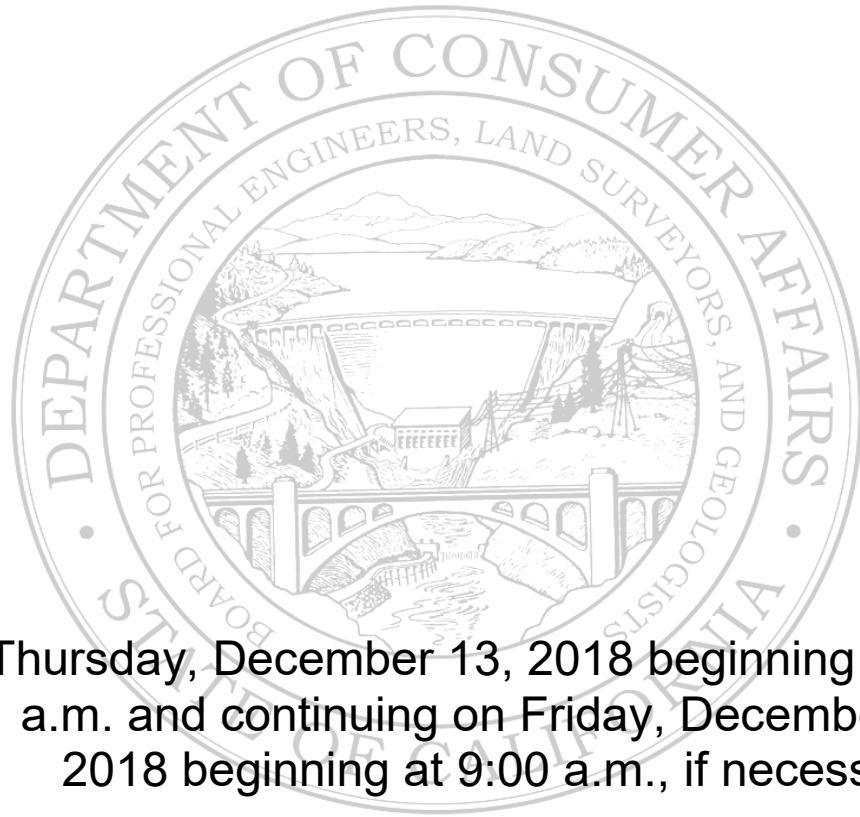




Governor Edmund G. Brown

Board for Professional Engineers, Land Surveyors, and Geologists

Meeting of the Board for Professional Engineers, Land Surveyors, and Geologists



Thursday, December 13, 2018 beginning at 9:00
a.m. and continuing on Friday, December 14,
2018 beginning at 9:00 a.m., if necessary

Department of General Services
3737 Main Street, Magnolia Room
Riverside, CA 92501

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BOARD MEETING

December 13-14, 2018

Department of General Services
3737 Main Street, Magnolia Room
Riverside, CA 92501

BOARD MEMBERS

Mohammad Qureshi, President; Fel Amistad, Vice President; Natalie Alavi; Alireza Asgari; Duane Friel; Andrew Hamilton; Kathy Jones Irish; Eric Johnson; Coby King; Asha Lang; Betsy Mathieson; Frank Ruffino; Jerry Silva; Robert Stockton; and Steve Wilson

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I. Roll Call to Establish a Quorum

II. Public Comment for Items Not on the Agenda

NOTE: The Board cannot take action on items not on the agenda. The Board will also allow for Public Comment during the discussion of each item on the agenda. Please see the last page of this Official Notice and Agenda for additional information regarding Public Comment.

III. Consideration of Rulemaking Proposals

- A. Proposed Amendments to Title 16, California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria) to Conform to Statutory Changes Made by AB 2138 (Chapter 995, Statutes of 2018) (Possible Action)

**Proposed Amendments to Title 16, California Code of Regulations
Sections 416 and 3060 (Substantial Relationship Criteria) to Conform to
Statutory Changes Made by AB 2138 (Chapter 995, Statutes of 2018)**

Under current law, the Board may deny issuance of a license or may seek to revoke (or take other disciplinary action against) a license based on the conviction of a crime or commission of other specified acts if those crimes or acts are substantially related to the qualifications, functions, and duties of the profession in which the person is seeking licensure or in which they are licensed. Furthermore, Business and Professions Code (BPC) section 481 requires the Board to develop criteria to aid it in determining whether a crime or act is substantially related. The Board has codified this criteria in Title 16, California Code of Regulations (16 CCR) section 416 for professional engineers and professional land surveyors and in 16 CCR 3060 for professional geologists, certified specialty geologists, and professional geophysicists.

Based on changes made by AB 2138 (Ch. 995, Stats.2018) to BPC section 480, which will become operative on July 1, 2020, amendments need to be made to the Board's regulations to conform them to the revisions made to the statutes. Under current the current statutes and regulations, the Board can consider "acts" that are separate from "crimes" (convictions) when determining whether or not to deny issuing a license, such as acts done by an applicant that if done by a licensee would constitute grounds for revocation of the license. Under the changes made to BPC section 480, the Board will only be able to consider acts underlying the conviction of a crime. Since the Board's regulations refer to "crimes or acts," this phrase needs to be revised to conform to the changes to statute. Additionally, the changes made to BPC section 480 also specify that the Board can consider formal discipline taken by a licensing board in or outside of California for professional misconduct that is substantially related; reference to this needs to be added to the regulations.

Additionally, AB 2138 amends BPC section 481 to require that the following items be included in the criteria for determining whether a crime is substantially related:

1. The nature and gravity of the offense;
2. The number of years elapsed since the date of the offense; and,
3. The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

These three items are not currently listed in 16 CCR 416 and 3060. Therefore, they need to be added to the regulations.

In addition to the changes that simply conform the regulations to the changes in statute, it was also determined that there are some grammatical errors that need to be corrected. The proposed amendments to the regulations, as well as the chaptered version of AB 2138, are included.

RECOMMENDED MOTION:

Approve the proposed amendments, as shown, to Title 16, California Code of Regulations sections 416 and 3060 to conform the regulations to the statutory changes enacted by AB 2138 (Ch. 995, Stats.2018) and direct staff to begin the rulemaking process so that the amendments will become effective on July 1, 2020, when the changes to the statutes become operative.

Section 416 of Division 5 of Title 16 of the California Code of Regulations is amended as follows:

416. Substantial Relationship Criteria.

(a) For the purpose of denial, suspension, or revocation of the license of a professional engineer or a land surveyor pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, or the act underlying the conviction of that crime, or act professional misconduct that was the basis for formal discipline by a licensing board in or outside of California shall be considered substantially related to the qualifications, functions, and duties of a professional engineer or land surveyor if, to a substantial degree, it evidences present or potential unfitness of a professional engineer or land surveyor to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare. Such crimes, acts, or acts professional misconduct shall include, but not be limited to, those involving the following:

(a) (1) For professional engineers, any violations of the provisions of the Professional Engineers Act or aiding and abetting any person in such a violation;

(b) (2) For land surveyors, any violations of the provisions of the Professional Land Surveyors' Act or aiding and abetting any person in such a violation;

(c) (3) A conviction of a crime arising from or in connection with the practice of professional engineering or land surveying.

