting a <u>TEC</u> within <u>ten days after the date of travel</u>. 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 <u>TEC</u>. (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 <u>SAM 8116.1</u>. 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 (<u>SAM</u> <u>8116.3</u>) 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 <u>CalATERS Global Training Request</u> form should be completed and sent as an attachment to <u>CalATERS@dca.ca.gov</u> 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.

 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, <u>each trip must be</u> 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 <u>Travel Expense Claim</u> (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 <u>Travel Expense Claim (TEC</u>) 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 <u>TEC</u>.

#### Employee Information

This information describes to whom, classification, bargaining unit, and where expenses should be charged.

Field	Enter Into Field
Claimant's Name	First name, middle initial, last name
Social Security Number or Employee Number*	13-digit position number or write "on file"
Department	Department of Consumer Affairs
Position	Civil service classification (title)
CB/ID Number	Bargaining unit number for represented employees OR Confidential, exempt, board/committee member, volunteer, or other specific title
Division or Bureau	Board, committee, program, division, or unit name
Index Number	Index/PCA number (contact the Department of Consumer Affairs [DCA] Accounting Office for assistance if you do not know your Index/PCA number)
Residence Address* (including city, state, and ZIP code)	Home address (do not use P.O. Box) If confidential, contact the DCA Accounting Office for guidance.
Headquarters Address (city, state, and ZIP code)	Complete headquarters (work) address
Phone Number	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	Normal Work Hours: Use the 24-hour clock		
2	Private Vehicle License Number: Enter the license number of the private vehicle used on State business		
3	Mileage Rate Claimed: Enter the rate claimed for private vehicle	use	
4	Month/Year: Month number (January = 1, December = 12) and for	our-digit year	
5	Date: Day of the month (one day per line) Time: Departure and return (using the 24-hour clock)		
6	Location Where Expenses Were Incurred: (A brief statement describing the purpose may be entered immediately below the last entry for each trip.)		
7	Lodging: Enter actual cost of lodging, plus tax (up to the maximur	m reimbursement)	
8	Meals: Enter actual cost of meals (up to the maximum reimburse	ment)	
9	Incidentals: Enter actual cost of incidentals (up to the maximum	reimbursement)	
10 (A)	Transportation: Enter the cost of transportation, if paid by emplo	oyee	
10 (B)	Transportation: Enter the method of transportation, using the fo	llowing codes:	
	Туре	Code	
	Railway	R	
	Bus, air porter, light rail, Bay Area Rapid Transit (BART)	В	
	Commercial airline	А	
	Privately owned vehicle (motorcycles not allowed)	PC	
	Private air	PA	
	State car	SC	
	Rental car	RC	
	Taxi	Т	
10 (C)	Transportation: Enter carfare, bridge road tolls, or parking expen	ses	
10 (D)	Transportation: Enter the number of miles driven with private and State vehicles, and then enter the amount due for private vehicles only		
11	Business Expense: 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	Total Expenses for Day: Enter the total expenses for that day		
13	Subtotals: Enter the total expenses for each column		
14 Purpose of Trip, Remarks, and Details: Enter the justification and miscellane 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) www.calhr.ca.gov/PML%20Library/201304 4.pdf
FLSA Guidelines	04/16/2004		DCA DPM-PERS 02-06 http://inside.dca.ca.gov/offices/oas/hr/ labor_rel.html
Travel and Relocation–Lodging Receipts	07/01/2014		www.calhr.ca.gov/employees/pages/trav el-reimbursements.aspx CalHR PML 2013-022 www.calhr.ca.gov/PML%20 Library/2013026.pdf
Vanpool Incentives	10/22/2002		DPA PML 2002-069 www.dpa.ca.gov/textdocs/freepmis/PML 2002069.txt
	09/27/2002		CalHR PML 2002-064 ( <u>www.dpa.ca.gov/textdocs/freepmls/PM</u> <u>L2002064.txt</u> )
	04/02/2002		CalHR PML 2002-021 (www.dpa.ca.gov/textdocs/fre epmls/PML2002021.txt)

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	www.dgs.ca.gov	Γ
State Administrative Manual	http://sam.dgs.ca.gov/TOC/700.aspx	
Forms	www.dgs.ca.gov/osp/Forms.aspx	
California Department of Human Resources Bargaining Unit Contracts Personnel Management Letters (PMLs)	www.calhr.ca.gov/Pages/home.aspx www.calhr.ca.gov/Pages/home.aspx	
Travel Agency	www.caltravelstore.com	

List of Related Forms

The travel forms mentioned in this Travel Guide are available on the <u>Department of Consumer Affairs</u> (<u>DCA</u>) Intranet at <u>http://inside.dca.ca.gov/forms/subject.html#travel</u> and in this Appendix.

Form	Number	DCA Intranet and/or Internet Links
Authorization to Use Privately Owned Vehicles on State Business	STD 261	www.documents.dgs.ca.gov/dgs/fmc/pdf/std261.pdf
Cost Comparison Page	N/A	http://inside.dca.ca.gov/forms/oas/cost_comparison.pdf
Excess Lodging Rate Request/Approval	STD 255C	www.documents.dgs.ca.gov/dgs/fmc/pdf/std255C.pdf
Conference Attendance Request	N/A	http://inside.dca.ca.gov/forms/oas/conf_attend.pdf
Hotel/Motel Transient Occupancy Tax Waiver	STD 236	www.documents.dgs.ca.gov/dgs/fmc/pdf/std236.pdf
Justification for Reimbursement for Postage Charges	AISD 12	http://inside.dca.ca.gov/forms/oas/postal_charges.pdf
Justification for Reimbursement for Telephone Charges	AISD 11	http://inside.dca.ca.gov/forms/oas/phone_charges.pdf
Request for Travel Advance	AISD 008	http://inside.dca.ca.gov/forms/oas/travel_advance.pdf
Travel Advances and Travel Expenses Policy	SAM Chapter 8100	www.documents.dgs.ca.gov/sam/SamPrint/new/sam_maste r/rev427sept14/chap8100/8116.pdf www.documents.dgs.ca.gov/sam/SimPrint/new/sam_master /rev427sept14/chap8100/8116.1.pdf
Travel Expense Claim	STD 262	www.documents.dgs.ca.gov/dgs/fmc/pdf/std262.pdf

### Appendix C: Department of Human Resources Mileage Reimbursement Rate



Appendix C: Department of Human Resources Mileage Reimbursement Rate

#### Department of Human Resources Memorandum

#### **TO:** Personnel Management Liaisons (PML)

SUBJECT: Travel/Relocation Programs – 2016 Mileage Reimbursement Rate	REFERENCE NUMBER: 2015-041
for Use of Personal Vehicle	
DATE ISSUED:	SUPERSEDES:
December 30, 2015	

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

STATE OF CALIFORNIA

## Appendix D: Travel Expenses and Per Diem Form

## **PSYCHOLOGY**

#### 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 <u>personal</u> business. Failure to complete this form porely 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
- C Committee Meeting
- R Reviewing Exam Tapes
- I Item Writers Workshop
- X Attending Board Examination
- E Reviewing Enforcement Case
- D Reviewing Credentials
  - T Travel
- V Convention H Attending a Hearing 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.

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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:

FIRST TRIP									
REASON FOR TRIP:									
LOCATION:									
DEPARTURE DATE:	DEPARTURE TIME:	RETURN DATE:	RETURN TIME:						
TRANSPORTATION COSTS									
AIRLINE:	STATE CAR?	BUS?	OTHER:						
PRIVATE CAR? PRIVATE CAR LICENSE: MILEAGE (ROUND TRIP):									
MISCELLANEOUS									
PARKING:	TAXI:	TOLLS:	OTHER:						
			STATE OF CA						

www.psychology.ca.gov P (916) 574-7720 / F (916) 574-8671

1625 N. Market Blvd. N-215, Sacramento, CA 95834

GOVERNOR EDMUND G. BROWN BUSINESS, CONSUMER SERVICES AND HOUSING AGEN



SECOND TRIP								
REASON FOR TRIP:								
LOCATION:								
DEPARTURE DATE:	DEPARTURE TIME:	RETURN DATE:	RETURN TIME:					
TRANSPORTATION COSTS								
AIRLINE:	STATE CAR?	BUS?	OTHER:					
RIVATE CAR? PRIVATE CAR LICENSE: MILEAGE (ROUND TRIP):								
MISCELLANEOUS								
PARKING:	TAXI:	TOLLS:	OTHER:					

THIRD TRIP								
REASON FOR TRIP:								
LOCATION:								
DEPARTURE DATE: DEPARTURE TIME: RETURN DATE: RETURN TIME:								
TRANSPORTATION COSTS								
AIRLINE:	STATE CAR?	BUS?	OTHER:					
PRIVATE CAR ? PRIVATE CAR LICENSE: MILEAGE (ROUND TRIP):								
MISCELLANEOUS								
PARKING:	TAXI:	TOLLS:	OTHER:					

FORTH TRIP								
REASON FOR TRIP:								
LOCATION:								
DEPARTURE DATE:	DEPARTURE TIME:	RETURN DATE:	RETURN TIME:					
TRANSPORTATION COSTS								
AIRLINE:	STATE CAR?	BUS?	OTHER:					
PRIVATE CAR? PRIVATE CAR LICENSE: MILEAGE (ROUND TRIP):								
MISCELLANEOUS								
PARKING:	TAXI:	TOLLS:	OTHER:					

Additional Comments\_\_\_

## Appendix E: Strategic Plan

# 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/registrant 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:

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.



- 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.

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.



# 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

# LICENSING

The Board of Psychology (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.

## **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).
- 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.

# **GOAL 2: CONTINUING EDUCATION**

The Board works to ensure qualified and competent ndividuals are licensed to provide psychological services n 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.

### 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 BreEZe 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).

# **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.



### **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.



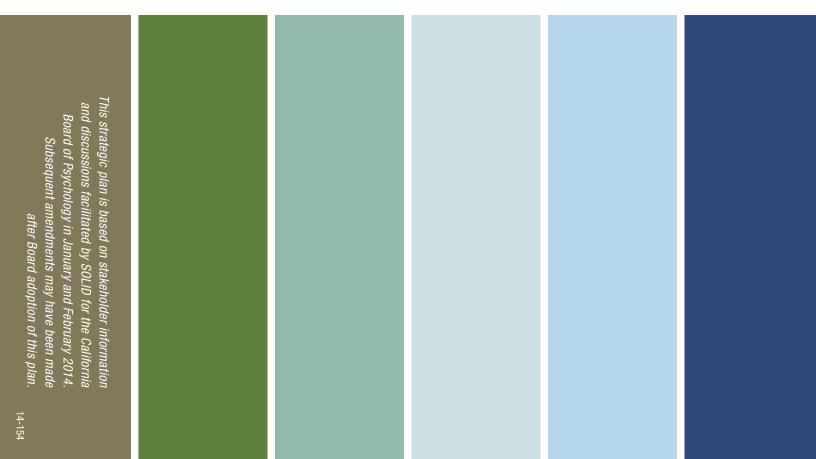
# STRATEGIC PLANNING PROCESS

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.

**PSYCHOLOGY** 1625 North Market Blvd., Suite N-215 Sac (916) 574-7720 www.psychology.ca.gov 1625 North Market Blvd., Suite N-215 Sacramento, CA 95834



# Appendix F: Statement of Economic Interest Form 700



# 2016/2017 Statement of Economic Interests



# 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 Toll-free advice line: 1 (866) ASK-FPPC • 1 (866) 275-3772 Telephone: (916)322-5660 • Website: www.fppc.ca.gov

December 2016

### 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.

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#### Where to file:

#### 87200 Filers

State offices
Judicial offices
Retired Judges
County offices
City offices
Multi-County offices

- Your agency The clerk of your court Directly with FPPC
- Directly with FPPC
   Your county filing official
- Your city clerk
  - 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*. 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.* 

#### 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

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.

#### 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.
- 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.

#### Types of Form 700 Filings

#### 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 <u>prior to</u> 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.

#### 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.

an Board Member
Roard Mombar
Court Commissioner (Statewide Jurisdiction)

#### 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, FACs, 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.

CALIFORNIA FORM 700 FAIR POLITICAL PRACTICES COMMISSION A PUBLIC DOCUMENT

### STATEMENT OF ECONOMIC INTERESTS

Date Initial Filing Received

COVER PAGE

Please t	ype or print in ink.				
NAME OF	FILER (LAST)	(FIRST)	)		(MIDDLE)
1. Offic	ce, Agency, or Court				
Agen	cy Name (Do not use acronyms)				
Divisi	ion, Board, Department, District, if a	ipplicable		Your Position	
► lf	filing for multiple positions, list belo	w or on an attachment. (D	Do not use a	acronyms)	
Ager	псу:			Position:	
2. Jur	isdiction of Office (Check a	at least one box)			
□s	itate			Judge or Court Commissioner (Sta	tewide Jurisdiction)
□ N	fulti-County			County of	
□ C	tity of			Other	
3. Тур	e of Statement (Check at le	ast one box)			
	Annual: The period covered is Jan December 31, 2016.	uary 1, 2016, through		Leaving Office: Date Left     (Check one)	]]
	-or- The period covered is December 31, 2016.	/, t	through	<ul> <li>The period covered is January leaving office.</li> <li>-or-</li> </ul>	1, 2016, through the date of
	Assuming Office: Date assumed .	//	-	<ul> <li>The period covered is/.</li> <li>the date of leaving office.</li> </ul>	, through
	Candidate: Election year	and office s	sought, if di	fferent than Part 1:	
	nedule Summary (must co nedules attached	omplete) ► Total r	number o	f pages including this cover pag	je:
C	Schedule A-1 - Investments - s			Schedule C - Income, Loans, & Business	
L	Schedule A-2 - Investments - s			Schedule D - Income – Gifts – schedule a	
-or-	Schedule B - Real Property – se	nequie attached	L :	Schedule E - Income – Gifts – Travel Pay	ments - schedule attached
-	None - No reportable interes	ts on any schedule			
5. Veri	fication				
	NG ADDRESS STREET aess or Agency Address Recommended - Pub	lic Document)	CITY	STATE	ZIP CODE
DAYT	IME TELEPHONE NUMBER		E	-MAIL ADDRESS	
	, e used all reasonable diligence in p n and in any attached schedules is			ed this statement and to the best of my kno is is a public document.	wledge the information contained
l cer	tify under penalty of perjury unde	r the laws of the State o	of California	that the foregoing is true and correct.	
Date	Signed		Sigi	nature	
	(month, day, yea	t)	-	(File the originally signed stateme	, , ,
	Clear F	Page Pri	int		FPPC Form 700 (2016/2017 vice Email: advice@fppc.ca.gov 366/275-3772 www.fppc.ca.gov

#### **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**

#### 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

- 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. 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.

- 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

- 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 OF BUSINESS ENTITY	► NAME OF BUSINESS ENTITY
GENERAL DESCRIPTION OF THIS BUSINESS	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	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)
Partiership     O income Received of \$500 or More (Report on Schedule C)     O Income Received of \$500 or More (Report on Schedule C)	Partnership O Income Received of \$0 - \$499 Income Received of \$500 or More (Report on Schedule C)
IF APPLICABLE, LIST DATE:	IF APPLICABLE, LIST DATE:
/16/16_ 	/
NAME OF BUSINESS ENTITY	NAME OF BUSINESS ENTITY
GENERAL DESCRIPTION OF THIS BUSINESS	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)	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
Partnership O Income Received of \$0 - \$499 O Income Received of \$500 or More (Report on Schedule C)	Partnership O Income Received of \$0 - \$499 O Income Received of \$500 or More (Report on Schedule C)
IF APPLICABLE, LIST DATE:	IF APPLICABLE, LIST DATE:
/ / / ACQUIRED DISPOSED	//_16
► NAME OF BUSINESS ENTITY	► NAME OF BUSINESS ENTITY
GENERAL DESCRIPTION OF THIS BUSINESS	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	FAIR MARKET VALUE           \$2,000 - \$10,000           \$100,001 - \$1,000,000           \$100,001 - \$1,000,000
NATURE OF INVESTMENT Stock Other	NATURE OF INVESTMENT           Stock         Other
(Describe) ☐ Partnership ○ Income Received of \$0 - \$499 ○ Income Received of \$500 or More ( <i>Report on Schedule C</i> )	(Describe) Partnership O Income Received of \$0 - \$499 O Income Received of \$500 or More (Report on Schedule C)
IF APPLICABLE, LIST DATE:	IF APPLICABLE, LIST DATE:
/ 16/ 16/ ACQUIRED/ 16/	//
Comments:	
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FPPC Advice Email: advice@tppc.ca.gov FPPC Toll-Free Helpline: 866/275-3772 www.fppc.ca.gov

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

CALIFORNIA FORM 700

Name

(Ownership Interest is 10% or Greater)

