Attachment 2

Minutes of September 2010 ECC Meeting

CALIFORNIA BOARD OF ACCOUNTANCY

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY
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DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY

CBA Agenda Item XIII.D.
January 27-28, 2011

ECC Agenda Item II
January 26, 2011

MINUTES OF THE September 21, 2010 ETHICS CURRICULUM COMMITTEE (ECC) MEETING

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 958151
Telephone: (916) 263-3680

ROLL CALL AND CALL TO ORDER.

Donald Driftmier, Chair, called the meeting of the ECC to order at 10:03 a.m. on Tuesday, September 21, 2010, at the California Board of Accountancy. Mr. Driftmier indicated that to ensure compliance with the Bagley-Keene Open Meeting Act, Section 11122.5(c)(6), if a majority of members of the full California Board of Accountancy (CBA) are present at a committee meeting, members who are not members of that committee may attend the meeting only as observers. CBA members who are not committee members may not sit at the table with the committee, and they may not participate in the meeting by making statements or by asking questions of any committee members.

ECC Members

Donald Driftmier, Chair	10:03 a.m. to 3:04 p.m.
Dave Cornejo	10:03 a.m. to 3:04 p.m.
Gonzalo Freixes	10:03 a.m. to 3:04 p.m.
Gary McBride	10:03 a.m. to 3:04 p.m.
Jon Mikkelsen	10:03 a.m. to 3:04 p.m.
Steven M. Mintz	10:03 a.m. to 3:04 p.m.
Gary Pieroni	10:13 a.m. to 3:04 p.m.
Michael Shames	11:03 a.m. to 3:04 p.m.
Michael Ueltzen	10:03 a.m. to 3:04 p.m.
Robert Yetman	10:03 a.m. to 3:04 p.m.

Staff and Legal Counsel
Patti Bowers, Executive Officer
Dan Rich, Assistant Executive Officer
Dominic Franzella, Manager, Licensing
Cindi Fuller, Licensing Coordinator
Rich Andres, Information Technology Staff
Matthew Stanley, Legislation/Regulation Analyst
Gary Duke, Legal Counsel, DCA

Spencer Walker, Legal Counsel, DCA

Other Participants
Hal Schultz, California Society of Certified Public Accountants (CalCPA)
Jeannie Tindel, CalCPA
Pilar Onate-Quintana, KP Public Affairs
Molly Isbel, KP Public Affairs
Joe Petito, The Accountants Coalition, PWC
Ellen Glazerman, Ernst & Young
Ramona Farrell, Ueltzen & Co.

I. Welcome and Introductions

ECC Chair Donald Driftmier called the meeting to order on September 21, 2010, and asked ECC Members and CBA staff to introduce themselves. Gary Duke, DCA Senior Staff Legal Counsel, introduced Spencer Walker, newly appointed Legal Counsel for the CBA. Mr. Driftmier provided a brief overview on the establishment of the ECC.

II. Introduction to the Bagley-Keene Open Meeting Act

Spencer Walker presented the memorandum (**Attachment 1**) for this item. Mr. Walker recommended that each member attend the Department of Consumer Affairs' board member training. Mr. Walker advised the ECC members that all state bodies are subject to the Bagley-Keene Open Meeting Act, including advisory committees established by the CBA. Mr. Walker explained that the purpose of the Bagley-Keene Open Meeting Act is to facilitate accountability and transparency of governmental activities and protect the rights of citizens to participate in State government deliberations. Mr. Walker provided ECC members powerpoint copies of the Bagley-Keene Open Meeting Act (**Attachment 2**) and copies of *"A Handy Guide to the Bagley-Keene Open Meeting Act 2004"* **(Attachment 3)** prepared by the California Attorney General's Office. Mr. Walker reviewed the top ten rules of the Bagley-Keene Open Meeting Act, as identified by the Department of Consumer Affairs Division of Legal Affairs, and also answered questions regarding the meaning of a serial meeting and the ability to use subcommittees.

III. Economic Travel – Official State Business

Mr. Rich presented the memorandum (**Attachment 4**) for this item on behalf of Deanne Pearce, Chief, Licensing Division. Mr. Rich advised ECC members of the requirement to complete a travel expense claim in order to receive reimbursement for travel expenses and reinforced the importance of using the most economic means of travel to meetings and also to hold meetings at low-cost or no-cost locations. Mr. Rich explained that for future ECC meetings members will receive

a travel memorandum specifying the meeting location, driving directions, information related to airline reservations, and CBA staff contact information.

Member Michael Shames arrived during the presentation of this agenda item and was introduced by Mr. Driftmier.

IV. Overview of the CBA and Common Services Provided by CPAs

Mr. Franzella presented the memorandum (**Attachment 5**) for this item. Mr. Franzella advised ECC members the role of the CBA and the common services provided by Certified Public Accountants (CPAs). This information was provided for contextual purposes as members begin their discussion on the ethics study guidelines.

Mr. Dirftmier noted that a number of CBA members sit on various committees through the American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accountancy (NASBA).

V. Overview of Licensure Requirements and the Effects of Senate Bill 819 on the Pathways to Licensure

Mr. Franzella presented the memorandum (**Attachment 6**) for this item.

Mr. Franzella clarified for committee members that Senate Bill (SB) 819 requires the CBA to adopt the ECC's recommendation for ethics study guidelines without making any substantive changes. Mr. Yetman inquired what method is presently used to determine whether a course meets the 24/24 requirement. Mr. Franzella stated that the CBA generally relies on the transcripts.

VI. ECC Directives and Goals

Mr. Franzella presented the memorandum (**Attachment 7**) for this item.

Mr. Mintz questioned whether the directive to determine the appropriateness and feasibility implied that the final recommendation could be less than 10 units or no ethics education. Ms. Tindel stated that as one of the individuals who helped craft the compromise the committee is trying to implement, it was fully understood that it might not be feasible for 10 units to be accomplished. She further stated that the anticipation was if the recommendation was for less than 10 units of ethics education then a statutory change would need to be pursued.

Members questioned the authority in addressing the appropriateness as it is not specifically addressed in the legislative language. Mr. Franzella stated that the appropriateness portion came specifically from the CBA. He stated that at the November 2009 CBA meeting discussions were held that if the ECC came to the conclusion that 10 units were not feasible, the CBA could then go back to the Legislature to pursue a legislative change. Mr. Ueltzen stated he had limited

fingerprints on SB 819 and the intent of stakeholders was to have academia, specifically the ECC and not the profession, study the issue, and if 10 units were not feasible then it was understood legislation would need to be pursued.

Mr. Freixes suggested should members decide to recommend less than 10 units they should also come up with 10 units of curriculum as an option. Mr. Stanley stated that the basic intent of the CBA was to have the ECC present their recommendation of what they think best and then have the CBA go back and try to get the law changed if needed.

Mr. Driftmier requested staff provide information on the impact should the ECC recommend less than 10 units of ethics study.

VII. Discussion Regarding Composition of the 10 Units of Ethics Study Required by Business and Professions Code Section 5093

Ms. Fuller presented the memorandum (**Attachment 8**) for this item.

Mr. Driftmier provided members a copy of an article pertaining to the role schools play in promoting corporate social responsibility (**Attachment 9**), as well as, a sampling of courses taught at the University of California, Berkeley that could possibly pertain to the topic of ethics. Mr. Yetman explained that simply because a course was listed in a course catalog did not mean the course was actually being offered, so if 10 units were found, to assume all of the hours would be attainable to the student over a period of two or three years could be a mistake.

Members provided preliminary input on their particular institution as to the feasibility of teaching a course, students taking a course, and where it would fall in curriculum guidelines. In addition, extensive discussion was held regarding stand alone ethics courses and courses where ethics was embedded.

Ms. Glazerman clarified the terms AQ - academically qualified - and PQ - professionally qualified - and the relevance of the person teaching a course. She further clarified that accreditation has everything to do with the business school but if extension courses are offered outside of the business school they are not necessarily part of the accreditation scope.

Mr. Shames stated that the University of San Diego had two courses specifically dedicated to ethics. Mr. Driftmier expressed that this information would be beneficial to members and requested Mr. Shames provide copies of the course materials.

Mr. Driftmier requested members research their colleges/universities to find where ethics was embedded in courses, the level the course was currently being taught, in what department and who taught the course. Ms. Tindel requested that as part of their research the definition of ethics also be included. Mr. Driftmier agreed and requested the definition of ethics be included in the research.

Members requested staff provide additional information regarding the ethics requirements for other state boards of accountancy. Mr. Ueltzen requested information on the development and implementation of the ethics requirements for the state of Texas.

Mr. Petito raised concerns about California students taking courses outside of California and how those courses, especially courses where ethics was embedded, would meet California standards. He also suggested that there could be some generic number that one could assume a student going through an accredited school in an accounting program would have gotten for embedded ethics courses.

Mr. Mikkelsen requested Mr. Ueltzen provide insight from the industry standpoint and give his perspective regarding when ethics education should take place, what should be taught in relation to ethics, and what might maximize the effectiveness of the ethics education for those individuals actually in practice.

VIII. Comments from Members of the Public.

To assist in calendaring future meetings, Mr. Franzella inquired if there was a particular day of the week that was not good for members. There was a general consensus that future meetings be held on a specific day of the week to assist members in setting their school calendars. Ms. Bowers stated a survey would be sent to members as to their preference.

ADJOURNMENT.

There being no further business to be conducted, the meeting was adjourned at 3:04 p.m. on Tuesday, September 21, 2010.

/Donald A. Driftmier/
Donald A. Driftmier, Chair

Prepared by Cindi Fuller, Licensing Coordinator

State of California
Department of Consumer Affairs

Attachment 1

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

M e m o r a n d u m

ECC Agenda Item II.
September 21, 2010

To : ECC Members

Date : August 26, 2010

Telephone : (916) 574-8220
Facsimile : (916) 263-3678
E-mail : Spencer_Walker@dca.ca.gov

From : Spencer Walker, Senior Legal Counsel
Division of Legal Affairs

Subject : Introduction to the Bagley-Keene Open Meeting Act

In your Reference Materials (Section VIII), California Board of Accountancy staff have provided a copy of the Department of Consumer Affairs' (DCA) "Guide to the Bagley-Keene Open Meeting Act (Including Amendments though January 1, 2010)" prepared by the DCA's Division of Legal Affairs. This guide provides both an overview to the act and the full text of the Bagley-Keene Open Meeting Act.

The purpose of the Bagley-Keene Open Meeting Act is to facilitate accountability and transparency of government activities and protect the rights of the citizens to participate in State government deliberations.

At the meeting, I will provide Ethics Curriculum Committee members with an overview of the Bagley-Keene Open Meeting Act, and will be available to answer any questions members may have.

To assist in the overview process, attached to this memorandum is a document titled "Bagley-Keene Open Meeting Act, Top Ten Rules (January 2009)." This document has been prepared by DCA's Division of Legal Affairs for use at all new DCA board member orientations. It highlights the key components of the Bagley-Keene Open Meeting Act as it pertains to business conducted by boards and committees.

Attachment

BAGLEY-KEENE OPEN MEETING ACT
TOP TEN RULES
(January 2009)

[NOTE: GC § = Government Code Section; AG = Opinions of the California Attorney General.]

1. All meetings are public. (GC §11123.)

2. Meetings must be noticed 10 calendar days in advance—including posting on the Internet. (GC §11125(a).)

3. Agenda required—must include a description of specific items to be discussed (GC §§ 11125 & 11125.1).

   a. No item may be added to the agenda unless it meets criteria for an emergency. (GC §11125(b).)

4. Meeting is "gathering" of a majority of the board or a majority of a committee of 3 or more persons where board business will be discussed. Includes telephone & e-mail communications. (GC § 11122.5; Stockton Newspapers Inc. v. Members of the Redevelopoment Agency of the City of Stockton (1985) 171 Cal.App.3d 95.)

5. Law applies to committees, subcommittees, and task forces that consist of 3 or more persons (includes all persons whether or not they are board members). (GC §11121)

6. Public comment must be allowed on agenda items before or during discussion of the items and before a vote, unless: (GC §11125.7.)

   a. The public was provided an opportunity to comment at a previous committee meeting of the board. If the item has been substantially changed, another opportunity for comment must be provided.

   b. The subject matter is appropriate for closed session.

7. Closed sessions (GC §11126.) At least one staff member must be present to record topics discussed and decisions made. (GC § 11126.1).

Closed session allowed:

   a. Discuss and vote on disciplinary matters under the Administrative Procedure Act (APA). (subd. (c)(3).)
   b. Prepare, approve or grade examinations. (subd. (c)(1).)

c. Pending litigation. (subd. (e)(1).)
d. Appointment, employment, or dismissal of executive officer (EO) unless EO requests such action to be held in public. (subd. (a), (b).)

No closed session allowed for:
a. Election of board officers. (68 AG 65.)
b. Discussion of controversial regulations or issues.

8. No secret ballots or votes except mail votes on APA enforcement matters. (68 AG 65; GC §11526.)

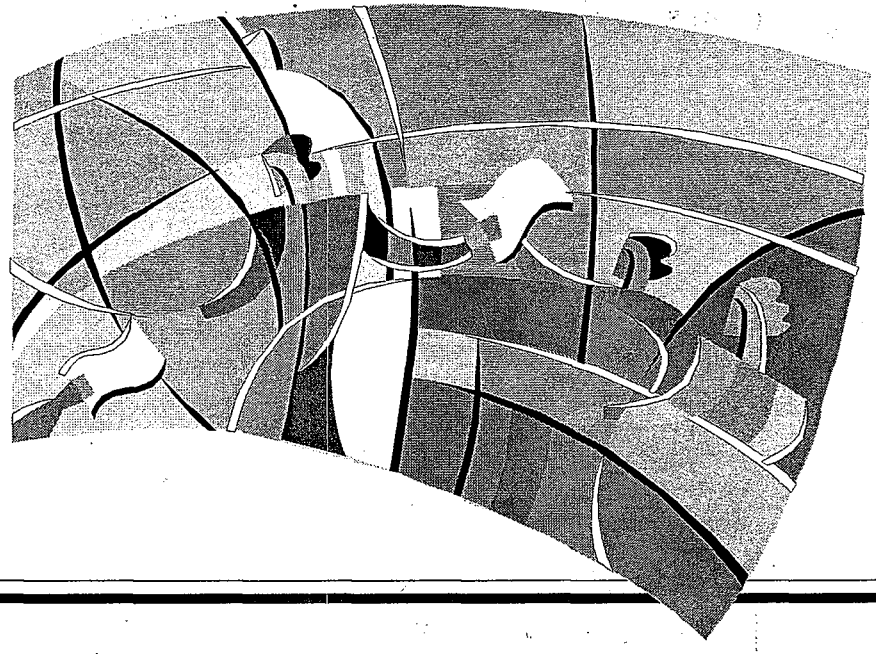
9. No proxy votes. (68 AG 65.)

10. Meetings by teleconferencing (GC §11123.)

a. Suitable audio or video must be audible to those present at designated location(s). (subd. (b)(1)(B).)
b. Notice and agenda required. (subd. (b)(1)(A).)
c. Every location open to the public and at least one member of board physically present at the specified location. All members must attend at a public location. (subds. (b)(1) (C), and (F).)
e. Rollcall vote required. (subd. (b)(1)(D).)
f. Emergency meeting closed sessions <u>not</u> allowed. (subd. (b)(1)(E).)

