

STATE ALLOCATION BOARD RULES AND PROCEDURES SUB-COMMITTEE HEARING

Members:

Senator Loni Hancock, Chair
Assembly Member Jean Fuller
Assembly Member Julia Brownley
Scott Harvey, Department of General Services

AGENDA

- 1) Approve Minutes
- 2) Operating Rules and Procedures: Discuss and Approve
Changes to the Operating Rules and Procedures Document
- 3) Public Comment

**Sub-committee on Rules and Procedures
State Allocation Board**

Chair, Senator Loni Hancock
Assemblywoman Jean Fuller
Assemblywoman Julia Brownley
Scott Harvey, Dept. of General Services

Minutes from the August 10, 2010 meeting

AGENDA

- 1) Approve Minutes
- 2) Operating Rules and Procedures: Discuss and Approve Policies
 - a. Discuss and Approve Rules on the following items:
 - i. Subsection (2) Meetings
 - ii. Subsection (8) Quorum and Voting
 - iii. Subsection (9) Testimony on Agenda Items
 - iv. Subsection (10) Public Comment
 - v. Subsection (11) Sub-Committees and Working Groups
 - vi. Subsection (18) Procedural Guidelines
 - b. Subsection (3) Process for Setting and Changing Items to the Agenda:
Discuss and Approve Policy
 - c. Subsection (4)
 - i. Section (A) Order of Business/Binder Items: Discuss and Approve
Policy Section
 - ii. (B) Ex-Parte Communication: Discuss and Approve Policy
 - d. Subsection (6) Staff Analysis: Discuss and Approve Policy
 - e. Subsection (7) Agenda Item Information: Discuss and Approve Policy
 - f. Subsection (1) Officers: Discuss and Approve Policy
- 3) Public Comment

MINUTES

Sub-committee attendance:

- ✓ Senator Loni Hancock
- ✓ Assemblywoman Jean Fuller
- ✓ Assemblywoman Julia Brownley
- ✓ Scott Harvey, Department of General Services

Approval of Minutes from May 25, 2010

Sub-committee approved the minutes from the May 25, 2010 meeting. Vote was 3-0

Discussion on “Rules and Procedures” draft

Sub-committee discussed that work and discussion needed to continue on exparte communication/mercy clause, that clarification was needed on the appeals process, and that binder clarity – order of business was needed.

Senator Hancock requested that the take regarding: no formalized governance or procedures rules are taken out. Lisa Jones with OPSC reminded the sub-committee that the board has not adopted formal rules – so this would be the first time the SAB would have a formal set. Scott Harvey echoed Lisa Jones statement stating that the rules and procedures this committee was working on were and an effort to make the SAB more transparent.

Senator Hancock asked that the sub-committee think about striking first sentence. The sub-committee agreed to the request.

VICE CHAIR

Sub-committee asked if there was process in place for selecting a Vice Chair. According to Lisa Jones there is a process and the position helps the chair prepare the agenda for index each board meeting. The sub-committee asked that the information be incorporated into the background information.

Discussion of the Vice Chair continued and Assemblywoman Brownley asked the length of time the Vice Chair serves. Scott Harvey said the term is at the will of the Board and this should be formalized in our document. Assemblywoman Brownley then asked what needs to occur to call for the election of the Vice Chair. Senator Hancock said we should leave as is – or from the beginning of each 2 year session of the legislature.

Assemblywoman Brownley: ever December we should elect new officers – legislatures should not hold the Chair position – maybe CDE, DOF, DGS could potentially chair. Senator Hancock expressed that there was not strong opinion on this. Assemblywoman Fuller weighed in on this discussion stating that this topic should be re-visited in the future and this committee needs to decide if we want to wait to act on the Vice Chair topic and accept what is already existing or wait for the Human Resources subcommittee to meet where they can discuss the role of the AEO and the Vice Chair.

Senator Hancock: Sub section 1 officers A 1-4 as laid out is okay B is VC – put in language from previous decision 2006 SAB report. This request was moved by Assemblywoman Fuller, seconded by Assemblywoman Brownley and passed 4-0.

Assemblywoman Brownley asked if the sub-committee needed to figure out if an annual meeting was needed to pick officers – **open item**

MEETINGS

Senator Hancock was okay with adding that the date will normally be the 4th Wednesday unless subject to change because of quorum. Requested that last sentence be taken out – require 6 votes.