► 1. BUSINESS ENTITY OR TRUST	► 1. BUSINESS ENTITY OR TRUST
Name	Name
Address (Business Address Acceptable)	Address (Business Address Acceptable)
Check one Trust, go to 2 Business Entity, complete the box, then go to 2	Check one Trust, go to 2 Business Entity, complete the box, then go to 2
GENERAL DESCRIPTION OF THIS BUSINESS	GENERAL DESCRIPTION OF THIS BUSINESS
FAIR MARKET VALUE         IF APPLICABLE, LIST DATE:           \$\$0 - \$1,999         \$\$2,000 - \$10,000	FAIR MARKET VALUE         IF APPLICABLE, LIST DATE:           \$0 - \$1,999         \$2,000 - \$10,000           \$10,001 - \$100,000
NATURE OF INVESTMENT Partnership Sole Proprietorship Other	NATURE OF INVESTMENT
YOUR BUSINESS POSITION	YOUR BUSINESS POSITION
2. IDENTIFY THE GROSS INCOME RECEIVED (INCLUDE YOUR PRO RATA SHARE OF THE GROSS INCOME <u>TO</u> THE ENTITY/TRUST)	<ul> <li>2. IDENTIFY THE GROSS INCOME RECEIVED (INCLUDE YOUR PRO RATA SHARE OF THE GROSS INCOME TO THE ENTITY/TRUST)</li> </ul>
□ \$0 - \$499 □ \$10,001 - \$100,000 □ \$500 - \$1,000 □ OVER \$100,000 □ \$1,001 - \$10,000	S0 - \$499 S10,001 - \$100,000 S500 - \$1,000 OVER \$100,000 \$1,001 - \$10,000
INCOME OF \$10,000 OR MORE (Attach a separate sheet if necessary) None or Names listed below	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:	<ul> <li>4. INVESTMENTS AND INTERESTS IN REAL PROPERTY HELD OR LEASED BY THE BUSINESS ENTITY OR TRUST Check one box:</li> </ul>
Name of Business Entity, if Investment, <u>or</u> Assessor's Parcel Number or Street Address of 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	Description of Business Activity or City or Other Precise Location of Real Property
FAIR MARKET VALUE         IF APPLICABLE, LIST DATE:           \$\Begin{aligned} \$2,000 & \$10,000\$         \$10,001 & \$10,000\$           \$100,001 & \$1,000,000\$         \$ACQUIRED           \$0ver \$1,000,000\$         DISPOSED	FAIR MARKET VALUE         IF APPLICABLE, LIST DATE:           \$2,000 - \$10,000         _/_/16           \$10,001 - \$10,000         _/_/16           \$10,001 - \$1,000,000         ACQUIRED           DISPOSED
NATURE OF INTEREST Property Ownership/Deed of Trust Stock Partnership	NATURE OF INTEREST
Leasehold Other	Leasehold Other
Check box if additional schedules reporting investments or real property are attached	Check box if additional schedules reporting investments or real property are attached
Comments:	FPPC Form 700 (2016/2017) Sch. A-2 FPPC Advice Email: advice@fppc.ca.gov
Clear Page Print	FPPC Toll-Free Helpline: 866/275-3772 www.fppc.ca.gov

#### 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.

<ul> <li>ASSESSOR'S PARCEL NUMBER OR STREET ADDRESS</li> </ul>
4600 24th Street
CITY
Sacramento
PARE MANDECT VALUE         IF APPLICABLE, LIST DATE:           □ \$2000 + \$100,000        15           □ \$100,01 - \$100,000        15           ☑ \$100,010 - \$100,000        15           ☑ \$100,010        15           ☑ \$100,000        15           ☑ \$100,000        15
NATURE OF INTEREST
Cwnership/Deed of Trust
Leasehold Cther
IF RENTAL PROPERTY, GROSS INCOME RECEIVED
so - \$499 \$500 - \$1,000 \$1,001 - \$10,000
S10,001 - \$100,000
SOURCES OF RENTAL INCOME: If you own a 10% or greater interest, list hannes of each tenant that is a single source of income of \$10,000 or more.
NAME OF LENDER*
Sophia Petroillo
ADDRESS (Buzinezz Addrezz Acceptable)
2121 Blue Sky Parkway, Sacramento
BUSINESS ACTIVITY, IF ANY, OF LENDER
Restaurant Owner
INTEREST RATE TERM (Montha/Years)
8 None 15 Years
HIGHEST BALANCE DURING REPORTING PERIOD
s500 - \$1,000
🔀 \$10,001 - \$100,000
Guarantor, if applicable

FPPC Form 700 (2016/2017) FPPC Advice Email: advice@fppc.ca.gov FPPC Toll-Free Helpline: 866/275-3772 www.fppc.ca.gov Instructions – 12

### SCHEDULE B



Name

Interests in Real Property (Including Rental Income)

ASSESSOR'S PARCEL NUMBER OR STREET ADDRESS	► ASSESSOR'S PARCEL NUMBER OR STREET ADDRESS	
CITY	CITY	
FAIR MARKET VALUE         IF APPLICABLE, LIST DATE:           \$\$2,000 - \$10,000		
NATURE OF INTEREST Ownership/Deed of Trust Leasehold	NATURE OF INTEREST Ownership/Deed of Trust Leasehold Leasehold	
	Yrs. remaining       Other         IF RENTAL PROPERTY, GROSS INCOME RECEIVED       \$10.01         \$0 - \$499       \$500 - \$1,000       \$1,001 - \$10,000         \$10,001 - \$100,000       OVER \$100,000       SOURCES 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.         None	
loans received not in a lender's regular course of busine	ess must be disclosed as follows: NAME OF LENDER*	
ADDRESS (Business Address Acceptable)	ADDRESS (Business Address Acceptable)	
BUSINESS ACTIVITY, IF ANY, OF LENDER	BUSINESS ACTIVITY, IF ANY, OF LENDER	
INTEREST RATE         TERM (Months/Years)	INTEREST RATE         TERM (Months/Years)	
omments:Clear Page Print	FPPC Form 700 (2016/2017) Sch FPPC Advice Email: advice@fppc.ca.g FPPC Toll-Free Helpline: 866/275-3772 www.fppc.ca.g	

#### 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 a	and Travel	Payments)	ł
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	► 1. INCOME RECEIVED
NAME OF SOURCE OF INCOME	NAME OF SOURCE OF INCOME
ADDRESS (Business Address Acceptable)	ADDRESS (Business Address Acceptable)
BUSINESS ACTIVITY, IF ANY, OF SOURCE	BUSINESS ACTIVITY, IF ANY, OF SOURCE
YOUR BUSINESS POSITION	YOUR BUSINESS POSITION
GROSS INCOME RECEIVED       No Income - Business Position Only         \$500 - \$1,000       \$1,001 - \$10,000         \$10,001 - \$100,000       OVER \$100,000         CONSIDERATION FOR WHICH INCOME WAS RECEIVED       Salary         Spouse's or registered domestic partner's income (For self-employed use Schedule A-2.)         Partnership (Less than 10% ownership. For 10% or greater use Schedule A-2.)         Sale of       (Real property, car, boat, etc.)         Loan repayment       Commission or	GROSS INCOME RECEIVED       No Income - Business Position Or         \$500 - \$1,000       \$1,001 - \$10,000         \$10,001 - \$100,000       OVER \$100,000         CONSIDERATION FOR WHICH INCOME WAS RECEIVED       Salary         \$Souse's or registered domestic partner's income (For self-employed use Schedule A-2.)         Partnership (Less than 10% ownership. For 10% or greater use Schedule A-2.)         Sale of       (Real property, car, boat, etc.)         Loan repayment       Commission or
(Describe)	(Describe)
Other	Control (Describe)
(Describe) 2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PER * You are not required to report loans from commercial la retail installment or credit card transaction, made in the members of the public without regard to your official st regular course of business must be disclosed as follow	(Describe) RIOD ending institutions, or any indebtedness created as part of lender's regular course of business on terms available to atus. Personal loans and loans received not in a lender's
(Describe) 2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PER YOu are not required to report loans from commercial li retail installment or credit card transaction, made in the members of the public without regard to your official st	(Describe) Rop ending institutions, or any indebtedness created as part of e lender's regular course of business on terms available to atus. Personal loans and loans received not in a lender's rs:
(Describe) 2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PER * You are not required to report loans from commercial la retail installment or credit card transaction, made in the members of the public without regard to your official st regular course of business must be disclosed as follow NAME OF LENDER*	(Describe) RIOD ending institutions, or any indebtedness created as part of e lender's regular course of business on terms available to atus. Personal loans and loans received not in a lender's rs: INTEREST RATE TERM (Months/Years)
(Describe) 2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PEF * You are not required to report loans from commercial le retail installment or credit card transaction, made in the members of the public withhout regard to your official st regular course of business must be disclosed as follow NAME OF LENDER* ADDRESS (Business Address Acceptable) BUSINESS ACTIVITY, IF ANY, OF LENDER	ICDESCRIPTION INTEREST RATE INTEREST RATE SECURITY FOR LOAN ICDESCRIPTION ICDESCRIPTI
(Describe) 2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PEF * You are not required to report loans from commercial le retail installment or credit card transaction, made in the members of the public without regard to your official st regular course of business must be disclosed as follow NAME OF LENDER* ADDRESS (Business Address Acceptable)	IDE       (Describe)         RIOD       ending institutions, or any indebtedness created as part of a lender's regular course of business on terms available to atus. Personal loans and loans received not in a lender's ////////////////////////////////////
(Describe)  2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PEF  * You are not required to report loans from commercial le retail installment or credit card transaction, made in the members of the public withhout regard to your official st regular course of business must be disclosed as follow NAME OF LENDER*  ADDRESS (Business Address Acceptable)  BUSINESS ACTIVITY, IF ANY, OF LENDER  HIGHEST BALANCE DURING REPORTING PERIOD	Image: Construction of the second
(Describe)  2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PEE  * You are not required to report loans from commercial le retail installment or credit card transaction, made in the members of the public withhout regard to your official st regular course of business must be disclosed as follow NAME OF LENDER*  ADDRESS (Business Address Acceptable)  BUSINESS ACTIVITY, IF ANY, OF LENDER  HIGHEST BALANCE DURING REPORTING PERIOD  \$500 - \$1,000  \$1,001 - \$10,000	IDE       (Describe)         RIOD       ending institutions, or any indebtedness created as part or bender's regular course of business on terms available tratus. Personal loans and loans received not in a lender's rs:         INTEREST RATE       TERM (Months/Years)        %       None         SECURITY FOR LOAN       Personal residence         Real Property
(Describe)  2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PEE  * You are not required to report loans from commercial le retail installment or credit card transaction, made in the members of the public withhout regard to your official st regular course of business must be disclosed as follow NAME OF LENDER*  ADDRESS (Business Address Acceptable)  BUSINESS ACTIVITY, IF ANY, OF LENDER  HIGHEST BALANCE DURING REPORTING PERIOD  \$500 - \$1,000	Image: Construction of the second

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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

#### 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. 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 famly 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.

#### SCHEDULE D Income – Gifts



▶ NAME OF SOURCE (Not an Acronym) NAME OF SOURCE (Not an Acronym) ADDRESS (Business Address Acceptable) ADDRESS (Business Address Acceptable) BUSINESS ACTIVITY, IF ANY, OF SOURCE BUSINESS ACTIVITY, IF ANY, OF SOURCE DESCRIPTION OF GIFT(S) DESCRIPTION OF GIFT(S) DATE (mm/dd/yy) VALUE DATE (mm/dd/yy) VALUE \_\_\_\_ s\_\_\_ \_\_\_\_\_ s\_\_\_ 1 \_\_\_\_\_S\_\_\_ \_\_\_\_\_S\_\_\_\_ 1\_\_\_ \_/\_\_\_\_ \$\_\_ 1\_ \_\_\_ \_\_\_\_\$\_\_\_ NAME OF SOURCE (Not an Acronym) NAME OF SOURCE (Not an Acronym) ADDRESS (Business Address Acceptable) ADDRESS (Business Address Acceptable) BUSINESS ACTIVITY, IF ANY, OF SOURCE BUSINESS ACTIVITY, IF ANY, OF SOURCE DATE (mm/dd/yy) VALUE DATE (mm/dd/yy) VALUE DESCRIPTION OF GIFT(S) DESCRIPTION OF GIFT(S) \_\_\_\_\_\$\_\_\_ 1\_ \_/\_\_\_\_ \$\_\_\_ / / s 1 1 \_\_\_\_\$\_\_\_ \_\_\_\$\_\_ 1 \_/\_ 1 \_\_\_\_\$\_\_\_ NAME OF SOURCE (Not an Acronym) NAME OF SOURCE (Not an Acronym) ADDRESS (Business Address Acceptable) ADDRESS (Business Address Acceptable) BUSINESS ACTIVITY, IF ANY, OF SOURCE BUSINESS ACTIVITY, IF ANY, OF SOURCE DATE (mm/dd/yy) VALUE DESCRIPTION OF GIFT(S) DESCRIPTION OF GIFT(S) DATE (mm/dd/yy) VALUE \_\_\_\_/\_\_\_\_\$\_\_\_\_\_ \_/\_\_\_/\_\_\_\_\$\_\_\_\_\_ 1 \_\_\_\_\_ \$\_\_ \_/\_\_\_\_\$\_\_\_\_\_ \_\_\_\_\_ \$\_\_\_\_\_ Comments: \_\_\_\_

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#### 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.

#### 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.

<ul> <li>NAME OF SOURCE (Not an Acronym)</li> </ul>
Health Services Trade Association
ADDRESS (Business Address Acceptable)
1230 K Street, Suite 610
CITY AND STATE
Sacramento, CA
501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE
Association of Healthcare Workers
DATE(S)://
MUST CHECK ONE: Gift -or- X Income
Made a Speech/Participated in a Panel
Other - Provide Description Travel reimbursement for board meeting

#### SCHEDULE E Income – Gifts Travel Payments, Advances, and Reimbursements

CALIFORNIA FORM 700

FPPC Form 700 (2016/2017) Sch. E FPPC Advice Email: advice@fppc.ca.gov

FPPC Toll-Free Helpline: 866/275-3772 www.fppc.ca.gov

Name

· 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.

NAME OF SOURCE (Not an Acronym)	► NAME OF SOURCE (Not an Acronym)
ADDRESS (Business Address Acceptable)	ADDRESS (Business Address Acceptable)
CITY AND STATE	CITY AND STATE
501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE	501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE
 DATE(S):/// AMT: \$	DATE(S):// AMT: \$
MUST CHECK ONE: Gift -or- Income	► MUST CHECK ONE: Gift -or- Income
Made a Speech/Participated in a Panel	Made a Speech/Participated in a Panel
O Other - Provide Description	Other - Provide Description
If Gift, Provide Travel Destination	If Gift, Provide Travel Destination
NAME OF SOURCE (Not an Acronym)	► NAME OF SOURCE (Not an Acronym)
ADDRESS (Business Address Acceptable)	ADDRESS (Business Address Acceptable)
CITY AND STATE	CITY AND STATE
501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE	501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE
MUST CHECK ONE: Gift -or- Income	► MUST CHECK ONE: Gift -or- Income
Made a Speech/Participated in a Panel	Made a Speech/Participated in a Panel
O Other - Provide Description	Other - Provide Description
If Gift, Provide Travel Destination	► If Gift, Provide Travel Destination
Comments:	11

Print

Clear Page

### Appendix G: Department of Consumer Affairs Sexual Harassment Prevention Policy





DEPARTMENTAL POLICY



TITLE	SEXUAL HARASSMENT PREVENTION (SHP) POLICY					
POLICY OWNER	EQUAL EMPLOYMEN	EQUAL EMPLOYMENT OPPORTUNITY (EEO) OFFICE				
POLICY NUMBER	EEO 12-01	EEO 12-01 SUPERSEDES EEO 09-02				
ISSUE DATE	AUGUST 15, 2012	EFFECTIVE	IMMEDIATELY			
DISTRIBUTE TO	ALL EMPLOYEES	ALL EMPLOYEES				
ORIGINAL APPROVED BY	<b>Original signature on file</b> Denise D. Brown Director					
NUMBER OF PAGES	10	ATTACHMENTS	A-E			

#### POLICY

It is the policy of the Department of Consumer Affairs (DCA) that all employees and nonemployees 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 genderbased 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 <u>quid pro quo</u> 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.

<u>Intent vs. Impact</u> – 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 <u>mandatory</u> 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 <u>immediately notify the EEO Office for direction;</u>
- Make best efforts to ensure that complaints (formal or informal) are investigated in a timely, thorough, and confidential manner and are <u>immediately</u> reported to the EEO Office.

Under State law, managers/supervisors who engage in sexual harassment may be held <u>personally</u> liable for harassment.

### The Department is responsible for:

- The actions of managers and supervisors, and for acts of other employees and nonemployees 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 <u>not</u> promise confidentiality or anonymity, although you can promise discretion. Inform the employee that the Department <u>must</u> 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* (08K-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.
- <u>Record and document</u> 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 <a href="http://inside.dca.ca.gov/eeo/index.html">http://inside.dca.ca.gov/eeo/index.html</a>

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;
- 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

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\_\_\_\_\_



### ATTACHMENT C EQUAL EMPLOYMENT OPPORTUNITY OFFICE SEXUAL HARASSMENT/ DISCRIMINATION COMPLAINT FORM

<u>PLEASE NOTE:</u> This form must be filed with the Department of Consumer Affairs (DCA) Equal Employment Opportunity (EEO) Office within <u>365 days</u> of the last incident of discrimination. Submit form to DCA EEO Office, 1625 North Market Blvd., Suite N-330, Sacramento, CA 95834.

#### I. COMPLAINANT INFORMATION:

Name:	Classification:
Email Address:	Office Unit or Section:
Work Address:	Work Telephone: ( )
Home Address:	Home Telephone: ( )
City, State, Zip Code:	Immediate Supervisor:

#### II. BASIS OF DISCRIMINATION: Check appropriate box (es).

Age (40 years or older)		Medical Condition	Pregnancy	Sexual Harassment / Quid Pro Quo or Hostile Work Environment
Ancestry		Marital Status	Race	Sex (Gender)
Color (Skin color)		National Origin	Religion	Sexual Orientation
Disability		Political Affiliation/Opinion	Retaliation	Vietnam Era Veteran
Harassment (Specify Bas	is)		 	Other Military Status
				Genetic Information

### III. PERSON (S) RESPONSIBLE FOR THE ALLEGED DISCRIMINATION:

NAME	WORK LOCATION	PHONE NUMBER

#### IV. DATE OF FIRST INCIDENT OF DISCRIMINATION:

#### DAY MONTH YEAR

### V. DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE:

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.)