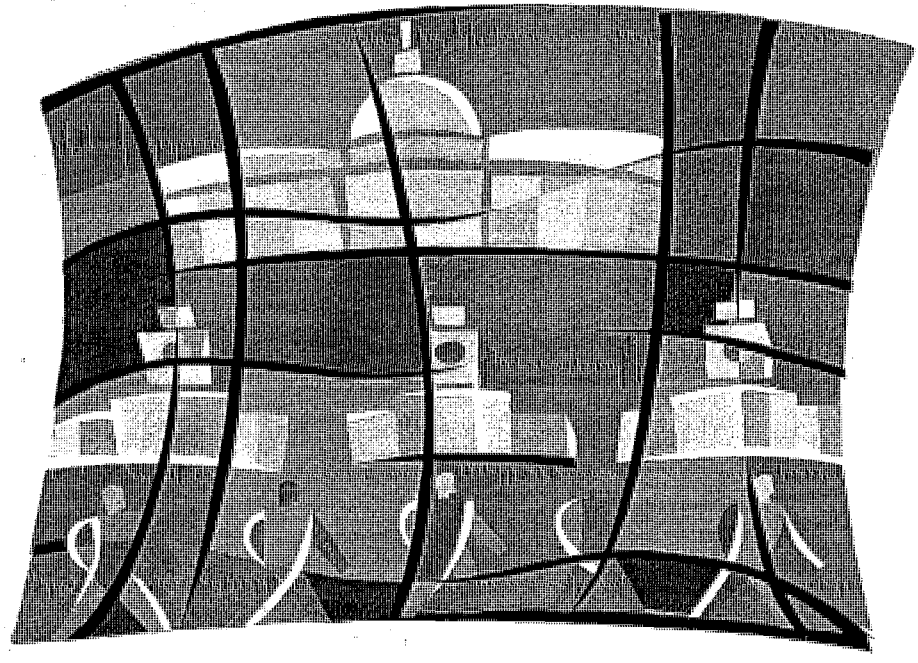
Reference: January 2009 "Public Meetings" Memorandum & Attached Guide to the Bagley-Keene Open Meeting Act
http://www.dca.ca.gov/r_r/bagleykeene_meetingact.pdf

Bagley-Keene Open Meeting Act



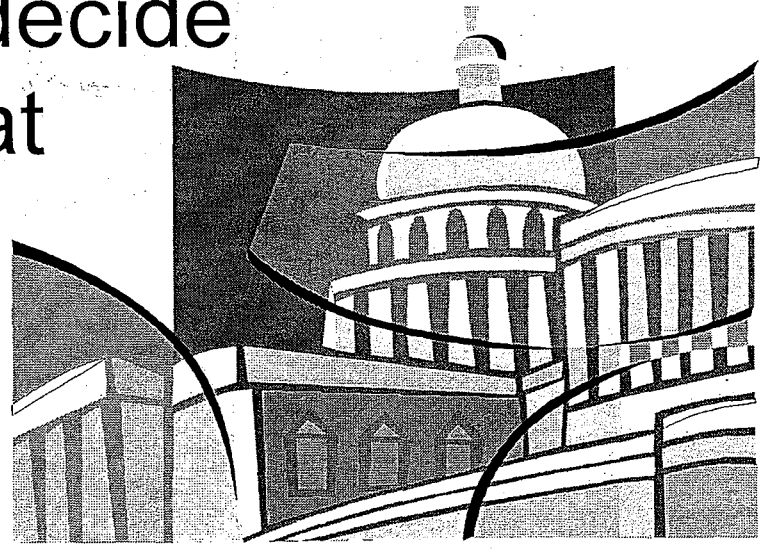
Rationale for Open Meetings Laws

- Public policy – we exist to perform the people's business



Legislative Intent

- Actions taken openly and deliberation conducted openly
- The people do not give their public servants the right to decide what is good and what is not good for them



Why Important to Comply

1. Misdemeanor to commit a knowing violation
2. Act done in violation may be declared null and void
3. Avoid public perception that board has something to hide
4. Legitimate governments conduct business in public

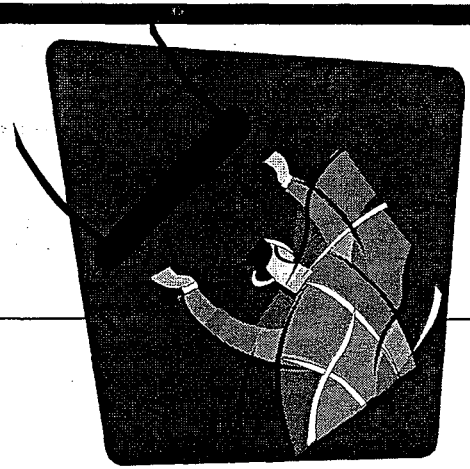
What Is a "Meeting" as Covered by the Law?

- Any time a majority of board or committee discuss or take action on matters within jurisdiction of the agency
- Only exception – committee meetings of less than 3 people

Exceptions to Definition of Meeting

- Individual contacts or conversations between board members
- At a conference or similar gathering provided majority do not discuss business of the board
- Open and noticed meeting of another state body or legislative body
- Purely social or ceremonial function

Hypothetical No. 1



The Board of Trapeze Artists consists of five members. The agenda is very long so they break for lunch at 12:30 pm. Three members sit down together in the hotel coffee shop for lunch. They talk about the upcoming circus convention in Palm Beach, Florida, where they will be voting by touch screen computers for president of the Circus Leaders and Owners Worldwide Network (CLOWN).

Is this a meeting?

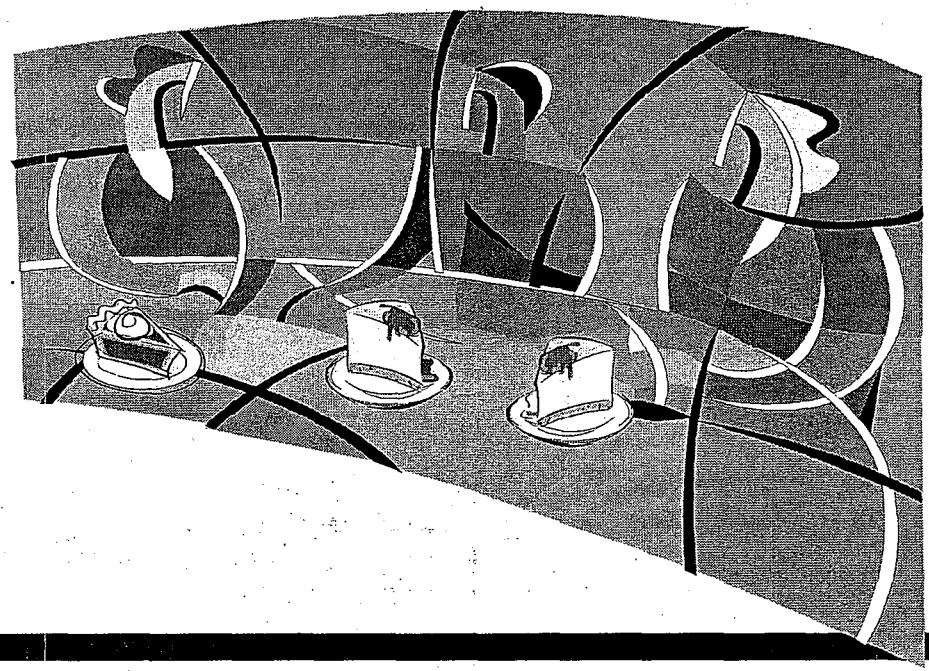
Hypothetical No. 1 *(Continued)*

The members order lunch. During lunch they discuss upcoming vacations and latest trapeze artist fashions in Europe.

Is this a meeting?

Hypothetical No. 1 *(Continued)*

With their dessert, they discuss the proposed policy statement that is on their agenda for the afternoon portion of their meeting.



What about now?

Open Meeting Laws Impose 3 Duties on Board

1. Give adequate notice of meetings
2. Conduct meetings in open session
3. Provide public opportunity to comment

1st Duty:
Adequate Notice of Meetings

Adequate = Timely, Proper, & Specific

- Timely – 10 days notice
- Proper – mailing list & website
- Specific – detailed agenda

Example:

The agenda item said "testing facilities." Board member requested discussion on "testing-examination content" and claimed that it was appropriate to discuss "testing examination content" since the agenda item used the word "testing."

Could the board members discuss "testing-examination content"?

2nd Duty:
Conduct Meeting in Open Session

- **Discuss and take action in public**
- **Vote in public**

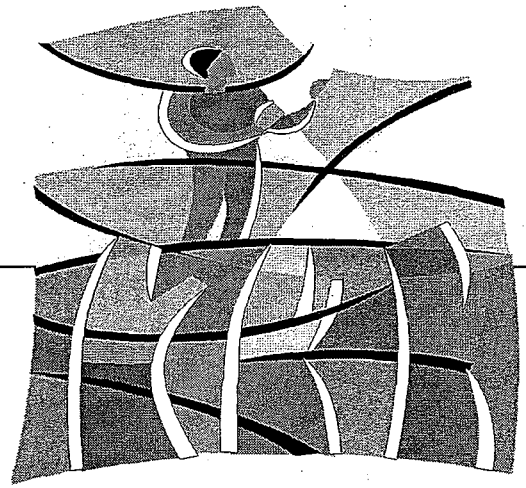
Rationale – Public has a right to know how its public officials vote on matters of public interest

Communication* with Other Members to Develop a Collective Concurrence Outside of a Noticed Meeting is Prohibited

*<u>Examples</u>

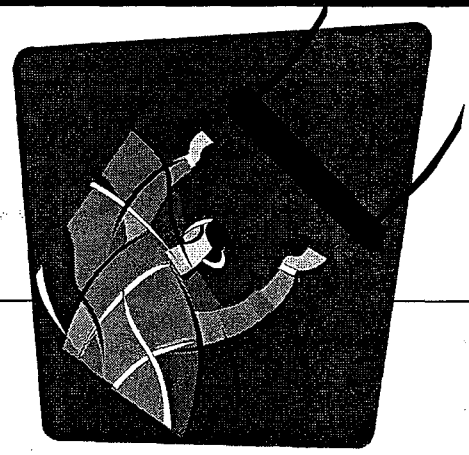
- **Communication with individual board members**
- **Personal intermediaries**
- **Technological devices**
- **Serial meetings**

Questions



- Would serial communications be a criminal violation?
- Was there intent to "deprive the public of information that the member knows or has reason to know the public is entitled to"?

Hypothetical No. 2



The Board of Trapeze Artists licenses trapeze artists. The Trapeze Act requires an applicant to have completed a one-year apprenticeship. Jack—a board member—wants to add a requirement that trapeze artists must also pass a practical examination in order to be licensed—a demonstration of skill—and proposes legislation to the board.

Hypothetical No. 2 *(Continued)*

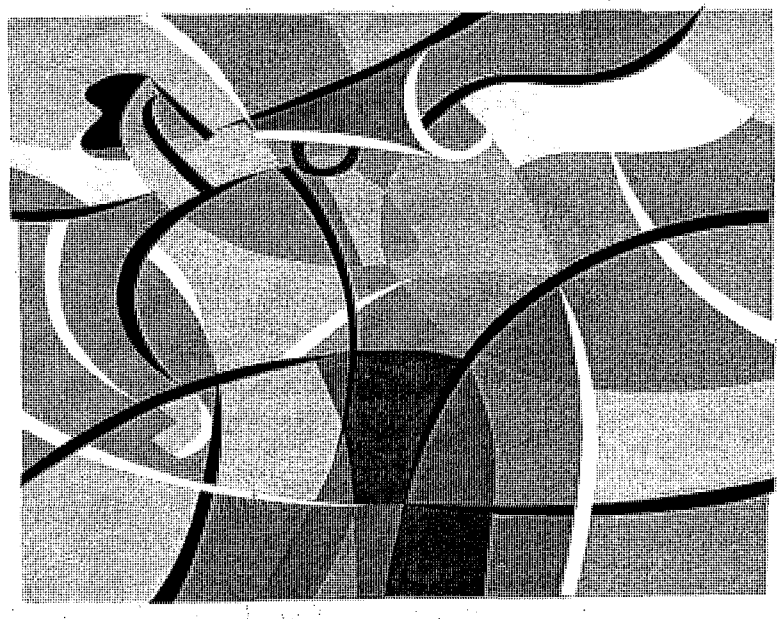
Jack takes Jill, another board member, to lunch at Ruth's Chris Steak House and discusses the legislative proposal.

Is this a board meeting?

The next day Jack calls Sam (also a board member) seeking support for the proposed legislation.

What about now?

3rd Duty:
Public Comment at the Meeting

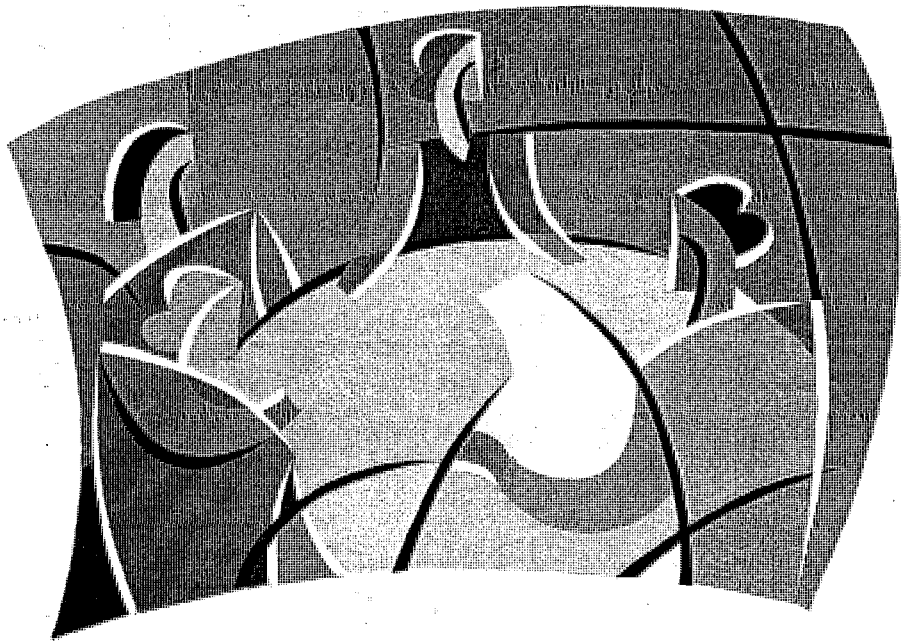


- **Must allow public comment before taking action**

- **But don't allow commenters to thwart purpose of meeting**

Closed Session

- Portion of meeting that agency is allowed to conduct without the public being present



Closed Session *(Continued)*

- General Rule: meetings are held in open session – can go into closed session only when specifically authorized by law.

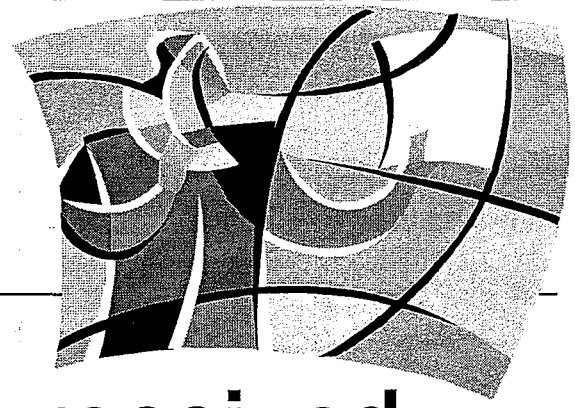
Closed Session *(Continued)*

- Business statutorily authorized to be conducted in closed session:
  - Disciplinary matters
  - Preparing, approving, or grading exams
  - Pending litigation
  - Matters affecting personal privacy
  - Executive officer appointment, employment, or dismissal

Closed Session *(Continued)*

- In closed session can only discuss matters identified as closed session on agenda.

Improper Disclosure of Information



- **Improper for information received during closed session to be publicly disclosed without authorization of whole board.**

  Rationale — Illogical to conduct business in closed session but allow unauthorized disclosure of confidential information from closed session.

Improper Disclosure of Information *(Continued)*

- Sanction for improper disclosure of confidential information:
  1. Inj unction
  2. Removal from office

Last Thoughts

- Power is with the group – not the individual
- Individual may not instruct EO unless board has formally adopted essence of the instruction

A Handy Guide to The Bagley-Keene Open Meeting Act 2004

California Attorney General's Office

INTRODUCTION

The Bagley-Keene Open Meeting Act ("the Act" or "the Bagley-Keene Act"), set forth in Government Code sections 11120-11132[1], covers all state boards and commissions. Generally, it requires these bodies to publicly notice their meetings, prepare agendas, accept public testimony and conduct their meetings in public unless specifically authorized by the Act to meet in closed session. Following is a brief summary of the Act's major provisions. Although we believe that this summary is a helpful road map, it is no substitute for consulting the actual language of the Act and the court cases and administrative opinions that interpret it.

If you wish to obtain additional copies of this pamphlet, they may be ordered or downloaded via the Attorney General's Home Page, located on the World Wide Web at http://caag.state.ca.us. You may also write to the Attorney General's Office, Public Inquiry Unit, P.O. Box 944255, Sacramento, CA 94244-2550 or call us at (800) 952-5225 (for callers within California), or (916) 322-3360 (for callers outside of California); the TTY/TDD telephone numbers are (800) 952-5548 (for callers within California), or (916) 324-5564 (for callers outside of California).

PURPOSE OF THE ACT

Operating under the requirements of the Act can sometimes be frustrating for both board members and staff. This results from the lack of efficiency built into the Act and the unnatural communication patterns brought about by compliance with its rules.

If efficiency were the top priority, the Legislature would create a department and then permit the department head to make decisions. However, when the Legislature creates a multimember board, it makes a different value judgment. Rather than striving strictly for efficiency, it concludes that there is a higher value to having a group of individuals with a variety of experiences, backgrounds and viewpoints come together to develop a consensus. Consensus is developed through debate, deliberation and give and take. This process can sometimes take a long time and is very different in character than the individual-decision-maker model.

Although some individual decision-makers follow a consensus-building model in the way that they make decisions, they're not required to do so. When the Legislature creates a multimember body, it is mandating that the government go through this consensus building process.

When the Legislature enacted the Bagley-Keene Act, it imposed still another value judgment on the governmental process. In effect, the Legislature said that when a body sits down to develop its consensus, there needs to be a seat at the table reserved for the public. (§ 11120.) By reserving this place for the public, the Legislature has provided the public with the ability to monitor and participate in the decision-making process. If the body were permitted to meet in secret, the public's role in the decision-making process would be negated. Therefore, absent a specific reason to keep

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[1]All statutory references are to the Government Code.

the public out of the meeting, the public should be allowed to monitor and participate in the decision-making process.

If one accepts the philosophy behind the creation of a multimember body and the reservation of a seat at the table for the public, many of the particular rules that exist in the Bagley-Keene Act become much easier to accept and understand. Simply put, some efficiency is sacrificed for the benefits of greater public participation in government.

