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CALIFORNIA STATE ALLOCATION BOARD
RULES AND PROCEDURES SUBCOMMITTEE
PUBLIC MEETING

STATE CAPITOL, ROOM 112
SACRAMENTO, CALIFORNIA 95814

DATE: TUESDAY, MAY 25, 2010
TIME: 3:43 P.M.

Reported By: Mary Clark Transcribing
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APPEARANCES

MEMBERS OF THE SUBCOMMITTEE PRESENT:

SENATOR LONI HANCOCK, CHAIRPERSON

SCOTT HARVEY, Chief Deputy Director, Department of General Services, designated representative for Ron Diedrich, Acting Director, Department of General Services.

ASSEMBLY MEMBER JEAN FULLER

ASSEMBLY MEMBER JULIA BROWNLEY

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LISA KAPLAN, Assistant Executive Officer

P R O C E E D I N G S

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2
3 SENATOR HANCOCK: All right. The Subcommittee
4 meeting will come to order. This is the State Allocation
5 Board Subcommittee on Rules and Operating Procedures.

6 I hope that how we can move through the agenda
7 today, approve the subjects of future Subcommittee meetings
8 and I'm hoping that we can approve the draft of rules and
9 operating procedures.

10 I have some changes that I'd like to suggest.
11 Other members may also have changes they would like to
12 suggest, but if we can make some decisions, adopt this as
13 the draft we're working from subject to what we may do in
14 these subsequent meetings or focus on a specific topic.

15 We could I think distribute it to the other
16 members of the Board so they'd have a chance to look at it
17 and give us any feedback they might want to have.

18 If that's agreeable to the other members. Does
19 anybody have anything that they would like to change or is
20 there general approval of the topics that have been set
21 forward for future meets?

22 MS. KAPLAN: And that's the pink tab.

23 SENATOR HANCOCK: And let me -- I would like to
24 clarify that under the third Subcommittee hearing, the
25 appeals process would also cover reconsideration.

1 MS. KAPLAN: It's -- on the third Subcommittee,
2 I'm proposing appeals --

3 SENATOR HANCOCK: Oh, yeah. Oh, it does. You're
4 right.

5 MS. KAPLAN: -- and reconsideration.

6 SENATOR HANCOCK: You're right.

7 MS. KAPLAN: And then the one thing I would like
8 to clarify is on No. 2, that Part A where it says officer
9 slash Vice Chair, it should just say officers of the Board.

10 SENATOR HANCOCK: Okay. That will be good.
11 Mr. Harvey.

12 MR. HARVEY: Thank you. I have no objection to
13 these as potential subjects. I will recognize that all the
14 good work Ms. Kaplan does will include I'm sure references
15 to statutory and/or regulatory constructs that may affect
16 these discussion items so that we have some guidance as we
17 discuss them.

18 MS. KAPLAN: I will do that.

19 SENATOR HANCOCK: Would there be a motion then
20 that we adopt this agenda?

21 ASSEMBLY MEMBER FULLER: I just have one question.
22 So under No. 2, we said officers. Are we striking Vice
23 Chair then?

24 MS. KAPLAN: I just wanted to be inclusive because
25 it looks like when I say officer slash Vice Chair, I'm

1 leaving out the Chair. I just want to include officers of
2 the Board because you have officers or the Chair and the
3 Vice Chair.

4 ASSEMBLY MEMBER FULLER: Okay. And we currently
5 have a Vice Chair.

6 MS. KAPLAN: Yes. You are allowed to have a
7 Vice Chair. If the Board so chooses, they can select a
8 Vice Chair.

9 ASSEMBLY MEMBER FULLER: Oh, we haven't then.

10 MS. KAPLAN: No, you haven't then.

11 ASSEMBLY MEMBER FULLER: Okay. And so this
12 provision is as a result of history that we could have a
13 Vice Chair or as a result of Mason's Rules of Order?

14 MS. KAPLAN: It's as a result of history and
15 policy as adopted by the State Allocation Board. You did
16 have a prior Vice Chair. Senator Jack Scott was the
17 Vice Chair. And what I was intending with this Subcommittee
18 was kind of like the selection or what's the process or --

19 ASSEMBLY MEMBER FULLER: Okay.

20 MS. KAPLAN: -- does the Board wish to then at
21 this discussion have no Vice Chair.

22 ASSEMBLY MEMBER FULLER: Great. Okay. Well, then
23 I'm great with that. I just wanted to be sure, but either I
24 was completely lost or I had completely forgotten. Probably
25 neither are very good.

1 Okay. So I would like to make a motion to accept
2 the schedule under the pink tab with the Rules and
3 Procedures Subcommittee and --

4 MR. HARVEY: Second.

5 SENATOR HANCOCK: Okay. Call the roll, please.

6 MS. KAPLAN: Oh, I can do that because I got the
7 mic. Hancock?

8 SENATOR HANCOCK: Okay. Aye.

9 MS. KAPLAN: Fuller.

10 ASSEMBLY MEMBER FULLER: Aye.

11 MS. KAPLAN: Harvey.

12 MR. HARVEY: Aye.

13 MS. KAPLAN: Brownley. Absent.

14 SENATOR HANCOCK: Okay. So moving on to the basic
15 document here which was the draft --

16 MS. KAPLAN: The blue tab. And also what --

17 SENATOR HANCOCK: -- approval.

18 MS. KAPLAN: -- I put in front of you,
19 Assemblywoman Fuller and Scott, I was able to give that to
20 you is there's a title that said Senator Hancock suggested
21 changes. I know I got the requested changes that Senator
22 Hancock would like to talk about so as to probably going
23 forward and referencing this document as we move forward
24 might make it easier when we look at changes because her
25 suggested changes are outlined in bold on this document.

1 MR. HARVEY: Okay.

2 SENATOR HANCOCK: Okay. Did you want to make a
3 presentation, Ms. Kaplan, or should we just --

4 MS. KAPLAN: I can -- sure. I can give a brief
5 background. As you know, this was first started before I
6 was the Assistant Executive Officer. There was a small
7 group of the Chair, Tom Sheehy, former Executive Officer Rob
8 Cook, Susan Ronnback, the former AEO, and some OPSC staff
9 that got together and looked at Assembly rules, Senate
10 rules, Robert's, and Mason's and compiled a base general
11 operating rules and procedures.

12 I have since taken that document based off of our
13 last Subcommittee meeting of wanting to use Senate rules
14 with Mason's as a backup and then have specific sections
15 that will address issues unique to the State Allocation
16 Board of which then we can seek direction on.

17 And so that's what I did and you will find in
18 areas that are kind of highlighted or shaded in a different
19 color, those are more than likely going to be subject of a
20 future Subcommittee meeting because we know reconsideration
21 and appeals process will -- yeah, will be a meeting in and
22 of itself.

23 And so most of the issues, I was hoping that we
24 could go through and either find agreement on or if there is
25 disagreement, hash that out and then what I would do is

1 based on direction given by this Subcommittee is seek
2 information from the rest of the Board to see how they feel
3 upon it, add those in, and come back at the next
4 Subcommittee hearing that we have for either adoption or not
5 and then go on to the full Board for adoption.

6 SENATOR HANCOCK: Okay. So let's see how quickly
7 we can move through this, recognizing that we're talking
8 about the basic skeleton. We agreed I think that we would
9 use Mason's as the default and that we would -- since many
10 of us from local government are a little used to Robert's,
11 try to codify some things from that but with Mason's as the
12 default.

13 I have gone through this document. It seems to me
14 that it's basically fine and that it's certainly in shape to
15 be adopted as a draft and sent forward just so other Board
16 members can have it for their information and take a look at
17 it.

18 I did have several suggestions that I would like
19 to make and then if other Board members have suggestions
20 they would like to make, maybe we could get them on the
21 table and talk about them.

22 On I guess it's page 2 of what we have here which
23 starts with officers, I -- simply it -- under agenda where
24 it says any SAB member request to put something on the
25 agenda must be made to a variety of people no less than 30

1 calendar days before the meeting, I think that that is too
2 long.

3 ASSEMBLY MEMBER BROWNLEY: I'm sorry. Where is
4 this, Loni?

5 SENATOR HANCOCK: Well, the pages aren't numbered.

6 MS. KAPLAN: I apologize. I did not put pages on,
7 Senator Hancock. So if you look at the very first one is --
8 the first page is just the background and then page 2 starts
9 where it looks like this, where it talks about officers,
10 meetings, and agenda.

11 ASSEMBLY MEMBER BROWNLEY: Uh-huh.

12 MS. KAPLAN: And, Senator Hancock, if we
13 actually --

14 SENATOR HANCOCK: Oh, I see. So I'm going to --
15 that's okay. I'm going to be able to put these things side
16 by side.