VII. PERSON (S) WHO HAVE INFORMATION OR KNOWLEDGE OF THE ALLEGED DISCRIMINATION: List name (s) of witness (es).

WORK LOCATION	PHONE NUMBER		
	WORK LOCATION		

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

Date



<u>PLEASE NOTE:</u> The Sexual Harassment/Non-Discrimination Complaint Form must be filed with the Department of Consumer Affairs (DAC) Equal Employment Opportunity Office within <u>365 days</u> 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: <u>Please check appropriate box (es)</u>. Check the area (s) on the EEO Complaint Form in which you have been discriminated against based on:

<ul><li>Age</li><li>(40 years or older)</li></ul>	<ul> <li>Medical Condition</li> <li>Genetic Information</li> </ul>	<ul> <li>Pregnancy</li> </ul>	<ul> <li>Sexual Harassment/ Quid Pro Quo or Hostile Work Environment</li> </ul>		
<ul> <li>Ancestry</li> </ul>	<ul> <li>Marital Status</li> </ul>	<ul> <li>Race</li> </ul>	<ul> <li>Sex (Gender)</li> </ul>		
Color	<ul> <li>National Origin</li> </ul>	<ul> <li>Religion</li> </ul>	<ul> <li>Sexual Orientation</li> </ul>		
<ul> <li>Disability</li> </ul>	<ul> <li>Political</li> </ul>	<ul> <li>Retaliation</li> </ul>	<ul> <li>Vietnam Era Veteran</li> </ul>		
	Affiliation/Opinion		<ul> <li>Other Military Status</li> </ul>		
<ul> <li>Harassment (Specify Basis) insert protected group category. *See also, the attachment entitled "Basis of Discrimination" for more information and examples of protected group categories.</li> </ul>					

- III. PERSON (S) RESPONSIBLE FOR THE ALLEGED ACTION: <u>Please enter all available information</u>. 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: <u>Please enter day, month, and year.</u>

### 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

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.

Revised 09/03/09

### 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)



#### INSTRUCTIONS

- 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.
- 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.
- 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

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.

- 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):	
lacksquare No increase (at maximum) $lacksquare$ Re	commended Increase:%
Effective Date of Salary Increase:	
4 Department of Consumer Affairs – Revised 2/2015	



	Performance Factor	Ratings				
	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.					
	OVERALL RATING:					
	Relationship with the Board					

Comments: (Attach additional pages, if necessary)



	Performance Factor		R	atings		
	2. Execution of Board Policy	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
1	Understands and compiles with the overall policies, laws and regulations of the Board.					
2	Implements Board policies.					
3	Efforts lead toward successful accomplishment of goals.					
	OVERALL RATING:					
	Execution of Board Policy					

Comments: (Attach additional pages, if necessary)

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	Performance Factor		R	atings		
	3. Board Programs	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
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.					
	OVERALL RATING: Board Programs					

Comments: (Attach additional pages, if necessary)



	Performance Factor		R	atings		
	4. Governmental Relations	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
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.					
	OVERALL RATING:					
	Governmental Relations					

Comments: (Attach additional pages, if necessary)

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	Performance Factor		R	atings		
	5. Administrative Functions	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
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.					
	OVERALL RATING:					
	Administrative Functions					

Comments: (Attach additional pages, if necessary)

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	Performance Factor		F	Ratings		
	6. Public Liaison	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
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.					
	OVERALL RATING: Public Liaison					

Comments: (Attach additional pages, if necessary)

Appendix I: Board President/Executive Officer Supervisory Expectations





RUEINDER, CONSUMER SERVICES, AND HOUSING AGENCY · GOVERNOR EDULAD G BROWN JR.

OFFICE OF HUMAN RESOURCES 1625 North Market Blvd. Suite N-321 Sacramento, CA 95834 P 916-574-8300 F 918-574-8608



#### MEMORANDUM

DATE	September 5, 2013
то	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

- 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.
- 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

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>&</sup>lt;sup>1</sup> Each Board has a staff person designated as a Personnel Llaison who can answer questions related to attendance and other human resources issues. In addition, HR office staff is available for general guestions.

<sup>&</sup>lt;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

 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

- 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 is 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.

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•	Commenting on modifications to the initial proposal	2
•	Effective comments	3
•	Standards for regulations	3
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•	An overview of the rulemaking process	3
•	A delegation of rulemaking authority	4
•	Preliminary activities	4
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•	Availability of the proposed text and the initial statement of reasons	5
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•	The public hearing	8
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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 <a href="http://www.leginfo.ca.gov/calaw.htm">http://www.leginfo.ca.gov/calaw.htm</a>. Rulemaking must also comply with regulations adopted by the Office of Administrative Law (OAL) (California Code of Regulations, Title 1, §§ 1-120; <a href="http://ccr.oal.ca.gov/">http://ccr.oal.ca.gov/</a>) 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 <a href="http://www.oal.ca.gov/rulemaking.htm">http://www.oal.ca.gov/rulemaking.htm.</a>.

**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 <u>http://ccr.oal.ca.gov</u>.

**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: <u>http://www.ca.gov</u>.

**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 <a href="http://www.oal.ca.gov/notice.htm">http://www.oal.ca.gov/notice.htm</a>. 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.

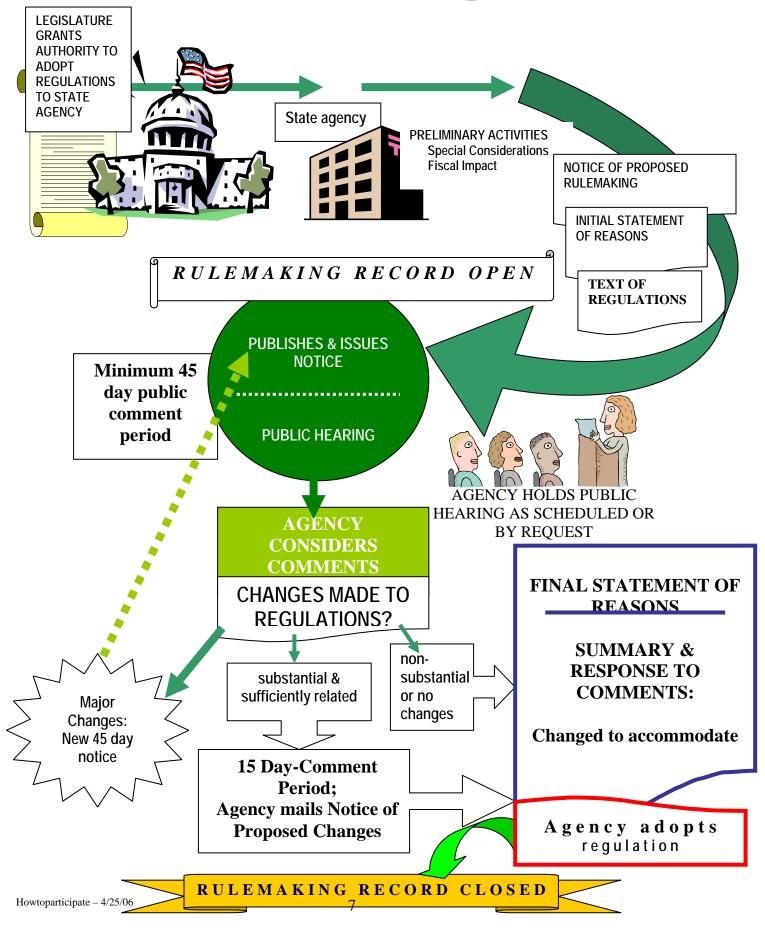
- An agency must find that no alternative would be more effective in carrying out the purpose for which a regulation is proposed or would be as effective as and less burdensome to affected private persons than the adopted regulation.
- A rulemaking agency must determine whether the regulation "may have," 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.

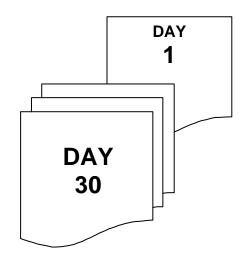
# **The Rulemaking Process**



# OAL REVIEW

State agency must submit rulemaking record within 1 year of notice publication

OAL has 30 WORKING days to review a regulation

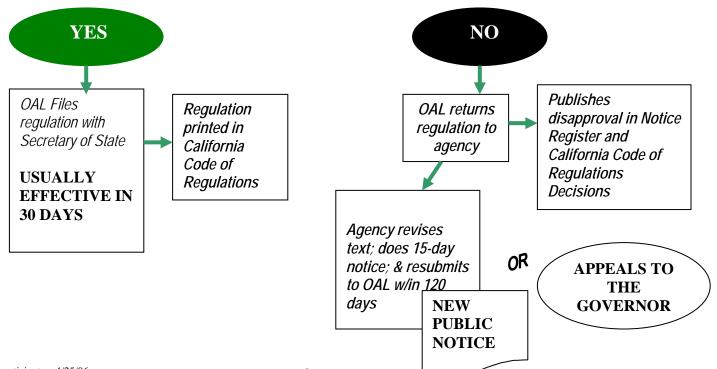


# APA STANDARDS:

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 <u>every</u> rule, regulation, order, or standard of general application or the amendment, supplement, or revision of <u>any</u> rule, regulation, order or standard adopted by <u>any</u> 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 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.

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.

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 <u>Drafting Legislation</u> <u>and Rules in Plain English</u>, 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 <u>repeats</u> or <u>rephrases</u> 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 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

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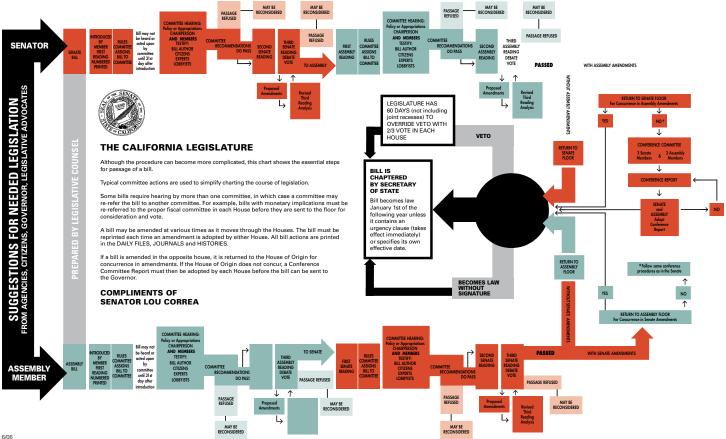
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Yamaha v. State Board of Equalization (1998) 19 Cal.4th 1, 78 Cal.Rptr.2d

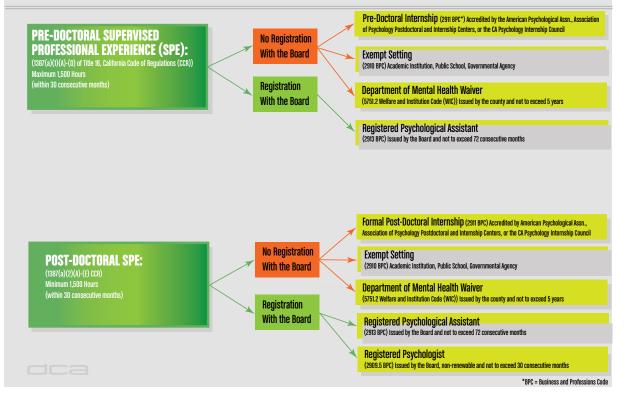
### THE LIFE CYCLE OF LEGISLATION – From Idea Into Law



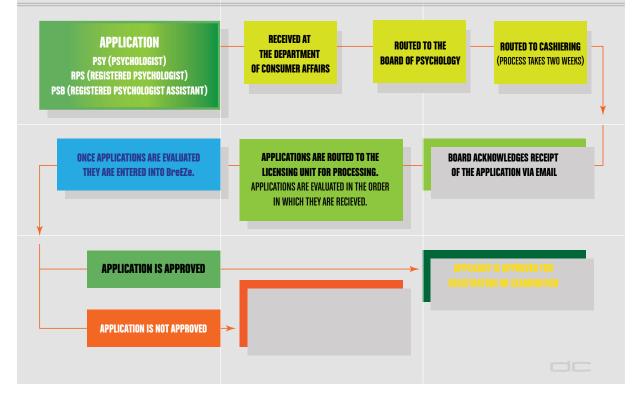
#### Appendix K: Application and Examination Flowcharts



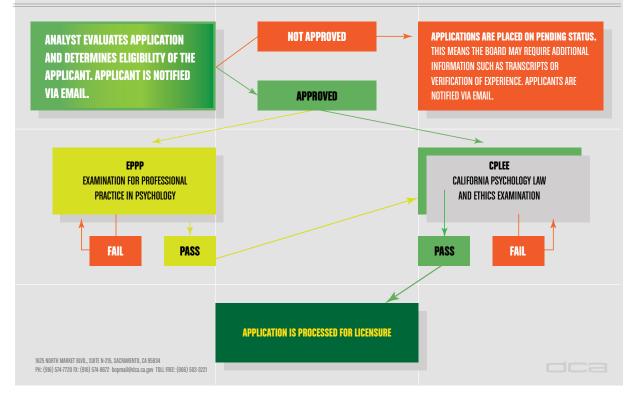
## **PSYCHOLOGY** PATHWAYS TO LICENSURE FLOWCHART



## **PSYCHOLOGY** APPLICATION FLOWCHART



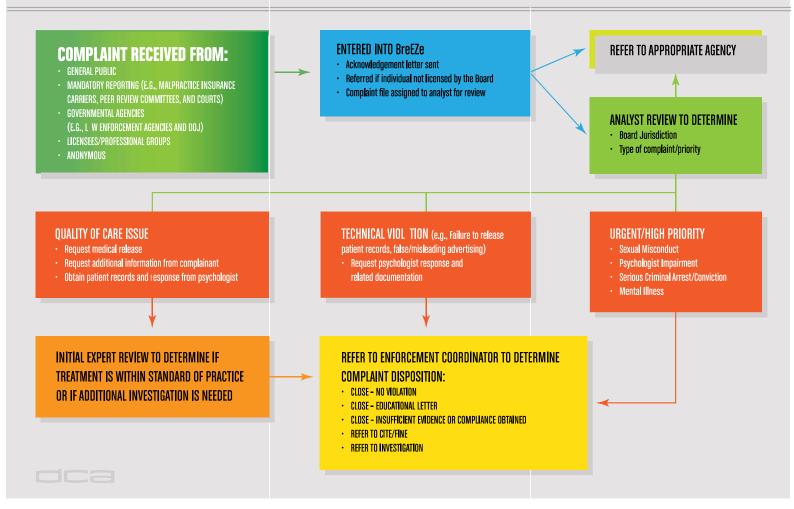
## **PSYCHOLOGY EXAMINATION FLOWCHART**



### Appendix L: Complaint Review and Enforcement Flowcharts



# **PSYCHOLOGY** COMPLAINT REVIEW FLOWCHART



# **PSYCHOLOGY ENFORCEMENT FLOWCHART**

### **COMPLAINT/INFORMATION SOURCE** COMPLAINT RECEIVED FROM:

- GENERAL PUBLIC
- MANDATORY REPORTING (E.G., MALPRACTICE INSURANCE CARRIERS, PEER REVIEW COMMITTEES. AND COURTS)
- GOVERNMENTAL AGENCIES
- LICENSEES/PROFESSIONAL GROUPS
- ANONYMOUS

### COMPLAINT DESK INVESTIGATION

Complaint is assigned to Enforcement Analyst/Special Investigator to determine:

- If immediate investigation is needed, If yes, refer complaint to appropriate district office
- Whether the complaint is within the Board's jurisdiction. If not, refer to the appropriate agency
- If more information is needed, the analyst requests this from the complainant
- Whether the complaint involves care provided by the licensee. If so, patient records and a response are obtained and reviewed by a psychology expert
- Whether a minor violation of the laws and regulations has occurred. If so, the psychologist is contacted and advised of the violation to achieve compliance, or the matter is referred for a citation and fine
- Whether a serious violation (extreme departure) of the laws and regulations has occurred. If so the complaint is referred for a formal investigation.

### INVESTIGATION

If following review by a psychology expert it is determined that a serious violation (extreme departure) of the laws and regulations has occurred, the case is referred to a Medical Board district office for

- investigation. Upon completion, the file may be: Closed, but retained for one year if no violation is confirmed.
- Closed but retained for five years because the complaint is found to have merit but lacks sufficient evidence to take action.
- Referred to the Attorney General's Health Quality Enforcement Section to determine whether to initiate disciplinary action.
- Referred for other non-disciplinary action, or criminal action.

### **ATTORNEY GENERAL**

If the assigned Deputy determines the case meets the legal standard of clear and convincing evidence, the Deputy drafts formal charges (Accusation), and a hearing is scheduled, During the pre-hearing conference, a stipulated settlement of the charges/penalties may be accepted by both sides. If this occurs, a hearing is not needed. In some cases, the Board may direct the Deputy to file a petition to compel the licensee to submit to a competency examination or a psychological evaluation before the filing of an Accusation.

### ADMINISTRATIVE HEARING

If the licensee contests the charges, the case is heard by an Administrative Law Judge (ALJ), who then drafts a proposed decision.

#### **BOARD VOTE**

The proposed decision is reviewed by the Board of Psychology, who have the option to:

- Adopt the decision as proposed;
- Reduce the penalty and adopt the decision: or,
- Increase the penalty and adopt a decision. In this instance, the Board must read the entire record of the hearing prior to acting. The psychologist is given the opportunity to submit written arguments.

#### APPEAL

Psychologist may petition for reconsideration of a decision for 30 days after it is adopted. Thereafter, psychologist may petition for reinstatement of a revoked license, reduction of terms of penalty, or termination of probation.

Various time periods apply before petitions can be filed with the Board, Final decisions may be appealed to the Superior Court, the District Court of Appeal, and to the California Supreme Court.