Assemblywoman Brownley made the motion to meeting chapter to add B and eliminate the last sentence under quorum. Motion passed.

AGENDA

Senator Hancock requested that set b says Chair and Vice Chair - take out for consideration and referral. Assemblywoman Brownley asked if they needed to have the EO and AEO? Senator Hancock - why not leave it out there and who ever you can get a hold of it will do it.

Assemblywoman Brownley made the motion to move the agenda section as printed except to delete for consideration and referral.

Scott Harvey asked for clarification if the language should be changed– outside of the public – change it to shall not should “regarding approval”

Motion carried 4-0.

ORDER OF BUSINESS

Senator Hancock suggestion – wants to move Financial reports under EO reports, then consent and special consent should be combined – what is the difference? Generally deemed no opposition – thus only 1 consent, appeals, etc... end with Board member additional / future agenda items.

Steve Harvey liked this idea and asked 7-8-9 could be combined.

Senator Hancock - Reports for Information and Discussion (combine)

Assemblywoman Brownley wanted to know if a member makes a request – it would first go on discussion and then it would go to action – each time – may not get resolved in this section. Move that on #4 order of business – incorporate Sen LH draft as amended (combine 8 &9)

Motion approved 4-0.

LIMIT ON SETTING SAB AGENDA ITEMS

Highlighted in yellow.

BINDER CLARITY

Senator Hancock brought up the issue of getting reports done. Steve Harvey wants the rule to be 78 hours to make a case and if it didn't make it was not discussed. Can we shorten something in less than 5 days? Senator Hancock wants to know what Bagley Keene requires. Steve Harvey – 78 hours.

Senator Hancock stated that reports on appeals should be done by an objective 3rd party? Steve Harvey stated that the sub-committee needed to hold this item open.

Lyle Smoot made public comment.

Senator Hancock asked that all items will be provided to SAB and posted on internet no less than 78 hours before the meeting?

Bruce Hancock making a public comment stated that one of the reasons for the 5 working days – especially talking about the appeals– was because the districts do not know the position of the OPSC until the report is published and what the arguments are or what the recommendations. Districts get too little time to rebut this.

Steve Harvey replied to Bruce’s comment stating that we might make an exception for appeals – but it seems what you are saying is that OPSC is not talking to the district.

Senator Hancock then responded stating that OPSC shall provide the analysis with in 78 hours except for appeals which should be 5 working days.

Motion carried 4-0

Senator Hancock asked that the word “material” be taken out – present rebuttal material no less than 48 hours

Assemblywoman Brownley asked if this was applicable to exparte – people need to be spoken to and everyone has the same information and so everyone is working from the same place.

Senator Hancock requested that appeals and exparte communication be discussed at a subsequent meeting.

SECTION 8:

Senator Hancock: “without a quorum present” – sentence is confusing... 6 votes are necessary to pass an item – and remove the word quorum. Lisa Jones reminded the sub-committee that the regulations say that 6 of 10 and put it in there instead of other sentence. Senator Hancock agreed with Lisa Jones and requested that language from regs be added in.

Assemblywoman Brownley asked if a quorum had to be present when taking a vote...i.e. should SAB hold items open. Lisa Jones responded that they could have the discussion but hold vote until a quorum is present. Assemblywoman Brownley states so no casting a vote as a sub-committee member unless you are present

Rebecca Bauman stated she thought the sub-committee was recommending that the SAB adopt the Senate rules.

Lisa Jones answered the questions stating yes you could have a vote as a sub-committee.

Senator Hancock requested quorum be removed– a majority vote of the board is required for the adoption of any board item or regulations.

Rebecca Bauman asked that this be re-worded and brought back.

Steve Harvey requested the sub-committee to look at the need for item C –do we need this formalized process (B...)

Assemblywoman Brownley agreed with Rebecca’s statement that they were going to follow senate rules and have the language come back to the board – Moves that the senate rules discussed be put into language for SAB sub-committee to vote on at the next meeting.

Motion passed 4-0.