(b) In addition to the provisions of subdivision (a), in determining whether a crime shall be considered substantially related to the qualifications, functions, and duties of a professional engineer or land surveyor, the Board shall also consider the following, as required by subparagraphs (1), (2), and (3) of subdivision (b) of Section 481 of the Business and Professions Code:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense;

(3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

Section 3060 of Division 29 of Title 16 of the California Code of Regulations is amended as follows:

3060. Substantial Relationship Criteria.

(a) For the purpose of denial, suspension, or revocation of the registration license of a geologist, specialty geologist, geophysicists, or specialty geophysicists pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, or the act underlying the conviction of that crime, or act professional misconduct that was the basis for formal discipline by a licensing board in or outside of California shall be considered substantially related to the qualifications, functions, and duties of a geologist, specialty geologist, geophysicists, or specialty geophysicists if, to a substantial degree, it evidences present or potential unfitness of such geologist or geophysicists to perform the functions authorized by his or her registration license in a manner consistent with the public health, safety, or welfare.

Such crimes, acts, or ~~aets~~ professional misconduct shall include, but not be limited to, the following:

~~(a)~~ (1) Any violation of the provisions of Chapter 12.5 of Division 3 of the Business and Professions Code- or aiding and abetting any person in such a violation;

(2) A conviction of a crime arising from or in connection with the practice of professional geology or geophysics.

(b) In addition to the provisions of subdivision (a), in determining whether a crime shall be considered substantially related to the qualifications, functions, and duties of a geologist, specialty geologist, geophysicist, or specialty geophysicist, the Board shall also consider the following, as required by subparagraphs (1), (2), and (3) of subdivision (b) of Section 481 of the Business and Professions Code:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense;

(3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

Assembly Bill No. 2138

CHAPTER 995

An act to amend, repeal, and add Sections 7.5, 480, 481, 482, 488, 493, and 11345.2 of, and to add Section 480.2 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 30, 2018. Filed with
Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, Chiu. Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime only if the applicant or licensee has been convicted of a crime within the preceding 7 years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding 7 years, except as specified. The bill would prohibit a board from

denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction, as defined, for a crime, if the conviction has been dismissed or expunged, if the person has provided evidence of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction.

The bill would require the board to develop criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession. The bill would require a board to consider whether a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board, after a specified hearing requested by an applicant for licensure to take various actions in relation to denying or granting the applicant the license.

This bill would revise and recast those provisions to eliminate some of **the more specific options that the board may tak** these circumstances.

This bill would clarify that the existing above-described provisions continue to apply to the State Athletic Commission, the Bureau for Private Postsecondary Education, and the California Horse Racing Board.

This bill would also make necessary conforming changes.

This bill would make these provisions operative on July 1, 2020.

The people of the State of California do enact as follows:

SECTION 1. Section 7.5 of the Business and Professions Code is amended to read:

7.5. (a) A conviction within the meaning of this code means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been **affirmed** on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. However, a board may not deny a license to an applicant **who is otherwise qualified pursuant to subdivi** (b) of Section 480.

Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 2. Section 7.5 is added to the Business and Professions Code, to read:

7.5. (a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or **finding** of guilt. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been **affirmed** on appeal or when an order granting probation is made suspending the imposition of sentence. However, a board may not deny a license to an applicant who is otherwise **qualified pursuant to subdivision (b) or (c) of Section 480.**

(b) (1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(A) The State Athletic Commission.

(B) The Bureau for Private Postsecondary Education.

(C) The California Horse Racing Board.

(c) Except as provided in subdivision (b), this section controls over and supersedes the **definition** of conviction contained within individual practice acts under this code.

(d) This section shall become operative on July 1, 2020.

SEC. 3. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been **affirmed** on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially **benefit** himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the **qualifications**, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a **certificate** of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 4. Section 480 is added to the Business and Professions Code, to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the **qualifications**, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the **qualifications**, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as **defined** in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a **financial** crime currently **classified** as a felony that is directly and adversely related to the **fiduciary qualifications**, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

- (i) Chapter 1 (commencing with Section 5000) of Division 3.
- (ii) Chapter 6 (commencing with Section 6500) of Division 3.

- (iii) Chapter 9 (commencing with Section 7000) of Division 3.
- (iv) Chapter 11.3 (commencing with Section 7512) of Division 3.
- (v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.

(vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the **qualifications**, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that he or she has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if he or she has obtained a **certificate** of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not **reflected** on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing

with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) **The denial or disqualification of licensure.**

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice **of denial or disqualification of licensure.**

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any **denial or disqualification of licensure.**

(D) The **final** disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's Internet Web site and through a report submitted to the appropriate policy committees of the Legislature **deidentified** information collected pursuant to this subdivision. Each board shall ensure **confidentiality of the individual** applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.

SEC. 5. Section 480.2 is added to the Business and Professions Code, to read:

480.2. (a) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the grounds that the applicant has one of the following:

- (1) Been convicted of a crime.
- (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially **benefit** himself or herself or another, or substantially injure another.
- (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the **qualifications**, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a **certificate** of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board to evaluate the rehabilitation of a person when considering the denial of a license under paragraph (1) of subdivision (f).

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the ground that the applicant knowingly made a false

statement of fact that is required to be revealed in the application for the license.

(e) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the **qualifications**, functions, or duties of the business or profession it regulates.

(f) (1) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to evaluate the rehabilitation of a person either when:

(A) Considering the denial of a license under this section.

(B) Considering suspension or revocation of a license under Section 490.

(2) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(g) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board, in its discretion, may deem proper.

(h) Notwithstanding any other law, in a proceeding conducted by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the **qualifications**, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may inquire into the circumstances surrounding the commission of the crime in order to **fix** the degree of discipline or to determine if the conviction is substantially related to the **qualifications**, functions, and duties of the licensee in question.

(i) Notwithstanding Section 7.5, a conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the Bureau for Private Postsecondary

Education, the State Athletic Commission, or the California Horse Racing Board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been **affirmed** on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(j) This section shall become operative on July 1, 2020.

SEC. 6. Section 481 of the Business and Professions Code is amended to read:

481. (a) Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the **qualifications**, functions, or duties of the business or profession it regulates.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 7. Section 481 is added to the Business and Professions Code, to read:

481. (a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the **qualifications**, functions, or duties of the business or profession it regulates.

(b) Criteria for determining whether a crime is substantially related to the **qualifications**, functions, or duties of the business or profession a board regulates shall include all of the following:

- (1) The nature and gravity of the offense.
- (2) The number of years elapsed since the date of the offense.
- (3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

(c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.

(d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the **qualifications**, functions, or duties of the business or profession it regulates consistent with this section.

(e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(f) This section shall become operative on July 1, 2020.

SEC. 8. Section 482 of the Business and Professions Code is amended to read:

482. (a) Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(1) Considering the denial of a license by the board under Section 480;
or

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 9. Section 482 is added to the Business and Professions Code, to read:

482. (a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

(1) Considering the denial of a license by the board under Section 480.

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

(2) The board, applying its criteria for rehabilitation, **finds** that the applicant is rehabilitated.

(c) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(d) This section shall become operative on July 1, 2020.