### **CITATION & FINE**

#### instance, if the requested changes are not accepted by the parties, the case will proceed to a hearing.

**BOARD VOTE** 

The stipulated settlement is reviewed by the

**CRIMINAL PROSECUTION** 

suspected criminal violations.

completed investigation may be referred to a

local district or city attorney for prosecution of

Board of Psychology, who have the option to: Adopt the stipulated settlement: - Reduce or increase the penalty. In this





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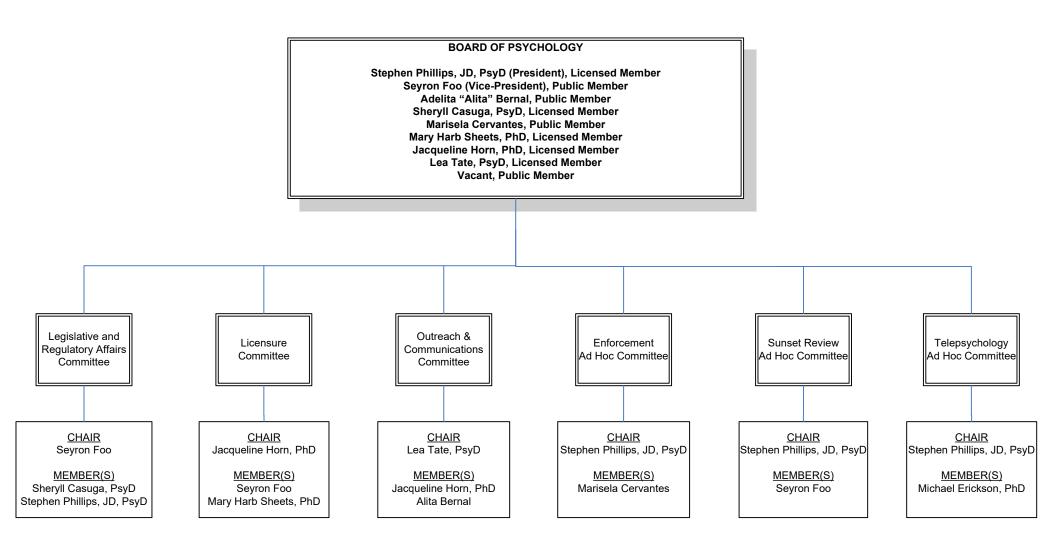
Revised August 2017

PDE\_17-093

## Department of Consumer Affairs Board of Psychology

# Sunset Review Form Attachments

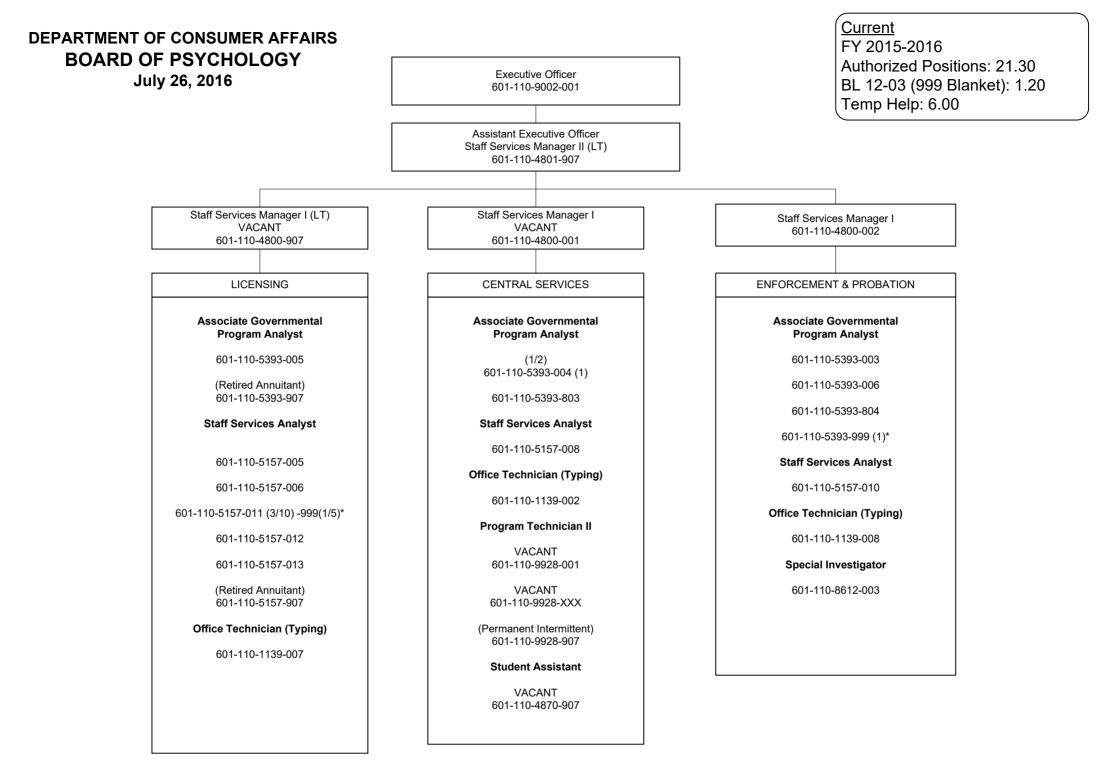
 Section 12 – Attachment B – Committee Structure UPDATED 9.16.19



## Department of Consumer Affairs Board of Psychology

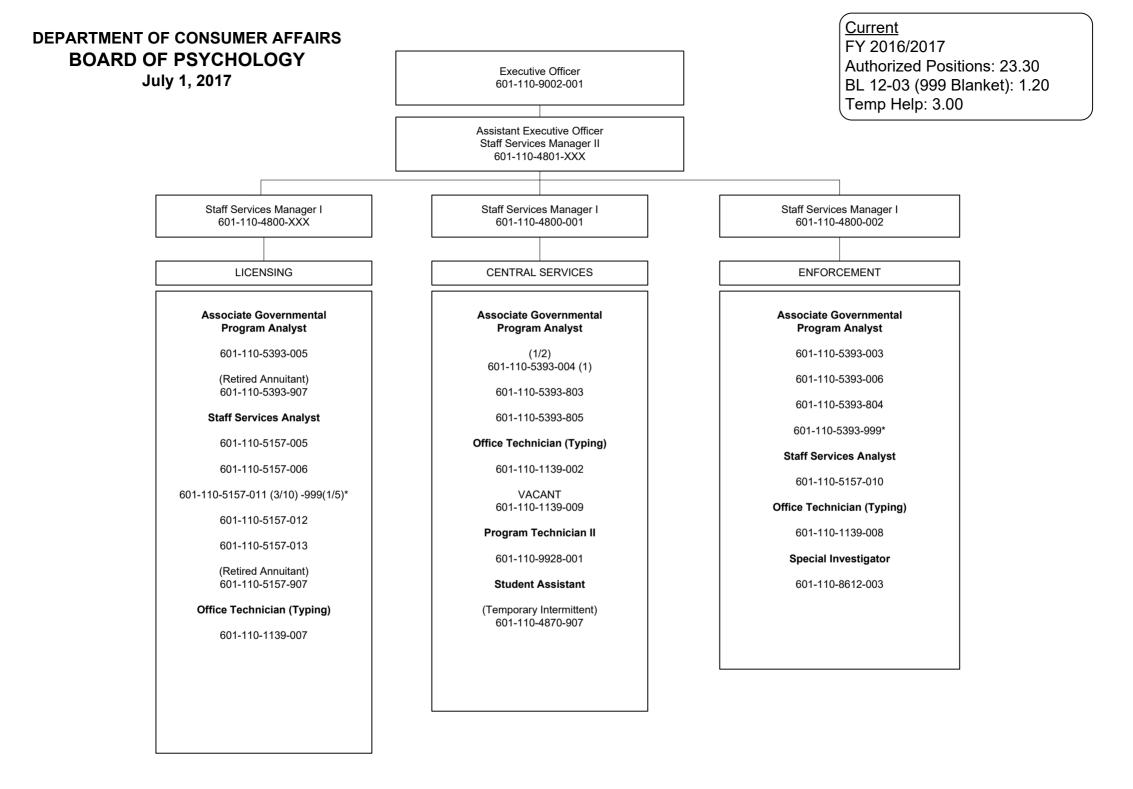
# Sunset Review Form Attachments

 Section 12 – Attachment C – FY-End Annual Organizational Charts

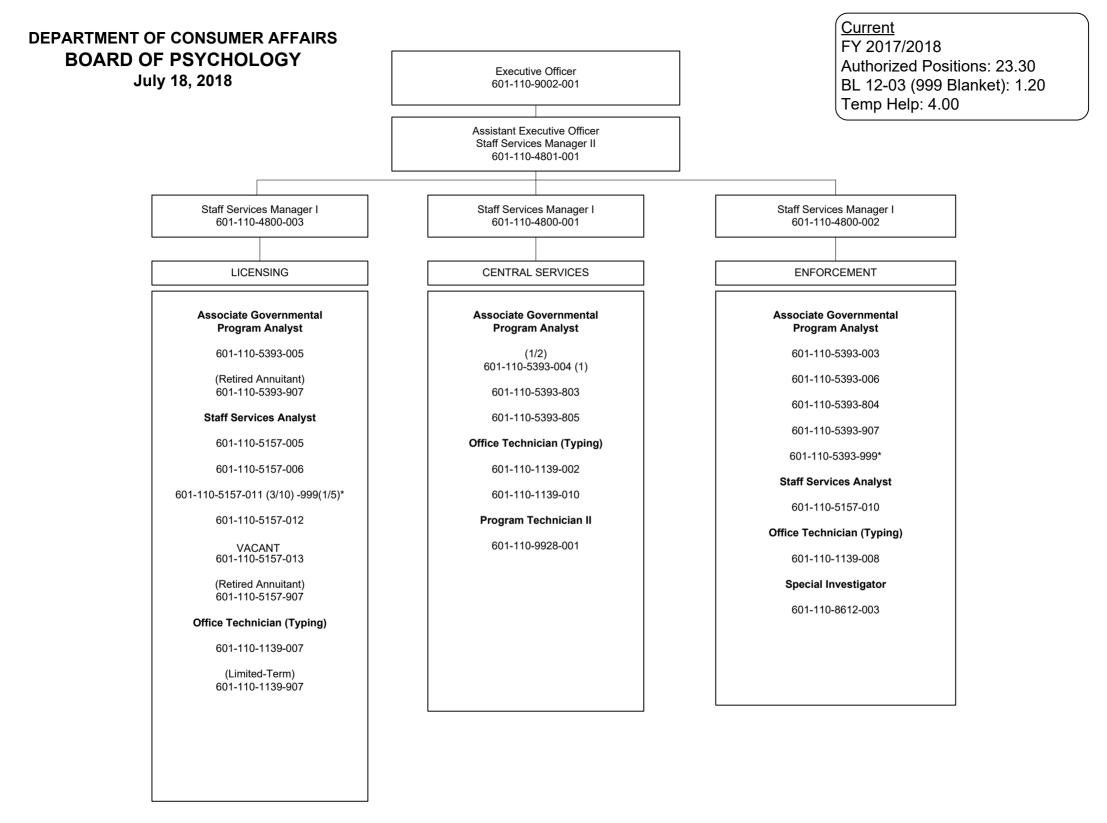


\* = Reduced Time Base of position effective 7/1/2012, due to Budget Letter 12-03.

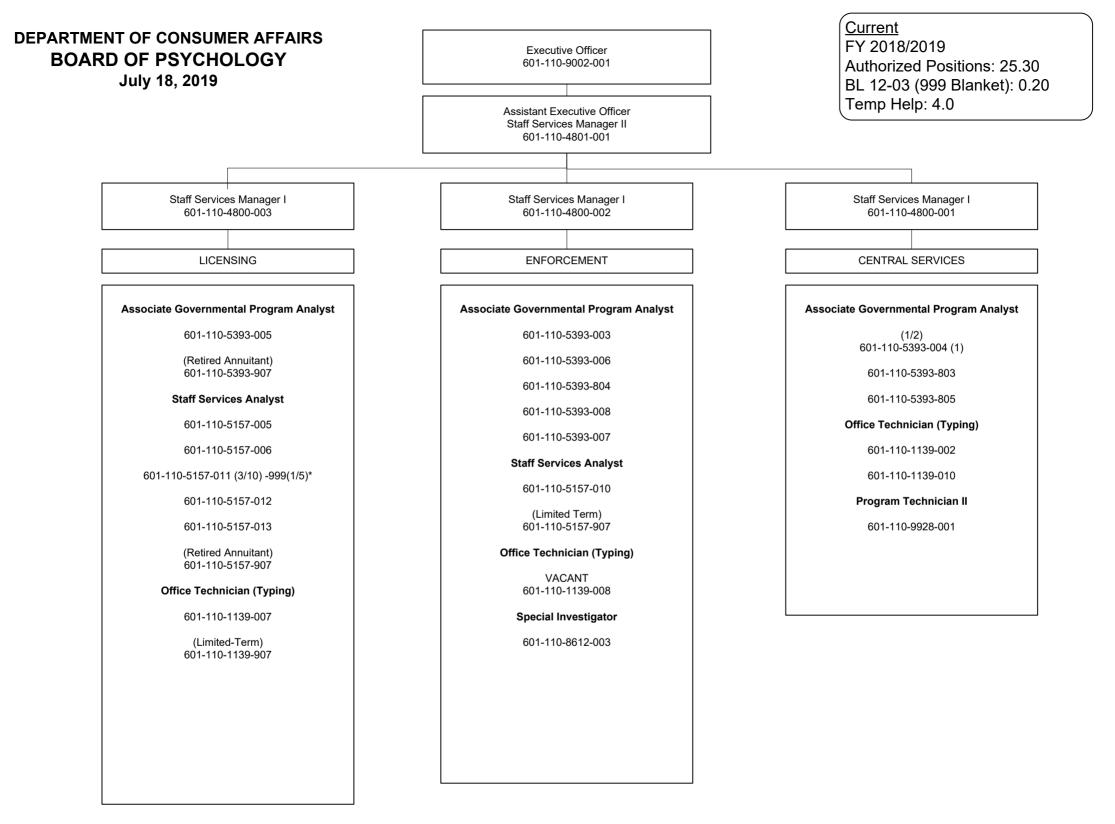
NOTE: All positions are CORI designated.



\* = Reduced Time Base of position effective 7/1/2012, due to Budget Letter 12-03.
 NOTE: All positions are CORI designated.



\* = Reduced Time Base of position effective 7/1/2012, due to Budget Letter 12-03. NOTE: All positions are CORI designated.



\* = Reduced Time Base of position effective 7/1/2012, due to Budget Letter 12-03.
 NOTE: All positions are CORI designated.

## Department of Consumer Affairs Board of Psychology

## Sunset Review Form Attachments

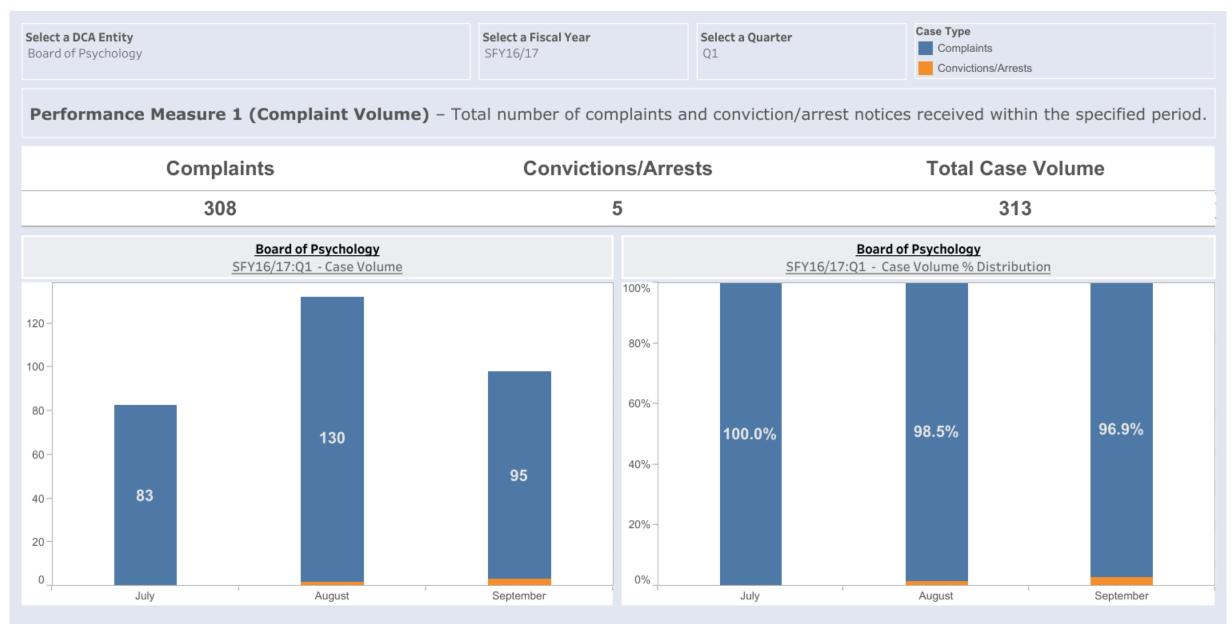
 Section 12 – Attachment D – Quarterly and Annual Performance Measures from DCA Website