BODIES COVERED BY THE ACT: General Rule

The general rule for determining whether a body is covered by the Act involves a two part test (§ 11121(a)):

First, the Act covers multimember bodies. A multimember body is two or more people. Examples of multimember bodies are: state boards, commissions, committees, panels, and councils. Second, the body must be created by statute or required by law to conduct official meetings. If a body is created by statute, it is covered by the Act regardless of whether it is decision-making or advisory.

- **Advisory Bodies**

The Act governs two types of advisory bodies: (1) those advisory bodies created by the Legislature and (2) those advisory bodies having three or more members that are created by formal action of another body. (§11121(c).) If an advisory body created by formal action of another body has only two members, it is not covered by the Bagley-Keene Act. Accordingly, that body can do its business without worrying about the notice and open meeting requirements of the Act. However, if it consists of three people, then it would qualify as an advisory committee subject to the requirements of the Act.

When a body authorizes or directs an individual to create a new body, that body is deemed to have been created by formal action of the parent body even if the individual makes all decisions regarding composition of the committee. The same result would apply where the individual states an intention to create an advisory body but seeks approval or ratification of that decision by the body.

Finally, the body will probably be deemed to have acted by formal action whenever the chair of the body, acting in his or her official capacity, creates an advisory committee. Ultimately, unless the advisory committee is created by staff or an individual board member, independent of the body's authorization or desires, it probably should be viewed as having been created by formal action of the body.

- Delegated Body

The critical issue for this type of body is whether the committee exercises some power that has been delegated to it by another body. If the body has been delegated the power to act, it is a delegated committee. (§ 11121(b).) A classic example is the executive committee that is given authority to act on behalf of the entire body between meetings. Such executive committees are delegated committees and are covered by the requirements of the Act.

There is no specific size requirement for the delegated body. However, to be a body, it still must be comprised of multiple members. Thus, a single individual is not a delegated body.

- Commissions Created by the Governor

The Act specifically covers commissions created by executive order. (§ 11121(a).) That leaves open two potential issues for resolution with respect to this type of body. First, what's an executive order as opposed to other exercises of power by the Governor? Second, when is a body a "commission" within the meaning of this provision? There is neither case law nor an Attorney General opinion addressing either of these issues in this context.

- Body Determined by Membership

The next kind of body is determined by who serves on it. Under this provision, a body becomes a state body when a member of a state body, in his or her official capacity, serves as a representative on another body, either public or private, which is funded in whole or in part by the representative's state body. (§ 11121(d).) It does not come up often, but the Act should be consulted whenever a member of one body sits as a representative on another body.

In summary, the foregoing are the general types of bodies that are defined as state bodies under the Bagley-Keene Act. As will be discussed below, these bodies are subject to the notice and open meeting requirements of the Act.

MEMBERS-TO-BE

The open meeting provisions of the Act basically apply to new members at the time of their election or appointment, even if they have not yet started to serve. (§ 11121.95.) The purpose of this provision is to prevent newly appointed members from meeting secretly among themselves or with holdover members of a body in sufficient numbers so as to constitute a quorum. The Act also requires bodies to provide their new members with a copy of the Act. (§ 11121.9.) We recommend that this Handy Guide be used to satisfy that requirement.

WHAT IS A MEETING?

The issue of what constitutes a meeting is one of the more troublesome and controversial issues under the Act. A meeting occurs when a quorum of a body convenes, either serially or all together, in one place, to address issues under the body's jurisdiction. (§ 11122.5.) Obviously, a meeting would include a gathering where members were debating issues or voting on them. But a meeting also includes situations in which the body is merely receiving information. To the extent that a body receives information under circumstances where the public is deprived of the opportunity to monitor the information provided, and either agree with it or challenge it, the open-meeting process is deficient.

Typically, issues concerning the definition of a meeting arise in the context of informal gatherings such as study sessions or pre-meeting get-togethers. The study session historically arises from the body's desire to study a subject prior to its placement on the body's agenda. However, if a quorum is involved, the study session should be treated as a meeting under the Act. With respect to pre-meeting briefings, this office opined that staff briefings of the city council a half hour before the noticed city council meeting to discuss the items that would appear on the council's meeting agenda were themselves meetings subject to open meeting laws.[2] To the extent that a briefing is desirable, this office recommends that the executive officer prepare a briefing paper which would then be available to the members of the body, as well as, to the public.

- **Serial Meetings**

The Act expressly prohibits the use of direct communication, personal intermediaries, or technological devices that are employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body outside of an open meeting. (§ 11122.5(b).) Typically, a serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body's members. For example, a chain of communications involving contact from member A to member B who then communicates with member C would constitute a serial meeting in the case of a five-person body. Similarly, when a person acts as the hub of a wheel (member A) and communicates individually with the various spokes (members B and C), a serial meeting has occurred. In addition, a serial meeting occurs when intermediaries for board members have a meeting to discuss issues. For example, when a representative of member A meets with representatives of members B and C to discuss an agenda item, the members have conducted a serial meeting through their representatives acting as intermediaries.

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[2] 42 Ops.Cal.Atty.Gen. 61 (1963); see also 32 Ops.Cal.Atty.Gen. 240 (1958).

In the *Stockton Newspapers* case, the court concluded that a series of individual telephone calls between the agency attorney and the members of the body constituted a meeting.[3] In that case, the attorney individually polled the members of the body for their approval on a real estate transaction. The court concluded that even though the meeting was conducted in a serial fashion, it nevertheless was a meeting for the purposes of the Act.

An executive officer may receive spontaneous input from board members on the agenda or on any other topic. But problems arise if there are systematic communications through which a quorum of the body acquires information or engages in debate, discussion, lobbying, or any other aspect of the deliberative process, either among themselves or between board members and the staff.

Although there are no cases directly on point, if an executive officer receives the same question on substantive matters addressed in an upcoming agenda from a quorum of the body, this office recommends that a memorandum addressing these issues be provided to the body and the public so they will receive the same information.

This office has opined that under the Brown Act (the counterpart to the Bagley-Keene Act which is applicable to local government bodies) that a majority of the board members of a local public agency may not e-mail each other to discuss current topics related to the body's jurisdiction even if the e-mails are also sent to the secretary and chairperson of the agency, posted on the agency's Internet website, and made available in printed form at the next public meeting of the board.[4]

The prohibition applies only to communications employed by a quorum to develop a collective concurrence concerning action to be taken by the body. Conversations that advance or clarify a member's understanding of an issue, or facilitate an agreement or compromise among members, or advance the ultimate resolution of an issue, are all examples of communications that contribute to the development of a concurrence as to action to be taken by the body. Accordingly, with respect to items that have been placed on an agenda or that are likely to be placed upon an agenda, members of state bodies should avoid serial communications of a substantive nature that involve a quorum of the body.

In conclusion, serial meeting issues will arise most commonly in connection with rotating staff briefings, telephone calls or e-mail communications among a quorum of board members. In these situations, part of the deliberative process by which information is received and processed, mulled over and discussed, is occurring without participation of the public.

Just remember, serial-meeting provisions basically mean that what the body can not do as a group it can not do through serial communications by a quorum of its members.

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[3] *Stockton Newspapers, Inc.* v. *Redevelopment Agency* (1985) 171 Cal.App.3d 95, 105. See also, 65 Ops.Cal.Atty.Gen. 63, 66 (1982); 63 Ops.Cal.Atty.Gen. 820, 828-829 (1980).

[4] Cal.Atty.Gen., Indexed Letter, No. IL 00-906 (February 20, 2001).

■▯ Contacts by the Public

One of the more difficult areas has to do with the rights of the public to contact individual members. For example, a communication from a member of the public to discuss an issue does not violate the Act. (§ 11122.5(c)(1).) The difficulty arises when the individual contacts a quorum of the body.

So long as the body does not solicit or orchestrate such contacts, they would not constitute a violation of the Bagley-Keene Act. Whether its good policy for a body to allow these individual contacts to occur is a different issue.

■▯ Social Gatherings

The Act exempts purely social situations from its coverage. (§ 11122.5(c)(5).) However, this construction is based on the premise that matters under the body's jurisdiction will not be discussed or considered at the social occasion. It may be useful to remind board members to avoid "shop talk" at the social event. Typically, this is difficult because service on the body is their common bond.

■▯ Conferences and Retreats

Conferences are exempt from the Act's coverage so long as they are open to the public and involve subject matter of general interest to persons or bodies in a given field. (§ 11122.5(c)(2).) While in attendance at a conference, members of a body should avoid private discussions with other members of their body about subjects that may be on an upcoming agenda. However, if the retreat or conference is designed to focus on the laws or issues of a particular body it would no be exempt under the Act.

■▯ Teleconference Meetings

The Act provides for audio or audio and visual teleconference meetings for the benefit of the public and the body. (§ 11123.) When a teleconference meeting is held, each site from which a member of the body participates must be accessible to the public. [Hence, a member cannot participate from his or her car, using a car phone or from his or her home, unless the home is open to the public for the duration of the meeting.] All proceedings must be audible and votes must be taken by rollcall. All other provisions of the Act also apply to teleconference meetings. For these reasons, we recommend that a properly equipped and accessible public building be utilized for teleconference meetings. This section does not prevent the body from providing additional locations from which the public may observe the proceedings or address the state body by electronic means.

NOTICE AND AGENDA REQUIREMENTS

The notice and agenda provisions require bodies to send the notice of its meetings to persons who have requested it. (§ 11125(a).) In addition, at least ten days prior to the meeting, bodies must

prepare an agenda of all items to be discussed or acted upon at the meeting. (§ 11125(b).) In practice, this usually translates to boards and commissions sending out the notice and agenda to all persons on their mailing lists. The notice needs to state the time and the place of the meeting and give the name, phone number and address of a contact person who can answer questions about the meeting and the agenda. (§ 11125(a).) The agenda needs to contain a brief description of each item to be transacted or discussed at the meeting, which as a general rule need not exceed 20 words in length. (§ 11125(b).)

The agenda items should be drafted to provide interested lay persons with enough information to allow them to decide whether to attend the meeting or to participate in that particular agenda item. Bodies should not label topics as "discussion" or "action" items unless they intend to be bound by such descriptions. Bodies should not schedule items for consideration at particular times, unless they assure that the items will not be considered prior to the appointed time.

The notice and agenda requirements apply to both open and closed meetings. There is a tendency to think that agendas need not be prepared for closed session items because the public cannot attend. But the public's ability to monitor closed sessions directly depends upon the agenda requirement which tells the public what is going to be discussed.

REGULAR MEETINGS

The Act, itself, does not directly define the term " regular meeting." Nevertheless, there are several references in the Act concerning regular meetings. By inference and interpretation, the regular meeting is a meeting of the body conducted under normal or ordinary circumstances. A regular meeting requires a 10-day notice. This simply means that at least 10 days prior to the meeting, notice of the meeting must be given along with an agenda that sufficiently describes the items of business to be transacted or discussed. (§§ 11125(a), 11125(b).) The notice for a meeting must also be posted on the Internet, and the web site address must be included on the written agenda. In addition, upon request by any person with a disability, the notice must 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 applicable federal rules and regulations. The notice must contain information regarding the manner in which and the deadline by which a request for any disability-related modification or accommodation, including auxiliary aids or services, may be made by a person requiring these aids or services in order to participate in the meeting.

In two special situations, items may be added to the agenda within the 10-day notice period, provided that they are added and notice is given no later than 48 hours prior to the meeting. (§ 11125.) The first such situation is where the body concludes that the topic it wishes to add would qualify for an emergency meeting as defined in the Act. (§ 11125.3(a)(1).) The second situation is where there is a need for immediate action and the need for action came to the attention of the body after the agenda was mailed in accordance with the 10-day notice requirement. (§ 11125.3(a)(2).) This second situation requires a two-thirds vote or a unanimous vote if two-thirds of the members are not present.

Changes made to the agenda under this section must be delivered to the members of the body and to national wires services at least 48 hours before the meeting and must be posted on the Internet as soon as practicable.

SPECIAL MEETINGS

A few years ago, special meetings were added to the Act to provide relief to agencies that, due to the occurrence of unforeseen events, had a need to meet on short notice and were hamstrung by the Act's 10-day notice requirement. (§ 11125.4.) The special meeting requires that notice be provided at least 48 hours before the meeting to the members of the body and all national wire services, along with posting on the Internet.

The purposes for which a body can call a special meeting are quite limited. Examples include pending litigation, legislation, licencing matters and certain personnel actions. At the commencement of the special meeting, the body is required to make a finding that the 10-day notice requirement would impose a substantial hardship on the body or that immediate action is required to protect the public interest and must provide a factual basis for the finding. The finding must be adopted by two-thirds vote and must contain articulable facts that support it. If all of these requirements are not followed, then the body can not convene the special meeting and the meeting must be adjourned.

EMERGENCY MEETINGS

The Act provides for emergency meetings in rare instances when there exists a crippling disaster or a work stoppage that would severely impair public health and safety. (§ 11125.5.) An emergency meeting requires a one-hour notice to the media and must be held in open session. The Act also sets forth a variety of other technical procedural requirements that must be satisfied.

PUBLIC PARTICIPATION

Since one of the purposes of the Act is to protect and serve the interests of the general public to monitor and participate in meetings of state bodies, bodies covered by the Act are prohibited from imposing any conditions on attendance at a meeting. (§ 11124.) For example, while the Act does not prohibit use of a sign-in sheet, notice must be clearly given that signing-in is voluntary and not a pre-requisite to either attending the meeting or speaking at the meeting. On the other hand, security measures that require identification in order to gain admittance to a government building are permitted so long as security personnel do not share the information with the body.

In addition, members of the public are entitled to record and to broadcast (audio and/or video) the meetings, unless to do so would constitute a persistent disruption. (§ 11124.1.)

To ensure public participation, the Legislature expressly afforded an opportunity to the public to speak or otherwise participate at meetings, either before or during the consideration of each agenda item. (§11125.7.) The Legislature also provided that at any meeting the body can elect to consider comments from the public on any matter under the body's jurisdiction. And while the body cannot act on any matter not included on the agenda, it can schedule issues raised by the public for consideration at future meetings. Public comment protected by the Act includes criticism of the programs, policies and officials of the state body.

ACCESS TO RECORDS

Under the Act, the public is entitled to have access to the records of the body. (§ 11125.1.) In general, a record includes any form of writing. When materials are provided to a majority of the body either before or during the meeting, they must also be made available to the public without delay, unless the confidentiality of such materials is otherwise protected. Any records provided to the public, must be 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 applicable federal rules and regulations, upon request by a person with a disability.

Notwithstanding the foregoing, the Act makes Government Code section 6254, the most comprehensive exemption under the California Public Records Act, applicable to records provided to the body. That is, if the record that is being provided to the board members is a record that is otherwise exempt from disclosure under section 6254 of the Government Code, then the record need not be disclosed to members of the public. (§ 11125.1(a).) However, the public interest balancing test, set forth in Government Code section 6255, is expressly made inapplicable to records provided to members of the body.

If an agency has received a request for records, the Public Records Act allows the agency to charge for their duplication. (§ 11125.1(c).) Please be aware that the Public Records Act limits the amount that can be charged to the direct cost of duplication. This has been interpreted to mean a pro-rata share of the equipment cost and probably a pro-rata share of the employee cost in order to make the copies. It does not include anything other than the mere reproduction of the records. (See,§ 6253.9 for special rules concerning computer records.) Accordingly, an agency may not recover for the costs of retrieving or redacting a record.

ACCESSABILITY OF MEETING LOCATIONS

The Act requires that the place and manner of the meeting be nondiscriminatory. (§ 11131.) As such, the body cannot discriminate on the basis of race, religion, national origin, etc. The meeting site must also be accessible to the disabled. Furthermore, the agency may not charge a fee for attendance at a meeting governed by the Act.

CLOSED SESSIONS

Although, as a general rule, all items placed on an agenda must be addressed in open session, the Legislature has allowed closed sessions in very limited circumstances, which will be discussed in detail below. Closed sessions may be held legally only if the body complies with certain procedural requirements. (§ 11126.3)

As part of the required general procedures, the closed session must be listed on the meeting agenda and properly noticed. (§ 11125(b).) Prior to convening into closed session, the body must publically announce those issues that will be considered in closed session. (§ 11126.3.) This can be done by a reference to the item as properly listed on the agenda. In addition, the agenda should cite the statutory authority or provision of the Act which authorizes the particular closed session. (§11125(b).) After the closed session has been completed, the body is required to reconvene in public. (§ 11126.3(f).) However, the body is required to make a report only where the body makes a decision to hire or fire an individual. (§ 11125.2.) Bodies under the Bagley-Keene Act are required to keep minutes of their closed sessions. (§ 11126.1.) Under the Act, these minutes are confidential, and are disclosable only to the board itself or to a reviewing court.

Courts have narrowly construed the Act's closed-session exceptions. For example, voting by secret ballot at an open-meeting is considered to be an improper closed session. Furthermore, closed sessions may be improperly convened if they are attended by persons other than those directly involved in the closed session as part of their official duties.

- **Personnel Exception**

The personnel exception generally applies only to employees. (§ 11126(a) and (b).) However, a body's appointment pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution (usually the body's executive director) has been designated an employee for purposes of the personnel exception. On the other hand, under the Act, members of the body are not to be considered employees, and there exists no personnel exception or other closed session vehicle for board members to deal with issues that may arise between them. Board elections, team building exercises, and efforts to address personality problems that may arise between members of the board, cannot be handled in closed session.

