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Action

Executive Committee

Review and Discussion of Changes to the Commission Policy Manual

Executive Summary: The Executive Committee will review and discuss proposed revisions to the Commission's Policy Manual.

Recommended Action: That the Executive Committee recommend the adoption of the proposed revisions previously discussed and on which agreement was reached.

Presenter: Mary Armstrong, General Counsel

Strategic Plan Goal: 2

Continue to refine the coordination between Commissioners and staff in carrying out the Commission's duties, roles and responsibilities.

April 2007

Review and Discussion of Changes to the Commission Policy Manual

Introduction

The Executive Committee will continue its review of the Commission's Policy Manual. The Committee will take action to recommend adoption of proposed revisions previously discussed and on which agreement was reached. The Committee will also discuss the addition of a new section providing for a quorum.

Background

The Commission's Policy Manual sets forth the rules governing the conduct of the Commission's business (§101). The Executive Committee is charged with the responsibility of periodically reviewing the provisions of the Policy Manual and determining the need for revision and repeal or adoption. The last revisions to the Policy Manual occurred in January 2004. In the interim, the conduct of the Commission's business has undergone change as a result of the efficiencies adopted by the Commission in 2005 as well as a change in the membership of the Commission. As a result, at the July/August 2006 meeting of the Executive Committee, a working group was formed to review the current provisions of the Policy Manual and suggest proposed amendments. Discussion of the proposed revisions began at the November/December 2006 Executive Committee meeting. At the February 2007 meeting, the Executive Committee took action to recommend adoption of several revisions to the following sections of the Policy Manual: §§215, 216, 217, 219, 230, 231, 244, 301, 320, 420, 422, 440, §490 and 503. At the March 2007 meeting the Executive Committee discussed proposed revisions to the Policy Manual and recommended adoption of a new §610 and revisions to §§310, 402, 405, 406, 407, 410, 411 and §§530-532.

In March 2007, the Committee discussed the working group's proposal to add a reference to the Vice Chair to all references that include the Chair. Following its discussion of the issue, the Executive Committee determined that the additional reference to Vice Chair was unnecessary; however staff was directed to add language to the Duties of the Chair (§310) encouraging communication and collaboration with the Vice Chair as a consistent and regular duty of the Chair. The Committee also discussed a proposed new section 320 relating to attendance of Ex-Officio Members in closed session, as well as revisions to section 321. Staff was asked to bring both of these items back for action at the April 2007 meeting.

Action Items

The two items for action are set forth below:

1. Inclusion of language encouraging communication and collaboration with the Vice Chair as a consistent and regular duty of the Chair.

Currently §310 sets forth the General Duties of Officers of the Commission. A new paragraph (b) would be added to reflect the Committee's direction.

§ 310 GENERAL DUTIES OF OFFICERS

The officers of the Commission shall have such powers and shall perform such duties in addition to those set forth in this chapter as may be delegated to them by the Commission.

- (a) The Chair shall be the presiding officer at meetings of the Commission and shall be an ex-officio member of all committees.
- (b) The Chair shall consistently and regularly communicate and collaborate with the Vice Chair on all matters concerning the Commission.
- ~~(b)~~(c) The Chair will annually report the State of the Commission detailing the Commission's accomplishments during the prior year. ~~in~~ conjunction with the publication of the Commission's Annual Report.

2. Addition of a new section regarding the attendance of Ex Officio Members in Closed session and a revision to §321 to change the wording to "Members" rather than "representative".

§ 320 EX OFFICIO MEMBERS OF THE COMMISSION ATTENDANCE AT CLOSED SESSION

- (a) Ex Officio Members of the Commission serve, with some exceptions outlined in (b), as non-voting members of the Commission and may attend and participate in any and all closed sessions held by the Commission pursuant to Government Code section 11126 and Education Code sections 44420 and 44245.
- (b) Ex Officio Members of the Commission shall be entitled to vote in separate standing Committees of the Commission as provided in §412 of the Policy Manual.

§321 ABSENCES BY EX OFFICIO MEMBERS OF THE COMMISSION REPRESENTATIVE

If an ex officio Member of the Commission ~~representative~~ is absent from any four regularly scheduled meetings in any calendar year, the Chair of the Commission shall contact that ~~representative~~ ex officio to ascertain the reason for such absences and to initiate steps to assure attendance at future

meetings, including, but not limited to, notifying the organization sponsoring the ex officio.

Recommended Action

Staff recommends adoption of a revised section 310 including adding paragraph (b) regarding the Chair's duty to communicate and collaborate with the Vice Chair and a new section 320 and revisions to section 321 providing for attendance of the Ex Officio Members in Closed Session.

Information Item

At the February 2007 Commission Meeting the Executive Committee established a schedule for the discussion of additional revisions and amendments to the Policy Manual. Pursuant to the schedule, the issue for discussion at the April 2007 meeting is the addition of a new section which would provide for the determination of a quorum.

Currently both the Policy Manual and the Education Code are silent with regard to how to determine whether a quorum of the full Commission has been established. Because of the continued existence of vacancies over the last five years, it has sometimes been difficult to establish a quorum. The Policy Manual provides in section 230 that "the rules contained in the latest edition of *Robert's Rules of Order* shall govern the Commission, except that they shall not take precedence over state laws or regulations (e.g. the Bagley-Keene Act)." *Robert's Rules of Order* provides a choice for how to determine whether a quorum has been established: (1) determine a quorum based on the total number of members currently serving; or (2) determine the quorum on the total number of members who could be appointed including vacant positions. *Robert's Rules* further discusses that whatever method is chosen it should be noted in the group's bylaws or policy governing its rules of operation. This view is clearly supported by current case law at both the federal and state level which takes the view that unless a quorum is specifically set by a statute then the group determines how the quorum is to be counted. Although the Commission's past *practice* has been to determine a quorum by counting a majority of the total number of members who could be appointed, there is no written record of formal action being taken to establish any policy regarding how to determine a quorum. The issue of how to determine the quorum was originally discussed by the Executive Committee at the November/December 2006 meeting. No consensus was reached at the time. The Committee heard testimony from several stakeholders who urged the Committee to retain the current practice of determining the quorum by counting a majority of the total number of members who could be appointed.