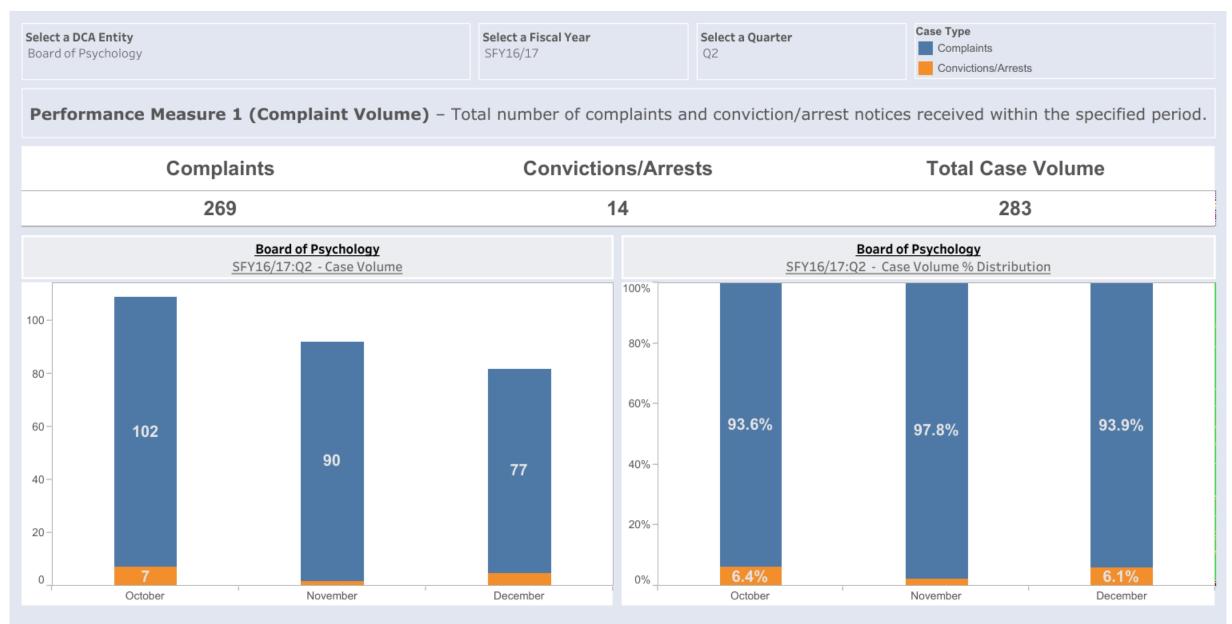
# Performance Measures

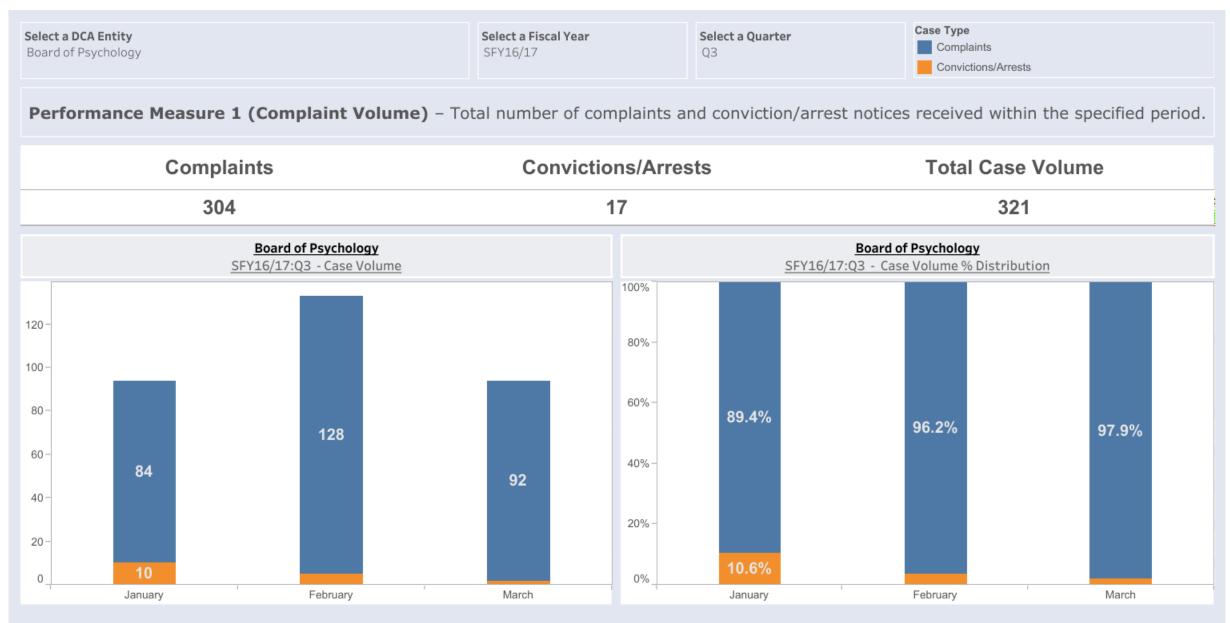
# **Enforcement Unit**

## Performance Measure 1

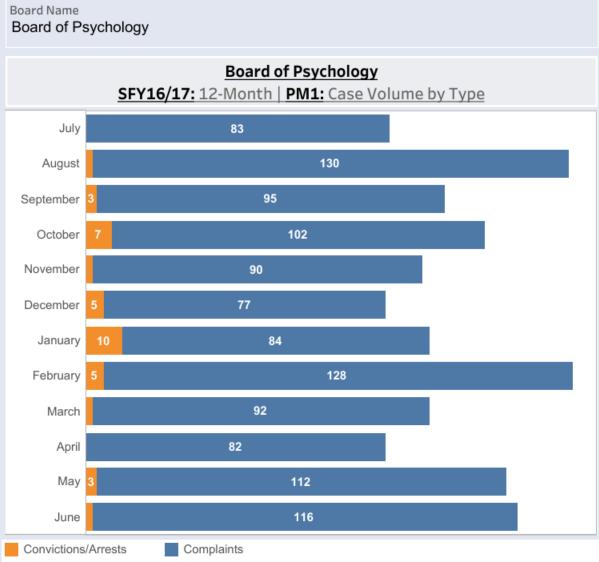
• Fiscal year 2016-17











### Board of Psychology SFY16/17: 12-Month | PM1: Summary

	Complaints	Convictions/Arrests	Total Case Volume
Grand Total	1,191	41	1,232
July	83	0	83
August	130	2	132
September	95	3	98
October	102	7	109
November	90	2	92
December	77	5	82
January	84	10	94
February	128	5	133
March	92	2	94
April	82	0	82
May	112	3	115
June	116	2	118

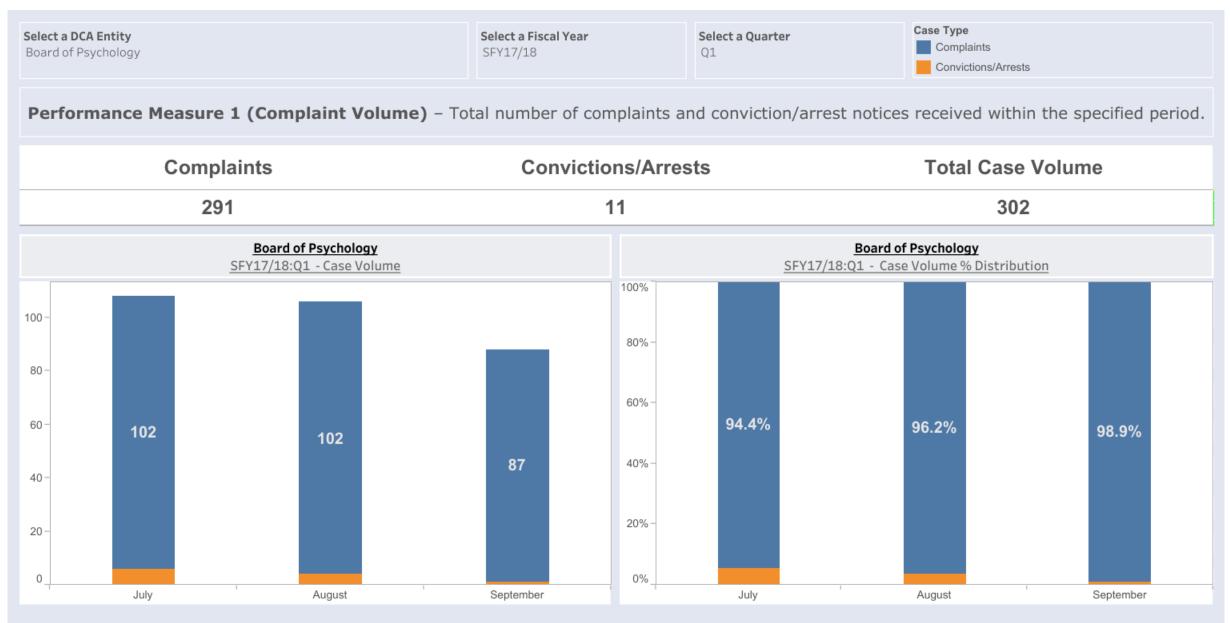
**Data Source:** California Department of Consumer Affairs, OIS/Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

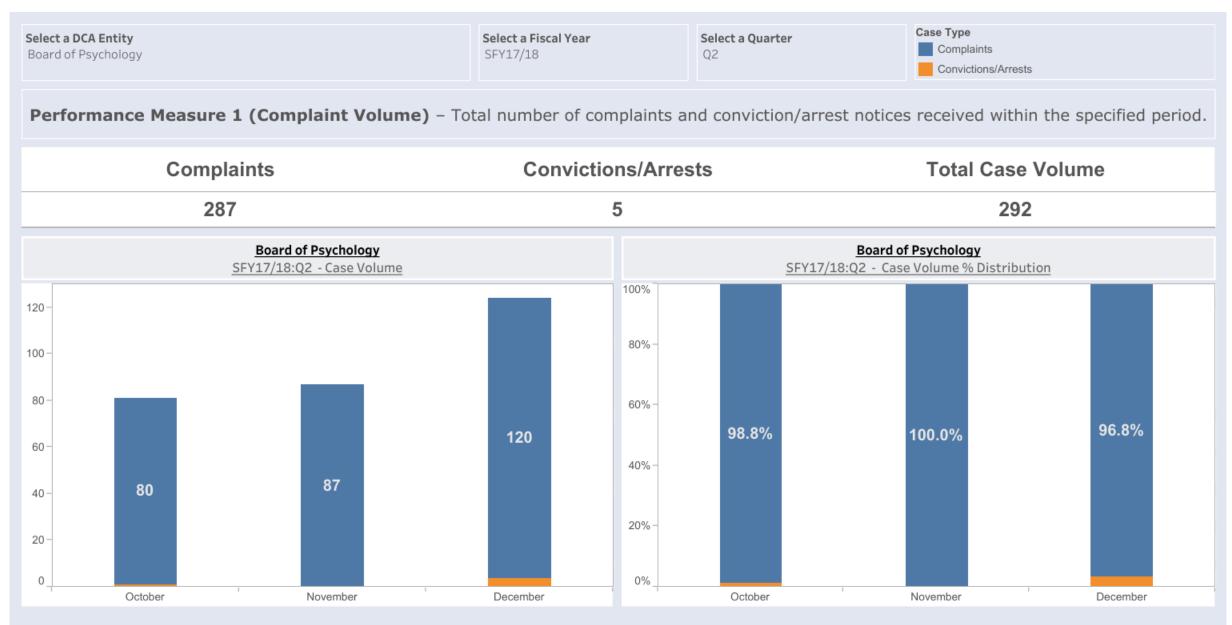
State Fiscal Year

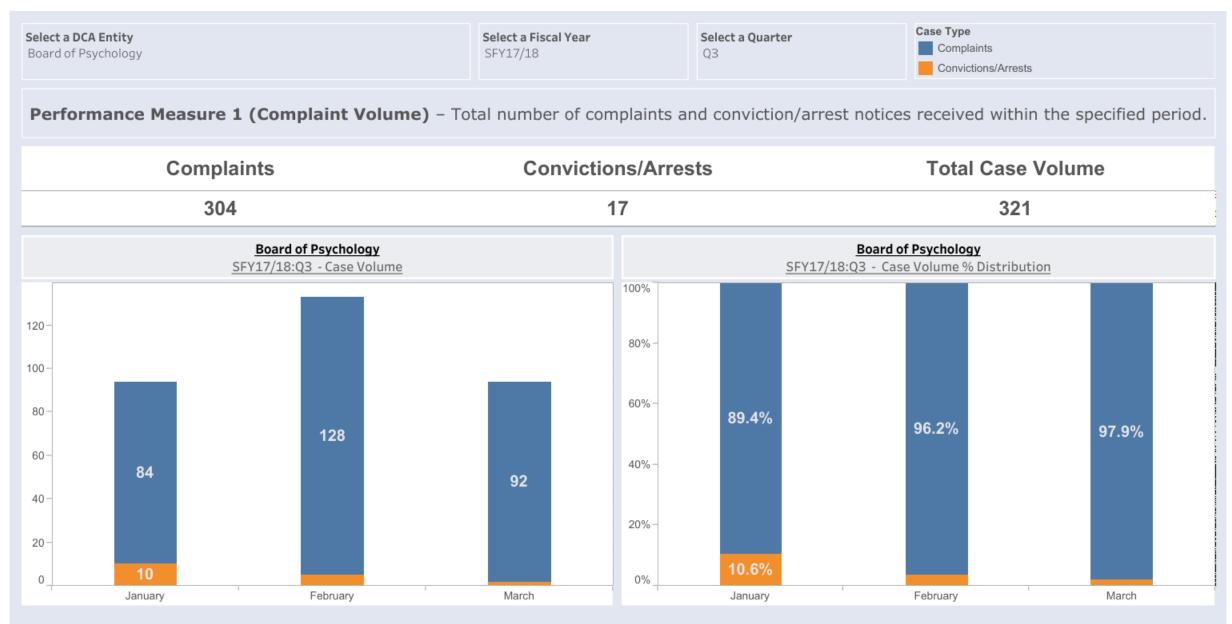
SFY16/17

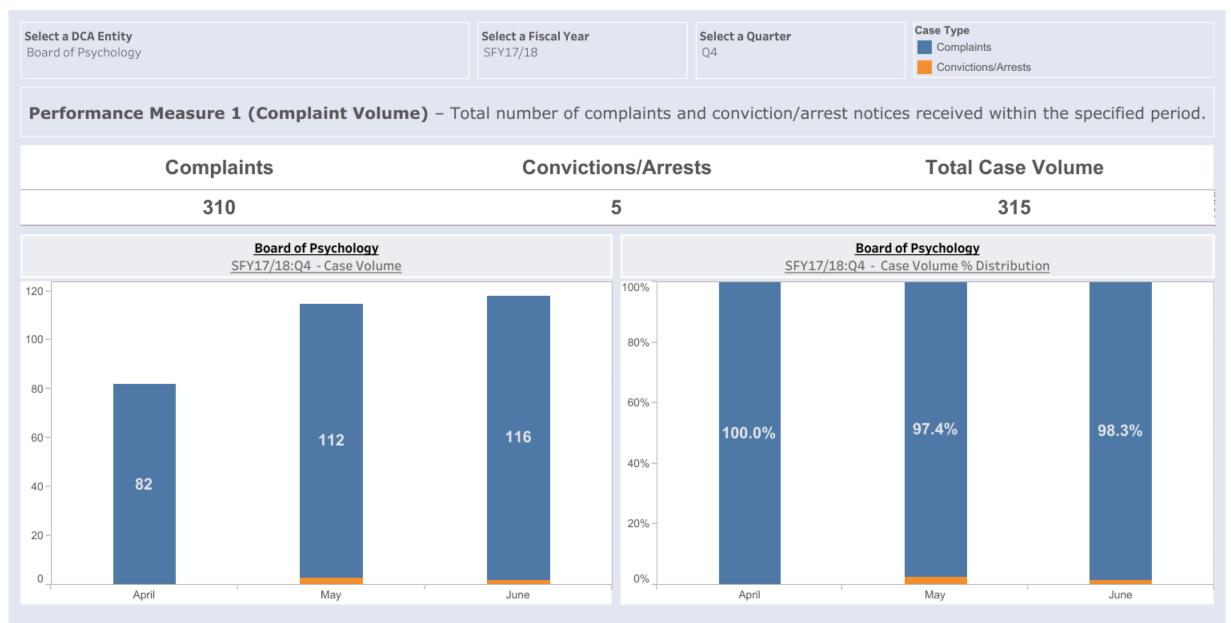
## Performance Measure 1

• Fiscal year 2017-18



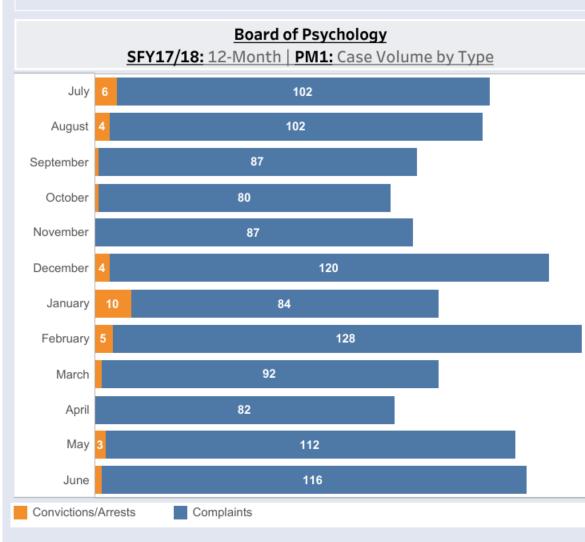






### Board Name Board of Psychology

### State Fiscal Year SFY17/18



### Board of Psychology SFY17/18: 12-Month | PM1: Summary

	Complaints	Convictions/Arrests	Total Case Volume
Grand Total	1,192	38	1,230
July	102	6	108
August	102	4	106
September	87	1	88
October	80	1	81
November	87	0	87
December	120	4	124
January	84	10	94
February	128	5	133
March	92	2	94
April	82	0	82
May	112	3	115
June	116	2	118

**Data Source:** California Department of Consumer Affairs, OIS/Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

## Performance Measure 2

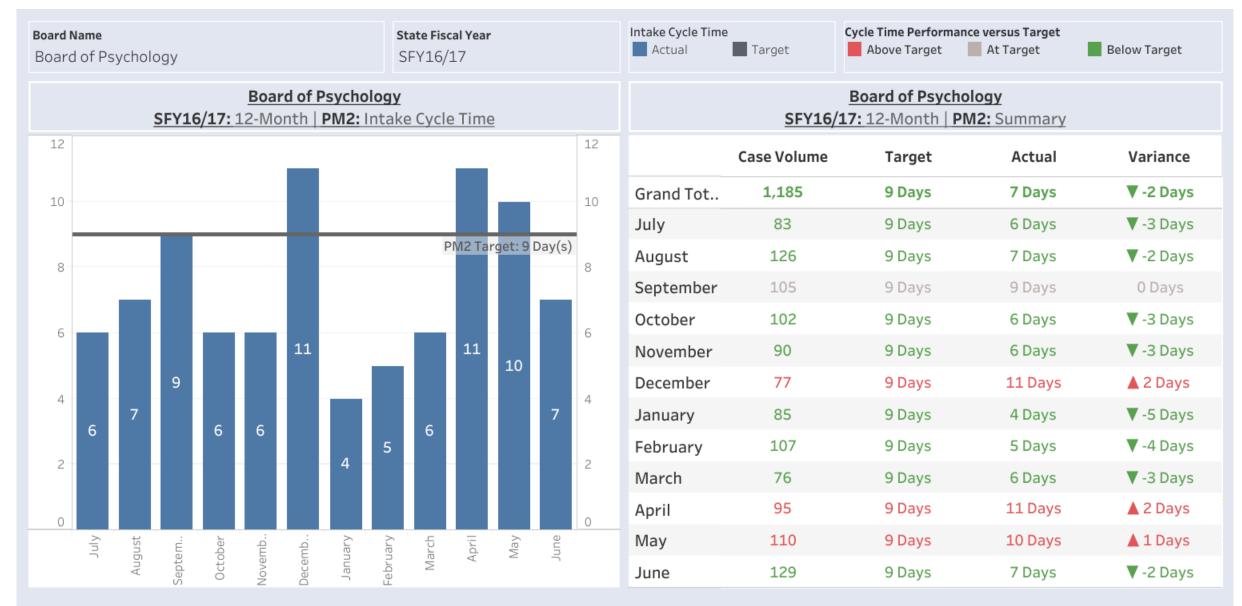
• Fiscal year 2016-17

	a DCA Entity of Psychology	Selec SFY1	<b>t a Fiscal Year</b> 6/17	Select a Quarter Q1	Intake Cycle Time Actual Target	Case Volume by Month July August Septemb	
Perf	ormance Measure 2 repr	resents the total number comp	of complaint cases i laint to the date the	received and assignment of the complaint was as	gned for investigation and the aver ssigned for investigation or closed.	rage number of days (cycle time) from receipt of a	
	Case Volume		Target		Actual	Variance	
	314		9 Days		7 Days	▼ -2 Days	
	<u>SFY:</u>	Board of Psychology L6/17: Q1 - Intake Cycle Tif	ne		Board of Psychology SFY16/17: Q1 - Volume		
10				10			
8-			PM2 Target: 9	Days 8	September	July 83	
6-				6	105		
4 -				4			
2 -				2			
	6 Days	7 Days	9 Days	0		August	
	July	August	September			126	

