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CALIFORNIA STATE ALLOCATION BOARD
RULES AND PROCEDURES SUBCOMMITTEE
PUBLIC MEETING

STATE CAPITOL, ROOM 112
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, OCTOBER 6, 2010
TIME: 11:08 A.M.

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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 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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SENATOR HANCOCK: Okay. Thank you all for coming. We are trying to reach closure in this process and get some simple, easily understood rules of procedure that are generally agreed to for this State Allocation Board. There --

MS. KAPLAN: Just can I establish a quorum before we --

SENATOR HANCOCK: Well, no. I'm going to make introductory remarks and then we'll establish a quorum.

So I want Board members to realize there are these documents. I appreciate the efforts of staff very much in redrafting these with my edits which were for clarification only on Monday and especially Shanna Everts of the SAB staff. She did an amazing job in a short period of time and I'm very sorry that we didn't get this done in time to put it on the Web yesterday evening, but we have copies available to the public and we are hoping that you'll make remarks for public comment as we go through section by section.

But again I think it's important that -- what I've done with this too is cull out the areas in which discussion is needed. Since we weren't going to have a full Committee, my hope is that we can adopt the parts that we haven't

1 adopted already and set aside other policy issues and other
2 things we have not yet finished our work as additions at a
3 later time.

4 So if that meets everyone's approval, we will
5 establish a quorum. Who's reading the roll?

6 MS. KAPLAN: I will.

7 SENATOR HANCOCK: Okay.

8 MS. KAPLAN: Senator Hancock.

9 SENATOR HANCOCK: Here.

10 MS. KAPLAN: Assembly Member Julia Brownley.

11 ASSEMBLY MEMBER BROWNLEY: Here.

12 MS. KAPLAN: Scott Harvey.

13 MR. HARVEY: Present.

14 MS. KAPLAN: Assemblywoman Jean Fuller, absent.

15 Quorum is established.

16 SENATOR HANCOCK: Okay. Thank you all very much.
17 I'd suggest that we look at Section (1), Organizational
18 Meetings.

19 MS. KAPLAN: Can we approve the **Minutes**, if --

20 SENATOR HANCOCK: Okay. Yeah. Thank you. Is
21 there a motion to approve the Minutes.

22 MR. HARVEY: I would so move, but would ask that
23 on pages 3, et seq, that I become Scott Harvey and not Steve
24 Harvey. I somehow morphed during the Minutes from Scott to
25 Steve and while Steve is a very talented fellow, I'm not

1 sure he was actually at the last meeting.

2 MS. KAPLAN: Will change as amended.

3 MR. HARVEY: Thank you.

4 SENATOR HANCOCK: There's also a typo under Order
5 of Business. My name is misspelled.

6 MS. KAPLAN: Hmm.

7 MR. HARVEY: With those two changes, I would make
8 a motion to adopt the Minutes.

9 SENATOR HANCOCK: My name is also misspelled
10 actually.

11 MR. HARVEY: Every time.

12 ASSEMBLY MEMBER BROWNLEY: Hancock.

13 SENATOR HANCOCK: No. It's under Vice Chair.

14 MR. HARVEY: Oh, dear. I'm sorry. I was only
15 looking at Steve.

16 SENATOR HANCOCK: You were only looking at your
17 name, Mr. Harvey.

18 ASSEMBLY MEMBER BROWNLEY: Well, my name was
19 spelled correctly throughout the entire Minutes.

20 MS. KAPLAN: Those changes will be made.

21 SENATOR HANCOCK: Okay. With those changes, is
22 there a motion to approve the Minutes.

23 MR. HARVEY: So move.

24 MS. KAPLAN: Motion by --

25 ASSEMBLY MEMBER BROWNLEY: Second.

1 MS. KAPLAN: -- by Harvey and second by Brownley?

2 ASSEMBLY MEMBER BROWNLEY: Yes.

3 MS. KAPLAN: Senator Hancock.

4 SENATOR HANCOCK: Aye.

5 MS. KAPLAN: Assemblywoman Brownley.

6 ASSEMBLY MEMBER BROWNLEY: Aye.

7 MS. KAPLAN: Scott Harvey.

8 MR. HARVEY: Aye.

9 MS. KAPLAN: Three-zero.

10 SENATOR HANCOCK: Okay. Now moving onto the
11 subject of the meeting. Section (1): Organizational
12 Meeting. The Board shall review and adopt the operating
13 Rules and Procedures of the Board at the first meeting of
14 the Board at the beginning of each legislative session.
15 Rules shall remain in effect until replaced or revised by a
16 majority of the Board. Similar to what standing committees
17 in the Legislature do. Is there a motion?

18 ASSEMBLY MEMBER BROWNLEY: So moved.

19 MR. HARVEY: Can I ask for one clarifying
20 amendment. If you look at how the two-year session is
21 described under Officers, Chair of the Board --

22 SENATOR HANCOCK: Um-hmm.

23 MR. HARVEY: -- it says at the beginning of the
24 two-year legislative session, clarifying that it does cover
25 both years not just one, I would suggest that perhaps we

1 insert two-year in front of legislative session under
2 Organizational Meeting for consistency.

3 SENATOR HANCOCK: Yeah. That would be fine with
4 me. Any problem?

5 ASSEMBLY MEMBER BROWNLEY: No, not a problem. Do
6 we have -- currently do we have rules?

7 MR. HARVEY: No.

8 ASSEMBLY MEMBER BROWNLEY: So we would have to --

9 MR. HARVEY: By de facto, we follow Robert's Rules
10 or some derivation thereof.

11 ASSEMBLY MEMBER BROWNLEY: I see. But standing
12 committees --

13 MS. KAPLAN: No --

14 ASSEMBLY MEMBER BROWNLEY: -- and --

15 MS. KAPLAN: No organizational --

16 ASSEMBLY MEMBER BROWNLEY: Yeah. But we have
17 rules in each of our committees that we adopt --

18 SENATOR HANCOCK: Yeah.

19 ASSEMBLY MEMBER BROWNLEY: -- at the beginning of
20 every single session. So I'm just wondering what those --
21 when we get to that point in January, what rules -- are we
22 going to be working on a series of rules?

23 SENATOR HANCOCK: So these.

24 ASSEMBLY MEMBER BROWNLEY: Oh, these will be --
25 these rules.

1 SENATOR HANCOCK: Yes.

2 MR. HARVEY: Yes.

3 ASSEMBLY MEMBER BROWNLEY: Okay. Go it. All
4 right.

5 SENATOR HANCOCK: We would adopt them and --

6 ASSEMBLY MEMBER BROWNLEY: Okay.

7 SENATOR HANCOCK: -- they'd be there for the
8 two-year session.

9 ASSEMBLY MEMBER BROWNLEY: Okay. All right.

10 MS. KAPLAN: My only question on Mr. Harvey's
11 amendment is as you've stated, Assemblywoman Brownley, is
12 that each year you adopt the committee rules even though
13 it's a two-year legislative session. Do we want it so
14 that --

15 SENATOR HANCOCK: No.

16 MS. KAPLAN: -- the SAB or do we want to keep with
17 every two years, we review these rules.

18 SENATOR HANCOCK: Two years.

19 MS. KAPLAN: Okay. Okay.

20 SENATOR HANCOCK: Okay.

21 MS. KAPLAN: So amended motion accepted by
22 Brownley?

23 ASSEMBLY MEMBER BROWNLEY: Yes.

24 MR. HARVEY: Second by Harvey.

25 MS. KAPLAN: And can we go prior unanimous roll

1 call?

2 MR. HARVEY: Yes.

3 ASSEMBLY MEMBER BROWNLEY: Yes.

4 MS. KAPLAN: Three-zero.

5 SENATOR HANCOCK: Good. Okay. Section (2):
6 Officers. We've divided this into two sections, Chair of
7 the Board and Vice Chair, so it would be A and B under
8 Officers. We don't have to repeat officers. And again if
9 members have read this, if there's any changes anyone would
10 like to suggest or --

11 MR. HARVEY: I would like to have you consider
12 three changes. Starting at the top --

13 ASSEMBLY MEMBER BROWNLEY: Mr. Harvey, if you
14 could speak up because the audience is -- the microphone is
15 covering us, but the audience can't hear us.

16 MR. HARVEY: Fair enough. I shall. I'm going to
17 propose three potential changes for our discussion again
18 consistent with the language under the Vice Chair where we
19 say shall be a kind of designee, I am going to propose that
20 we make the may a shall in A.1.I, and I'm not clear
21 between --

22 SENATOR HANCOCK: The Board -- the SAB may elect?

23 MR. HARVEY: I would say shall elect.

24 SENATOR HANCOCK: Shall elect. Okay.

25 MR. HARVEY: As we say under the Vice Chair, you

1 say shall elect.

2 SENATOR HANCOCK: Oh, okay.

3 MR. HARVEY: And I'm needing clarity -- the
4 distinction between administration or agency designee.

5 SENATOR HANCOCK: Well, the thought there was that
6 it has been the Department of Finance or you could also have
7 an agency, OPSC, you know, DGS --

8 ASSEMBLY MEMBER BROWNLEY: You could be Chair of
9 the committee as --

10 MS. KAPLAN: Or CDE.

11 MR. HARVEY: Well, I'm part of the administration,
12 so is this an effort to broaden it to like your example, the
13 Department of Education representative? Is that why we are
14 having the wobbler? I would prefer personally that it
15 remain the Director of the Department of Finance.

16 ASSEMBLY MEMBER BROWNLEY: And what's your
17 rationale behind that? Just out of curiosity.

18 MR. HARVEY: It is one based in history more than
19 anything else.

20 ASSEMBLY MEMBER BROWNLEY: Uh-huh.

21 MR. HARVEY: There is of course no statute
22 requiring it, but I believe in the dynamics of the Board,
23 you've got a legislative majority on the Board. I think the
24 administration deserves to have some part of the formation
25 of the agenda and the process and therefore should be in the

1 Chair. So it would be on those two reasons.

2 ASSEMBLY MEMBER BROWNLEY: Uh-huh. Well, I think
3 in further -- I mean in earlier discussions, we have -- I
4 thought the intention and I guess with all due respect to
5 the rationale is that I thought that we wanted to give a
6 little bit more flexibility relative to the Chair and this
7 expands it but yet I think still gives sort of a balance of
8 power, if you will, vis-à-vis legislative appointments,
9 administration, agency designees.

10 So I would prefer that we make the change of may
11 to shall but to leave the administration or agency designee
12 as the Chair. Senator, do you have a feeling on that or --

13 SENATOR HANCOCK: I honestly don't care. I'd like
14 consensus.

15 ASSEMBLY MEMBER BROWNLEY: Oh.

16 SENATOR HANCOCK: I mean it seems to me that
17 hasn't been our problem.

18 ASSEMBLY MEMBER BROWNLEY: No, it certainly hasn't
19 been the problem. I just thought that in other discussions
20 with other members of the Board -- I'm happy to acquiesce to
21 Mr. Harvey's suggestion.

22 MS. KAPLAN: In prior discussions --

23 SENATOR HANCOCK: Okay.

24 MS. KAPLAN: -- this was approved by the
25 Subcommittee for the expanded of agency or administration

1 designee. So we did in a prior Subcommittee meeting have
2 this discussion and the Board actually did, you know, agree
3 to this kind of format. This was just changed in process of
4 pending before the Board.

5 ASSEMBLY MEMBER BROWNLEY: Yeah. That's what I
6 thought as well.

7 MS. KAPLAN: And I don't know if there's any
8 public comment on this either.

9 MR. HARVEY: I don't recall that official action.
10 I recall us stating preferences, but I will speak to it if
11 it stays this way at the full Board because -- for the
12 reasons I stated. I appreciate your willingness to take the
13 may out and insert shall. Why don't we just leave it the
14 way it is and we will address it when it goes to the full
15 Board.

16 The other change I have is under 2.I where it
17 talks about enabling the Committee to perform its duties. I
18 think Committee should be struck and the term Board
19 inserted. We are a State Allocation Board. We are not a
20 Committee.

21 ASSEMBLY MEMBER BROWNLEY: I'm sorry. Where is
22 this?

23 MR. HARVEY: I'm -- under --

24 SENATOR HANCOCK: To enable the Board.

25 MR. HARVEY: -- A.2.I.

1 ASSEMBLY MEMBER BROWNLEY: Call the State
2 Allocation Board together at times?

3 MR. HARVEY: Together at the times and places
4 necessary to enable --

5 ASSEMBLY MEMBER BROWNLEY: Oh, got it.

6 MR. HARVEY: -- the Committee. It should be the
7 Board.

8 ASSEMBLY MEMBER BROWNLEY: Got it.

9 MR. HARVEY: And the final suggested changed is
10 2.III that begins maintain order and decide all questions of
11 order subject to appeal to the Board. I think there should
12 be a period there. I don't know what the present adds to
13 that sentence.

14 MS. KAPLAN: I think it was --

15 SENATOR HANCOCK: And --

16 MS. KAPLAN: -- at the time who's present and
17 sitting. You know, so if members step out, it's --

18 MR. HARVEY: So there was something dropped in
19 translation, so -- appeal to the Board? Well, whoever's at
20 the Board would -- they'd be seated, wouldn't they?

21 SENATOR HANCOCK: Subject to --

22 MR. HARVEY: Can we just drop present --

23 SENATOR HANCOCK: Yes.

24 MR. HARVEY: -- and it functions all right?

25 SENATOR HANCOCK: Yes, we can. And --

1 MR. HARVEY: And then I do think, Madam Chair,
2 your suggestion to strike officers right before Vice-Chair
3 is appropriate because we have officers up above with an A
4 for the Chair. Officers B would then become the Vice-Chair.
5 You don't need to repeat the term officer and I would also
6 suggest you don't need the lead-in under Vice-Chair which
7 reasons process for selecting officers because you've done
8 that at the top under A.