17 ASSEMBLY MEMBER BROWNLEY: Okay.

18 SENATOR HANCOCK: So it's where -- yeah. We're
19 looking at the page that's headed proposed rules and
20 operating procedures.

21 ASSEMBLY MEMBER FULLER: Right. Go to your blue
22 tab.

23 ASSEMBLY MEMBER BROWNLEY: Oh, okay.

24 ASSEMBLY MEMBER FULLER: And then go --

25 MS. KAPLAN: Because what I handed out to you and

1 the blue tab are actually the exact same thing. It's just,
2 Senator Hancock, they have your notes.

3 SENATOR HANCOCK: Okay.

4 MR. HARVEY: Madam Chair, since I have a question
5 on meetings, which is above agenda, can we start --

6 SENATOR HANCOCK: Oh, okay. Yeah.

7 MR. HARVEY: -- and do it sequentially?

8 SENATOR HANCOCK: Yeah. Why don't we just get
9 them all on the table so we get a sense of what --

10 MS. KAPLAN: Can we actually start -- it would
11 help for me in taking notes, make sure if we went through,
12 if officers, if we agreed on officers, sign that off, and
13 then go to meetings and then go to agendas.

14 SENATOR HANCOCK: I would rather have one motion
15 to adopt.

16 MS. KAPLAN: Okay.

17 SENATOR HANCOCK: And so if we just have an idea
18 of the scope of any changes people might like to make. So,
19 Mr. Harvey --

20 MR. HARVEY: Thank you very much, Madam Chair.
21 I'm looking at meetings subparagraph D, quorum.

22 SENATOR HANCOCK: Um-hmm.

23 MR. HARVEY: The last sentence therein says a
24 majority of the quorum may act on any matter. That would
25 mean four members of the Board could act. I respectfully

1 believe it should always be six. That is the --

2 SENATOR HANCOCK: I totally agree with you.

3 MR. HARVEY: So I would -- I recommend that we
4 strike that sentence.

5 MS. KAPLAN: Actually that was my mistake. It
6 should read a quorum may act on any member [sic], so you
7 strike majority of the. It should just read a quorum may
8 act on any matter.

9 MR. HARVEY: That clarifies it. That would be
10 six, wouldn't it.

11 MS. KAPLAN: Yes.

12 SENATOR HANCOCK: Yes.

13 MR. HARVEY: Thank you.

14 SENATOR HANCOCK: Thank you. Okay. Consensus on
15 that one.

16 I had a suggested change under agenda. I think
17 that no less than 30 days to ask for something to be placed
18 on the agenda is too long because typically if a member
19 places something on the agenda, it will have to be referred
20 to staff for another 30 days and if a member places a
21 concern on the agenda, there doesn't really need to be a
22 staff report on that unless staff can pull together some
23 comments.

24 So it would seem to me that a member should be
25 able to place something on the agenda with 15 days, two

1 weeks notice. So we can just move ahead.

2 MR. HARVEY: And I had a comment on that.

3 SENATOR HANCOCK: Yes.

4 MR. HARVEY: I think staff has done a wonderful
5 job in giving us a better framework to work from relative to
6 our agenda. What I mean by that is now bringing forward in
7 a more official way our 90-day calendar which gives us the
8 option to move things, depending on our preferences, but
9 also smoothes out the workload.

10 The only thing I would suggest here and I want to
11 think about the 15 day and ask if it works with all the
12 noticing requirements, but I would ask that we have
13 something in here that allows the Chair to recognize or
14 consider the 90-day calendar so that we don't end up once
15 again frontloading things and therefore not having adequate
16 time to discuss.

17 If it's important, it goes on. If it's something
18 less important, might go to a 60- or 90-day time frame. I
19 just think it helps us get through our work in an efficient
20 manner and doesn't clog the calendar. If you just consider.

21 SENATOR HANCOCK: Mr. Harvey, I am not familiar
22 with the 60- and 90-day calendar.

23 MR. HARVEY: We have had now -- I think last month
24 was the last time it was separately made part of the
25 Executive Director's report and it said going forward, 30

1 months out, 60 months out, 90 days out, here are the things
2 that I believe, listening to you, should be scheduled as a
3 Board for discussion and it gives us an opportunity to kind
4 of see what the matters are and if we frankly disagree that
5 something staff thinks should be at 90 days, we can say wait
6 a minute, we want to hear it next month, but let's move
7 Item Z from the 30-day proposed calendar, drop it back.

8 It was a tool to give predictability,
9 transparency, and us an opportunity to manage the agenda so
10 that these things don't just come up with ten days notice.
11 We have an idea of what's contemplated.

12 So we really haven't wrestled with it. I think
13 last month, Senator, was the first time it was on our agenda
14 and I believe it's something that both our Executive Officer
15 and Assistant Executive Officer had input on and it's
16 something we will bring forward every month.

17 Ms. Jones, am I misstating it? I mean that's how
18 I recall it and the purpose of it.

19 MS. JONES: You are correct in that and we also
20 index that on our ten-day notice, so any changes that any
21 member would request through the Executive Officer or the
22 Assistant Executive Officer to be on that agenda would have
23 to meet the Bagley-Keene meeting notice requirement and
24 that's --

25 SENATOR HANCOCK: 72 hours.

1 MS. JONES: -- ten days.

2 MS. KAPLAN: Ten days.

3 MS. JONES: Ten days in advance.

4 SENATOR HANCOCK: Okay. Well, I would still like
5 it to be 15 days because a subsection of the Executive
6 report -- do you then decide whether or not that should be
7 on the 90 days? I mean I think Board members don't
8 typically bring forward a lot of concern.

9 There have been some that honestly would never
10 have gotten pushed if a Board member hadn't brought it
11 forward. As you know, the discussions go on for months. I
12 just think to have somebody have to do something in April
13 and then you can't even see it until May, we're -- again
14 we're just tossed into something that isn't timely.

15 So I would prefer just to have it placed on the
16 agenda for consideration and referral or the Board members
17 could decide they don't want to deal with that topic, make
18 it go away. But I do think that -- I've never served on any
19 body where there was a 30-day requirement like that.

20 Ms. Fuller.

21 ASSEMBLY MEMBER FULLER: I agree with your
22 expediency argument. I'm trying to decide though how it
23 might work. Help me understand this.

24 I think I'd be okay with it if we were like a
25 Board meeting, we direct them to put it on and the next

1 Board meeting is 14 days away or something like that, that
2 doesn't bother me because I think the public then gets
3 notice of what it is and staff all gets notice, so they have
4 a chance to bring you up.

5 What I'm concerned about would be if like mid
6 month somebody brings something up to put it on and nobody
7 was on notice that it was coming up and it affected
8 somebody's school district or whatever that wasn't there,
9 like how would they know to get there for the next meeting.
10 And that's my concern is, is that the 30 days allows people
11 to travel and a lot of these people have to travel.

12 When I was a superintendent, you know, I spent a
13 lot of time watching to see when the stuff would come up and
14 you would think to look at it during the Board meeting, but
15 you wouldn't think during the middle of the month to look at
16 it if there was something new.

17 So how do we qualify it -- I agree. The Board
18 members should be able to put stuff on. How do we qualify
19 it so that if it's something that the public may need people
20 to come speak to it that they are noticed and they get
21 enough time because by the -- let's say 15 days. Okay. We
22 give it to staff. Let's say ten days go by. Staff gets it
23 sort of on quickly. Maybe they get around to all the
24 members, but then they put a notice out and five days in the
25 school district can go by so quickly, how would the school

1 district know to get here?

2 Would we do special notification to all the people
3 on that item or maybe we could put it where you can do
4 within 15 days, you can put it on as an item that's coming
5 up soon, so that people then knew -- I mean to me it's like
6 how do we get the timing. Since we only meet once a month,
7 since school districts only expect to look once a month --

8 SENATOR HANCOCK: Right.

9 ASSEMBLY MEMBER FULLER: -- how do we -- if we do
10 something 15 days, it's off the cycle. How do we give
11 everybody the opportunity to be there that wants to be there
12 when we don't even know who it is that wants to be there.

13 SENATOR HANCOCK: Well, I -- that's a good point.

14 ASSEMBLY MEMBER BROWNLEY: So how many days before
15 we actually have a meeting is the meeting posted so the
16 public's aware?

17 MS. KAPLAN: Ten days.

18 MR. HARVEY: Ten days.

19 MS. JONES: A minimum of ten days.

20 MS. KAPLAN: So it has to be indexed and on that
21 notice to even have a discussion.

22 MS. JONES: That's correct.

23 MS. KAPLAN: Otherwise it can come up at the end
24 of the meeting where members during public comment can
25 request an idea to come up for discussion or action at the

1 next month.

2 ASSEMBLY MEMBER BROWNLEY: So if we closed one
3 meeting and there was 15 days, there would be certainly time
4 in order to put -- to agendize that particular topic with --
5 and then giving the ten-day notice.

