



**PROCEDURES AND
STANDING ORDERS
OF THE
BOARD OF GOVERNORS**
January 2013

Board of Governors
California Community Colleges
Sacramento, California

Procedures and Standing Orders
of the
Board of Governors

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Legal Affairs Division

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TABLE OF CONTENTS

Part One

Preface.....	i
Chapter 1. Operating Procedures	
Article 1. Organization.....	1
1. Role, Rights, and Responsibilities	1
2. Robert’s Rules of Order	1
5. Compensation of Members.....	1
6. Ethical Conduct, Contracts, Honoraria, and Outside Activities	2
7. Contracts with Districts for Reimbursement for Service by Employees.	3
8. California Postsecondary Education Commission Representatives.....	3
Article 2. Meetings.....	4
9. Meeting Laws.....	4
10. Regular Meetings.....	4
11. Special Meetings	4
12. Public Meetings and Closed Sessions	4
13. Notice of Meetings	5
Article 3. Full Board Business	5
20. Presiding Officer	5
21. Quorum.....	5
22. Agenda.....	6
24. Recommendations of Action and Resolutions	6
36. Official Actions	6
38. Consent Calendar	6
40. Public Hearings	7
41. Public Presentations to the Board.....	7
42. Minutes and Records of Proceedings	7
Article 6. Committees	8
50. Standing Committees	8
52. Authority to Act.....	8
54. Statement of Legislative Principles.....	8
55. Minutes.....	8
Article 7. Officers	9
60. Officers.....	9
62. Nominations and Election	9

Article 8. Chancellor and Staff 10
 72. Evaluation of the Chancellor 10
 73. Board and Staff Communications 10
 74. Travel by Chancellor 10

Chapter 2. Procedures for Adopting Regulations of the Board of Governors

200. Scope of Authority 10
 202. Definitions..... 10
 204. Standards of Regulations 11
 206. Notice and Comment 11
 208. Effective Date 13
 210. Regulation File..... 14
 212. Challenge to Existing Regulations..... 14

Chapter 2.5 Procedures for Recognition and Oversight of Systemwide Auxiliary Organizations

250. Purpose..... 15
 251. Recognition and Establishment of an Auxiliary by the Board of Governors.... 15
 252. Recognized Services, Programs and Functions 15
 253. Board of Directors of the Auxiliary Organization 16
 254. Officers of the Auxiliary. 16
 255. Meetings..... 16
 256. Salaries, Working Conditions, and Benefits of Full-Time Employees 16
 257. Expenditures and Fund Appropriation..... 17
 258. Accounting and Reporting 17
 259. Funds..... 17
 260. Authority and Responsibility of the Auxiliary..... 18
 261. Record Keeping..... 19
 262. Incorporation into Master Agreement..... 20
 263. Use of Name 20
 264. Indemnification 20

Part Two**Chapter 3. Standing Orders of the Board of Governors of the
California Community Colleges**

Article 1. Function of Standing Orders and Procedures for Adoption.....	21
300. Function of Standing Orders.....	21
302. Adoption, Amendment, and Repeal of Standing Orders.....	21
Article 2. Operation of the Chancellor’s Office.....	21
310. Chief Executive Officer.....	21
312. Communications With and About the Board of Governors.....	21
314. Reporting Requirements.....	22
316. Employees (Chancellor’s Office Operations).....	22
317. Positions on State Legislation.....	23
318. Contracts.....	23
319. Grants.....	24
320. Claims.....	26
321. Procurement of Electronic Data Processing and Telecommunications Goods and Services.....	26
322. Use of Name.....	26
324. Gifts and Bequests.....	26
326. Annuity Contracts.....	27
328. Travel Expenses.....	27
Article 3. Consultation.....	27
330. General.....	27
331. District Boards of Trustees and Chief Executive Officers.....	27
332. The Academic Senate.....	27
333. Student Senate.....	28
334. Consultation Council.....	28
335. Special Committees.....	29
336. Board of Governors.....	29
338. Rights of Participants to Address the Board.....	29
342. Implementation.....	29
Article 4. District Employment Matters.....	30
370. General.....	30
372. Equal Employment Opportunity Programs.....	30
374. Employment Opportunity Fund.....	30
376. Sick Leave Transfer Between Employers.....	31
378. Full-time and Part-time Faculty.....	31
380. Unemployment Insurance.....	31
382. Employee Qualifications.....	31

384. Nondiscrimination in Programs Receiving State Financial Assistance.....	31
386. Criminal Reports.	31
388. Minimum Qualifications.	32
Article 5. Students.....	32
390. General.....	32
392. Residency.....	32
394. Maintenance Allowances.....	32
396. Interstate Attendance.	32
Article 6. Educational Programs	32
400. General.....	32
402. Review and Approval of Academic Programs.	33
403. Chancellor’s Responsibilities.	33
404. Vocational Education Programs.	33
406. Cooperative Work Experience Education.	33
409. Distance Education and Education Technology	33
410. Matriculation Services.....	34
411. Mathematics, Engineering, and Science Achievement (MESA) Programs.....	34
412. Cooperative Improvement Programs.	34
414. Continuing Education Programs.....	34
415. California Department of Education.....	35
416. Transfer Core Curriculum.	35
Article 7. Special Programs	35
420. General.....	35
422. Extended Opportunity Programs and Services (EOPS).....	35
423. EOPS Statutory Advisory Committee.	35
424. Fund for Instructional Improvement.....	37
425. Fund for Instructional Improvement: Advisory and Review Council.	38
426. Cooperative Agencies Resources for Education (CARE) Program.....	38
428. Services for Welfare Recipients.	39
Article 8. District Organization, Planning, and Facilities	39
430. District Formation and Reorganization.	39
432. Site Approval, Acquisition, and Construction.....	39
433. Waiver of Highest Bid Requirement.	40
434. Airport Sites.....	40
436. Energy and Resource Conservation.	40
438. Environmental Quality.	40
Article 9. Fiscal Support	40
440. General.....	41
441. Fiscal Monitoring Program.....	41
442. Budget Authority.	41
443. Apportionment Duties.	41

444. Flexible Calendar.....	41
445. Audit Exceptions.....	42
446. ADA Computation.....	42
447. Fund for Instructional Development.....	42
448. Lost ADA Reports.....	42
450. Federal Funds.....	42
452. Scheduled Maintenance.....	42
454. Federal Forest Reserves.....	43
456. Equipment Replacement Program.....	43
Article 10. Community College Administration.....	43
460. General.....	43
462. Auxiliary Organizations.....	43
464. Education Code Section 84362.....	43
466. District Contracts.....	44
Article 11. Minimum Conditions.....	44
470. Minimum Conditions for Receipt of State Aid.....	44
Article 12. Systemwide Auxiliary Organization.....	44
480. Systemwide Auxiliary Organization.....	44
481. Auxiliary Organization in Good Standing.....	45
482. Ongoing Responsibilities.....	45

Appendix

Text of Bagley-Keene Open Meeting Act (Government Code sections 11120 et seq.)

PREFACE

This two-part document contains Board-adopted policies that establish the board's various procedures and set forth its delegations of authority to the Chancellor, community college districts, or others.

Part One consists of three chapters. Chapter 1 sets forth operating procedures for the conduct of Board business, including organization, meetings, full Board business, committees, and officers, etc. Chapter 2 sets forth procedures for adopting regulations of the Board of Governors. Chapter 2.5 sets forth the procedures regarding systemwide auxiliary organizations.

Part Two of the document, Chapter 3, contains various “standing orders” of the Board of Governors that constitute the Board's delegations of authority to the Chancellor, community college districts, or others.

This document will be updated periodically to reflect changes adopted by the Board since the date of initial publication.

PART ONE

Procedures of the Board of Governors

Chapter 1. Operating Procedures

Article 1. Organization

1. Role, Rights, and Responsibilities.

It is policy of the Board of Governors that all members, including the trustee, faculty, classified staff, and student members, have the same basic role and responsibility. The basic role and responsibility of a member of the Board of Governors is to bring his or her own best thinking and personal views to the Board's discussion, determining his or her own positions on the issues rather than being bound to represent or advocate the positions of a particular organization or constituency.

It is also policy of the Board of Governors that all members of the Board of Governors shall have equal rights and responsibilities. In this regard, the trustee, faculty, and classified staff members shall, except when necessary to prevent a conflict of interest, have full voting rights, as well as other rights, duties, privileges, and emoluments afforded to all other Board members. Student members shall also have the same rights, duties, privileges, and emoluments afforded to other Board members, except that, consistent with Education Code section 71000(b), only one student member shall have the right to vote and that member shall not vote when doing so would involve a conflict of interest. In addition, all Board members shall have the same basic obligation to attend meetings of the Board, and to represent the Board to the community colleges as well as community college organizations.

It is also policy of the Board of Governors that all members shall comply with the Operating Procedures specified in this chapter, with the Procedures for Adopting Regulations of the Board of Governors specified in Chapter 2, with the Standing Orders of the Board of Governors specified in Chapter 3, and with all statutes and other Board policies which prescribe the conduct of members of the Board of Governors. In this regard, all matters discussed in closed session will be treated with the strictest confidence, and will not be disclosed to any person unless required by law.

2. Robert's Rules of Order.

Except as otherwise provided in these Operating Procedures, the Board of Governors will follow Robert's Rules of Order in conducting its business.

5. Compensation of Members.

Members of the Board of Governors shall receive any stipend permitted by law, a per diem allowance and their actual and necessary traveling expenses in accordance with applicable rules and regulations of the Department of Personnel Administration while on designated and official business of the Board of Governors only as follows:

(a) While attending all regular and special meetings of the Board of Governors and all committee meetings thereof;

(b) While attending and/or participating at conferences and meetings of state, regional, or national associations relating to postsecondary education. Members of the Board interested in attending such meetings shall notify and obtain approval of the President prior to attending.

(c) Member visits to community colleges are encouraged, and reimbursement will be allowed, provided advance notice is given to the Chancellor, and approval is given by the Board President.

(d) Reimbursement for any out-of-state travel requires prior approval of the President of the Board and the Governor's Office.

(e) A member of the Board is authorized to claim a stipend of \$100.00 for each day the member is attending to official business.

Members of the Board shall note on provided time sheets the actual time they were away from headquarters on official business. The appropriate stipend will be assessed by the Office of the State Controller upon recommendation of the Chancellor.

(f) The President shall approve the participation of all Board members on official business. In so doing, the President and Vice President shall prepare, administer and stay within a Board-approved budget that has been established through the annual budget process. Approval of the President is not required with respect to attendance at any regular or special meeting of the Board, or with respect to attendance at Board committee meetings by committee members. Approval is also not required with respect to Board members who have been appointed by the President to participate on task forces established by the Board or by other entities.

(g) Consistent with the regulations of the Department of Personnel Administration, Board members traveling on official business may claim reimbursement for actual costs, in excess of normal state reimbursement rates, if the President determines that any of the following circumstances exist:

(1) there is an emergency;

(2) lodging is not available at the state rate;

(3) paying the higher rate would be cost-effective; or

(4) the member is attending a non-state sponsored conference or convention and the lodging rate is contracted for in connection with that event.

The President may delegate to the Vice President or the Chancellor authority to make determinations pursuant to this subdivision regarding reimbursement for travel costs in excess of normal reimbursement rates.

(h) As used in this section, official business is defined as attendance at all regular and special meetings of the Board and all committee meetings to which a member is assigned; attendance at all meetings to which a member serves as the elected or appointed representative of the Board except in those cases where a stipend is already provided from another source; and any other assignment or activity by a member with the advance concurrence of the President of the Board.

6. Ethical Conduct, Contracts, Honoraria, and Outside Activities.

(a) Members of the Board of Governors shall comply with the standards of ethical conduct for gubernatorial appointees as set forth in Executive Order 66-2. These standards include, but are not limited to, the requirement that members of the Board of Governors refrain from

engaging in any employment, activity, or enterprise which might result in, or create the appearance of resulting in any of the following:

(1) Using the prestige or influence of his or her office for the member's private gain or advantage, or the private gain or advantage of another.

(2) Using state time, facilities, equipment, or supplies for the member's private gain or advantage, or the private gain or advantage of another.

(3) Using confidential information acquired by virtue of the member's position for his or her private gain or advantage, or the private gain or advantage of another.

(4) Receiving or accepting money or any other consideration from anyone other than the State for the performance of an act which the member would be required or expected to render or as a part of his or her duties as a member of the Board of Governors.

(5) Performance of an act in other than his or her capacity as a member of the Board of Governors knowing that such an act may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by the Board of Governors or the Chancellor's Office. This paragraph shall not apply to actions of the faculty, trustee, or student members of the Board of Governors which are taken in their capacities as faculty, trustees, or students at a local district.

(b) No member may make or enter into any contract on behalf of the Board of Governors.

(c) No member may, subsequent to his or her appointment, enter into any contract for gainful employment or other compensation with any California community college district or with any association or organization of California community colleges or of personnel actively engaged with or employed by California community college districts. Upon being appointed to the Board of Governors, each member shall terminate any preexisting contractual relationship he or she may have with a community college district or with any association or organization of California community colleges or of personnel actively engaged with or employed by California community college districts, unless the contract embodies an employee/employer relationship.

(d) No member shall apply for reimbursement of expenses or per diem if an honorarium is accepted for participating in a conference, workshop, seminar, or similar presentation.

(e) No member of the Board of Governors shall accept appointment or election to serve with any special interest group or organization any of whose responsibilities are to take positions on which the Board of Governors takes formal action.

7. Contracts with Districts for Reimbursement for Service by Employees.

Upon the request of the governing board of a district whose employee has been appointed as a member of the Board of Governors, the Chancellor shall enter into a contract with the district so as to at least partially reimburse the district for the costs of replacing the employee. The contract amount shall not exceed that amount which is necessary to reimburse the district for its actual expenses (such as the expense of hiring different instructors) of granting up to 20 percent reassigned time for the employee who serves on the Board of Governors.

8. California Postsecondary Education Commission Representatives.

There shall be one member of the Board of Governors and one alternate on the California Postsecondary Education Commission.

One representative and one alternate of the Board of Governors shall be elected annually at the last regular meeting of the Board in each calendar year.

No person who is employed by any institution of public or private postsecondary education shall be appointed to or serve on the Commission, except that a person who is not a permanent, full-time employee and who has part-time teaching duties that do not exceed six hours per week may be appointed by the Board of Governors to and serve on the Commission.