Only certain categories of subject matter may be considered at a closed session authorized under the personnel exception. (§ 11126(a)(1).) The purpose of the personnel exception is to protect the privacy of the employee, and to allow the board members to speak candidly. It can be used to consider appointments, employment, evaluation of performance, discipline or dismissal, as well as to hear charges or complaints about an employee's actions. Although the personnel exception is appropriate for discussion of an employee's competence or qualifications for appointment or employment, we do not think that discussion of employee compensation may be conducted in closed

session in light of an appellate court decision interpreting a similar exception in the Brown Act, (the counterpart to the Bagley-Keene Act which is applicable to local government bodies).[5]

The Act requires compliance with specific procedures when the body addresses a complaint leveled against an employee by a third person or initiates a disciplinary action against an employee. Under either circumstance, the Act requires 24-hour written notice to the employee. (§ 11126(a)(2).) Failure to provide such notice voids any action taken in closed session.

Upon receiving notice, the employee has the right to insist that the matter be heard in public session. (§ 11126(a)(2).) However, the opposite is not true. Under the Act, an employee has no right to have the matter heard in closed session. If the body decides to hold an open session, the Bagley-Keene Act does not provide any other option for the employee. Considerations, such as the employee's right to privacy, are not addressed under the Bagley-Keene Act.

If an employee asserts his or her right to have the personnel matter addressed in open session, the body must present the issues and information/evidence concerning the employee's performance or conduct in the open session. However, the body is still entitled to conduct its deliberations in closed session. (§ 11126(a)(4).)

- **Pending Litigation Exception**

The purpose of the pending litigation exception is to permit the agency to confer with its attorney in circumstances where, if that conversation were to occur in open session, it would prejudice the position of the agency in the litigation. (§ 11126(e)(1).) The term "litigation" refers to an adjudicatory proceeding that is held in either a judicial or an administrative forum. (§11126(e)(2)(c)(iii).) For purposes of the Act, litigation is "pending" in three basic situations. (§11126(e)(2).) First, where the agency is a party to existing litigation. Secondly, where under existing facts and circumstances, the agency has substantial exposure to litigation. And thirdly, where the body is meeting for the purpose of determining whether to initiate litigation. All of these situations constitute pending litigation under the exception.

For purposes of the Bagley-Keene Act, the pending litigation exception constitutes the exclusive expression of the attorney-client privilege. (§ 11126(e)(2).) In general, this means that independent statutes and case law that deal with attorney-client privilege issues do not apply to interpretations of the pending litigation provision of the Bagley-Keene Act. Accordingly, the specific language of the Act must be consulted to determine what is authorized for discussion in closed session.

Because the purpose of the closed session exception is to confer with legal counsel, the attorney must be present during the entire closed session devoted to the pending litigation. The Act's pending litigation exception covers both the receipt of advice from counsel and the making of

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[5] *San Diego Union v. City Council* (1983) 146 Cal.App.3d 947.

litigation decisions (e.g., whether to file an action, and if so, what approach should be taken, whether settlement should be considered, and if so, what the settlement terms should be.

What happens in a situation where a body desires legal advice from counsel, but the Act's pending litigation exception does not apply? In such a case, legal counsel can either (1) provide the legal advice orally and discuss it in open session; or (2) deliver a one-way legal advice memorandum to the board members. The memorandum would constitute a record containing an attorney-client privileged communication and would be protected from disclosure under section 6254(k) of the Public Records Act. (11125.1(a).) However, when the board members receive that memorandum, they may discuss it only in open session, unless there is a specific exception that applies which allows them to consider it in closed session.[6]

- **Deliberations Exception**

The purpose of the deliberations exception is to permit a body to deliberate on decisions in a proceeding under the Administrative Procedures Act, or under similar provisions of law, in closed session. (§ 11126(c)(3).)

- **Real Property Exception**

Under the Act, the real-property exception provides that the body can, in closed session, advise its negotiator in situations involving real estate transactions and in negotiations regarding price and terms of payment. (§ 11126(c)(7).) However, before meeting in closed session, the body must identify the specific parcel in question and the party with whom it is negotiating. Again, the Act requires that the body properly notice its intent to hold a closed session and ~~to~~ cite the applicable authority enabling it to do so.

- **Security Exception**

A state body may, upon a two-thirds vote of those present, conduct a closed session to consider matters posing a 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 adversely affect their safety or security. (11126(c)(18).) After such a closed session, the state body must reconvene in open session prior to adjournment and report that a closed session was held along with a description of the general nature of the matters considered, and whether any action was taken in closed session.

Whenever a state body utilizes this closed session exception, it must also provide specific written notice to the Legislative Analyst who must retain this information for at least four years. (11126(c)(18)(D).) This closed session exception will sunset in 2006. (11126(h).)

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[6] *Roberts* v. *City of Palmdale* (1993) 5 Cal.4th 363, 381.

REMEDIES FOR VIOLATIONS

The Act provides for remedies and penalties in situations where violations have allegedly occurred. Depending on the particular circumstances, the decision of the body may be overturned (§ 11130.3), violations may be stopped or prevented (§ 11130), costs and fees may be awarded (§11130.5), and in certain situations, there may be criminal misdemeanor penalties imposed as well. (§ 11130.7.)

Within 90 days of a decision or action of the body, any interested person may file suit alleging a violation of the Act and seeking to overturn the decision or action. Among other things, such suit may allege an unauthorized closed session or an improperly noticed meeting. Although the body is permitted to cure and correct a violation so as to avoid having its decision overturned, this can be much like trying to put toothpaste back in the tube. If possible, the body should try to return to a point prior to when the violation occurred and then proceed properly. For example, if the violation involves improper notice, we recommend that the body invalidate its decision, provide proper notice, and start the process over. To the extent that information has been received, statements made, or discussions have taken place, we recommend that the body include all of this on the record to ensure that everyone is aware of these events and has had an opportunity to respond.

In certain situations where a body has violated the Act, the decision can not be set aside or overturned; namely, where the action taken concerns the issuance of bonds, the entering into contracts where there has been detrimental reliance, the collection of taxes, and, in situations where there has been substantial compliance with the requirements of the Act. (11130.3(b).)

Another remedy in dealing with a violation of the Act involves filing a lawsuit to stop or prevent future violations of the Act. (§ 11130.) In general, these legal actions are filed as injunctions, writs of mandates, or suits for declaratory relief. The Legislature has also authorized the Attorney General, the District Attorney or any other interested person to use these remedies to seek judicial redress for past violations of the Act.

A prevailing plaintiff may recover the costs of suit and attorney's fees from the body (not individual members). (§ 11130.5.) On the other hand, if the body prevails, it may recover attorney's fees and costs only if the plaintiff's suit was clearly frivolous and totally without merit.

The Act provides for misdemeanor penalties against individual members of the body if the member attends a meeting in violation of the Act with the intent to deprive the public of information to which he or she knows, or has reason to know, the public is entitled to receive. (§ 11130.7.)

THE BAGLEY-KEENE OPEN MEETING ACT

Government Code Sections 11120-11132
(January 2004)

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State of California
Department of Consumer Affairs

Attachment 4

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

M e m o r a n d u m

ECC Agenda Item III.
September 21, 2010

To : ECC Members

Date : August 26, 2010

Telephone : (916) 561-1740
Facsimile : (916) 263-3676
E-mail : dpearce@cba.ca.gov

From : Deanne Pearce, Chief
Licensing Division

Subject : Economic Travel - Official State Business

Attached is a memorandum provided to California Board of Accountancy (CBA) members at the recent March 2010 meeting. The purpose of the document is to provide and define the basic travel reimbursement rules for individuals who are required to travel on official state business, methods of travel that are available, and how to use them.

This document will be crucial for Ethics Curriculum Committee (ECC) members for any time spent traveling on official state business as it relates to ECC activities.

At the meeting, I will provide an overview of the previously circulated memorandum, and be available to answer any questions ECC members may have related to traveling on official state business.

Attachment

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

M e m o r a n d u m

Attachment #1

Board Agenda Item X.F.
March 25-26, 2010

To : CBA Members

Date : March 8, 2010

Telephone : (916) 561-1713
Facsimile : (916) 263-3674
E-mail : drich@cba.ca.gov

From : Dan Rich
Assistant Executive Officer

Subject : Compliance with DCA Travel Guidelines

As a result of the recent direction provided by the Legislature during the Accountability and Administrative Review Hearing, the Department of Consumer Affairs (DCA) is committed to ensuring that only the most economical mode of transportation is reimbursed when employers are required to travel. Additionally, staff have been apprised that every travel claim submitted to DCA is being closely examined before any reimbursement is approved. Consequently, the issue of travel has been scheduled at this meeting to assure that all CBA members are aware of travel guidelines and do not incur travel expenses that are not reimbursable.

Attached is the Department of Consumer Affairs' Travel Guide (Travel Guide; Attachment 1). 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.

Per Diem Allowances – Please refer to page three and four in the Travel Guide.

Distance and time are two criteria that need to be considered when determining the appropriate amount of reimbursement allowed for meals, lodging and incidentals. Employees on travel status must be at least 50 miles from home/headquarters. The most direct route determines this distance. There are no flat reimbursement rates for meals. All items claimed are to be for the actual amount of the expense, up to the maximum reimbursement amounts. Time requirements are applicable when determining which meals are reimbursable.

The state rate only will be reimbursed for lodging. Please see page three of the travel guide for state rates related to specific counties.

Transportation – Please refer to page nine in the Travel Guide.

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

- Expenses for transportation (airline, bus, train, mileage for private vehicles, gasoline for rental cars, parking, shuttle, tolls, etc.).

  - The most economical parking should be used at an airport (i.e., economy or long-term parking rather than daily or hourly parking).
  - Valet parking will not be reimbursed.
- The urgency of the situation.
- The number of persons to be transported.
- Driving time one-way (consider alternate transportation if over 2 hours).
- If flying, the availability of transportation to and from the destination.

CBA staff are still seeking DCA guidance regarding those travel expenses that should be included when comparing alternate means of travel. For assistance in comparing costs to ensure the most economical mode of transportation is used, as noted on page 10 of the Travel Guide, please contact Veronica Daniel at (916) 561-1716. Please be aware that only the least expensive method of transportation will be reimbursed.

Rental Cars – Please refer to page 12 and 13 in the Travel Guide and the attached Department of General Services' Travel Bulletin #09-09 (Attachment 2).

The State currently contracts with Enterprise Rent A Car for vehicle rental while on official State business. In the event that Enterprise is unable to provide service, there are two secondary vendors: Alamo and National. Employees who use a non-contract vendor when a contract vendor is available, or exceed the maximum rates, will be responsible for the difference unless valid written justification is provided. Please refer to the attached Travel Bulletin for maximum rates.

The rental car requirements state that employees must NOT:

- Extend rental agreements for personal business and pay the difference.
- Agree to purchase insurance. Insurance is included in the state contracted rates.
- Agree to purchase the fuel service option or prepaid fuel. Employees are required to fill the vehicle up with gas before returning the vehicle.
- Agree to purchase higher rate, non-economy cars.
- Carry unauthorized, non-state employees, in rental vehicles.

Receipts – Please refer to pages 17 and 18 in the Travel Guide.

Receipts shall be submitted for every item of expense except for the following:

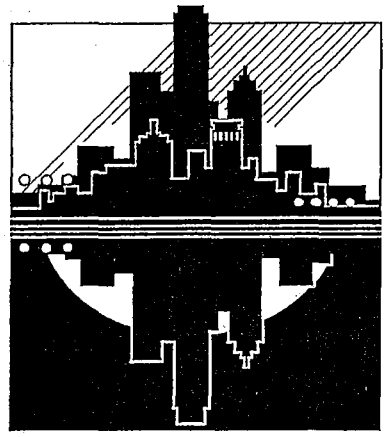
- Per Diem Meals and Incidentals.
- Overtime Meals.
- Up to the published railroad and bus fares of less than $10.00, when travel is within the State of California.
- Street car, ferry fares, bridge and road tolls, local rapid transit system, taxi shuttle or hotel bus fares, and parking fees of $10.00 or less for each continuous period of parking or each separate transportation expense.

CBA staff are currently making modifications to CBA communications, new CBA member orientation materials and policy manuals to include information regarding the importance of selecting the most economical mode of travel.

For assistance with travel reservations, please contact Marina Olivarez-Fuentes at (916) 561-1712 or Miatra Smith at (916) 561-1719. Please submit your travel claim information to Barbara Coleman within 30 days after travel.

Attachments

CONSUMER AFFAIRS TRAVEL GUIDE



Office of Administrative Services
Accounts Payable Unit
January 2009

Disclaimer

Bargaining Contracts, Department of Personnel Administration (DPA), 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.

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CHAPTER 1

INTRODUCTIONS 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, Department of Personnel Administration Sections 599.615 - 599.638.1 and the State Administrative Manual (SAM) Section 0700. If any of the information herein is in conflict with the most recent provisions set forth by the bargaining contract or government code sections cited above, then those provisions will supersede this guide. In addition, information provided in this guide is routinely updated by various control agencies. The traveler or user of this guide must always make sure they have the most current information.

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

Who can file a claim

All DCA employees and any agent of the State (listed below) may request a travel advance and/or travel reimbursement using the appropriate department forms. 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 non-represented employees.

Non-Statutory Board Members are individuals appointed to serve on boards, commissions or task forces that are created by agency secretaries, department directors, or executive officers on an as-needed basis to fulfill the department's mission. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Proctors are intermittent hires through State Personnel Board. Proctors administers written or physical agility exams for civil service classification. Reimbursement for necessary travel expenses is based on the rates for non-represented 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: Travel where expenses are 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. Please note special reimbursement rates and reporting requirements apply.

Per Diem Expenses: State business meals, lodging and all appropriate incidental expenses incurred while on travel status.

Transportation Expenses: Various modes of transportation used while on official state business. For example: airfare, vehicle, taxi and shuttles 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 over $25.00, the claim must be approved by the DCA Fiscal Officer.

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.

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 he/she returns 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 Relation approves Board Presidents travel expense claims. Once they have been reviewed and initialed by the Executive Officer. The Board President shall approve the Executive Officers & the Board Members travel claims. All approving officers must have a signature card on file with the Cashier's Office.

Note: See DCA Policy, Form and procedures regarding Authorized Signatures posted on the DCA Intranet.

CHAPTER 2

PER DIEM ALLOWANCES

Introduction

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

For Short Term Travel Status Per Diem (meals, lodging and incidentals), several factors need to be considered such as:

- The bargaining unit of the employee (Represented or Excluded).
- Geographical location of travel must be at least 50 miles (one-way) from where the trip begins headquarters and/or home. Factors: Which is the closest distance? Is travel during normal working hours or not? Is it a second work site? Etc.
- The time frames 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:

Lodging Reimbursement	Up to the Maximum Rate
In all counties of the state except for those listed below.	**$84.00** room rate plus taxes.
Los Angeles & San Diego County.	**$110.00** room rate plus taxes.
Orange & Marin Counties *For R-BU 2 employees only*	**$110.00** room rate plus taxes *with prior supervisor approval.*
Alameda, San Francisco, San Mateo & Santa Clara Counties.	**$140.00** room rate plus taxes.

Lodging Guide

The American Express Lodging Guide website http://www.catravelsmart.com/has been developed to find lodging for state business at state rates by the Department of General Services and American Express. Failure to use this resource can result in the denial of an excess lodging request from DPA and/or DCA.

Hotel Tax Waiver

The Hotel/Motel Transient Occupancy Tax Waiver, Form 236 (New 9-91) should be used whenever possible. This form must be completed in advance and given to the hotel for their 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/out date and time, number of occupancy, room rate, taxes and method of payment.

Sharing a Room

When sharing a room with another state employee each person can claim ½ 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 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 ACTUAL AMOUNT OF EXPENSE, up to the following maximum reimbursement amounts listed below. The employee (or agent of the state) shall not claim reimbursement for any meals provided by or included in the cost of the hotel stay, airfare, and conference or convention registration fee and/or provided by the terms stated in a state contract.

Expense	Maximum Reimbursement	Expense	Maximum Reimbursement
Breakfast	$6.00	Dinner	$18.00
Lunch	$10.00	Incidental	$6.00

Less Than 24 Hours

The following table shows conditions under which a represented or non-represented 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
6:00 a.m.	9:00 a.m.	Breakfast
4:00 p.m.	7:00 p.m.	Dinner

NOTE: Board and Committee Members are entitled to meals, including lunch, on a one-day trip only when attending official scheduled Board or Committee meetings. These meal expenses are excused from the travel status mileage requirement, but all time requirements are applicable. (Example: Start trip at or before 11:00 a.m. and end at or after 2:00 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 IRS.

Over 24 Hours

If a trip is over 24 hours but less than 31 consecutive days, a represented or non-represented 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
6:00 a.m.	8:00 a.m.	Breakfast
11:00 a.m.	2:00 p.m.	Lunch
5:00 p.m.	7:00 p.m.	Dinner

Incidentals

Incidental reimbursement is allowed for every full 24 hours of travel up to the maximum of $6.00 for actual, necessary expenses. Incidentals include, but are not limited to, expenses for laundering/pressing of clothing and tips or gratuities for services such as porters and baggage handlers.

