

**Cradle-to-Career System
Draft Governance Manual**

February 10, 2022

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Agreements Page

The Governance Manual is designed to define and describe the authority, policies, and procedures for the oversight and governance of the Cradle-to-Career System. It will serve as a reference guide to help stakeholders become familiar with the governance model and to inform them of associated roles, responsibilities, authority, and processes for Governing Board members, advisory board members, data providers, and the managing entity.

This document will be a living document, which will be amended by the Governing Board over time to reflect the evolution of the Cradle-to-Career System. Changes to the manual will be made based on proposals brought to Governing Board meetings and approved by the agreement threshold established in the Governance Manual. The guidance in this manual is intended to supplement the statutory framework for the Cradle-to-Career System; in the case of a conflict between the manual and federal or state law, the law takes precedence.

The initial draft of Governance Manual was approved at the February 22, 2022 Governing Board meeting, by the following Governing Board members:

- Jerry Winkler, California Department of Education
- John Hetts, California Community College Chancellor's Office
- Sylvia Alva, California State University
- Chris Furgiuele, University of California
- Thomas Vu, Association of Independent California Colleges and Universities
- Deborah (Debbie) Cochrane, Bureau for Private Postsecondary Education
- Patrick Perry, California Student Aid Commission
- David DeGuire, Commission on Teacher Credentialing
- John Ohanian, California Health and Human Services Agency
- Javier Romero, California Labor and Workforce Development Agency
- Amy Fong, California School Information Services
- Catalina Cifuentes, Riverside County Office of Education
- Robert Tagorda, Revival Strategy Consulting
- Lande Ajose, Public Policy Institute of California
- Gavin Payne, GPC Advisors
- Marisol Avina, California Endowment
- Sean Elo-Rivera, San Diego City Council
- Meredith Lee, UC Berkeley
- John Laird, California State Senate
- Jacqui Irwin, California State Assembly

Preface

Realizing the importance of linking data across state agencies and education providers to identify ways to close equity gaps and improve outcomes for all Californians, Governor Newsom and the Legislature worked to provide \$10 million of funding¹ for the planning process and created the California Cradle-to-Career System in 2019.²

In 2020 and 2021, more than 200 people participated in a comprehensive and inclusive user-centered design process, including representatives from 16 state agencies, education institutions, research organizations, data experts, and advocacy groups. Recommendations regarding how to structure and implement the Cradle-to-Career System are laid out in three legislative reports³ produced as part of the planning process. The planning process also established the governing agreements that are recorded in this Governance Manual.

The 2021-22 State budget included ongoing funding for Cradle-to-Career System. The Government Operations Agency was selected as the managing entity, to implement and house the Cradle-to-Career System. In addition, the Education Code was amended to enshrine the planning recommendations as statute.

Data System Statutory References	
Initial Funding (provided \$10 million in funding for the planning process)	2019 Budget Act (SB 75, Committee on Budget and Fiscal Review, Chapter 51)
Authorizing Statute	Education Code Section 10850 et seq.
Governor's Budget (provided \$15 million to the Government Operations Agency)	Budget Act of 2021 (AB 128, Ting, Statutes of 2021, Chapter 21)
Implementation Statute	Education Code Section 10860 et seq.

¹ The [2019 Budget Act](#) (SB 75, Statutes of 2019, Chapter 51) provided funding for the planning process.

² Authorizing statute is in [Education Code Section 10850 et seq.](#)

³ Available at <https://c2c.ca.gov/about-cradle-to-career-system/>

Introduction

The Cradle-to-Career System

Vision Statement

The Cradle-to-Career System connects individuals and organizations with trusted information and resources. It provides insights into critical milestones in the pipeline from early care to K–12 to higher education, skills training, and employment. It empowers individuals to reach their full potential and fosters evidence-based decision-making to help California build a more equitable future.

Mission Statement

To be California's source of actionable data and research on education, economic, and health outcomes for individuals, families, and communities; to expand access to tools and services to navigate the education to employment pipeline.

Goals

The Cradle-to-Career System will be California's source of actionable data and research on education, economic, and health outcomes for individuals, families, and communities. It will also expand access to tools and services to navigate the education to employment pipeline. By securely connecting data that schools, colleges, social service agencies, financial aid providers, and employers already collect, it will be easier to:

- Identify the types of support that help more students learn, stay in school, prepare for college, graduate, and secure a job
- Provide information that teachers, parents, advisors, and students can use to identify opportunities and make decisions
- Help agencies plan for and improve educational, workforce, and health and human services programs
- Support research on improving policies from birth through career.

Statutory Definition: California Cradle-to-Career System

Per the California Education Code Section 10860 et seq. , the data system shall be considered a source for actionable data and research on education, economic, and health outcomes for individuals, families, and communities, and provide for expanded access to tools and services that support the navigation of the education-to-employment pipeline.
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The data system shall be used to provide access to data and information necessary to provide insights into critical milestones in the education-to-employment pipeline, including insight regarding early learning and care to grade 12, inclusive, and into higher education, skills training opportunities, and employment to better enable individuals to maximize their educational and career opportunities, and to foster evidence-based decision-making to help the state build a more equitable future.

Data System Tools

To ensure the accessibility of available data, the Cradle-to-Career System will offer different levels of access. It will provide dashboards, query builder tools, and a research library to the public, as well as provide access to non-public data for authorized users.



Analytical Tools

- » Dashboards
- » Query builder
- » Fact sheets
- » Research library
- » Access to restricted data for authorized purposes



Operational Tools

- » College and career planning tools and curriculum
- » College eligibility monitoring tools
- » Electronic transcripts, including nontraditional learning artifacts
- » Option to share social service history in college applications
- » Support for data cleanup at local education agencies



Support Tools

- » Community outreach to alert intended audiences to tools
- » Professional development and technical assistance to support data use
- » Data quality reviews
- » Public feedback loops

Operational Tools

The legislature asked the planning workgroup to design a data system that minimizes the need for new infrastructure.⁴ Therefore, the Workgroup selected two existing tools for the data system:

- [California College Guidance Initiative](#): Provides college planning and transition tools⁵
- [eTranscript California](#): A transcript exchange service⁶

⁴ Requirement of the initial statute, [Education Code Section 10856\(d\)](#).

⁵ The California College Guidance Initiative is the public-nonprofit partnership of Student Friendly Services, established pursuant to Item 6100-172-0001 of the annual Budget Act, authorized by Section 60900.5, and administered by the Foundation for California Community Colleges established pursuant to Section 72670.5, or a successor agent. The funds flow from the State to CDE to Riverside County Office of Education which contracts with the Foundation for California Community Colleges/California College Guidance Initiative for management of the website and all related services. [Education Code Section 10861\(d\)](#).

⁶ eTranscript California is managed by the California Community College Technology Center. It was initiated through a Request for Applications from the California Community College Chancellor's Office for Electronic Records Exchange in 1999. It is funded through Proposition 98 via the "core apps" grant (CCCAP1/CAP) under "Butte-Glen CCD (20-081-101)." The funds flow from CCCCO to the Butte-Glen Community College District which funds the California Community College Technology Center, which is a grant-funded arm of the Chancellor's Office. [Education Code Section 10861\(h\)](#).