The representative and the alternate shall serve one-year terms and may be reelected.

The representative and the alternate shall carry out the duties and responsibilities as members of the Commission, and shall report at each meeting of the Board of Governors matters considered by the Commission.

Article 2. Meetings

9. Meeting Laws.

All meetings of the Board of Governors and its committees shall be conducted in conformance with the Bagley-Keene Open Meeting Act (Government Code sections 11120-11132 [see Appendix for text]).

10. Regular Meetings.

The schedule and location of regular meetings for each calendar year shall be recommended by the Chancellor and shall be adopted by the Board of Governors no later than the last regular meeting of the preceding calendar year.

11. Special Meetings.

The President, the Chancellor, or a majority of the members of the Board of Governors appointed by the Governor and authorized to serve may call a special meeting of the Board at any time. Notice of the time, place, and purpose of the special meeting shall be given to each member of the Board by letter or telegram addressed to the member at the last known residence or place of business in time to reach the member at least ten days before the time appointed for the meeting. Members of the public shall be notified of the meeting consistent with the requirements of Government Code section 11125.4. Special meetings with less than ten days' notice may only be held under limited circumstances as authorized pursuant to Government Code sections 11125.4 and 11125.5.

No business other than that in the notice of the special meeting shall be considered at such meetings.

12. Public Meetings and Closed Sessions.

All meetings of the Board of Governors shall be open to the public except closed sessions.

Closed sessions may be called by the President, or by the President at the request of eight members of the Board.

Closed sessions may be held only during a regular or special meeting and require the same advance notice as any regular or special meeting of the Board.

Closed sessions shall be limited to matters of personnel, acceptance of gifts where the donor requests confidentiality, pending litigation, and other matters authorized by law, including section 11126 of the Government Code.

Deliberations in closed session shall be strictly limited to the specific matter for which the closed session was called.

Legal counsel shall attend closed sessions, is designated as the clerk of such sessions as required by section 11126.1 of the Government Code, and shall be responsible for all legal notice, record keeping and reporting requirements specified by law.

Consistent with Government Code section 11126.3, after any closed session, the Board shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Government Code section 11125.2 of action taken in the closed session.

13. Notice of Meetings.

The Chancellor shall give notice of all meetings at least ten days in advance of meetings of the Board in the manner required by Government Code section 11125, except when a shorter notice period is permitted by law as provided in section 11.

Notice shall be posted on the Internet and given to the members of the Board and to any person or organization requesting such notice in writing to the Chancellor.

Notice shall include the time, date, and place of the meeting, the items of business to be transacted or discussed, and at least a brief description of each item. Notice shall also include the Internet site where the notice is posted as well as the name, address, and telephone number of at least one staff person who can provide further information prior to the meeting. After the notice is published, items on which action will be taken may only be added to the agenda as provided in Government Code section 11125.3.

The notice and agenda materials shall be made available in alternate formats accessible to persons with disabilities and shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation may be made.

In the case of a meeting conducted by teleconference, the notice shall identify the location from which any Board member will be participating and indicate that members of the public shall have an opportunity to address the Board directly pursuant to Government Code section 11125.7 at each such location.

Article 3. Full Board Business

20. Presiding Officer.

The President shall preside at all meetings of the Board of Governors. In the event the President is absent or unable to preside, the Vice President shall preside. In the absence or inability to preside of both the President and Vice President, the members of the Board present shall select for that meeting a Chairperson Pro Tempore who may be authorized to act in the place of the President and Vice President.

21. Quorum.

A majority of those members appointed by the Governor and authorized to serve shall constitute a quorum to transact business.

In the event of the lack of a quorum at the beginning of a regular or any scheduled meeting, the President, Vice President, any member of the Board, or the Chancellor, in that order, shall

adjourn the meeting to another date. The Chancellor shall employ reasonable means to notify the absent members.

In the event a quorum is initially present but later is lost, the Board President or other presiding officer shall have the authority to continue the meeting; however, the Board shall not take any action as long as there is a lack of a quorum.

22. Agenda.

The President shall develop the agenda of business in consultation with the Chancellor, and in accordance with section 13 of these Procedures, for all regular and special meetings. Any Board member can request that an item be placed on the agenda. The request shall be made to the President, who in turn shall determine when and where it shall be placed on a future Board agenda.

24. Recommendations of Action and Resolutions.

Recommendations for Board action which are developed through Consultation shall be prepared and recommended by the Chancellor to the Board and its committees.

Committees of the Board may develop recommendations or resolutions that can be presented to the Board for consideration and disposition.

Any member of the Board may propose to the President that a resolution be placed on the agenda for the consideration and disposition of the Board. Upon approval of the President, a Board member proposing such a resolution shall work with the Chancellor or the Chancellor's designee in preparing the text of the resolution for inclusion in the agenda.

36. Official Actions.

All official actions of the Board of Governors shall require the affirmative vote of a majority of the members of the full Board in attendance and voting who are not otherwise disqualified from voting on a particular action because of a conflict of interest. All votes of every member shall be recorded.

A member shall be disqualified from voting with respect to any action of the Board of Governors which:

- (a) would foreseeably affect, either directly or indirectly, any financial interest of the member in a manner prohibited by state conflict of interest laws; or
- (b) would have the sole or exclusive effect of benefiting or harming the community college district of which the member is either an employee, a trustee, or a student, or would directly affect the salary of such a member.

38. Consent Calendar.

The Chancellor, in accordance with section 22 of these Procedures, may develop a "consent calendar" for selected Board actions. Items placed on the consent calendar will be voted on by a single Board action, without staff or public presentations, and without Board discussion.

Any Board member may remove an item from consent by informing the President of this intent. A member of the public may request that an item be removed from consent by filling out a request to testify in accordance with section 41 of these Procedures, or by asking a Board member to remove an item from consent. The item shall then be removed from consent if any Board member exercises his or her authority to remove an item from consent.

40. Public Hearings.

When a public hearing item is reached on the agenda, the President shall declare a public hearing. Public hearings conducted by the Board shall conform to all applicable provisions of law pertaining to notice, conduct and reporting of such hearings. A public hearing before the Board, which for any reason cannot be completed at the time and place originally advertised and noticed, may be adjourned to a later date and the announcement of such adjournment meeting shall constitute a sufficient notice to all parties concerned.

41. Public Presentations to the Board.

A member of the public has the right to attend a meeting without having to register or give other information as a condition of his or her attendance.

Persons wishing to make an oral presentation to the Board or one of its committees shall observe the following procedure:

(a) A written request to address the Board or one of its committees shall be made to the Chancellor on a form provided by him or her. The Chancellor shall present the request to the Board or a committee at the meeting to be addressed.

(b) The request shall include the name and address of the person requesting to speak, the name of the organization or group represented, if any, and a statement of the subject to be presented.

(c) The proposed speaker may speak only if and when recognized by the President or by the committee chairperson.

(d) Said presentation shall be limited to three minutes unless such limit is modified or waived by the President or by the committee chairperson.

(e) After the hearing is closed, or after a motion is made by the Board, no person shall address the Board without first securing the permission of the Board.

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of the meeting unfeasible and order cannot be restored by the removal of those persons willfully interrupting the meeting, the President of the Board may order the meeting room cleared and continue in session.

Any person attending a public meeting of the Board shall have the right to record or broadcast the proceedings in the absence of a finding by the Board that such recording would result in noise, illumination, or obstruction of view which constitutes, or would constitute, a persistent disruption of the proceedings.

42. Minutes and Records of Proceedings.

Minutes of the Board shall be prepared and maintained by the Chancellor.

With respect to matters requiring public hearings, the Board secretary shall make a permanent written record of the hearing, which shall include the motions made by the members, the vote thereon and a digest of the testimony and comments given at the hearing, and all such records shall be kept in the office of the Chancellor.

The President and the Chancellor shall certify resolutions adopted by the Board of Governors. The President and the Chancellor shall certify and sign the official minutes of the Board.

All meetings of the Board shall, to the extent possible, be tape recorded. Any person may request to hear any portion thereof at a time and place determined by the Chancellor.

Article 6. Committees

50. Standing Committees.

The following are standing committees of the Board:

Executive Committee

Committee on Budget and Finance

Committee on Legislation

Joint Advisory Committee on Career Technical Education

CSU Doctoral Program Joint Standing Committee

Foundation for California Community Colleges Committee

Veterans Committee

Economic and Workforce Development Program Advisory Committee

The members of the Executive Committee shall be the President, Vice President, Past President (if still a member of the Board of Governors), the CPEC representative and the Chair of the Committee on Budget and Finance.

Each standing committee shall be subject to and shall conduct its business in accordance with the provisions of this chapter.

52. Authority to Act.

Any Board member can request an item be assigned to a Board committee for its review and recommendation to the full Board of Governors. The request shall be made to the President of the Board, who in turn shall assign it to the appropriate Board committee.

The Chancellor can request that an item be assigned to a Board committee for its review and recommendation. The request shall be made to the President, who in turn shall assign it to the appropriate Board committee. A member of the Chancellor's staff who is assigned as the lead staff person to support a committee can recommend to the committee chairperson that an item be assigned to that particular committee. The committee chairperson shall inform the President, who shall assign a time for reporting the item to the Board of Governors. All other staff recommendations regarding matters to be assigned to Board committees shall be made to the Chancellor.

Unless otherwise specifically delegated, the authority and duty of each committee shall be only to consider and to make recommendations to the Board on matters assigned to the committee.

A majority of the whole committee shall constitute a quorum. The act of the majority of the members present at the meeting at which a quorum is present shall be the act of the committee. If no quorum exists, those present may make recommendations to the Board, noting the number of people in attendance.

54. Statement of Legislative Principles.

The Board shall adopt and periodically review a Statement of Legislative Principles which shall provide the basic parameters guiding the Chancellor in taking positions on matters pending before the Legislature, the Governor, the Congress, and the President pursuant to section 317.

55. Minutes.

Minutes of committee meetings shall be taken and provided to all members of the Board.

Article 7. Officers

60. Officers.

Officers of the Board of Governors shall be the President, the Vice President, the immediate Past President (if still a member of the Board of Governors), and the representative and alternate to the California Postsecondary Education Commission.

Officers shall be elected as prescribed in section 62 and take office as the last order of business of the last regular meeting of the calendar year. They shall serve one-year terms.

The President and Vice President may be elected for no more than two consecutive terms.

The Chancellor shall serve as the Chief Executive Officer of the Board of Governors.

62. Nominations and Election.

At the next to the last regular meeting of the calendar year the President shall solicit from other Board members nominations for President, Vice President, and the representative and alternate of the California Postsecondary Education Commission. A Board member may be nominated for more than one office. Additional nominations may be made in writing to the Chancellor, or from the floor, provided that any such nomination must be made prior to the conduct of the election for the particular office occurring at the last regular meeting of the year.

Election for Board officers shall be conducted at the last regular meeting of the year.

If the member elected President leaves the Board for any reason, the Vice President shall assume the office of President until the next regular election. In the event a vacancy occurs in any other office, the President shall make an interim appointment from the remaining Board of Governors' members. A member appointed to fill a vacancy shall hold office only for the balance of the unexpired term.

Article 8. Chancellor and Staff

72. Evaluation of the Chancellor.

The Board shall annually evaluate the performance of the Chancellor.

73. Board and Staff Communications.

Except as provided herein, a member of the Board of Governors may discuss community college business with any member or members of the Chancellor's staff deemed appropriate by the Board member; and a member of the Chancellor's staff may discuss community college business with any Board member or members. A Board member shall not request staff work beyond a nominal nature without the concurrence of the President or Chancellor. Also, unless formally adopted by the Board of Governors, neither Board members nor staff shall represent positions discussed with staff or Board members as positions of the Board of Governors.

74. Travel by Chancellor.

Consistent with the regulations of the Department of Personnel Administration, the Chancellor may claim reimbursement for actual travel costs, in excess of normal state reimbursement rates, if the President determines that any of the following circumstances exist:

- (1) there is an emergency;
- (2) lodging is not available at the state rate;
- (3) paying the higher rate would be cost-effective; or
- (4) the Chancellor is attending a non-state sponsored conference or convention and the lodging rate is contracted for in connection with that event.

Chapter 2. Procedures for Adopting Regulations of the Board of Governors

200. Scope of Authority.

The Board of Governors shall, by resolution, adopt regulations which are binding on California community college districts as are required by the Legislature or which make specific the laws enforced or administered by the Board of Governors. Neither the Board of Governors nor the Chancellor shall have authority to administer or enforce any regulation, as defined by section 202(d), unless that regulation is adopted in accordance with the provisions of this Chapter. Except as expressly provided herein, all regulations shall be adopted in accordance with the provisions of this Chapter.

202. Definitions.

For the purposes of this Chapter, the following definitions shall apply:

- (a) "Changes without regulatory effect" includes:
 - (1) changes such as renumbering, reordering, or relocating an existing regulation, provided that the changes do not alter the requirements, rights, responsibilities, conditions, or prescriptions contained in existing regulations; or
 - (2) removal from the regulations of any existing sections for which the statutory or constitutional authority has been repealed; or

(3) changes in structure, syntax, reference, grammar or other changes which do not alter the requirements, rights, responsibilities, conditions or prescriptions contained in existing regulations; or

(4) changes in the “authority” or “reference” citations.

(b) “Emergency” means any disruption of the public peace, health and safety or general welfare which requires immediate regulatory action.

(c) An “interested party or individual” means every entity or person who has filed a written request for notice of regulatory actions with the Board of Governors.

(d) “Regulation” means any rule of performance or prescriptive standard of general application adopted by the Board of Governors through the procedures set forth herein to implement or make specific the laws enforced or administered by the Board of Governors. “Regulation” does not mean nor include procedures or standards relating only to the internal management of the Office of the Chancellor, legal rulings of counsel, forms prescribed by the Board, or explanatory statements issued by the Board or the Chancellor to the districts. “Regulation” does not include changes without regulatory effect.

(e) “Regulatory action” includes the adoption, amendment, or repeal of a regulation.

204. Standards of Regulations.

All regulations shall adhere to standards of necessity, authority, clarity, consistency, reference and nonduplication as follows:

(a) The “necessity” standard is met in either of the following circumstances:

(1) The specific provision or the substance of the provision is mandated by a California statute or other applicable law; or

(2) The regulation clarifies a system issue or administrative requirement.