Business Related Meals

In rare instances, the cost of business-related meal expenses may be allowed. It must be clearly shown that it was impractical to conduct the State's business during working hours and that the meal took place in conditions beyond the employee's control. Justification should be provided on the TEC. The statement must include the purpose or goal of each business-related meal and the unusual conditions that justify payment. The employee may claim expenses not to exceed the breakfast, lunch or dinner allowance, whichever meal was consumed. The amount must be supported by a voucher or receipt for represented employees. Claims must include the establishment, the persons in attendance and the business conducted during the meal period. No reimbursement is allowed for the meal if the employee claims per diem for that day.

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

Non-allowable meals include: two or more employees go to lunch together and continue their business as an incidental to the meal; the meal is strictly for public relations purposes; when 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 DCA does not currently 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 10 hours, another meal allowance may be claimed, not to exceed three overtime meals within twenty-four hours.

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

Definitions

Consecutive: works either 2 hours before or 2 hours after normal work hours on a regular scheduled workday. Works 2 hours in excess of normal work hours on weekends, holidays, or regular scheduled day off (RDO).

Contiguous: Works 2 or more hours in excess of the number of hours worked on regularly scheduled workday.

Excluded WWGE & Represented Employees Exempt From 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 10 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 $8.00. 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 Work Week Group 2 work schedule; do not meet the criteria for Extended Arduous Work Meals.

Excess Lodging Policy and Procedure

Reimbursement for lodging expenses in excess of the state specified rates, excluding taxes, require prior written approval from DPA and/or the DCA. A completed Excess Lodging Request (STD 255C) form should contain:

- ✓ A list of at least three hotels contacted using the American Express Lodging guide 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 the state-specified rates. Using only higher rate hotels in the documentation can not 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 15 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 conference or convention that would assist in the travel justification.

Reasonable Accommodation

Can be obtained through Health & Safety when travel requirements are a hardship to the employee for medical reasons with supporting documentation. Please obtain the Reasonable Accommodation approval prior to commencing 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 Department of Personal Administration (DPA) regarding the approval of requests for reimbursement within 50 miles of the employees home or headquarters when conducting official state business. Extreme Acts of God and Nature that place the employee in harms way are automatic and will be approved after the fact, when fully documented.

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

Exception Authority, Limits and Criteria

The DPA delegated the exception to travel status authority to the Director of the 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 the DPA. Exceptions are to be granted in advance of the occurrence by the appointing power.

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

Exception requests will be considered under a limited number of circumstances, when the employee is required to be away from his/her home and headquarters locations for more than a single day, but less than 50 miles. Based on 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 DPA has provided 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.

Exception Process (continued)

- ✓ Name and address of the location 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, when more than one attendee, explain why one employee could not achieve the goal and attach Training & Development request with approval.

Provide copies of the agenda, conference/convention announcements and map/mileage print outs. 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 ***most economical*** means for the State.

Transportation expenses consist of:

- Commercial air fares
- Private vehicle use
- Commercial rental car use
- Gasoline for state or rental cars
- Taxis, shuttles or streetcar fares
- Parking of state, rental or privately owned vehicles
- Bridge and road tolls
- Emergency repairs (state cars only)
- Commuting Transit/Vanpool (EE 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 not for the employee's convenience.

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
- The urgency of the situation
- If the employee must carry specialized equipment
- The number of stops and amount of equipment
- The number of persons to be transported (is it more economical?)
- Driving time one-way (is it over 2 hours?)
- Availability of transportation to and from the destination
- Overtime wages

Cost Comparison

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

- ✓ Be completed and attached to the TEC, showing both methods of travel.
- ✓ Include the least costly methods of travel for those expenses actually being substituted.
- ✓ Include only the expenses of traveling from one location to another. Do not include any work site expenses. Expenses incurred on site 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 versus the most economical mode and cost must be submitted with an employee's TEC. The cost comparison form is provided in Appendix A, for your convenience.

Example of Cost Comparison

The most common cost comparison is when the employee chooses to drive their personal vehicle versus 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.

Air Costs		Vehicle Costs	
Ticket round trip	$116.00	Mileage: city-to-city round trip	
Mileage to/from airport		720 miles x .585 cents per mile =	$421..20
30 miles x .585 cents =	$ 17.55		
Parking	$ 12.00		
Total	$145.55		

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.

Exception

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

Request guidance from the Accounting Office's Travel Unit when special circumstances arise, prior to commencing the trip.

Direct and Indirect Travel Arrangements

All travel arrangements for official state business should be made through the Department's approved travel agency or directly with Southwest Airlines.

Reservations

When making reservations using Giselle's Travel Agency, it is important to remember that a service fee will be added to the cost of your flight. For on-line booking it is $10.00, and telephone booking is $15.00. The web link is: https://www.globaltrav.com/ or you can contact an agent at (916) 922-0330.

To navigate the Giselle's website follow these steps:

- ✓ Click on "Corporate & Government Travel"
- ✓ Click on "State of California"
- ✓ Under "Department Name," use the pull down menu and select either "DCA Boards" or "DCA Bureaus."
- ✓ Under "Billing Codes," use the pull down menu and choose your board, bureau, division or program.
- ✓ Complete all requested information except for the credit card information. This is a default section and your airline ticket will be charged to the DCA's AMEX business travel account.

When making reservations using Southwest Airlines go to: www.swabiz.com and follow these steps:

- ✓ Click on "Traveler Accounts"
- ✓ Enter the appropriate company ID number: Boards and Committees: 99039695 or Bureaus and Divisions: 99290693
- ✓ Enter your personal Rapid Rewards number and password
- ✓ Click on "login"
- ✓ Click on "Reservations" and proceed as prompted

The contract airlines and their one-way fares are found on the internet at: http://www.travel.dgs.ca.gov/airlines . These fares are unrestricted and are not subject to limited seating.

Non-employee Reservations

You can make reservations for non-state employees conducting state business for your program, such as witnesses or contractors, and receive state rates when using the DCA state-contracted travel service agency.

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. [See Personnel Management Liaisons (PML) Memorandum 2005-051].

Receipts

Airline itinerary or passenger receipts should include the traveler's name, dates and times of travel, destination and amount of airfare. Also, the customer's copy of the rental agreement should be submitted with the employee's Travel Expense Claim.

Airport Parking

Employees parking at the airport must use the most economical parking available, or explain excessive parking charges. If necessary to State business, excess charges may be reimbursed. It is the supervisor's responsibility to ensure compliance.

State-owned, Privately-owned and Commercially-owned Rental Vehicle Use

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

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; an employee must carry specialized tools, books, etc.

Privately-owned Vehicles. Employees may use their privately-owned automobiles on official State business if this is approved by 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
- Private or recreational use

Commercially-owned Rental Vehicles may be rented when a State vehicle is not available and automobile travel is essential. Refer to the Department of General Services (DGS) Rental Car contract in order to ensure adherence to State policy. See Appendix.

Commercial Rental Cars

The State currently contracts with Enterprise Rent A Car for vehicle rental while on official State business. In the event that Enterprise is unable to provide service, there are two secondary vendors: Alamo and National. Employees who use a non-contract vendor when a contract vendor is available, or exceed the maximum rates, will be responsible for the difference unless valid written justification is provided.

The rental of alternative fuel vehicles is encouraged and their rental rate should be the same.

For the complete text of the current rental car contracts, go to the Office of Fleet Administration's web site at www.ofa.dgs.ca.gov .

Car Rental Requirements

In order to receive the contract rate, you must provide the DCA's "company" ID number or your Corporate American Express card when picking up the car. Reservations should be made in advance, but are not required. 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 section on *Personal Use.*
- ✓ 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

Car Rental Reservation Information

When making reservations, use the established on-line booking process. Reservations should be made at least 24 hours in advance. In addition, Giselle's travel agency (https://www.globaltrav.com) can make car rental reservations for you.

When making reservations on-line, using the DCA Intranet website (http://inside.dca.ca.gov), or at the Enterprise Rent a Car counter, travelers should reference the Department's "company" ID numbers:

- Boards: DBCA181
- Bureaus: DBCA196

If travel plans change, please cancel the reservation.

Contracted Car Rental Companies, Rates and Contact Numbers

The contracted rental car companies and their maximum daily rate for compact vehicles are listed below. The current contract will expire on 12-31-2008, per SAM MM 06-02. Sales tax and refueling charges are not included in the contract rate.

Contract Company	Maximum Daily Rate	Corporate Discount #	Telephone Number
Enterprise	$40.12	DBCALIF	(800) 736-8227
Secondary Vendors			
Alamo	$83.41	191259	(800) 732-3232
National	$83.41	5400321	(800) 227-7368

Links to on-line reservations with Enterprise Rent a Car:

- Boards:
  http://www.enterprise.com/car_rental/deeplinkmap.do?bid=002&cust=DBCA181
- Bureaus:
  http://www.enterprise.com/car_rental/deeplinkmap.do?bid=002&cust=DBCA196

Forms of Payment

The recognized form of payment is the Corporate Rental Business Traveler Account (CRBTA) and your Corporate American Express Card. Use of cash or the employee's personal credit card payment will not guarantee the State contract rate.

Insurance

The State contract includes insurance and employees should not accept additional insurance. Employees using a non-contracted 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 non-contracted vendor.

In the event an at-fault accident occurs when renting a non-contract 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.

Personal Use

Any personal use of a State contracted rental car is prohibited. When extending business trips for personal reasons, the traveler must stop the State contracted rental agreement when the State business ends and have a new rental agreement drawn up for the personal portion of the trip.

Fuel Reimbursement

All employees are required to refuel the rental car prior to its return. To be reimbursed, a receipt reflecting the purchase of fuel must be submitted with the Travel Expense Claim.

If gas charges are made through the rental car agency, reimbursement will not be made without appropriate justification. Fuel Service Options or Pre-Paid Fuel Options offered by rental car companies are prohibited and will not be reimbursed.

Car Rental Receipts

Final agreements showing amount charged and payment method are required. Pre-calculations or initial agreements are not acceptable. Gasoline receipts must show the date of purchase, method of payment and an expense breakdown, i.e., price per gallon and extended total purchased amount.

Private Vehicle Authorization and Use

The State Administrative Manual 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 State Administrative Manual section 0753.

An Authorization to Use Privately Owned Vehicle (STD Form 261), should be completed and on file with the immediate supervisor. The STD 261 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:

7/1/2006 – 12/31/2006	44.5 cents per mile
1/1/2007 – 12/31/2007	48.5 cents per mile
1/1/2008 – 06/30/2008	50.5 cents per mile
07/01/2008 – 12/31/08	58.5 cents per mile
1/1/2009 – current	55. cents per mile

Alternate Work Site Mileage

When an employee's regular work assignment requires reporting to a second location other than headquarters, i.e. a training site, mileage reimbursement is limited to the actual mileage incurred less their normal commute distance.

Airport Drop Off

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 pick up will be allowed, with justification and/or notation on the travel expense claim (TEC).

Motor Vehicle Accident Reporting (SAM section 0757)

All motor vehicle accidents involving state owned vehicle, or any vehicle being used on state business, must be reported. Report all accidents immediately to your manager and to the DCA Business Services Office. Accidents must be reported within 48 hours to the Office of Risk and Insurance Management on a STD. 270 Form. 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 travel expense claim (TEC) with the appropriate receipt and written justification or explanation of the event. Repairs require Fleet Administration approval. For non-emergency car repairs, the employee should have the vendor bill the program directly.

Taxis and Shuttles

Taxis and shuttles should be used for trips within a reasonable distance (10 to 15 miles). Reimbursement can be made on a TEC for the actual cost of the expense with a receipt, or for no more than $10.00 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.

Parking and Tolls (SAM section 0755)

Parking and tolls in excess of $10.00 require a receipt and may be paid:

- For day parking when the trip is away from the headquarters office and residence.
- For overnight public parking when the traveler is on travel status.
- For 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.

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 7 to 15 people in lieu of the vanpool/transit rider incentive. A qualifying vanpool must meet both the IRS Section 132 and DPA 599.636 criteria.

CHAPTER 4

BUSINESS EXPENSES AND RECEIPTS

Business Expenses

Business expenses are costs that are necessary for the completion of state business. Examples:

- Telephone calls over $1.00 or calls totaling over five dollars ($5.00). The DCA phone log can be used for logging calls when there is no official receipt provided. (See 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.
- Physical examinations required by the state are paid at the maximum reimbursement rate of $70.15 for pre-employment physical examinations. The applicant must pay for any services beyond the approved level for such services. (The current rate may be found in SAM Section 0191).
- 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, shall be reimbursed for the actual cost of the application or renewal fee.
- Membership dues: Each department, commission, board or agency may reimburse an employee for up to the maximum allowed 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.

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, the claimant is required to include *original, itemized receipts* for all state business expenses, unless specifically noted and excepted 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 non-related 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 $25.00 (DCA requires $1.00) or more, except as noted in this chapter.

DCA policy is for all receipts to be attached to the travel expense claim (TEC), whether paid directly (to the vendor or establishment) by the state or paid by the employee. Examples: 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 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 $10.00, when travel is within the State of California.
- Street car, ferry fares, bridge and road tolls, local rapid transit system, taxi shuttle or hotel bus fares, and parking fees of $10.00 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 non-receipted amount or the published expense, when lower than the non-receipted amount.

Odd Sized Receipts

If receipts are small, tape them to an 8 1/2" x 11" sheet of paper so they will be the same size as the travel claim. More than one receipt can be on a sheet of paper as long as they do not overlap. Do not tape the receipts to both sides of the paper.

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 is required to report qualifying business expense reimbursements as income to the State Controllers Office each month.

Note: It is the State and Department's policy to adhere to all 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 which 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 for details, when appropriate

Note: Any non-receipted expense, such as meals and incidentals, becomes reportable "if" the IRS conducts an audit and finds no receipts in the employee's file.

Reportable Withholdings

Below is a grid showing the percentages of taxes withheld from each agency. Also, an example of the withholdings based on a $66.00 reporting item. The actual amount withheld from the $66.00 item is $27.50. This amount would be deducted from the employee's next available pay warrant.

Type of Tax	Withholding Rate	Monthly Value	Actual Withholding
Federal	28.0%	$66.00	$18.48
State	6.0%	$66.00	$ 3.96
SSI	6.2%	$66.00	$ 4.10
Medicare	1.45%	$66.00	$ .96

W-2s

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, Call back 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 "fifty miles travel status radius" rule and Long-term assignments which exceed 30 consecutive days, are captured at the time that paperwork is submitted for approval to the Executive Office and the reimbursement of the Travel Expense Claim (TEC) is made.
- Reporting personal mileage and/or use of a state vehicle is the responsibility of the employee. The Internal Revenue Services (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 (AISD-021B), to the DCA Accounting Office by the 5th 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 offsite 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 ninety days, is 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 Offices Travel Unit for details.

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.

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. Approval must be obtained if either one of the following conditions exist:

1. The employee is on state time, or
2. The employee is representing the State in an official capacity or is acting in such a capacity that it will be perceived that he or she is representing the State.

If either of these two criteria exist, approval is necessary regardless of whether or not 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.

Out-of-state travel 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 or Accounting Office if you do not know the blanket number or require additional information. Refer to SAM 0760 - 0765.

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. Go to http://aoprals.state.gov for the current reimbursement rates.

There is no allowance for blanket substitution of funds or authority for out of country trips. Any expenses incurred that exceed the individual trip authority or funds will be at the traveler's own expense. Claims must be submitted separately with the (approved) Individual Out-of-Country trip request number written on the claim. Contact the DCA Budget Office if you do not know the trip number or require additional information.

Amended Claims

When filing an amended claim the following steps should be taken:

1. Submit a new claim.
2. Write "AMENDED CLAIM" in bold letters at the top of the claim.
3. Claim **only** the amount **not** submitted on the original claim.
4. Attach a copy of the original claim to the new claim.
5. Attach any required information, receipts, or justification not submitted with the original claim.
6. Obtain all required signatures and submit the claim to Accounting 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 8116 and 8117.

- Submit the Request for Travel Advance (AISD-008) to the DCA Accounting Office within ten to fifteen working days prior to the date of travel. Original signatures are required.
- Advances over $500.00 require an additional approval and may take an additional day(s) to process because the Accounting Office must obtain Budget Office approval.
- If the trip is canceled, the advance must be returned immediately to the Accounting Office. If the check is cashed, a personal check must be submitted as reimbursement.
- All advances must be cleared by submitting a travel expense claim within thirty days after the date of travel. If the advance exceeds the expense claim, to clear the advance, the employee must submit with the claim a check, 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 10-12 working days.
- Add a notation regarding the advance information in Section 11 of the travel expense claim. (Example: March Travel Advance $200.00) Do not deduct the advance amount from your claim total.
- Any outstanding advances over 90 days may be deducted from your next month's salary warrant. 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 90 days must be reported as taxable income. 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. Exceptions requests are granted, by approval of the Deputy Director, on a limited basis.

CHAPTER 8

FILING REQUIREMENTS

Claim Form and Correction Instructions

The State of California Travel Expense Claim (TEC), STD 262 Form (Rev. 09/2007), must be completed to request reimbursement of state related travel expenses. Submit the original and one legible copy to the Accounting Office for processing. Keep a third copy for your records with any non-required original receipts. All travel expense claims should be completed in ink or typewritten. The original signature of the claimant and the approving officer are required to be completed in ink (preferably in colored 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 unauditable if submitted with numerous changes or if it is difficult to read.