SEC. 10. Section 488 of the Business and Professions Code is amended to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 11. Section 488 is added to the Business and Professions Code, to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(c) This section shall become operative on July 1, 2020.

SEC. 12. Section 493 of the Business and Professions Code is amended to read:

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the **qualifications**, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to **fix** the degree of discipline or to determine if the conviction is substantially related to the **qualifications**, functions, and duties of the licensee in question.

(b) As used in this section, "license" includes "**certificate**," "permit," "authority," and "registration."

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 13. Section 493 is added to the Business and Professions Code, to read:

493. (a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the **qualifications**, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is substantially related to the **qualifications**, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

(c) As used in this section, “license” includes “**certificate**,” “permit,” “authority,” and “registration.”

(d) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(e) This section shall become operative on July 1, 2020.

SEC. 14. Section 11345.2 of the Business and Professions Code is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. Notwithstanding subdivision (c) of Section 480, if the individual’s felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or **certificate** to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or **certificate** as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the **office**, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 15. Section 11345.2 is added to the Business and Professions Code, to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual’s felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or **certificate** to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or **certificate** as an appraiser

refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the **office**, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become operative on July 1, 2020.

O

IV. Administration

- A. Fiscal Year 2017/18 Budget Review
- B. Fiscal Year 2018/19 Budget Status

MEMORANDUM

DATE	August 28, 2018
TO	ALL Board Executive Officers/Bureau Chiefs
FROM	Janice Shintaku-Enkoji, Chief Fiscal Officer Budget Office
SUBJECT	DCA FI\$Cal Implementation Status Update

FI\$Cal is the new statewide system for budgets, accounting and procurement that the State of California has implemented for all state departments. Participation in the system is mandated by the state legislature and the Governor.

DCA integrated into FI\$Cal in July 2017. While the transition has and continues to be challenging, the system is working and capturing all expenditure and revenue transactions for DCA programs. During system implementation, DCA – among other state entities -- have encountered interface and other technical system issues that have hampered our ability to conduct timely month end closing and produce reconciled monthly expenditure and revenue reports. In response to these issues, the DCA Executive Office has met with the FI\$Cal Director and its executive team to relay our system concerns and address the technical system issues. As a result, DCA and FI\$Cal technical staff have been in contact on a weekly basis to work through and address programming, reporting and other technical concerns.

DCA continues to operate in FI\$Cal and is working towards closing its first full fiscal year in the system, however processing and workload issues associated with the system have yet to be fully resolved. Significant hurdles must be overcome for DCA to close and reconcile expenditure and revenue figures for year-end. As a result, DCA will be unable to close the fiscal year and produce official financial year-end statements until later this fiscal year (currently estimated for March 2019). Please note that this is a situation that is not unique to DCA but rather a statewide issue impacting many of the Departments that are transitioning to the FI\$Cal system. See the State Auditor's recent [FI\\$Cal status letter](#) for additional context.

To provide programs with estimated year-end expenditure and revenue figures, DCA will be producing preliminary fiscal month 12 (June) financial statements from FI\$Cal that will be disseminated to programs in late August. These reports will be utilized for year-end estimates until the official financial statements can be prepared.

DCA understands your concerns and share many of the same frustrations in not being able to provide timely reports that detail all expenditures and revenues for programs in a consolidated and understandable format.

DCA is fully dedicated to a successful transition into the FI\$Cal system. We appreciate your patience and understanding as we continue to address these technical and workload challenges.

0770 - Professional Engineer's, Land Surveyor's and Geologist's Fund

Prepared 10/23/2018

Analysis of Fund Condition

(Dollars in Thousands)

FI\$Cal FM 12 and Activity Log Data for 17-18

Workload & Revenue and Fund Impact Estimates for 18-19

Budget Act 2018 with BCPs

	Actuals 2016-17	PY 2017-18	Budget Act CY 2018-19	BY 2019-20	BY +1 2020-21	BY +2 2021-22
BEGINNING BALANCE	\$ 8,263	\$ 10,042	\$ 7,678	\$ 6,259	\$ 2,186	\$ -2,787
Prior Year Adjustment	\$ 8	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 8,271	\$ 10,042	\$ 7,678	\$ 6,259	\$ 2,186	\$ -2,787
REVENUES AND TRANSFERS						
Revenues:						
4121200 Delinquent fees	\$ 91	\$ 88	\$ 88	\$ 89	\$ 89	\$ 90
4127400 Renewal fees	\$ 6,189	\$ 6,851	\$ 6,197	\$ 6,920	\$ 6,259	\$ 6,989
4129200 Other regulatory fees	\$ 140	\$ 124	\$ 124	\$ 124	\$ 124	\$ 124
4129400 Other regulatory licenses and permits	\$ 2,423	\$ 1,643	\$ 1,650	\$ 1,652	\$ 1,669	\$ 1,685
4150500 Interest Income from interfund loans	\$ 70	\$ -	\$ -	\$ -	\$ -	\$ -
4163000 Income from surplus money investments	\$ 61	\$ 97	\$ 98	\$ 45	\$ 31	\$ 18
4171400 Escheat of unclaimed checks and warrants	\$ 13	\$ 13	\$ 13	\$ 13	\$ 13	\$ 13
4172500 Miscellaneous revenues	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1
Totals, Revenues	\$ 8,988	\$ 8,817	\$ 8,171	\$ 8,844	\$ 8,186	\$ 8,920
Transfers from Other Funds						
Revenue Transfer from Geology Fund	\$ -	\$ -	\$ 1,131	\$ -	\$ -	\$ -
FO0001 Proposed GF Loan Repayment per item	\$ 3,200	\$ -	\$ 800	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 12,188	\$ 8,817	\$ 10,102	\$ 8,844	\$ 8,186	\$ 8,920
Totals, Resources	\$ 20,459	\$ 18,859	\$ 17,780	\$ 15,103	\$ 10,371	\$ 6,133
EXPENDITURES						
Disbursements:						
1110 Program Expenditures (State Operations)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
1111 Department of Consumer Affairs (State Operations)	\$ 9,853	\$ 10,482	\$ 10,669	\$ 12,065	\$ 12,306	\$ 12,552
8840 SCO (State Operations)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 13	\$ 15	\$ 1	\$ 1	\$ 1	\$ 1
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ -	\$ 98	\$ 98	\$ 98	\$ 98
9900 Statewide Admin. (State Operations)	\$ 551	\$ 684	\$ 753	\$ 753	\$ 753	\$ 753
Total Disbursements	\$ 10,417	\$ 11,181	\$ 11,521	\$ 12,917	\$ 13,158	\$ 13,404
FUND BALANCE						
Reserve for economic uncertainties	\$ 10,042	\$ 7,678	\$ 6,259	\$ 2,186	\$ -2,787	\$ -7,272
Months in Reserve	10.8	8.0	5.8	2.0	-2.5	-6.4

V. Legislation

A. 2019 Legislative Calendar

DEADLINES

JANUARY						
S	M	T	W	TH	F	S
		<u>1</u>	2	3	4	5
6	<u>7</u>	8	9	<u>10</u>	11	12
13	14	15	16	17	18	19
20	<u>21</u>	22	23	24	<u>25</u>	26
27	28	29	30	31		