Statute⁷ provides additional requirements for the operational tools:

- This section is intended to reduce redundancy, improve efficiency and transparency, and provide students, parents, and counselors with an easy to use, and simple to understand, one-stop automated process to provide all of the following:
 - (1) Clear, concise, and consistent messaging and tools to increase and monitor student readiness for college admission and attendance
 - (2) A single point of entry to submit California college and university applications and applications for student financial aid, including the Free Application for Student Financial Aid and the California Dream Act Application
 - (3) Other technological efficiencies that shift the burden away from students and families and to the institutions serving them.
- Operational tools, as defined by Section 10861, shall be provided by the data system for use by both of the following:
 - (1) Public schools offering any of grades 6 to 12, inclusive, to facilitate college readiness and transition.
 - (2) Institutions of higher education in the state, to facilitate streamlined application, admissions, assessments, and placements.
- The requirements of subdivision (a) shall be phased in within five years of the enactment of Article 1 (commencing with Section 10850), based on a timeline to be developed by the Governing Board pursuant to subdivision (d) of Section 10866.
- Also, notwithstanding Section 49073.1, a local educational agency shall not be required to issue a formal contract with a provider of operational tools, as defined in Section 10861.

Data System Structure

In order to implement the vision and mission for the data system within existing federal and state legal requirements⁸ on the protection of personal privacy, data providers upload information into a secure cloud repository, where data can only be linked for approved purposes. No new data collection will be required.

The various source systems that comprise the data system retain their own internal data governance, source systems, and data collections; only data approved by the partner entities that are shared with the managing entity falls under the umbrella of the Cradle-to-Career System.

⁷ [Education Code Section 10870](#).

⁸ See [Education Code Section 10860\(f\)](#) for more information.

Goals and Deliverables

The Cradle-to-Career System was created with the following strategic objectives for its first phase:

- Develop the architecture for linking records across agencies and creating intersegmental data sets
- Provide public-facing data visualizations, such as dashboards and query tools, and a research library that provides neutral, but actionable information on education, social services, employment patterns, and equity gaps in opportunities and outcomes
- Provide interagency data sets that enable research on factors that help Californians meet critical education milestones, evaluate the long-term impact of state-funded programs, and identify strategies for closing equity gaps
- Provide resources, training, and technical assistance that build data literacy among policymakers, practitioners, and the public
- Provide college and career planning tools, college-readiness monitoring, electronic transcripts, and confirmation of eligibility for financial aid and student supports
- Lead efforts to ensure the reliability of data contributed by the partner entities

The initial reports to the legislature provided recommendations for Phase 1, which is scheduled to last five years, and incrementally adds additional data sets.

Governance Structure and Definitions

The Cradle-to-Career System's governance structure and selected definitions are listed below.⁹

Governing Board:¹⁰ The Cradle-to-Career System's Governing Board consists of 21 members, and includes data providers, a representative of the California State Assembly and of the California State Senate, and members of the public appointed by the Governor and Legislature. The Governing Board oversees two advisory boards, the Data and Tools Advisory Board and the Community Engagement Advisory Board.¹¹

Data and Tools Advisory Board:¹² The Data and Tools Advisory Board has the responsibility for examining whether the data system is providing actionable information and identifying ways to improve access to that information.

Community Engagement Advisory Board:¹³ The Community Engagement Advisory Board has the responsibility for examining whether the managing entity is creating strong feedback loops with data users, supporting evidence-based decision-

⁹ See [Education Code Section 10861](#) for a list of comprehensive definitions.

¹⁰ See [Education Code Section 10861\(i\)](#).

¹¹ See [Education Code Section 10865\(b\)\(1\)](#).

¹² See [Education Code Section 10865\(b\)\(1\)\(A\)](#).

¹³ See [Education Code Section 10865\(b\)\(1\)\(B\)](#).

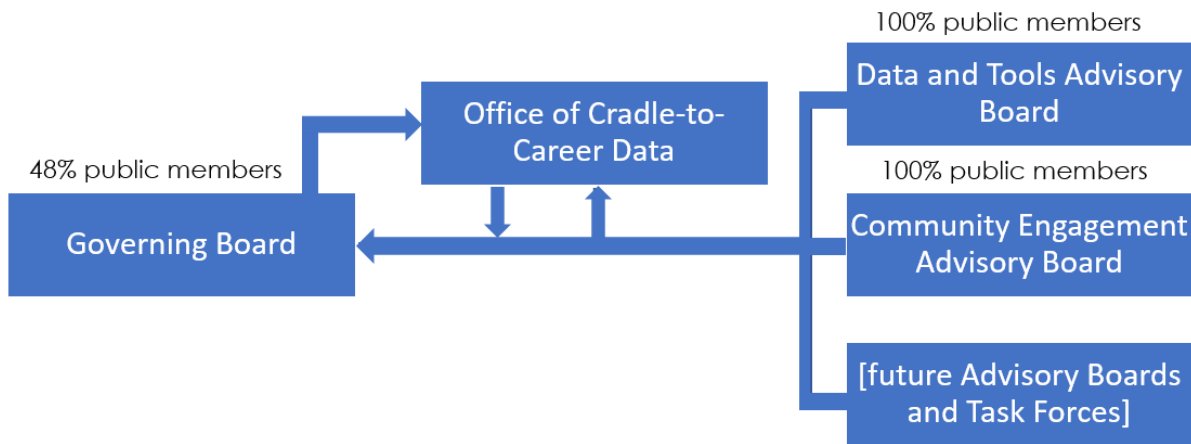
making, analytical capacity, and ensuring equitable access to actionable information.

Managing entity: The Governor and Legislature appointed the Government Operations Agency (GovOps)¹⁴ to implement the Cradle-to-Career System and established the Office of Cradle-to-Career Data.¹⁵ The Office of Cradle-to-Career Data is known as the managing entity.¹⁶ The managing entity will work with the data providers, Governing Board, advisory boards, and stakeholders to implement the data system.

Data providers:¹⁷ Data providers are an agency or organization that is contributing data to the Cradle-to-Career System for the purposes of merging records with other entities' data. Data providers are represented on the data system's Governing Board.

Cradle-to-Career System Governance

The visual below clarifies the relationship between the Governing Board, the Office of Cradle-to-Career Data, and various Advisory Boards and Task Forces. It also shows the proportion of seats reserved for public members.



¹⁴ The California Government Operations Agency is responsible for administering state operations including procurement, information technology, and human resources. The mission of GovOps is to improve management and accountability of government programs, increase efficiency, and promote better and more coordinated operational decisions. <https://www.govops.ca.gov/>

¹⁵ [Education Code Section 10862](#) establishes the Office of Cradle-to-Career Data in the Governmental Operations Agency.

¹⁶ See [Education Code Section 10861\(j\)](#).

¹⁷ See [Education Code Section 10861\(e\)](#).

The graphic below explains more about the relationship between the Governing Board and the Advisory Boards.

Governing Board

The Governing Board will include representatives from data providers, policy makers, and the community. The Governing Board balances expertise in K-12, postsecondary, social services, workforce as well as government and public perspectives.