When to Submit a Travel Expense Claim (TEC)

Travel expense claims 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 $10.00, filing can be deferred until the next month's travel or until June 30th, which ever comes first. Several trips may be entered on one TEC. When more than one trip is being listed, 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.

While it is acceptable to put several trips on one claim, the following expenses must be submitted on a separate travel expense claim: 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 travel expense claims must be completed and filed, one for each month. However, they should be submitted together for audit purposes.

Required Information

The travel expense claim 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.

CHAPTER 9

COMPLETING THE TRAVEL EXPENSE CLAIM

Introduction

The Travel Expense Claim Form, STD 262, requires various information including Employee information, Trip information, Reimbursement amounts, Authorizations and justifications to be provided. Below is step by step description of what is required to complete a Travel Expense Claim.

Employee Information

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

Block	Action
Claimant's Name	Enter: First Name, Middle Initial, Last Name
SSN or Employee Number*	Enter: 13-digit Position Number or "on file" ***Note: the asterisk here and on the Travel Expense Claim form refers to the Privacy Statement provided on the reverse side of the form.***
Department	Enter: Department of Consumer Affairs
Position	Enter: Civil Service Classification (Title)
CB/ID No.	Enter: Bargaining Unit Number for Represented Employees OR Enter: Confidential, Exempt, Board / Committee Member, Volunteer or other specific title.
Division or Bureau	Enter: Board, Committee, Program, Division, or Unit name
Index Number	Enter: Index / PCA Number. (Contact the DCA Accounting Office for assistance if you do not know your Index / PCA number).
Residence Address* (including City, State & Zip Code	Enter: Home address. (Do not use PO Box). ***If confidential, contact the DCA Accounting Office for guidance.*** ***Note: the asterisk here and on the Travel Expense Claim form refers to the Privacy Statement provided on the reverse side of the form.***
Headquarters Address (including City, State & Zip Code	Enter: the complete Headquarters (work) address.
Telephone Number	Enter: Office telephone number (Show area code)

Trip Information, Miscellaneous Information and Justifications, and Authorized Signatures

This section requests information regarding the when, where, and why the expenses occurred. The bottom section provides space for required authorization signatures.

Block	Action
1	**NORMAL WORK HOURS:** Use the 24-hour clock.
2	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 (JAN =1, DEC = 12) and 4-digit year
5	**DATE:** Day of the month (one day per line) **TIME:** of Departure and Return (using the 24-hour clock)
6	**LOCATION:** Location where expenses occurred. (A brief statement describing the purpose may be entered immediately below the last entry for each trip).
7	Enter the actual cost of lodging, plus tax (up to the maximum reimbursement).
8	Enter the actual cost of meals (up to the maximum reimbursement).
9	Enter the actual cost of incidentals (up to the maximum reimbursement).
10 (A)	Enter the cost of transportation, if paid by employee.
10 (B)	Enter the method of transportation, using the following codes:

Type of Transportation	Code
Railway	R
Bus, Air porter, Light Rail, BART	B
Commercial Airline	A
Privately owned vehicle (Motorcycles not allowed)	PC
Private Air	PA
State Car	SC
Rental Car	RC
Taxi	T

10 (C)	Enter carfare, bridge road tolls, or parking expenses.
10 (D)	Enter the number of miles driven with private and state vehicles, then enter the amount due for private vehicles only.
11	Enter any other expenses necessary for completion of state business, with justification as required. **Note:** Expenses over $25.00 require Office of Administrative Services authorization. The DCA Accounting Office will obtain signatures.
12	Enter the total expenses for that day.
13	Enter the total expenses for each column.
14	Enter the justification and miscellaneous information, such as: ✓ Explanation of business expenses ✓ Phone expenses, including place, party and number called ✓ Receipt justification, if needed ✓ Justification for obtaining rental cars, other than a compact, or use of a non-contract 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

The list below includes various memos, policies, procedures and web sites with information regarding travel reimbursement rules and regulations.

Subject	Issue Date	Expires	Number
Approval of Excess Lodging Rates	04/06/2006		DPA PML 2006-013 (http://www.dpa.ca.gov/textdocs/freepmls/PML2006013.txt)
Commercial Car Rental Contracts (http://www.travel.dgs.ca.gov/CarRental/CCR.htm)	01/11/2006	12/31/2008	SAM MM 06-02 (http://www.documents.dgs.ca.gov/osp/sam/mmemos/MM06_02.pdf)
Discount Airfares for Official Business	06/24/2003	06/30/2007	SAM MM 06-11 (http://www.documents.dgs.ca.gov/osp/sam/mmemos/MM06_11.pdf)
FLSA Guidelines	06/01/2002		DCA DPM-PERS 02-06 (http://inside.dca.ca.gov/oas/hr/dpm/02_06.pdf)
State Bar Dues and Professional Leave	01/07/2008		DPA PML 2008-0001 (http://www.dpa.ca.gov/textdocs/freepmls/PML2008001.txt)
Travel & Relocation –Lodging Receipts	07/08/2005		DPA PML 2005-021 (http://www.dpa.ca.gov/textdocs/freepmls/PML2005021.pdf)
Vanpool Incentives	10/22/2002 09/27/2002 04/02/2002		DPA PML 2002-069 (http://www.dpa.ca.gov/textdocs/freepmls/PML2002069.txt) DPA PML 2002-064 (http://www.dpa.ca.gov/textdocs/freepmls/PML2002064.txt) DPA PML 2002-021 (http://www.dpa.ca.gov/textdocs/freepmls/PML2002021.txt)

Useful Web Sites and Addresses

Useful Web Sites	Internet Addresses
American Express ▪ Travel Guide and Lodging Guides	http://www.Travelcsg.com
Department of General Services ▪ State Administrative Manual ▪ Forms	http://www.dgs.ca.gov ▪ sam.dgs.ca.gov/sam.htm ▪ osp.dgs.ca.gov/on-line+publications
Department of Personal Administration ▪ Bargaining Unit Contracts ▪ Personnel Management Letters (PML's)	http://www.dpa.ca.gov
Enterprise Rent a Car	http://www.enterprise.com/car_rental/home.do
Giselle's Travel Agency	https://www.globaltrav.com/
Southwest Airlines	http://www.swabiz.com/

List of Related Forms

The travel forms mentioned in this Travel Guide are available on the DCA Intranet at (http://inside.dca.ca.gov/eforms.htm) and are provided in this Appendix for your convenience, and may be reproduced for your use.

Form	Number	DCA Intranet and/or Internet Links
Authorization To Use Privately Owned Vehicle	STD 261	http://www.documents.dgs.ca.gov/osp/pdf/std261.pdf
Cost Comparison form	N/A	http://inside.dca.ca.gov/forms/oas/cost_comparison.pdf
Excess Lodging Request	STD 255C	http://www.documents.dgs.ca.gov/osp/p5c.pdf
Hotel/Motel Transient Occupancy Tax Waiver	STD 236	http://www.documents.dgs.ca.gov/osp/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
Travel Advance Request	AISD 008	http://inside.dca.ca.gov/forms/oas/travel_advance.pdf
Travel Expense Claim	STD 262	http://www.documents.dgs.ca.gov/osp/pdf/std262.pdf

DEPARTMENT OF GENERAL SERVICES
STATEWIDE TRAVEL MANAGEMENT PROGRAM

DGS TRAVEL BULLETIN

Travel Bulletin # 09-09

Effective: January 1, 2010
Expiration: December 31, 2010

SUBJECT: **Commercial Car Rental Contract**

PURPOSE: **Extension of Primary and Secondary Contracts**

REFERENCE: **MM 06-02, Travel Bulletin # 09-02**

PURPOSE

This Travel bulletin announces the extension of the current rental car contracts. All rates remain the same for calendar year 2010. Subsidiaries of Enterprise Holdings, INC. formerly, Enterprise Rent A Car remains the primary car rental vendor and Vanguard Car Rental USA, formerly Vanguard Car Rental, the parent company for Alamo and National Car Rental, remains the secondary car rental vendor. For all additional information and contract language view the www.travel.dgs.ca.gov and Car Rental tab.

Base and Maximum Cap Rates

Primary Vendor – Subsidiaries of Enterprise Holdings, Inc.
Effective January 1, 2010
Base Rate $33.46
Maximum rate $40.12

Secondary Vendor – Vanguard Car Rental USA
Effective January 1, 2010
Base Rate $35.02
Maximum rate $83.41

Car Rental Contacts

Subsidiaries of Enterprise Holdings, Inc.
Corporate ID – NACALIF
Lisa Holmes
(916) 787-4733

Vanguard Car Rental USA
Alamo Corporate ID – 191259
National Corporate ID – 5400321
Rob Fyfe
(900) 608-7514 x160

DGS Contact

Bahia Abdallah, Statewide Travel Program Specialist
DGS Statewide Travel and Meeting Management Program
(916) 376-3990
(916) 376-3999 Fax
Bahia.abdallah@dgs.ca.gov

State of California
Department of Consumer Affairs

Attachment 5

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

M e m o r a n d u m

ECC Agenda Item IV.
September 21, 2010

To : ECC Members

Date : August 26, 2010

Telephone : (916) 561-4310
Facsimile : (916) 263-3672
E-mail : dfranzella@cba.ca.gov

From : Dominic Franzella, Manager
Renewal/Continuing Competency & Client Services Units

Subject : Overview of the CBA and Common Services Provided by CPAs

The purpose of this memorandum is to provide Ethics Curriculum Committee members with a familiarity on the role of the California Board of Accountancy (CBA) and the common services provided by Certified Public Accountants (CPAs). Staff is providing the memorandum to supply background information for deliberations on the 10-semester units of ethics education that will be required for CPA licensure beginning January 1, 2014.

Overview of the CBA

From its inception in 1901, the CBA has, by statute, been charged with regulating the practice of public accountancy in California. The CBA has a fiduciary responsibility to protect the public and does so by ensuring only qualified licensees practice public accountancy in accordance with established professional standards. With a dedicated staff of just over 80 individuals, the CBA regulates over 85,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals and accounting partnerships and corporations.

The CBA operates two main programs – Licensure and Enforcement. The CBA's Licensure Program establishes minimum standards for entry into the profession and, because of the dynamic and ever-changing nature of the profession, establishes minimum continuing education requirements designed to maintain or enhance licensees' competency to practice public accountancy. The CBA's Enforcement Program is designed to protect consumers, minimize substandard practice, rehabilitate licensees, and discipline licensees, as warranted.

The CBA operates as a semiautonomous board within the framework of the Department of Consumer Affairs and the State and Consumer Services Agency. Business and Professions Code Section 5000 establishes the composition of the CBA at 15 members, with a public member majority (eight public members and seven licensees). The CBA meets, at a minimum, six times yearly to discuss and develop policies for practice in California and take enforcement-related actions.

Common Services Provided by CPAs

The only services that CPAs provide for which only CPAs are authorized to provide are attestation services. Attestation services are services in which a practitioner is engaged to issue, or does issue a written communication that expresses a conclusion about the reliability of a written assertion that is the responsibility of another party. Attest services include an audit, a review of financial statements, or an examination of prospective financial information.[1]

Other common services performed by CPAs include corporate finance and governance; estate planning; financial accounting, analysis, and planning; forensic accounting and litigation support; management consulting; and tax preparation. With the exception of tax preparation, a CPA license is not needed to perform any of the aforementioned services. In California, the only individuals allowed to charge a fee for preparing taxes are CPAs, Enrolled Agents, Attorneys, and California Registered Tax Preparers.

While many large- and medium-sized firms provide most, if not all, of the services outlined above, many small firms and sole practitioners select to specialize in just one or two areas.

I will be available at the meeting to answer questions that ECC members may have.

[1] In California, licensees who want the ability to sign attest reports must document, as part of the experience requirement, a minimum of 500 hours attest experience performed under the supervision of a licensed CPA.

State of California
Department of Consumer Affairs

Attachment 6

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

M e m o r a n d u m

ECC Agenda Item V.
September 21, 2010

To : ECC Members

Date : August 26, 2010

Telephone : (916) 561-4310
Facsimile : (916) 263-3672
E-mail : dfranzella@cba.ca.gov

From : Dominic Franzella, Manager
Renewal/Continuing Competency & Client Services Units

Subject : Overview of Licensure Requirements and the Effects of Senate Bill 819 on the Pathways to Licensure

Provided for your assistance for future deliberations on the ethics study guidelines, please find attached a staff-developed informational paper with an overview of the existing California Certified Public Accountant licensure requirements and effects of Senate Bill 819 on the pathways to licensure.

Attachment

CALIFORNIA BOARD OF ACCOUNTANCY

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
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WEB ADDRESS: *http://www.cba.ca.gov*

OVERVIEW OF LICENSURE REQUIREMENTS AND THE EFFECTS OF SENATE BILL 819 ON THE PATHWAYS TO LICENSURE

Introduction

The purpose for providing this informational paper to Ethics Curriculum Committee (ECC) members is twofold – to supply an overview of the existing licensure requirements, focusing mainly on the educational and ethics requirements, and to outline the effects of Senate Bill (SB) 819 on the existing pathways to licensure. Both topics included in the paper will provide a context for discussion as members embark on deliberations on defining the new 10 units[1] of ethics education required by SB 819.

Licensure Requirements

Presently, the California Board of Accountancy (CBA) maintains two pathways to licensure – Pathway 1 (Business & Professions (B&P) Code Section 5092) and Pathway 2 (B&P Code Section 5093). Applicants applying under either pathway must complete all four sections of the Uniform CPA Examination and complete pathway-specific education and experience requirements. In addition, applicants must complete the required Professional Ethics for Certified Public Accountants (PETH). Outlined below are the education and experience requirements Pathway 1 or Pathway 2, as well as an overview of the PETH course required for licensure.

Pathway 1

- Completion of a baccalaureate degree or higher, with completion of a core-course requirement of 24 units[2] of accounting subjects and 24 units of business-related subjects.
- Completion of 24 months (2 years) of general accounting experience[3].

Pathway 2

- Completion of a baccalaureate degree or higher, with a minimum of 150 units of education, and completion of a core-course requirement of 24 units of accounting subjects and 24 units of business-related subjects.
- Completion of 12 months (1 year) of general accounting experience.

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[1] For this, and all other agenda items, when referring to units, the units are considered semester units.
[2] When calculating a transcript(s) from a college/university with quarter units, the factor is one quarter unit equals 2/3 semester unit.
[3] Licensees who want the ability to sign attest reports must document, as part of the experience requirement, a minimum of 500 hours of attest experience performed under the supervision of a licensed CPA.

To document the conferral of a degree and completion of the required units, an applicant must have an original transcript(s)[4] submitted directly to the CBA from the college or university. After receipt, staff review the transcript(s) to ensure all educational requirements are met.

In order for an applicant to receive credit for the accounting units, the course subject matter must pertain to the following: accounting, auditing, financial reporting, external or internal reporting, financial statement analysis or taxation. For an applicant to receive credit for the business-related units, the course subject matter must pertain to the following: any accounting subjects in excess of the 24 units needed to fulfill the aforementioned accounting requirement, business administration, economics, finance, business management, marketing, computer science and information services, statistics, business communications, mathematics, business law, or business-related law courses offered by an accredited law school.

PETH

All applicants for CPA licensure must pass the PETH course within the two-year period prior to submitting an application for licensure to the CBA. The PETH course is offered by the California Society of Certified Public Accountants (CalCPA). The course includes a comprehensive coverage of the American Institute of Certified Public Accountants' (AICPA) Code of Professional Conduct, the Accountancy Act, and the CBA Regulations. It also covers the following topics:

- Ethics in business
- Basic concepts and philosophy of professional conduct
- Independence: Interpretations, Security and Exchange Commission rules
- Expression of opinion
- Tax practice

The course is provided in a self-study format. CalCPA advises applicants to devote a minimum of 16 hours to complete the course, which includes nearly 300 pages of materials. Applicants must pass the examination at the end of the course with a minimum score of 90 percent.

Effects of SB 819 on the Pathways to Licensure

The information that follows focuses exclusively on how the bill set in motion the changes for obtaining a Certified Public Accountant (CPA) license beginning in January 1, 2014.

[4] Applicants that earn their education at institutions outside of the United States must have their transcripts evaluated by a CBA-approved Foreign Credential Evaluation Service.

As noted in the previous section, at present the CBA maintains two pathways to licensure. SB 819 establishes a sunset date of January 1, 2014 for Pathway 1, while at the same time requiring refinement of the requirements that comprise Pathway 2. Specifically, SB 819 now requires that an additional 30 of the 150 units be defined as part of the minimum requirements for licensure under of Pathway 2.

Regardless of the pathway an applicant selects, a total of 48 units are prescribed – divided equally between accounting and business-related subjects.[5] Beginning January 1, 2014, SB 819 will require that an additional 30 units be further defined, with 10 units of ethics and 20 units of accounting-related subjects, thus resulting in a total of 78 units of the 150-unit requirement being prescribed. In the bill, the Legislature outlined the purpose for requiring the need to define an additional 30 units by stating, "that if California is to require an additional 30 units of education of its accountancy students as a substitute for one year of accountancy experience, … the education must be relevant to the practice of accountancy and must include ethical education for the protection of consumers." Therefore, the purpose of the new educational requirements is to offset the loss of Pathway 1 and its two-year experience requirement.