Select a DC Board of Ps		Select SFY16	t <b>a Fiscal Year</b> 6/17	Select a Quart Q2	er Intake Cycle Time Actual Target	Case Volume by Month October Novemb December	
Perform	mance Measure 2 represents				assigned for investigation and the average of a signed for investigation or closed	erage number of days (cycle time) from receipt of a d.	
	Case Volume		Target		Actual	Variance	
	269		9 Days		7 Days	▼-2 Days	
		<mark>d of Psychology</mark> 2 - Intake Cycle Ti <b>f</b>	ne		Board of Psychology SFY16/17: Q2 - Volume		
12				12			
10-				10	December 77		
8-			PM2 Target: 9	Days		October 102	
6				6			
4 -				- 4			
4				4			
2 -				2			
	6 Days	6 Days	11 Days	0	Novemb	ber	
	October	November	December		90		

elect a DC oard of Pa	<b>A Entity</b> sychology		ct a Fiscal Year 16/17	<b>Select a Quarter</b> Q3	Intake Cycle Time Actual Target	Case Volume by Month January February March	
Perforr	mance Measure 2 repre				ned for investigation and the av signed for investigation or close	verage number of days (cycle time) from receipt of a	
	Case Volume		Target		Actual	Variance	
	268		9 Days		5 Days	▼-4 Days	
Board of Psychology SFY16/17: Q3 - Intake Cycle Time					Board of Psychology SFY16/17: Q3 - Volume		
10				10			
8 -			PM2 Target:	9 Days 8	March 76	January 85	
6				6			
4				4			
2 -	4 Days	5 Days	6 Days	0	Fe	bruary	
	January	February	March			107	

Select a DC Board of Ps			Select a Fiscal Year SFY16/17	Select a Quarte Q4	er Intake Cycle Time Actual Target	Case Volume by Month April May	June
Perform	mance Measure	2 represents the total n	umber of complaint cases complaint to the date th	received and as e complaint was	ssigned for investigation and the av assigned for investigation or close	verage number of days (cyo	cle time) from receipt of a
	Case Volu	ime	Target		Actual	١	/ariance
334			9 Days		9 Days		0 Days
		Board of Psychol SFY16/17: Q4 - Intake C			Board of Psychology SFY16/17: Q4 - Volume		
12				12			
10-				10			pril 95
8 -			PM2 Target:	9 Days 8	June 129		
6-				6			
0				0			
4 -				4			
2 -				- 2			
	11 Days	10 Days	7 Days	0		May	
	April	May	June			110	



Data Source: California Department of Consumer Affairs, OIS/Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

### Performance Measure 2

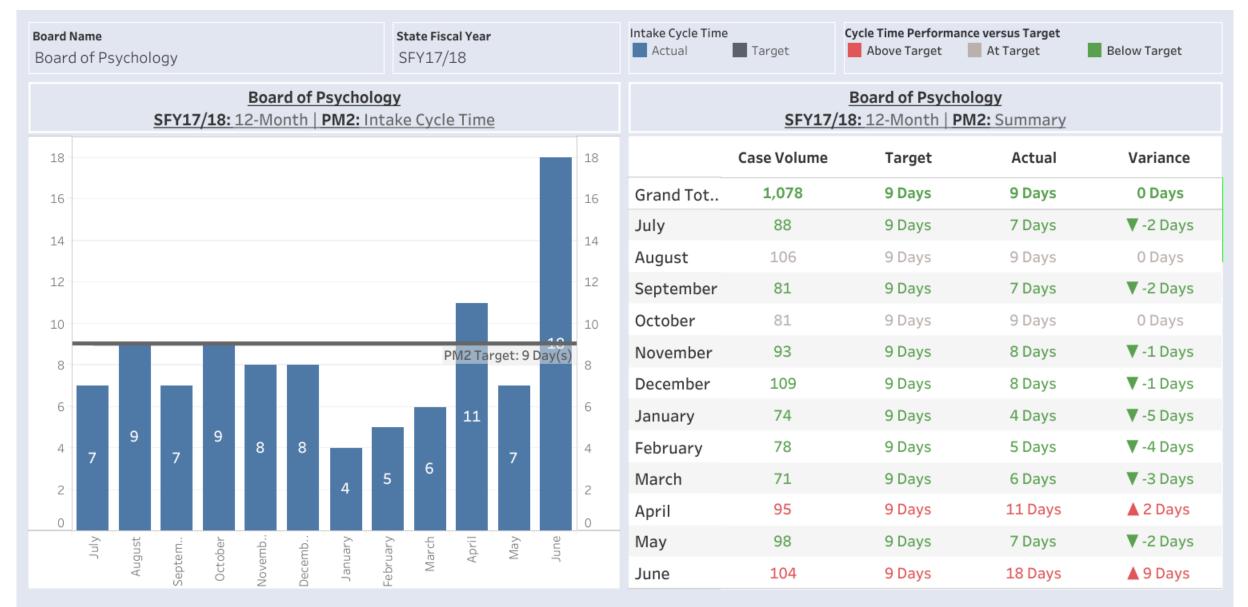
• Fiscal year 2017-18

	lect a DCA Entity bard of Psychology		Select a Fiscal YearSelect a QuartSFY17/18Q1		Actual Target	Case Volume by Month July August Septemb	
Perf	ormance Measure 2 repr	esents the total numbe com	er of complaint cases in the date the	received and as complaint was	signed for investigation and the ave assigned for investigation or closed	erage number of days (cycle time) from receipt of a	
	Case Volume		Target		Actual	Variance	
	275		9 Days		8 Days	🔻 -1 Days	
	SFY1	Board of Psychology 7/18: Q1 - Intake Cycle T	ime		<u>Board of Psychology</u> SFY17/18: Q1 - Volume		
10		10					
8 -			PM2 Target: 9	Days	September 81	July 88	
6				6			
4 -				- 4			
2-	7 Days	9 Days	7 Days	- 2	Δ	ugust	
	July	August	September	0		106	

Select a DCA Board of Psy		Selec SFY1	<b>t a Fiscal Year</b> 7/18	Select a Quarter Q2	Intake Cycle Time Actual Target	Case Volume by Month October Novemb December	
Perform	nance Measure 2 rep				igned for investigation and the aver assigned for investigation or closed.	rage number of days (cycle time) from receipt of a	
	Case Volume		Target		Actual	Variance	
	283		9 Days		8 Days	▼-1 Days	
	SFY	Board of Psychology (17/18: Q2 - Intake Cycle Til	ne		Board of Psychology SFY17/18: Q2 - Volume		
10				10			
8 -			PM2 Target: 9	Days 8	December	October 81	
6				6	109		
4 -				- 4			
2	9 Days	8 Days	8 Days	2		November	
	October	November	December	0		93	

	<b>CA Entity</b> Psychology		t a Fiscal Year .7/18	Select a Quarter Q3	Intake Cycle Time Actual Target	Case Volume by Month January February March	
Perfor	rmance Measure 2 represen	ts the total number comp	of complaint cases laint to the date the	received and assign complaint was as	gned for investigation and the av ssigned for investigation or close	verage number of days (cycle time) from receipt of a	
	Case Volume		Target		Actual	Variance	
	223		9 Days		5 Days	▼-4 Days	
Board of Psychology SFY17/18: Q3 - Intake Cycle Time					Board of Psychology SFY17/18: Q3 - Volume		
10				10			
8 -			PM2 Target: S	Days	March 71	January 74	
6				6			
4 -				- 4			
2-	4 Days	5 Days	6 Days	2	F	ebruary	
	January	February	March	0	·	78	

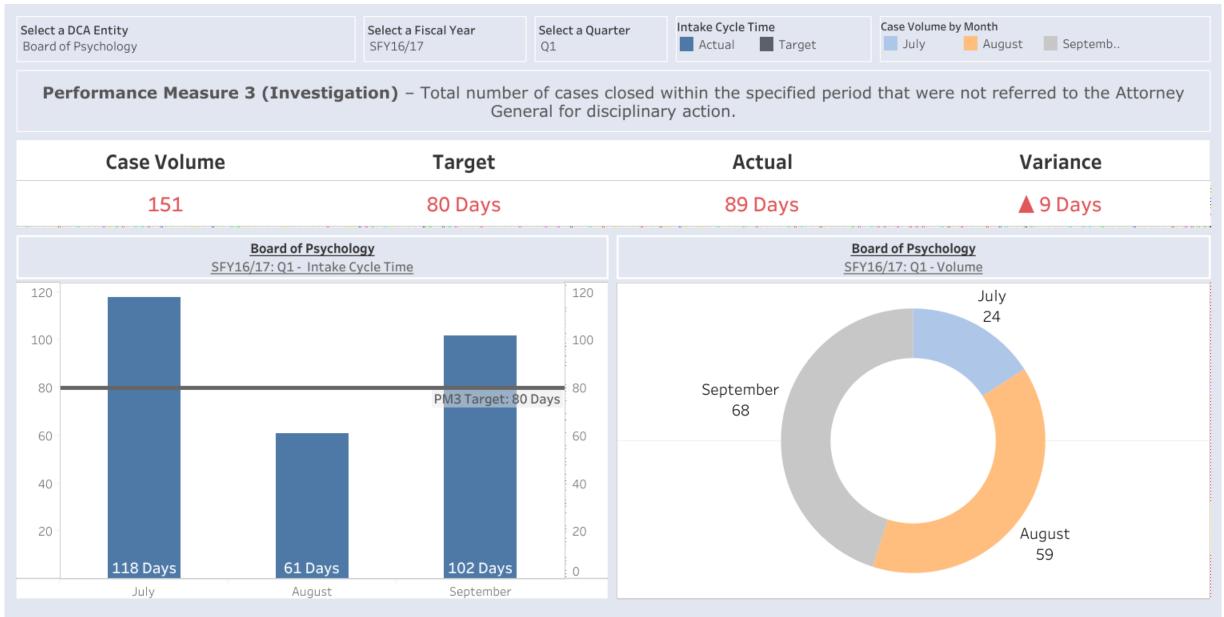
Select a DO Board of P	<b>CA Entity</b> Psychology		<b>ct a Fiscal Year</b> 17/18	Select a Quarte Q4	er Intake Cycle Time Actual Target	Case Volume by Month April May June	
Perfor	mance Measure 2 re				ssigned for investigation and the ave assigned for investigation or closed	erage number of days (cycle time) from receipt of a	
	Case Volume		Target		Actual	Variance	
	297		9 Days		12 Days	🛦 3 Days	
	SF	Board of Psychology Y17/18: Q4 - Intake Cycle T	me		Board of Psychology SFY17/18: Q4 - Volume		
15				15	June 104	April 95	
10-	_		DM2 Target: 0	- 10			
5 -			PM2 Target: 9	- 5			
	11 Days April	7 Days May	18 Days	0		May 98	



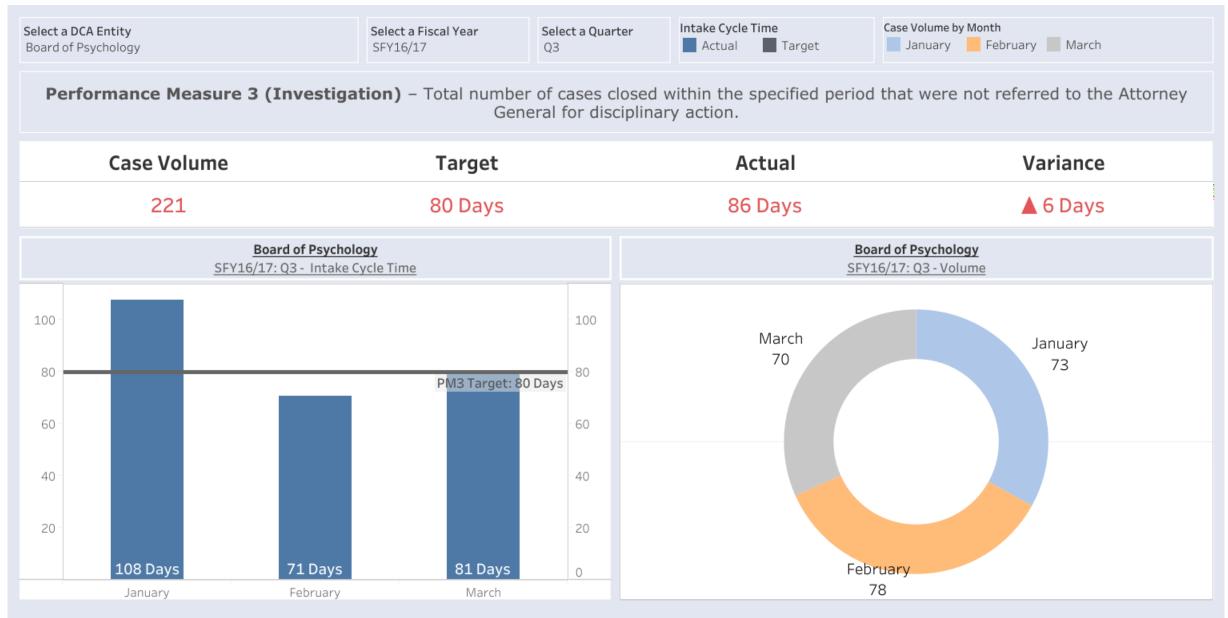
Data Source: California Department of Consumer Affairs, OIS/Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

### Performance Measure 3

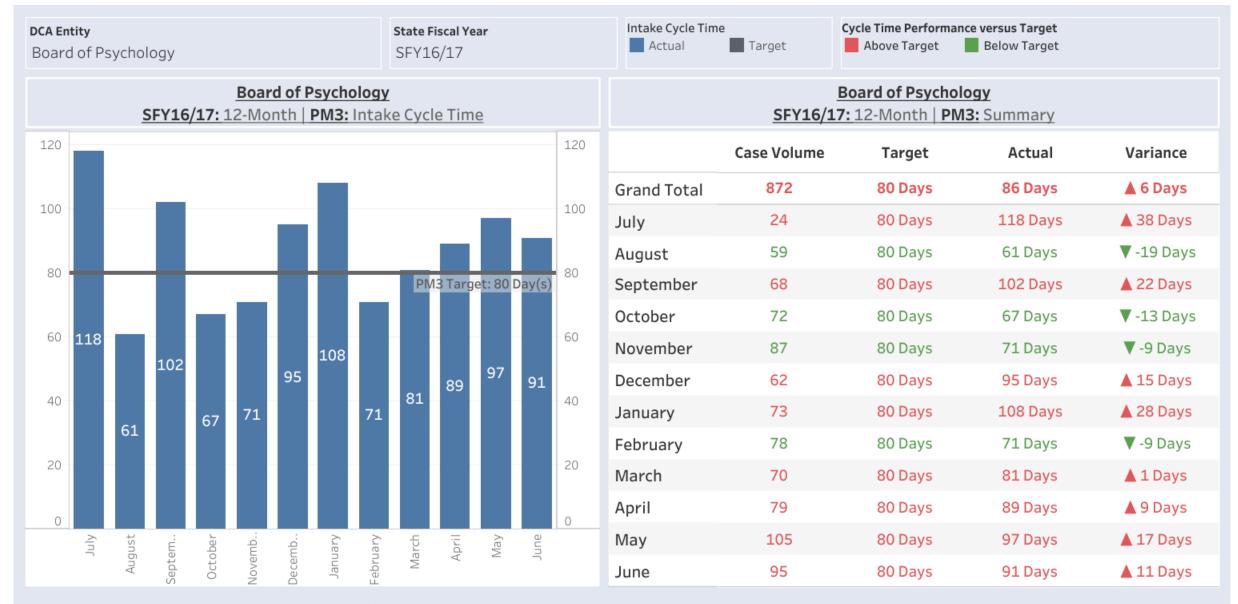
• Fiscal year 2016-17



Select a DCA Board of Ps		Select SFY1	<b>t a Fiscal Year</b> 6/17	Select a Quarter Q2	Intake Cycle Time Actual Target	Case Volume by Month October Novemb December	
Perfo	ormance Measure	3 (Investigation)		of cases closed eral for disciplina		od that were not referred to the Attorney	
Case Volume Target					Actual	Variance	
	221		80 Days		76 Days	▼-4 Days	
Board of Psychology SFY16/17: Q2 - Intake Cycle Time					Board of Psychology SFY16/17: Q2 - Volume		
80 -			PM3 Target: 80	100 Days	December 62	October 72	
60-				60			
40 -				40			
20-	67 Days	71 Days	95 Days	0	Nove	mber	
	October	November	December		8	7	



	l <b>ect a DCA Entity</b> bard of Psychology		Select a Fiscal Year SFY16/17	Select a Quarter Q4	Intake Cycle Time Actual Target	Case Volume by Month April May June	
Perfo	ormance Measu	re 3 (Investigat	<b>ion)</b> – Total numbe Ger	er of cases closed neral for disciplin	I within the specified peri- ary action.	od that were not referred to the Attorney	
	Case Volum	2	Target		Actual	Variance	
	279		80 Days		93 Days	13 Days	
	<u>s</u>	Board of Psycholo FY16/17: Q4 - Intake Cy			Board of Psychology SFY16/17: Q4 - Volume		
80 -			PM3 Target: 8	100 80	June	April 79	
60 -			i no raiget. e	60	95		
40 -				-40			
20 -	00 D			- 20			
	89 Days April	97 Days May	91 Days	0		May 105	