Members of the Governing Board are currently being appointed.

Advisory Boards

Two advisory boards will provide opportunities for data users to help improve the Cradle-to-Career tools.

The Data and Tools Advisory Board will help ensure that the data tools provide actionable information.

The Community Engagement Advisory Board will create strong feedback loops with data users to support evidence-based decision making, analytical capacity, and equitable access to actionable information.



The Cradle-to-Career governance model reflects the individual autonomy of specific organizational data governance structures and how they relate to the statewide longitudinal data system.

Cradle-to-Career policy decisions are made through a governance structure with representatives from each of the data providers and representatives of the public. The governance structure includes a number of entities and committees, with a summary of the roles and responsibilities outlined in the table below.

Governance Structure ¹⁸	Roles and Responsibilities
Governing Board	<ul style="list-style-type: none"> • Provides vision, direction, and oversight for the managing entity • Oversees participation in the data system and governance structure • Serves as the authority for escalation of issues • Ensures the data system is serving its intended purpose • Responsible for ensuring continued commitment of resources • Recommends the types of information in the data system • Appoints the Executive Director of the managing entity
Data and Tools Advisory Board	<ul style="list-style-type: none"> • Develops recommendations for which data points to include in centralized data sets, the general content shown in public facing tools, and priority topics for research studies

¹⁸ Refer to [Education Code Section 10860 et seq.](#) for a comprehensive list of roles and responsibilities.

	<ul style="list-style-type: none"> • Develops suggestions to improve the usability and usefulness of the data for the Governing Board • Reviews data requests that were approved and denied to identify mechanisms that will enable appropriate data requests to be fulfilled.
Community Engagement Advisory Board	<ul style="list-style-type: none"> • Recommends ways to improve feedback loops with data users and ensure equitable access to actionable information • Recommends professional development and technical assistance models that foster evidence-based decision-making, strengthen analytical capacity to use available data tools, and enable end users to understand structure factors that influence outcomes • Suggests communication structures that ensure a broad range of Californians know about and are using the tools • Suggests additional tools that will address strategic objectives for the data system
Managing Entity	<ul style="list-style-type: none"> • Implements the data system • Convenes taskforces to ensure the continued technical development of the Cradle-to-Career System and its ability to ensure privacy and security and comply with current and emerging standards for technology • Relays information to and from respective agencies; responsible for monitoring the quality of data going into the system
Data Providers	<ul style="list-style-type: none"> • Provides input to the Governing Board related to respective agency data governance policies, requirements, and priorities • Provides annual data to the data system¹⁹

[Education Code Section 10863](#) requires all Governing Board members, advisory board members, and managing entity employees to:

- Prioritize the needs of students and families.
- Comply with federal and state laws to protect individual privacy, including, but not necessarily limited to, all of the following:
 - The federal Family Educational Rights and Privacy Act of 1974 (Public Law 93-280, as amended).
 - The federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, as amended).
 - The federal Higher Education Act of 1965 (Public Law 89-329, as amended).

¹⁹ [Education](#) Code Section 10871(a)(1).

- Not use or disclose any data managed in the Cradle-to-Career System that meets the definition of personal information, as defined in Section 1798.3 of the Civil Code, except for purposes consistent with the Education Code. Whether or not it is protected under applicable federal or state law, personal information managed in the Cradle-to-Career System shall be deidentified before being released to the public.²⁰
- Consider and respond to stakeholder input.
- Promote and foster an environment and culture of collaboration and cooperation.
- Promote a culture of data-informed decision-making by consulting with data experts and intended data users, including members of the public, when developing data use priorities.

Ensuring Public Voice in Cradle-to-Career System Governance

The planning process highlighted the importance of public voice. The following recommendations can help to ensure that public voice is heard in the data system's governance process.

Ensure that the right people are appointed

- Cultivate a diversity of perspectives, particularly from communities that traditionally have been the least well served
- Recruit members who have expertise in equity
- Prioritize community members who can be conduits of information to and from the data system's intended audiences
- In the years when new data providers or data points are being discussed (such as when workforce training is added), select community representatives that have expertise in the new area of work

Scaffold the involvement of community members to ensure meaningful participation

- Provide orientation, a resource binder, and mentoring for new board members to ensure all parties understand expectations for participation and the data system's underlying technical, legal, and data frameworks
- Ensure that all parties understand that community members provide critical expertise necessary for the implementation of the data system and thus should be participating as decisionmakers and co-creators
- Support the development of trust and a shared vision so that all can focus on evaluating whether the data system is meeting the stated goals
- Foster an open mindset in meetings and ensure that community members are treated equally
- Earmark part of the managing entity's budget for board support

²⁰ [Education Code Section 10860.](#)

Provide the right types of information

- In addition to usage data and requests made to the managing entity, ensure the governing and advisory board members receive information from the community regarding potential improvements, gathered intentionally through vehicles such as input opportunities embedded in tools, public forums, and partnerships with community-based organizations
- Provide information in a readily-digestible format, including both stories and statistics
- Line up meetings, decisions, and actions with internal and external parties

Cross-pollinate information across the governing and advisory boards

- Allow the governing and advisory boards to review key planning documents before the managing entity's implements its workplan
- Have the meetings produce recommendations in time to inform legislative and budgetary processes
- Coordinate with related public governance contexts, such as the Local Control Action Plan redesign
- Provide transparency through public meetings and reports to the legislature

Legislatively Mandated Reviews

There are certain reviews mandated in the Education Code for the data system. All reports must also be submitted in accordance with [Government Code Section 9795](#) and be sent as indicated on the California Agency Reports [website](#) to the Secretary of the Senate, Chief Clerk of the Assembly, and the Office of Legislative Counsel²¹.

Type of Review	Entity	Timeline	Education Code Reference
Regular reports to the Governor and Legislature on the implementation of the data system	Governing Board	Annual	Education Code Section 10866(d)(9)
Review of the appropriateness and efficacy of the Government Operations Agency continuing to house the managing entity after July 1, 2026	Governing Board	July 2026	Education Code Section 10862(c)(1)

²¹ A one-page executive summary shall be included with the report, along with the website of the state agency (where the report can be downloaded and a telephone number to call to order a hard copy of the report). The report must also be posted at the agency's website.