The bill defines the overall content a course must contain for it to meet the 10-unit ethics and 20-unit accounting-related requirements. Ethics units must come from a program of learning that provides students with a framework of ethical reasoning, professional values, and attitudes for exercising professional skepticism and other behavior that is in the best interest of the investing and consuming public and the profession. At a minimum this includes academic work or independent study and shall include a foundation for ethical reasoning and the core values of integrity, objectivity, and independence consistent with the International Education Standards-4 of the International Accountants Education Standards Board, the International Federation of Accountants Code of Ethics, and the American Institute of Certified Public Accountants Code of Professional Conduct.[6] As it relates to the 20 units of accounting-related subjects, or accounting study, the bill defines that the units be made up of independent study or other academic work in accounting, business, ethics, business law, or other academic work relevant to accounting and business.

To assist in development of the newly prescribed units, the Legislature established two committees under the jurisdiction of the CBA. The 11-member Advisory Committee on Accounting Ethics Curriculum – or more commonly known as the Ethics Curriculum Committee or ECC – appointed by the Governor, CBA, CalPERS, Regents of the University of California, California State University Board of Trustees, Board of Governors of the Community Colleges, Senate Committee on Rules, and Speaker of the Assembly. The ECC will provide recommendations to the CBA on the 10-unit ethics study guidelines to be included as part of the licensure education requirements. The

[5] The division of the 48-unit requirement is known as the 24/24 requirement. It should be noted that not only is this a requirement at the time of licensure, but an applicant for the Uniform CPA Exam must also meet the baccalaureate degree and 24/24 requirement.
[6] These materials have been supplied in ECC members' Reference Materials.

ECC must submit the ethics study guidelines to the CBA by June 1, 2012, and the CBA has until January 31, 2013 to adopt, via regulation, the guidelines offered by the ECC. SB 819 requires the CBA to adopt the ECC's recommendation for ethics study guidelines without making any substantive changes.

To assist with the development of the accounting study, the Legislature established the Accounting Education Advisory Committee – more commonly referred to as the Accounting Education Committee or AEC. SB 819 did not spell out the composition of the AEC, so at its March 2010 meeting the CBA established the composition at nine members. The AEC will provide recommendations to the CBA regarding the accounting study guidelines, with the CBA required to adopt guidelines, via regulations, by January 1, 2012 for the new 20 units of accounting study to be included as part of the licensure education requirements.

Conclusion

As evident by the overview provided, SB 819 does not provide any real detail regarding how to incorporate the new educational requirements into the existing Pathway 2 educational structure. The bill simply provides a high-level overview of how the units will be divided and direction on the course content. In the agenda items that follow, members will get a fuller understanding on the specific responsibilities and expectations regarding their work on defining the 10 units for the ethics study guidelines.

State of California
Department of Consumer Affairs

Attachment 7

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

M e m o r a n d u m

ECC Agenda Item VI.
September 21, 2010

To : ECC Members

Date : August 26, 2010

Telephone : (916) 561-1740
Facsimile : (916) 263-3676
E-mail : dpearce@cba.ca.gov

From : Deanne Pearce, Chief
Licensing Division

Subject : ECC Directives and Goals

As noted in the previous agenda item, the California Legislature established, under the jurisdiction of the California Board of Accountancy (CBA), the Advisory Committee on Accounting Ethics Curriculum – now being referred to as the Ethics Curriculum Committee or ECC – with the express intent to recommend to the CBA ethics study guidelines for the new 10 units of ethics education that will be required for licensure beginning January 1, 2014. The bill established the composition of the ECC at 11 members.

The ECC Chair will communicate to the CBA at its meetings on the progress and activities of the ECC.

For this agenda item, staff will provide an overview of the following topics: (1) CBA directives for the ECC, (2) goals of the ECC, and (3) support activities provided by CBA staff.

CBA Directives for the ECC

At its November 2009 meeting, the CBA laid out specific directives regarding how the ECC will work towards the development of the new 10 units of ethics education. Specifically, the CBA provided the below directives to guide the ECC's work.

1. The ECC will meet a minimum of four times per year, with the meetings to rotate between northern and southern California, and held at low or no-cost locations. (One caveat to this is the present state's budget impasse. Until such time as a budget is signed, all meetings will be held in Sacramento.)
2. The ECC shall determine the appropriateness and feasibility for obtaining 10 units of ethics education.
3. The ECC, in consultation with the Accounting Education Committee, will ensure the 10 units of ethics required to meet the new ethics education cannot be double counted and applied to the 20 units of accounting study.

Goals of the ECC

The primary goal of the ECC, as outlined in Senate Bill (SB) 819, is to provide the CBA with guidelines on the new 10 units of ethics education required for licensure. As defined in SB 819, these units must come from a program of learning that provides students with a framework of ethical reasoning, professional values, and attitudes for exercising professional skepticism and other behavior that is in the best interest of the investing and consuming public.

With this legislative charge, as well as the remaining requirements of SB 819 and the CBA's directives in mind, staff have identified the below goals for the ECC to address over the coming meetings.

1. Develop a calendar for meetings and the topics the ECC will discuss at each meeting

   This will be one of the primary tasks for the ECC's first meeting. In considering how best to develop a calendar for meetings, the ECC should note that SB 819 places strict deadlines on the ECC and CBA. No later than June 1, 2012, the ECC must provide the CBA with the ethics study guidelines. The CBA must then adopt the ethics study guidelines via regulations no later than January 31, 2013 (without making any substantive changes). Based on a proposed quarterly meeting schedule, that leaves the ECC a total of approximately six meetings (including this one) in which to provide the ethics study guidelines to the CBA.

   The CBA has allowed for additional meetings should members wish to meet more frequently than quarterly, in order to provide the CBA with the ethics study guidelines earlier. This would allow for the CBA to promulgate regulations sooner thereby allowing colleges and universities to begin advising students on the new educational requirements. In addition, as topics are discussed and prior to each meeting, the ECC could employ the use of subcommittees and working groups (as allowed for in the Bagley-Keene Open Meeting Act) to assist in the committee's work.

   One other issue of note is that the CBA President has requested the final two ECC meetings be held in conjunction with CBA meetings. CBA meetings occur every other month beginning in January.

   To assist the ECC in working its meetings into the CBA's calendar, provided in **Attachment 1** are the CBA's Year-At-A-Glance calendars for 2010 and

2011. These calendars provide dates on which CBA and other committee meetings are scheduled.

The finalized calendar adopted by the ECC at this meeting will be presented by the ECC Chair to the CBA at its September 22-23, 2010 meeting for review and approval.

2. Establish an ECC purpose statement

   It was suggested that at the first meeting, ECC members may wish to establish a committee-specific purpose statement in order to provide a framework for its upcoming activities. Staff have penned a possible purpose statement for the ECC based on the legislation. Members should feel free to edit, revise, or pose additional purpose statements for consideration. After ECC adoption of a purpose statement at this meeting, the ECC Chair will submit to the CBA at is September 22-23, 2010 meeting for review and approval.

   "The purpose of the Ethics Education Committee is to provide the California Board of Accountancy guidelines for the additional 10 units of ethics education required for CPA licensure effective January 1, 2014, based on the core values of integrity, objectivity, and independence."

3. Develop and submit the ethics study guidelines to the CBA

   As noted earlier, the ECC must submit the ethics study guidelines to the CBA no later than June 1, 2012. As part of the development process, the ECC will need to consider the appropriateness and feasibility of obtaining 10 units of ethics education for CPA licensure beginning January 1, 2014, as well as what courses and programs will qualify for the 10 units of ethics education.

   In addition to calendaring out meeting activities for the ECC, for this meeting, members will also begin discussion on this topic. Staff have provided a memorandum for this topic under **ECC Agenda Item VII**.

4. Issue a report during the public comment period

   SB 819 requires that the ECC issue a report during the public comment period. To provide some background, in order to adopt regulations, pursuant to California's Administrative Procedure Act, the CBA must notice the proposed regulations and allow for a 45-day public comment period prior to

conducting a public hearing on any proposed regulations. At the conclusion of the public hearing, the CBA may choose to adopt the proposed regulations, taking into consideration any public comments.

At this time, SB 819 does not provide any detailed information on the contents of the report or to whom the report must be issued. Staff believe that the intent of the legislation is for the report to take the form of a public comment (basically a letter) expressing the ECC's opinion on the proposed regulations, and with the report to be issued to the CBA.

5. Issue an opinion as to whether the regulations will implement the ECC recommendations

   SB 819 requires that no more than 30 days after the regulations are final, the ECC must issue an opinion as to whether the regulations will implement ethics study guidelines issued to the CBA. The legislation does not indicate to whom the ECC shall issue this opinion, nor does it provide a definitive definition on the term "after the regulations are final." At this time, staff believe the opinion will be issued to the Legislature. As for the term "after the regulations are final," this could be implied to mean upon final adoption of the regulatory text by the CBA, possibly once the regulations are approved by the Office of Administrative Law, or after the effective date of the regulations.

   As additional information becomes available on Goals 4 and 5, staff will provide ECC members with updates to ensure the committee meets the requirements outlined in SB 819.

Support Activities Provided by CBA Staff

CBA staff provide numerous support activities for the CBA and its committees. From an administrative aspect, staff will assist members with travel, both in travel arrangement and in expense reimbursement. Staff, in conjunction with the ECC Chair, work on developing the meeting agenda, materials, and minutes. Staff also assist in research activities to enhance the ability of committees to make informed decisions.

The CBA staff liaison for the ECC is Cindi Fuller, Coordinator, Licensing Division. She is available to provide assistance on any item outlined in this memorandum. Please feel free to contact Ms. Fuller by telephone at (916) 561-4367 or by e-mail at cfuller@cba.ca.gov.

Attachment #1

CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
2010 MEETING DATES/LOCATIONS
(CBA MEMBER COPY)

JANUARY 2010

S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
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31						

FEBRUARY 2010

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MARCH 2010

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APRIL 2010

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MAY 2010

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JULY 2010

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AUGUST 2010

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SEPTEMBER 2010

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OCTOBER 2010

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NOVEMBER 2010

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DECEMBER 2010

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COMMITTEE/TASK FORCE

SB-SPECIAL CBA MEETING
EAC-ENFORCEMENT ADVISORY COMMITTEE
QC-QUALIFICATIONS COMMITTEE
AEC-ACCOUNTING EDUCATION COMMITTEE
ECC-ETHICS CURRICULUM COMMITTEE
PROC-PEER REVIEW OVERSIGHT COMMITTEE

GENERAL LOCATION

NC-NORTHERN CALIFORNIA
SC-SOUTHERN CALIFORNIA

AEC MEETING *
ECC MEETING *
PROC MEETING *

***These committees will meet:**
March/April 2010 (Sacramento)
June/July 2010
September/October 2010
January/February 2011

ON SHADED DATES CBA OFFICE IS CLOSED
FURLOUGH DAY
CBA MEETING
DCA CONFERENCE
CBA CONFERENCE (TBD)
SPECIAL CBA MEETING ON LEGISLATION
EAC MEETING
QC MEETING

9/9/2010

Attachment #1

CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
PROPOSED 2011 MEETING DATES/LOCATIONS
(CBA MEMBER COPY)

JANUARY 2011

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FEBRUARY 2011

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MARCH 2011

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APRIL 2011

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MAY 2011

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JUNE 2011

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JULY 2011

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AUGUST 2011

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SEPTEMBER 2011

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OCTOBER 2011

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NOVEMBER 2011

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DECEMBER 2011

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COMMITTEE/TASK FORCE

SB-SPECIAL CBA MEETING ON LEGISLATION
EAC-ENFORCEMENT ADVISORY COMMITTEE
QC-QUALIFICATIONS COMMITTEE

GENERAL LOCATION

NC-NORTHERN CALIFORNIA
SC-SOUTHERN CALIFORNIA

ON SHADED DATES CBA OFFICE IS CLOSED
CBA MEETING
DCA CONFERENCE
CBA WORKING CONFERENCE
SPECIAL CBA MEETING ON LEGISLATION
EAC MEETING
QC MEETING

9/9/2010

State of California
Department of Consumer Affairs

Attachment 8

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

M e m o r a n d u m

ECC Agenda Item VII.
September 21, 2010

To : ECC Members

Date : September 8, 2010

Telephone : (916) 561-4367
Facsimile : (916) 263-3672
E-mail : cfuller@cba.ca.gov

From : Cindi Fuller, Coordinator
Renewal/Continuing Competency Unit

Subject : Discussion Regarding Composition of the 10 Units of Ethics Study Required by Business and Professions Code Section 5093

As noted in previous agenda items, the California Legislature established the Ethics Curriculum Committee (ECC) with the express intent to provide to the California Board of Accountancy (CBA) ethics study guidelines for the new 10 units of ethics education required for licensure beginning January 1, 2014. These 10 units are in addition to the 24 units in accounting subjects and 24 units in business-related subjects already required for licensure, and also the new 20 units of accounting study established by Senate Bill (SB) 819.

SB 819 defines the ethics study guidelines as 10 units of ethics study which "consist of a program of learning that provides students with a framework of ethics reasoning, professional values, and attitudes for exercising professional skepticism and other behavior that is in the best interest of the investing and consuming public and the profession." SB 819 further states that, at a minimum, ethics study:

> includes academic work or independent study and shall include a foundation for ethical reasoning and the core values of integrity, objectivity, and independence consistent with the International Education Standards-4 of the International Accountants Education Standards Board, the International Federation of Accountants Code of Ethics, and the American Institute of Certified Public Accountants Code of Professional Conduct.[1]

In this memorandum staff provide a brief overview of the Uniform Accountancy Act (UAA), the foundation for most state's licensure requirements, while also providing a summary of other state's ethics education requirements. This information is provided as a background and also to help generate ideas and relevant discussions.

[1] Each of these documents are contained in the resource packet provided to members.

UAA and Other States' Ethics Education Requirements

The UAA, as amended in July 2007, recommends a licensure requirement of at least 150 units of college education including a baccalaureate or higher degree conferred by a college or university with the total educational program to include an accounting concentration. The UAA does not go into any further detail on what constitutes, or should constitute, an appropriate accounting concentration nor does it define the additional 30 units of education beyond the baccalaureate degree. Most states, however, have adopted their own requirements for an accounting concentration with some being more prescriptive than others.

Staff reviewed the education requirements of each of the 49 states and found that 12 states have some level of ethics education built into their requirements - Alabama, Arizona, Hawaii, Maine, Maryland, Michigan, Nebraska, Nevada, New York, Ohio, Texas, and West Virginia. Of these 12 states only four actually require the completion of ethics study. The remaining nine states simply accept ethics study to fulfill the accounting or business-related education requirements.

- Maryland requires the completion of three units in business ethics, accounting ethics, or philosophy of ethics. Acceptable courses are those entirely devoted to the study of ethics. Courses with an ethics component will not fulfill the three-unit requirement.

- New York requires courses be taken in ethics and professional responsibility but does not specify the amount of units.

- Texas requires the completion of three units in ethics study. Students must select a course from a Texas Board-approved college course list. An example of course titles include Ethics and the Accounting Profession, Ethics in Organizations, and Special Topics - Management Ethics.

- Beginning July 1, 2011, West Virginia will require the completion of three units in ethics study. These units may be counted as part of the required accounting or business-related electives.

10 Units of Ethics Study

The CBA has received two public comments which are provided under **Agenda Item VIII**. In e-mail comments received from Mr. Stan Deal, School of Business and Management at Azusa Pacific University, he expressed concerns over the availability of 10 units of ethics study and the hardships that may be incurred by colleges, universities, and the students themselves. In a letter received from Professor Steven Mintz, Ph.D., Professor of Accounting at California Polytechnic

State University, he expresses concern that the 10 units of ethics study is excessive and that very few universities presently have the ability to meet this requirement.[2] Professor Mintz suggested that the ethics study requirement be reduced to a minimum of three units and a maximum of six units.

The ECC has many options in considering the allocation of the new 10 units of ethics education. In addition to the concerns raised in the two public comments, staff pose the below questions to facilitate discussion regarding the new ethics education requirement.

- Directive number two in **Agenda item VI** requests members to determine the feasibility for obtaining 10 units of ethics study. Questions to consider in this regard include:

    - What was the Legislature's intent for choosing 10 units of ethics? Staff have researched the amendments for SB 819 and reviewed the legislative materials and found no rationale as to why or how the Legislature decided on 10 units.
    - Are 10 units of ethics study currently available?
    - What courses should qualify?
    - If sufficient courses are not currently available, is it reasonable to expect colleges and universities will be able to develop additional courses prior to the January 1, 2014 effective date?

- SB 819 states that ethics study may consist of a portion of a course.