(b) “Authority” means the provision of law which permits or obligates the Board of Governors to adopt, amend, or repeal a regulation.

(c) “Clarity” means that a regulation is written so that the meaning will be easily understood by those persons directly affected by it.

(d) “Consistency” means being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law.

(e) “Reference” means the statute, court decision, or other provision of law which the Board of Governors implements, interprets, or makes specific by adopting, amending, or repealing a regulation.

(f) “Nonduplication” means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard shall not prohibit the Board of Governors from including portions of relevant statutes or regulations for clarity.

206. Notice and Comment.

All regulatory actions, excepting emergency actions and nonsubstantial or technical changes, shall be adopted following notice and an opportunity for comment.

(a) Notice.

(1) Written notice of a proposed regulatory action shall be provided to each community college district and to all other interested parties and individuals, including the educational policy and fiscal committees of the Legislature and the Department of Finance, at least 45 days in advance of adoption.

(2) Notice will be deemed provided when a copy of the proposed action is mailed to the parties specified in (1) above. Failure to mail notice to any interested party or individual shall not invalidate any action taken by the Board of Governors.

(3) The notice shall include the following:

(A) A copy, or instructions for obtaining a copy, of the proposed regulation to be adopted, amended or repealed. The copy shall clearly indicate any changes proposed to existing regulations.

(B) Reference to the authority under which a regulation is proposed and a brief statement of the need for the proposed action.

(C) A determination as to whether the regulation imposes a mandate on community college districts.

(D) An estimate, prepared in accordance with instructions adopted by the Department of Finance, of the effect of the proposed regulation with regard to the costs or savings to any state agency, the cost of any local program as governed by part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, any other costs or savings of local agencies, and the costs or savings in federal funding provided to state agencies.

(E) A statement of the time and place of the Board of Governors' hearing on the proposed regulatory action and the projected date of adoption.

(F) The name and telephone number of the person to whom inquiries concerning the proposed regulatory action may be directed.

(G) The date by which written comments must be received for the comments to be considered before the adoption of the regulatory action.

(b) Comment.

(1) The 45-day period commencing with the mailing of the notice of the proposed action shall be the comment period. In cases where the 45-day period has run and the 15-day comment period set forth in subdivision (c) remains open, the 45-day period for comments on the proposed action will be closed, and comment shall only be open with regard to the change to the proposed regulatory action set forth in the renote. During this period, any district or organization, through its authorized representative, or any individual may present to the Board of Governors written statements or arguments concerning the proposed action. Any challenge to a proposed regulatory action which is based on the application of a regulatory standard must clearly identify the standard being challenged and specify the perceived defect.

(2) During the comment period, the Board of Governors shall hold at least one hearing for receipt of comments, both written and oral, concerning the proposed action.

(3) Prior to the adoption, amendment or repeal of the regulations, the Board of Governors shall consider and respond to all written and oral comments received during the comment period.

(c) Renote.

(1) After the public hearing on the proposed regulatory action, if the Chancellor or his or her designee determines that a change sufficiently related to the text of the proposed regulatory action should be made prior to adoption by the Board of Governors, written notice of the change to the proposed regulatory action shall be provided to each community college district and to all other interested parties and individuals, including the educational policy and fiscal committees of the Legislature and the Department of Finance, at least 15 days in advance of adoption.

(2) A change is "sufficiently related" if a college official or member of the public familiar with the community college system could reasonably anticipate that the proposed change might be considered.

(3) Notice will be deemed provided when a copy of the change to the proposed action is mailed to the parties specified in (1) above. Failure to mail notice to any interested party or individual shall not invalidate any action taken by the Board of Governors.

(4) The notice shall include a copy, or instructions for obtaining a copy, of the changes to the proposed regulation to be adopted, amended or repealed. The copy shall clearly indicate any changes proposed to existing regulations.

(5) The notice shall also include the other items specified in subdivision (a)(3), except that a new determination need not be made of whether the regulation imposes a mandate and a new estimate of the costs or savings associated with the regulation need not be prepared unless the changes to the proposed regulation alter the determinations made in connection with the original notice.

(6) The 15-day period commencing with the mailing of the notice of the change to the proposed regulatory action shall be the comment period for the change to the original proposal. During this period, any district or organization, through its authorized representative, or any individual may present to the Board of Governors written statements or arguments concerning the proposed action. If the original 45-day comment period in subdivision (b) has closed, comments will only be accepted concerning the change outlined in the renote. Any challenge to a change to a proposed regulatory action which is based on the application of a regulatory standard must clearly identify the standard being challenged and specify the perceived defect.

(7) Prior to the adoption, amendment or repeal of the regulations, the Board of Governors shall consider and respond to all written and oral comments received during the additional comment period.

(d) Emergency Exception. If the Board of Governors makes a finding that regulatory action is necessary for the immediate preservation of the public peace, health and safety or general welfare, the action may be adopted as an emergency action.

(1) The finding must include a description of specific facts showing the need for immediate action.

(2) The emergency action shall remain in effect for a period designated by the Board of Governors, but in no event for a period of more than 180 days unless, during that period, the Board of Governors complies with the notice and comment requirements of these procedures.

(e) As to any regulation which the Department of Finance determines would create a state-mandated local program cost, the Board of Governors shall not adopt the regulation until the Department of Finance has certified to the Board of Governors and to the Legislature that a source of funds is available to reimburse that cost.

208. Effective Date.

Regulatory actions shall take effect as follows:

(a) Regulatory actions of the Board of Governors shall become effective 30 days after adoption, or at a later date if expressly provided by resolution of the Board of Governors, except as provided herein:

(1) Emergency regulations shall take effect immediately upon adoption.

(2) The effective date for a regulation shall be suspended if, within the period specified by resolution of the Board of Governors, at least two-thirds of the community college district governing boards vote in open session to disapprove the regulation. Written verification of governing board disapproval must state the basis for the disapproval and include the text of any governing board resolution related to the disapproval. Verification of disapproval must be sent to the Board of Governors, postmarked no later than the day specified by resolution as the effective date, to be considered in suspending the effective date.

(A) When any regulatory action is suspended under this paragraph, the Board of Governors shall provide 45 additional days for review and comment, and, during that time shall hold at least one hearing on the regulation.

(B) After the additional comment days and hearing, the Board of Governors may do any of the following:

(i) Reject or withdraw the regulation.

(ii) Substantially amend the regulation to address the concerns raised during the additional review period, and then adopt the revised regulation. The adopted regulation shall be treated as a newly adopted regulation, and shall go into effect in accordance with this procedure.

(iii) Readopt the regulation as originally adopted, or with those nonsubstantive, technical changes deemed necessary to clarify the intent of the original regulation. If the Board of Governors determines to readopt a regulation, with or without technical amendments, it shall also adopt a written declaration and determination regarding the specific state interest it has found necessary to protect by means of the specific language or requirements of the regulation. A readopted regulation may then be challenged pursuant to existing law in a court of competent jurisdiction, and shall not be subject to further appeal within the California Community Colleges.

(b) Once effective, regulatory actions are subject to administration and enforcement by the Board of Governors.

210. Regulation File.

The Board of Governors shall maintain a file on each proposed regulatory action to serve as a record of the process. The file shall include:

(a) A copy of the written notice of proposed regulatory action.

(b) A copy of any written comments received within the comment period and any written Board of Governors response to comments received during the comment period.

(c) A transcript, recording or minutes of any public hearing held to consider the adoption, amendment, or repeal of a regulation.

(d) Any additional information which the Board of Governors deems appropriate to memorialize the process of the regulatory action taken.

The regulation file shall be available to the public as a public document in accordance with the Public Records Act (Government Code sections 6250-6265).

212. Challenge to Existing Regulations.

Any district governing board or other interested party may, in writing, challenge any existing regulation or propose a new regulation to the Board of Governors. Any challenge to a regulatory standard must identify the standard being questioned and specify the perceived defect.

The Chancellor shall, within 45 days, respond in writing to any such challenge or proposal; and a copy of said response shall be forwarded to the Board of Governors. The Chancellor's response shall become final 45 days after transmittal.

Chapter 2.5. Procedures for Recognition and Oversight of Systemwide Auxiliary Organizations

250. Purpose.

The following procedures are set forth to implement the provisions of Education Code section 72670.5.

251. Recognition and Establishment of an Auxiliary by the Board of Governors

Recognition and establishment by the Board of Governors of an auxiliary organization for the purpose of providing supportive services and benefits to the California Community Colleges and the Board of Governors shall require:

(a) That a recommendation for recognition shall be submitted to the Board of Governors by the Chancellor.

(b) Prior to the recognition of an auxiliary organization, a public hearing on the recommendation will be held at a time, place and in a manner determined by the Board of Governors.

(c) Approval by the Board of Governors shall include a designation of the recognized services, programs and functions and an identification of the number of Directors to serve on the Board of Directors of the auxiliary organization.

(d) The Board of Governors shall approve a written agreement between the Board of Governors and the auxiliary.

(e) Prior to recognition of a nonprofit public benefit corporation as an auxiliary organization, the corporation shall submit a copy of its Articles of Incorporation and Bylaws to the Chancellor. (EC§ 72674; 5 CCR § 59257(a).)

252. Recognized Services, Programs and Functions

The purpose of an auxiliary organization shall be limited to those purposes described in Education Code section 72670.5. The services, programs, and functions which may be undertaken by a systemwide auxiliary and which have been determined by the Board of Governors to be appropriate include:

Facilities and equipment;

Workshops, conferences, events, institutes and federal projects;

Gifts, bequests, devises, endowments and trusts;

Public relations programs;

Contracts for the employment of students by state agencies pursuant to Government Code section 19133; and,

Negotiating and managing voluntary cooperative purchase agreements for the benefit of the Chancellor's Office and community college districts.

In accordance with Education Code section 72671, the services, programs and functions may be performed by the auxiliary organization as part of a joint powers agreement. (EC § 72671; GC § 19133; PCC § 20661; 5 CCR §§ 59257(b), 59259.)

253. Board of Directors of the Auxiliary Organization

- (a) The authorized number of Directors shall range in number between five (5) and fifty (50).
- (b) Directors shall be selected by the Board of Governors.
- (c) The Board of Governors may remove at any time without cause any director of the auxiliary by a majority vote.
- (d) The Board of Directors shall elect all officers of the Board of Directors for terms of two years, or until their successors are selected and qualified. All officers shall be drawn from Board of Directors membership.
- (e) The officers of the Board of Directors shall be a chair, vice-chair, secretary-treasurer and such other officers as the Board of Directors may appoint.
- (f) Directors shall be appointed for six year terms, with initial appointments made to create staggered ending terms. (EC § 72674; 5 CCR § 59257(c).)

254. Officers of the Auxiliary

The officers of the auxiliary shall be a president/chief executive officer (CEO), chief financial officer (CFO), and secretary. The officers of the auxiliary shall be elected by the Board of Directors, and, each shall serve until their successors are elected.

255. Meetings

The Directors of the Auxiliary shall conduct its business in public meetings in accordance with the provisions of chapter 9 (commencing with section 54950) of part 1 of the Government Code (“Brown Act”), and shall, during each fiscal year, hold at least one business meeting each quarter. (EC § 72674.)

256. Salaries, Working Conditions and Benefits of Full-Time Employees

- (a) The Board of Governors may authorize personnel of the Chancellor’s Office, as identified in any Master Agreement, to provide services for or on behalf of the auxiliary. In such cases, the master agreement shall provide for full reimbursement by the auxiliary organization to the Chancellor’s office for the cost of such services.
- (b) For all employees of the auxiliary organization, the Board of Directors of the auxiliary shall, pursuant to Education Code section 72672, provide salaries, working conditions and benefits for these employees that are comparable to those provided Chancellor’s Office employees performing substantially similar services. For those employees who perform services that are not substantially similar to the services performed by Chancellor’s Office employees, the salaries established shall be at least equal to the salaries prevailing in other educational institutions in the area or commercial operations of like nature in the area. The term “employees of the auxiliary organization” does not include employees of the Chancellor’s Office providing services to the auxiliary organization pursuant to subdivision (a).
- (c) The Board of Directors of the auxiliary may provide retirement benefits for employees described in subdivision (b), different from those provided comparable Chancellor’s Office

employees and may withhold retirement benefits or permanent status benefits and/or both from temporary employees. For the purpose of this provision, a temporary employee is:

(1) An employee employed for a specific research project, workshop, institute, or other special project funded by any grant, contract, or gift; or

(2) An employee whose contract of employment is for a fixed term not exceeding three years.

(d) The Board of Directors of the auxiliary may withhold retirement benefits and/or permanent status benefits from executive employees. For the purposes of this provision, an executive employee is any management employee with responsibility for the development and execution of the systemwide auxiliary's policies and includes, but is not limited to, the president/CEO, and the CFO of the systemwide auxiliary.

(e) Should retirement benefits be provided, they may, but need not, be provided by the Public Employee's Retirement System. Auxiliary organizations are exempted from the requirement of providing retirement benefits for a period not to exceed three years from the date on which the Board of Governors recognizes the establishment of the auxiliary. (EC § 72672; 5 CCR § 59257(e).)

257. Expenditures and Fund Appropriation

The Board of Directors of the auxiliary shall approve all expenditures and fund appropriations. Appropriations of funds for use outside of the normal business operations of the auxiliary shall be approved by the Chancellor or Vice Chancellor of Administration and Fiscal Policy in accordance with Board of Governors policy. (EC § 72675.)

258. Accounting and Reporting

The Board of Directors of the auxiliary shall:

(a) Utilize a standard accounting and reporting system established by the Chancellor and contained in the document, California Community Colleges Auxiliary Organization Accounting and Reporting System.

(b) Implement financial standards which will assure the fiscal viability of the auxiliary. Such standards shall include proper provision for the professional management, adequate working capital, adequate reserve funds for current operations, capital replacements, contingencies and adequate provisions for new business requirements. Should a program or appropriation which has received approval, upon review be determined to be operating outside the provisions of the Education Code, the procedures of the Board of Governors, any Master Agreement, or the policy of the Board of Directors, then the program or appropriation shall be discontinued by direction of the Chancellor until further review is accomplished and an appropriate adjustment is made. (EC § 72675(a).)