6 Now it might be a problem in terms of what staff
7 needs to do to, you know, fully vet and prepare an idem, but
8 I think it could certainly -- we could have that item on
9 there and as Loni said we could discuss it. It would be
10 made public. It would be noticed. We could discuss it and
11 it might be that the Board deems it an unnecessary thing for
12 us to talk about and just dispense with it or it could be
13 something that this is, you know, something kind of
14 comprehensive and big and if it was something that was
15 comprehensive and big, we would recognize that in the
16 discussion and then we would I think collectively sort of
17 make a decision that, you know, we're going to need at
18 least, you know, the next month to prepare this or we're
19 going to -- you know, and Mr. Harvey's 30, 60, 90 format, we
20 might decide, you know, what category that actually goes in
21 in terms of getting the preparation time need.

22 MS. KAPLAN: I think there will really not be an
23 issue if an item is brought up at a Board meeting for future
24 discussion because then you have the work plan right there
25 and you can decide where it fits in.

1 Where it may be something that runs in where,
2 Assemblywoman Fuller, you brought up is if a specific Board
3 member may be calls the Chair and says we really need to
4 have this item, we really need to discuss this item. The
5 Chair does review the agenda and sometimes puts things and
6 off, does have that discretion.

7 If it's a single appeal district item, you know,
8 the district would be aware, but if it's a bigger policy, I
9 think that's where it may run into concerns that you've
10 addressed. So I mean if we want to get into specific detail
11 of 15 days, not discussed at a public Board meeting, you can
12 put something on where it may be a district appeal. But if
13 there's -- otherwise 15 days notice at a Board meeting is
14 fine.

15 SENATOR HANCOCK: Well, it says here that a
16 request made outside of the meeting must be approved by both
17 the Chair and if we have a Vice Chair, a Vice Chair. So the
18 Chair could at their discretion -- I would also maybe
19 suggest adding at sentence one that any member may request
20 to put an item on the SAB agenda for consideration and
21 referral.

22 ASSEMBLY MEMBER BROWNLEY: Right.

23 SENATOR HANCOCK: Because we're not saying we're
24 going to make -- you know.

25 MR. HARVEY: I like that. Yeah.

1 ASSEMBLY MEMBER FULLER: In other words, we won't
2 necessarily vote.

3 SENATOR HANCOCK: That's right.

4 MR. HARVEY: Exactly.

5 SENATOR HANCOCK: That's right.

6 MR. HARVEY: That accomplish -- yeah.

7 SENATOR HANCOCK: Just to --

8 ASSEMBLY MEMBER BROWNLEY: But we would discuss
9 it. Then the public would be noticed that we were
10 discussing it.

11 ASSEMBLY MEMBER FULLER: And then put it on the
12 calendar for whatever month.

13 SENATOR HANCOCK: Right.

14 MR. HARVEY: Good.

15 ASSEMBLY MEMBER BROWNLEY: Good.

16 SENATOR HANCOCK: Okay. So should we -- okay.
17 Can we just do this by consensus then?

18 ASSEMBLY MEMBER FULLER: I think you just add what
19 you just said.

20 ASSEMBLY MEMBER BROWNLEY: Yeah.

21 SENATOR HANCOCK: Just add consideration and
22 referral and --

23 ASSEMBLY MEMBER FULLER: After SAB agenda.

24 SENATOR HANCOCK: -- and change 15 to 30.

25 ASSEMBLY MEMBER BROWNLEY: Just adding to the

1 discussion though on the agenda, this section, do we need
2 to --

3 ASSEMBLY MEMBER FULLER: Wait. Wait. Okay. So
4 did she finish her --

5 SENATOR HANCOCK: Yeah. I'm done.

6 ASSEMBLY MEMBER FULLER: Okay. So we've got yours
7 added on.

8 SENATOR HANCOCK: For consideration and referral.

9 MS. KAPLAN: At the very end, item on the SAB
10 agenda for consideration and referral, period. And then did
11 we decide whether we were going to agree to 30 or go down to
12 15?

13 SENATOR HANCOCK: 15. Yeah. Because we're making
14 clear we do not expect extensive staff work. We're just
15 going to have a little informal discussion to see if we want
16 to refer it or what.

17 ASSEMBLY MEMBER FULLER: And -- but it wouldn't be
18 a vote.

19 SENATOR HANCOCK: No.

20 ASSEMBLY MEMBER FULLER: Yeah. I think that's
21 great. Because what I was worried about was the Chair and
22 the Vice Chair on our regular committees are bipartisan.
23 The Chair and the Vice Chair -- we don't know how the
24 Vice Chair's going to be picked, so I don't know how it
25 works. I was like what -- that takes care of the whole

1 thing. Thank you. Good job.

2 ASSEMBLY MEMBER BROWNLEY: All right. I'm just
3 wondering if we have to be more explicit about in terms of
4 the Chair and the Vice Chair, you know, somehow working
5 collectively or collaboratively in terms of developing the
6 agenda, if -- or does this just suffice.

7 SENATOR HANCOCK: Well, you know, we're going to
8 actually discuss officers of the Board and what they might
9 do at another one of our meetings. Before you got here, we
10 unanimously approved kind of laying out the Subcommittee.

11 ASSEMBLY MEMBER BROWNLEY: Okay. Okay.

12 SENATOR HANCOCK: But that's -- hold that thought.

13 ASSEMBLY MEMBER BROWNLEY: Okay.

14 SENATOR HANCOCK: That's a very good point.

15 MS. KAPLAN: So I think what we could do is under
16 duties when we do the officers is what I can do is have
17 agenda topic of discussion or how -- how would that work.

18 SENATOR HANCOCK: Yes. Something like that.
19 Okay. Anything else on that page or -- moving along to the
20 next page. Reconsideration, we were going to discuss at a
21 future agenda.

22 Oh, the final arbitrator over rules disputes,
23 Ms. Kaplan has suggested that the final arbiter may be Greg
24 Schmidt who is the Parliamentarian who presides over Mason's
25 in the Senate.

1 I think that he would be agreeable to do that if
2 we wanted him to do that. Hopefully we would not have a
3 whole lot of disputes once we have rules.

4 But how do people feel about that? Mr. Harvey.

5 MR. HARVEY: I'd like to offer some consideration.
6 I -- to me the final arbiter should be the counsel that the
7 Board respects and trusts and I'm going to suggest that our
8 Chair or whomever is the best messenger ask the Attorney
9 General to be the staff attorney to our Board.

10 To me the arbiter should be on site, should be
11 part of the discussion, should be able to render a decision
12 perhaps in a timely fashion. If we had to rely on someone
13 as talented as Mr. Schmidt, it could be two or three weeks
14 or who knows when. So to me you have as your counsel
15 someone who is that objective voice and I would offer that
16 we consider having the AG as our counsel.

17 SENATOR HANCOCK: Comments? Let me just ask a
18 clarification. Would this be a person themselves or a
19 designee?

20 MR. HARVEY: It would be a DAG. It would be
21 someone --

22 SENATOR HANCOCK: Yes.

23 MR. HARVEY: -- who the Attorney General would
24 assign to our Board.

25 SENATOR HANCOCK: Would they have to come to every

1 single meeting?

2 MR. HARVEY: They would come to every meeting.
3 They would become the Board's attorney. And I'll be very
4 candid here. There are times when folk have suggested that
5 how can a DGS attorney be objective. Now, while I disagree
6 with that, if that becomes a stumbling block for Board
7 consideration of an opinion or advice, I would say remove
8 that impediment or appearance and allow us to pick someone
9 who the Board may or may not be more comfortable with and I
10 was just offering the AG as that voice, not discrediting
11 Mr. Schmidt.

12 I was more concerned about the person as the
13 arbiter missing the session, missing the discussion, and
14 then not in a timely fashion giving us a rendering.

15 SENATOR HANCOCK: Well, that would be fine with
16 me. I mean -- other members?

17 ASSEMBLY MEMBER BROWNLEY: Well, I mean I -- you
18 know, it's -- I'm sort of -- well, first of all, the first
19 thing -- response to that is that how much that's going to
20 cost us, but -- and I think that the -- you know, Greg
21 Schmidt or -- I'm blanking on the person on our side --
22 Dawson.

23 MS. KAPLAN: Dotson.

24 ASSEMBLY MEMBER BROWNLEY: Dotson -- on our side
25 is -- I mean that's what they do. I mean that's -- you

1 know, that's what they -- their primary role and
2 responsibility is is to make sure that the rules are
3 followed and so forth and so on.

4 So that's their expertise. That's what they know.
5 They're usually on site. Now we might have later meetings
6 where they wouldn't be available if we got into some kind of
7 dispute, but it seems to me that if we really got into a
8 dispute where we would actually need to call them into the
9 room to figure it out, which happens occasionally in
10 committees, but it doesn't happen very often, that -- you
11 know, it's taped. It's recorded. It's something I think
12 that could easily be looked at and rendered upon, you know,
13 for the next meeting because I don't think it's going to
14 happen that often.