9 So you're saying we do it for the Chair and we do
10 it for the Vice-Chair.

11 SENATOR HANCOCK: Yes. I would agree. I would
12 agree. So we have already adopted B.2. So what we would
13 need to do I think is a motion would be that we adopt
14 Section (2) Officers, eliminating the two reiterations of
15 that and simply having then A and B. And under A, Chair of
16 the Board, we'll change may to shall, the SAB shall elect an
17 administration designee or was it or agency designee and you
18 want --

19 ASSEMBLY MEMBER BROWNLEY: I liked Mr. Harvey's
20 suggestion --

21 SENATOR HANCOCK: -- we're going to take it up --

22 ASSEMBLY MEMBER BROWNLEY: -- that we -- to make
23 all of the changes that have been suggested with the
24 exception of this administration or agency designee and have
25 that become -- have that come before the full Board.

1 MR. HARVEY: We have a respectful disagreement on
2 the nature of that --

3 SENATOR HANCOCK: Yeah.

4 MR. HARVEY: -- and we should probably allow --

5 SENATOR HANCOCK: Yeah.

6 MR. HARVEY: -- it to go to the full Board.

7 SENATOR HANCOCK: Okay. So make your motion,
8 Ms. Brownley.

9 ASSEMBLY MEMBER BROWNLEY: So -- yeah. So I would
10 move to move the changes for Section (2) Officers with
11 changing may to shall in A.1.I and to make the change of
12 Committee under 2.I from Committee to Board; for 2.III, to
13 put a period after Board and eliminate present and then to
14 scratch number (2) Officers and to scratch B.I., process for
15 selecting officers of the Board --

16 MS. KAPLAN: I think just a quick amendment. I
17 think what should happen on (2)A since A and B are -- it's
18 Chair of the Board and B is Vice-Chair, it should just be
19 process for selecting Chair of the Board and then process
20 for selecting Vice-Chair of the Board because they're two
21 separate sections on two separate actions that the Board
22 should do and so instead of saying officers, it just should
23 say the position that --

24 ASSEMBLY MEMBER BROWNLEY: Yeah. That's what I
25 meant to say was to scratch (2) Officers, but to leave B,

1 Vice-Chair but to eliminate I, process for selecting
2 officers of the Board; correct? That's what you suggested.

3 MR. HARVEY: I proposed it, but she's arguing that
4 since it's two separate offices and two separate motions --

5 ASSEMBLY MEMBER BROWNLEY: I see.

6 MR. HARVEY: -- that it should be listed twice. I
7 think if you listed it once under officers, you're covering
8 that your officers are Chair and Vice-Chair and here's the
9 process of doing it. So to me it can be eliminated and it's
10 clear that you're --

11 SENATOR HANCOCK: Actually you might be able to
12 eliminate the first process for selecting Board and simply
13 say Chair of the Board at the beginning of the two-year
14 period.

15 MR. HARVEY: You could do that as well.

16 SENATOR HANCOCK: I would suggest that we
17 strike --

18 MR. HARVEY: In both occasions.

19 SENATOR HANCOCK: -- strike both occasions in the
20 interest of elegance.

21 MR. HARVEY: There you go.

22 ASSEMBLY MEMBER BROWNLEY: Okay. So suggesting --
23 striking then both of those and the last part of my motion
24 would then be to bring back this issue of administration or
25 agency designee for the Chair of the Board back to the full

1 SAB Board.

2 SENATOR HANCOCK: Well, I don't think you have to
3 say that. I think that we would just pass it as it is and
4 Mr. Harvey indicated that it's going to be a topic of
5 discussion when it comes before the full Board.

6 MS. KAPLAN: Well, would it be a 2.I? If this is
7 the motion --

8 MR. HARVEY: This is -- if -- yeah, it would be a
9 2.I. I'd have to vote no because of that unless we call it
10 out.

11 MS. KAPLAN: And then it would not pass because
12 this is a four-member Board.

13 MR. HARVEY: Oh, dear. Well, then can we call it
14 out --

15 MS. KAPLAN: At the full Board --

16 MR. HARVEY: -- at the full Board?

17 MS. KAPLAN: -- and it's on here for discussion of
18 full Board.

19 MR. HARVEY: Is that okay?

20 SENATOR HANCOCK: Yeah. Fine.

21 MR. HARVEY: I don't to defeat --

22 SENATOR HANCOCK: Fine. No, no. Fine. Fine.

23 All right.

24 ASSEMBLY MEMBER BROWNLEY: So I made a motion.

25 MR. HARVEY: Second.

1 SENATOR HANCOCK: Okay. All in favor.

2 MS. KAPLAN: Prior unanimous roll call?

3 (Ayes)

4 SENATOR HANCOCK: Okay. Motion carried.

5 Section (3), Meetings.

6 MR. HARVEY: Member of the audience.

7 MR. SMOOT: I just -- I'll start right off by
8 apologizing for not getting -- throwing my hand in here a
9 little bit sooner. This is actually on the last item and I
10 know you already adopted it, but I just wanted to point out
11 that under the Vice-Chair item 2.III, Vice-Chair shall chair
12 the Personnel Committee, I think you mean Personnel
13 Subcommittee --

14 MS. KAPLAN: Um-hmm.

15 MR. SMOOT: -- to start with, but secondly, unless
16 I've just missed it, I don't know anyplace in here where you
17 have established that there is a permanent Personnel
18 Subcommittee of the Board and I know that's kind of a
19 nitpicky thing, but I don't want to -- I'm just thinking
20 that someplace down the line, did you mean to establish a
21 permanent Personnel Subcommittee. If you did that's fine.
22 I don't have any, you know, input as to whether you should
23 or shouldn't. I'm just saying that's --

24 MR. HARVEY: Do we list at any point that we have
25 the right as a Board to establish committees --

1 subcommittees or working groups?

2 MS. KAPLAN: Um-hmm.

3 MR. HARVEY: If we have that --

4 MR. SMOOT: Yes, sir. It's covered later.

5 MR. HARVEY: -- wouldn't that be covered there?

6 SENATOR HANCOCK: Yeah. We --

7 MR. SMOOT: I was thinking that would be a more
8 appropriate way to do it.

9 ASSEMBLY MEMBER BROWNLEY: Under that section?

10 MR. SMOOT: Under the section that covers the
11 Board's authority to establish subcommittees, et cetera.

12 SENATOR HANCOCK: Yeah, Section 10, Subcommittees
13 and Working Groups.

14 MS. KAPLAN: It was the intent of having it under
15 here because this would be only to be chaired by a
16 legislative member and that's why as the Vice-Chair is to be
17 legislative designee to specifically put it here under one
18 of the Vice-Chair's responsibilities.

19 MR. SMOOT: Thank you.

20 MR. HARVEY: Well, I --

21 SENATOR HANCOCK: Thank you.

22 MR. HARVEY: I don't know if we need to call it
23 out as a standing Committee. We have the right to form
24 committees and I guess the Board can determine that if we
25 happen to have a Personnel Committee, it'll be chaired by

1 the Vice-Chair; right?

2 SENATOR HANCOCK: I would think so.

3 MR. HARVEY: Okay. All right.

4 MS. KAPLAN: Um-hmm. But I'll just add in Sub --
5 the word Sub to it.

6 ASSEMBLY MEMBER BROWNLEY: Where do we list the
7 standing committees?

8 SENATOR HANCOCK: We don't.

9 MR. HARVEY: We don't. We talk about the ability
10 to form subcommittees or working groups, but we don't
11 specify them in this document.

12 ASSEMBLY MEMBER BROWNLEY: Okay.

13 MR. HARVEY: And that's on page 8 of 10 where --

14 SENATOR HANCOCK: Yeah.

15 ASSEMBLY MEMBER BROWNLEY: Okay.

16 MR. HARVEY: -- subcommittees/working groups
17 are --

18 SENATOR HANCOCK: Okay. Good. So we will -- is
19 there a unanimous roll call for adding Sub to committee in
20 the previous motion? Okay. All in favor.

21 (Ayes)

22 SENATOR HANCOCK: Done.

23 MR. HARVEY: Thank you.

24 SENATOR HANCOCK: Now, Section (3), Meetings.

25 MR. HARVEY: Anybody from the public?

1 SENATOR HANCOCK: Anybody on this one?

2 MS. KAPLAN: So the only two that haven't been
3 approved by the Board is (3)B, call of the meeting, (3)D,
4 quorum. (3)A has been adopted by the Subcommittee and (3)C
5 has.

6 MR. HARVEY: I will ask my colleagues to take a
7 look at parallelism on (3)A and (3)B, even though we have
8 adopted 3(A). You will notice that under time and place, it
9 indicates that the Chair or Vice-Chair shall call the
10 meeting.

11 SENATOR HANCOCK: Um-hmm.

12 MR. HARVEY: Under Meetings B, the call of the
13 meetings, it says the Chair or the Vice-Chair in the absence
14 or incapacity of the Chair may call. Again for parallelism,
15 I would suggest that the term in his/her absence should be
16 added under (3)A.

17 SENATOR HANCOCK: I would agree with that.

18 ASSEMBLY MEMBER BROWNLEY: I would too.

19 MR. HARVEY: And while I'm on a roll here, the
20 other thing I would say on (3)B is note that under (3)C we
21 talk about regularly scheduled monthly meetings. Seems to
22 me that (3)B should refer to special meetings. So that
23 first sentence in (3)B would read, The Chair or Vice-Chair
24 in the absence or incapacity of the Chair may call a special
25 meeting of the Board because we already have noted we're

1 meeting monthly under (3)C.

2 So would it be a special meeting rather than a
3 regular meeting? I believe so.

4 ASSEMBLY MEMBER BROWNLEY: Yeah. I think so. I
5 mean if -- to build upon what you're saying then, I would
6 actually put meetings, the date of the meetings before --
7 you know, I would put (3)C before (3)B.

8 MR. HARVEY: Yes. I can see that too.

9 SENATOR HANCOCK: Okay. Let's do that.

10 MS. KAPLAN: Um-hmm.

11 SENATOR HANCOCK: Make that part of the motion.

12 And then special meetings would come after that and then
13 quorum. And do members wish to make any changes?

14 ASSEMBLY MEMBER BROWNLEY: Is there a Steve Harvey
15 to make a motion?

16 MR. HARVEY: Yes. I have a couple comments then
17 I'm sure we'll have some public comment as well.

18 Again on item 2 and 6 on page 3 of our document,
19 you'll notice that we have correctly under 2 talked about
20 Subcommittees or meeting as a Subcommittee. Down in 6, it
21 says all roll call votes taken in Committee. Now are we
22 talking about two different -- should we say Committees in
23 both cases or Subcommittees in both cases or are we talking
24 about different kinds of Committees. And again --

25 MS. KAPLAN: It should say -- 6 probably should

1 read, All roll call votes taken at the Board because 6 is
2 talking about Board where 2 is talking about if there isn't
3 a quorum, taking actions kind of as a Subcommittee.

4 ASSEMBLY MEMBER BROWNLEY: Subcommittee.

5 MR. HARVEY: Okay. That clarifies that. And then
6 if I can, Ms. Kaplan, also you'll notice under 3, it allows
7 on unanimous roll calls that you can act in a single vote
8 and I assume take that forward without objection and then 6
9 says voting on items before the Board shall be by roll call
10 vote only.

11 So on the one hand, we've said you can do it by --

12 MS. KAPLAN: This is in regards to an item on
13 call.

14 SENATOR HANCOCK: No. It says on unanimous roll
15 call.

16 MS. KAPLAN: Are you talking --

17 MR. HARVEY: I saw 3 as --

18 MS. KAPLAN: Oh, oh, sorry.

19 MR. HARVEY: -- in the past, we have
20 established --

21 MS. KAPLAN: You're talking about 6 not 7.

22 MR. HARVEY: -- and then without objection, you
23 simply allow that single vote to carry forward. You don't
24 call a roll unless someone says I object, I would prefer a
25 roll call. I didn't want to --

1 SENATOR HANCOCK: Yes.

2 MR. HARVEY: -- preclude us from having that right
3 by what it says in 6 where it says voting on all items
4 before the Board shall be by roll call vote only.

5 MS. KAPLAN: Should be called by a roll call vote
6 period.

7 MR. HARVEY: You see what I'm saying? I mean
8 again I don't know if --

9 SENATOR HANCOCK: Yes. So eliminate the first
10 sentence in No. 6.

11 MS. KAPLAN: Or do we just --

12 ASSEMBLY MEMBER BROWNLEY: Or just --

13 MS. KAPLAN: -- eliminate only. So voting on
14 items before the Board shall --

15 SENATOR HANCOCK: No, because --

16 MR. HARVEY: -- be by roll call vote.

17 MR. HARVEY: I think it should be eliminated. I
18 agree with the Chair. When you have a roll call vote,
19 here's how it is conducted, but you have the ability to have
20 a unanimous roll call vote that gets to be substituted
21 without objection.

22 SENATOR HANCOCK: And if it is --

23 MR. HARVEY: And if somebody objects, then --

24 SENATOR HANCOCK: -- the Board --

25 MR. HARVEY: -- you do it the roll call.

1 MS. KAPLAN: Okay. Strike the first sentence.

2 MR. HARVEY: So, Member Brownley, are we okay with
3 that?

4 ASSEMBLY MEMBER BROWNLEY: Yes. That's -- I'm
5 absolutely fine with that.

6 MR. HARVEY: And on 6 too -- the last sentence in
7 6, I'm not --

8 MS. KAPLAN: Something dropped off there. I
9 don't --

10 MR. HARVEY: Did something get dropped off or
11 do -- I was going to say do we need it or shat got dropped
12 off?

13 SENATOR HANCOCK: Yeah. Why don't we just take it
14 out. It should be -- yeah. All roll call votes shall be
15 recorded. When would they not be?