259. Funds

(a) All money collected by or on the behalf of the auxiliary shall be deposited in banks, trusts companies, or other insured depositories designated by the Board of Directors of the auxiliary. All such money shall be accounted for properly.

(b) The chief financial officer of the auxiliary shall attend to the following:

(1) Books of account. The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and

business transactions of the auxiliary, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial statements. The books of account shall be open to inspection by any Director at all reasonable times.

(2) Deposit and disbursement of money and valuables. The chief financial officer shall deposit all money and other valuables in the name and to the credit of the auxiliary with such depositories as may be designated by the Board of Directors; shall disburse the funds of the auxiliary as may be ordered by the Board of Directors, whenever they request it; and keep an account of all of his/her transactions as chief financial officer and the financial condition of the auxiliary; and shall have other powers and perform such other duties as may be prescribed by the Board of Directors or by the Bylaws.

(3) Bond. If required by the Board of Directors, the chief financial officer shall give the auxiliary a bond in the amount, and with the surety or sureties specified by the Board of Directors for faithful performance of the duties of his office, and for restoration to the auxiliary of its books, papers, vouchers, money, and other property of every kind in his/her possession or under his/her control on his/her death, resignation, retirement, or removal from office.

(c) Trust funds shall be used specifically for the purpose designated in the instrument creating the trust.

(d) Funds of the auxiliary shall be used for purposes consistent with Chancellor's Office policy where applicable, and shall not be used to make personal loans for non-educationally related purposes, except that such loans may be made when specifically authorized by a trust instrument under which the funds were received.

(e) Grants, bequests, trusts, donations and gifts accepted by the auxiliary shall be maintained in accordance with policies and regulations of the Board of Governors and the Chancellor's Office. With respect to proposed gifts to the Board of Governors, the Chancellor shall decide, after consulting with the donor, whether a donor's proposed gift should be accepted by the Board of Governors or referred to the auxiliary. Gifts to the Board of Governors may be accepted under the provisions of Education Code section 71046.

(f) Funds derived by the auxiliary from indirect cost payments and which are not needed to provide adequate working capital, reserve funds for current operations or capital replacements shall be appropriated in a manner consistent with policies established by the Board of Governors; uses of such funds shall be regularly reported to the Board of Governors through the Chancellor.

(g) No Board of Governors or Chancellor's Office funds or resources, other than those funds or resources derived from gifts or bequests to the Board of Governors, shall be transferred to the auxiliary for the purpose of either avoiding laws or regulations which constrain the Board of Governors or Chancellor's Office. (EC § 72675(b),(c).)

260. Authority and Responsibility of the Auxiliary

(a) The auxiliary shall not provide or offer instruction (courses or programs) whether or not state funding is received.

(b) All services, programs and activities that may be undertaken by the auxiliary shall be maintained for the general benefit of the mission of the California Community Colleges. Upon Board of Governors approval, the auxiliary may assume any of the services, programs and activities listed in section 252 of these Procedures in order to provide the fiscal means and the management procedures that allow the Board of Governors to carry on activities supportive of

the mission of the California Community Colleges, as identified by the Board of Governors, not normally funded by the State.

(c) The auxiliary will not enter into any contract or other business arrangement involving real property, either by lease or by purchase, without the prior approval of the Chancellor. (EC § 72670.5; 5 CCR § 59257(j)(3).)

261. Record Keeping

(a) Records. The accounting books, records, and minutes of proceedings of the Board of Directors shall be kept at such place or places designated by the Board of Directors, or in the absence of such designation, at the principal executive office of the auxiliary. The minutes shall be kept in written or typed form, and accounting books and records shall be kept either in written, typed, or printed form or in any other form capable of being converted into written, typed, or printed form. The minutes and accounting books and records shall be open to inspection at any reasonable time during usual business hours. These rights of inspection shall extend to the records of each subsidiary corporation, if any.

(b) Annual Report. Nothing in these Procedures shall be interpreted as prohibiting the Board of Directors from issuing annual or other periodic reports of the auxiliary as they consider appropriate. However, the auxiliary shall provide to the Directors, within 120 days of the close of its fiscal year, a report containing the following information in reasonable detail:

(1) The assets and liabilities, including the trust funds of the auxiliary as of the end of the fiscal year.

(2) The principal changes in assets and liabilities, including trust funds, during the fiscal year.

(3) The revenue or receipts of the auxiliary, both unrestricted and restricted to particular purposes, for the fiscal year.

(4) The expenses or disbursements of the auxiliary, for both general and restricted purposes, during the fiscal year.

(5) Any information required by California Corporations Code section 6322.

(c) Good Standing. The auxiliary shall be included on the Board of Governor's list of auxiliary organizations in good standing, or removed from such list, in accordance with Board of Governors Standing Orders.

(d) Audit. The auxiliary organization shall have an annual fiscal audit of any and all funds in accordance with Education Code section 72672. The audit shall be performed by a certified public accountant in accordance with procedures prescribed by the Board of Governors, as contained in the California Community College Auxiliary Organization Accounting and Reporting System. Copies of the annual audit report shall be submitted to the Board of Governors and to the Chancellor. The audit shall be a public record, except as otherwise provided by law.

The Chancellor and Chairperson of the Board of Directors of the auxiliary shall cause to have the financial records of the auxiliary audited at least annually. The results of the audit shall be reviewed by the Board of Directors at a regular or special meeting and copies shall be submitted to the Board of Governors and the Chancellor. Copies of the auxiliary's published audited statement of its financial condition shall be distributed at a regularly scheduled meeting of the Board of Governors. (EC §§ 72672, 72675; 5 CCR § 59257(d),(f),(g).)

262. Incorporation into Master Agreement

These Procedures shall be incorporated into, and made a part of any Master Agreement between the Board of Governors and the auxiliary which is required for the performance by such auxiliary of any services, programs and functions identified in the Master Agreement.

263. Use of Name

The auxiliary may not use the name of the “Board of Governors” or “California Community Colleges” or otherwise represent a relationship with the Board of Governors except pursuant to a written agreement with the Board of Governors entered into once the auxiliary has been recognized and established as an auxiliary organization by the Board of Governors and is in good standing. (EC §§ 71000, 71025.)

264. Indemnification

The Master Agreement shall contain a provision requiring the auxiliary to indemnify, defend, and hold harmless the Board of Governors, its officers, agents, and employees from any and all claims, losses, damages, or liabilities that may be suffered or incurred by the Board of Governors, its officers, agents and employees, caused by or arising out of, or in any way connected with the operation of the auxiliary organization.

PART TWO

Standing Orders of the Board of Governors

Chapter 3. Standing Orders of the Board of Governors of the California Community Colleges

Article 1. Function of Standing Orders and Procedures for Adoption

300. Function of Standing Orders.

Standing Orders are adopted to delegate to the Chancellor or others appropriate functions and activities to be taken of behalf of the Board of Governors (Board). Nothing in the Standing Orders shall be construed or operate as an abridgment or limitation of any rights, powers, or privileges of the Board.

302. Adoption, Amendment, and Repeal of Standing Orders.

(a) Notice of a proposal to adopt, amend, or repeal a Standing Order, along with a copy of the proposal, may be given at any regular meeting of the Board. Thereafter, the Standing Order may be adopted, amended, or repealed as proposed at any subsequent meeting of the Board by an affirmative vote of a majority of the members in accordance with Board Operating Procedures. Nonsubstantial changes to the proposed language may be made without notice.

(b) Each Standing Order shall continue in force and effect from the date of its adoption until its amendment or repeal.

Article 2. Operation of the Chancellor's Office

310. Chief Executive Officer.

The Chancellor shall be the chief executive officer of the Board of Governors of the California Community Colleges and shall have full administrative authority and responsibility under the policy direction of the Board to carry out its policy directives. (EC §§ 66700, 70901.) Any of the duties of the Chancellor may be delegated by him or her to any officer or employee of the Chancellor's Office of the California Community Colleges. (EC § 71090.)

312. Communications With and About the Board of Governors.

(a) The Chancellor shall, at all required or appropriate times, report to the Board all matters necessary to enable the Board to provide guidance and direction to the California Community College system.

(b) The Chancellor shall prepare those items requiring Board notice and action.

(c) The Chancellor shall prepare for Board consideration all proposed regulations related to the California Community Colleges, assure that such regulations meet the standards of

Government Code section 11349, and are properly noticed and processed in accordance with section 200 of chapter 2 of the Procedures of the Board of Governors. (EC § 70901.5.)

(d) The Chancellor shall communicate Board policy and positions in carrying out the function of consultation and in otherwise performing the role of Chancellor.

314. Reporting Requirements.

(a) Whenever a statute or regulation requires the Board to collect data or to report to the Legislature, the Governor or other federal or state entity, or to the districts, the Chancellor shall advise the Board and shall, as necessary, propose and prepare reports for Board consideration and approval.

(b) Legislative reports include the following:

(1) reports regarding vocational education and technical training programs as provided in Education Code section 8007,

(2) the diversity paper concerning the Board's membership required by Education Code section 71020,

(3) the written report on the operation, effect and the extent of district compliance with the requirement that 50% of each district's current expense of education be expended for the payment of salaries of classroom instructors pursuant to Education Code section 84362.

(c) The Chancellor shall communicate with the districts and require of them such records and reports regarding their activities as necessary to determine proper compliance with statutory or regulatory responsibilities. (5 CCR § 55006.) The Chancellor shall require such records and reports from districts as needed for the Chancellor to determine that each district meets the minimum conditions which entitle districts to receive state aid as provided in subchapter 1 of chapter 2 of division 6 of title 5 of the California Code of Regulations, commencing with section 51000. (5 CCR §§ 51000 et seq.)

(d) The Chancellor shall prescribe and develop reporting forms for use by the districts or others whenever statute or regulations require reports to be submitted to the Chancellor or to the Board. Reporting forms to be developed and revised as appropriate include county auditor reports, question blanks to obtain material for a comparative study of library conditions in the state, and reports concerning instructional materials used in the districts. (EC § 84207; 5 CCR §§ 55841, 59406.5.)

316. Employees (Chancellor's Office Operations).

(a) The Chancellor shall employ and fix the compensation of such assistants, clerical and other employees as may be necessary to enable him or her to perform effectively the duties and exercise the powers and responsibilities of the office. The Chancellor shall obtain Board confirmation of all Deputy and Vice Chancellor appointments and salary levels before such appointments become final. (EC § 71092.)

(b) The Chancellor shall direct the activities and evaluate the performance of employees of the Chancellor's Office.

(c) Consistent with the regulations of the Department of Personnel Administration, excluded employees traveling on official business may claim reimbursement for actual costs, in excess of normal state reimbursement rates, if the Chancellor determines that any of the following circumstances exist:

(1) there is an emergency;

- (2) lodging is not available at the state rate;
- (3) paying the higher rate would be cost-effective; or
- (4) the employee is attending a non-state sponsored conference or convention and the lodging rate is contracted for in connection with that event.

317. Positions on State Legislation.

The Chancellor is authorized to take positions on pending legislation on behalf of the Board of Governors as set forth in this section.

(a) The Board's Statement of Legislative Principles shall guide the Chancellor.

(b) Before exercising the delegated authority granted by this section, the Chancellor shall obtain the approval of the President of the Board of Governors and the Chair of the Board Committee on Legislation.

(c) The Chancellor shall be required to seek the advice of the Consultation Council or obtain approval of the Board of Governors unless a bill (or an amendment):

(1) Affects agency operations but is not otherwise relevant to system policy; or

(2) Is determined by the Chancellor to be similar to a prior bill on which a position has been taken; or

(3) Time restraints make it unfeasible; or

(4) The bill is consistent with existing Board policies. The Chancellor shall provide the Consultation Council a statement explaining why the position is consistent and schedule the item for the next Consultation Council meeting.

(d) For any relevant bill or amendment to a bill that does not meet the criteria described in section (c), the Chancellor shall prepare an analysis, seek the advice of the Consultation Council, and recommend to the Board a position on the bill.

(e) The Chancellor shall promptly inform the Board of Governors and the Consultation Council of any positions taken. Any positions taken will be reported in an Agenda item at the next Board of Governors meeting.

(f) The Chancellor shall provide for regular review and evaluation of this section. The review and evaluation shall be conducted through the Consultation process, and may be incorporated into the periodic evaluation of the Consultation process pursuant to section 342. The results and any recommendations from the evaluation shall be reported to the Board.

318. Contracts.

(a) Except as provided in subsection (b), whenever the power to contract is invested in the Board, or when, in the judgment of the Chancellor, such contracts are expressly or impliedly authorized to fulfill responsibilities or authorities vested in the Office of the Chancellor, the Chancellor is authorized in the name of the Board of Governors to enter into such contracts.

(b) The Chancellor shall secure Board approval before entering into any contract:

(1) In excess of \$100,000; or

(2) Over three years in duration; or

(3) With respect to consulting services, in excess of \$50,000.

The requirement for Board approval shall apply to any amendment of a contract which results in the original contract exceeding the specified limits, as well as the amendment of a contract where the amendment itself exceeds the specified limits. Under circumstances when the need to contract was not foreseeable, and when delaying approval of the contract until the next Board

meeting would jeopardize the contract or frustrate its purpose, the Chancellor shall have the authority to enter into contracts in excess of the limits specified in this subsection. Before entering into such contracts, however, the Chancellor shall consult with the President of the Board.

(c) In securing the approval of contracts by the Board pursuant to subsection (b), the Chancellor shall apply the following procedures:

(1) In determining the nature, extent and need for any such contract, the Chancellor shall provide a summary of the Request for Proposal (RFP), Invitation for Bid (IFB), or other summary of the purpose and need for a contract to the Board of Governors prior to publicly releasing any such RFP or IFB, or prior to making any informal commitment to contract. The Chancellor may proceed with the release of the RFP, IFB, or other contract negotiations, unless the Board President, with or without the advice of any appropriate Board Committee designated by the President, directs the Chancellor to withhold action within a 10 day period from the date the summary is provided.

(2) In developing language for such contracts, the Chancellor shall include a provision which allows any aggrieved bidder on an RFP or IFB to protest the awarding of a contract to the Chancellor. The Chancellor shall inform the Board of any such protests, including the results of such protests. This remedy shall be in addition to the bidder's right to protest the matter to the Department of General Services.