15 SENATOR HANCOCK: Any other comments? I can go
16 actually either way on this. I think that your points are
17 well taken also, you know.

18 MS. KAPLAN: Just a couple things for
19 consideration. I think there might be as Mr. Harvey brought
20 up maybe two things for the Board to look at. One, the
21 Board if in these rules and procedures has -- decides Greg
22 Schmidt should be an arbiter, he could come and consult, and
23 then the Board, if they so choose, can then vote on that or
24 use him as the final.

25 And then second, what Mr. Harvey brought up is

1 there has been concerns about potential conflict of
2 interest, objectivity of having a DGS attorney as the staff
3 Board attorney, and is this Subcommittee willing to consider
4 having an Attorney General designee as the actual official
5 Board attorney to the SAB maybe upon approval by the SAB
6 members so that they feel comfortable with that designee.

7 Now, Mr. Harvey, correct me if I'm wrong, do we
8 not also pay for the DGS attorney, so it would be the same
9 thing.

10 MR. HARVEY: Of course we pay. I don't know what
11 the assessment is and as Chair Hancock has alluded, we
12 obviously have to reimburse the DAG and I don't know what
13 the delta is or if they are the same.

14 ASSEMBLY MEMBER BROWNLEY: Yeah. I guess the
15 question is are we talking about the AG that replaces the
16 DGS attorney or are we talking about both.

17 MR. HARVEY: It would be a replacement under my
18 suggestion.

19 ASSEMBLY MEMBER BROWNLEY: Uh-huh. Well, I think
20 this is a bigger issue that maybe we should delay -- I mean
21 discuss -- have some more time to think about --

22 SENATOR HANCOCK: Well, it actually is there.
23 It's under attorney opinions.

24 ASSEMBLY MEMBER FULLER: Yeah. Because I think --

25 MR. HARVEY: I guess it is there.

1 ASSEMBLY MEMBER FULLER: I do believe that it
2 overlaps with another issue which is the whole attorney
3 selection process and once we solve the attorney selection
4 process, I think this item would clear up a little bit. So
5 maybe we want to hold that particular item open until after
6 we finish the attorney part.

7 SENATOR HANCOCK: Yeah. Why don't we mark it as
8 we are -- flag that as one of the to be filled in. The
9 question then I would ask the Subcommittee is, is an
10 attorney's opinion about like if what we are doing is legal
11 different from asking for confirmation of the rules?

12 It seems to me that -- just thinking back that
13 there were some times when we got opinions on you can't do
14 that, that's illegal, and there were times when nobody --
15 just nobody knew what was the proper procedure.

16 ASSEMBLY MEMBER BROWNLEY: Right.

17 ASSEMBLY MEMBER FULLER: I think we're going to
18 have to have staff answer that question for -- because I
19 don't know how else to find that answer.

20 MR. HARVEY: Well, I think we've done the right
21 thing by saying we'll trail it to the fourth Committee --

22 ASSEMBLY MEMBER FULLER: And the last thing is, is
23 that we might want -- I mean in most Committees we might
24 want the Chair to be the arbitrator of rules, but if they
25 get to a certain point, the Chair then could decide whether

1 it was the attorney or Greg and we make it either option. I
2 mean ultimately the Chair is the person that's supposed to
3 run the committee and the Chair like obviously running
4 the -- like for all us, when we run our committees, running
5 the rules is a big part of that; right?

6 SENATOR HANCOCK: Right.

7 ASSEMBLY MEMBER FULLER: So if we take the rules
8 completely out of the Chair's hands and give it to some
9 attorney or the Attorney General or someone else, maybe we
10 just need to make a two-tier thing that it can be the Chair
11 based on the book or the Chair can refer it to whomever.

12 SENATOR HANCOCK: Right.

13 ASSEMBLY MEMBER BROWNLEY: I do think the -- you
14 know, the people that work in the Senate and the Assembly
15 are really experts in this area. We always subject
16 ourselves to potentially having a lawyer that's not
17 necessarily an expert in the area either.

18 SENATOR HANCOCK: Yeah. I mean I think that's
19 very convincing for a question of what really do the rules
20 say again as opposed to if you put public money into this,
21 you've violating the law, whatever that might be; right?

22 So I do think they are two different things and
23 it's also true that under Robert's again which most of us
24 are familiar with and I'm not sure what Mason's would
25 actually say about this, but under Robert's, the Chair makes

1 a ruling and the body can overrule the Chair.

2 ASSEMBLY MEMBER FULLER: Maybe we should have
3 Mason's --

4 ASSEMBLY MEMBER BROWNLEY: But I think knowing the
5 rules would answer that question, you know.

6 SENATOR HANCOCK: Right.

7 ASSEMBLY MEMBER BROWNLEY: And we wouldn't need a
8 lawyer to help us to interpret that rule. The rule would be
9 there and we would know it. And I think that there are just
10 times when, whether it's Mason's or Robert's or the Brown
11 Act or whatever, there's always, you know, some gray area
12 where it goes to litigation, you know, I mean, but I don't
13 think we're --

14 SENATOR HANCOCK: We haven't ever gotten --

15 ASSEMBLY MEMBER BROWNLEY: Yeah.

16 SENATOR HANCOCK: -- there which is good.

17 ASSEMBLY MEMBER BROWNLEY: That is good.

18 SENATOR HANCOCK: Okay. Well, I would suggest
19 that we hold this over then, but that we do -- we're talking
20 about two things. One is -- because I think Mr. Harvey's
21 suggestion that we at least approach the Attorney General's
22 office and if we're reimbursing and it's roughly the same
23 amount of money that that would be a good thing to do and we
24 might also want to ask one of our Parliamentarians to be on
25 standby in the probably, you know, once a year occasion when

1 we might not understand the rules that we adopt.

2 Does that -- okay.

3 ASSEMBLY MEMBER FULLER: And we're still
4 considering Greg too and that's noted --

5 SENATOR HANCOCK: Yeah. Yeah.

6 ASSEMBLY MEMBER FULLER: Great.

7 SENATOR HANCOCK: So -- I did have one other item.
8 I didn't understand why we needed the limit of setting of
9 SAB agenda items. When I think of an agenda item, I
10 think --

11 MS. KAPLAN: So on the next page.

12 SENATOR HANCOCK: Oh.

13 MR. HARVEY: Next subject, SAB --

14 SENATOR HANCOCK: The next subject, yes. Very
15 next subject. Because again I think of things like seismic
16 safety has appeared on the agenda about ten times before we
17 ever got to the point that the Office of the State Architect
18 said they needed more money before they could give us a
19 definition. Well, what if it had appeared three times and
20 then it goes away? I don't think that's the way we operate.

21 ASSEMBLY MEMBER BROWNLEY: Where does it say that?

22 ASSEMBLY MEMBER FULLER: I'm lost.

23 MS. KAPLAN: At the top --

24 SENATOR HANCOCK: Okay. Limit on setting SAB
25 agenda items and it says SAB items may be set on the SAB

1 agenda no more than three times unless new information is
2 available that shall aid in the resolution, et cetera,
3 unless there are all these different things.

4 ASSEMBLY MEMBER BROWNLEY: Well, I think what
5 they're trying to get at there is that if, you know, I want
6 an item on the agenda, we discuss the item, it gets
7 dispensed with, and then I come back and say I want it back
8 on the agenda again, and, you know, the Board doesn't really
9 want it and they dispense with it and then I put it on the
10 third time. They're saying you can't do that more than
11 three times; right? Or is it -- I mean because the
12 earthquake stuff, it was like we just -- didn't we -- wasn't
13 it always on there? We just never chose one way or the
14 other to discuss it?

15 SENATOR HANCOCK: And we kind of asked for new
16 information and that kind of thing.

17 ASSEMBLY MEMBER BROWNLEY: Right.

18 MR. HARVEY: If you continue something, I wouldn't
19 think that counts as a set.

20 MS. KAPLAN: It does and what the intent and my
21 understanding is this was first drafted by Mr. Sheehy, Rob
22 Cook, Susan, and some OPSC members, was that this was -- if
23 an item -- kind of where Assemblywoman Brownley brought up,
24 if it's on and it kind of gets decided but keeps coming back
25 up without any new information or anything that would

1 change, that's the limit on setting an agenda item, but if
2 an agenda item's on three times and the Board never gets to
3 it, then that was never discussed; it was never decided. So
4 the limit on setting it would not apply.