16 MR. HARVEY: Exactly. When would they not be.

17 MS. KAPLAN: I know. Rebecca, is there --

18 MR. HARVEY: I wouldn't -- I couldn't understand
19 why you would have an exemption for --

20 SENATOR HANCOCK: Yeah.

21 MR. HARVEY: So with those comments, Steve is
22 satisfied.

23 ASSEMBLY MEMBER BROWNLEY: The phantom Steve.

24 MR. HARVEY: I will move approval then of this
25 item pending public comment of course.

1 ASSEMBLY MEMBER BROWNLEY: I -- yes. There seems
2 to be public comment on this issue.

3 SENATOR HANCOCK: Is there public comment?

4 MR. SMOOT: Yes. Thank you again. Scott --

5 MS. KAPLAN: What's your name for the purpose of
6 the record.

7 MR. SMOOT: Oh, I'm sorry. Lyle Smoot, Los
8 Angeles Unified School District. Did you suggest adding the
9 word vote after roll call in No. 3? Is that what that was
10 about? Because unanimous roll call, that's a term that
11 doesn't make sense without the word vote behind it I don't
12 think.

13 ASSEMBLY MEMBER BROWNLEY: I think that's a good
14 point.

15 MS. KAPLAN: It's easy.

16 MR. SMOOT: And the other thing is -- and I
17 apologize if there is such a person who's been appointed,
18 but I don't know that you have a Board assistant.

19 MS. KAPLAN: It's generally the assistant to the
20 Executive Officer of the SAB.

21 MR. SMOOT: Well, I realize that that's probably
22 the common practice. I think it should be called out here.
23 That's all.

24 ASSEMBLY MEMBER BROWNLEY: I'm sorry. Where is
25 that?

1 MR. SMOOT: Just to make it clear who you're
2 talking about there.

3 MS. KAPLAN: On 6 -- on 6.

4 MR. HARVEY: On 6.

5 MS. KAPLAN: But I would like to leave that open
6 because what if the assistant to the Executive Officer is
7 not available, that may be Lisa Jones that can take that
8 over or somebody else within OPSC. So whoever ends up
9 being --

10 MR. SMOOT: I'm not opposed to that. I'm just
11 saying unless you have a designated Board assistant,
12 nobody's going to know who that is. So you can say that you
13 have to --

14 MR. HARVEY: Can we put a period after recorded?

15 ASSEMBLY MEMBER BROWNLEY: Yes.

16 MS. KAPLAN: Yep.

17 MR. HARVEY: And that way it is open to
18 whomever --

19 ASSEMBLY MEMBER BROWNLEY: Yes.

20 MR. HARVEY: -- we want to --

21 ASSEMBLY MEMBER BROWNLEY: Correct.

22 MR. SMOOT: That's fine. I just -- thank you.

23 SENATOR HANCOCK: Good. Thank you very much. And
24 in regard to that, I think that after -- actually we should
25 have quorum be 1 and 2 and there really ought to be a new

1 section called voting procedures which would be 3, 4, 5, 6,
2 and 7 because it doesn't really have anything to do with
3 quorum. It has to do with how you're going to --

4 MR. HARVEY: Right.

5 SENATOR HANCOCK: -- record the votes.

6 MS. KAPLAN: Okay. So under Meeting B, you would
7 have kind of D.I. for one and two and then D.II --

8 SENATOR HANCOCK: You'd have D, quorum, I and II.
9 You would have C, voting procedures, and you would then
10 renumber -- so you'd have 1, 2, 3, 4, 5.

11 MS. KAPLAN: Or it'd be E because we've already --

12 MR. HARVEY: It would be E I think.

13 MS. KAPLAN: It would be E.

14 MR. HARVEY: It would be E, yeah.

15 MS. KAPLAN: E for voting procedures. And then I
16 found on Item 6 where it says the provision of this rule
17 shall not apply to, it was dropped off as it was moved over
18 from page 7 -- or I'm sorry, under 8. Sorry -- 8, quorum
19 and voting in the last document. So in the original
20 document, it was moved over and it's supposed to be, The
21 provisions of this rule shall not apply to (a) procedural
22 motions which do not have the effect of disposing of an
23 agenda item and (b) withdrawal of an item from a Board
24 agenda at the request of a member.

25 This was in your original document that was put

1 out for you under Section 8 where it says quorum and voting.
2 It's G.

3 MR. HARVEY: I see it.

4 SENATOR HANCOCK: Um-hmm.

5 MS. KAPLAN: That was moved --

6 MR. HARVEY: Assembly Member, do you see it? I
7 can show you where --

8 ASSEMBLY MEMBER BROWNLEY: I don't.

9 MR. HARVEY: Okay. It's on what Ms. Kaplan sent
10 us --

11 ASSEMBLY MEMBER BROWNLEY: Yes.

12 MR. HARVEY: -- and it's on page 7 of 13 on her
13 document. It's right at the bottom of the page.

14 ASSEMBLY MEMBER BROWNLEY: Oh, yeah. I see it.

15 SENATOR HANCOCK: Okay.

16 ASSEMBLY MEMBER BROWNLEY: Yeah.

17 SENATOR HANCOCK: So should we add that in?

18 MR. HARVEY: Yes. I now see why there was a
19 colon. Are you okay with that?

20 ASSEMBLY MEMBER BROWNLEY: Yeah. Um-hmm.

21 SENATOR HANCOCK: Okay. Yes.

22 MR. GONZALEZ: Thank you. Richard Gonzalez,
23 Richard Gonzalez & Associates. One of the things that's
24 become a little more blurred as I'm seeing some of the
25 past -- recent past Board meetings is the issue about

1 quorums and voting and what happens when the quorum -- if
2 Board members leave and come, go -- as it goes. While
3 reading No. (3)D, it seems like that you're taking away the
4 opportunity to take a motion. The Board cannot make a
5 motion unless the quorum has physically been established.
6 So that -- could that mean that if you only had four members
7 to begin with you could take amount it, talk about a motion,
8 couldn't leave the ballot open and then add on people?

9 ASSEMBLY MEMBER BROWNLEY: Yeah, you can't make a
10 motion until a quorum is established, but if people walk in
11 and out once a quorum is established, you can still vote
12 when people are walking in and out. You might not conclude
13 a vote because you don't have enough members present. But
14 before you can motion, a quorum would have to be
15 established.

16 MR. GONZALEZ: Established.

17 MS. KAPLAN: Um-hmm. And that's standard Senate
18 rules.

19 MR. GONZALEZ: Okay. And then I must have missed
20 it somewhere here, about leaving the roll call open as
21 members come and go. Is that in here or should it be?

22 SENATOR HANCOCK: It's under voting procedures.

23 MR. GONZALEZ: Further down?

24 SENATOR HANCOCK: Yeah, but you can add votes and
25 that you can also change votes if --

1 MR. HARVEY: It doesn't officially change the
2 outcome of --

3 SENATOR HANCOCK: -- if it doesn't officially
4 change the outcome. Okay. So Section (3) as amended.

5 MR. HARVEY: I will so move.

6 SENATOR HANCOCK: Okay.

7 MR. HARVEY: And, Ms. Kaplan, I'm sure you've
8 captured all of the suggested changes.

9 MS. KAPLAN: I have and I also have my trustee
10 analyst Shanna making sure that's she backup and our
11 transcriber will confirm.

12 SENATOR HANCOCK: Great.

13 ASSEMBLY MEMBER BROWNLEY: And I just wanted to
14 make sure that the word vote was going to be included on
15 No. 3, upon establishment of a unanimous roll call vote.
16 Okay.

17 MR. HARVEY: Yes.

18 MS. KAPLAN: Yes.

19 ASSEMBLY MEMBER BROWNLEY: It's part of that.
20 Okay.

21 SENATOR HANCOCK: Yeah. And then just a final
22 thing, we don't need to say (3) Meetings, (3) Meetings, (3)
23 Meetings five times; right?

24 MR. HARVEY: Correct.

25 SENATOR HANCOCK: Section (3) is Meetings.

1 MS. KAPLAN: Yes.

2 MR. HARVEY: Yes.

3 SENATOR HANCOCK: Under those --

4 MS. KAPLAN: Yes. That was just broken out so
5 that each section could be taken upon.

6 SENATOR HANCOCK: Okay. Great. On the motion as
7 amended, is there a unanimous roll call?

8 MR. HARVEY: Yes.

9 MS. KAPLAN: Three, zero.

10 SENATOR HANCOCK: Thank you. Okay. Adopted.
11 Section (4) Agenda. We have adopted all of the items --

12 MS. KAPLAN: The agenda items.

13 SENATOR HANCOCK: -- on page 4 related to agenda.

14 MR. HARVEY: Madam Chair, could I ask us to
15 consider reopening one of them only and it may have been an
16 oversight the last time we went through this. These are
17 clearly rules to guide what we do and how we do it and I
18 think it's proper. I'm wondering under A.3 if it is proper
19 in a --

20 MS. KAPLAN: A? Sorry. If we're under Agenda,
21 it's (4)A, (4)B, or (4)C.

22 ASSEMBLY MEMBER BROWNLEY: Right. Not Order of
23 Business.

24 MR. HARVEY: I'm looking on -- I'm sorry. It's
25 Section 5, Order of Business, page 4 of 10 --

1 MS. KAPLAN: Okay. So are we --

2 MR. HARVEY: -- A.3.

3 MS. KAPLAN: Are we complete approval, done with
4 Agenda. I just want to make sure.

5 SENATOR HANCOCK: It's all been adopted before.

6 MR. HARVEY: It's all been adopted.

7 SENATOR HANCOCK: And nobody --

8 MS. KAPLAN: Okay. Didn't know if, Mr. Harvey,
9 you had anything you wanted to --

10 SENATOR HANCOCK: No.

11 MS. KAPLAN: Okay.

12 SENATOR HANCOCK: Okay. So we're on Section (5)
13 Order of Business.

14 MR. HARVEY: And I'm asking for us to consider
15 reopening -- the specific detail in here about what a report
16 should include, I mean the inference is if you don't --
17 these are the only things you can do. What if changes in
18 circumstance say that they should be different or in a
19 different -- I mean I don't know if a guidance document to
20 us on how to conduct business should specify what the
21 Executive Officer Report shall include.

22 MS. KAPLAN: Should it be include but not limited
23 to so that there's a standard understanding?

24 SENATOR HANCOCK: I mean I would agree with
25 Mr. Harvey that we could just keep it Executive Officer's

1 Report and if we're getting Executive Officer Reports that
2 don't tell us what we need to know --

3 ASSEMBLY MEMBER BROWNLEY: We'll ask them --

4 MR. HARVEY: We'll ask them.

5 ASSEMBLY MEMBER BROWNLEY: -- at that point in
6 time.

7 MR. HARVEY: Exactly.

8 SENATOR HANCOCK: Yeah.

9 ASSEMBLY MEMBER BROWNLEY: Yeah. It's fine with
10 me.

11 MR. HARVEY: So I would --

12 SENATOR HANCOCK: Okay.

13 MR. HARVEY: -- if I may reopen that section and
14 move that the terms shall all the way through future agenda
15 items be struck.

16 ASSEMBLY MEMBER BROWNLEY: I had a question on
17 this particular item too and just wanted to get
18 clarification that our traditional consent specials which
19 are being eliminated under this that they would go -- I mean
20 they would just be part of the action items. Is that right?
21 So we're going to have consent --

22 MR. HARVEY: Right.

23 ASSEMBLY MEMBER BROWNLEY: -- and action items.

24 SENATOR HANCOCK: Yeah.

25 ASSEMBLY MEMBER BROWNLEY: And those consent

1 specials were sort of in between those two --

2 MR. HARVEY: Right.

3 SENATOR HANCOCK: Yeah.

4 ASSEMBLY MEMBER BROWNLEY: -- you know, and --

5 SENATOR HANCOCK: Totally confusing.

6 ASSEMBLY MEMBER BROWNLEY: So they will now go to
7 action items.

8 MS. KAPLAN: Action or they would just go to
9 consent.

10 MR. HARVEY: Consent. Right.

11 ASSEMBLY MEMBER BROWNLEY: Right. Okay.

12 MS. KAPLAN: And that if a member wanted to pull
13 them off of consent, it would then go directly to action
14 item.

15 ASSEMBLY MEMBER BROWNLEY: Got it. Okay. Okay.
16 Okay. Very good. So I would second Mr. Harvey's --

17 MR. HARVEY: Motion?

18 ASSEMBLY MEMBER BROWNLEY: Thank you -- motion.

19 MS. KAPLAN: Unanimous roll call?

20 MR. HARVEY: Yes.

21 SENATOR HANCOCK: Yes.

22 ASSEMBLY MEMBER BROWNLEY: Yes.

23 SENATOR HANCOCK: Okay. So Section (6) Staff
24 Analyses.

25 ASSEMBLY MEMBER BROWNLEY: Oh.

1 MR. HARVEY: Oh, we have one more on Order of
2 Business.

3 MS. KAPLAN: Oh, (5)B.

4 SENATOR HANCOCK: Oh.

5 ASSEMBLY MEMBER BROWNLEY: Yeah. I --

6 MR. HARVEY: On page 5.

7 SENATOR HANCOCK: Oh, we do? Where?

8 MR. HARVEY: Right here.

9 ASSEMBLY MEMBER BROWNLEY: And I had one other
10 question actually on page 5 too. That on No. (5)C under
11 delay of an agenda item, where it says, Once the SAB agenda
12 is publicly noticed, any SAB member during the meeting may
13 request items to be put over to the next SAB meeting unless
14 another member objects. That I completely understand.

15 The question that I had was relative to kind of
16 past practice was does the Chair still have the opportunity
17 to pull something before the meeting begins. It's been
18 agendized, but when an issue perhaps isn't fully vetted
19 or -- not vetted, but kind of cooked to present to the
20 Board, the Chair has at times pulled an item. It's been
21 agendized. Are we still giving that prerogative or is it
22 only by consent of the Board itself to do that?

23 MS. KAPLAN: This still authorizes the Chair to
24 pull if an item is not available. This just talks about at
25 the time if one member during the meeting asks for an item

1 to be held over and somebody else objects.