FEBRUARY						
S	M	T	W	TH	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	<u>18</u>	19	20	21	<u>22</u>	23
24	<u>25</u>	26	27	28		

MARCH						
S	M	T	W	TH	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	<u>29</u>	30
31						

APRIL						
S	M	T	W	TH	F	S
	1	2	3	4	5	6
7	8	9	10	<u>11</u>	12	13
14	15	16	17	18	19	20
21	<u>22</u>	23	24	25	<u>26</u>	27
28	29	30				

MAY						
S	M	T	W	TH	F	S
			1	2	<u>3</u>	4
5	6	7	8	9	<u>10</u>	11
12	13	14	15	16	<u>17</u>	18
19	20	21	22	23	24	25
26	<u>27</u>	<u>28</u>	<u>29</u>	<u>30</u>	<u>31</u>	

- Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 7 Legislature **reconvenes** (J.R. 51(a)(1)).
- Jan. 10 Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 21 Martin Luther King, Jr. Day.
- Jan. 25 Last day to submit **bill requests** to the Office of Legislative Counsel
-
- Feb. 18 Presidents’ Day.
- Feb. 22 Last day for **bills to be introduced** (J.R. 61(a)(1)), (J.R. 54(a)).
-
-
- Mar. 29 Cesar Chavez Day observed.
-
-
- Apr. 11 **Spring recess** begins upon adjournment of this day’s session (J.R. 51(a)(2)).
- Apr. 22 Legislature **reconvenes** from Spring recess (J.R. 51(a)(2)).
- Apr. 26 Last day for **policy committees** to hear and report to **fiscal committees** **fiscal bills** introduced in their house (J.R. 61(a)(2)).
-
- May 3 Last day for **policy committees** to hear and report to the Floor **nonfiscal bills** introduced in their house (J.R. 61(a)(3)).
- May 10 Last day for **policy committees** to meet prior to June 3 (J.R. 61(a)(4)).
- May 17 Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61(a)(5)). Last day for **fiscal committees** to meet prior to June 3 (J.R. 61(a)(6)).
- May 27 Memorial Day.
- May 28-31 **Floor Session Only.**
No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(7)).
-
- May 31 Last day for bills to be **passed out of the house of origin** (J.R. 61(a)(8)).

*Holiday schedule subject to Rules committee approval.

JUNE						
S	M	T	W	TH	F	S
						1
2	<u>3</u>	4	5	6	7	8
9	10	11	12	13	14	<u>15</u>
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

JULY						
S	M	T	W	TH	F	S
	1	2	3	<u>4</u>	5	6
7	8	9	<u>10</u>	11	<u>12</u>	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

AUGUST						
S	M	T	W	TH	F	S
				1	2	3
4	5	6	7	8	9	10
11	<u>12</u>	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	<u>30</u>	31

SEPTEMBER						
S	M	T	W	TH	F	S
1	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	7
8	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

- [Jun. 3](#) Committee meetings may resume (J.R. 61(a)(9)).
- [Jun. 15](#) **Budget Bill** must be **passed by midnight** (Art. IV, Sec. 12(c)(3)).

- [Jul. 4](#) Independence Day.
- [Jul. 10](#) Last day for **policy committees** to hear and report **fiscal bills** to **fiscal committees** (J.R. 61(a)(10)).
- [Jul. 12](#) Last day for **policy committees** to meet and report bills (J.R. 61(a)(11)). **Summer recess** begins upon adjournment of this day’s session, provided Budget Bill has been passed (J.R. 51(a)(3)).

- [Aug. 12](#) **Legislature reconvenes** from Summer recess (J.R. 51(a)(3)).
- [Aug. 30](#) Last day for **fiscal committees** to meet and report bills to Floor (J.R. 61(a)(12)).

- [Sep. 2](#) Labor Day.
- [Sep. 3-13](#) **Floor Session Only.** No committees, other than conference and Rules committees, may meet for any purpose (J.R. 61(a)(13)).
- [Sep. 6](#) Last day to **amend bills on the floor** (J.R. 61(a)(14)).
- [Sep. 13](#) Last day for **each house to pass bills** (J.R. 61(a)(15)). **Interim Study Recess** begins upon adjournment of this day’s session (J.R. 51(a)(4)).

*Holiday schedule subject to Senate Rules committee approval.

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

- 2019

[Oct. 13](#)

Last day for Governor to sign or veto bills passed by the Legislature on or before Sep. 13 and in the Governor’s possession after Sep. 13 (Art. IV, Sec.10(b)(1)).
- 2020

[Jan. 1](#)
[Jan. 6](#)

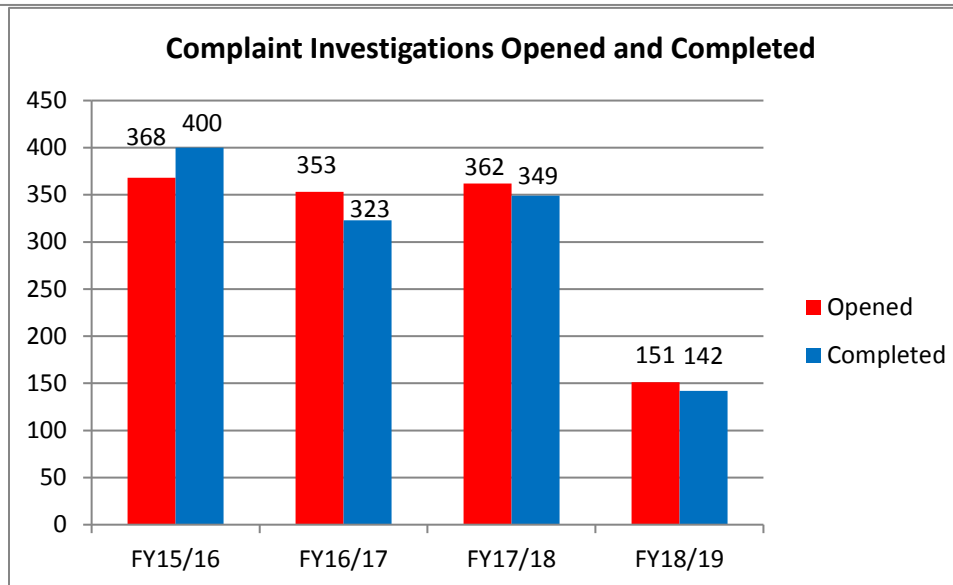
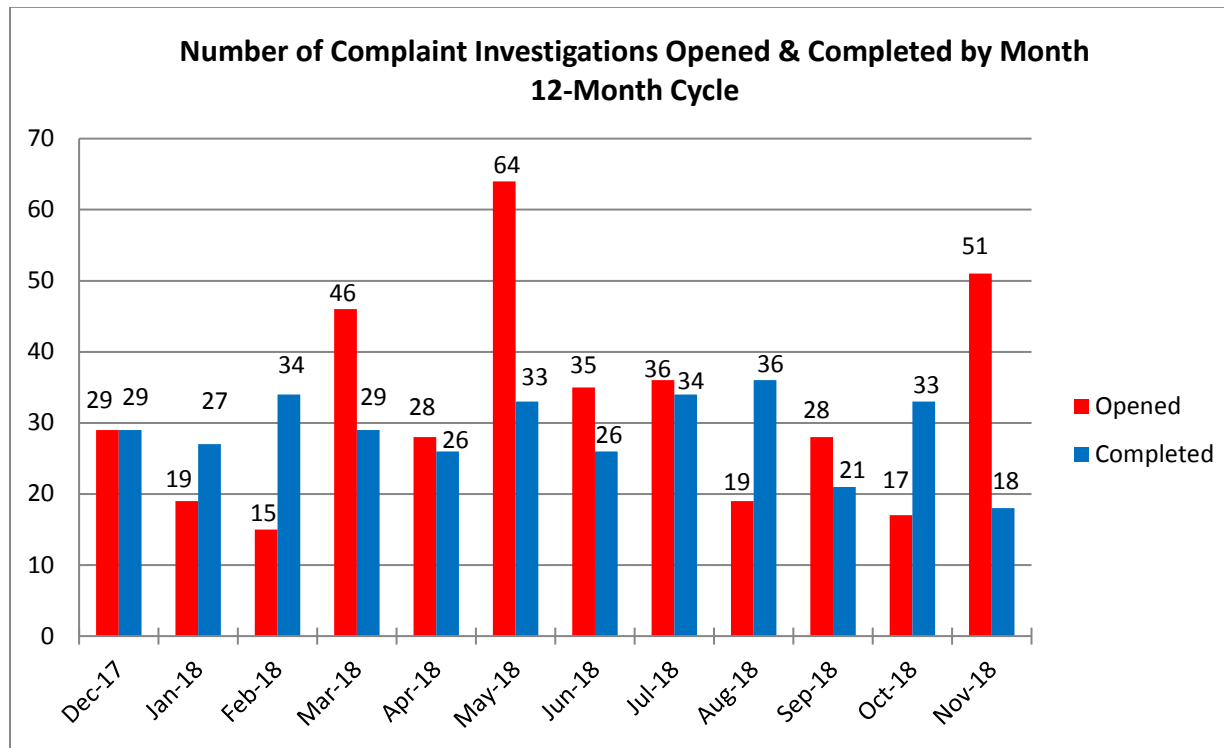
Statutes take effect (Art. IV, Sec. 8(c)).