Recommendation to move the managing entity under the administration of another state department or agency	Governing Board	July 2026	Education Code Section 10862(c)(2)
Ensuring regular reporting and external evaluations of the efficacy of the data system in fulfilling its purpose	managing entity	Annual	Education Code Section 10867(b)(2)(C)
Conducting an annual student experience audit related to navigating the transition from secondary education to higher education	managing entity	Annual	Education Code Section 10867(b)(5)(A)
Assessing the feasibility of subsuming the operation of operational tools that are currently administered by other agencies, and reporting findings to the Governing Board, the Legislature, and the Governor	managing entity	By July 2026	Education Code Section 10867(b)(5)(E)

Conflicts of Interest

The Governing and Advisory Boards are subject to the conflict of interest policy. The Political Reform Act (the “Act”) prohibits a public official from using an official position to influence a governmental decision in which that person has a financial interest. The Act requires state and local government agencies like the Office of Cradle-to-Career Data to adopt a conflict-of-interest code that identifies all officials and employees who make governmental decisions based on the positions they hold. Individuals in the designed positions—including members of the Governing Board—must disclose their financial interests as specified in the conflict-of-interest code. The requirements of a conflict-of-interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

Government Code Section 1090 further requires that members of the Governing Board

must not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. The goal of this contracting rule is to eliminate temptation, avoid the appearance of impropriety, and assure the public of each member's uncompromised allegiance. A contract made in violation of Section 1090 is void, even if the member with a financial interest does not participate in the decision and abstains from voting. Civil and criminal penalties may apply, even in cases in which the official's financial interest is relatively slight. Board members should seek advice of counsel if they have questions about contracts and agreements in which they might have a financial interest.

Conflict-of-Interest Code Process

The process for adopting a conflict-of-interest code requires review by the Fair Political Practices Commission (FPPC) and a public posting for comments by the Office of Administrative Law. The time required to provide for a 45-day public notice and comment period and obtain final approval from FPPC spans months. Consequently, members of the Governing Board will be subject to what is called "full disclosure" pending final approval of the Office of Cradle-to-Career conflict of interest code.

Conflict-of-Interest Compliance

The Act requires public officials and employees in designated positions to report their financial interests on a form called a Statement of Economic Interests (Form 700). Officials assuming new positions that make or participate in making governmental decisions must file under the broadest disclosure category in the agency's conflict-of-interest-code, or, if the organization does not have a conflict-of-interest code, under full disclosure. Full disclosure means that individuals must report all investments, business positions, and interests in real property held on the date of assuming office, and any income received during the 12 months immediately preceding assuming office. More detailed information on what must be disclosed appears on FPPC's website.

Incoming members of the Governing Board must file a Form 700 with full disclosure within 30 days of being sworn in. The Form 700 is a public document and will be published by FPPC. Failure to timely file the Form 700 may expose the official or employee to fines, penalties or criminal prosecution.

Annual and Additional Reporting

Members of the Governing Board must file annual statements and a final statement when leaving office. In addition, members will have to file within 30 days of a newly adopted or amended conflict of interest code.

For assistance with disclosure requirements and filing Form 700, contact the Office of Cradle-to-Career Data Board Liaison.

More information on conflict-of-interest codes, disclosure requirements, and Section 1090 appears on the website of the California Fair Political Practices Commission at <https://fppc.ca.gov/>.

Governing Board

Authority

The Governing Board provides oversight of the data system and operational direction to the managing entity to ensure the data system is serving its intended purpose.²² The Governing Board shall have the power to adopt, amend, and repeal rules, procedures, and minimum standards required for the use, maintenance, participation in, and operation of the Cradle-to-Career System. These rules and procedures shall also extend to all advisory boards and taskforces.

Membership and Appointments

The Trailer Bill, AB 132 (Committee on Budget, Statutes of 2021, Chapter 144) identifies the 21-member Governing Board.²³ Refer to Appendix B for more details and term lengths.

- Eleven Governing Board positions are allocated to the data providers and related organizations, as appointed by the head of each organization
- Eight Governing Board positions are for public members and education practitioners, appointed by the Governor's Office, Assembly, and Senate
- Two positions are allocated to one Assembly member and one Senator

Data contributors are permanent members. The head of each data contributor agency or organization is accountable for their constituency's participation in the system. Each agency or organization leader is entitled to appoint a designee to serve on the Governing Board in their place, and may delegate voting rights to an alternate, so long as that individual has the authority to make decisions on behalf of the appointed member.

The Governing Board also includes eight public members. In appointing members, the appointing authority shall make every effort to ensure the membership of the governing board is reflective of the cultural, racial, geographical, economic, and social diversity of California, taking into consideration factors including, but not limited to, diversity in data user experience, diversity in expertise with educational data, diversity in professional experience, and representation from different geographical and socioeconomic backgrounds. The public members shall represent the public beneficiaries of the data system, including, but not limited to, practitioners, families, students, adult learners and workers, community organizations, research organizations, or advocates.

Four of the public members are appointed by the Governor, as follows:

²² Detailed statutory requirements for the Governing Board can be found in [Education Code Section 10860 et seq.](#)

²³ Refer to [Education Code Section 10864.](#)

- Two elementary and secondary education practitioners to serve as a representative of elementary and secondary educators, counselors, and administrators.
- Two additional members of the public

Four members of the public are appointed by the Legislature, as follows:

- Two members of the public to be appointed by the Speaker of the Assembly
- Two members of the public to be appointed by the President Pro Tempore of the Senate

In addition, the Governing Board may develop policies and practices to expand the governing board to include new data providers and ex officio members to provide additional expertise and perspectives, such as the state's Chief Data Officer.

Member Expectations

All members of the Governing Board are expected to:

- Ensure that appropriate resources are aligned to support the work of the Cradle-to-Career System
- Ensure that a true statewide focus is maintained and ensure multiagency cooperation
- Ensure the attendance of a designated representative with authority to make decisions
- Advocate for the Cradle-to-Career System to key stakeholders

Responsibilities of the Governing Board

The Board is responsible for implementing [Education Code Section 10866](#). A detailed list of those duties is summarized below.

Ensuring the Cradle-to-Career System is serving its intended purpose

- Set, revisit, and amend the vision, mission, and strategic objectives for the Cradle-to-Career System, particularly related to opportunity and outcomes gaps and advancing common goals
- Develop a theory of action to guide evaluations of the implementation of the Cradle-to-Career System
- Review input from end users to evaluate the usefulness of the data system, whether the data system is fostering evidenced-based decision-making, and whether the data system is benefiting all Californians
- Secure sufficient resources, build ongoing support, and advocate for using the data system with the public, Governor, Legislature, and data providers

Providing operational oversight of the managing entity

- Approve budget requests and operational budgets developed by the managing entity
- Approve operational plans developed by the managing entity to ensure they align with the strategic direction and legislative mandates regarding data

- access and use, operational tools, and community engagement
- Ensure the managing entity is implementing a user-centered design approach for Cradle-to-Career System tools
- Review and approve professional development, technical assistance, and communications plans for end users developed by the managing entity
- Review and approve the operational tools implementation plan developed by the managing entity
- Hire/evaluate/fire the managing entity Executive Director

Overseeing participation in the Cradle-to-Career System and governance structure

- Develop conflict of interest policies in accordance with applicable statutes
- Evaluate and approve requests from new potential data providers regarding their participation in the Cradle-to-Career System
- Establish and revise governance policies and procedures for the Cradle-to-Career System
- Appoint members to the Data and Tools Advisory Board and Community Engagement Advisory Board
- Provide input to the managing entity on the purpose and composition of ad hoc committees

Recommending the types of information available through the Cradle-to-Career System

The Governing Board would review recommendations for additional data as part of the strategic planning process. All recommendations for additional data would require a feasibility study conducted by the managing entity. The managing entity would work with the relevant data providers and experts to document data availability, reliability, and validity; legal requirements; startup and ongoing costs to the managing entity and to the data providers; potential approaches for collecting the information; and any political or other implications that would jeopardize the neutrality of the managing entity.