5 And then, you know, it's one of those things like
6 we could discuss construction cost index over and over, but
7 there could be each meeting new information that aids in the
8 decision of handling the issue and so that wouldn't make it
9 subject. As long as the item is moving forward, it would
10 not be subject to the limitation and that if there was kind
11 of a gridlock that the status quo would stay until new
12 information was available to then come back to the Board to
13 aid in trying to find a resolution to the matter because
14 this has happened with the issues on AB127, the 6 percent
15 increase. There's been no resolution on that issue and
16 we're working on new information to then bring it back to
17 the Board to aid in a resolution.

18 SENATOR HANCOCK: Okay. What was the problem we
19 were trying to solve by saying an item may be set on the
20 agenda no more than three times? What kinds of items --

21 MR. HARVEY: I will give you an example of one
22 perhaps.

23 SENATOR HANCOCK: Okay.

24 MR. HARVEY: And I'm not saying it happens very
25 often and I'm not sure it's ever happened while I've been on

1 this Board, but I was warned coming in that matters never
2 get resolved at the SAB in large part because of the issues
3 we've just talked about, but more importantly the idea of
4 forum shopping until you get six votes.

5 SENATOR HANCOCK: Okay.

6 MR. HARVEY: So you set something and whoops, the
7 two or three you were counting on are not there. You
8 suddenly ask that it be withdrawn, and --

9 SENATOR HANCOCK: So this is more like appeals --

10 ASSEMBLY MEMBER FULLER: It's like gaming the
11 system.

12 MR. HARVEY: It's like gaming the system.

13 SENATOR HANCOCK: So this would be like not a
14 policy matter, but a matter regarding an allocation for a
15 specific district?

16 ASSEMBLY MEMBER FULLER: Could be.

17 MR. HARVEY: Could be anything, but more often is
18 that or an appeal. I'm guessing. I think that was the
19 intent of this.

20 SENATOR HANCOCK: It would be -- yes. I wrote
21 appeals, question mark, because I wasn't sure. Okay.

22 MR. HARVEY: So I think --

23 SENATOR HANCOCK: Could we say an appeal?

24 MR. HARVEY: Well --

25 ASSEMBLY MEMBER FULLER: What is it that you

1 worried that this will inhibit?

2 SENATOR HANCOCK: Okay. I'm worried that the
3 tenth time seismic comes up, somebody says well, we don't
4 want to deal with this and it's come up more than three
5 times. Well, every time we needed new information or we
6 needed something or staff didn't get to it or they did get
7 to it, but they didn't quite get to it; right?

8 ASSEMBLY MEMBER FULLER: Um-hmm.

9 SENATOR HANCOCK: And so it seems to me that it
10 opens the doors to very strange interpretation.

11 ASSEMBLY MEMBER FULLER: Well, from me being from
12 a school board -- I shouldn't even say this in public, but,
13 you know, I had people that bringing the same thing over and
14 over and over and basically what happened was that the
15 board's time got used up on that issue and the more pressing
16 priority things never got done because they kept bringing
17 things up. So we had to adopt a rule like this, but the
18 board --

19 SENATOR HANCOCK: This is like a board member?

20 ASSEMBLY MEMBER FULLER: Yeah. Well -- I don't
21 want to get real specific, but yeah. I was the
22 superintendent and sometimes the one lone vote would just --
23 and so what they would have to do is they would have to
24 prove that there was new information available or any of the
25 below.

1 In other words, in teachers' language, you had to
2 be able to bring your excuse and your excuse had to be
3 something everybody had already agreed on. You couldn't
4 just put everybody in an endless cycle --

5 MR. HARVEY: Right.

6 ASSEMBLY MEMBER FULLER: -- and in that way, there
7 can't be gaming where they're looking and saying, okay, this
8 week that person's not coming and I know they won't for me,
9 but this week that person is coming and they will and/or
10 keep bringing it up.

11 So I don't know. I'm more leaning toward no more
12 than three times. However, you know, adding to the list of
13 excuses I'm more than happy to do to be sure that we get all
14 of your concerns met. But that's just because my experience
15 and it doesn't really apply to this Board as much. I mean
16 this is not a school board.

17 SENATOR HANCOCK: Um-hmm.

18 ASSEMBLY MEMBER FULLER: So theoretically, the
19 audience can't bring issues, so it would have to be one of
20 our Board members or a staff member that kept bringing one
21 up repeatedly; right?

22 MR. HARVEY: Right.

23 ASSEMBLY MEMBER FULLER: And I guess we could just
24 tell that person we didn't want them to do it anymore.

25 MR. HARVEY: Ms. Jones, did you have something to

1 add? You came to the table. May I inquire?

2 MS. JONES: I do. I would just say that you
3 shouldn't just limit yourself to appeals on this. It should
4 also be for bigger global items and -- because some of those
5 items are --

6 MR. HARVEY: It won't bite -- it won't -- there's
7 something flying in the --

8 MS. JONES: I know. Butterfly, moth, something --
9 some of the global items are much too difficult sometimes
10 to, you know, resolve in one meeting --

11 SENATOR HANCOCK: Yeah.

12 MS. JONES: -- and you may have to have public
13 comment. You may have to have just Board discussion at a
14 meeting, and if you limit yourself to no more than three
15 times and you never really get to the gist of it and resolve
16 it. So I would caution you.

17 MR. HARVEY: But we do have I think five things
18 that make it not counting: no quorum, SAB member requests
19 to put over, district not able to attend, district and OPSC
20 both agree that the item should be withdrawn so it's not
21 unilateral, and the staff analysis is not distributed at
22 least 72 hours prior to the meeting.

23 Those would not count against your limit.

24 MS. KAPLAN: Correct.

25 MR. HARVEY: Those would be the excuses.

1 MS. KAPLAN: And then also there is the excuse of
2 unless new information is available.

3 MR. HARVEY: Well, that's the overarching one.

4 MS. KAPLAN: Yeah. Which I think when items are
5 continued --

6 SENATOR HANCOCK: So then what if staff just
7 doesn't do it, so there's no new information available. I
8 mean to me you do not want to have any way a system could be
9 gamed so something could be kicked off because of the three
10 times and you're out rule.

11 MR. HARVEY: Well, we could have a waiver
12 provision. If a majority of the Board says it can go back
13 on --

14 ASSEMBLY MEMBER FULLER: Yeah. There we go.

15 SENATOR HANCOCK: No, no, no. How do we just deal
16 with the fact that if seismic comes up month after month as
17 has happened and the information isn't adequate and --

18 ASSEMBLY MEMBER FULLER: Well, if it doesn't get
19 six votes -- I mean if it doesn't get six votes, then it has
20 to be brought back; right?

21 MS. KAPLAN: Or if there is no -- one of -- was to
22 look at with Biggs. Biggs came back several times. It
23 could have continuously not failed. This was an item that
24 was brought back I think three times until ultimately the
25 issue passed and that was kind of an appeal situation.

1 But with seismic, I think -- I'm pretty confident
2 with this Board and you, Senator Hancock, that if an item
3 that you feel that staff is delaying on will -- public
4 chastising and requesting that items be brought to the Board
5 for new information and that it's unacceptable.

6 MR. HARVEY: And once we get arm's around
7 reconsideration, it'll take care of the example you gave
8 because there's been a couple where the motion has failed
9 and then it gets put back on the next agenda and it fails --
10 get put back on the next agenda. So we should have a
11 process if something fails to have a way of getting it back
12 on if appropriate but not just continue it.

13 ASSEMBLY MEMBER FULLER: What if we added staff
14 analysis is not complete or distributed?

15 SENATOR HANCOCK: Or -- I was going to say staff
16 analysis is not deemed complete --

17 MR. HARVEY: By the Board. That's fine.

18 SENATOR HANCOCK: Or another thing would be simply
19 that we don't get to it, everybody's tired. They say at
20 7:00 o'clock I'm leaving.

21 MR. HARVEY: That would be -- I think that would
22 be number two, we would put it over.

23 MS. KAPLAN: Um-hmm.

24 MR. HARVEY: I mean I think I --

25 SENATOR HANCOCK: Okay.

1 MR. HARVEY: -- would use number -- and that's
2 happened. We have continued items because we're tired.

3 SENATOR HANCOCK: Okay.

4 MR. HARVEY: And that --

5 MS. KAPLAN: And then maybe to clarify is SAB
6 requests to put item over or item is not heard?

7 MR. HARVEY: Exactly. And it's not an individual
8 member. It's the collective decision because we didn't have
9 time or we got tired or whatever.

10 SENATOR HANCOCK: Okay.

11 ASSEMBLY MEMBER FULLER: Yeah. Item not heard is
12 great.

13 SENATOR HANCOCK: Okay.

14 MR. HARVEY: Yeah, item not heard.

15 SENATOR HANCOCK: That will be good and then how
16 about another one that would say more information is
17 requested by the Board.

18 ASSEMBLY MEMBER FULLER: Oh, that's a great one.
19 Yeah, I think that's a great one.

20 SENATOR HANCOCK: Okay. Okay. So if we do that,
21 we agree?

22 ASSEMBLY MEMBER FULLER: Yes.

23 MR. HARVEY: We agree.

24 SENATOR HANCOCK: Yea. Good. Anything else on
25 that page or do we move to where it says staff analysis on

1 the next page. Does anybody have any comments on that?