**Data Source:** California Department of Consumer Affairs, OIS/Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

### Performance Measure 3

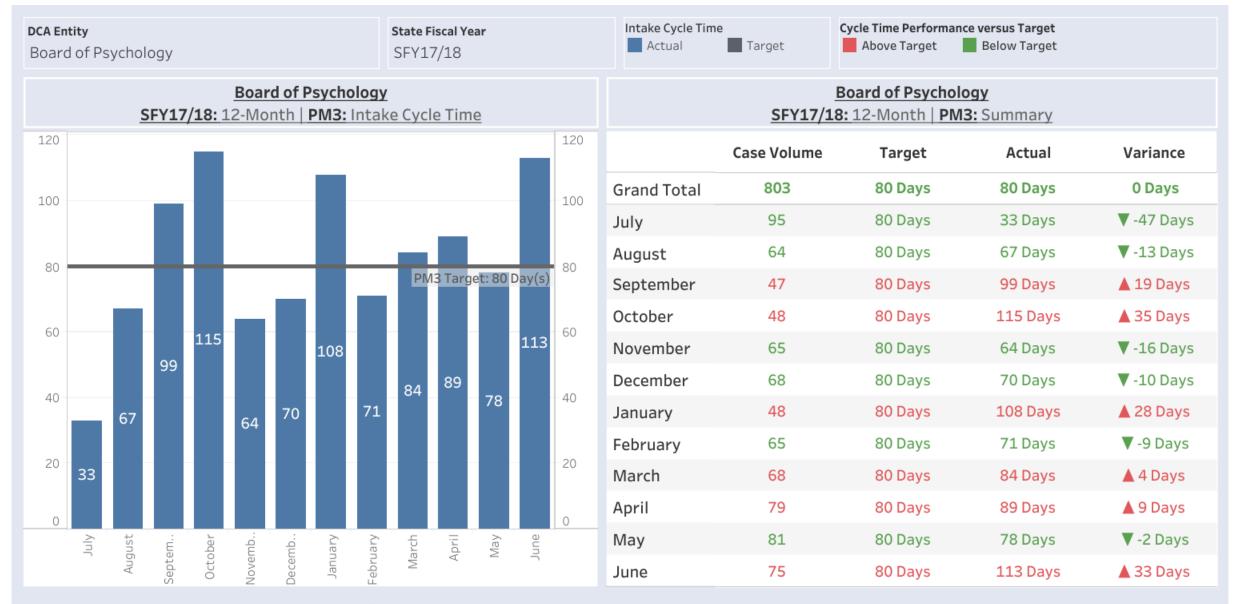
• Fiscal Year 2017-18

<b>elect a DCA Entity</b> Board of Psychology		Select a Fiscal Year SFY17/18	Select a Quarter Q1	Intake Cycle Time Actual Target	Case Volume by Month July August Septemb	
Performance	Measure 3 (Investiga	<b>ation)</b> – Total number Gene	r of cases close eral for discipli	ed within the specified perionary action.	od that were not referred to the Attorney	
Case	Volume	Target		Actual	Variance	
2	206	80 Days		59 Days	▼ -21 Days	
	Board of Psycho SFY17/18: Q1 - Intake			Board of Psychology SFY17/18: Q1 - Volume		
80 -		PM3 Target: 80	-100 Days 80	September 47		
60			-60		July 95	
40 -			-40			
20			-20	August		
33 Da		99 Days September	0	64		

Select a DC Board of Ps		Selec SFY1	<b>t a Fiscal Year</b> 7/18	<b>Select a Quarter</b> Q2	Intake Cycle Time Actual Target	Case Volume by Month October Novemb December	
Perfo	ormance Measure	3 (Investigation)		r of cases close eral for discipli		od that were not referred to the Attorney	
	Case Volume		Target		Actual 80 Days	Variance	
	181		80 Days			0 Days	
	<u>SFY1</u>	Board of Psychology 7/18: Q2 - Intake Cycle Ti	me		Board of Psychology SFY17/18: Q2 - Volume		
120				120	December	October 48	
80 -			PM3 Target: 80	<b>D Days</b> 80	68		
40 -				40			
20-	115 Days	64 Days	70 Days	20		November	
	October	November	December	0		65	

Select a DCA Board of Ps			Select a Fiscal YearSelect a QuartSFY17/18Q3		Intake Cycle Time Actual Target	Case Volume by Month January February March	
Perfo	ormance Measur	e 3 (Investigation		r of cases closed eral for disciplina		iod that were not referred to the Attorney	
	Case Volume		Target		Actual	Variance	
	181		80 Days		86 Days	▲ 6 Days	
Board of Psychology SFY17/18: Q3 - Intake Cycle Time					Board of Psychology SFY17/18: Q3 - Volume		
100 -			PM3 Target: 8	100 0 Days	March 68	January 48	
60 -				60			
40				40			
20-		71 5		20			
	108 Days January	71 Days February	84 Days March	0		February 65	

Select a DCA Board of Psy	-		ect a Fiscal Year 17/18	Select a Quart Q4	er Intake Cycle Time Actual Target	Case Volume by Month April May June
Perfo	ormance Measure	e 3 (Investigation	) – Total number Gene	of cases cl eral for disc	osed within the specified perior iplinary action.	d that were not referred to the Attorney
	Case Volume		Target	Actual	Variance	
	235		80 Days		93 Days	🔺 13 Days
	SFY	Board of Psychology 17/18: Q4 - Intake Cycle T	ime	Board of Psychology SFY17/18: Q4 - Volume		
100 - 80 60 - 40 - 20 -			PM3 Target: 80	100 <b>Days</b> 60 40 20	June 75	April 79
20	89 Days April	78 Days May	113 Days June	0		May 81



Data Source: California Department of Consumer Affairs, OIS/Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

### Performance Measure 4

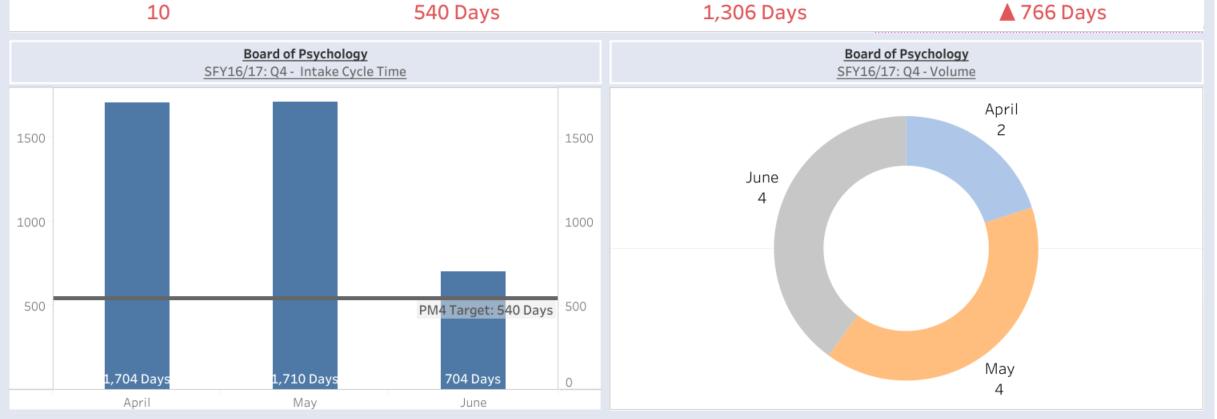
• Fiscal Year 2016-17

Select a DCA Board of Psy		Selec SFY1	t a Fiscal Year 6/17	Select a Quarter Q1	Actual Target	Case Volume by Month July August Septemb
						period that were referred to the Attorney ne (e.g. withdrawals, dismissals, etc.).
	Case Volume		Target		Actual	Variance
	14		540 Days		624 Days	A 84 Days
	SFY	Board of Psychology 16/17: Q1 - Intake Cycle Tir	ne			Board of Psychology TY16/17: Q1 - Volume
600 -				600		
500-			PM4 Target: 540	Days 500	September	July 5
400				400	6	
300-				300		
200-				200		
100-				100		
	656 Days	529 Days	644 Days	0		August
	July	August	September			3

Select a D Board of F	CA Entity Psychology	Select a Fiscal Year SFY16/17	Select a Quart Q2	er Intake Cycle Time Actual Target	Case Volume by Month October Novemb December
					eriod that were referred to the Attorney e (e.g. withdrawals, dismissals, etc.).
	Case Volume	Target		Actual	Variance
	14	540 Days		797 Days	<b>257</b> Days
	Board of Psyc SFY16/17: Q2 - Intal			pard of Psychology (16/17: Q2 - Volume	
1000-			1000	December 2	
800 -			800		October 6
600 - 400 -		PM4 Target: 540	- 600 Days - 400		
200-	759 Dave 722 Dave	c 1 109 Dave	- 200	November 6	
	758 Days     733 Day       October     November		0		

Select a DC/ Board of Ps			ct a Fiscal Year 16/17	Select a Quarter Q3	Intake Cycle Time Actual Target	Case Volume by Month January February March
						period that were referred to the Attorney ne (e.g. withdrawals, dismissals, etc.).
	Case Volume		Target		Actual	Variance
	15		540 Days		929 Days	🔺 389 Days
	SFY10	Board of Psychology 6/17: Q3 - Intake Cycle Ti	me			Board of Psychology FY16/17: Q3 - Volume
L200 -				1200		January 2
L000 -				1000		
800-	_			800	March	
600 -				600	7	
			PM4 Target: 540	Days		
400				-400		
200 -				200		February 6
	758 Days	693 Days	1,180 Days	0		
	January	February	March			

General for disciplinary action	n. This includes formal discip	line, and closures w	ithout formal disciplin		
Performance Measure 4 (For	mal Discipline) – Total num	nber of cases closed	within the specified	period that were refer	rred to the Attornev
elect a DCA Entity Board of Psychology	Select a Fiscal Year SFY16/17	Serece a quarter	Actual Target	Case Volume by Month April May	June





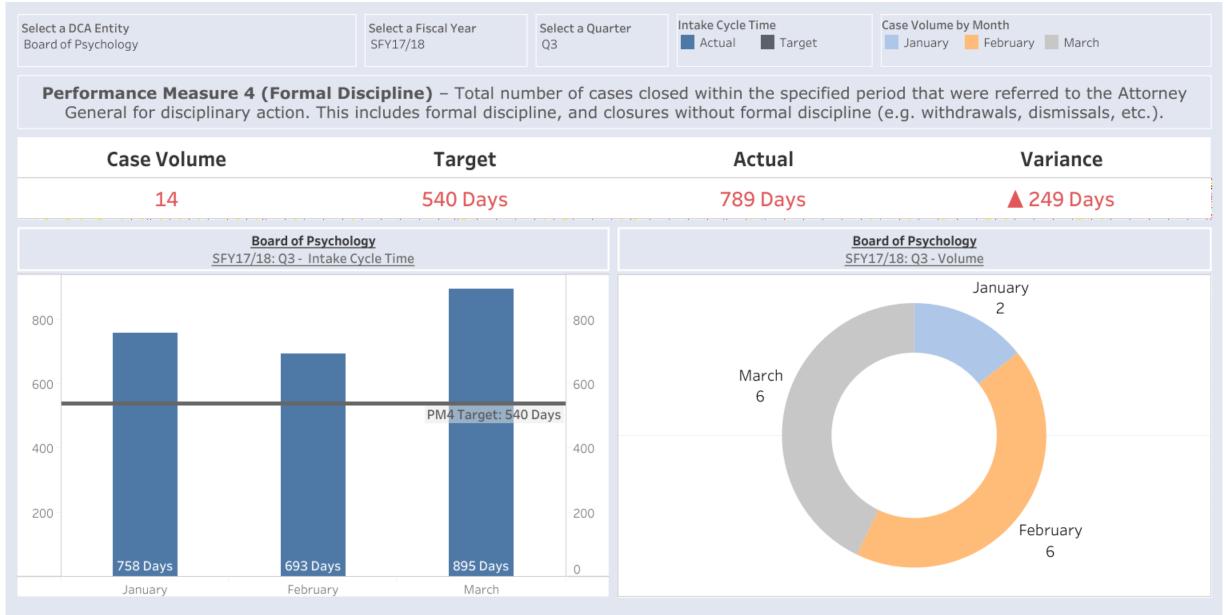
**Data Source:** California Department of Consumer Affairs, OIS/Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

### Performance Measure 4

• Fiscal Year 2017-18

Select a DCA Entity Board of Psycholog		Select a Fiscal Year SFY17/18	Select a Quarter Q1	Intake Cycle Time Actual Target	Case Volume by Month July August Septemb
					riod that were referred to the Attorney (e.g. withdrawals, dismissals, etc.).
Ca	se Volume	Target		Actual	Variance
	11	540 Days		794 Days	▲ 254 Days
	Board of P SFY17/18: Q1 - II				rd of Psychology 7/18: Q1 - Volume
800 -			- 800	September	July 2
500 -		PM4 Target: 54	600 0 Days	4	
100 -			400		
200 -	8 Days 898 [	Days 822 Days	200		August
	July Aug		0		5

elect a DCA Entity Board of Psychology	Select a Fiscal Year SFY17/18	Select a Quarter Q2	Intake Cycle Time Actual Target	Case Volume by Month October Novemb December
				eriod that were referred to the Attorney e (e.g. withdrawals, dismissals, etc.).
Case Volume	Targe	t	Actual	Variance
10	540 Da	ys	750 Days	<b>1</b> 210 Days
	of Psychology 2 - Intake Cycle Time			ard of Psychology (17/18: Q2 - Volume
300 -		800		October 1
500 -	PM4 Targe	600 et: 5 <mark>40 Days</mark>		
400 -		400	December	November 3
200 - 2 <b>51</b> Davis	558 Davis	200	6	
October	558 Days 879 D	ays <sub>0</sub>		



Select a DCA Entity	Select a Fiscal Year	Select a Quarter	Intake Cycle Time	Case Volume by Month April May June
Board of Psychology	SFY17/18	Q4	Actual Target	

**Performance Measure 4 (Formal Discipline)** – Total number of cases closed within the specified period that were referred to the Attorney General for disciplinary action. This includes formal discipline, and closures without formal discipline (e.g. withdrawals, dismissals, etc.).

	Case Volume		Target		Actual	Variance
	10		540 Days		1,306 Days	<b>▲</b> 766 Days
	SFY17	Board of Psychology 7/18: Q4 - Intake Cycle Time	<u>e</u>			Psychology : Q4 - Volume
1500				1500	June	April 2
1000-				1000	4	
500 -			PM4 Target: 5 <mark>40 Days</mark>	-500		May
	1,704 Days April	<b>1,710 Days</b> May	704 Days June	0		4



Data Source: California Department of Consumer Affairs, OIS/Data Governance Unit. The data included in this interactive tool is compiled from monthly enforcement statistical reporting from DCA Boards and Bureaus. In some instances historical enforcement performance data may differ slightly from the data reported in this tool due to errors and omissions in the previously released reports.

#### Methodology and Data Definitions Dataset Summary

Organization: California Department of Consumer Affairs (DCA) Dataset Owner: DCA Reporting Entities (Boards/Bureaus/Committees) Publisher: DCA Office of Information Services Update Frequency: Annual Reporting Period: Monthly

#### **Data Limitations**

Disclaimer: The data contained in this tool may differ slightly from information published elsewhere due to report release timing and subsequent data cleanup.

#### **Performance Measure Definitions**

Performance Measure 1 (Complaint Volume) - Total number of complaints and conviction/arrest notices received within the specified period.

Performance Measure 2 (Complaint Intake) - Total number of cases assigned for investigation or closed without investigation within the specified period.

Performance Measure 3 (Investigation) - Total number of cases closed within the specified period that were not referred to the Attorney General for disciplinary action.

**Performance Measure 4 (Formal Discipline)** – Total number of cases closed within the specified period that were referred to the Attorney General for disciplinary action. This includes formal discipline, and closures without formal discipline (e.g. withdrawals, dismissals, etc.).

#### **Data Definitions**

DCA Entity - The official name of the reporting Board, Bureau or Committee.

State Fiscal Year – A 12-month state accounting period which varies from calendar year and the federal fiscal year. In California State government, the state fiscal year runs from July 1 through the following June 30.

Reporting Quarter – Q1 (July – September), Q2 (October – December), Q3 (January – March), Q4 (April – June).

Case Volume – Numerical counts of enforcement cases for the reporting entity and the period selected.

Target – Cycle time target established by the program for the respective performance measure.

Variance – Difference between the actual and target cycle times for the respective performance measure.

PM1 Complaints - Number of complaints received.

PM1 Convictions/Arrests - Number of conviction/arrest notices received.

PM1 Total Case Volume – Sum of complaints and conviction/arrest notices.

PM2 Intake Cycle Time (Actual) - Average number of days (cycle time) from receipt to the date assigned for investigation or closed without investigation.

PM3 Intake Cycle Time (Actual) - Average number of days (cycle time) from receipt to closure. This measure does not include cases that resulted in formal discipline.

PM4 Intake Cycle Time (Actual) - Average number of days (cycle time) from receipt to closure.