2 ASSEMBLY MEMBER BROWNLEY: Okay. And where is
3 that clarification that the Chair has that ability?

4 MS. KAPLAN: It isn't, but if it needs to be added
5 on, that they -- I mean -- because I'm just saying as it's
6 written it just says any SAB member during the meeting. So
7 this just talks about during the meeting. This doesn't talk
8 about prior to the meeting.

9 SENATOR HANCOCK: You know something, I'm actually
10 kind of comfortable the way it is. Imagine for a moment a
11 manipulative and dictatorial Chair deciding to simply remove
12 from the agenda as uncooked the same item over and over and
13 over again. Whereas here the Chair is clearly an SAB
14 member.

15 ASSEMBLY MEMBER BROWNLEY: Right.

16 SENATOR HANCOCK: And they could announce at the
17 beginning of the meeting or whenever that they're requesting
18 items to be removed and if the majority thinks the Chair's
19 being an obstructionist in this case --

20 ASSEMBLY MEMBER BROWNLEY: Right.

21 SENATOR HANCOCK: -- they could overrule the Chair
22 and we could hear the item.

23 ASSEMBLY MEMBER BROWNLEY: Okay.

24 MR. HARVEY: I agree.

25 SENATOR HANCOCK: Okay. So everything that's

1 adopted remains adopted, and is there a motion on D, limit
2 on setting the number -- limit on setting agenda items, the
3 three times rule where you can't set it for more than three
4 times unless new information is available for consideration
5 unless all these other things apply. Yes? Okay. Unanimous
6 roll call?

7 MS. KAPLAN: No, no.

8 MR. HARVEY: Do you have some comment, Madam
9 Chair?

10 SENATOR HANCOCK: Oh.

11 MS. BAUMANN: Senator, if I could email you
12 quickly, I would have.

13 SENATOR HANCOCK: Yes.

14 MS. BAUMANN: On the item for the -- being able to
15 pull an item in advance, I think part of that was done as a
16 courtesy to school districts where something came up, they
17 weren't able to deal with it, so that they didn't have to
18 fly up or drive in to the meeting if the Chair officially
19 pulled it in advance. So you might just want to consider
20 that as your --

21 ASSEMBLY MEMBER BROWNLEY: Well -- and to follow
22 up on your line of thinking which I actually agree with, but
23 I think once the agenda is in print and a Chair pulls an
24 item, the members are well aware that that item has been
25 pulled. So the members have, you know, certainly the

1 ability to track that to insist, you know, that it comes
2 back.

3 SENATOR HANCOCK: Um-hmm.

4 MS. KAPLAN: Well, is there -- maybe we should
5 think about a process of -- so that there's a consistent
6 standard because I'm not sure that there's a consistent laid
7 out standard of when an item is pulled, how that should be
8 noticed to the rest of the Board to allow if a Board member
9 does want to object at that time, to object. So if there's
10 something in that regard, which is kind of a middle ground
11 between the two. But I don't know if there is an
12 established process for pulling an item.

13 ASSEMBLY MEMBER BROWNLEY: Well, I -- yeah. I
14 mean I just -- I think I sort of feel like our past practice
15 has worked for us which is, you know, the Chair can pull an
16 item because he or she has made a decision that it's not
17 necessarily baked or they're working with a particular
18 school district.

19 We know that it has been agendized. There's an
20 expectation for it to come back at the next meeting and if
21 it doesn't, then we have the ability to advocate that it
22 does as a Board member. Any Board member would have that
23 authority.

24 So I'm not sure if it needs further clarification,
25 but I do think potentially it needs to be made clear that it

1 can happen. I don't know. Yeah. I think there's a member
2 of the public that wants to comment.

3 SENATOR HANCOCK: Yeah. There -- yeah. Comments
4 from the public would be helpful here. I am sensitive to
5 the fact that we don't want school districts to have to come
6 up only to learn that their item has been pulled. I don't
7 know how the rules of the Committee can ask a Chair or
8 demand that a Chair notify the district they're pulling an
9 item, but I would think that would be courtesy.

10 MR. GONZALEZ: Thank you. Richard Gonzales again.
11 Addressing that point. She's right, that school districts
12 like to know whether or not they need to be present or not
13 about an item and if they find out at the Board that their
14 item is being withdrawn, they've now spent considerable
15 amount of cash bringing up one or several staff members to
16 try and address the item and only to find out they have fly
17 back home or drive back home.

18 I wanted to be sure that we are talking about that
19 once the agenda has been publicized as in the -- noticed it
20 says, publicly noticed, that is the ten-day notification.

21 MS. KAPLAN: Um-hmm.

22 MR. GONZALEZ: So anything that's on that ten-day
23 notification is what we're really talking about, not when
24 the agenda actually is faced up on with all the write-ups.

25 ASSEMBLY MEMBER BROWNLEY: Right. That's my

1 understanding.

2 MS. KAPLAN: Um-hmm.

3 SENATOR HANCOCK: Okay. Do we need to add any
4 kind of a sentence saying -- well, what about notice to the
5 public if an item is pulled?

6 ASSEMBLY MEMBER BROWNLEY: Well, I think when an
7 item is pulled then you modify the agenda by, you know,
8 indicating that it's been pulled when it is pulled.

9 SENATOR HANCOCK: When it goes up.

10 ASSEMBLY MEMBER BROWNLEY: Well, we make
11 amendments to the agenda, you know, up until the time of the
12 meeting and as soon as the Chair would have made a decision
13 to pull an item, it would be scratched from the agenda. I
14 mean it would be reprinted to indicate that it had been
15 pulled.

16 MS. KAPLAN: Yeah. You get changes in your
17 binder. So should it maybe read upon item being pulled or
18 put over, the Chair shall notify the district and the SAB
19 members and then that's where it goes if there's an
20 objection to an item being put over. So it would allow it
21 at that time.

22 So that there is -- if the Chair pulls something,
23 there is at least immediate notice to the rest of the Board
24 and if the Board or somebody objects, then that's an item
25 that will actually be taken up at the Board. Because then

1 it would have to be a Board discussion on that. So that
2 then finds the middle ground between Senator Hancock's
3 concern and still allowing Board Chair to, if an item's not
4 cooked, put something over because if nobody makes an
5 objection once notice is put out, then the district knows
6 and it's fine.

7 ASSEMBLY MEMBER BROWNLEY: It's fine with me.

8 MS. KAPLAN: So the sentence -- the Chair shall
9 notify the Board -- do we say immediately or -- immediately
10 or shall notify the Board upon the removal or pulling of an
11 item from the agenda.

12 ASSEMBLY MEMBER BROWNLEY: I think it should be
13 the Board and the public.

14 MS. KAPLAN: And public.

15 ASSEMBLY MEMBER BROWNLEY: Another public comment,
16 Madam Chair.

17 SENATOR HANCOCK: Yeah. Mr. Smoot.

18 MR. SMOOT: Thank you. Lyle Smoot for --

19 ASSEMBLY MEMBER BROWNLEY: Well, I mean I think it
20 should be noted on the public agenda --

21 MS. KAPLAN: Um-hmm.

22 ASSEMBLY MEMBER BROWNLEY: -- when it's pulled
23 so --

24 MR. SMOOT: I think I ought to just get a chair
25 here.

1 ASSEMBLY MEMBER BROWNLEY: Yeah.

2 SENATOR HANCOCK: And you should feel free and
3 same with you, Mr. Gonzalez.

4 MR. SMOOT: I have two things I'd like -- first,
5 I'd like to ask a question. On (5)A.3, the Executive
6 Officer Report, did you make any changes to that?

7 MS. KAPLAN: Yes. We removed the stuff in parens.

8 MR. SMOOT: Well, I would -- is it going to be put
9 someplace else that every month, these items will be brought
10 to the Board? Because these are very important things I
11 think to most districts and we would like to make sure that
12 these items are in fact on every agenda so that we can see
13 them.

14 The thing I was going to say about the Executive
15 Officer Report, that -- you know, I don't care if it's in
16 that report or some other report. I think we just want to
17 make sure that these things are in fact in every agenda so
18 that there's an opportunity to --

19 MR. HARVEY: Aren't they on every agenda now?

20 MR. SMOOT: Pardon?

21 MR. HARVEY: They're on every agenda now, are they
22 not?

23 MR. SMOOT: I believe they are. I wanted to make
24 sure that this action wouldn't change that more than
25 anything.

1 MR. HARVEY: It wouldn't.

2 MR. SMOOT: Okay. The other thing is -- and I'll
3 apologize up front because I know this is not going to be a
4 popular statement. I don't think that most districts
5 believe that this whole conversation about limits on the
6 number of times you can come to Board is even necessary and
7 I mean you start right off by saying there's a three-time
8 limit, but here's six ways you can get around that
9 three-time limit and have more times to present to the
10 Board.

11 Personally I think that the Board has the
12 authority at any time to say hey, we've seen this enough,
13 don't bring this back anymore unless, you know, there's some
14 specific action. So I just worry that having this in the --
15 in your rules will create a -- I'm not sure what to call
16 it -- a momentum if you will to have an urgency that I don't
17 really see a need for. I mean a district comes before you
18 three times, I can tell you from personal experience we
19 don't want to come before you the first time much less three
20 times.

21 So I'm just concerned that, you know, here you
22 have an item that says you have to be three times. Here's
23 the ways to get around that three-time rule when you don't
24 need any of this. And I apologize for coming in this kind
25 of late and making such a statement, but I think that's

1 probably more the attitude of the districts than to have a
2 specific set of rules on this issue.

3 ASSEMBLY MEMBER BROWNLEY: Well, I think rules are
4 guidelines and we can always change the rules. I think the
5 Committee -- can't we?

6 MS. KAPLAN: Um-hmm.

7 ASSEMBLY MEMBER BROWNLEY: I mean that's true in
8 the Legislature. You can always change the rules. I mean
9 but these are guidelines of which you operate your meetings
10 by. No?

11 MR. SMOOT: Could you add one more than to say
12 that the Board can override this at any time by a quorum --
13 or a majority vote.

14 MR. HARVEY: I think that's in there.

15 MS. KAPLAN: Yeah.

16 MR. HARVEY: It says it can be amended by majority
17 of the Board --

18 MS. KAPLAN: It changed in --

19 MR. HARVEY: -- at any time. I mean we officially
20 adopt them at the beginning of every two-year legislative
21 session, but there is language which allows a majority of
22 the Board to amend the rules at any point in time.

23 MS. KAPLAN: And these are, you know, guidelines
24 of the process of handling the Board and this is also
25 something that's been in from the very beginning, before

1 even I got appointed, as to something for discussion. So I
2 think this should probably at least be a full Board
3 discussion if there is possibility of not having this in
4 there.

5 MR. SMOOT: I'm just suggesting that you don't
6 need a rule change to say one item has been here five times
7 or three times and we'd like to see it a fourth even though
8 it doesn't mean one of these just because the Board wants
9 to. So not a rule change, just an exemption. Thanks.

10 SENATOR HANCOCK: Well, I would suggest that we
11 pass this because I think -- and if there's comments that
12 the full Board, we can consider it because it seems to me
13 that it actually was suggested because there was an incident
14 where something came up more than three times and people
15 said why is this coming back all the time and we tried to
16 set up some rules that after three times, unless there's new
17 information, that's not going to happen.

18 MS. KAPLAN: And this falls back into right up
19 above it, delay of an agenda item. This allows the Chair
20 the authority, you know, maybe you put it on there, but it
21 didn't get baked, so they can take it off because there
22 isn't enough new information.

23 SENATOR HANCOCK: Without having it count as a
24 strike, so to speak.

25 MR. HARVEY: Right. Right.

1 ASSEMBLY MEMBER BROWNLEY: Right. Right.

2 SENATOR HANCOCK: Okay. With that --

3 MR. HARVEY: With that understanding, I move
4 approval of (5)D.

5 MS. KAPLAN: With -- okay.

6 SENATOR HANCOCK: Unanimous roll call,
7 Ms. Brownley?

8 ASSEMBLY MEMBER BROWNLEY: I guess I'm not exactly
9 tracking what's happening.

10 MS. KAPLAN: Well, we were actually talking about
11 (5)C. So I just want to make sure that the sentence on
12 (5)C, delay of an agenda item, the Chair shall notify the
13 Board and public of the removal of an item from the agenda,
14 shall be right after the first sentence so that then the
15 last sentence reads, If there's an objection to an item
16 being put over, a majority vote by the Board shall decide
17 the issue.

18 ASSEMBLY MEMBER BROWNLEY: Well, I think that
19 the -- your sentence about the Chair --

20 MS. KAPLAN: Um-hmm.

21 ASSEMBLY MEMBER BROWNLEY: -- should be the first
22 sentence and then you can -- it followed by what's there
23 already. So --

24 MS. KAPLAN: Okay.

25 ASSEMBLY MEMBER BROWNLEY: -- you've -- you know,

1 you --

2 MS. KAPLAN: The Chair shall notify --

3 ASSEMBLY MEMBER BROWNLEY: The Chair shall notify
4 and then once everybody's been notified, if that occurred,
5 then the SAB member still has the right to request other
6 items to be pulled at that time.

7 MS. KAPLAN: Okay.

8 MR. HARVEY: I was going to handle that in a
9 separate motion, Item B, as in boy. I was only moving at
10 this point in time (5)D, but we can make it a D and B if
11 there's no objection.

12 SENATOR HANCOCK: D and C.

13 MS. KAPLAN: D and C.

14 MR. HARVEY: D and C. I'm sorry. I'll get my
15 alphabet sooner or later.

16 ASSEMBLY MEMBER BROWNLEY: Yeah. So the -- on the
17 D item, I thought that there was some discussion that we
18 were going to bring this back to the full Board? Were we
19 not having --

20 MS. KAPLAN: Well, everything we approve goes to
21 the full Board.

22 MR. HARVEY: Everything we approve goes to the
23 full Board.

24 ASSEMBLY MEMBER BROWNLEY: I see. Okay. That's
25 fine.

1 SENATOR HANCOCK: So --

2 ASSEMBLY MEMBER BROWNLEY: Oh, my staff is
3 suggesting -- I think it's a good suggestion -- that under
4 the exceptions to the three-time rule that we add a G that
5 says if the Chair pulls an item, it's not a strike. So by
6 virtue of adding the sentence of the Chair's ability to pull
7 an item.