(3) The Chancellor shall ensure that each panel of evaluators who score proposals is made up of staff from more than one division in the Chancellor's Office, including outside evaluators as appropriate; and the Chancellor shall take such other steps as necessary to ensure that evaluations and scoring are objective and fair.

(4) In requesting approval of said contracts, the Chancellor shall, at the time of distributing each regular meeting agenda to the Board of Governors, include a summary of contracts for Board approval. The summary for each contract shall indicate: the purpose of the contract; the amount of the contract; the time for performance of the contract, including whether it was advertised as a multi-year contract; the number of proposals received or whether the contract is a sole source contract; the number of proposals which met the minimum score for cost opening; and the party awarded the contract.

The provisions of subparagraphs (1) through (3) above shall not apply to interagency agreements with other state agencies, and other agreements necessary for the agency to receive public funds.

(d) The authorization contained in subsection (a) includes agreements, leases, contracts, and other documents, including but not limited to: service agreements, insurance agreements, fiscal, budgetary, and personnel documents,

requests, contracts for the purchase of apparatus, furniture, equipment, supplies and books, as well as contracts entered into as necessary to receive federal funds allocated to the California Community Colleges, all within the limits of fiscal ability and sound budgetary controls and subject to such policies as may be established by the Board. (EC § 70901(b)(5).)

319. Grants.

(a) Except as provided in subsection (b), whenever the power to enter into a grant is invested in the Board, or when, in the judgment of the Chancellor, a grant is expressly or

impliedly authorized to fulfill responsibilities or authorities vested in the Office of the Chancellor, the Chancellor shall have the authority to enter into such grants.

(b) The Chancellor shall secure Board approval before entering into any grant:

(1) In excess of \$100,000; or

(2) Over three years in duration.

The requirement for Board approval shall apply to any amendment of a grant which results in the original grant exceeding the specified limits, as well as the amendment of a grant where the amendment itself exceeds the specified limits. Under circumstances when the need to enter into a grant was not foreseeable, and when delaying approval of the grant until the next Board meeting would jeopardize the grant or frustrate its purpose, the Chancellor shall have the authority to enter into grants in excess of the limits specified in this subsection. Before entering into such grants, however, the Chancellor shall consult with the President of the Board.

(c) Prior to submitting grants to the Board for approval pursuant to subsection (b), the Chancellor shall either:

(1) present to the Board for its review and approval an expenditure plan outlining the nature, extent and need for any such grants; or

(2) provide a summary of the Request for Application (RFA) or other summary of the purpose and need for a grant to the Board of Governors prior to publicly releasing any such RFA or prior to making any informal commitment to award a grant. The Chancellor may proceed with the release of the RFA unless the Board President, with or without the advice of any appropriate Board Committee designated by the President, directs the Chancellor to withhold action within a 10 day period from the date the summary is provided.

(d) All grants awarded by the Board of Governors or the Chancellor on or after January 1, 1996, shall be awarded through competitive processes or through allocation formulas reviewed and approved by the Board of Governors, except that:

(1) Grants may be awarded competitively within regions.

(2) Grants for regional or statewide coordination activities for the Extended Opportunity Programs and Services (EOPS), Disabled Students Programs and Services (DSPS), Matriculation, and Economic Development programs need not be competitively bid.

(3) Where there are conditions beyond the control of the Chancellor which limit competition, such as matching fund requirements or other agencies being required to select grantees, the Chancellor, in consultation with the President of the Board and the Chairperson of the appropriate committee, shall have authority to award grants without competition.

(e) Panels evaluating or scoring grant proposals will include or be comprised of outside readers as appropriate and will be comprised so as to assure objectivity and prevent conflicts of interest. In the event that outside readers are not used, the evaluation panel shall be comprised of staff from more than one division in the Chancellor's Office. The Chancellor shall ensure that readers are appropriately trained with respect to the process for review of grant applications.

(f) Grants for the performance of functions which are ongoing in nature will be awarded in cycles of between one and five years in length. In advertising a grant for an ongoing function, district personnel will be apprised of the length of the cycle and the funding anticipated to be available for the duration of the project; provided however, that nothing in this section shall be construed to preclude subsequent adjustment of actual funding levels to reflect unforeseen circumstances. Districts shall be further informed that continuance of the grant will depend on year-to-year funding, and continued satisfactory performance. The Chancellor shall have the

authority to exempt grants described in subsection (d)(2) or those awarded under the Mathematics, Engineering, and Science Achievement (MESA) program, the Middle College High School program, or the Puente project from the duration limitations imposed by this paragraph.

(g) A district which, prior to January 1, 1996, has been awarded a grant on a non-competitive basis for the performance of an ongoing function may continue to be awarded that grant, at the discretion of the Chancellor, for a period of up to three additional fiscal years. Retention of the grant shall depend on continued availability of funds and satisfactory performance. At the conclusion of the term, the grant for the ongoing function shall be awarded on a competitive basis.

(h) To the extent that a grantee contracts with a private or public entity to perform certain parts of the grant, the grantee shall be required to disclose the intended purpose and amount of such subcontracting, shall agree to follow locally applicable competitive bidding processes in doing such subcontracting, and shall agree to name the subcontractors chosen.

(i) The procedures specified above shall not apply to grants which are distributed on an allocation formula basis which has been reviewed and approved by the Board of Governors.

320. Claims.

The Chancellor shall execute and approve or deny all proper claims against the Board and the Office of the Chancellor.

321. Procurement of Electronic Data Processing and Telecommunications Goods and Services.

The Chancellor shall establish, and maintain in the Chancellor's Office Administrative Manual, policies and procedures for procuring electronic data processing and telecommunications goods and services for the Chancellor's Office. Such policies and procedures shall be consistent with the legislative policies set forth in chapter 3 (commencing with section 12100) and chapter 3.5 (commencing with section 12120) of part 2, division 2, of the Public Contract Code, but without the involvement of the Department of General Services or the Department of Finance. (EC §§ 70901(b)(15) and 70901(d), PCC §§ 12100 et seq. and GC §§ 11700 et seq.)

322. Use of Name.

The Chancellor may authorize or deny, on behalf of the Board, the use of the name "California Community Colleges" in accordance with law. (EC § 71025.)

324. Gifts and Bequests.

The Chancellor may accept, on behalf of the Board and in the name of the State, gifts, donations, bequests, and devises in accordance with Education Code section 71046. All gifts so accepted shall be reported to the Board. The Chancellor shall establish reasonable conditions or restrictions governing the acceptance of such gifts, donations, bequests, and devises. With respect to gifts, donations, bequests, and devises which are controversial or unusual in nature, the Chancellor may accept such items, but shall first consult with the President of the Board and such acceptance shall be submitted to the Board for ratification. (EC § 71046.)

326. Annuity Contracts.

Subject to Board conditions, the Chancellor may purchase annuity contracts for permanent employees of the Board in accordance with Education Code section 71093. (EC § 71093.)

328. Travel Expenses.

The Chancellor may authorize the payment of actual and necessary travel expenses in accordance with Education Code section 71040. (EC § 71040.)

Article 3. Consultation

330. General.

The Chancellor shall represent the Board in the system consultation process established pursuant to Education Code section 70901. (EC § 70901.) In carrying out this responsibility, the Chancellor shall routinely inform the Board of the status of items in Consultation, and there will be a place on the regular agenda for the full Board to provide input to the Chancellor and the Consultation Process.

331. District Boards of Trustees and Chief Executive Officers.

Local boards of trustees and their chief executive officers, to the extent possible, should conduct deliberations and take positions on recommendations that are being developed in Consultation, or that are before the Board of Governors. Local boards and their chief executive officers should involve their faculty, staff, and students in these deliberations, and should clearly communicate their positions not only to those who represent them, but also to the Chancellor and Board of Governors. The Board of Governors, or a committee thereof, shall meet three times per year with the systemwide trustee executive board (CCCT) to discuss the Basic Agenda for the system, the proposed budget for the system, the annual legislative priorities, as well as governance relations and the effectiveness of the Consultation Process.

332. The Academic Senate.

(a) Consistent with the intent of 53206 of title 5 of the California Code of Regulations, the Board of Governors recognizes The Academic Senate of the California Community Colleges as the representative of community college faculty on academic and professional matters.

(b) The appointment of faculty to councils, committees, and task forces established in conjunction with Consultation to deal with academic and professional matters on the systemwide level shall be made by the Academic Senate; provided, however, that where such councils, committees, or task forces established in conjunction with Consultation have organizational representatives, these representatives shall be appointed by the respective organizations.

(c) The Academic Senate, in conjunction with the Chancellor and designated staff, will initiate and/or respond to requests to develop policy on academic and professional matters. The identification of such matters will be made by the Chancellor, in consultation with the Consultation Council. Throughout the Consultation Process, the advice and judgment of The Academic Senate will be primarily relied upon whenever the policy involves an academic and professional matter. In providing this advice and judgment, The Academic Senate is committed to engage and consider the views of participants in Consultation, the affected community college

constituencies, the general public, and other comments and concerns the Chancellor is legally required to consider.

333. Student Senate.

(a) Pursuant to established Board policy on the participation of students in governance, and in order that the students of the California Community Colleges may have a formal and effective procedure for participating in the formation of systemwide policy adopted by the Board of Governors, a Student Senate has been established through ratification by local student body governments.

(b) The Board of Governors recognizes the Student Senate as the representative of community college students in conjunction with the associated student organizations in the Consultation Process and before the Board of Governors and Chancellor's Office.

(c) The Chancellor and designated staff are authorized to take those actions needed to ensure the integrity of the Student Senate, including but not limited to, ensuring all eligibility requirements are met and establishing and enforcing minimum standards of student conduct.

334. Consultation Council.

(a) The Chancellor shall convene and regularly meet with a Consultation Council composed of representatives of selected community college institutional and organizational groups.

(b) As a condition for participation on the Consultation Council, each group participating as either an institutional or organizational member will make the following commitments:

(1) Each group, insofar as it participates in Consultation, will commit to promote the development of policy which is in the best interests of students, the system, and the State;

(2) Each group will commit to first attempt to use the Consultation Process for pursuing recommended policy changes or recommended policy that can be dealt with in the Consultation Process;

(3) Each group will commit to strive to accept and accommodate the consensus reached in Consultation, although each group will retain the ultimate right to excuse itself from Consultation on a particular issue or the ultimate right to take an issue to a different arena; and

(4) Each group will agree to attend Consultation meetings, complete any work it agrees to undertake, and communicate with and involve the constituency it represents.

(c) On an issue-by-issue basis, when the Chancellor, in consultation with the Consultation Council, determines that the participation of certain other community college organizations is necessary to informed discussions of the Consultation Council, the Chancellor shall provide for the participation of such organizations in the discussions of the Consultation Council. In addition, meetings of the Consultation Council shall be open and public; and agenda materials, minutes, and other documents discussed by the Council will be made available, at the cost of production, to interested parties.

(d) The Chancellor shall consult with the Consultation Council regarding all matters to be developed, implemented or evaluated through the Consultation Process, including the coordination of policy development. Matters subject to Consultation include the following:

(1) Policies adopted by the Board, including regulations, general policies, The Basic Agenda, the Statement of Legislative Principles, standing orders, and procedures for the adoption of regulations;

(2) Recommendations of the Board of Governors to the Governor and/or the Legislature, including the annual systemwide legislative program, the annual proposed budget for the California Community Colleges, and positions of the Board of Governors on legislation affecting community colleges as provided in section 317;

(3) Executive orders of the Chancellor;

(4) Recommendations of the Chancellor, a member of the Consultation Council, or other organization to change Board policy;

(5) The process to be used for developing a policy to be recommended to the Board of Governors;

(6) The alleged failure of the Board of Governors, the Chancellor's Office, or districts to perform legal responsibilities—in order to provide advice regarding appropriate steps that should be taken from within the system.

335. Special Committees.

(a) The Chancellor, in consultation with the Consultation Council, is authorized to establish special consultation committees of limited duration and specific function. Such committees shall report any recommendations to the Chancellor and the Consultation Council.

(b) The Chancellor or Chancellor's Office may establish committees, task forces, or work groups where the principal and primary reason for the formation of the group is to provide technical assistance to college program staff, to provide in-service training for college program staff, or to provide a vehicle for communication about adopted policy and policy implementation. To the extent that such committees, task forces, or work groups develop opinions that policy changes are needed, they will express their views in the form of a Consultation Digest, and the matter will be referred to Consultation.

336. Board of Governors.

While giving due deference to recommendations of the Chancellor which have been developed through Consultation, the Board of Governors reserves the right to reject such recommendations or adopt different recommendations. When time allows, and further input from Consultation can help to address the Board's concerns or enable the Board to more fully understand the issues before it acts, the practice of the Board will be to provide direction to the Chancellor and to allow additional time for Consultation. While the Board will make every attempt to accept recommendations of the Chancellor developed through Consultation, when rejecting or adopting a different recommendation, the Board of Governors will provide a clear and substantive rationale which the Chancellor shall report back to the Consultation Council.

338. Rights of Participants to Address the Board.

Once having participated in the Consultation Process, any interested party retains the right to provide advice and comment directly to the Board of Governors as it deliberates on the proposed policy.

342. Implementation.

The Chancellor shall adopt such Executive Orders as are necessary to implement these standing orders as well as the Board policy on consultation. Such Executive Orders shall be developed through Consultation and shall address, among other matters:

- (a) The membership of the Consultation Council;
- (b) The role of the Chancellor and Chancellor's staff;
- (c) The manner in which organizations and interested parties not otherwise a member of the Consultation Council can participate in the consultation process; and
- (d) Meetings, notices, agendas, other procedural matters for the Consultation Council.
- (e) Training for participants in Consultation

The Chancellor, at least once every three years, shall provide for a review and evaluation of the Consultation Process.

Article 4. District Employment Matters

370. General.

The Chancellor shall coordinate and monitor those areas of district operations involving district employment activities which are of statewide concern.

372. Equal Employment Opportunity Programs.

The Chancellor shall represent the Board in establishing and maintaining throughout the California Community Colleges the policy of equal opportunity in employment for all persons and in promoting the total realization of equal employment opportunity through a continuing equal employment opportunity program. (EC § 87100.)

(a) Review of Plans. The Chancellor shall review and approve the written equal employment opportunity plans submitted by the districts to implement their equal employment opportunity policies. (5 CCR § 53003.)