TESTIMONY ON AGENDA ITEMS

No discussion (4-0) – adopted as is

PUBLIC COMMENT

Moved approval – no discussion (4-0)

SUB-COMMITTEES & WORKING GROUPS

Senator Hancock had an issue with the equity and Assemblywoman Brownley asked that we remove shall and make it ‘should’ or degree. Senator Hancock requested that to the extent possible – add this language in.

Assemblywoman Brownley asked that duties – make sure that full committee is SAB. Steve Harvey said it should say “SAB” and shall be determined by the SAB at the time.

Assemblywoman Brownley - #4 rules relating to full interim committee – Rules relating to SAB shall be ...

Senator Hancock - #2 – sub-committee shall have # of members designated by the Chair.

Assemblywoman Brownley - Amend item #1 – “to the extent possible” put at beginning of sentence / all sections on this section says full committee – substitute SAB

MOTION: 4-0

WORKING GROUP

Senator Hancock: Membership shall be determined by the establishing entity. Why do we need to get into the detail – what if we just said the Board or subcommittee of the board may create working groups to solicit input and direction? – Sub-committee agreed.

Assemblywoman Brownley - keep not subject to Bagley Keene – all agreed

Motion: 4-0

PROCEDURAL GUIDELINES

Senator Hancock asked if they would want to have every 2 years a workshop where the board reviews and adopts the operating rules and has an overview of how the SAB operates (lots of confusion – need to review flow chart etc...) Assemblywoman Brownley thought this was a good idea – SAB should have an organizational meeting every December and review rules and procedures then. Senator Hancock requested that staff draft a section 19 on this for the next meeting.

Motion to adopt 18 as is passed 4-0.

Next meeting is August 17th.

Before the meeting closed Assemblywoman Brownley asked about the Chair and Senator Hancock responded stating that the rules are silent – still needs to be decided. Steve Harvey weighed in stating he likes it to be the DOF. Senator Hancock responded that it should not be a legislative position – but maybe CDE, DGS, DOF – should be open to all of those. Lisa Jones informed the sub-committee that it's been this way since 1947 when OPSC was under DOF.

**STATE ALLOCATION BOARD
RULES AND OPERATING PROCEDURES
Hearing October 6, 2010**

To present suggested rules and operating procedures for the State Allocation Board (SAB).

DESCRIPTION

In an effort to make the SAB meetings more transparent and efficient for Board members, school districts and stakeholders, this item provides suggested rules and procedures for the SAB subcommittee on Rules & Procedures to review for recommendation to the full SAB for adoption and implementation.

AUTHORITY

Government Code Chapter 243, Statutes of 1947, established the SAB as a successor to the Post War Public Works Review Board.

Government Code Section 15490 stipulates the makeup of the SAB.

Education Code (EC) Section 17070.35 outlines the Board's duties, including but not limited to the duties of establishing and publishing policies and procedures for the administration of the chapter and adopting rules and regulations pursuant to the Administrative Procedures Act.

The Bagley-Keene Open Meeting Act, set forth in Government Code Sections 11120-111321, covers all State boards and commissions and 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.

EC Section 17070.30 continues the existence of the SAB for purposes of the Leroy F. Greene School Facilities Act of 1998.

BACKGROUND INFORMATION

At the February 2009 SAB meeting, Board members voted to form a subcommittee to establish rules and procedures for the SAB. The Attachment to this item provides suggested rules and procedures drawn from the Assembly Education and Senate Education committees, and defaults to Mason's Rules (a commonly used set of rules) when no specific procedure or rule is identified.

RECOMMENDATION

Discuss & adopt the attached SAB Rules and Operating Procedures and recommend revisions / changes for adoption at the full SAB.