Recommending improvements to the mechanisms for accessing information in the Cradle-to-Career System

- Review and approve recommendations for significant content changes to dashboard visualizations, for implementation by the managing entity
- Review and approve recommendations for significant changes to query builder data points, for implementation by the managing entity
- Review and approve recommendations for the topics covered in reports that provide a neutral written summary of information available in the Cradle-to-Career System, for implementation by the managing entity
- Review and approve recommendations for new tools that would help the public interact with the data, for implementation by the managing entity

Monitoring technical, legal, and data implementation

- Review and approve recommended technical and data security policies, in consultation with technology and data security experts
- Review and approve recommended legal and privacy policies, in consultation with legal and privacy experts

- Review and approve recommended data practices, in consultation with data experts
- Monitor compliance with the legislation regarding data sharing
- Monitor compliance with legal requirements regarding privacy, security, and authorized access

Meetings

The Governing Board meets quarterly to address ongoing business, emerging issues and to review recommendations from the advisory boards.²⁴ When considering recommendations from the advisory boards, the Governing Board will document how they intend to address the issues raised by these stakeholders. Additional meetings may be called as needed.

The meeting process will adhere to the following:

- Governing Board members or alternates are expected to attend all Governing Board meetings
- Meetings require a quorum of at least two-thirds of the members (14 members)
- Attendance by telephonic or other electronic means requires advance notice, and any members participating remotely do not count towards establishing a quorum.²⁵
- The managing entity is responsible for coordinating meetings and keeping minutes
- Meetings are subject to Bagley-Keene open meeting rules, which are designed to promote transparency and provide members of the public an opportunity to observe and comment on business before the Governing Board.²⁶
 - Bagley-Keene prohibits members from holding what are known as “serial meetings” in which a majority of members use a succession of communications outside of an actual meeting “directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.”²⁷
 - Members should refrain from exchanging emails or text messages during a Governing Board meeting because such communications might be considered prohibited serial communications.
 - Social media comments or “likes” on another member’s post about an issue within the jurisdiction of the Governing Board might be considered a prohibited serial meeting.
 - A purely social gathering, however, is not treated as a meeting so long as a majority of members do not privately discuss Governing Board

²⁴ Quarterly convenings are required by [Education Code Section 10865\(a\)\(1\)](#).

²⁵ Certain pandemic-related exceptions for the conduct of meetings via teleconference have been extended through January 31, 2022 by A.B. 361, codified in Government Code Section 11133. The Legislature may enact additional provisions for teleconferencing and the remote conduct of meetings in a future session.

²⁶ Meetings of the Governing Board are subject to Bagley-Keene as required by [Education Code Section 10864\(f\)](#). The Bagley-Keene Open Meeting Act appears in [Government Code Section 11120 et seq.](#)

²⁷ See Government Code Section 11122.5(b)(1).

business or engage in “shop talk” among members.

Decision-making and Voting

The Governing Board is the final authority on issues escalated from the advisory boards and the managing entity. The voting rights and process will adhere to the following:

- Governing Board members are authorized to vote on behalf of their respective organizations
- Governing Board members are all given equal voting power in the form of a single vote on all issues
- Governing Board decisions shall require a two-thirds vote of the total number of board members appointed²⁸
 - Governing Board members can vote to approve a motion using one of two options: agree or agree with reservations. Any reservations will be entered into the record.
 - Governing Board members can vote against a motion by disagreeing. Reasons for disagreeing will be entered into the record.
 - Governing Board members can also abstain.
- Governing Board members are authorized to delegate participation and voting privileges to an alternate
 - Each Governing Board member may designate only one Alternate member to substitute for that Board Member in the Board Member's absence. The list of current alternates will be maintained by the managing entity.
 - Alternate members must take the oath of office before assuming the duties entrusted to them.
 - Each Alternate member shall have all rights and privileges of the associated Governing Board member during any meeting at which the Governing Board member is absent.
 - Each Alternate member is subject to all conflict-of-interest rules and disclosure obligations required of new or returning Governing Board members.²⁹
 - If a Governing Board member and associated Alternate member are both present at the same Board meeting, only the Governing Board member shall be entitled to participate and vote.

Chair of the Governing Board

The Governing Board will elect a chair to serve a two-year term. In the second year of the term, the current chair will be supported by the incoming chair. Representatives of specific institutions will serve no more than one consecutive term.

The Board Chair would be responsible for facilitating board meetings and setting agendas, acting as the Governing Board's primary point of contact for the managing entity Executive Director, onboarding new Governing Board members, and convening topical committees for tasks such as appointing Advisory Board

²⁸ A two-thirds vote is required by [Education Code Section 10865\(a\)\(5\)](#).

²⁹ Please see the Conflicts of Interest section, below, for more information about conflict-of-interest policies.

members and conducting the annual review of the managing entity Executive Director based on an established performance evaluation process.

Ad Hoc Committees

The Governing Board is empowered to create and sunset ad hoc committees, taking into consideration cost, size, and purpose.

In addition, the managing entity may create and sunset task forces to provide expertise necessary to implement the strategic objectives outlined by the Governing Board. Topics, duration, and membership of the task forces are flexible, with the Governing Board providing input on their purpose and composition.

Public Records Act

The data contained within the Cradle-to-Career System is not subject to the California Public Records Act (PRA), per legislation.³⁰ However, the business of the managing entity and the activities of its Governing Board are subject to the requirements of the PRA. The PRA mandates that governmental records shall be disclosed to the public upon request unless there is a specific reason not to do so.³¹ The list of statutory exemptions is lengthy, but the most common justifications for nondisclosure concern individual rights to privacy (as in, for example, personnel matters), and the government's ability to perform assigned functions safely and efficiently (for example, in investigations or litigation).³²

The essence of the PRA is to provide access to information, not just documents. Under the PRA, a public record is any writing that is owned, used, or retained by a government agency in the conduct of its official business. The term "writing" describes any means of recording information, including paper, analog, and digital methods. Email communications—even emails sent or received from personally owned computers and smartphones—are within the scope of the PRA. For this reason, members of the Governing Board should remain mindful that text and email communications concerning the Cradle-to-Career System, including text and email communications sent or received from private devices and accounts, might be subject to disclosure under the PRA.

The managing entity is responsible for responding to PRA requests. Because the PRA includes specific deadlines and other legal requirements, members of the Governing Board should be alert to any inquiries that might be construed as a PRA request. When in doubt, refer the matter to the counsel for follow up.

Per Diem, Meals, and Travel Expenses

Governing Board members do not receive compensation but are allowed to receive per diem and reimbursement of travel expenses, per [Education Code Section 10865\(a\)\(4\)](#). Receipts must be maintained and submitted as part of the Travel Expense Claim [form](#). Governing Board members are expected to follow the State of California's

³⁰ [Education Code Section 10872.](#)

³¹ [See Government Code Section 6250 et seq.](#)

³² [See Government Code Sections 6254 – 6254.35.](#)

Travel Reimbursement policy.³³

Meals

The State of California establishes a per diem limit for meals and incidentals based on the travel timeframes. In the event of an audit, Governing Board members must be able to produce receipts substantiating the amount claimed.