(b) Guidelines. The Chancellor shall provide guidelines for the development of policies, programs and procedures for equal employment opportunity programs. The Chancellor shall cooperate with and render assistance to community colleges in developing and implementing equal employment opportunity programs and in carrying out the equal employment opportunity provisions of title 5. (EC § 87103.)

(c) Technical Assistance Team. The Chancellor shall establish a technical assistance team to review the conditions necessary to meet the legal requirements of equal employment opportunity. (EC § 87108; 5 CCR § 53030.)

(d) Compliance. The Chancellor shall assist districts by identifying applicable state or federal laws that may affect district equal employment opportunity or nondiscrimination policies, and periodically evaluate community college districts and determine their compliance with the requirements of equal employment opportunity provisions of title 5. If the Chancellor finds that a district has failed substantially to comply with the requirements of its plan, the Chancellor shall offer assistance and take whatever action he or she deems necessary to effect compliance. (5 CCR §§ 53000, 53030.)

(e) Information System. In monitoring compliance with title 5 provisions regarding equal employment opportunity, the Chancellor shall maintain the Chancellor's Office Information System, Staff Data File, and shall require districts to supply necessary information for such system. (5 CCR §§ 53003, 53004, 53026, 53034.)

374. Employment Opportunity Fund.

The Chancellor shall represent the Board in monitoring the use of the Employment Opportunity Fund for the purpose of promoting equal employment opportunities in hiring and promotion at community college districts. (EC § 87107.)

(a) Allocation. Prior to the end of the fiscal year preceding the year of allocation, the Chancellor shall recommend the allocation in accordance with Board priorities as specified in Board regulations. (EC § 87107; 5 CCR § 53030.)

(b) Data Collection. The Chancellor shall provide availability rates for monitored groups. (5 CCR § 53003.) Until such time as a data element to calculate the staffing rate of persons with disabilities has been integrated into the reporting system, the Chancellor shall direct a separate survey for the reporting of such data. (5 CCR § 53034.)

376. Sick Leave Transfer Between Employers.

The Chancellor shall prescribe a form for effecting the transfer of sick leave of employees pursuant to Education Code section 87782. (EC § 87782; 5 CCR § 53125.)

378. Full-time and Part-time Faculty.

The Chancellor shall represent the Board in monitoring use of full-time faculty in the credit programs of the districts.

(a) The Chancellor shall compute and report to each district the number of full-time faculty to be secured with the use of program improvement, growth, or other revenue. (5 CCR §§ 51026, 53312, 53314.)

(b) The Chancellor shall annually reduce the allocation of those districts which have failed to maintain the proper number of full-time faculty in accordance with Board regulations. (5 CCR § 53320.)

380. Unemployment Insurance.

The Chancellor shall act on behalf of the Board in all matters related to representing district employees in Unemployment Insurance Appeals matters pursuant to Education Code section 1330. (EC § 1330.)

382. Employee Qualifications.

The Chancellor shall determine whether service provided by an employee of a district who did not possess the qualifications legally required for such service shall be approved and made fully legal for all purposes. (EC § 87810.)

384. Nondiscrimination in Programs Receiving State Financial Assistance.

The Chancellor shall implement and enforce the requirements of Government Code sections 11135-11137, consistent with Board regulations. (GC §§ 11135-11137; 5 CCR § 59303.)

386. Criminal Reports.

The Chancellor shall receive from the State Bureau of Criminal Identification and Investigation information pertaining to any credential holder of whom there is a record. The Chancellor shall periodically report to districts information he or she receives from the Bureau regarding any sex offense as defined in Education Code section 87010, any controlled substance

offense as defined in Education Code section 87011, or offenses defined in article 1 of chapter 1 of part 1.5 of division 6 of the Welfare and Institutions Code. (EC § 87012.)

388. Minimum Qualifications.

The Chancellor shall periodically designate a team of community college faculty, administrators, and trustees to review each district's application of minimum qualifications to faculty and administrators. (EC § 87358.)

Article 5. Students

390. General.

The Chancellor shall represent the Board in those areas related to students or student activities which require uniform treatment throughout the California Community Colleges.

392. Residency.

(a) Residence Determinations. The Chancellor shall oversee the districts in the determination of proper classification of students as state or district residents as provided by regulation .

(b) Residence Questionnaires and Classification. The Chancellor shall provide a sample residence questionnaire which districts may use for determining residence classifications (5 CCR § 54012) and shall, upon request, advise districts on issues of residence classification. (5 CCR § 54060.)

(c) Residency Litigation. The Chancellor shall inform the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Maritime Academy regarding litigation brought against a governing board relating to the application of student residency requirements. (EC § 68133.)

394. Maintenance Allowances.

The Chancellor shall prescribe procedures for the submission of claims by districts for maintenance allowances for students who reside more than 60 miles from the nearest district as provided in section 54200 of title 5 of the California Code of Regulations. (5 CCR § 54200.)

396. Interstate Attendance.

The Chancellor may enter into interstate attendance agreements in accordance with Education Code sections 66800 et seq., for the exchange of residents on a one-for-one basis, for the purposes of instruction. The Chancellor shall accept for filing adopted district resolutions authorizing participation in interstate attendance agreements. (EC §§ 66800, 66801, 66802, 66803, 66804.)

Article 6. Educational Programs

400. General.

The Chancellor shall serve as the principal conduit of information regarding educational programs between the Board and the community college districts.

402. Review and Approval of Academic Programs.

(a) Review and Approval. The Chancellor shall review and approve district academic programs as necessary, and shall monitor courses and programs approved under Education Code section 70901 for compliance with applicable statutes and regulations. The Chancellor may approve the establishment of new educational programs and courses for individual districts when such programs and courses conform to the proper scope of instruction to be offered by the community colleges.

(b) Approval Handbook. The Chancellor shall prepare, distribute, and maintain a detailed handbook for district use to contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals. The Chancellor shall develop and provide forms for district use in seeking course approval.

(c) Report of Approvals. The Chancellor shall report to the Board at least once during any twenty-four month period on programs and courses approved.

(d) The Chancellor shall review such additional programs as identified by the Legislature pursuant to part 34 of title 2 of the Education Code (commencing with section 62000). (EC §§ 62001, 66010.4, 70901(b)(10), 78401; 5 CCR §§ 55000.5, 55100, 55130, 55182.)

403. Chancellor's Responsibilities.

The Chancellor shall develop a model for district implementation of the provisions of article 2.5 (commencing with section 55200) of division 6 of title 5, pertaining to prerequisites, corequisites, and advisories on recommended preparation. The Chancellor shall also review district policies and procedures for the establishment, review, and challenge of prerequisites, corequisites, and advisories on recommended preparation for conformity with the model and all applicable regulatory requirements. Such policies shall be approved as part of revisions to the district matriculation plan. The Chancellor shall investigate complaints alleging violation of the requirements of Article 2.5 (commencing with section 55200) of subchapter 1 of chapter 6 of title 5 of the California Code of Regulations.

404. Vocational Education Programs.

The Chancellor shall approve all vocational education contracts issued pursuant to Board regulations and provide forms to the districts for necessary statistical and evaluative reports. (EC §§ 8090 and 52342; 5 CCR § 55605.)

406. Cooperative Work Experience Education.

The Chancellor shall review all plans submitted by the districts for cooperative work experience education. (5 CCR § 55250.)

409. Distance Education and Education Technology.

(a) The Chancellor shall convene a distance education and education technology advisory committee to advise the Chancellor's Office on the vision, policy, and planning in support of distance education and education technology. The advisory committee will take issues to and work in collaboration with the Technology and Telecommunications Advisory Committee and

System Advisory Committee on Curriculum in formulating recommendations to the Chancellor. The advisory group has as its primary goal improvement in student access and success through utilization of instructional technology in the classroom and through hybrid courses and distance education programs provided by the California Community Colleges. The distance education and education technology advisory committee will identify best practices in the development and evaluation of distance education and other instructional offerings utilizing instructional technology, and recommend guidelines and regulatory changes.

(b) The Chancellor shall provide a report to the Board of Governors every two years that evaluates the effectiveness of distance education and education technology systemwide and provides analysis of data demographically (by age, disability, ethnicity, and gender) student accessibility to instruction, and enrollment and completion rates.

410. Matriculation Services.

(a) Review of Plans. The Chancellor shall review matriculation plans to determine if they meet the requirements of Board regulations and shall require from the districts periodic updates of such plans.

(b) Review of Assessment Instruments. The Chancellor shall review matriculation assessment instruments for conformance with statutory requirements and shall establish and update, at least annually, a list of approved assessment instruments and guidelines for their use in accordance with section 55524 of title 5 of the California Code of Regulations.

(c) Use of Funds. The Chancellor shall ensure that funds allocated to districts for matriculation are used in accordance with district matriculation plans.

(d) System Evaluation. The Chancellor shall establish a system for evaluation of the matriculation program on a statewide basis, including procedures for monitoring compliance with district plans and Board regulations.

(e) Funding Formula. The Chancellor shall annually recommend a funding formula for allocating matriculation funds to districts that properly comply with Board regulations. (EC §§ 78211.5, 78213; 5 CCR §§ 55500, 55510, 55512, 55518, 55521, 55523.)

411. Mathematics, Engineering, and Science Achievement (MESA) Programs.

The Chancellor shall participate in a cooperative effort to administer the MESA programs, along with the Superintendent of Public Instruction, Regents of the University of California, Trustees of the California State University, private industry, engineering societies, and professional organizations. (EC § 8604.)

412. Cooperative Improvement Programs.

The Chancellor shall grant, in whole or in part, or deny, requests for waivers relating to educational programs or administrative functions in cooperative improvement programs involving local arrangements for the improvement of the local education program. (EC § 10407.)

414. Continuing Education Programs.

The Chancellor shall resolve as necessary points of disagreement which cannot be resolved by governing boards required to reach agreement for the offering of adult basic education, high

school diploma programs, vocational and occupational training and retraining programs for adults, and for adult continuing education programs. (EC §§ 8530, 8531, 8532, 8533, 8537.)

415. California Department of Education.

The Chancellor shall collect and maintain information related to vocational education and technical training within California for inclusion in the integrated statewide information system maintained by the California Department of Education. The Chancellor shall, on behalf of the Board, consult with the representative of the California Department of Education regarding career development programs through the California Regional Career Guidance centers.

416. Transfer Core Curriculum.

The Chancellor shall, on behalf of the Board, coordinate with the Regents of the University of California and the Trustees of the California State University to cause the transfer core curriculum and any joint revisions thereto to be published and distributed to each public school which provides instruction in any of the grades 7 to 12, inclusive and to each community college, with an emphasis on the communication of that information to each school or college having a high proportion of students who are members of one or more ethnic minorities in accordance with Education Code section 66721. The Chancellor shall also distribute the transfer core curriculum to the State Board of Education. (EC § 66721.)

Article 7. Special Programs

420. General.

The Chancellor shall represent the Board as necessary to ensure proper system participation in special programs, including those programs described in this article.

422. Extended Opportunity Programs and Services (EOPS).

(a) Under the policy direction of the Board, and subject to all provisions of applicable law, the Chancellor is authorized to approve Extended Opportunity Programs and Services (EOPS) applications from districts and certify apportionment to the Controller regarding such programs.

(b) The Chancellor shall annually report to the Legislature the number of students served by EOPS and the number who achieve their educational objectives.

(c) EOPS Funding. The Chancellor may use up to 1% of the funds appropriated to the EOPS program to monitor and evaluate EOPS programs, and to that end, shall determine the elements of a statewide data base for EOPS information and shall cooperate with other segments of higher education as provided by statute.

(d) The Chancellor may waive minimum standards for EOPS programs if the Chancellor determines unusual circumstances merit a waiver. (EC §§ 69648, 69648.5, 69649, 69652, 69653, 69655.)

423. EOPS Statutory Advisory Committee.

(a) The Board recognizes that the purpose of the Statutory Advisory Committee to the Extended Opportunity Programs and Services (EOPS), as set forth in section 69643 of the Education Code, is to serve as an advisory body to the Board; to formulate and present such policy recommendations as the Committee determines will have an impact on statewide establishment and conduct of community college EOPS program; to review and, in consultation with the Chancellor, report annually to the Board on the progress made by the California Community Colleges in extending educational opportunities to all students who may profit from instruction; and to make other recommendations to implement the provisions of statutes governing EOPS. To accomplish this broad purpose, the Board charges the Committee, in consultation with the Chancellor, to:

(1) develop an annual statement of goals and objectives and discuss a plan for its implementation.

(2) request and review data to determine the extent to which EOPS programs are meeting their mandate to efficiently and effectively serve the needs of the eligible population.

This data will be gathered on an ongoing basis and used to develop and help set the annual policy objectives within the plan and to assist in the review of problems and issues.

(3) analyze data on program performance and success and, through the Chancellor, recommend policies to the Board for improved program performance and services.

(4) be an advocate for EOPS to assist in increasing the number of eligible students in the program.

(5) review annually the financial aid available to EOPS students and to other community college students statewide.

(6) submit to the Board, through the Chancellor, an annual report detailing policy recommendations for support, advocacy, and further expansion of EOPS programs.

This annual report will be submitted to the Board at the last meeting of the fiscal year.

(7) review priorities for special projects by community colleges to address issues, demonstrate innovations, and replicate models.

(8) review Education Code and title 5 provisions for problems and proposed changes.

(9) hear reports from the field regarding the EOPS program.

(10) attend Board meetings, conferences, workshops, and make presentations for the purpose of providing and gathering information that will further the cause of the EOPS program.

(b) Issues and recommendations presented to the Board that directly affect EOPS shall be provided to the EOPS Statutory Advisory Committee prior to Board action. The Chair of the Committee may consult with the Chancellor on matters affecting EOPS and of concern to the Committee. This section may be carried out by notification to the Chair by the Chancellor or his or her designee or by provision of the Board agenda. With prior notification to the Chancellor, the Committee may address the Board on any agenda item.

(c) Committee members appointed by the Board shall serve no more than two consecutive terms (appointments). Members appointed to fill an unexpired term will be considered to have held office for the full term. A member must apply to the Board for reappointment to a second term during the year in which his or her term expires.

(d) In the event of a vacancy on the Committee, the Chancellor shall publicly announce the vacancy and invite any interested party to submit a candidacy interest form and resume to the Chancellor's Office for consideration by the Board.