**PROPOSED STATE ALLOCATION BOARD
RULES AND OPERATING PROCEDURES
October 6, 2010**

SUGGESTED LANGUAGE	ACTION / COMMENTS / REQUESTED EDITS
SECTION (1): OFFICERS	
<p>(1) OFFICERS</p> <p>A. <u>Chair</u> The chair shall:</p> <ol style="list-style-type: none"> 1. Call the State Allocation Board (SAB) together at the times and places necessary to enable the committee to properly perform its duties. 2. Preside over meetings of the Board. 3. Maintain order and decide all questions of order subject to appeal to the Board present. 4. Collaborate with the Executive Officers and the Assistant Executive Officer in the preparation of agenda and reports of the Board. 	<p>Adopted by Subcmte</p>
<p>(1) OFFICERS</p> <p>B. <u>Vice Chair</u> The vice chair shall:</p> <ol style="list-style-type: none"> 1. The Vice-Chair shall assume all responsibilities of the Chair during his/her absence. 2. Vice-Chair will participate with the Chair in reviewing the proposed SAB agenda 3. The Vice-Chair shall chair the Personnel Committee of the SAB. 	<p>Adopted by Subcmte</p>
<p>(1) OFFICERS</p> <p>C. <u>Process for Selecting Officers of the Board</u></p> <ol style="list-style-type: none"> 1. <u>Chair</u> <ol style="list-style-type: none"> i. At the beginning of the two year legislative session, the SAB may conduct an election to confirm a Designee (Agency or Administration) as the Chair of the board for a two year term. 2. <u>Vice-Chair</u> <ol style="list-style-type: none"> i. The Vice-Chair shall be a legislative member of the SAB. ii. At the beginning of each two year legislative session, the SAB shall elect a Vice-Chair by a majority of the SAB. iii. Duration of the Vice-Chair term will be at the will of the SAB. 	<p style="background-color: yellow;">Open for Subcmte discussion</p> <p>The SAB established a Vice-Chair in 2006 by a vote of the Board.</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> • Currently the Chair has been the DOF by default. Should there be a reason to change this? • Chair possibilities DOF, CDE, or DGS • Should there be a process if the SAB wishes to change the chair? • Should the position of chair be restricted to only administrative positions or should legislative members be able to serve as Chair?

<p>(1) OFFICERS D. <u>Organizational Meeting</u> The Board shall review and adopt the operating Rules & Procedures of the Board at the first meeting of the Board at the beginning of each legislative session. These rules shall remain in effect until replaced or revised by a majority vote of the Board.</p>	<p>Open for Subcmte discussion</p>
<p>SECTION (2): MEETINGS</p>	
<p>(2) MEETINGS A. <u>Call</u> The Chair, or the Vice Chair in the absence or incapacity of the Chair, may call a meeting of the Board by sending by regular mail and or electronic mail to each member of the Board written notice ten (10) days prior to the meeting, in accordance with the Bagley-Keene Open Meeting laws.</p>	<p>Adopted by the Subcmte</p>
<p>(2) MEETINGS B. <u>Date</u> The regularly scheduled monthly SAB meeting occurs on the Fourth Wednesday of each Month. Meetings are subject to change upon notice at a regular Board meeting and approval by a majority of the SAB.</p>	<p>Adopted by the Subcmte</p>
<p>(2) MEETINGS C. <u>Time and Place</u> 1. The time and place of meeting of the Board shall be designated by the Chair or by the Vice Chair and coordinated with the Office of Public School Construction (OPSC) staff. 2. Meetings may be called by the Chair or Vice Chair.</p>	<p>Subcmte approved #1. #2. Is open for discussion and approval. Should a provision for the frequency of SAB meeting be inserted?</p>
<p>(2) MEETINGS D. <u>Quorum</u> The quorum necessary for the Board to transact business shall be a majority of the members. <i>(See Department of General Services Regulations, Subgroup 2, Article 1, Section 1555).</i> A majority is defined as six (6) members of the Board.</p>	<p>Open for Subcmte discussion</p>

SECTION (3): AGENDA	
<p>(3) AGENDA A. The SAB final Agenda is set by the Chair and Vice-Chair.</p>	Adopted by the Subcmte
<p>(3) AGENDA B. <u>Requesting Items on the Agenda</u> Any SAB Member may request the Chair, Vice-Chair, the Executive Officer, or the Assistant Executive Officer to put an item on the SAB Agenda. The request shall be made in public at a SAB meeting, or, if made outside of a meeting, it shall be approved by both the Chair and Vice-chair. Any SAB Member may request an item be placed on future agendas at an SAB meeting or 15 days in advance of an SAB meeting to the Chair, Vice-chair, the Executive Officer, or the Assistant Executive Officer.</p>	Adopted by the Subcmte
<p>(3) AGENDA C. <u>Publishing Meeting Notice</u> Office of Public School Construction (OPSC) Staff will post a notice of the SAB meeting in accordance with Government Code Sections 11120 -11132 (Bagley-Keene Open Meeting Act).</p>	Adopted by the Subcmte
SECTION (4): ORDER OF BUSINESS	
<p>(4) ORDER OF BUSINESS The OPSC shall prepare and present the following SAB Agenda items, in order as outlines below, subject to change by a majority vote of the SAB.</p> <p>A. <u>Standard Order of Business.</u></p> <ol style="list-style-type: none"> 1. Quorum Call 2. Minutes 3. Executive Officers Report (shall include the 30/60/90 day Projected Workload Plan, Financial Reports and Implementation Committee future agenda items) 4. Consent 5. Appeals 6. Action Items 7. Reports, Discussion, and Information Items 8. Public Comment 9. Board Member Requests for Future Agenda Item 10. Adjournment 	Adopted by the Subcmte