Legislature reconvenes (J.R. 51 (a)(4)).

VI. Enforcement

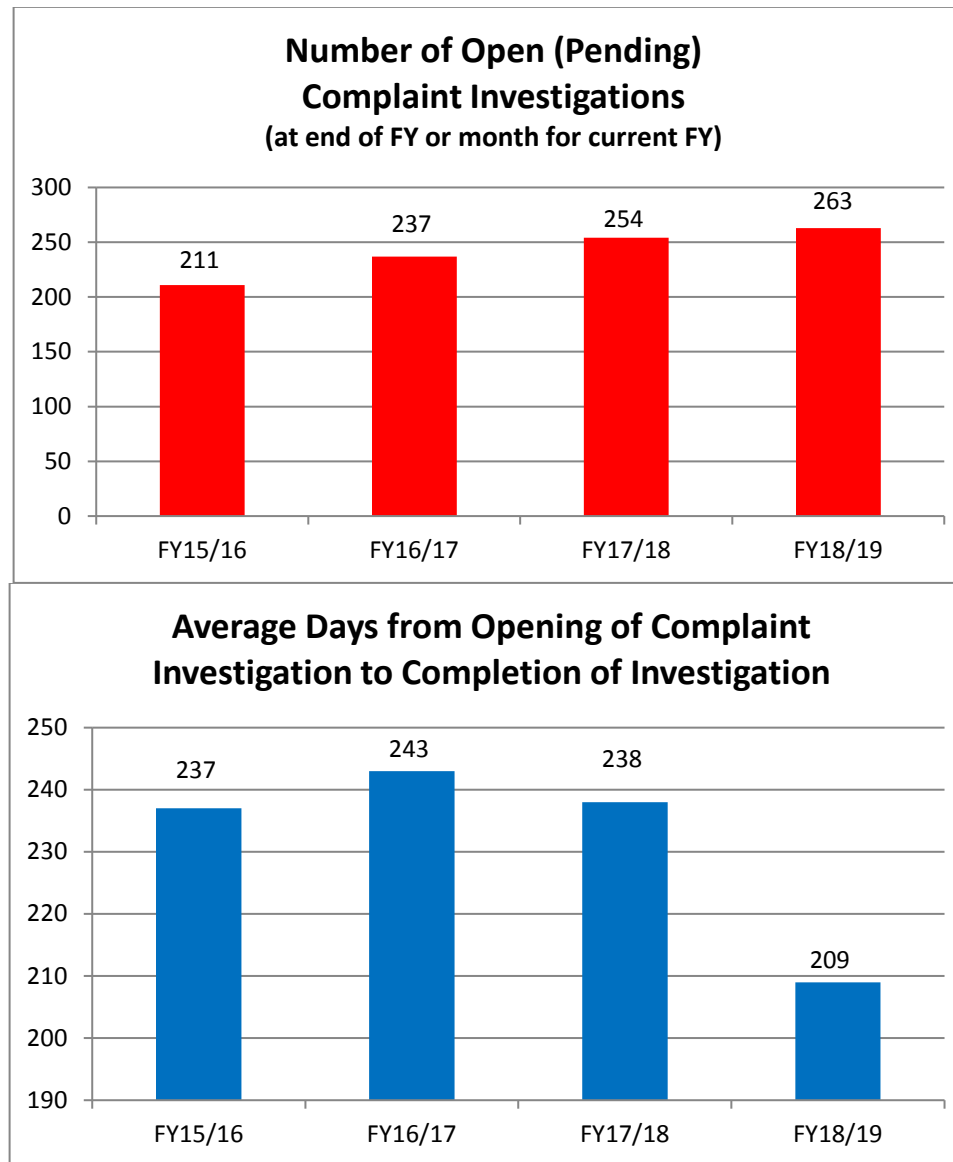
- A. Enforcement Statistical Reports
 - 1. Fiscal Year 2018/19 Update