- Breakfast: Up to \$7.00
- Lunch: Up to \$11.00
- Dinner: Up to \$23.00
- Incidentals: Up to \$5 per day

Lodging and Travel Expenses

The State of California also establishes a maximum lodging reimbursement rate per night. Sacramento County's reimbursement rate is limited to \$95 plus tax per night. Other expenses, such as mileage, taxis, parking, train fare (Amtrak, for example) and airfare can be claimed.

Advisory Board Appointments

The Governing Board considers recommendations from two advisory boards:³⁴

- **Data and Tools Advisory Board:** The responsibility of the Data and Tools Advisory Board is to examine whether the data system is providing actionable information and identifying ways to improve access to that information³⁵
- **Community Engagement Advisory Board:** The responsibility of the Community Engagement Advisory Board is to examine whether the managing entity is creating strong feedback loops with data users, supporting evidence-based decision making and analytical capacity, and ensuring equitable access to actionable information³⁶

Members of the advisory boards are appointed by the Governing Board, and shall serve three-year terms, with the initial appointment term staggered such that one-third of the positions expire each year.

Advisory Board members are appointed by the Governing Board using the following procedure:

- Members of the public can submit nominations for the advisory boards to the managing entity
- The managing entity will ask nominees to complete an application form and provide a resume

³³ The Travel Reimbursement policy can be viewed at: <https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>.

³⁴ [Per Education Code Section 10865\(d\).](#)

³⁵ [Education Code Section 10865\(b\)\(1\)\(A\).](#)

³⁶ [Per Education Code Section 10865\(b\)\(1\)\(B\).](#)

- The managing entity will managing a screening process for advisory board candidates
- The Governing Board will approve a slate of candidates as recommended from the screening process

Data and Tools Advisory Board

Authority

The responsibility of the Data and Tools Advisory Board is to examine whether the data system is providing actionable information and identifying ways to improve access to that information.³⁷

Membership and Terms

The Data and Tools Advisory Board members shall consist of 16 public members, appointed by the Governing Board. The Data and Tools Advisory Board members will consist of end users of the data including practitioners, families, students, adult learners and workers, community organization staff, research organization staff, and advocacy organization staff.

Data and Tools Advisory Board members serve three year terms, with the initial appointment term staggered such that one-third of the positions expire each year.

Representatives of specific institutions serve no more than one consecutive term and can only have one seat on the Data and Tools Advisory Board at a time. To establish staggered terms at the outset of the Cradle-to-Career System development, all seats are appointed in year one, but some terms are shorter, such that five positions are appointed for one year, five positions are appointed for two years, and six positions are appointed for three.

Member Expectations

All members of the Data and Tools Advisory Board are expected to:

- Ensure that appropriate resources are aligned to support the work of the data system
- Ensure the technical tools of the data system are working as intended
- Ensure their attendance or that of a designated representative
- Advocate for the Cradle-to-Career System to key stakeholders

Meetings

- Data and Tools Advisory Board meetings will occur at least twice a year.
- All meetings are subject to the provisions of the Bagley-Keene Act.
- The quorum for meetings is that two-thirds of the membership of the Data and Tools Advisory Board must be present.

³⁷ [Education Code Section 10865\(b\)\(1\)\(A\).](#)

Decision-making

The Data and Tools Advisory Board provides input and feedback and makes recommendations to the Governing Board. Decisions are made by consensus.³⁸ Recommendations are paired with feasibility studies by the managing entity regarding data availability, reliability, and validity; legal requirements; startup and ongoing costs to the managing entity and to the data providers; potential approaches for collecting the information; and any political or other implications that would jeopardize the neutrality of the managing entity.

Responsibilities

The Data and Tools Advisory Board will ensure the continued technical development, maintenance, and operation of the Cradle-to-Career System and its ability to ensure privacy and comply with current and emerging standards for technology and may establish ad hoc committees as needed.

The Data and Tools Advisory Board develops suggestions to improve the usability and usefulness of the data and tools for the Governing Board, including, but not limited to:

- Dashboard visualizations
- Data points in the query builder
- Operational tools
- Data request process

Each year, the Data and Tools Advisory Board will review the data requests that were approved and that were denied to identify mechanisms would enable appropriate data requests to be fulfilled.

³⁸ Consensus is a decision-making process defined as "Can you live with it?" If an Advisory Board member believes a decision is somehow improper, the Managing Entity works with the relevant parties to attempt to resolve the issue.

Community Engagement Advisory Board

Authority

The responsibility of the Community Engagement Advisory Board is to examine whether the managing entity is creating strong feedback loops with data users, supporting evidence-based decision making and analytical capacity, and ensuring equitable access to actionable information.³⁹

Membership and Terms

The Community Engagement Advisory Board members shall consist of 16 public members, appointed by the Governing Board. Members include the end users of the data system including practitioners, families, students, adult learners and workers, community organization staff, research organization staff, and advocacy organization staff.

Community Engagement Advisory Board members serve three year terms, with the initial appointment term staggered such that one-third of the positions expire each year.

Representatives of specific institutions serve no more than one consecutive term and can only have one seat on the Community Engagement Advisory Board at a time. To establish staggered terms at the outset of the Cradle-to-Career System development, all seats are appointed in year one, but some terms are shorter, such that five positions are appointed for one year, five positions are appointed for two years, and six positions are appointed for three years.

Member Expectations

All members of the Community Engagement Advisory Board are expected to:

- Ensure that appropriate resources are aligned to support the work of the data system
- Ensure the technical tools of the data system are working as intended
- Ensure their attendance or that of a designated representative
- Advocate for the Cradle-to-Career System to key stakeholders

Meetings

- will occur at least twice a year.
- All meetings are subject to the provisions of the Bagley-Keene Act.
- The quorum for meetings is that two-thirds of the membership of the Data and Tools Advisory Board must be present.

Decision-making

The Community Engagement Advisory Board provides input and feedback and makes recommendations to the Governing Board. Decisions are made by

³⁹ Per [Education Code Section 10865\(b\)\(1\)\(B\)](#).

consensus.⁴⁰ Recommendations are paired with feasibility studies by the managing entity regarding data availability, reliability, and validity; legal requirements; startup and ongoing costs to the managing entity and to the data providers; potential approaches for collecting the information; and any political or other implications that would jeopardize the neutrality of the managing entity.

Responsibilities

The Community Engagement Advisory Board develops suggestions to improve data utilization for the Governing Board, including, but not limited to:

- Professional development and technical assistance models that foster evidence-based decision-making, strengthen analytical capacity to use available data tools, and enable end users to understand structural factors that influence outcomes
- Communication structures that ensure a broad range of Californians know about and are using the tools
- Feedback loops that ensure meaningful public input
- Additional tools that would address strategic objectives for the Cradle-to-Career System

⁴⁰ Consensus is a decision-making process defined as "Can you live with it?" If an advisory board member believes a decision is somehow improper, the managing entity works with the relevant parties to attempt to resolve the issue.