<p>(4) ORDER OF BUSINESS B. <u>Removal of an item from Consent</u> A Board member may request that any item be pulled from the Consent calendar for separate consideration and vote. An item removed from the Consent calendar shall become the next order of business following approval of the Consent items.</p>	<p>Adopted by Subcmte</p>
<p>(4) ORDER OF BUSINESS C. <u>Delay of an Agenda Item</u> Once the SAB Agenda is publicly noticed, any SAB Member during the meeting may request items to be put over to the next SAB meeting unless another SAB Member objects. If there is an objection to an item being put over, a majority vote by the SAB shall decide the issue.</p>	<p>Adopted by Subcmte</p>
<p>(4) ORDER OF BUSINESS D. <u>Ex-parte Communication</u> The concept of an Ex-Parte rule is to ensure there is transparency in communications to Board members when there is an issue on the agenda.</p> <p>a. Does Gov Code 11430 apply to SAB Members? <i>See Government Code Sections 11430.10-11430.80 regarding Ex-Parte communication. (Code Sections attached in Background).</i></p> <p>b. <i>See Attached Information in Background Item on Ex-Parte Communication received from the legal department at State Water Resources Control Board.</i></p>	<p>Subcmte requested further discussion of this item at a future Rules and Procedures hearing.</p> <ul style="list-style-type: none"> • Requested by a SAB member to be discussed and the creation of a potential policy. • Objection by another SAB member on this issue – doesn't believe it is needed. • What is the reasoning and rationale for having this?
<p>SECTION (5) LIMIT ON SETTING OF SAB AGENDA ITEMS</p>	
<p>(5) LIMIT ON SETTING OF SAB AGENDA ITEMS</p> <p>SAB items may be set on the SAB Agenda no more than three times, unless new information is available for presentation and consideration by the SAB that shall aid in the resolution of the item or resolution of the item is forthcoming the next time the item is set on the agenda. After that threshold is met, taking into consideration the exceptions listed below, the status</p>	<p>Open for Subcmte discussion</p> <p>Comments</p> <ul style="list-style-type: none"> • This section should be removed all together. It does not address the systemic problem of staff writing board reports on appeals for items that they have rejected. Board reports must be written by an objective third party. Our suggestion is the AEO. If reports are

<p>quo will be deemed the default resolution of the item.</p> <p><u>Exceptions to the Three Time Rule:</u></p> <ul style="list-style-type: none"> A. No quorum (before or during issue). B. SAB Member request to put over (unless another SAB Member objects or the item is not heard). C. District unable to attend meeting. D. District and OPSC both agree to request that the item be withdrawn. E. Staff analysis is not distributed or deemed complete at least 72 hours in advance of the SAB meeting. F. More information on the item is requested by a Board member. 	<p>complete and clear, fewer questions will arise at the board meeting and decisions can be made efficiently.</p> <ul style="list-style-type: none"> • Three times (like the Assembly’s 3 times passed on the floor agenda and the bill fails) seems reasonable for appeal items, but may not be appropriate for all items before the board. • Either construct very narrowly (i.e. appeals or delete).
<p>SECTION (6) STAFF ANALYSES</p>	
<p>(6) STAFF ANALYSES</p> <p>SAB Agenda items shall have a Staff analysis. The OPSC shall provide the analysis to the SAB and post them to the internet no less than 72 hours prior to the SAB meeting, except for appeals which shall be 5 working days. (Approved)</p> <p><u>For Further Discussion:</u> On appeals, policy discussions, reports and information items the staff analysis shall be presented in the following format:</p> <ul style="list-style-type: none"> • Purpose • Description • Authority (Law / Regulation / Precedent) • Background (Include District’s statement) • Staff Analysis / Statements • Recommendation 	<p>Subcmte approved first paragraph (72 hrs and 5 days notice)</p> <p>Subcmte requested further discussion of the format of the appeals – see below</p> <p><u>Comments:</u></p> <p>Question: Order of projects by County and LEA with project number noted or provided in both formats.</p> <p>Include Page numbers that are easy to find and follow.</p> <p>Should reports on appeals be done by an objective 3rd party? Request for discussion at a subsequent meeting.</p>
<p>SECTION (7) AGENDA ITEM INFORMATION</p>	
<p>(7) AGENDA ITEM INFORMATION</p> <p>In order to be considered by the SAB, letters or documents that contain information pertinent to an SAB Agenda item, including those documents presented to any or all of the SAB membership, shall be submitted to the SAB’s Executive Officer and Assistant Executive Officer, no less than forty-eight</p>	<p>Adopted by the Subcmte</p>