The committee will initially review and comment upon the qualifications of those who apply for the vacancy. The Chancellor will then review the candidates' interest forms and resumes, as well as the Committee's comments. The names of the candidates will be submitted to the Board, with any comments or recommendations the Chancellor may wish to make, for final selection. Once the Board makes its selection of the person to fill the vacancy, the Chancellor will develop an agenda item to appoint the new members at the next possible Board meeting.

(e) The Chair shall compile an annual record of members' attendance at regular and special meetings and meetings of its subcommittees. The record of attendance shall be transmitted to the Chancellor each year, who may petition the Board to declare a Committee seat vacant should a member fail to attend more than one-half of the meetings scheduled for any given year. The Chancellor may, at his or her discretion, also advise the Speaker of the Assembly or the Senate Committee on Rules of excessive absence on the part of Committee members appointed by those authorities.

(f) The Chairperson and Vice Chairperson of the Committee shall be designated by the Committee from among the members appointed by the Board.

(g) Each year, the Committee shall recommend to the Chancellor priorities for special projects. Upon approval, the Chancellor's Office will disseminate these special project priorities to the colleges through a Request for Proposals (RFP) process. The Committee will review and evaluate the proposals submitted in accordance with the established guidelines and recommend proposals for approval. The Committee will, in accordance with section 56297(a) and (b) of title 5, recommend to the Chancellor for funding special projects that benefit the statewide, regional, or local conduct of EOPS programs and further the goals adopted by the Board.

(h) The Committee shall submit a budget request annually to the Chancellor for funding this Committee and its necessary operating expenses as designated by section 69643 of the Education Code. The Chancellor, or his or her designee, shall have authority for approval of all expense requests.

(i) The Chancellor, or his or her designee, shall attend all meetings of the Committee. The Chancellor will review all Committee recommendations or presentations prior to Board meetings. After review, the Chancellor shall authorize the Chair, or the Chair's designee, to address the Board on issues related to the Committee's responsibilities.

The Chancellor shall provide a copy of the statute governing EOPS programs and the EOPS Statutory Advisory Committee, a copy of the Board of Governors Standing Orders for EOPS, and a copy of the Committee Policies and Procedures to each new member upon his or her appointment to membership.

The Chancellor, or his or her designated staff, shall provide general support and assistance to the Committee in noticing meetings, preparing agendas, assisting with travel arrangements, paying claims, etc.

424. Fund for Instructional Improvement.

(a) The Chancellor shall, in accordance with priorities established by the Board, review proposals submitted for funding and recommend proposals to be funded.

(b) The Chancellor shall establish, and may from time to time, revise guidelines on matters related to project proposals, including guidelines on the following:

- (1) Criteria which applicants must meet in order to receive funding, and
- (2) Criteria and procedures to be used in evaluation of funded projects.

(c) The Chancellor shall evaluate the effectiveness of the Fund for Instructional Improvement and shall require such reports as necessary from those districts receiving awards. (EC §§ 84382, 84383.)

425. Fund for Instructional Improvement: Advisory and Review Council.

(a) The Chancellor shall establish an Advisory and Review Council (Council) to provide advice regarding administration of the Fund for Instructional Improvement pursuant to section 56658 of subchapter 5 of chapter 7 of division 6 of title 5 of the California Code of Regulations. Members of the Council shall be appointed by the Chancellor, as provided herein, after consideration of nominations submitted by appropriate organizations.

(b) The Council shall consist of the following voting members:

- (1) 1 president, superintendent or chancellor;
- (2) 2 academic administrators other than those identified in (1) above;
- (3) 4 full-time faculty members;
- (4) 1 counselor;
- (5) 2 students;
- (6) 1 representative from the Chancellor's Office.

(c) The members of this Council shall be appointed for alternating two-year terms as provided in subsection (f) except that:

- (1) the student shall serve for one year;
- (2) The Chancellor shall set the term of service for the representative of the Chancellor's Office.

(d) A quorum of the Council shall consist of five members in categories (1) through (5) and the voting representative from the Chancellor's Office.

(e) The Chairperson of the Council shall be appointed by the Chancellor, based on the recommendation of the Council, for the duration of the appointed member's term. The representative from the Chancellor's Office shall serve as the Administrative Secretary to the Council.

(f) Pursuant to subsection (a), the Chancellor shall appoint the members designated in category (b)(2) and two of the members designated in category (b)(3), for two-year terms commencing July 1, 1991, and every two years thereafter. The other two members in category (b)(3) and the members designated in categories (b)(1) and (b)(4) shall be appointed for two-year terms commencing July 1, 1992, and every two years thereafter. Those persons serving in these positions as of January 1, 1991, shall continue to serve until their successors have been appointed.

(g) The Chancellor may fill vacancies using the same procedures as for initial appointments. Any person appointed to fill a vacancy shall serve the unexpired term of the member he or she replaced.

(h) The Chancellor may establish operating rules deemed necessary to govern the operation of the Council.

426. Cooperative Agencies Resources for Education (CARE) Program.

The Chancellor shall adopt guidelines for the Cooperative Agencies Resources for Education (CARE) program and administer the funds for such programs. (EC § 79154.)

428. Services for Welfare Recipients.

The Chancellor shall survey districts, develop plans, and monitor districts for types of services needed and available for welfare recipients pursuant to Education Code section 71050.

Article 8. District Organization, Planning, and Facilities

430. District Formation and Reorganization.

(a) General. The Chancellor shall exercise general supervision over the formation and reorganization of districts and provide advisory service in connection with such formation and reorganization.

(b) Formation of Districts. The Chancellor shall receive petitions to form new districts and all notices and reports related to such petitions on behalf of the Board. The Chancellor shall make all necessary reviews and hold hearings as provided by law and recommend approval or disapproval of petitions to the Board. (EC §§ 74153, 74154, 74155, 74158, 74159.)

(c) Reorganization of Districts. The Chancellor shall receive petitions for reorganization of districts and all notices and reports related to such petitions on behalf of the Board. The Chancellor shall make all necessary reviews, hold hearings as required by law, and recommend approval or disapproval of petitions to the Board. (EC §§ 74104, 74105, 74106, 74109, 74110, 74134, 74135, 74136, 74139, 74140, 74202, 74203, 74204.)

(d) Transfer of Territory. The Chancellor shall receive petitions for transfer of territory and review appeals filed regarding findings of county committees concerning the transfer of territory and shall reject the findings or deny the appeal. (EC § 74201.)

432. Site Approval, Acquisition, and Construction.

The Chancellor shall exercise general oversight of district facilities which will involve the expenditure of state funds.

(a) Capital Construction. The Chancellor shall review, evaluate and revise district five-year plans with reference to the elements contained in Education Code section 81821. (EC §§ 81821, 81822; 5 CCR § 57015. The Chancellor shall accept district plans for capital construction and shall review and approve general construction plans. (EC §§ 81820, 81836, 81837.) The Chancellor shall consult with the Department of Finance in determining that extraordinary conditions exist to depart from the capacity and utilization standards of subchapter 1 of chapter 8 of division 6 of title 5 of the California Code of Regulations (commencing with section 57000), review district requests for reduced district matching shares pursuant to section 57033, and recommend Board action. (5 CCR §§ 57034, 57020.)

(b) Site and Construction Standards. The Chancellor shall advise districts on the acquisition of sites, establish standards for facilities, review plans and specifications for construction as required, establish and charge a reasonable fee for such review. The Chancellor shall maintain an inventory of district off-campus programs and facilities, review proposed new colleges and education centers and recommend approval or disapproval of proposed colleges or centers to the Board. (5 CCR § 55288.)

(c) Community College Construction Act. The Chancellor shall administer the provisions of the Community College Construction Act of 1980 (commencing with Education Code section 81800) including assembling statewide data of facility and construction costs and ordering the

allocation and disbursement of funds. (EC §§ 81805, 81807.) The Chancellor shall apply capital outlay criteria established by the Board in reviewing and ranking proposed projects for submission to the Board. (5 CCR § 57014.)

(d) **Deferred Maintenance.** The Chancellor shall review the financial conditions of districts being considered for a complete or partial waiver of the Board requirements for allocation of funds under the Community College Facility Deferred Maintenance and Special Repair Program and shall grant appropriate waivers on behalf of the Board. The Chancellor may increase the percent of current operating budget required for ongoing maintenance as a condition to district receipt of funds under the program. (EC § 84660.)

433. Waiver of Highest Bid Requirement.

The Chancellor shall consult with the President of the Board regarding a request by a local governing board, submitted pursuant to section 81370 of the Education Code, to waive the requirement that the governing board accept the highest responsible bid for the sale or lease of real property. Unless the President of the Board and the Chancellor determine that the request should be brought to the full Board, the Chancellor shall either approve or deny local governing board's request after consultation with the President. (EC § 81370.)

434. Airport Sites.

The Chancellor shall receive notice from districts regarding the proposed acquisition of a site near an airport, notify the Division of Aeronautics regarding such approval, investigate the site, and make appropriate recommendations to the district governing board. The Chancellor shall review and approve or disapprove recommendations of the Division of Aeronautics along with the State Allocation Board. (EC §§ 81033, 81038.)

436. Energy and Resource Conservation.

The Chancellor shall develop criteria for ranking district projects submitted as energy conservation projects and shall evaluate and rank such projects. (5 CCR §§ 57054, 57055.) Additionally, the Chancellor shall approve or disapprove preliminary plans for energy conservation projects submitted in accordance with section 57055(b) of title 5. (5 CCR § 57055.)

438. Environmental Quality.

The Chancellor shall perform the necessary reviews described in subchapter 2 of chapter 8 of division 6 of title 5 of the California Code of Regulations (commencing with section 57100), related to community college construction projects. The Chancellor shall withhold authorization for State funds where California Environmental Quality Act requirements have not been met. The Chancellor shall adopt any other necessary procedures to carry out the provisions of Subchapter 2. (5 CCR §§ 57121, 57140 [repealed per Title 5 Review to go into Standing Orders].)

Article 9. Fiscal Support

440. General.

The Chancellor shall represent the system in securing sufficient funding for the programs and services offered by the California Community Colleges and shall oversee the system finance mechanism.

441. Fiscal Monitoring Program.

The Chancellor shall be responsible for administration of Education Code section 84040 in accordance with sections 58310 et seq., of title 5 of the California Code of Regulations. (EC § 84040; 5 CCR § 58310.)

442. Budget Authority.

The Chancellor shall revise and update budget manuals, forms, and guidelines; cooperate with Federal and State agencies in prescribing rules, regulations, and instructions by such agencies; assess the needs and methods of collecting and disseminating financial information; conduct workshops and conferences for the purpose of training community college district personnel; and provide consultant services to colleges and universities on courses of instruction relative to community college district budgets and accounting practices. (EC § 70901(b)(12).)

443. Apportionment Duties.

(a) Apportionment Estimate and Certification. The Chancellor shall prepare an annual estimate of the amount of state school money to be apportioned to each community college district, shall certify to the Controller each apportionment made by the Board and provide abstracts of such apportionments as specified in Education Code section 84328. (EC § 84328; 5 CCR § 58130.5.) The Chancellor shall authorize adjustive apportionment as provided by Board regulation. (5 CCR § 58134, 58136, 58138.)

(b) Minimum School Year. The Chancellor shall withhold apportionment from districts which fail to maintain their colleges for the required minimum number of days. (5 CCR § 58142.) The Chancellor shall provide forms for districts requesting approval to add, delete, shorten or lengthen any term and shall act on such requests, including review of district justification for maintaining schools less than 175 days. If reasons as stated in section 58146 of title 5 of the California Code of Regulations are present to justify maintaining schools for less than 175 days, the Chancellor shall permit normal apportionment. (5 CCR §§ 55702, 58146.)

444. Flexible Calendar.

(a) Approval. The Chancellor shall provide forms for districts to apply to offer instruction under a flexible calendar and shall review all such applications. (5 CCR § 55724.)

(b) Ongoing Review. The Chancellor shall adjust state aid for districts with approved flexible calendar operations in accordance with law. The Chancellor shall periodically review documentation from districts to determine compliance of flexible calendar operations for consistency with approved requests.

(c) Compliance. The Chancellor shall notify districts when they are found to be out of compliance with their approved flexible calendar operations and shall provide an opportunity for district responses. If the district is found, without good cause as determined by the Chancellor, to be out of compliance, the Chancellor shall terminate approval of the flexible calendar operation

and withhold the appropriate amount of State funds in accordance with Board regulations. (5 CCR § 55732.)

445. Audit Exceptions.

The Chancellor shall receive and review district audit reports, make necessary adjustments to future apportionments, correct any audit exceptions, and report audit exceptions to the Joint Legislative Audit Committee in accordance with statute. The Chancellor shall resolve minor or inadvertent errors in district student attendance records and determine the means by which the basis for audit findings or declarations of discrepancy may be corrected. (EC §§ 84040, 84040.6; 5 CCR 59116.)

446. ADA Computation.

The Chancellor shall approve sessions other than full terms of a quarter or a semester as specified in section 58003.2 of title 5 of the California Code of Regulations. (5 CCR § 58003.2.) The Chancellor shall undertake all actions necessary to properly compute ADA, FTES or other measures by which allocations to districts are determined.

447. Fund for Instructional Development.

The Chancellor shall authorize the transfer of funds for instructional development loans, review the need for additional funds necessary for that purpose and estimate such need in the budget. The Chancellor shall reduce the apportionment to each district on a proportionate level related to use of the fund. The Chancellor shall certify loans to be drawn by the State Controller in favor of district applicants (5 CCR § 56684.)

448. Lost ADA Reports.

The Chancellor shall estimate the ADA (or other measure of attendance) of districts whose attendance reports have been lost or destroyed or which would have experienced a higher ADA but for material decreases caused by fire, flood, epidemic, and such other causes as specified in section 58146 of title 5 of the California Code of Regulations. (5 CCR §§ 58146, 58148.)

450. Federal Funds.

To the extent permitted by federal law, the Chancellor shall administer federal funds allocated to the California Community Colleges, administer federal law, submit claims to the State Treasurer or other state or federal entity and perform all acts necessary to receive the benefits and expend the funds. (EC §§ 12220, 12302, 67000, 67003.)