2 MR. HARVEY: Do we have to use the term material?
3 I don't know if we want to begin to decide what's material.
4 To me, a letter should count, email should count, studies
5 should count. I mean --

6 SENATOR HANCOCK: Where do you see that?

7 MR. HARVEY: I'm sorry. I jumped down under --

8 SENATOR HANCOCK: Material information, oh.

9 MR. HARVEY: Implying that someone's determining
10 what's material and what's not. Seems to me anything that's
11 coming to us should come. If the staff analysis has to be
12 here 72 hours, any other relevant information, whether it's
13 a letter, whether it is an email, whether it is what have
14 you, just information. Not material information. I mean
15 again was there some reason why the term material was used?

16 MS. KAPLAN: It was in the prior version and I
17 just adopted.

18 MR. HARVEY: I mean I don't think we should deny
19 anybody the right to comment to us. All the voices should
20 be heard.

21 SENATOR HANCOCK: That would be fine with me.

22 MR. HARVEY: But it should be done in a timely
23 fashion, not the day of the meeting. I mean I will be very
24 blunt. I am one who has high expectations for staff to meet
25 a deadline and then we often get letters handed to us at the

1 meeting and all the relevant stuff we should have as we are
2 pondering and discussing should be in our hands 72 hours
3 before.

4 MS. KAPLAN: Should the title maybe read
5 information and/or comments on agenda items?

6 MS. JONES: How about just agenda item
7 information.

8 MR. HARVEY: Agenda item information. I mean
9 people can say whatever they're going to say at the meeting,
10 but it's the stuff that comes to us.

11 MS. KAPLAN: And then I can just strike the word
12 material?

13 SENATOR HANCOCK: Yes.

14 MR. HARVEY: Yep.

15 SENATOR HANCOCK: Oh, there's -- I think we might
16 have public comment on this.

17 MR. SMOOT: Oh, thank you. Lyle Smoot, Los
18 Angeles Unified School District. I just wanted to point out
19 I have no problem with the conversation you just had. The
20 concern I have is the staff analysis being 72 hours in
21 advance and potentially your response to staff analysis also
22 being required 72 hours in advance, that just doesn't work.
23 I mean a district needs more than five minutes or whatever
24 that works out to be to respond to it.

25 So I would hope that somehow or other -- I realize

1 all these things are difficult, but I would hope that the
2 staff analysis would have to be provided to the district at
3 least three days before the district's timeline to respond.
4 And I think most of the time if not all the time -- well,
5 not all the time. But a lot of the time, the information
6 you're going to get that is now subject to a 72 hour rule is
7 going to be provided by the staff -- I mean in response to
8 something that was provided by the staff at the same time.

9 So there's just no time to respond if you get your
10 Board write-up and then you want to respond to it, there's
11 no time built in here. So I would hope you -- I would ask
12 you to change that staff analysis to double that or even
13 better would be five working days prior to the Board day.

14 MR. HARVEY: I'm open to that. I'd like to hear
15 what staff has to say. Ms. Jones, do you have any comment
16 on that?

17 MS. JONES: We do have the agenda online -- posted
18 online the week before the State Allocation Board meeting,
19 so that information is available to the districts.

20 The other thing is as an internal practice, once
21 the books -- the binders have been delivered to the Board
22 members, then staff is allowed to go ahead and submit or fax
23 to the districts their items that are under special consent
24 tab as well as under special appeals.

25 MR. HARVEY: And when does that normally happen?

1 MS. JONES: And that happens as soon as the books
2 have been delivered to the Board members.

3 MR. HARVEY: Okay. But which is --

4 SENATOR HANCOCK: Which is how many days in
5 advance?

6 MS. JONES: Which is six, seven days.

7 MR. HARVEY: So five days would work, wouldn't it?

8 MS. JONES: Yes.

9 SENATOR HANCOCK: Okay.

10 MS. KAPLAN: The one thing that maybe we should
11 have to caveat because we've had this happen since I've been
12 the AEO is a caveat of you can have five working days, but
13 maybe say if analysis is not provided, you know, prior to
14 this -- because we've gotten items on Monday or Tuesday
15 before the Board meeting and I think we need to allow
16 districts to turn in, you know, their responses.

17 MR. HARVEY: Yeah, but under this rule, we
18 couldn't do that. If it wasn't done in 72 hours, it would
19 have to be continued and I think that's what it should be.
20 It's fairer for everybody to have adequate notice about what
21 is going to be said and what the recommendations are. So
22 I'm comfortable --

23 SENATOR HANCOCK: With five working days.

24 MR. HARVEY: -- with five working days and then
25 requiring all the response thereto to be in our hands 72

1 hours before.

2 MS. KAPLAN: So would you also like a provision
3 written in if staff analysis is not available five days
4 prior to the Board meeting, the item is not heard or the
5 item's hold -- because you've had information put in your
6 binders --

7 MR. HARVEY: Yes.

8 MS. KAPLAN: -- you know, Monday and Tuesday
9 before the Board meeting.

10 MR. HARVEY: I would support that. I don't know
11 what you two feel about it.

12 SENATOR HANCOCK: Well, I just wonder how that
13 would impact districts. It puts their item off for 30 days.
14 And it seems to me -- for the same reason I wanted 15 days,
15 I'd like us to be expeditious as we possibly can.

16 MR. HARVEY: We'll keep this one open. Can we
17 keep it open?

18 ASSEMBLY MEMBER FULLER: Well, I'm good with 72
19 hours. If you're good with 72 hours or --

20 MR. HARVEY: I am.

21 ASSEMBLY MEMBER FULLER: -- you know, and then we
22 move --

23 SENATOR HANCOCK: Okay.

24 ASSEMBLY MEMBER FULLER: -- forward and we see how
25 it works and then I'm open to coming back and looking at it

1 at a later date if you want to open the issue or whatever
2 you think --

3 SENATOR HANCOCK: Okay.

4 ASSEMBLY MEMBER FULLER: -- I mean you're saying
5 that we want to go forward by having a shorter time; right?
6 You're saying you want the 72 hours.

7 SENATOR HANCOCK: But then I thought we were
8 saying that we wanted the information to go out --

9 MS. KAPLAN: Five working days.

10 SENATOR HANCOCK: -- five working days ahead of
11 time.

12 MS. KAPLAN: So staff analysis --

13 MR. HARVEY: So the districts have an opportunity
14 to respond.

15 SENATOR HANCOCK: So the districts then can
16 respond within 72 hours.

17 MS. KAPLAN: Or we can look at agenda item
18 information maybe requiring responses 48 hours, taking it
19 down -- instead of the 72 hours to respond by districts on
20 agenda items, giving them 48 hours so they have to respond
21 at least 48 hours before.

22 MR. HARVEY: That's fine.

23 SENATOR HANCOCK: That would be fine with me.

24 MR. HARVEY: That's fine with me.

25 ASSEMBLY MEMBER FULLER: Yeah. That's fine with

1 me.

2 SENATOR HANCOCK: Okay. So -- yeah. We have
3 another comment.

4 MR. GONZALEZ: Richard Gonzalez of Richard
5 Gonzalez & Associates. Addressing this particular issue
6 specifically appeals by school districts, as you've heard
7 from Lisa Jones that once the Board has been given their
8 Board books, staff's authorized to provide the items to the
9 district.

10 Why can't the draft item be provided to the school
11 district in advance of that so we know we have a consent
12 item or we don't have a consent item? Or we have a special
13 consent or we have opposition, so the district has more than
14 just five days to work on it. I'm sure staff has initial
15 drafts of it or at least their initial position paper on it
16 and that brings everything closer to the district and OPSC
17 knowing what's before then and they'd be able to respond in
18 a timely manner.

19 MR. HARVEY: Remind me what the process is on an
20 appeal. I mean I thought districts spent a lot of time with
21 staff talking about the framework of the appeal. It isn't
22 like you get something out of a black hole. There's a lot
23 of give and take and sometimes you resolve it. It doesn't
24 even have to even go to the Board.

25 So -- and I'm one that says a draft is just that.

1 Until staff is comfortable making a final recommendation and
2 giving it to the Board, it should be the purview of staff.
3 It's public once the Board has it, and then that should be
4 the signal to send it to whomever.

5 MR. GONZALEZ: I agree with you that there is give
6 and take. There is discussions before and after during some
7 of these very difficult types of appeal items. That does
8 continue to go on.

9 However, I will share that there are still times
10 even after that discussion is made that the district isn't
11 quite sure how it's going to be written and then ends up --
12 and it has happened where the district speaks to the Board,
13 says, well, we hadn't seen this language. We don't know
14 what this means to us. We need to analyze that to make sure
15 we know what that really means.