<p>(48) hours prior to the SAB meeting at which the relevant item is scheduled to be heard.</p>	
<p>SECTION (8) QUORUM AND VOTING</p>	
<p>(8) QUORUM AND VOTING</p> <p>A. The majority of the statutorily set SAB Membership shall constitute a quorum. Majority for this purpose of this section shall be defined as 6 out of the 10 members of the Board. A consensus vote of at least six persons is required for all decisions or action of the Board. (<i>Dept of General Services, Subgroup 2, Article 1, Section 1555</i>).</p> <p>B. Once a quorum is established, motions may be made by any of the SAB Members present. A second to the motion is required on all motions and may be made by any other present SAB Member.</p> <p>C. The SAB may take testimony and hear items as a subcommittee. A majority of those present as a subcommittee and voting does not constitute a quorum.</p> <p>D. Upon establishment of a unanimous roll call, SAB items (Consent, Appeal, Action and Discussion) may be acted on by a single vote. However, any SAB Member may request a voice roll call vote on any SAB Agenda item.</p> <p>E. A member can request a call be lifted or the Chair can initiate a lift of a call when additional members are available or desire to vote.</p> <p>F. After the final vote on a motion is announced, any SAB Member may change his or her vote or “add on” before adjournment of the meeting unless the change or addition would alter the announced outcome of the vote.</p> <p>G. Voting on items before the Board shall be by roll call vote only. All roll call votes taken in Committee shall be recorded by the Board Assistant. The provisions of this rule shall not apply to:</p> <p>(a) Procedural motions which do not have the effect of disposing of an agenda item.</p> <p>(b) Withdrawal of an item from a Board agenda at the request of a member.</p>	<p>Open for Discussion and Approval</p>

<p>H. On the Chair’s own initiative, or at the request of any member of the Board, the Chair shall order a call. When an agenda item is on call, a member may vote on the item only when the call is lifted. However, when an item has already received a majority vote of the Board, a member shall be allowed to add his or her vote to the roll, provided that his or her vote will not affect the passage or failure of the item. Under no circumstances shall a member be allowed to add his or her vote to any item after the Board has been officially adjourned.</p>	
<p>SECTION (9) TESTIMONY ON AGENDA ITEMS</p>	
<p>(9) TESTIMONY ON AGENDA ITEMS</p> <p>The Chair, in the necessary interest of time, and while preserving fairness and equity, may limit individual witness testimony and/or the number of witnesses, excluding presenters, on any given agenda item, upon a majority vote of the SAB to limit witness testimony. Such restrictions will apply equally to both proponents and opponents of any SAB Agenda item.</p>	<p>Adopted by the Subcmte</p>
<p>SECTION (10) PUBLIC COMMENT</p>	
<p>(10) PUBLIC COMMENT</p> <p>An opportunity for Public comment shall be included at the end of every agenda. Public comment is an opportunity for testimony on any items not on the agenda.</p>	<p>Adopted by the Subcmte</p>
<p>SECTION (11) SUBCOMMITTEES AND WORKING GROUPS</p>	
<p>(11) SUBCOMMITTEES AND WORKING GROUPS</p> <p>The Chair, or any other SAB Member, subject to a majority of the SAB concurring, may create a subcommittee or working group of the SAB.</p> <p><u>A. Subcommittees</u></p> <p>1. <u>Composition.</u></p> <p>i. To the extent possible, membership on subcommittees should be distributed</p>	<p>Adopted by the Subcmte</p>