8 MR. HARVEY: It confirms that. I mean I thought
9 we'd inherently done it, but that's fine. We can add it.

10 MS. KAPLAN: Um-hmm.

11 SENATOR HANCOCK: Okay. So with that --

12 ASSEMBLY MEMBER BROWNLEY: Because she works
13 really hard.

14 MR. HARVEY: I know she does.

15 SENATOR HANCOCK: So with that addition, we are
16 readopting (5)C to have the Chair will inform.

17 MR. HARVEY: Right.

18 SENATOR HANCOCK: And we are adopting (5)D with
19 the addition of --

20 MR. HARVEY: G.

21 SENATOR HANCOCK: -- the G that if the item was
22 pulled a Chair.

23 MS. KAPLAN: Unanimous roll call?

24 MR. HARVEY: Yes.

25 SENATOR HANCOCK: Yes. Okay. Section (6), Staff

1 Analyses. We've approved (6)A and so we have to work at
2 (6)B, which is roughly --

3 MR. HARVEY: It's kind of similar to that other
4 thing we did.

5 SENATOR HANCOCK: Well, it's the format for
6 particularly appeals policy discussions and reports. And it
7 follows this very good thing that was done by Ms. Kaplan and
8 staff which is like the front page of our -- these operating
9 rules --

10 MR. HARVEY: Um-hmm.

11 SENATOR HANCOCK: -- where we say description,
12 authority, background information, recommendation.

13 MR. HARVEY: Oh, it's spiffy.

14 SENATOR HANCOCK: Yes. It does make it clearer.

15 MR. HARVEY: I will move (6)B as in boy.

16 ASSEMBLY MEMBER BROWNLEY: Second.

17 MS. KAPLAN: Unanimous, three-zero.

18 SENATOR HANCOCK: Okay. Unanimous, yes. Okay.

19 Section (7), Agenda Item Information.

20 MR. HARVEY: We've adopted it.

21 SENATOR HANCOCK: These have been adopted.

22 MR. HARVEY: Same with (8).

23 ASSEMBLY MEMBER BROWNLEY: Can I raise a point
24 though on this issue. It seems --

25 MR. HARVEY: Which one?

1 ASSEMBLY MEMBER BROWNLEY: It's on No. (7), Agenda
2 Item Information. The -- it's saying that all information
3 shall be submitted to the SAB's Executive Officer and
4 Assistant Executive Officer no less than 48 hours prior to
5 the SAB meeting at which the relevant item is scheduled to
6 be heard.

7 I think that that's a great goal to make sure that
8 all of that information is in 48 hours ahead of time and we
9 should encourage that as a goal, but it seems unreasonable
10 in practicality. We get, you know, lots of letters and
11 information on a particular item in the last day, in the
12 last few hours before a meeting, and sometimes that
13 information is very important for us to have to make a good
14 decision. So I'm just concerned that we could be
15 eliminating information that comes in that last 48 hours out
16 of our conversation and debate around an issue.

17 MS. KAPLAN: Can we -- is it possibly reframing
18 kind of as -- because the item before says that, you know,
19 OPSC shall get all agenda items at least 72 hours in
20 advance.

21 MR. HARVEY: And sometimes five working days in
22 advance.

23 MS. KAPLAN: Correct. You know, and I think it's
24 a goal. I don't think that there's anything we can do
25 per se to stop or not consider something because if I get a

1 letter, I'm going to pass it on to you. So should it be
2 as --

3 ASSEMBLY MEMBER BROWNLEY: So this means about
4 what is actually going to be printed as part of the agenda
5 in terms of letters? Is that where it's -- because that's
6 reasonable if you have to print an agenda, you know.

7 MS. KAPLAN: Um-hmm.

8 ASSEMBLY MEMBER BROWNLEY: As long as, you know,
9 letters aren't excluded from --

10 MS. KAPLAN: Um-hmm.

11 ASSEMBLY MEMBER BROWNLEY: -- our purview or for
12 us to consider during the discussion. I think there's --

13 MR. HARVEY: I think you can -- why don't you say
14 something like matters submitted after this time frame may
15 be considered by the Board or something like that.

16 ASSEMBLY MEMBER BROWNLEY: Yeah. Yeah. I think
17 there are members of the public that might want to guide us
18 along here.

19 MR. GONZALEZ: Mr. Harvey, you had talked about
20 the shalls and shoulds and mays in the items under (1) and
21 (2), if you recall. In this one here where you have an Item
22 No. (7) to address Assemblywoman's concern, the word shall
23 be submitted to the SAB Executive Officer could be should be
24 submitted and would that address your concerns?

25 ASSEMBLY MEMBER BROWNLEY: Yeah, that would.

1 MR. HARVEY: Let me brutally honest here. There
2 are some times -- no one in this room, I'm sure -- where
3 letters at submitted very late as a strategy. And I think
4 we should everything possible to say that to be relevant to
5 any discussion and decision, it should be more timely than
6 the night before or the day of.

7 ASSEMBLY MEMBER BROWNLEY: I agree.

8 MR. HARVEY: And that is why I kind of like the
9 shall and then have the wobbler about you can consider, you
10 may consider, you should consider items that are submitted
11 after that time frame because we've put the burden on OPSC
12 to get its stuff together at least 72 hours before and in
13 some cases, five days before. There should be a
14 quid pro quo --

15 ASSEMBLY MEMBER BROWNLEY: Why don't we say
16 something like if letters come in -- or whatever the
17 documentation is comes in after the 48 hour -- keeping the
18 shall -- comes in after 48 hours, that the Executive Officer
19 or the Assistant Executive Officer shall make those letters
20 available to the Board --

21 MR. HARVEY: That's good.

22 ASSEMBLY MEMBER BROWNLEY: -- prior to the
23 meeting. So -- because I think there's two issues here.
24 One is we should be able to consider those late letters and,
25 two, what you -- your brutally honest comment says every

1 member should have those letters. It shouldn't be exclusive
2 to some members.

3 So I think that that would be a good change.

4 MS. KAPLAN: So how do we want to have it framed?

5 ASSEMBLY MEMBER BROWNLEY: Well, let's hear from
6 the public.

7 MR. SMOOT: Thank you. Lyle Smoot, LA Unified
8 again. I think you've heard from us before on the
9 72/48 hour issue. If OPSC publishes -- if they actually do
10 start publishing 72 hours in advance, 48-hour notification
11 means that 24 hours later we have to have our -- if we're
12 going to submit something, we'd have to have it in.

13 So I appreciate your conversation about should be
14 versus shall be and I hope that you would at least do that,
15 but I just want to reiterate that even though 72 hours is a
16 much better thing than -- you know, I mean at least you
17 specified -- really would like to see more time because
18 24 hours for a district like Los Angeles, for us to get the
19 item, review it, get it through, you know, our staffing and
20 then write a letter or even write an email is almost
21 impossible.

22 So it really is a big concern. I mean it always
23 has been concern of the district that it -- you know,
24 agendas aren't published; information isn't known until very
25 late in the game. 72 hours, by the way, is very late in the

1 game for some documents. You know, a voluminous regulation
2 change document that hits the streets even 72 hours in
3 advance is just really difficult. I'm not saying
4 impossible. Obviously we want to do everything we can to
5 assist you in your endeavors, but I just want to -- wish
6 you'd consider changing the whole thing to five days not
7 just appeals. Thank you.

8 SENATOR HANCOCK: Consider changing the whole
9 thing to five days?

10 MR. SMOOT: Yes, where it -- in No. (6)A where it
11 says shall post to the Internet no less than 72 hours, for
12 appeals it's five days. I'd like to see that whole thing
13 changed to five days. And, you know, I realize that that
14 creates --

15 MR. HARVEY: That's -- you talk about --

16 MR. SMOOT: -- other issues.

17 MR. HARVEY: -- burdens on staff. We meet
18 monthly. With all the postings and Bagley-Keene
19 requirements, you would not be getting thorough and in depth
20 analyses by OPSC staff in five days. I thought we
21 compromised on the kind of five-day notice on appeals was
22 appropriate, but 72 on all the other policy documents --
23 districts are engaged throughout this discussion. It's not
24 like these things surprise folk at the very end. There is
25 an interactive process.

1 ASSEMBLY MEMBER BROWNLEY: The mics are working
2 now.

3 MS. KAPLAN: So we push the mics on. We're live.

4 MR. SMOOT: Ah, a microphone. Oh, boy, now
5 there's real danger.

6 MR. HARVEY: So I would argue for -- I would
7 argue.

8 MR. SMOOT: Now, Mr. Harvey, I don't deny that it
9 does place additional potential burdens on OPSC. However, I
10 worked in that office for a lot of years and I can tell you
11 that what it would do in the end result is start backing
12 things up to be done in a more timely fashion so that you
13 don't have these last second things because if you don't
14 have it out in five days, you can't get all the -- just put
15 it over to the next Board. I think putting it over one more
16 month is a much better answer than trying to have our
17 analysis that hasn't even fully vetted. And I can tell you
18 from personal experience that on a number of occasions,
19 we -- there has been very little interaction with the
20 district on issues. I'm not saying it was on purpose or
21 anything. I'm just saying that's kind of the way it worked
22 out and there'd be -- it would be really great to have a
23 full five days to really analyze. And if you do that, then
24 the 48-hour advanced notice becomes a lot more tenable, if
25 you will. Thank you.

1 SENATOR HANCOCK: Okay. So the suggestion is to
2 leave Section (7) as it is.

3 MS. KAPLAN: Section (6).

4 MR. HARVEY: (6).

5 MS. KAPLAN: Staff analyses -- because it's
6 already been approved.

7 SENATOR HANCOCK: No. I thought -- but I thought
8 it was to say five days.

9 MS. KAPLAN: No. (6)A has already been approved
10 by the Subcommittee and you just approved Section (6)B on
11 policy issues.

12 ASSEMBLY MEMBER BROWNLEY: I know, but I think --

13 MR. HARVEY: Mr. Smoot was arguing that we
14 reconsider (6)A.

15 MS. KAPLAN: Yes.

16 ASSEMBLY MEMBER BROWNLEY: Yes. Yes.

17 SENATOR HANCOCK: And therefore retain Section (7)
18 as previously adopted. In other words, we have two
19 previously adopted sections here.

20 ASSEMBLY MEMBER BROWNLEY: Correct.

21 MR. HARVEY: Right.

22 SENATOR HANCOCK: A and then (7) and the --

23 MS. KAPLAN: And if there -- I mean my suggestion
24 would be that this maybe should go to the full Board for
25 discussion on (6)A of the 72 versus five days.

1 SENATOR HANCOCK: Well, I have just -- having
2 coming from local government, where we have information that
3 came to us five days in advance, three working days in
4 advance -- I don't know how your school district worked,
5 Ms. Brownley.

6 ASSEMBLY MEMBER BROWNLEY: I can't remember.

7 MS. KAPLAN: I can tell you from my board, I get
8 all agenda items published and I get them Friday night for
9 our Wednesday board meeting.

10 ASSEMBLY MEMBER BROWNLEY: Yeah. That's right.
11 We always had the weekend.

12 MS. KAPLAN: Um-hmm.

13 ASSEMBLY MEMBER BROWNLEY: Yeah.

14 MS. KAPLAN: So I had I guess in effect -- because
15 I didn't really get it Friday at about 3:00 or 4:00, so in
16 effect I had three working days to question the district,
17 but I have at least Saturday and Sunday to read it.

18 MR. HARVEY: And this says five working days, so
19 under that model, you'd be pushing what you get from your
20 school district up.

21 SENATOR HANCOCK: Yes, you would. A lot.

22 MR. HARVEY: And that -- I think that's a lot.

23 SENATOR HANCOCK: I agree.

24 MR. HARVEY: In the City of San Diego, it was
25 72 hours when I was on that council. But we should perhaps

1 hear from --

2 SENATOR HANCOCK: Would it work if we said three
3 working days?

4 MR. HARVEY: Where?

5 SENATOR HANCOCK: Where it says 72 hours. Because
6 if it's 72 --

7 MR. HARVEY: Oh, I see what you're saying.

8 SENATOR HANCOCK: You see what I mean? Once the
9 clocks start running. Yeah? We have a comment from the
10 public?

11 MS. HERRERA: I'm sorry. I'm having a really
12 difficult time tracking the potential amendments here
13 considering --

14 MS. KAPLAN: I'm sorry. Can you announce who you
15 are.

16 MS. HERRERA: I'm sorry. My name is Patti
17 Herrera. I'm with the Coalition for Adequate School
18 Housing. Just thinking practically how a 48-hour
19 publication of letters or notice of letters, how it all
20 works, particularly how it works with the removal of items
21 from the SAB agenda and the limitation on being set three
22 times and that's it, I have some concerns about the use of
23 hours as opposed to working days because without any changes
24 to what's here, if the staff has 72 hours to public or to
25 notice something or to provide their analysis, that

1 technically is provided on a weekend day which would require
2 members of the public to work on an item over the weekend
3 and provide it to the Board -- to the State Allocation Board
4 the Monday before the Wednesday SAB which makes it just
5 logistically difficult for us as the public to respond.

6 So I will just ask that you consider instead of
7 hours working days so that the public does have the full
8 opportunity to review the analysis and provide a timely
9 response. We have no objections to providing items to the
10 Board for full consideration. We would just ask that we be
11 given the opportunity to fully consider an analysis.

12 MR. HARVEY: All right. Let me try something here
13 and I would suggest that we reopen (6)A which we've already
14 approved and we would say three days rather than 72 hours.
15 We would leave the five -- there we go. Do we want to say
16 five days or five working days on the appeal issue?