To access historical Enforcement Performance Measure reports in PDF format visit: <u>https://www.dca.ca.gov/enforcement/cpei/quarterly\_reports.shtml</u>

# Performance Measures

## **Licensing Unit**

### Fiscal year 2016-17

0514047	oca Entity Board of Psychology		License Type All			Application Type All	5	Select All	Next Page
Volume Complete Apps	Volume Incomplete Apps	Total Application \	Volume Target	t Cycle Time Com	plete Cycle	Time Complete A	pps Cycle	Time Incomplete	Apps
Complete Applicat	tions – Applications were deemed con	mplete at the time of	f initial review and di	d not require a	ditional informa	ation/documenta	ation from the a	pplicant prior to	approval.
Incomplete Appli	ications – Applications were deemed	incomplete at the ti	ime of initial review a	and required add	ditional informat	ion/documentat	ion from the ap	plicant prior to	approval.
DCA Entity	License Type	Application Type	e	Volume Complete Apps	Volume Incomplete Apps	Total Application Volume	Target Cycle Time Complete Applicatio	Cycle Time Complete Apps	Cycle Time Incomplete Apps
Board of Psycholo	Psychologist	Application to t	ake the CPLEE	705	299	1,004	60	23	46
		Initial Applications		564	737	1,301	60	27	72
		Initial License		559	265	824	60	24	41
	Registered Psychological Assistant	Initial Application	ons	283	546	829	60	16	40
	Registered Psychologist	Initial Application	ons	53	60	113	30	22	42

Data Source: California Department of Consumer Affairs, OIS/Data Governance Unit. The data included in this interactive tool is compiled from various operational systems. In some instances, the data contained in this tool may differ slightly from the information published in other reports due to release timing. The aggregate of variance and actual cycle time may not equal 100% due to rounding. Please refer to the methodology tab for more information about this data.

### Fiscal year 2017-18

051/17/10	oca Entity Board of Psychology		License Type All			Application Type All	2	Select All	Next Page
Volume Complete Apps	Volume Incomplete Apps	Total Application	Volume Target	t Cycle Time Com	plete 📕 Cycle	Time Complete A	pps Cycle	Time Incomplete	Apps
Complete Applicat	tions – Applications were deemed con	mplete at the time o	of initial review and di	d not require ad	ditional information	ation/documenta	tion from the a	pplicant prior to	approval.
Incomplete Appli	ications – Applications were deemed	incomplete at the t	time of initial review a	and required add	ditional informat	ion/documentat	ion from the ap	plicant prior to	approval.
DCA Entity	License Type	Application Typ	be	Volume Complete Apps	Volume Incomplete Apps	Total Application Volume	Target Cycle Time Complete Applicatio	Cycle Time Complete Apps	Cycle Time Incomplete Apps
Board of Psycholo	Psychologist	Application to t	take the CPLEE	928	188	1,116	60	26	58
		Initial Applicati	ions	689	621	1,310	60	33	74
		Initial License		797	104	901	60	36	62
	Registered Psychological Assistant	Initial Applicati	ions	275	411	686	60	19	39
	Registered Psychologist	Initial Applicati	ions	53	19	72	30	17	53

Data Source: California Department of Consumer Affairs, OIS/Data Governance Unit. The data included in this interactive tool is compiled from various operational systems. In some instances, the data contained in this tool may differ slightly from the information published in other reports due to release timing. The aggregate of variance and actual cycle time may not equal 100% due to rounding. Please refer to the methodology tab for more information about this data.

### Department of Consumer Affairs Board of Psychology

## Sunset Review Form Attachments

 Section 12 – Attachment E – Licensing Customer Satisfaction Survey Results

	FY 20	)15/16	FY 20	)16/17	FY 20	17/18	FY 20	018/19
Number of Surveys Received	23	38	8	0	17	78	1	35
1. How did you first contact	ct the Bo	ard's Lic	ensing/R	egistratio	on Unit?		1	
	FY 20	015/16	FY 20	016/17	FY 20	17/18	FY 20	)18/19
By Telephone	77	32%	25	31%	33	19%	35	26%
In Person	1	0%	0	0%	2	1%	1	1%
Website/E-mail	147	62%	49	61%	136	76%	93	69%
Other	13	5%	7	9%	7	4%	5	4%
2. Please rate the ability of	of the ana	alyst to a			tions or c	oncerns.		
	FY 20	015/16	FY 20	016/17	FY 20	17/18	FY 20	018/19
Excellent	130	55%	49	61%	78	44%	50	37%
Very Good	38	16%	13	16%	37	21%	36	27%
Good	23	10%	4	5%	17	10%	15	11%
Fair	19	8%	4	5%	25	14%	14	10%
Poor	26	11%	9	11%	17	10%	19	14%
<ol><li>Please rate the courted your questions or concernance</li></ol>		and profe	essionalis	sm of the	staff per	son who	responde	d to
	1	015/16	FY 20	016/17	FY 20	17/18	FY 20	)18/19
Excellent	143	60%	57	71%	90	51%	61	45%
Very Good	39	16%	14	18%	31	17%	33	24%
Good	22	9%	2	3%	21	12%	12	9%
Fair	11	5%	2	3%	20	11%	11	8%
Poor	19	8%	5	6%	12	7%	17	13%
4. How would you rate the	timeline	ss of the	respons	se you re	ceived fro	om the sta	aff persor	ן?
		)15/16	FY 20	)16/17		17/18		)18/19
Excellent	127	53%	47	59%	71	40%	42	31%
Very Good	43	18%	12	15%	22	12%	28	21%
Good	25	11%	8	10%	23	13%	18	13%
Fair	12	5%	4	5%	23	13%	14	10%
Poor	29	12%	9	11%	30	17%	32	24%
5. Type of Application								
	FY 20	)15/16	FY 20	016/17	FY 20	17/18	FY 20	)18/19
Registration Application	178	75%	60	75%	17	10%	17	13%
Licensing Application	47	20%	14	18%	158	89%	116	86%
6. Please rate the ease of					1		r	
		015/16		016/17		17/18		)18/19
Excellent	70	29%	35	44%	48	27%	34	25%
Very Good	86	36%	16	20%	55	31%	43	32%
Good	35	15%	14	18%	40	22%	33	24%
Fair	21	9%	4	5%	21	12%	13	10%
Poor	10	4%	2	3%	12	7%	10	7%
7. Was the application pro			1					
		015/16		)16/17		17/18		)18/19
Yes	180	76%	62	78%	126	71%	84	62%
No	38	16%	10	13%	46	26%	49	36%

o. were you contacte	ed in a timely	manner r	egarding	g any def	iciencies	in your a	oplicatior	ו?
<b></b>		015/16		016/17		017/18		018/19
Yes	132	55%	47	59%	85	48%	62	46%
No	35	15%	8	10%	38	21%	35	26%
Not Applicable	53	22%	18	23%	55	31%	38	28%
9. How would you rat	te the courteo	usness,	helpfulne	ess and r	esponsiv	eness of	the staff	person
who processed yo	ur application	?			·			
· · ·	FY 20	015/16	FY 20	016/17	FY 20	017/18	FY 20	018/19
Excellent	141	59%	52	65%	100	56%	62	46%
Very Good	35	15%	8	10%	20	11%	29	21%
Good	17	7%	7	9%	22	12%	7	5%
Fair	9	4%	2	3%	15	8%	19	14%
Poor	19	8%	2	3%	15	8%	14	10%
10. If a licensing appl			oply?					
		015/16	FY 20	016/17	FY 20	017/18		018/19
Online	63	26%	40	50%	74	42%	64	47%
U.S. Mail	154	65%	32	40%	98	55%	67	50%
<b>EXAMINATION PRO</b>	CESS (LICEN	<b>NSURE</b> A	PPLICA	NTS ON	LY)			
11. How would you ra	ate vour expe	rience wi	th the Pe	earson Vl	JE and t	he schedu	ulina proc	cess to
sit for the Examin							51	
		015/16		016/17		017/18	FY 20	018/19
Excellent	61	26%	17	21%	55	31%	41	30%
							~ ~	
Very Good	47	20%	16	20%	40	22%	32	24%
Very Good Good	47	20% 9%	16 4	20% 5%	40 26	22% 15%	<u>32</u> 19	24%
Good	22	9%	4	5%	26	15%	19	14%
Good Fair	22 7	9% 3%	4 5	5% 6%	26 10	15% 6%	19 4	14% 3%
Good Fair Poor	22 7 6	9% 3% 3%	4 5 0	5% 6% 0%	26 10 2	15% 6% 1%	19 4 6	14% 3% 4%
Good Fair Poor 12. How would you ra	22 7 6 ate your expen	9% 3% 3% rience wit	4 5 0 th Psych	5% 6% 0%	26 10 2 Services	15% 6% 1% , Inc. and	19 4 6 the sche	14% 3% 4% duling
Good Fair Poor	22 7 6 ate your expendence alifornia Psyc	9% 3% 3% rience wit	4 5 0 th Psych	5% 6% 0% ological \$ ental Exar	26 10 2 Services	15% 6% 1% , Inc. and	19 4 6 the sche or the Cal	14% 3% 4% duling ifornia
Good Fair Poor 12. How would you ra process for the C	22 7 6 ate your expenditional alifornia Psyc and Ethics E	9% 3% 3% rience wit	4 5 0 th Psych uppleme on (CPL	5% 6% 0% ological \$ ental Exar	26 10 2 Services mination	15% 6% 1% , Inc. and	19 4 6 the sche or the Cal	14% 3% 4% duling
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent	22 7 6 ate your expenditional alifornia Psyc and Ethics E	9% 3% 3% rience wit hology S xaminatio	4 5 0 th Psych uppleme on (CPL	5% 6% 0% ological \$ ental Exar EE)?	26 10 2 Services mination	15% 6% 1% , Inc. and (CPSE) o	19 4 6 the sche or the Cal	14% 3% 4% duling ifornia
Good Fair Poor 12. How would you ra process for the C Psychology Laws	22 7 6 ate your expendition alifornia Psyc and Ethics E FY 20 60 50	9% 3% 3% rience wit hology S xaminatio 015/16	4 5 0 th Psych uppleme on (CPL FY 20	5% 6% 0% ological \$ ental Exar EE)? 016/17 16% 16%	26 10 2 Services mination FY 20 59 42	15% 6% 1% , Inc. and (CPSE) o 017/18	19 4 6 the sche or the Cal FY 20 44 40	14% 3% 4% duling ifornia
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent	22 7 6 ate your expendition alifornia Psyc and Ethics E FY 20 60	9% 3% 3% rience wit hology S xaminatio 015/16 25%	4 5 0 uppleme on (CPL FY 20 13	5% 6% 0% ological \$ ental Exar EE)? 016/17 16%	26 10 2 Services mination FY 20 59	15% 6% 1% , Inc. and (CPSE) o 017/18 33%	19 4 6 the sche or the Cal FY 20 44	14% 3% 4% duling ifornia 018/19 33%
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent Very Good	22 7 6 ate your expendition alifornia Psyc and Ethics E FY 20 60 50	9% 3% 3% rience wit hology S xaminatio 015/16 25% 21%	4 5 0 uppleme on (CPL FY 20 13 13 6 6	5% 6% 0% ological \$ ental Exar EE)? 016/17 16% 16%	26 10 2 Services mination FY 20 59 42	15% 6% 1% , Inc. and (CPSE) o 017/18 33% 24%	19 4 6 the sche or the Cal FY 20 44 40 13 4	14% 3% 4% duling ifornia 018/19 33% 30%
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent Very Good Good	2276alifornia Psycand Ethics EFY 2060509	9% 3% 3% rience wit hology S xaminatio 015/16 25% 21% 4%	4 5 0 uppleme on (CPL FY 20 13 13 6	5% 6% 0% ological \$ ental Exar EE)? 016/17 16% 16% 8%	26 10 2 Services mination FY 20 59 42 26	15% 6% 1% , Inc. and (CPSE) o 017/18 33% 24% 15%	19 4 6 the sche or the Cal FY 20 44 40 13	14% 3% 4% duling ifornia 018/19 33% 30% 10%
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent Very Good Good Fair Poor	2276ate your expendition a Psyceand Ethics EFY 20605091415	9% 3% 3% rience wit hology S xaminatio 15/16 25% 21% 4% 6% 6%	4 5 0 th Psych uppleme on (CPL FY 20 13 13 6 6 3	5% 6% 0% ological \$ ental Exar EE)? 016/17 16% 16% 8% 8% 4%	26 10 2 Services mination FY 20 59 42 26 10 6	15% 6% 1% , Inc. and (CPSE) o 017/18 33% 24% 15% 6% 3%	19 4 6 the sche or the Cal FY 20 44 40 13 4 6	14% 3% 4% duling ifornia 018/19 33% 30% 10% 3% 4%
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent Very Good Good Fair Poor	2276ate your expendition a Psyceand Ethics EFY 20605091415	9% 3% 3% rience wit hology S xaminatio 15/16 25% 21% 4% 6% 6%	4 5 0 th Psych uppleme on (CPL FY 20 13 13 6 6 3 ence with	5% 6% 0% ological \$ ental Exar EE)? 016/17 16% 16% 8% 8% 4%	26 10 2 Services mination FY 20 59 42 26 10 6	15% 6% 1% , Inc. and (CPSE) o 017/18 33% 24% 15% 6% 3%	19 4 6 the sche or the Cal FY 20 44 40 13 4 6	14% 3% 4% duling ifornia 018/19 33% 30% 10% 3% 4%
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent Very Good Good Fair	2276ate your expendingalifornia Psyceand Ethics EFY 20605091415ate your overa	9% 3% 3% rience wit hology S xaminatio 015/16 25% 21% 4% 6% 6% 6% 6% 6%	4 5 0 th Psych uppleme on (CPL FY 20 13 13 6 6 3 ence with	5% 6% 0% ological \$ ental Exar EE)? 016/17 16% 16% 8% 8% 4% 16% 16%	26 10 2 Services mination FY 20 59 42 26 10 6 rd's Lice	15% 6% 1% , Inc. and (CPSE) o 017/18 33% 24% 15% 6% 3%	19 4 6 the sche or the Cal FY 20 44 40 13 4 6 gistration	14% 3% 4% duling ifornia 018/19 33% 30% 10% 3% 4%
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent Very Good Good Fair Poor	2276ate your expendingalifornia Psyceand Ethics EFY 20605091415ate your overa	9% 3% 3% rience wit hology S xaminatio 15/16 25% 21% 4% 6% 6% 6%	4 5 0 th Psych uppleme on (CPL FY 20 13 13 6 6 3 ence with	5% 6% 0% ological \$ ental Exar EE)? 016/17 16% 16% 8% 8% 4%	26 10 2 Services mination FY 20 59 42 26 10 6 rd's Lice	15% 6% 1% , Inc. and (CPSE) o 017/18 33% 24% 15% 6% 3% ensing/Rec	19 4 6 the sche or the Cal FY 20 44 40 13 4 6 gistration	14% 3% 4% duling ifornia 018/19 33% 30% 10% 3% 4% Unit?
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent Very Good Good Fair Poor 13. How would you ra	2276ate your expendencealifornia Psyceand Ethics EFY 20605091415ate your overaFY 20	9% 3% 3% rience wit hology S xaminatio 015/16 25% 21% 4% 6% 6% 6% 6% 6%	4 5 0 uppleme on (CPL FY 20 13 13 6 6 3 ence with FY 20	5% 6% 0% ological \$ ental Exar EE)? 016/17 16% 16% 8% 8% 4% 16% 16%	26 10 2 Services mination FY 20 59 42 26 10 6 rd's Lice FY 20	15% 6% 1% , Inc. and (CPSE) o 017/18 33% 24% 15% 6% 3% ensing/Rec 017/18	19 4 6 the sche or the Cal FY 20 44 40 13 4 6 gistration FY 20	14% 3% 4% duling ifornia 018/19 33% 30% 10% 3% 4% Unit? 018/19
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent Very Good Good Fair Poor 13. How would you ra Excellent	2276ate your expending expension exp	9% 3% 3% rience wit hology S xaminatio 15/16 25% 21% 4% 6% 6% 6% 6% all experie 015/16 41%	4 5 0 th Psych uppleme on (CPL FY 20 13 13 6 6 6 3 ence with FY 20 40	5% 6% 0% ological \$ ental Exar EE)? 016/17 16% 16% 8% 8% 4% 4% 16/17 50%	26 10 2 Services mination FY 20 59 42 26 10 6 urd's Lice FY 20 60	15% 6% 1% , Inc. and (CPSE) o 017/18 33% 24% 15% 6% 3% ensing/Rec 017/18 34%	19 4 6 the sche or the Cal FY 20 44 40 13 4 6 gistration FY 20 46	14% 3% 4% duling ifornia 018/19 33% 30% 10% 3% 4% Unit? 018/19 34%
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent Very Good Good Fair Poor 13. How would you ra Excellent Very Good	2276ate your expendingalifornia Psycand Ethics EFY 20605091415ate your overaFY 209857	9% 3% 3% rience wit hology S xaminatio 15/16 25% 21% 4% 6% 6% 6% 6% all experie 015/16 41% 24%	4 5 0 th Psych uppleme on (CPL FY 20 13 13 6 6 6 3 ence with FY 20 40 16	5% 6% 0% ological \$ ental Exar EE)? 016/17 16% 16% 8% 4% 4% 16% 8% 4% 16% 20%	26 10 2 Services mination FY 20 59 42 26 10 6 urd's Lice FY 20 60 35	15% 6% 1% , Inc. and (CPSE) o 017/18 33% 24% 15% 6% 3% ensing/Rec 017/18 34% 20% 15%	19 4 6 the sche or the Cal FY 20 44 40 13 4 6 gistration FY 20 46 34	14% 3% 4% duling ifornia 018/19 33% 30% 10% 3% 4% Unit? 018/19 34% 25%
Good Fair Poor 12. How would you ra process for the C Psychology Laws Excellent Very Good Good Fair Poor 13. How would you ra Excellent Very Good Good	2276ate your expendencealifornia Psyceand Ethics EFY 20605091415ate your overaFY 20985722	9% 3% 3% rience wit hology S xaminatio 015/16 25% 21% 4% 6% 6% 6% 6% 15/16 15/16 41% 24% 9%	4 5 0 uppleme on (CPL FY 20 13 13 6 6 3 ence with FY 20 40 16 4	5% 6% 0% ological \$ ental Exar EE)? 016/17 16% 16% 8% 8% 4% 16% 8% 4% 16% 50% 20% 5%	26 10 2 Services mination FY 20 59 42 26 10 6 rd's Lice FY 20 60 35 27	15% 6% 1% , Inc. and (CPSE) o 017/18 33% 24% 15% 6% 3% ensing/Reg 017/18 34% 20%	19 4 6 the sche or the Cal FY 20 44 40 13 4 6 gistration FY 20 46 34 12	14% 3% 4% duling ifornia 018/19 33% 30% 10% 3% 4% Unit? 018/19 34% 25% 9%