Complaint Investigation Phase



NOTE: FY18/19 statistics are through November 30, 2018

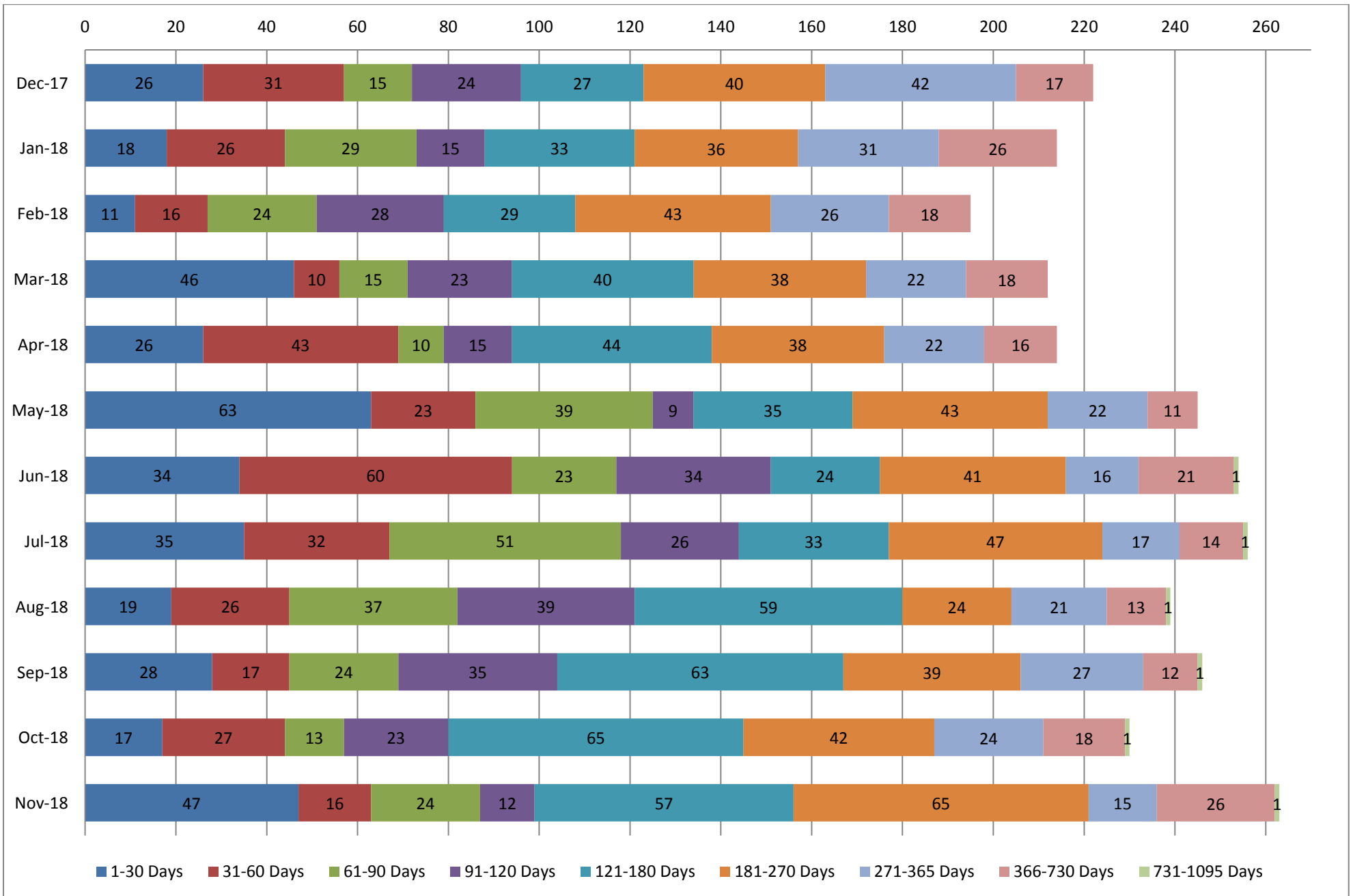
Complaint Investigation Phase



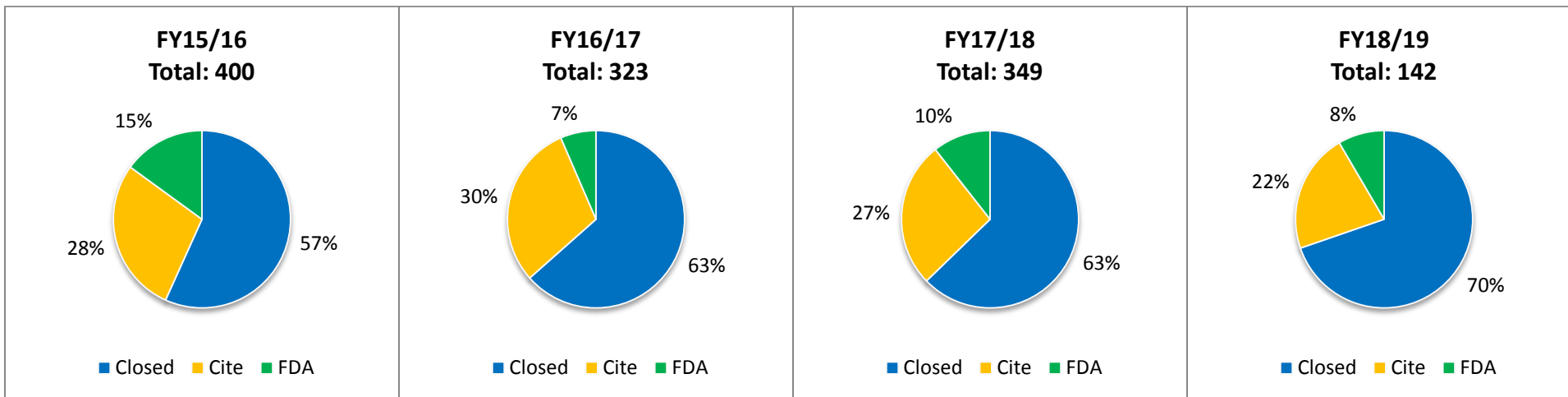
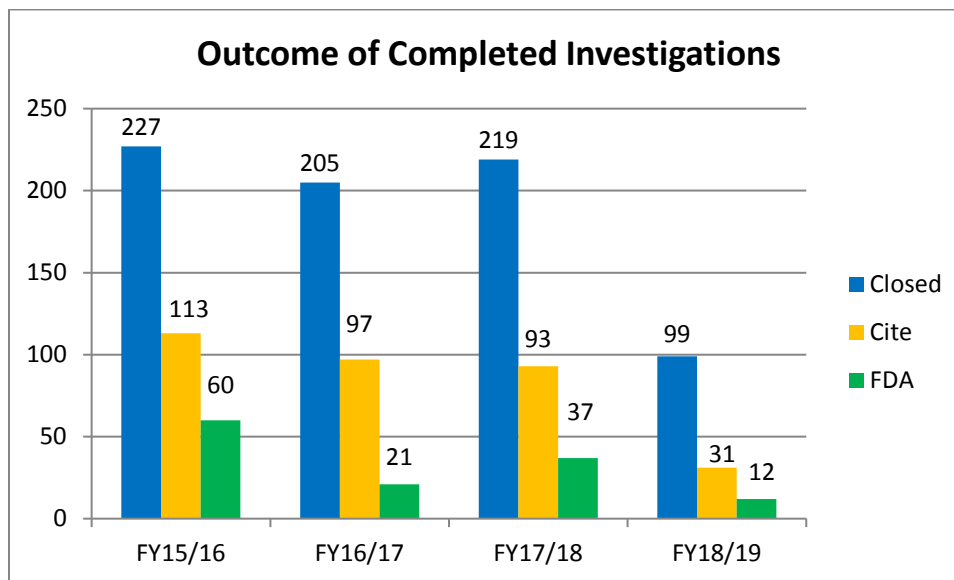
NOTE: FY18/19 statistics are through November 30, 2018