Managing Entity

Roles and Responsibilities

The implementing statute for the data system identifies the Office of Cradle-to-Career Data as the managing entity within GovOps.⁴¹

Statute⁴² requires the managing entity to generally:

- Initiate the data system during the startup process
- Ensure wide, appropriate, and legal use of the data system as a one-stop shop for cradle-to-career data to support policy researchers
- Scale operational tools to better serve educators, students, and families
- Implement communications, professional development, and technical assistance that support data system use

The managing entity is tasked with implementing the Cradle-to-Career System, as specified by statute and as overseen by the Governing Board. For phase one, the Cradle-to-Career Workgroup recommended that the strategic objectives for the data system are to:⁴³

- Develop the architecture for linking records across agencies and creating intersegmental data sets
- Provide public-facing data visualizations, query tools, and a research library that provide actionable information on education, social services, employment patterns, and equity gaps in opportunities and outcomes
- Provide inter-agency data sets that enable research on factors that help Californians meet critical education milestones, evaluate the long-term impact of state-funded programs, and identify strategies for closing equity gaps
- Provide resources, training, and technical assistance that build data literacy among policymakers, practitioners, and the public
- Provide college and career planning tools, college-readiness monitoring, electronic transcripts, and confirmation of eligibility for financial aid and student supports
- Lead efforts to ensure the reliability of data contributed by the partner entities

While the managing entity should have expertise in data and analytics to support the collection, provision, analysis, visualization, and use of information, it would remain neutral and not establish its own educational or social policy agenda.

Specific responsibilities of the managing entity include:

Supporting the Governing Board, advisory boards, and data providers

- Staff all Governing Board, advisory boards, and task force meetings and processes

⁴¹ Government Operations Agency: <https://www.govops.ca.gov/>

⁴² [Education Code Section 10862](#) and [Education Code Section 10867](#).

⁴³ This list was approved at the June 2020 Cradle-to-Career Workgroup meeting.

- Support the development and updating of the Governance Manual
- Onboard new data providers to the governance structure, in partnership with the Governing Board chair
- For recommendations from the Data and Tools Advisory Board requiring new data elements; new visualizations on the dashboard; expanding query builder data points; or creating new tools, conduct feasibility studies and develop proposals regarding data availability, reliability and validity; legal requirements; startup and ongoing costs; and the process that would be required to collect the information
- Develop proposals for professional development, technical assistance, and communications plans based on recommendations from the Community Engagement Advisory Board
- Ensure regular reports and external evaluations regarding whether and how the vision and strategic objectives for the Cradle-to-Career System are being implemented, based on a theory of action
- Identify barriers to implementing the mission and vision and develop recommendations for the Governing Board on how to address these challenges
- Support the development of technical and data security policies, legal policies, data standards, and governance policies
- Coordinate with the Legislative and Executive Branches, with the support of the Governing Board, Governor's Office, and advisory boards, regarding ongoing support for the Cradle-to-Career System
- Escalate issues regarding data provider compliance with statute and legal agreements to the Governing Board as needed
- Escalate issues regarding technical and legal implementation to the Governing Board as needed

Managing administrative functions for the Cradle-to-Career System

- Develop an annual workplan, for approval by the Governing Board
- Develop budget requests and operational budgets, for approval by the Governing Board
- Expend funds in alignment with the operational budget and/or following an agreed-upon process to address unanticipated expenses
- Lead procurement processes and enter into contracts and agreements⁴⁴
- Oversee personnel management and compensation

Managing the technical infrastructure

- Create, manage, procure, secure, and maintain a master data management model to match individual records
- Create a searchable index of available data from data providers
- Create, manage, procure, secure, and maintain the infrastructure and tools to support data contributions and to consume/process research requests
- Create data sets that are tailored to approved purposes

⁴⁴ [Educ. Code 10867\(b\)\(3\)\(A\)](#) and [Educ. Code 10868](#)

- Leverage a role-based technical architecture to allow authorized parties to access unitary data points
- Ensure availability, reliability, and performance of the technical infrastructure
- Ensure data privacy and security
- Develop and curate all necessary technical documentation and resources to facilitate partner data submissions
- Provide ongoing training and technical assistance to data providers on the data submission process

Implementing public tools and supporting their use

- Lead user-centered design and testing processes for the dashboard and query builder tools
- Provide information to the public using dashboards, query builders, and research libraries
- Provide neutral written summaries of information available in the Cradle-to-Career System that relate to the public good and equitable opportunities and outcomes
- Scale existing tools that support college planning and the transfer of student records
- Provide information, resources, training, and technical assistance that foster evidence-based decision making, strengthen analytical capacity to use available data tools, and enable end users to understand structural factors that influence outcomes
- Ensure information, resources, training, and technical assistance take the needs of various communities into account, such as ensuring that all materials are accessible and provided in more than one language
- Lead community engagement activities to provide an ongoing channel for the public to provide input about the system and use these interactions to develop recommendations about available data and improving capacity for evidence-based decision making
- Where authorized, collect new data points on behalf of the state
- Engage in continuous improvement by joining communities of practice for longitudinal data systems; identifying evolving best practices on legal, technical, data, and community engagement topics; conferring with experts; and participating in intrastate and national data collection and policy efforts

Supporting data requests

- Support a review process for data requests on behalf of the data providers, including the assessment of whether the request form is fully filled out; cannot be answered using the public-facing query tools; does not violate any local, state, or federal law regarding privacy; and seeks information that is available from data providers through the Cradle-to-Career System
- Provide project management during the data request review process to facilitate timely resolution of any concerns and provision of data

Improving data quality

- Work with the Data and Tools Advisory Board to identify data points with questionable data quality
- Work with each data provider to determine whether definitions or data points that are currently uploaded to the Cradle-to-Career System have changed, and if so, document implications for the data set and publicly-available data

Ensuring legal compliance

- Negotiate and enter into legal agreements, contracts, memoranda of understanding, interagency agreements, and other agreements needed to implement the data system
- Ensure routine and ongoing compliance with all applicable federal, state, and data provider-specific laws and regulations to ensure confidentiality and privacy of individual records
- Ensure legislatively mandated reports are created and submitted on-time

Executive Director

The Governing Board is required to appoint an executive officer (Executive Director) to oversee the managing entity.⁴⁵

The Executive Director shall be exempt from civil service consistent with subdivision (e) of Section 4 of Article VII of the California Constitution, including setting the terms of employment, and annual compensation shall be commensurate with other like positions in state government.

The executive officer shall employ such other employees as they deem necessary for the effective conduct of the work of the managing entity.

The managing entity is responsible overseeing personnel and compensation for the Executive Director, but the Governing Board Chair will oversee the annual review of the Executive Director.

⁴⁵ [Education Code Section 10866\(a\)](#).

Data Providers

Data providers, also known as data contributors, are “entities that submit the individual, educational, academic, training, employment, social service, health, and other information used to create the data system.”⁴⁶

All data providers have one seat each on the Governing Board.