<p>among legislative and administrative appointees to ensure nearly proportional representation</p> <ul style="list-style-type: none"> ii. Subcommittees shall have a number of members as designated by the full SAB, but no subcommittee shall have less than three (3) appointed members. iii. Subcommittees are subject to the Bagley-Keene Open Meeting Laws. <p>2. <u>Quorum.</u> A quorum of a subcommittee with an even number of members shall be one-half (1/2) of the members, who may act on any question. A quorum of a subcommittee with an odd number of members shall be a simple majority of the membership, who may act on any question.</p> <p>3. <u>Duties.</u> Subcommittees shall perform the duties assigned to them and shall report on all matters referred to them. Actions of a subcommittee shall be reported in the form of proposals or recommendations to the SAB only, and shall have no force or binding effect except by action of the SAB.</p> <p>4. <u>Rules.</u> Rules relating to the SAB shall be followed by subcommittees, except with regard to a quorum.</p> <p>5. <u>Staff</u> Staff to the subcommittee shall be determined by the SAB.</p>	
<p>(11) SUBCOMMITTEES AND WORKING GROUPS</p> <p><u>B. Working Groups</u></p> <p><u>1. Composition</u></p> <ul style="list-style-type: none"> i. Membership on a working group shall be determined by the SAB or a subcommittee of the SAB. ii. Working Groups are not subject to the Bagley-Keene Open Meeting Laws. 	<p>Adopted by the Subcmte</p>

<p><u>2.Duties</u> Working groups shall perform the duties assigned to them and shall report on all matters referred to them if created by the SAB or a SAB subcommittee.</p>	
SECTION (12) RECONSIDERATION	
<p>(12) RECONSIDERATION</p> <p>A. A motion to reconsider or to rescind actions of the Board, unless made at the same meeting at which the action was taken, may be made by anyone on the Board.</p> <p>B. Reconsideration takes 6 votes for an item in which a vote has already been taken and the outcome announced. Reconsideration of regulations or interpretations should not affect actions already taken on specific projects.</p> <p>C. Reconsideration of a past item requested at a subsequent meeting should be identified as reconsideration of the Board’s policy or the Board’s funding of an item – not reconsideration of a motion.</p>	<p style="background-color: yellow;">Open for Subcmte discussion</p> <p>Comments</p> <ul style="list-style-type: none"> - <i>Mason’s states that reconsideration can be made by anyone anytime during the meeting.</i> - <i>Need to discuss legal authorization of SAB to handle reconsideration – what circumstances</i> <p>Three different subjects of Reconsideration</p> <ol style="list-style-type: none"> 1) Failed motion - reconsideration 2) Policy position – reconsideration 3) Funding issue – reconsideration <p>Question on 12C Should it be a whole new vote of the Board requiring a majority without regard to an earlier vote? A policy issue, how does city council do this, or other elected bodies?</p>
SECTION (13) APPEALS PROCESS	
<p>(13) APPEALS PROCESS</p> <p>An appeal analysis shall be presented to the SAB in the following format:</p> <ol style="list-style-type: none"> A. Brief Description of Appeal B. Timeline C. Background and Relevant Documents D. Legal Authority E. Precedence – prior Board Action F. Final Recommendation / Determination 	<p style="background-color: #0070C0; color: white;">Discussion at a future Subcmte hearing</p> <p>Comments:</p> <ul style="list-style-type: none"> • Appeals must be researched, written and reported to the board by an objective third party. We recommend the AEO. The current OPSC Appeals staff positions should be transferred to the SAB under the AEO. • It is not appropriate for OPSC, the entity that rejected the district request to write and report the appeal to the board. This is the equivalent of asking the prosecutor to act as both prosecutor and defense attorney before a judge. • This section should be removed all together. It does not address the systemic problem of staff writing board reports on