16 And I'm sharing with you that could be solved by
17 having that draft before the school district and ahead of
18 five days. They can look at it. Yes, it's not a final
19 version. It's stamped draft.

20 I will share that I used to work at OPSC and at
21 that time, we did provide draft versions that were stamped
22 draft. We asked the district to make a comment for it and
23 it was usually the week or so before the State Allocation
24 Board meeting and we made them available to them so they
25 could have an early view of it before it became public and a

1 final version.

2 SENATOR HANCOCK: Well --

3 MR. HARVEY: I'd like to run with five days until
4 we see that it doesn't work.

5 SENATOR HANCOCK: Um-hmm.

6 MS. KAPLAN: Okay.

7 SENATOR HANCOCK: So we'll require the response
8 within 72 working days --

9 MR. HARVEY: No. 72 hours.

10 SENATOR HANCOCK: 72 hours. Sorry.

11 MR. HARVEY: 72 working days, we --

12 MS. KAPLAN: Well, no -- the response -- I think
13 we said the response 48 hours --

14 SENATOR HANCOCK: Yes.

15 MS. KAPLAN: -- to just give them another extra
16 day.

17 SENATOR HANCOCK: 48 hours.

18 MR. HARVEY: That's fine too.

19 SENATOR HANCOCK: And that they will get the
20 material --

21 MS. KAPLAN: Five days.

22 SENATOR HANCOCK: -- five working days ahead of
23 time.

24 MR. HARVEY: Prior. Right.

25 SENATOR HANCOCK: Okay. Good. We'll put that in

1 the draft. Then moving along. I had one request for
2 clarification on this page also.

3 Where it says any SAB member may request a voice
4 roll call vote on any item --

5 MS. KAPLAN: Which is then -- if you'll -- you can
6 find that on page 5, item E.

7 SENATOR HANCOCK: It's --

8 MS. KAPLAN: For quorum and voting.

9 SENATOR HANCOCK: -- in quorum and voting.

10 MR. HARVEY: Right. It's item E?

11 MS. KAPLAN: Um-hmm.

12 SENATOR HANCOCK: Yeah. Item E, I am assuming we
13 will generally have a voice vote. Sometimes, like we're
14 doing right now or I think that the Chairs have always done,
15 they'll say is this a consensus --

16 MR. HARVEY: Right.

17 SENATOR HANCOCK: -- and that's when some member
18 can say no, I want a voice vote -- I mean I want a --

19 MR. HARVEY: A roll call?

20 SENATOR HANCOCK: -- a roll call. But generally
21 speaking, we're going to decide things by roll call votes.
22 So why do we say that? It makes it seem like generally
23 speaking, we're not going to have roll calls, but somebody's
24 going to have to call for one if they want it.

25 Generally motions are made and seconded. Do we

1 say that anywhere here actually?

2 A second to the motion is required on all motions.
3 Motions may be made by any of the members. Okay. Requiring
4 a vote. Upon establishment of a unanimous roll call,
5 consent items may be acted on by a single vote.

6 MR. HARVEY: What's the process where you say
7 without objection, we'll count the prior roll call? I mean
8 is that --

9 SENATOR HANCOCK: Yeah.

10 MS. KAPLAN: Yeah. That's the unanimous roll
11 call. One you establish --

12 MR. HARVEY: So that -- you can --

13 MS. KAPLAN: -- that, you can continue that.

14 MR. HARVEY: -- do -- so it's -- you're not doing
15 it just on consent. You would have the ability to, without
16 objection, use it in other -- on other items.

17 MS. KAPLAN: So I can strike the word consent.

18 MR. HARVEY: I would appreciate that.

19 SENATOR HANCOCK: Yeah. So then why do we need
20 the other one, unless we just put it up there in the same
21 thing. Any member may request a roll call vote, but we --
22 anyway, I think it's clarifies a little bit --

23 MR. HARVEY: Yeah.

24 SENATOR HANCOCK: -- that generally speaking,
25 we're going to operate --

1 MR. HARVEY: And this does make it plain that it
2 is six.

3 SENATOR HANCOCK: Right.

4 MR. HARVEY: Like we did before.

5 SENATOR HANCOCK: Right. Right.

6 MS. KAPLAN: So on item E, how do you want that
7 redrafted?

8 SENATOR HANCOCK: I would put item E up under
9 number D and renumber the next two.

10 MS. KAPLAN: Okay.

11 SENATOR HANCOCK: Making it clear that you don't
12 have to establish a unanimous roll call. Anybody -- how
13 does one get established. Well, generally -- at least in
14 the Senate, if there's been a unanimous roll call
15 previously, the President of the Senate will say can we put
16 in the previous roll call. But then members will frequently
17 say no, voice vote. You know, we need to vote. Roll call.

18 So it would allow that to happen.

19 MS. KAPLAN: Okay. I will move that under --

20 SENATOR HANCOCK: Yeah. Yeah. Just a little
21 clarification. Okay. Moving along. On the next page, did
22 you have anything, Mr. Harvey? I had one thing on the
23 composition of the working groups.

24 MR. HARVEY: Yeah, I have some comments there as
25 well.

1 SENATOR HANCOCK: Okay. Why don't you comment.

2 MR. HARVEY: That seems to me on the composition,
3 the Chair of the Subcommittee should set the agenda. I'm
4 not sure that's called out here. I also just raise
5 rhetorically who staffs the subcommittees? I mean is that
6 something that should be equally shared? OPSC duty? I mean
7 I think right now our Assistant Executive Officer is pulling
8 that heavy duty and I don't know if there is some feeling
9 about who that should be.

10 I raised it as just a question. We're silent on
11 who staffs it and I have no strong feelings either way.
12 Ms. Jones is here again offering our institutional memory.

13 SENATOR HANCOCK: Right.

14 MS. JONES: I would say that I think that the
15 Chair should set the agenda and that the Assistant Executive
16 Officer should be the one to help with the items that are a
17 part of that agenda.

18 MR. HARVEY: Okay.

19 MS. JONES: OPSC can provide support to the
20 Assistant Executive Officer if she requires it.

21 MR. HARVEY: Okay.

22 MS. JONES: But we do notice the meetings for the
23 Subcommittee, so I don't want it not to look like we don't
24 have -- that we're not part of this function because we are.

25 MR. HARVEY: I didn't mean to imply that, but --

1 MS. KAPLAN: I could not do this without her.

2 MR. HARVEY: All right.

3 MS. JONES: I just wanted to --

4 MR. HARVEY: Cooperation --

5 MS. JONES: Yeah.

6 MR. HARVEY: -- compliments. Very good. Okay.

7 So we do agree then that the Chair should set the agenda --
8 the Chair of the Subcommittee should set the agenda and
9 we've now got a working relationship for how the staffing
10 works and we're part of Bagley-Keene so it's noticed.

11 MS. KAPLAN: Um-hmm.

12 SENATOR HANCOCK: Okay. Excellent.

13 MR. HARVEY: Working groups, are we there?

14 SENATOR HANCOCK: Working groups. Yeah. I just
15 wanted to suggest where it says membership on the working
16 group will be determined by and Ms. Kaplan had suggested in
17 our conversation that it say the authorizing entity, in
18 other words, by the full SAB if that was setting it up or if
19 it was a working group of a subcommittee or if it was a
20 working group of staff, working groups have no power except
21 to brainstorm, talk things through, help us with the
22 background information and give it to us, so people who ask
23 for one know what they need.

24 MR. HARVEY: Exactly. And I think that also
25 allows us the flexibility to ensure where you need technical

1 expertise they're available and --

2 SENATOR HANCOCK: Yeah.

3 MR. HARVEY: Very good. The only other thing I
4 would request under sub B of that, duties, it talks about
5 working group shall perform the duties assigned to them and
6 shall report on all matters referred to them if created by,
7 and it says a subcommittee. Can we say by the Board or a
8 subcommittee because we might have some of these working
9 groups created by the Board itself --

10 SENATOR HANCOCK: Oh, sure. Um-hmm.

11 MR. HARVEY: -- making your point that the
12 membership's determined by the authorizing -- that could be
13 the full Board.

14 SENATOR HANCOCK: Okay. Yes.

15 MS. KAPLAN: Yes. I can do that.

16 SENATOR HANCOCK: Sounds really good. And --

17 MR. HARVEY: Procedural guidelines, eh?

18 MS. KAPLAN: And then --

19 SENATOR HANCOCK: Procedural guidelines.

20 MS. KAPLAN: And then on the procedural
21 guidelines, you can just delete my underline. That
22 underline was -- I duplicated it. That's actually under the
23 final arbiter. So it's just supposed to spell out
24 procedural guidelines that we are -- the authority is the
25 California Senate Rules with the default to Mason's.