Data providers are required by statute⁴⁷ to submit the P20W data points defined in the participation agreement with the managing entity. The participation agreement is a legal agreement between the data providers and the managing entity. The participation agreement defines the responsibilities of both the managing entity and the data providers, and includes a list of the data points agreed upon between the data providers and the managing entity.

Data providers are responsible for ensuring that the source data is consistent with the data definitions and standards adopted by the Governing Board. Data providers make every effort to ensure source data is of the highest quality before submitting the data to the managing entity for inclusion in the data system. Once submitted, data providers work with the managing entity to ensure data quality.

⁴⁶ Per [Education Code Section 10871.](#)

⁴⁷ Per [Education Code Section 10871\(a\)\(1\).](#)

Appendices

Appendix A: Governing Board Representatives and Term Lengths

Appendix B: The Bagley-Keene Act Open Meeting Act, [Government Code Section 11120 et seq.](#)

Appendix C: Governance Manual Revision History

Appendix A: Governing Board Representatives and Term Length

[AB 132](#) (Committee on Budget, Statutes of 2021, Chapter 144, Section 8) identifies the Governing Board members and their term lengths.

To establish staggered terms at the outset of the Cradle-to-Career System development, all seats will be appointed in year one, but some terms will be shorter, such that some positions are appointed for one year, some positions are appointed for two years, and some positions are appointed for three years.

	Representative Identified in Statute	Statutory Reference⁴⁸	Term Length⁴⁹	Term for First Set of Appointments
1.	The State Superintendent of Public Instruction or the Superintendent's designee	Education Code Section 10864(a)(1)	Permanent	As determined by the State Superintendent
2.	The Chancellor of the California Community Colleges or the chancellor's designee	Education Code Section 10864(a)(2)	Permanent	As determined by the Chancellor
3.	The Chancellor of the California State University or the chancellor's designee	Education Code Section 10864(a)(3)	Permanent	As determined by the Chancellor
4.	The President of the University of California or the president's designee	Education Code Section 10864(a)(4)	Permanent	As determined by the President
5.	The President of the Association of Independent California Colleges and Universities or the president's designee	Education Code Section 10864(a)(5)	Permanent	As determined by the President
6.	The Chief of the Bureau for Private Postsecondary Education or the chief's designee	Education Code Section 10864(a)(6)	Permanent	As determined by the Chief
7.	The Executive Director of the California Student Aid Commission or the executive director's designee	Education Code Section 10864(a)(7)	Permanent	As determined by the Executive Director
8.	The Executive Director of the Commission on Teacher Credentialing or the executive director's designee	Education Code Section 10864(a)(8)	Permanent	As determined by the Executive Director
9.	The Secretary of California Health and Human Services or the secretary's designee	Education Code Section 10864(a)(9)	Permanent	As determined by the Secretary

⁴⁸ These provisions are from the [Education Code Section 10864](#).

⁴⁹ The Governing Board member's terms are specified in [Education Code Section 10864\(c\)](#).

10.	The Secretary of Labor and Workforce Development Agency or the secretary's designee	Education Code Section 10864(a)(10)	Permanent	As determined by the Secretary
11.	The Chief Operations Officer of California School Information Services	Education Code Section 10864(a)(15)	Permanent	Permanent
12.	Four public members, to be appointed by the Governor, as follows: Two elementary and secondary education practitioners to serve as a representative of elementary and secondary educators, counselors, and administrators. PUBLIC MEMBER/PRACTITIONER 1	Education Code Section 10864(a)(11)(A)	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))
13.	Four public members, to be appointed by the Governor, as follows: Two elementary and secondary education practitioners to serve as a representative of elementary and secondary educators, counselors, and administrators. PUBLIC MEMBER/PRACTITIONER 2	Education Code Section 10864(a)(11)(A)	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))
14.	Four public members, to be appointed by the Governor, as follows: Two members of the public who meet the requirements of paragraph (1) of subdivision (c) (diversity in data, professional experience, different geographical and socioeconomic backgrounds). PUBLIC MEMBER 3	Education Code Section 10864(a)(11)(B)	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))	One year (Education Code Section 10864(C)(5)(B))
15.	Four public members, to be appointed by the Governor, as follows: Two members of the public who meet the requirements of paragraph (1) of subdivision (c) (diversity in data, professional experience, different geographical and socioeconomic backgrounds). PUBLIC MEMBER 4	Education Code Section 10864(a)(11)(B)	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))	One year (Education Code Section 10864(C)(5)(B))

16.	Two members of the public, to be appointed the Speaker of the Assembly. ASSEMBLY SPEAKER PUBLIC MEMBER 1	Education Code Section 10864(a)(12)(A)	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))	Two years; Education Code Section 10864(c)(5)(C)
17.	Two members of the public, to be appointed the Speaker of the Assembly. ASSEMBLY SPEAKER PUBLIC MEMBER 2	Education Code Section 10864(a)(12)(A)	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))	Two years; Education Code Section 10864(c)(5)(C)
18.	Two members of the public, to be appointed the President Pro Tempore of the Senate. SENATE PRESIDENT PRO TEMPORE PUBLIC MEMBER 1	Education Code Section 10864(a)(12)(B)	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))
19.	Two members of the public, to be appointed the President Pro Tempore of the Senate. SENATE PRESIDENT PRO TEMPORE PUBLIC MEMBER 2	Education Code Section 10864(a)(12)(B)	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))	Three years; shall not serve more than two consecutive terms or more than six years (Education Code Section 10864(c)(3))
20.	One Senator appointed by the President Pro Tempore of the Senate, or the Senator's designee. SENATOR APPOINTMENT	Education Code Section 10864(a)(13)	Permanent	As determined by the President Pro Tempore
21.	One Assembly Member appointed by the Speaker of the Assembly or the Assembly Member's Designee. ASSEMBLY MEMBER APPOINTMENT	Education Code Section 10864(a)(14)	Permanent	As determined by the Speaker

Appendix B: The Bagley-Keene Act

11120. 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. 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 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. 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) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

11121.9. 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. 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. 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.

(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)

(1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(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 that do not violate subdivision (b).

(2) (A) 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, if 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.

(B) Subparagraph (A) does not 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, if 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, if 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, if 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, if the members of the state body who are not members of the standing committee attend only as observers.

11123.

(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. 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. 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.

(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 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 audio or video recording 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 recording. Any inspection of an audio or video recording shall be provided without charge on equipment 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.

(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.

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

11125.3.

(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.

(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 when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or when 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.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(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.

(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 rollcall 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.

(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 rollcall 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.

(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.

(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 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.

(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 Division 2 of the Revenue and Taxation Code.
- (12) Prevent the Corrections Standards Authority 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 9 (commencing with Section 60850) of, Part 33 of Division 4 of Title 2 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 with 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.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(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 the enforcement advisory 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 the qualifications 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 Secretary of Emergency Management 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.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code. (j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be

disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund. (

k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

11126.1. 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.

(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.

(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.

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

11128.5. 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. 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.

(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 audio 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 audio record its closed sessions and preserve the audio 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 audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording 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 audio 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.

(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. 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. 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. 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 ancestry or any characteristic listed or defined in Section 11135, 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. 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. Except as expressly authorized by this article, no closed session may be held by any state body.