17 MS. HERRERA: Three days as opposed to three
18 working days makes no practical difference because three
19 days before the State Allocation Board is a Monday.

20 MR. HARVEY: Oh, you caught that, did you.

21 MS. HERRERA: Yes.

22 MR. HARVEY: Then we will say three working days.

23 ASSEMBLY MEMBER BROWNLEY: And then keep the five
24 working days for the appeal.

25 MR. HARVEY: And keep the five working days for

1 appeals and I am going to suggest that on (7) we keep the
2 shall, but we add the language that Assembly Member Brownley
3 suggested which is the Executive Officer or Assistant
4 Executive Officer shall distribute any other correspondence
5 that comes after that 48 hours. So you get everything, but
6 we're setting the tone that ideally we should get things at
7 least 48 hours before we have to decide.

8 Those would be my suggested changes to those two
9 sections, Section (6)A and Section (7).

10 ASSEMBLY MEMBER BROWNLEY: Do you have a comment
11 to that or --

12 MS. HERRERA: I'm sorry. I'm just trying to
13 digest all of that and what we had talked about earlier
14 under Item (7) about including sort of a caveat that when
15 the Board may grant consideration of an item that didn't
16 come to the Board within 48 hours and I'm not sure that
17 you're still considering that, but there -- I don't -- we
18 would --

19 MR. HARVEY: It's not a question of considering
20 the item because that goes to setting the agenda. What
21 we're saying here is correspondence relative to agenda
22 items, all of them, no matter when they come in, will be
23 considered under what I've proposed.

24 MS. KAPLAN: Um-hmm.

25 ASSEMBLY MEMBER BROWNLEY: In other words, we're

1 asking that the Executive Officer make sure that if a letter
2 was written to me relative to an item that that letter get
3 distributed to everyone on the Board, that everybody has
4 access to the same information. That's a different issue
5 than we're not going to accept the letter because you gave
6 it to us an hour before the meeting. It doesn't mean that.
7 It means all of those letters are acceptable whenever they
8 come, but that everybody -- every single Board member has
9 access to the same letters.

10 MS. KAPLAN: Okay. And that generally when I get
11 something, I redistribute it out to everybody no matter
12 when.

13 MS. HERRERA: I don't interpret Section (7) that
14 way and I apologize because it does say in order to be
15 considered by the SAB, letters or documents and then shall
16 be submitted to the EO or the AEO no less than 48 hours.

17 ASSEMBLY MEMBER BROWNLEY: I mean I'm certainly
18 happy with changing the shall to should. Again because I --
19 I mean I brought this up because I feel like it is a goal,
20 but it's not reality all the time.

21 SENATOR HANCOCK: Well, you know, I have to say,
22 folks, having again local government, if we're going to go
23 back to that, we heard zoning appeals all the time. They
24 were just as important to developers and to landowners as
25 these school things are and, by God, people could get their

1 stuff in; they could respond on time. So I'm a little
2 concerned with we have five working days for an appeal to be
3 posted. You have five working days to get information back
4 to us and in a way, if things come up at the very last
5 minute and they're distributed to all the Board members, we
6 always take those things into account, but they don't get
7 distributed in the packet to be formally considered; right?

8 MS. KAPLAN: What -- and what this --

9 ASSEMBLY MEMBER BROWNLEY: But I think that it's a
10 nuance here. It's just -- I think what is being said is
11 that if it's late we will not be allowed to consider it.
12 You know, that letter will be banned from us to see.

13 SENATOR HANCOCK: Yeah.

14 ASSEMBLY MEMBER BROWNLEY: And we just -- and I
15 hear what you're saying and I agree with what you're saying,
16 but we just don't want to have it be interpreted to say that
17 if a late letter comes in that we're going to make a
18 really -- by golly, these are our rules, we're sticking to
19 it, we are not going to look at that letter, and don't any
20 of us look at that letter and don't listen to it or whatever
21 and make your decision on everything that was in print in
22 the agenda only.

23 SENATOR HANCOCK: Okay. Why don't we take out in
24 order to be considered by and simply say letters or
25 documents should be submitted to the Executive Officer no

1 less than 48 hours because again if you're dealing with an
2 appeal, you're talking about five days -- five working days
3 and if you're dealing with a policy matter, probably it's
4 been discussed before if it's a recommendation. So people
5 are kind of in the loop and we know where people are.

6 So we should change shall to should so it's
7 permissive and --

8 ASSEMBLY MEMBER BROWNLEY: Yeah. And then I think
9 that we should clarify that, you know, if a letter comes in
10 that everybody gets it.

11 MS. KAPLAN: We shall -- yeah.

12 ASSEMBLY MEMBER BROWNLEY: Yeah. You know.

13 MS. KAPLAN: Um-hmm.

14 SENATOR HANCOCK: Okay. So the motion would be?

15 MR. HARVEY: Well, I will object to striking shall
16 and making it should. Everything else I'm fine with. I'm
17 find with the three working days. I'm fine with dropping
18 the in order to be considered so that you're covering
19 anything that comes in at any time, clarifying that we have
20 the right to do that, but for the reasons that the Chair
21 indicated, you've got these timelines now, three working
22 days, five working days, normally you should be able to get
23 a letter in within 48 hours because that --

24 ASSEMBLY MEMBER BROWNLEY: Well, how about leaving
25 the shall in and then having another clarifying statement

1 that if a letter is --

2 MR. HARVEY: Yes. That's what I -- that was my
3 motion.

4 ASSEMBLY MEMBER BROWNLEY: -- is not collected,
5 then, you know, will be distributed -- will be considered
6 and distributed.

7 MS. KAPLAN: And here's the thing. With these --
8 these are rules or guidelines. So for the most part,
9 it's -- very rarely are you going to have it where the Board
10 members are not going to consider an item. However, this --
11 by leaving it as a shall, if a member wishes to call up an
12 objection and call to this guideline, you can use it, but
13 the general operating procedures is -- the Boards are all
14 going to accept no matter when they get in unless it is a
15 specifically egregious issue.

16 If you leave it as shall, it allows the Board
17 authority to call up this rule. However, if you can't reach
18 agreement, what we can do on this item like we did on the
19 other one is when it comes to full Board, it shall be the
20 full Board's discussion of whether it should be shall or
21 should be. Because I think in a matter of timeliness to
22 move on, if we bring that to the full Board, adopt every
23 other change with the clarification sentence, Assemblywoman
24 Brownley, and deleting -- in order to be considered by the
25 SAB deleted, leave it open, the shall and should be, for

1 Board determination.

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

3 ASSEMBLY MEMBER BROWNLEY: It's fine with me.

4 SENATOR HANCOCK: Okay. So unanimous roll call on
5 that.

6 MR. HARVEY: On all of that.

7 SENATOR HANCOCK: Yeah.

8 MR. HARVEY: But for the shall and the --

9 SENATOR HANCOCK: But for the shall --

10 MR. DUFFY: May I make a comment, Madam Chair.

11 I'm not sure of the -- when I read through this -- and I
12 just came into the meeting from another meeting, but when I
13 read --

14 ASSEMBLY MEMBER BROWNLEY: Well, then we can't
15 hear you.

16 MR. DUFFY: Okay. That's what I was going to
17 point out. What you're really talking about is freedom of
18 speech and First Amendment rights to communicate with a
19 public body and I'm not sure of the issue that you're trying
20 to resolve, but it appears that there's an impediment that
21 would be placed before the public.

22 Now, at -- Madam Chair, you talked about what
23 happens at the local level. At the local level, when I was
24 a school district superintendent, I was obligated to publish
25 the agenda in advance and it wasn't a summary agenda, it was

1 the agenda with every detail included in it so the public
2 would know. The public then had an opportunity to respond
3 and we didn't have any guidelines of you have to get it in
4 by a certain time frame. The public could come to the
5 meeting and talk and certainly write letters.

6 The experience we have with OPSC historically is
7 that you don't get everything when the summary agenda is put
8 together. The agenda that I had printed out yesterday is
9 blank on certain pages and today's Board day. So it seems
10 to me that if the entity that is publishing agenda doesn't
11 have it in a timely manner for the public to respond, how
12 can the public be inhibited in communicating either in
13 writing or verbally with you and it seems to me that,
14 Mr. Harvey, if there is a hard line on this you shall, the
15 public still has the opportunity to speak and say I have a
16 letter for you, because of your guidelines I really couldn't
17 give it to you, but let me talk about my letter, and by the
18 way, I'm concerned that you don't want to accept this
19 letter, if that were the direction you were going.

20 MR. HARVEY: That's not what we've done.

21 MR. DUFFY: And I understand that. When I first
22 read the document -- so it is helpful to hear some of this
23 discussion, but when I first read the document, it appeared
24 hard and fast. I think shall -- if this is guideline and
25 you're encouraging the public to communicate with you, I

1 think saying we'd really like you to do that and you should
2 get it to us, but that's not going to work every time.

3 We have seen an item come from OPSC at noon on the
4 day of the Board. How can anybody be able to respond in
5 days in advance of that.

6 MS. KAPLAN: And, Mr. Duffy, we did have this
7 discussion at a prior Subcommittee meeting that this rule
8 doesn't apply because the prior subsection says that OPSC
9 shall publish 72 hours. So this doesn't apply in regards
10 when you don't have that item. That's why with adding the
11 clarifying sentence from Assemblywoman Brownley that it
12 allows the AEO and EO to distribute these letters and I
13 truly think that this discussion of shall versus should be
14 needs to be a full SAB discussion.

15 MR. DUFFY: Okay.

16 MS. KAPLAN: Which that's what --

17 ASSEMBLY MEMBER BROWNLEY: And I think to answer
18 your question, what we're trying to accomplish here is I
19 think what we're trying to accomplish is to ensure to the
20 best of our ability that we have a complete agenda in a
21 timely fashion for the public to read and to have as much
22 information in that agenda as we can possibly get into the
23 agenda, but at the same time, we also want to be able to
24 consider the First Amendment issue you're bringing up. We
25 also want to have the ability to consider all information

1 whether it's timely or not prior to making a decision.

2 So I think there are two things that we're trying
3 to accomplish.

4 MR. DUFFY: Okay. All right. Thank you.

5 SENATOR HANCOCK: Okay. Where does that leave us
6 on a motion?

7 ASSEMBLY MEMBER BROWNLEY: So there's one more
8 member of the public.

9 MS. KAPLAN: Well, we already actually did move
10 and adopt three-zero these two. So we're just taking public
11 comment after the fact.

12 MR. HARVEY: Right.

13 SENATOR HANCOCK: Okay.

14 MR. SMOOT: That's fine. I just want to make sure
15 that the words mean what we read them to mean with regard to
16 the three working days. If there's a document that is
17 published three working days in advance, that's fine. But I
18 want to make sure that it doesn't allow amendments to that
19 document after the three working days because we see that
20 all the time also. So I'd like to just make sure that when
21 this is published it says the final documents can (sic) be
22 considered by the Board shall be published three working
23 days or five working days in advance without change.

24 And if there's some substantial change, I think it
25 should be rolled over to a next Board.

1 MS. KAPLAN: I think we need to make the decision.
2 I don't want to provide a hard and fast rule because
3 sometimes there's minor amendments or technical things that
4 are wrong, so I don't want to prohibit updating or providing
5 current information in an analysis, but I think it comes in
6 with substantial changes that maybe should be considered.

7 MR. SMOOT: That term substantial will be fine.

8 SENATOR HANCOCK: Well, we could take Section (7)
9 out and simply continue with (6)A only changing it to three
10 working days for policy and five working days for appeal for
11 staff report.

12 ASSEMBLY MEMBER BROWNLEY: And just eliminate --

13 SENATOR HANCOCK: Step -- yeah.

14 ASSEMBLY MEMBER BROWNLEY: -- (7) altogether?

15 SENATOR HANCOCK: Yeah. Just eliminate (7)
16 altogether for now.

17 ASSEMBLY MEMBER BROWNLEY: That's -- I think that
18 solves the problem.

19 MS. KAPLAN: Or do we need to hold over for
20 another because if Mr. Harvey --

21 SENATOR HANCOCK: I want to get this done. This
22 is typical of the SAB, if you don't mind me saying so.
23 Nothing gets resolved. We want some simple operating rules
24 that can be amended, and so I'd like to see if we can't
25 agree to some simple operating rules and things that are

1 more difficult to agree to, we're going to have future
2 meetings of this Committee on.

3 ASSEMBLY MEMBER BROWNLEY: I think your suggestion
4 solves the problem actually --

5 MR. HARVEY: So let's put that one over.

6 ASSEMBLY MEMBER BROWNLEY: -- or we can -- I mean
7 we can do either one. I'm happy to bring it in front of the
8 full Board or -- but I think that your suggestion actually
9 solves the problem. Just remaining sort of silent on it and
10 being specific about the three working days and the five
11 working days.

12 SENATOR HANCOCK: Okay. Could we have a unanimous
13 roll call on changing (6) Staff Analysis to saying three
14 working days.

15 MR. HARVEY: Um-hmm.

16 SENATOR HANCOCK: Okay. That's unanimous.

17 MS. KAPLAN: Yes.

18 SENATOR HANCOCK: And then we are taking
19 Section (7) and we're adding it to the list of issues to be
20 considered at a subsequent meeting.

21 ASSEMBLY MEMBER BROWNLEY: Fine.

22 MR. HARVEY: That's fine.

23 SENATOR HANCOCK: Okay. Okay. Section (8)
24 Testimony on Agenda Items.

25 MR. HARVEY: That was adopted.

1 SENATOR HANCOCK: Yes, that was adopted. Public
2 Comment.

3 MR. HARVEY: Adopted.

4 SENATOR HANCOCK: Adopted. Section (10)
5 Subcommittees and Working Groups.

6 MR. HARVEY: We may need some comment here on
7 calling out in particular the Implementation Committee.

8 SENATOR HANCOCK: Yes.

9 MR. HARVEY: It is a hybrid. It is not really a
10 working group. It's not really a subcommittee. It is bound
11 by Bagley-Keene.