Complaint Investigation Phase

Aging of Open (Pending) Complaint Investigation Cases – 12-Month Cycle



Complaint Investigation Phase Outcome of Completed Investigations



NOTE: FY18/19 statistics are through November 30, 2018

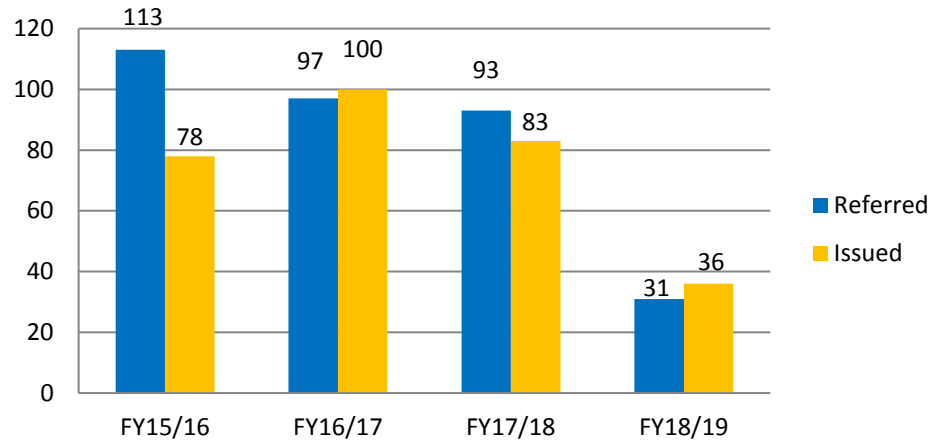
Closed = Closed with No Action Taken, includes the categories listed on the next page.

Cite = Referred for Issuance of Citation

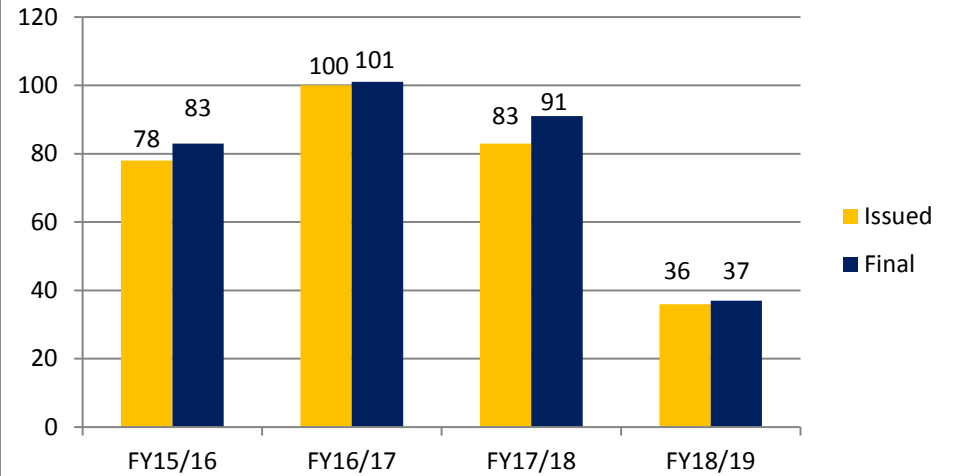
FDA = Referred for Formal Disciplinary Action

Citations (Informal Enforcement Actions)

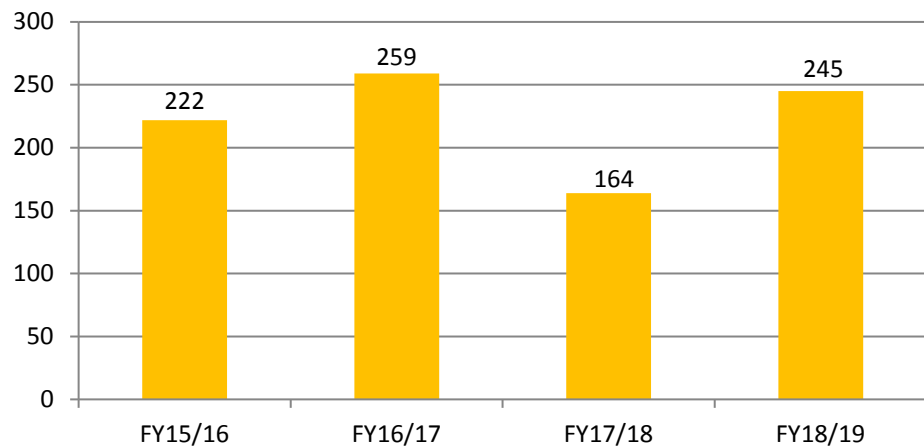
Number of Complaint Investigations Referred and Number of Citations Issued



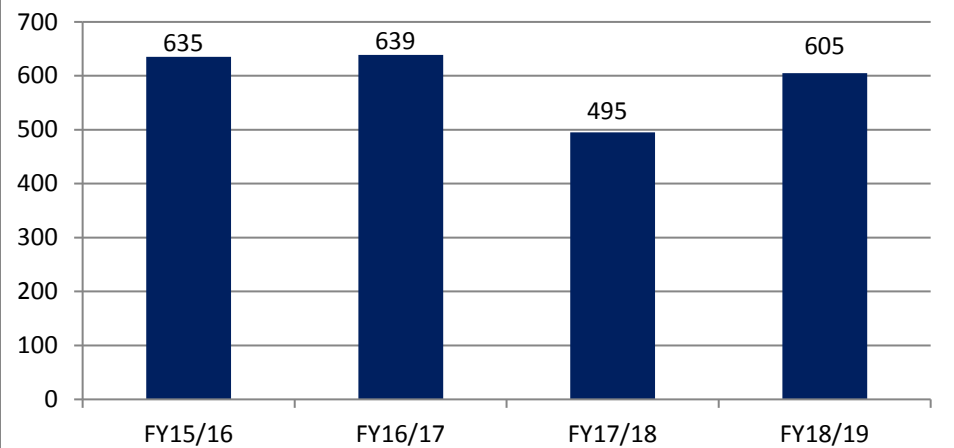
Number of Citations Issued and Final



Average Days Between Date of Issuance of Citation and Date Citation Becomes Final