452. Scheduled Maintenance.

The Chancellor shall allocate funds for scheduled maintenance and special repair of community college facilities, and grant appropriate waivers of the requirement that districts match State funds allocated for this purpose. The Chancellor may increase, as appropriate, the required level of district expenditure for ongoing maintenance in its current operating budget above the level prescribed in Education Code section 84660. (EC § 84660.)

454. Federal Forest Reserves.

The Chancellor shall, upon notification of nonconcurrence of apportionments of money received from federal forest reserves, make the necessary apportionments. (EC § 2300.)

456. Equipment Replacement Program.

The Chancellor shall allocate funds under the Equipment Replacement Program, including withholding up to 20% of the funds appropriated for this purpose to critically needed instructional equipment expenditures as a required match for private business or industry contributions and may allocate up to 5% of the funds withheld for purposes of review and administrative costs incurred by the Chancellor. (EC §§ 84671, 84672, 84673.)

Article 10. Community College Administration

460. General.

The Chancellor shall represent the Board in the oversight of additional district activities of systemwide concern as provided herein.

462. Auxiliary Organizations.

The Chancellor shall periodically report to the Board on the extent to which auxiliary organizations are performing each of the functions recognized as appropriate in section 59259 of title 5 of the California Code of Regulations. In retaining documentation regarding auxiliary organizations, the Chancellor shall

- (a) Maintain a copy of the approved implementing regulations and any approved amendments thereto submitted by districts;
- (b) Maintain a copy of the articles of incorporation and bylaws and any amendments thereto submitted by districts;
- (c) Maintain a copy of each written agreement between an auxiliary organization and a college district;
- (d) Maintain a copy of the annual audit of each auxiliary organization;
- (e) Maintain a copy of each district's list of organizations in good standing, and compile a statewide list of organizations in good standing;
- (f) Make the above information accessible to interested parties and charge a reasonable fee to cover the actual cost of providing requested copies.
- (g) Submit an annual report to the legislature which shall describe the development and activities of the auxiliary organizations authorized by the Education Code. The report shall also account for the cost to the Chancellor's Office of administering the review of auxiliary organizations. (5 CCR §§ 59259, 59274, 59276 [repealed for conversion to Standing Orders].)

464. Education Code Section 84362.

The Chancellor shall be responsible for the administration of the provisions of Education Code section 84362 in accordance with Board regulations. (EC § 84362; 5 CCR § 59202.)

- (a) The Chancellor shall determine the form and manner of district applications for exemption from the requirements of Education Code section 84362. (5 CCR § 59208.)

(b) The Chancellor shall assess the impact of program improvement money on district compliance with Education Code section 84362 in determining whether an exemption from the requirements of section 84362 shall be granted in accordance with Board regulations. (5 CCR § 59204.)

(c) The Chancellor shall annually determine the percentage of current expense of education expended for salaries of classroom instructors, shall analyze each application for exemption, statements of opposition and audit reports related to such application. The Chancellor shall, in accordance with Board regulation, hold hearings related to such application.

(d) For each application for exemption which complies with Board regulations, the Chancellor shall recommend one of the following actions to the Board:

- (1) that the Board deny the application;
- (2) that the Board grant the application;
- (3) that the Board grant the application in part. (5 CCR §§ 59210 et seq.)

(e) The Chancellor shall deduct from the apportionments made to districts which fail to comply with the requirements of Education Code section 84362 the amount specified in section 59214 of title 5 of the California Code of Regulations. (5 CCR § 59214.)

(f) The Chancellor shall report to the Legislature on district compliance with requirements to expend the applicable percentage of the expense of education on instructor's salaries. (EC § 84364)

466. District Contracts.

The Chancellor shall annually adjust the dollar amount for district contracts that are subject to the provisions of Public Contract Code section 20651(a), to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the prior fiscal year. The Chancellor shall round the annual adjustment to the nearest one hundred dollars (\$100). (PCC § 20651(d).)

Article 11. Minimum Conditions

470. Minimum Conditions for Receipt of State Aid.

The Chancellor shall monitor district compliance with all minimum conditions of the receipt of State aid and enforce such conditions as provided by Board regulation. (5 CCR §§ 51000 et seq.)

Article 12. Systemwide Auxiliary Organizations

480. Systemwide Auxiliary Organization

The Chancellor shall be responsible for the administration of Education Code section 72670.5 in the establishment and operation of systemwide auxiliary organizations created to

promote, assist, and benefit the Board of Governors or the California Community College system.

(a) A systemwide auxiliary organization is an entity authorized by section 72670.5 of the Education Code and which is established by the Board of Governors in accordance with chapter 2.5 (commencing with section 250) of the Procedures and Standing Orders of the Board of Governors, and article 6 (commencing with section 72670) of chapter 6, part 45, division 7, title 3 of the Education Code.

(b) The Chancellor is prohibited from transferring any of its funds or resources, other than funds or resources derived from gifts or bequests, to any auxiliary organizations, when the purpose of such transfer is to avoid laws or regulations which constrain the Chancellor's Office. (5 CCR § 59257(i).)

(c) The Chancellor shall periodically review each auxiliary organization created pursuant to section 72670.5 of the Education Code to insure it is complying with sections 72670-72682 of the Education Code, the procedures and policies of the Board of Governors applicable to auxiliary organizations, any written agreement with the Board of Governors, and the auxiliary organization's articles of incorporation and bylaws. (5 CCR §§ 59257(h), 59265(d).)

481. Auxiliary Organization in Good Standing

(a) The Chancellor shall prepare and keep current a list of auxiliary organizations in good standing. All auxiliary organizations which, after periodic review in the manner specified in (c), are found to be in compliance with applicable laws, procedures and policies, shall be included on this list.

(b) When the Chancellor has reason to believe that a particular organization should be removed from the list of auxiliaries in good standing, he or she shall give the board of directors of such organization reasonable notice that a conference will be held to determine whether grounds for removal do in fact exist, and representatives of said board shall be entitled to be present at such conference and to be heard. Based upon such conference, the Chancellor or designee shall recommend to the Board of Governors whether a particular organization should be removed from the list. The Board of Governors may, in its sole discretion, remove such an auxiliary organization from said list, and may make such other provisions consistent with law as may be appropriate with respect to an auxiliary organization not included on said list. (5 CCR § 59263.)

482. Ongoing Responsibilities

(a) The Chancellor shall insure that an audit on each auxiliary organization is performed annually in the manner prescribed by subdivision (a) of section 72672 of the Education Code, and that a copy of said audit is distributed to the Board of Governors.

(b) The Chancellor shall report to the Board of Governors, as may be required from time to time, on the operations of systemwide auxiliary organizations. (5 CCR § 59265.)

APPENDIX

Text of Bagley-Keene Open Meeting Act (Government Code sections 11120 et seq.)

Title 2, Division 3, Part 1, Chapter 1, Article 9

Section

- 11120 Legislative finding and declaration
- 11121 State body
- 11121.1 State body; exemptions
- 11121.9 Provision of copy of article to members of state body
- 11121.95 Duties of appointees or elected officials who have not yet assumed state office
- 11122 Action taken
- 11122.5 Meeting defined; exceptions
- 11123 Meetings to be open and public; meetings by teleconference
- 11123.1 Compliance with the ADA
- 11124 Prohibited conditions to attendance
- 11124.1 Recording of proceedings; inspection of recording
- 11125 Notice of meeting
- 11125.1 Agendas and other “writings” as public records; inspection; closed sessions
- 11125.2 Public report of action taken regarding public employee; closed sessions
- 11125.3 Items not appearing on posted agenda; conditions for taking action
- 11125.4 Authorized purposes for special meetings; notice; required finding regarding hardship or need to protect public interest
- 11125.5 Emergency meetings; notification
- 11125.6 Emergency meetings; Fish and Game Commission
- 11125.7 Opportunity for public to address state body; regulation by state body
- 11125.8 Hearing on application for indemnification; identification of crime victim; disclosure of nature of hearing
- 11125.9 Regional water quality control boards; notification guidelines
- 11126 Closed sessions
- 11126.1 Minute book of closed sessions; availability
- 11126.2 Closed session to consider response to confidential final draft audit report
- 11126.3 Disclosure of items to be discussed in closed session; announcement of additional pending litigation items; disclosures at open session following closed session
- 11126.4 California Gambling Control Commission; closed sessions
- 11126.5 Disorderly conduct during meeting; clearing of room
- 11126.7 Fees
- 11127 Application of article to state bodies
- 11128 Time of closed session

- 11128.5 Adjournment of meeting; notice; hour for reconvened meeting
- 11129 Continuance or recontinuance; posting notice
- 11130 Actions to prevent violations; order for recording of closed sessions; discovery of recording
- 11130.3 Cause of action to void action of state body taken in violation of open meeting requirements; grounds
- 11130.5 Court costs and attorney fees
- 11130.7 Violations; misdemeanor penalty
- 11131 Prohibition against use of facility allowing discrimination
- 11131.5 Identification of victims or alleged victims of crimes; public disclosure
- 11132 Closed session by state body prohibited except as authorized

APPENDIX

Text of Bagley-Keene Open Meeting Act (Government Code sections 11120 et seq.)

Title 2, Division 3, Part 1, Chapter 1, Article 9

11120. Legislative finding and declaration

It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

11121. State body

As used in this article, "state body" means each of the following:

(a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and which that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

11121.1. State body; exemptions

As used in this article, "state body" does not include any of the following:

(a) State agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).

(d) State agencies when they are conducting proceedings pursuant to Section 3596.

(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.

(f) State agencies provided for in Section 11770.5 of the Insurance Code.

(g) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

11121.9. Provision of copy of article to members of state body

Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

11121.95. Duties of appointees or elected officials who have not yet assumed state office

Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

11122. Action taken

As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

11122.5. Meeting defined; exceptions

(a) As used in this article, "meeting" includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b) Except as authorized pursuant to Section 11123, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body is prohibited.

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

(1) Individual contacts or conversations between a member of a state body and any other person.

(2) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body. This paragraph is not intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, provided that the members of the state body who are not members of the standing committee attend only as observers.

11123. Meetings to be open and public; meetings by teleconference

(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

11123.1. Compliance with the ADA

All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

11124. Prohibited conditions to attendance

No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

11124.1. Recording of proceedings; inspection of recording

(a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the taping or recording. Any inspection of an audio or video tape recording shall be provided without charge on an audio or video tape player made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

11125. Notice of meeting

(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item

shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

11125.1. Agendas and other “writings” as public records; inspection; closed sessions

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by the Franchise Tax Board staff or individual members to members of the state body prior to or during a meeting shall be:

- (1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

11125.2. Public report of action taken regarding public employee; closed sessions

Any state body shall report publicly at a subsequent public meeting any action taken, and any roll call vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

11125.3. Items not appearing on posted agenda; conditions for taking action

(a) Notwithstanding Section 11125, a state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

(1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made

available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

11125.4. Authorized purposes for special meetings; notice; required finding regarding hardship or need to protect public interest

(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes where compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall deliver the notice in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet Web site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are

present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

11125.5. Emergency meetings; notification

(a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, "emergency situation" means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

- (1) Work stoppage or other activity that severely impairs public health or safety, or both.
- (2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the roll call vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

11125.6. Emergency meetings; Fish and Game Commission

(a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely

impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the roll call vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

11125.7. Opportunity for public to address state body; regulation by state body

(a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(d) This section is not applicable to closed sessions held pursuant to Section 11126.

(e) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(f) This section is not applicable to hearings conducted by the California Victim Compensation and Government Claims Board pursuant to Sections 13963 and 13963.1.

(g) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

11125.8. Hearing on application for indemnification; identification of crime victim; disclosure of nature of hearing

(a) Notwithstanding Section 11131.5, in any hearing that the California Victim Compensation and Government Claims Board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

11125.9. Regional water quality control boards; notification guidelines

Regional water quality control boards shall comply with the notification guidelines in Section 11125 and, in addition, shall do both of the following:

(a) Notify, in writing, all clerks of the city councils and county boards of supervisors within the regional board's jurisdiction of any and all board hearings at least 10 days prior to the hearing.

Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. Each clerk, upon receipt of the notification of a board hearing, shall distribute the notice to all members of the respective city council or board of supervisors within the regional board's jurisdiction.

(b) Notify, in writing, all newspapers with a circulation rate of at least 10,000 within the regional board's jurisdiction of any and all board hearings, at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting.

11126. Closed sessions

(a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.

(12) Prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 8 (commencing with Section 60850) of, Part 33 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing of Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of

fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(d) (1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent an administrative committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

11126.1. Minute book of closed sessions; availability

The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

11126.2. Closed session to consider response to confidential final draft audit report

(a) Nothing in this article shall be construed to prohibit a state body that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a state body meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

11126.3. Disclosure of items to be discussed in closed session; announcement of additional pending litigation items; disclosures at open session following closed session

(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the

agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

11126.4. California Gambling Control Commission; closed sessions

(a) Nothing in this article shall be construed to prevent the California Gambling Control Commission from holding a closed session when discussing matters involving trade secrets, nonpublic financial data, confidential or proprietary information, and other data and information, the public disclosure of which is prohibited by law or a tribal-state gaming compact.

(b) Discussion in closed session authorized by this section shall be limited to the confidential data and information related to the agenda item and shall not include discussion of any other information or matter.

(c) Before going into closed session the commission shall publicly announce the type of data or information to be discussed in closed session, which shall be recorded upon the commission minutes.

(d) Action taken on agenda items discussed pursuant to this section shall be taken in open session.

11126.5. Disorderly conduct during meeting; clearing of room

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session.

Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

11126.7. Fees

No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.

11127. Application of article to state bodies

Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

11128. Time of closed session

Each closed session of a state body shall be held only during a regular or special meeting of the body.

11128.5. Adjournment of meeting; notice; hour for reconvened meeting

The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the

same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

11129. Continuance or recontinuance; posting notice

Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

11130. Actions to prevent violations; order for recording of closed sessions; discovery of recording

(a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in-camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

11130.3. Cause of action to void action of state body taken in violation of open meeting requirements; grounds

(a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

11130.5. Court costs and attorney fees

A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof. A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

11130.7. Violations; misdemeanor penalty

Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the

member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

11131. Prohibition against use of facility allowing discrimination

No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. As used in this section, “state agency” means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

11131.5. Identification of victims or alleged victims of crimes; public disclosure

No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

11132. Closed session by state body prohibited except as authorized

Except as expressly authorized by this article, no closed session may be held by any state body.