1 MR. HARVEY: Okay.

2 MS. KAPLAN: And then the very final is the --
3 these rules shall remain in effect until replaced or revised
4 by a majority of the Board.

5 Is there anything else that I potentially missed?

6 MR. HARVEY: The only thing -- and again I may be
7 the solo voice in this. I don't feel particularly strongly
8 about it except I do believe it was useful when I was on the
9 City Council and that is we may want to at some point in one
10 of our future agendas talk about this infamous ex parte
11 issue which is when you are lobbied privately, you at least
12 prior to the vote on that matter let your colleagues know
13 that you were visited by so and so and so and so.

14 You don't have to indicate what was discussed, but
15 it's just a way of transparency. Let's people know who
16 visited you. It was a very common practice -- at least it
17 was in the Southern California area where I served. So I
18 don't know. I mean I just bring it up as something for us
19 to potentially talk about.

20 SENATOR HANCOCK: I think it's certainly something
21 for us to talk about.

22 MR. HARVEY: Where would we put it?

23 SENATOR HANCOCK: Where would be put it?

24 MR. HARVEY: Let's see.

25 MS. KAPLAN: Testimony on agenda items? I don't

1 know.

2 MR. HARVEY: That would work there.

3 SENATOR HANCOCK: Where do we see testimony on
4 agenda items?

5 MS. KAPLAN: Page 5.

6 MR. HARVEY: And actually we're looking at the --
7 for the Subcommittee. The pink tab.

8 SENATOR HANCOCK: No. We're looking at -- for
9 discussion.

10 MR. HARVEY: Pink tab.

11 SENATOR HANCOCK: Yeah.

12 MR. HARVEY: I guess we could do it order of
13 binder items because you would be doing it on the binder.
14 We could do it on the matter. I mean it could be --

15 SENATOR HANCOCK: Um-hmm.

16 MR. HARVEY: -- it could be at the next
17 Subcommittee meeting. Process for agenda -- I think next
18 Subcommittee if it's neater than the other ones.

19 MS. KAPLAN: Um-hmm. Yes. I can add that.

20 MR. HARVEY: Thank you.

21 SENATOR HANCOCK: Okay. Okay. Now, the -- I
22 believe -- I think the next item is public comment, but I
23 did hope that we could adopt this document as amended and we
24 can't because we don't have a quorum.

25 MS. KAPLAN: Is Ms. Fuller outside?

1 MR. HARVEY: By direction, we have certainly asked
2 for things to be done; correct? So it will be --

3 SENATOR HANCOCK: Yeah.

4 MR. HARVEY: -- as we worked through it. We can
5 adopt it as a Subcommittee, keep the roll open, and maybe
6 somebody will come back. What do you think.

7 SENATOR HANCOCK: Well, that's what I was
8 thinking. I was actually going to see if Ms. Jones --
9 Ms. Brownley said if we needed to take more votes, she would
10 be here, and I don't know where Ms. Fuller went. Can you
11 call their offices to see if they could come down and we
12 could just do this formally. You know, we're trying to set
13 off on the right foot here.

14 MR. HARVEY: I understand.

15 SENATOR HANCOCK: And it would just take a minute.
16 It would just take a minute. And then while we're waiting
17 for that, we can go into public comment.

18 MR. SMOOT: Oh, thank you. Lyle Smoot, LA Unified
19 again. Actually there's two things I would ask of you. At
20 the last meeting, I think you talked about an annual
21 reaffirmation of the rules or something and this says it's
22 just in effect until revised.

23 I think maybe every other year in the cycles of
24 the legislative cycles -- I think the Legislature readopts
25 their rules every other year. And I think that would be a

1 great thing.

2 It creates an opportunity. I think -- for us it
3 creates an opportunity to at least have the item on the
4 agenda for, you know, potential discussion. That's number
5 one.

6 And number two -- actually I should have come
7 forward earlier. It's not a big deal, but under the
8 meetings, it would be nice if you could just specify that
9 meetings are normally held the fourth Wednesday of the month
10 but can be changed or whatever, you know. I mean it just it
11 creates a statement of continuity that I think is important.

12 MR. HARVEY: I want to do them on Fridays.

13 MR. SMOOT: Friday afternoon at 5:00 is fine with
14 me. Thank you very much.

15 SENATOR HANCOCK: Okay. Is there -- thank you. I
16 have -- I think both of those are good suggestions.

17 MS. KAPLAN: I think they're great suggestions.

18 SENATOR HANCOCK: I mean we do re-adopt our
19 committee rules every year and we could do this maybe at the
20 beginning of every session or something.

21 MR. SMOOT: Sure.

22 SENATOR HANCOCK: Great. Additional public
23 comment.

24 MR. BACI: Eric Baci (ph), Los Angeles Unified.

25 MR. HARVEY: Wait a minute. One bite of the apple

1 here.

2 MR. BACI: I know. I know. There's like seven
3 more of us in the hall.

4 MR. HARVEY: What is this? Are we going to have a
5 sequence -- perfect.

6 MR. BACI: I should have come up as well. Under
7 the -- I was just kind of reading, trying to understand it
8 myself.

9 Under the quorum and voting section, in the first
10 paragraph near the bottom, it says that the SAB shall hold
11 open roll call until meetings adjourn for final action. It
12 makes sense to do that, but down near the bottom under F, it
13 says at such time a call is lifted, a quorum must be present
14 to finalize the item.

15 I know some of these meetings run really late. If
16 you've made a vote on an item, we don't have a quorum at the
17 end of the day, does the vote not count anymore or do we
18 have to hold the item over to the following month? So I
19 wanted to see how that scenario gets worked through because
20 otherwise we just keep pushing an item along if we don't
21 actually have a quorum and so the question is, is it really
22 necessary to have the quorum at the end if you already made
23 your vote at the time the subject was being discussed.

24 So I just wanted to throw that out there as an
25 item for discussion.

1 SENATOR HANCOCK: Good point. No. That's a very
2 good point. Thank you. I mean that is -- certainly in
3 committees in the Legislature, which I'm assuming operate
4 under Mason's --

5 MS. KAPLAN: Um-hmm. And I just kind of lifted
6 this from Mason's. So we can make it work for the SAB.
7 There was no thought process behind this.

8 MR. HARVEY: I would say you could do it unless it
9 benefited LA and then --

10 MS. KAPLAN: I don't see a problem in deleting it.
11 Because the only people that are going to show up at the
12 very end are the ones that need to vote on an issue.

13 ASSEMBLY MEMBER FULLER: If it's like what we've
14 done in committee where we've -- some of us voted and then
15 left and some other people added on --

16 SENATOR HANCOCK: Yeah.

17 ASSEMBLY MEMBER FULLER: -- I think that's fine.

18 SENATOR HANCOCK: I do too.

19 ASSEMBLY MEMBER FULLER: I don't know that there's
20 any other way to do it here.

21 SENATOR HANCOCK: Yeah. You don't need the whole
22 majority sitting there every time you lift a call. Okay.
23 Does that have consensus?

24 MR. HARVEY: Sure.

25 SENATOR HANCOCK: Okay. So I would entertain a

1 motion that we --

2 ASSEMBLY MEMBER FULLER: I will make the motion.

3 MR. HARVEY: I will second.

4 MS. KAPLAN: Senator Hancock.

5 SENATOR HANCOCK: And --

6 MS. KAPLAN: Yes.

7 SENATOR HANCOCK: Oh, okay. Aye.

8 MS. KAPLAN: Scott Harvey.

9 MR. HARVEY: Aye.

10 MS. KAPLAN: Assemblywoman Fuller.

11 ASSEMBLY MEMBER FULLER: Aye.

12 MS. KAPLAN: Motion passes three/zero as to adopt
13 the rules as amended.

14 SENATOR HANCOCK: Excellent. And I want to thank
15 the staff for their work in putting this together. You did
16 a great job and we will continue -- if we could distribute
17 this simply as an informational item to the Board --

18 MS. KAPLAN: And I will get --

19 SENATOR HANCOCK: -- and on the Internet so we can
20 get -- they can familiarize themselves with it and then we
21 will fill in the rest of the details at our subsequent
22 meetings for a final adoption after we get it all done.

23 MS. KAPLAN: And I will continue to work with
24 staff on setting the next meetings, but it looks like for
25 the most part Tuesdays, 3:30 to 5:00.

1 SENATOR HANCOCK: Okay.

2 MS. KAPLAN: Except for Budget, which we know.

3 SENATOR HANCOCK: Yeah. Great. Well, thank you
4 very much, everyone, for coming and remaining, and,
5 Ms. Kaplan and Ms. Jones, for your invaluable help in
6 getting this pulled together.

7 MS. KAPLAN: And honestly I could not do this
8 without Lisa Jones, just so you know.

9 SENATOR HANCOCK: I'm sure.

10 (Whereupon, at 4:55 p.m. the proceedings were recessed.)

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