12 SENATOR HANCOCK: Maybe we need a C.

13 MR. HARVEY: I think we need to perhaps call it
14 out because of its uniqueness.

15 SENATOR HANCOCK: As a Section C. Yeah.

16 MS. KAPLAN: I can make where A, it says
17 subcommittees, B is working groups, I can put (10)C as
18 Implementation Committee meeting.

19 SENATOR HANCOCK: And that it is subject to
20 Bagley-Keene. Mr. Smoot, comment, please.

21 MR. SMOOT: Thank you. Thank you for that
22 clarification. That at least takes care of half of our
23 concerns. The other half though is while I'm not
24 necessarily enamored of forcing working groups to use
25 Bagley-Keene, at the same time --

1 MS. KAPLAN: They're not. Working groups are not
2 subject to Bagley-Keene or the meeting laws.

3 MR. SMOOT: No. I understand. What I was going
4 to say is at the same time, there are protections in
5 information potential that could be lost if there isn't some
6 sort of public vetting. In other words, if there's a
7 working group that says okay, we're not subject to those
8 things, so we're going to meet in private -- I'm not saying
9 that this will necessarily happen, but they're going to --
10 you are as a Board going to lose potentially valuable
11 information and persons that are interested in the outcome
12 of the information coming from the working group lose an
13 opportunity to have input through a working group which
14 sometimes is a much easier venue, if you will.

15 So while I'm not necessarily saying they should be
16 subject to Bagley-Keene, I would like to see them subject to
17 something so that the public has the opportunity to attend
18 and have input.

19 MS. KAPLAN: Just as a matter of clarification and
20 I kind of disagree with you, that's why we have
21 subcommittees. Subcommittees generally create working
22 groups and it's open to making sure that you have experts so
23 you can expedite the area and in this, it'll -- it says that
24 working groups are to come back and report either to the
25 full Board or to the subcommittee which then opens up the

1 process for full disclosure and further conversation. But
2 in order for efficiency purposes, working groups need to not
3 necessarily be open for the back and forth once they're
4 created. It's to get things and get them done and then
5 provide a recommendation which then opens it up for
6 everybody for feedback.

7 So for efficiency purposes, you know, I think for
8 the most part, I mean that I'm running is open for people to
9 be involved and give me feedback, but I don't allow public
10 comment so that the working group can get stuff done.
11 Otherwise we might be meeting for four or five hours and not
12 get the task done. And it does report back to the
13 Subcommittee on Audits which does allow everybody to have
14 input and discussion.

15 MR. SMOOT: Additional thing I'd like to say is I
16 think it's better for the working group to have a four or
17 five hour meeting than the State Allocation Board on the
18 same subject. Thank you for the consideration.

19 SENATOR HANCOCK: Thank you. I don't know what
20 the will of the members would be on this. I --

21 ASSEMBLY MEMBER BROWNLEY: I just -- I guess for
22 me I understand kind of both sides of the argument here, but
23 I -- and I don't know what our sort of tradition has been on
24 working groups. Do we have a lot of working groups? I
25 just -- I don't know.

1 MR. HARVEY: Well, in a sense, the product of the
2 working group would either come to the Board where there
3 would be a public vetting and an opportunity to talk. It
4 could be directed by the Board to the Imp. Committee where
5 it would have yet another cleansing before coming to the
6 Board. So in a sense, there are opportunities in our
7 process now for the public.

8 ASSEMBLY MEMBER BROWNLEY: Right.

9 MR. HARVEY: I don't know the public policy reason
10 for excluding working groups from Bagley-Keene.

11 ASSEMBLY MEMBER BROWNLEY: Yeah. I mean for me as
12 a Board member, I would much rather have the time in
13 subcommittee or working groups to vet these issues so when
14 the time comes that the recommendations coming to us have
15 included comments from the public and we're ready to just
16 kind of go. It's almost like a -- potentially even a
17 consent item maybe.

18 But -- so I sort of want to lean on the side of
19 having working groups be --

20 SENATOR HANCOCK: What does that mean?

21 ASSEMBLY MEMBER BROWNLEY: -- noticed and open.

22 MS. KAPLAN: But subject to Bagley-Keene basically
23 means it would be very, very difficult for me to get the job
24 done because that's the ten-day notice and have every --

25 ASSEMBLY MEMBER BROWNLEY: So what are you doing?

1 Give me -- what is your working group doing?

2 SENATOR HANCOCK: It's the notice in advance.

3 MS. KAPLAN: My audit working group, generally we
4 set it up. It's -- it was a set designated members by the
5 full Board which are experts on both sides and I generally
6 get information to them. I try to get a week to them, but
7 it also allows for quick meetings. If we need to call a
8 meeting and finish an issue, I don't have -- I'm not subject
9 to the ten day and the Bagley. I do do minutes that then go
10 out to everybody, but it doesn't hold us to the hard and
11 fast ten-day rule, some of those things, because working
12 groups sometimes need to get things in and get them out and
13 having Bagley-Keene makes it very difficult to do that.

14 MS. GARRITY: Mavonne Garrity with Senator
15 Lowenthal's office. I don't know if it's entirely
16 appropriate for me to speak right now, but with this issue
17 of the working groups, I just wanted to share with you
18 Senator Lowenthal's experience.

19 We -- he's chairing the Audit Subcommittee which
20 has a working group under it. Senator Lowenthal I think
21 was -- realized in retrospect that it was not a good
22 direction to go in to have the working group not publicly
23 noticed and not allowing public comment and he corrected
24 that at the last meeting by asking staff to ensure that
25 there was public comment. So I would say that in that

1 experience, it didn't -- it wasn't ideal. So I'll just
2 leave you --

3 SENATOR HANCOCK: Okay. Suggestion then.

4 MS. KAPLAN: And just to clarify because I think
5 that was somewhat of a misrepresentation. While it wasn't
6 Bagley-Keene publicly noticed, it was to the entire industry
7 noticed the dates that they were there. The meetings were
8 open and people did have time to comment after the fact or
9 to me. So there was allowed. It just wasn't during the
10 meeting, the back and forth.

11 ASSEMBLY MEMBER BROWNLEY: I think this is going
12 to have to come back to us. I mean I think there's a hybrid
13 in there somewhere that's --

14 SENATOR HANCOCK: Yeah. I was -- um-hmm. Well, I
15 was going to even suggest --

16 ASSEMBLY MEMBER BROWNLEY: Oh, okay.

17 SENATOR HANCOCK: -- if -- because I know that
18 like the Brown Act is so prescriptive that you really have
19 to work with it to be able to hold meetings sometimes at the
20 local level. Why don't we describe what we want. Instead
21 of saying are not subject to Bagley-Keene, say working
22 groups are open meetings and will include public comment.

23 ASSEMBLY MEMBER BROWNLEY: And will be noticed.

24 SENATOR HANCOCK: Yeah, will be noticed.

25 MS. KAPLAN: How many days prior?

1 SENATOR HANCOCK: Don't say anything.

2 MS. KAPLAN: I mean if you say notice --

3 SENATOR HANCOCK: Don't say anything. If we get a
4 pattern of 45-minute notices that nobody can work with,
5 we'll come back and look at the rule again.

6 ASSEMBLY MEMBER BROWNLEY: So -- yeah. Will be
7 noticed, will be public, and allow for public hearing.

8 SENATOR HANCOCK: And include comments from the
9 public.

10 MS. KAPLAN: Um-hmm. And that's fine.

11 ASSEMBLY MEMBER BROWNLEY: Yeah. Yeah, comments
12 from the public.

13 SENATOR HANCOCK: Okay. So is there a motion that
14 the working group section which was adopted will now be
15 amended to say that working groups will be open meetings,
16 noticed, and include comments from the public and that a
17 Section C on the Implementation Committee being governed by
18 Bagley-Keene will be added.

19 MR. HARVEY: I would make a motion to cover those
20 points.

21 ASSEMBLY MEMBER BROWNLEY: And I would second it.

22 MS. KAPLAN: Okay. Three-zero.

23 SENATOR HANCOCK: Unanimous roll call, Ms. Kaplan.
24 Okay. We're now on Section (11) Reconsideration. And this
25 I think is taken pretty much from the rules that are

1 prevalent in the Legislature. Anybody have an -- well --

2 MR. HARVEY: I don't have an objection to the
3 concept at all of reconsideration. I think it's appropriate
4 and it's necessary particularly if you have done something
5 that is not lawful. I would ask staff to bring to the full
6 Board when we discuss this very important subject, which I
7 think we need to have, the Attorney General's opinion on
8 reconsideration. The Attorney General earlier this year
9 talked about the Board being an administrative body. I
10 don't know if that's totally accurate -- but cited
11 administrative bodies need statutory authority to reconsider
12 items.

13 I want to make sure we have the authority to do
14 this. It's important that we do it, but I want to make sure
15 that we're not somehow needing to seek some clarifying
16 statute to give us this authority.

17 MS. KAPLAN: I will provide that and I will also
18 provide my legal analysis since the AG's opinion failed to
19 disclose an opinion that was issued and a case that was
20 issued that authorized another point of allowing
21 reconsideration.

22 MR. HARVEY: On the matter of how you reconsider
23 and who should reconsider, again I'm going to harken back as
24 the Chair has to local government roots and in the San Diego
25 City Council, the only person who could call for

1 reconsideration was someone on the prevailing side because
2 otherwise --

3 SENATOR HANCOCK: That's right.

4 ASSEMBLY MEMBER BROWNLEY: Yeah.

5 MR. HARVEY: -- the minority could continue to
6 tweak the system. So I would argue that the phrase made by
7 anyone on the Board should be changed to reflect the
8 prevailing side and also it's pretty open ended on when you
9 can reconsider if you don't do it at the meeting and we were
10 governed by you had to do it at the next meeting. You had
11 to be timely. You couldn't wait six months or four months
12 or a year. The matter of urgency, the matter of new
13 information, the matter that you may have done something
14 illegal compelled you to do it thoroughly timely and I would
15 suggest we may want to say that if the reconsideration isn't
16 taken at the meeting that it must be done by the next
17 meeting rather than keeping it open ended.

18 ASSEMBLY MEMBER BROWNLEY: So given that, let's
19 just say, you know, conditions changed dramatically for --
20 around a particular decision, you know --

21 MR. HARVEY: Or if it was --

22 ASSEMBLY MEMBER BROWNLEY: -- economic conditions,
23 an earthquake. I don't know what the situation might be.
24 So then how would we handle that?

25 MR. HARVEY: Well, I guess you could have the

1 exception for like if it was illegal, you might not know it
2 was illegal until some time beyond. Something about every
3 effort should be made unless there is a special circumstance
4 or an illegal activity.

5 I just don't think it's fair to say on any Board
6 vote at any time you can ask it to be reconsidered six
7 months later.

8 ASSEMBLY MEMBER BROWNLEY: Yeah.

9 MR. HARVEY: Just because you want to. There
10 should be a reason if it's not at the next meeting.
11 Earthquake, illegality, some special circumstance. And the
12 Board would have to say yeah, this is why we should
13 reconsider it. I mean that's what we did in local
14 government.

15 ASSEMBLY MEMBER BROWNLEY: Yeah.

16 MR. HARVEY: We had a framework. It wasn't open
17 ended.

18 MR. DUFFY: Madam Chair, is it appropriate?

19 SENATOR HANCOCK: Yes.

20 MR. DUFFY: Thank you. Again I'm not sure I
21 understand what the issue is that you're trying to resolve.
22 When matters come before the Allocation Board and they're
23 not dealt with, the experience that we have is that it's
24 typically because the Board is asking for additional
25 information and I think what you're talking to, Mr. Harvey,

1 is that the Board takes action and that action is
2 objectionable to some minority on the Board.

3 MR. HARVEY: No.

4 MR. DUFFY: No.

5 MR. HARVEY: Reconsideration is something that is
6 based on new information or some discovery of illegality and
7 someone on the prevailing side of the motion says I now see
8 why I should not have done that, I'm going to ask this Board
9 to reconsider its action. So it's an action that was taken.
10 Someone on the prevailing side is convinced that it needs to
11 be reconsidered. They make the motion. No anyone on the
12 Board can make it, if you were on the losing side.

13 MR. DUFFY: That's what you're proposing because
14 you don't have a rule such as that today.

15 MR. HARVEY: We do not have a rule.

16 ASSEMBLY MEMBER BROWNLEY: But six months or so
17 ago on the Board, I actually raised an issue for
18 reconsideration and we had -- we discussed more whether that
19 was appropriate or not rather than speaking to the issue
20 itself and it was around the construction cost index and we
21 had made a decision. I came back at the next meeting and
22 asked for reconsideration. So I think it's -- that's what
23 we're trying to clarify.

24 MR. DUFFY: Okay. In the instance of either
25 reconsideration for some legal issue or because of

1 additional information, is that always going to be
2 attainable within the next month? You had items that -- and
3 I really haven't heard other than when you mentioned,
4 Ms. Brownley, the Board discussed the need to reconsider
5 items. Typically if the Board's uncomfortable, it'll put an
6 item over and I think that may be frustrating for you, Madam
7 Chair, from your comments earlier. But --

8 ASSEMBLY MEMBER BROWNLEY: This is when we have
9 acted --

10 MR. DUFFY: Acted, yes.

11 ASSEMBLY MEMBER BROWNLEY: -- and we now think
12 that we might want to change that decision because of
13 additional information or that we have --

14 MR. DUFFY: Okay.

15 ASSEMBLY MEMBER BROWNLEY: -- or that we have
16 determined.

17 MR. DUFFY: And so I'm understanding that. And
18 then the question would be is it reasonable then to think
19 that that could be resolvable within -- by the next Board
20 meeting.

