



DATE	August 14, 2023
TO	Board Members
FROM	Elaine Yamaguchi Executive Officer
SUBJECT	Executive Officer’s Report: August 2023

Board Structure

Greetings, Board Members. How can it possibly be August?

This meeting will be held on both Thursday August 24 and Friday August 25, in person here in Sacramento. The team and I are looking forward to seeing everyone. On Thursday, we will have a special training for Board Members and our management staff on Unconscious Bias in the morning and in the afternoon, staff will be presenting some important program information and training for the Board members. We will also have an update from Deputy Secretary Lila Mirrashidi from the Business, Consumer Services and Housing Agency, our parent agency. Friday will be our regular business meeting.

Board Members must complete the Board Member Orientation Training (BMOT) within one year of appointment and re-appointment. BMOT will be offered in-person October 10, 2023. Members can register through DCA’s [Learning Management System](#), and BVNPT staff will be happy to help the Board members to register. Information about other mandatory trainings will be sent out as they near the due dates.

Staffing and Operations

Management continues to assess our team to ensure that we have the appropriate classifications assigned to the work. This has helped us to fill vacant positions. Under the steady leadership of Assistant Executive Officer Mark Ito, we have also been working to re-organize our suites and analyze our space usage.

Budget and Finance

We have attached the Board’s most current Fund Condition report and have invited our colleagues from the DCA Budget Office to provide updates and answer questions.

Current Legislation

1. SB 544 (Laird): Bagley-Keene Open Meeting Act
 (As amended April 27, 2023. Current location: Assembly Appropriations)

The Bagley-Keene Open Meeting Act (Bagley-Keene) protects public access to meetings of state bodies. During the COVID-19 pandemic, the need for social

distancing made the usual practices for public meetings under Bagley-Keene—in particular, having people group together in indoor spaces—impossible to continue. Governor Gavin Newsom issued an emergency order, suspending many of the requirements under Bagley-Keene for teleconferenced meetings.

Last year, the Board voted unanimously to support AB 1733 (Quirk), to extend the Governor's Executive Order indefinitely, but it was never heard in Committee. The Executive Order was extended until June 30, 2023, through the 2022-23 Budget Act.

In its current version, SB 544 removes requirements that a state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public. The state body must provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely, as specified, and requires the agenda to provide an opportunity for the public to address the state body directly, as specified. The bill provides that one staff or member needs to be physically present at the physical location specified in the meeting, as opposed to existing law which requires a member to be present.

2. SB 816 (Roth): Professions and Vocations
(As amended July 12, 2023. Current location: Assembly Appropriations)

SB 816 is an omnibus vehicle enacting numerous changes resulting from Sunset hearings.

On June 27, 2022, the Office of Administrative Law approved the Board's emergency regulations to adopt California Code of Regulations (CCR) sections 2537.2 and 2590.2 and to amend sections 2525, 2526, 2580, and 2581 to implement the provisions of AB 1536 (Committee on Business and Professions, Chapter 632, Statutes of 2021).

As enacted by AB 1536, the above sections imply that a reduction in state funding causes reduced enrollment. However, State appropriation is based on enrollment numbers through its Budget Act—therefore, a reduction in enrollment causes the reduction in funding. Enrollment growth is directly supported by two primary sources of revenue: the tuition paid by the students themselves (less the amount set aside for financial aid) and State funding (General Fund). Together, these funds are intended to fully cover the marginal cost of enrollment growth, excluding any

additional capital requirements (e.g., new classroom space). For the sake of consistency, that same language is expressed in sections 2537.2 (f) and 2590.2 (f) of Title 16 of the California Code of Regulations, but the cause-and-effect relationship between student enrollment numbers and funding is still incorrect. The Office of Administrative Law recommended that the Board seek amendment of BPC sections 2881.2 (d) and 4531.1 (d) to correct the statute and include that correction when filing the regular rulemaking in 2023.

At the August 2022 meeting, the Board directed staff to seek legislation to make this correction, but it was not possible before the 2022 session ended. Staff requested the language change via the annual technical cleanup bill questionnaire from the Senate Committee on Business, Professions and Economic Development, and met with the policy staff.

SB 816 was amended on April 20, 2023 to add the language requested by BVNPT. This language sunsets on January 1, 2025, when the BVNPT's next Sunset Bill will take effect.

Regulations

Staff and Counsel continue to work on preparation of our Certification of Compliance for AB 1536 and are launching the rulemaking language for a comprehensive update in our Disciplinary Guidelines.

Sunset

The Board's Sunset Review and Hearing is fast approaching, and the staff has begun writing this vital report. The Report must be submitted to the Legislature no later than January 4, 2024. The Hearing will most likely take place in March of 2024, and work on the resulting legislation will occur throughout the spring and summer of 2024.

As described before, the report must be reviewed and approved by the full Board. Drafts will be circulated to allow appropriate review time. Our goal is to have the final report approved by the Board at the November 16th meeting, which allows most of October for reviewing drafts.

Closing

Please don't hesitate to call or email with any questions or suggestions, or if you need help with anything.

Thanks, everyone. We're looking forward to the meeting.