    - When discussing whether to allow partial credit for a course, members may wish to consider the practical application of allowing such credit. For example, a college/university offers an Auditing 101 course for three units. As part of the course, the class spends a portion of time covering topics that would count towards the ethics requirement. This poses a potential problem for an applicant in that when reviewing the college/university course catalog, how would the applicant know with any degree of certainty how many units of a course may be applied towards the ethics requirement? This would almost always lead to an after-the-fact evaluation where an applicant will need to determine whether sufficient class time was spent on the topic of ethics. This would also pose an issue for staff because when evaluating the official transcript there will be no tangible way to identify how many units of the course may be applied towards the ethics requirement since the transcript will

[2] The CBA received the attached letter from Professor Mintz prior to his appointment to the ECC; therefore, the letter has been placed under public comments.

only indicate that the applicant completed an Auditing 101 course for three units.

- The Accounting Education Committee has come to a tentative decision that the 20 units of accounting study must be completed at the upper division or graduate level. Do members wish to identify the level at which ethics courses must be completed?

- Should a specific number of units need to be completed in specific areas of study, such as business ethics, personal ethics, or philosophy of ethics?

The questions posed by staff in this memorandum are intended to stimulate discussion and are not all-inclusive of the areas open to consideration for the ECC. Likewise, the information regarding other states' approved subject matter is provided to give committee members examples of how other states have addressed the topic of ethics study.

Once the ECC has finalized the guidelines, they will be presented to the CBA no later than June 1, 2012. SB 819 does not provide any direction as to what form the guidelines must take. At a minimum, the guidelines will need to address what course or course content will be required to obtain ethics units, as well as at what level the courses will need to be taken. The CBA will then need to take the guidelines and formulate them into regulatory language without making any substantive changes.

RECEIVED
09 OCT -5 PM 2:49
STATE BOARD OF ACCOUNTANCY

CAL POLY
California Polytechnic State University
San Luis Obispo, CA 93407
Orfalea College of Business
(805) 756-2704 • Fax (805) 756-1473
http://www.cob.calpoly.edu/

October 1, 2009

Mr. Matthew Stanley
Legislation/Regulation Analyst
California State Board of Accountancy
2000 Evergreen St., Suite 250
Sacramento, CA 95815-3832

Dear Mr. Stanley:

I was asked by the faculty of the Accounting Area to analyze Senate Bill 819 (SB 819) with respect to its potential effects on ethics education for accounting students at Cal Poly, SLO. The request was directed to me because of my years teaching and publishing in the area of ethics in general, and accounting ethics specifically. I thought the California Board of Accountancy might be interested in my observations.

First, I believe the "10 units of ethics study" requirement is excessive. If separate courses were used to demonstrate compliance, accounting students would typically need to demonstrate completion of one philosophy of ethics course, one in business ethics, and one course in accounting ethics. I believe very few universities in California could meet this requirement right now. At Cal Poly, the philosophy course is an elective and we have no business ethics course. I teach the accounting ethics course. While SB 919 does provide that ethics study "may consist of academic courses, portions of courses, or independent study...," I believe it would be very difficult and extremely time-consuming to verify that any course or group of courses contributes to meeting the 10 unit requirement *when* selected material from courses is used to demonstrate compliance. The task of reviewing course syllabi and assessing whether one-half, one, or two units of ethics are being taught would be a daunting task.

I suggest the number of units of ethics required should be reduced to a minimum of three and a maximum of six with the stipulation that at least three units must be in accounting ethics. If the decision is to require six units, then the other course should be either in business ethics or the philosophy of ethics wherein the guidelines provided in Section 5094.6(e) (2) would govern course coverage. I think it's critical that only full courses be used to meet the ethics requirement to avoid an unending process of reviewing potentially hundreds of courses from California universities to determine compliance. As it is, accounting ethics, business ethics and/or philosophy of ethics course would have to be reviewed for approval. However, it is much easier to review these holistic approaches to teaching ethics than the piecemeal approach stated above.

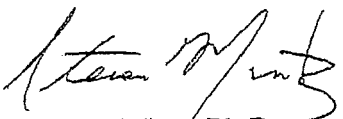
Finally, I believe these are the states currently with an ethics requirement:

Maryland	Business ethics
Ohio	Integrated accounting ethics
Nebraska	Accounting ethics
New York	Integrated accounting ethics
Texas	Stand Alone Accounting or Business ethics

I submit that the Texas model is best. For your information, the website of the Texas State Board of Accountancy that has information about its ethics requirement is: http://www.tsbpa.state.tx.us/education/ethic-course-requirements.html.

Please let me know if I can be of any help to the California Board in its deliberations.

Sincerely,



Steven M. Mintz, Ph.D

Professor of Accounting

Dominic Franzella

From: Stan Deal [[illegible]]
Sent: Tuesday, February 09, 2010 9:29 AM
To: Dominic Franzella
Subject: RE: New 150 hour requirement

Dear Ms. Franzella,

Thanks for your response. I will be watching for your updates as we move towards the effective date.

Thanks,

Stan Deal

From: Dominic Franzella [mailto:dfranzella@cba.ca.gov]
Sent: Tuesday, February 09, 2010 9:05 AM
To: Stan Deal
Cc: pbowers@cba.ca.gov; drich@cba.ca.gov; DPearce@cba.ca.gov; 'Matthew Stanley'
Subject: RE: New 150 hour requirement

Good Morning Mr. Deal,

Please be assured that your e-mails will be forwarded to both committees for review. The Accounting Education Committee (AEC) has its first meeting scheduled for April 8, 2010 here at the California Board of Accountancy office in Sacramento. I will ensure that all materials prepared for the meeting, and all future meetings, will be sent to you to keep you fully informed of the AEC's activities.

In response to the question regarding the effective date of new requirement, there is no provision in Senate Bill 819 to grandfather people in; therefore, individuals applying for licensure on or after January 1, 2014 will need to meet the 150-hour requirement, including fulfilling the 24/24 requirement already in existence and the soon to be prescribed 10-hour ethic and 20-hour accounting study requirements.

Sincerely,

Dominic

Dominic Franzella, Manager

Renewal/Continuing Competency & Client Services Units

California Board of Accountancy

(916) 561-4310

(916) 263-3672 (fax)

From: Stan Deal [mailto:
Sent: Monday, February 08, 2010 11:09 AM
To: Dominic Franzella
Cc: pbowers@cba.ca.gov; drich@cba.ca.gov; DPearce@cba.ca.gov; Matthew Stanley
Subject: RE: New 150 hour requirement

Dear Ms. Franzella,

Thank you for your response. I do appreciate your time and effort to help clarify the application of this new requirement. Your explanation does help greatly. There remain some tremendous hurdles as we try to navigate how this change will impact our program. Many other colleges and universities in California will be facing the same questions. While SB 819 does not require the additional units to be post-graduate, informal polls among our students have indicated that if students are going to invest an additional $25,000, they want more than just 30 additional units. It seems almost certain that an intensive one year masters program will be the most desirable approach.

This bring me to the most difficult hurdle. If I understand the intent of SB 819, the purpose of specifying the content of the additional 30 units is to "provide students with a framework of ethical reasoning, professional values, and attitudes, for exercising professional skepticism and other behavior that is in the best interest of the investing and consuming public and the profession." This would indicate the additional units cannot simply be repetitive units in accounting subjects. They will need to expand upon the foundation built by the undergraduate major. This would mean that a student with an undergraduate degree in accounting from a four year school could not go to a community college to take the additional courses. The accounting courses offered by a community college would not be additional content. A student would have to go to a four year school that either offers additional accounting courses or pursue a masters degree. Due to the current budget cutbacks, none of the California state universities will allow a student to just take additional courses. You must be enrolled in a degree program. Further, they have cut back significantly on the number of students being accepted. The

option to get the additional units at a state university will be severely limited for the foreseeable future.

The purpose of the AEC and ECC is to define the content of the additional courses. You have indicated that the ECC is to have its recommendations submitted no later than January 1, 2012. I do not see that there has been any such requirement of the AEC yet. At our university, the process to create a new course and have it approved through the administrative process is six to twelve months, if all goes well (which rarely happens). The process to create a new masters program is a two to three year process given the approvals needed from the various administrative offices and outside accrediting bodies and recruiting qualified faculty. If we start today we might be able to have everything approved by the January 2014 effective date. However, we cannot effectively plan and create the courses unless we know what the content requirements will be. It will be virtually impossible to comply if we have to wait until January 2012 or later for the advisory bodies to make their decisions.

I realize that none of this is under your control. I imagine SB 819 will complicate your life as well. I would like these concerns to be communicated to the appropriate groups so we can work together to make this transition as smooth as possible for both the universities and the students. For the record, specifying the content of the additional units makes perfect sense. However, the change is coming at a very difficult economic time for students and parents.

On a different issue, will the application of the new requirement be absolute on Jan. 1, 2014 or will there be some grandfathering. If someone has fewer than 150 hours, passed the exam but has less than the 2 years experience, will they be required to complete the additional 30 units? I will be advising students in the time leading up to the deadline and need to know how to properly advise them.

Thank you for listening to me. I appreciate your advice as we move towards implementing these new requirements.

Sincerely,

Stan Deal

From: Dominic Franzella [mailto:dfranzella@cba.ca.gov]

Sent: Tuesday, February 02, 2010 4:01 PM
To: Stan Deal
Cc: pbowers@cba.ca.gov; drich@cba.ca.gov; DPearce@cba.ca.gov; 'Matthew Stanley'
Subject: FW: New 150 hour requirement

Dear Mr. Deal,

The California Board of Accountancy (CBA) thanks you for taking the time to contact us regarding Senate Bill (SB) 819. In my prior e-mail sent January 14, 2010 (see below), I indicated that additional time would be needed to provide a thorough response to your concerns. It is my hope that this e-mail will fully address the issues and questions you raised in your communication.

1. The new educational requirements defined in SB 819 refine the previously unspecified 30 semester units of college/university coursework that made up the 150-unit requirement. Specifically, of the 150 units, in addition to the already established 24/24-unit requirement for business-related and accounting subject matter, applicants must also complete an additional 20 units in accounting subjects and 10 units in ethics-related subjects, which will be defined by the Accounting Education Committee (AEC) and Ethics Curriculum Committee (ECC) respectively.

2. The ECC will be tasked with defining the criteria for the required 10 units of ethics education. SB 819 requires that the ECC composition be established by the following appointments:

- One member by the California Public Employees Retirement System
- Two members by the Regents of the University of California
- Two members by the California State University Board of Trustees
- Two members representing the California Community Colleges appointed by the Board of Governors of the California Community Colleges
- One member each by the Senate Committee on Rules and the Speaker of the Assembly
- One member by the Governor
- One member by the CBA

SB 819 will require that the ECC, no later than June 1, 2012, recommend to the CBA ethics study guidelines that make up the 10 semester units of ethics. These units may consist of academic courses, portions of courses, or independent study offered by degree-granting institutions or other institutions of learning accredited by a regional or national accrediting agency.

SB 819 states that the units must come from "a program of learning that provides students with a framework of ethical reasoning, professional values, and attitudes, for exercising professional skepticism and other behavior that is in the best interest of the investing and consuming public and the profession." This broad definition should provide the committee with considerable latitude when defining what coursework will make up the 10-unit ethics education requirement, to possibly include ethical components of courses taught at your university.

3. SB 819 does not specify that the new 30-unit requirement be completed with postgraduate units. Instead, as noted above, it refines the units that comprise the total 150 semester units needed for licensure.

4. Although SB 819 provides clear due dates for the committees to complete their work, the CBA intends on working with these committees to exceed these expectations and try to complete the work sooner. Hopefully, if the committees can complete their work earlier, it will mitigate some of the impact to all affected groups.

In order to get the message out regarding the new licensure requirements that will take effect in 2014, the CBA intends to take a proactive role in its outreach activities with colleges, universities and students.

5. In SB 819, the Legislature outlined the purpose for the new educational requirements for licensure. As you are probably aware, the CBA presently maintains two pathways to licensure – Pathway 1, completion of a baccalaureate degree with a minimum of 120 hours and a two-year experience requirement, and Pathway 2, completion of a baccalaureate degree including completion of a minimum of 150 semester units and a one-year experience requirement. With SB 819 eliminating Pathway 1 as an option for licensure, the Legislature declared "that if California is to require an additional 30 units of education of its accountancy students as a substitute for one year of accountancy experience, that the education must be relevant to the practice of accountancy and must include ethical education for the protection of consumers." Therefore, the purpose of the new educational requirements is to offset the loss of Pathway 1 and its two-year experience requirement.

The seven-member AEC will not be the only group tackling the workload brought on by the new educational requirements. As I noted when addressing Question 2, SB 819 requires that the 11-member ECC handle the ethics educational units of the new requirements.

Mr. Deal, I hope I have addressed all of your questions and concerns. Should you need any additional

or further clarification regarding SB 819, please do not hesitate to contact me.

Sincerely,

Dominic Franzella

Dominic Franzella, Manager

Renewal/Continuing Competency & Client Services Units

California Board of Accountancy

(916) 561-4310

(916) 263-3672 (fax)

-----Original Message-----
From: Dominic Franzella [mailto:dfranzella@cba.ca.gov]
Sent: Thursday, January 14, 2010 4:50 PM
To: [illegible]
Cc: 'pbowers@cba.ca.gov'; 'drich@cba.ca.gov'; 'DPearce@cba.ca.gov'; 'Matthew Stanley'
Subject: RE: New 150 hour requirement

Dear Mr. Deal,

The California Board of Accountancy (CBA) is in receipt of your January 13th e-mail requesting further clarification on the recently passed legislation Senate Bill 819. Because of an upcoming CBA meeting (January 20-21), we need additional time to provide a thorough response to your request.

In addition, given your obvious interest in the impending changes to the accounting requirements for licensure and the impact they will have on your institution and students, we, again, invite you to submit a letter of interest and résumé or curriculum vitae regarding appointment to the Accounting Education Committee to the CBA's Executive Officer (see address below). This committee will be responsible for dealing with many of your concerns on which you wish to have further clarification.

As noted in the December 8, 2010 letter, the deadline to submit a letter of interest and résumé or

curriculum vitae for consideration for membership on the Accounting Education Committee is January 31, 2010. These documents should be submitted to:

Patti Bowers, Executive Officer

California Board of Accountancy

2000 Evergreen Street, Suite 250

Sacramento, CA 95815-3832

Should you have any further questions going forward, please do not hesitate to contact either myself at the contact information listed below, or Matthew Stanley by telephone at (916) 561-1792 or by e-mail at mstanley@cba.ca.gov.

Sincerely,

Dominic Franzella

Dominic Franzella, Manager

Renewal/Continuing Competency and Client Services Units

California Board of Accountancy

(916) 561-4310

(916) 263-3672 (fax)

---------- Forwarded by Patti Bowers/BoardOfAccountancy on

01/13/2010 04:04 PM ----------

"Stan Deal" <[illegible]> on 01/13/2010 10:04:37 AM

To: <pbowers@cba.ca.gov>

cc:

Subject: New 150 hour requirement

Ms. Bowers,

I had been following the progress of the change to the 150 hour requirement for certification over the past few years. Then I received the letter dated December 8, 2009 indicating that California is going to dictate requirements for the additional units above the normal undergraduate degree. I was not aware of this part of the legislation and it is very problematic. I teach at a small private university and any changes in the curriculum requirements can have a severe impact on our students. The description of the new requirements is very vague. I have been in conversation with faculty at our university, faculty at other similar universities and recruiters at public accounting firms that hire our graduates and there are some basic questions that the letter does not answer. Below is a partial list of some of the questions and concerns. Perhaps you can answer them or tell to whom I should address them.

1. The 150 hour requirement seems to assume that the standard bachelor's degree consists of 120 units.. Many of our students graduate with 140 or more semester units. Will the new legislation require them to obtain only the additional units to attain 150, or will they be required to obtain the additional 30 units of ethics and accounting courses as defined by the new AEC?

2. The legislation states that an additional 10 units will be in ethics. It does not specify whether these must be in business or accounting ethics or just in general ethics study. We are a Christian faith based university. As part of our graduation requirements, all students are required to take several ethics based courses and ethics topics are incorporated into many courses including business and accounting courses. Will these courses count towards the 10 unit requirement or must they be post graduation?

3. Specifying the content of any additional units is especially problematic for private university students. If this is defined to mean 30 units post graduation, it will mean either a five year bachelors program or a one year intensive masters program. This will add an additional $20,000 - $30,000 to the cost of education and will drive students away from accounting as a major. Currently it is nearly impossible to attend state universities in order to take additional courses. Junior colleges will probably not offer accounting courses that will be in addition to those taken as part of the

undergraduate degree. This leaves few options on how to get the additional units.

4. Creating a new program that will satisfy this new requirement can take anywhere from 2 to 4 years to get through the university approval system. Finding new faculty is very difficult. In the current economic climate, getting funding approved for such an undertaking is almost impossible. If the 2014 start date is maintained, I will have to advise next year's freshman class how this will apply to them. Given what I know currently, I will be unable to do that.

5. To my knowledge, California will be the only state that specifies the content of courses beyond the degree requirements of the individual university. What is the purpose behind this? The members of the new AEC will effectively be dictating to all California universities the content of their accounting programs. That is more authority than 7 individuals should have.

I know that the legislation has just barely passed, but the issues it raises will have to be addressed soon if universities are going to be able to adapt in time to meet the 2014 start date. Any information or advise you can give would be greatly appreciated.

Sincerely,

Stan Deal

Stan Deal, M.S., CPA

School of Business and Management

Azusa Pacific University