21 MS. KAPLAN: Well, it's not actually looking to
22 resolve it. It's just a matter of calling reconsideration.
23 So if information has come forward, the Board may ask for
24 reconsideration. The item may come forward at a time when
25 there's sufficiently gathering of evidence, so it may not be

1 that month or the next month, but the Board -- I think is
2 what they're trying to do is make that it's a timely
3 reconsideration not that the issue is disposed of the next
4 month.

5 SENATOR HANCOCK: I think there's many things
6 we're trying to do because prior to your being appointed to
7 the Board, we had another instance that I was involved with
8 where there simply wasn't a quorum and we took action and
9 then subsequently -- or there was a quorum but members were
10 not there. When members came in, we couldn't reconsider
11 which unless you explicitly said that if that was the case,
12 a member coming in would be considered a member on the
13 prevailing side.

14 I think what I'd like to see is I don't know why
15 we need No. 2 here. What if we just say a motion to
16 reconsider or rescind, unless made at the same meeting at
17 which the action was taken, may be made by anyone on the
18 Board. Reconsideration takes six votes and should not
19 affect actions already taken on specific projects because
20 that's where you could get crazy. You don't want to do
21 that.

22 But on policies -- I don't know, folks. What do
23 we think.

24 MR. DUFFY: I think, Madam Chair, that if you
25 leave it the way that you've just read it, by anyone on the

1 Board, I think that this Board -- the Allocation Board is a
2 Board that works very well together. Sometimes you have
3 differences of view, but the -- what you were speaking to,
4 Mr. Harvey, I've seen at the local level and it sometimes
5 creates difficulties if it's only on the prevailing side and
6 you ask for reconsideration as opposed to anybody that's on
7 the Board. So that comment -- and I think I understand what
8 you're trying to reach for here.

9 My admonition would simply be that you don't want
10 to constrain yourself with the immediacy of the next Board
11 meeting and I understand what Ms. Kaplan said and maybe that
12 ameliorates it. Thank you.

13 ASSEMBLY MEMBER BROWNLEY: I do think the issue
14 that Mr. Harvey raises around the prevailing -- that it's
15 only the prevailing side can bring it forward is reasonable
16 because I think the minority could then, you know, ask for
17 reconsideration meeting after meeting after meeting after
18 meeting.

19 I guess if the minority did raise it, it would
20 still require a majority of the vote to open it up.

21 SENATOR HANCOCK: To reconsider.

22 ASSEMBLY MEMBER BROWNLEY: To reconsider. So
23 maybe that's such an issue. I don't know.

24 MS. KAPLAN: Because anybody -- if we leave it as
25 is, anybody can object and it would still have to take six

1 votes. So it would take those on the prevailing side to
2 agree with the minority.

3 SENATOR HANCOCK: I'm not sure if I remember this
4 correctly, but I think a motion to reconsider is not
5 debatable; is that right? Or if it's the motion to table.

6 MR. HARVEY: I know a motion to table is not. I
7 can't recall.

8 SENATOR HANCOCK: Yeah. Yeah.

9 MS. KAPLAN: Rebecca? Robert's Rules.

10 SENATOR HANCOCK: Oh, but you don't go into the
11 whole discussion again and again and again. Right. And why
12 do we say unless made at the same meeting?

13 ASSEMBLY MEMBER BROWNLEY: I mean I think that --
14 can't we just say that on -- you know, for reconsideration
15 of an item that we're going to follow Robert's Rules or --
16 you know, and leave it as such and when the time comes up,
17 we at least -- I mean that was one of the problems when I
18 raised it. We didn't know -- we just didn't know what we
19 were doing and how to handle that and who -- you know, by
20 whose rules we were following --

21 SENATOR HANCOCK: Um-hmm.

22 ASSEMBLY MEMBER BROWNLEY: -- is my recollection
23 anyway. So if we just reference Robert's Rules or --

24 MR. HARVEY: The sidebar note references Mason's
25 and I think there was an interest at one point in time

1 because of the legislative --

2 ASSEMBLY MEMBER BROWNLEY: The Legislature --

3 MR. HARVEY: -- familiarity with Mason's and it
4 says here that Mason's states reconsideration can be made by
5 anyone any time during the meeting. So if we are following
6 Mason's and that was a preference by a majority of this
7 body, I am willing to acquiesce.

8 SENATOR HANCOCK: Okay.

9 MR. HARVEY: We can just follow Mason's.

10 SENATOR HANCOCK: Okay. Is there a unanimous roll
11 call on following Mason's? Oh, Ms. Baumann, did you have a
12 comment from the public? Mr. Smoot.

13 MR. SMOOT: Thank you. Lyle Smoot, LA Unified
14 again. I'm just kind of looking at this and wondering if
15 you're saying in this item you're going to follow Mason's or
16 anything else. How -- what happens in No. 12? Because if
17 you did adopt No. 12 --

18 MR. HARVEY: We haven't gotten there yet.

19 MR. SMOOT: I know. But if you did, you really
20 don't need to say who's going to make that decision because
21 if you adopt said reconsideration takes six votes, then the
22 rules have to be -- the arbiter of the rules is established.
23 I don't know if you're going to establish an arbiter, but
24 assuming you did, that entity would probably just on the
25 natural be the one to decide if you met the requirements.

1 Not that I care one way or the other quite frankly.

2 ASSEMBLY MEMBER BROWNLEY: Well, I think both (11)
3 and (12) are here and would be exercised very, very rarely.

4 SENATOR HANCOCK: I agree.

5 ASSEMBLY MEMBER BROWNLEY: And -- but I think that
6 we do -- I don't see (11) and (12) necessarily being
7 connected. I think (12) is there for any rules, not
8 necessarily this particular rule. It's for any rule and I
9 think a simple clarification that we're going to follow
10 Mason's on a reconsideration I think does it and then we're
11 going to have -- we always have legal counsel of some sort
12 and that's also part of the discussion I think that's going
13 to take place here, but that can help us in the process when
14 that time arises.

15 SENATOR HANCOCK: Okay. I'd like to suggest that
16 since we took Mason's as our working document, to say we're
17 going to following Mason's implies that somehow we're not in
18 everything else. What if we just tried to keep it very
19 simple and said reconsideration, a motion to reconsider
20 actions of the Board may be made by anyone on the Board,
21 period. Reconsideration takes six votes for an item on
22 which a vote has already been taken and an outcome
23 announced, and reconsideration of regulations or
24 interpretations will not affect actions already taken on
25 specific projects.

1 ASSEMBLY MEMBER BROWNLEY: So you want to change
2 should to will?

3 SENATOR HANCOCK: Yeah. I think so because I
4 think once you're talking about a specific school and you
5 allocate money or you do something and people move ahead in
6 good faith, you may want to reconsider the policy.

7 MS. KAPLAN: But it shouldn't affect --

8 SENATOR HANCOCK: But it shouldn't affect --

9 MR. HARVEY: Shouldn't affect a particular
10 project.

11 ASSEMBLY MEMBER BROWNLEY: Yeah. Yeah. No. I
12 concur with that. I guess I'm just -- show me where Mason's
13 is, when you say that Mason's is the rule book here.

14 SENATOR HANCOCK: Oh, we don't. That's why --

15 MS. KAPLAN: Yeah, we do. (15) Procedural
16 Guidelines. It already adopts and that's why I added in the
17 little note on the side. It says Mason's states that
18 reconsideration can be made by anyone any time during the
19 meeting. And then in Section (15) --

20 MR. HARVEY: It says that we will default to.

21 MS. KAPLAN: Um-hmm.

22 SENATOR HANCOCK: Um-hmm.

23 MS. KAPLAN: So we make up our own default to,
24 so --

25 MR. HARVEY: We make our own and then we default.

1 ASSEMBLY MEMBER BROWNLEY: Okay.

2 MR. HARVEY: I'm fine with the language you've
3 suggested. Assemblywoman Brownley, are you comfortable --

4 ASSEMBLY MEMBER BROWNLEY: Um-hmm.

5 MR. HARVEY: -- with inserting that language
6 rather than just defaulting to Mason's?

7 ASSEMBLY MEMBER BROWNLEY: Yeah.

8 SENATOR HANCOCK: Okay. All right. Unanimous
9 roll call on that. Okay. Section (12). Heading down the
10 homestretch. Final Arbiter. Shall be Senate Rules
11 Committee staff?

12 MR. HARVEY: I had no problem with this. How does
13 this function? Does the Senate Rules Committee staff attend
14 all of our meetings or do we stop and call them? I mean how
15 do we get a timely resolution to an arbitration.

16 SENATOR HANCOCK: If we really, after these
17 wonderful rules are adopted, have any more disputes, we call
18 them.

19 ASSEMBLY MEMBER BROWNLEY: Call them.

20 MR. HARVEY: Is that what --

21 MS. KAPLAN: That they will have these rules and
22 since they understand that our default is Mason's and they
23 are the expert on Mason's that they will -- according to
24 these rules and then default to Mason's and tell us what
25 Mason's is.

1 SENATOR HANCOCK: And most likely we'll have to --

2 MR. HARVEY: And then we announce it when? At
3 that meeting or at the next meeting or -- do we have a
4 reasoned --

5 MS. KAPLAN: We generally have -- I mean you
6 can -- Senator or Assemblywoman, I know that either Dotson's
7 called or the Senate Rules is call right then and there and
8 generally they're available.

9 MR. HARVEY: That's how it works? That's fine.
10 As long as it's --

11 SENATOR HANCOCK: Yeah. Okay.

12 MR. HARVEY: -- as immediate as possible.

13 SENATOR HANCOCK: Yeah. I mean that's what we
14 would try to do, but I don't think they need to sit in on
15 everything at all. That would be a terrible waste of time.

16 MR. HARVEY: Just wanted to find out.

17 ASSEMBLY MEMBER BROWNLEY: They don't in the
18 Legislature either. They -- you know, every once in a
19 while -- and it's a rare occasion, the Chair needs to call
20 them and get their assistance on a clarification.

21 MR. HARVEY: Okay. Wonderful.

22 SENATOR HANCOCK: Okay. Everybody. So --

23 MR. HARVEY: One item left.

24 SENATOR HANCOCK: Unanimous --

25 MS. KAPLAN: Adopted. Three-zero.

1 SENATOR HANCOCK: (13), Legal Opinions. The State
2 Allocation Board Counsel should be a designee of the
3 Attorney General's office?

4 MR. HARVEY: No problem.

5 ASSEMBLY MEMBER BROWNLEY: And so -- I mean my
6 only issue would be do we want to have our own independent
7 attorney versus, you know --

8 MS. KAPLAN: Under statute in creation of the
9 State Allocation Board, the State Allocation Board has
10 authority to appoint me and hire any other staff as needed
11 to fulfill their duties, which then goes to the Budget Act
12 and --

13 MR. HARVEY: I have suggested on more than one
14 occasion that the SAB should have as its general counsel a
15 representative of the Attorney General.

16 MS. KAPLAN: And also by statute default, if it's
17 not mentioned boards or agencies, the default attorney is
18 the AG's office. So it is allowed by statute.

19 ASSEMBLY MEMBER BROWNLEY: Okay.

20 SENATOR HANCOCK: Okay. That's unanimous roll
21 call, Ms. Kaplan. Closed Sessions. We've adopted that
22 already.

23 MR. HARVEY: And we've defaulted already.

24 SENATOR HANCOCK: And we've defaulted to Mason's
25 already. So there it is, everybody. We can send it on to

1 the Board.

2 MS. KAPLAN: So is what's going to happen in the
3 next week, I'm going to take the amendments and suggestions
4 from this Subcommittee, redo them, resend them out to make
5 sure any last comments, and then prepare this item for the
6 full Board to come before the November meeting because it
7 already has been scheduled as part of the workload plan.

8 MR. HARVEY: I would certainly be comfortable,
9 Madam Chair, if staff worked with representatives of your
10 office to make sure technically it reads well and any
11 verbiage that doesn't need to be there is taken out. It's
12 crisp and as direct as possible.

13 SENATOR HANCOCK: Yes. I would concur. We want
14 elegance. Elegance. I would like to ask if we could put it
15 off till the December Board meeting and if there isn't one
16 till January actually because I'm not going to be here for
17 the November meeting.

18 ASSEMBLY MEMBER BROWNLEY: I want to get this
19 forward, but now I want to delay it.

20 SENATOR HANCOCK: Well, I'm going to be out of
21 town all during November.

22 MS. KAPLAN: The December Board meeting I believe
23 is scheduled for the 8th, so there is going to be one and I
24 can let the Chair know because she did have this scheduled
25 for the November, for it to be December.

1 ASSEMBLY MEMBER BROWNLEY: Whatever the Chair's
2 preference is what I would support.

3 MR. HARVEY: Well, I --

4 SENATOR HANCOCK: I love this. Can we talk about
5 bills. No. Thank you. Thank you, guys, very much and then
6 we're adding Section 7 about -- whatever it is -- and -- no,
7 we don't need to add the Implementation Committee.

8 MR. HARVEY: We've already done that.

9 SENATOR HANCOCK: We've already taken care of
10 that, but we will in future meetings talk about ex parte
11 communication, whether appeals should be done by an
12 objective third party, and things like the material
13 inaccuracy and mercy clauses.

14 Thank you all very, very much and thank members of
15 the public and staff for hanging in --

16 MR. HARVEY: And we see each other again in an
17 hour; right?

18 (Whereupon, at 12:58 p.m. the proceedings were
19 recessed.)

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REPORTER'S CERTIFICATE

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STATE OF CALIFORNIA)
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COUNTY OF SACRAMENTO)

I, Mary C. Clark, a Certified Electronic Court Reporter and Transcriber, Certified by the American Association of Electronic Reporters and Transcribers, Inc. (AAERT, Inc.), do hereby certify:

That the proceedings herein of the California State Allocation Board Rules and Procedures Subcommittee Public Meeting were duly reported and transcribed by me;

That the foregoing transcript is a true record of the proceedings as recorded;

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on November 23, 2010.

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