	<p>appeals for items that they have rejected. Board reports must be written by an objective third party. Our suggestion is the AEO. If reports are complete and clear, fewer questions will arise at the board meeting and decisions can be made efficiently.</p> <ul style="list-style-type: none"> • Agenda should be prepared by independent group or at very least by a different group within OPSC. If the format outlined above is followed, and there is no subjective information put in the item, it would work better. Would like to see the full ten days required on all appeals, so there is plenty of give and take time. In addition, there needs to be a way to resolve factual disputes (that is where the AEO intervention could really play out).
SECTION (14) MATERIAL INACCURACY	
<p>(14) MATERIAL INACCURACY</p> <p>The Board should have the authority to waive any part of the Material Inaccuracy (MI) penalty, subject to a majority vote of the members.</p>	<p>Discussion at a future Subcmte hearing</p>
SECTION (15) MERCY CLAUSE	
<p>(15) MERCY CLAUSE</p> <p>Request of Senator Hancock</p> <p>Comments:</p> <ul style="list-style-type: none"> • <i>Ask Imp Comm. for suggestions. They know better than anyone what happens in a district to necessitate mercy. Presumably include language about “beyond the control of the district” “human error” etc.</i> 	<p>Discussion at a future Subcmte hearing – Request discussion at IMP</p>
SECTION (16) FINAL ARBITER OVER RULES	
<p>(16) FINAL ARBITER OVER RULES DISPUTES</p> <p>In case of a dispute regarding SAB operating rules and procedures, the final arbiter shall be</p>	<p>Discussion at a future Subcmte hearing</p> <ul style="list-style-type: none"> • The Senate Rules Committee staff could be

<p>_____ [dependent on the issue].</p> <p>SAMPLE: If the dispute is regarding the procedural operating rules of the Board, the Board shall consult Greg Schmidt and/or Senate Rules committee staff. If the dispute is regarding the legal interpretation of a statute, regulation, policy or rule of the Board, the final arbiter shall be _____ (an appointed designee by the SAB from the attorney general’s office or / or DGS / or Legislative Counsel).</p>	<p>consulted for an operational rule procedural question.</p> <ul style="list-style-type: none"> The final arbitrator of a legal interpretation of a statute, regulation, policy or rule should be a majority of the State Allocation Board after consultation with legal counsel. NO OTHER ENTITY SHOULD SUPERCEDE the BOARD’S AUTHORITY. <p>Should the SAB have two arbiters? One for procedure and one for legal?</p> <ul style="list-style-type: none"> <u>What are the costs for two arbiters?</u> <p>Violation of Rules ~ in Mason’s when a rule is violated, the motion must be restated until a majority votes and approves the action.</p> <p>What about a factual dispute?</p>
<p>SECTION (17) LEGAL OPINIONS</p>	
<p>(17) LEGAL OPINIONS</p> <p>The State Allocation Board Counsel shall be a designee of the State’s Attorney General office / or Counsel from Department of General Services.</p> <p><i>Who should the SAB attorney be (DGS or Designee from AG’s office)?</i></p>	<p>Open for Subcmte discussion</p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> The first preference would be to utilize the current legal budget designated to DGS for the SAB to hire an attorney much the way school districts hire and/or cities hire legal counsel. The second option would be to utilize Legislative Counsel, if that is allowed, or the Attorney General’s office. We have learned that counsel must have a firewall between their service to OPSC and their service to the SAB. We believe this creates a conflict of interest when the needs of the SAB differ from those of OPSC if both of their counsel is DGS. Therefore, it is important that the SAB have legal representation that singularly represents the concerns of the SAB.

SECTION (18) CLOSED SESSION	
<p>(18) CLOSED SESSION The State Allocation Board may meet in closed session in accordance with Government Code Section 11126, which may include, but is not limited to the following items.</p> <ul style="list-style-type: none"> A. Pending and/or ongoing litigation (pursuant to California Government Code 11126(e). B. Appointment, employment, evaluation of performance, or dismissal of an employee (pursuant to California Government Code 11126(a). 	Adopted by the Subcmte
SECTION (19) PROCEDURAL GUIDELINES	
<p>(19) PROCEDURAL GUIDELINES On all other parliamentary procedures, including motions and other actions not provided for by these rules, the authority is the California Senate rules, with a default to <i>Mason's Manual of Legislative Procedure</i> which shall govern procedural matters for the SAB and its subcommittees not covered elsewhere in these rules.</p>	Adopted by the Subcmte