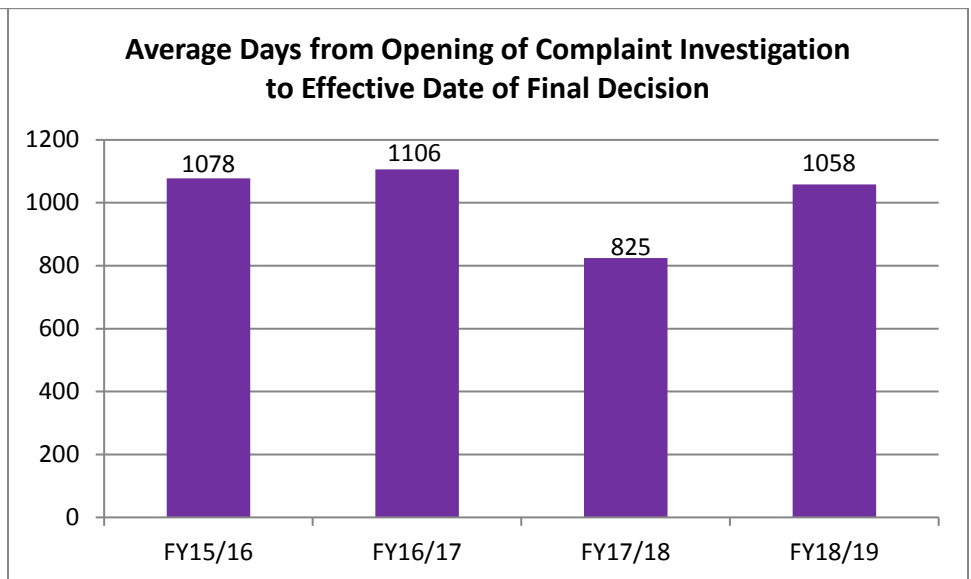
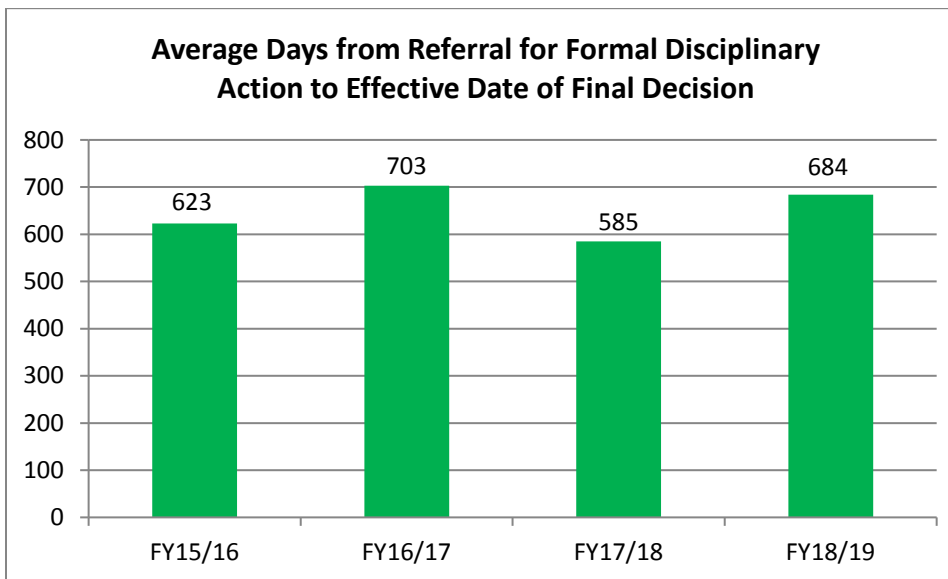
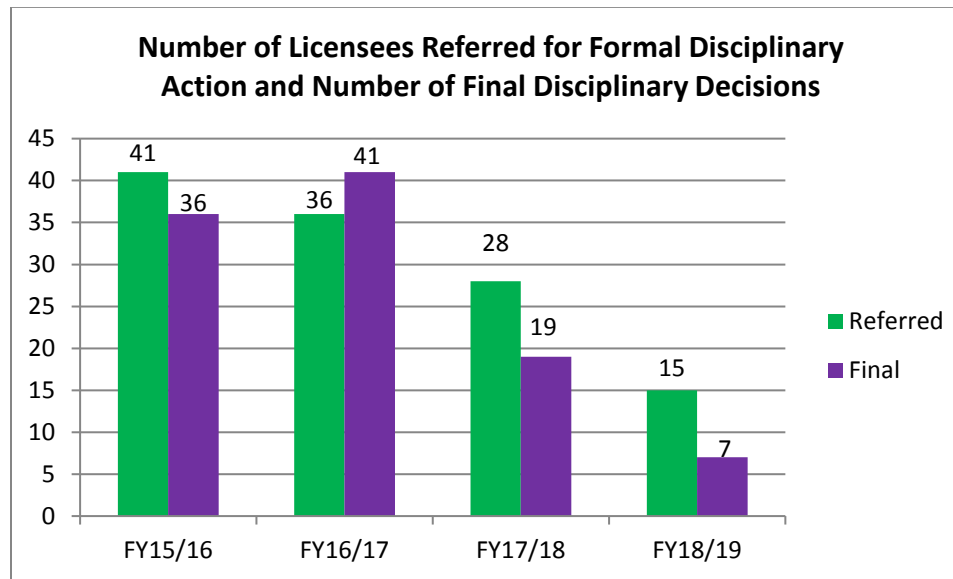


Average Days from Opening of Complaint Investigation to Date Citation Becomes Final



NOTE: FY18/19 statistics are through November 30, 2018

Formal Disciplinary Actions Against Licensees



NOTE: FY18/19 statistics are through November 30, 2018

VII. Exams/Licensing

A. Update on 2018 Examinations

VIII. Executive Officer's Report

- A. Rulemaking Status Report
- B. Update on Board's Business Modernization/PAL Process
- C. Personnel
- D. ABET
- E. Association of State Boards of Geology (ASBOG)
- F. National Council of Examiners for Engineering and Surveying (NCEES)
 - 1. Nomination for Western Zone Secretary/Treasurer (Possible Action)
- G. Update on Outreach Efforts
- H. Review of Procedures for Voting at Board and Committee Meetings

IX. Technical Advisory Committees (TACs)

- A. Assignment of Items to TACs (Possible Action)
- B. Appointment of TAC Members (Possible Action)
- C. Reports from the TACs (Possible Action)

X. President's Report/Board Member Activities

XI. Approval of Meeting Minutes (Possible Action)

A. Approval of the Minutes of the November 1, 2018, Board Meeting

DRAFT

**MINUTES OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND
SURVEYORS, AND GEOLOGISTS**

Monterey-Salinas Transit
19 Upper Ragsdale Drive, Boardroom
Monterey, CA 93940

Thursday, November 1, 2018 at 9:00 a.m.

November 1, 2018

Board Members Present:	Mohammad Qureshi, President; Fel Amistad, Vice President; Natalie Alavi; Alireza Asgari; Andrew Hamilton; Coby King; Betsy Mathieson; Jerry Silva; and Steve Wilson
Board Members Absent:	Duane Friel; Kathy Jones Irish; Eric Johnson; Asha Lang; Frank Ruffino; and Robert Stockton
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Jeff Alameida (Administrative Manager); and Reza Pejuhesh (Legal Counsel)

I. Roll Call to Establish a Quorum

President Qureshi called the meeting to order at 9:01 a.m., and a quorum was established.

II. Public Comment for Items Not on the Agenda

Rob McMillan, representing CLSA, thanked the Board for coming to Monterey. Mr. Wilson introduced several members of the public.

V. Legislation

A. Legislative Calendar

Ms. Eissler reviewed important dates on the Legislative Calendar

B. Discussion of Legislation for 2018 :

AB 767 Master Business License Act.

Ms. Eissler reported that the Board had a watch position for this bill. This bill evolved over the course of the session and dealt with the GoBiz Information Technology office. The Governor vetoed the bill.

AB 2138 Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Ms. Eissler reported that the Board opposed this bill. The Governor signed the bill, and DCA is working with the Boards to determine what needs to be done to implement. She reported that there may

be regulation changes presented at the next meeting that the Board will be asked to approve.

III. Consideration of Rulemaking Proposals

- B. Approval of Rulemaking Proposal to Adopt Title 16, California Code of Regulations sections 3022, 3022.1, and 3022.2 [Professional Geologist and Geophysicist Educational and Experience Requirements and Reference Requirements: Professional Geologist and Professional Geophysicist] and to Amend Title 16, California Code of Regulations 3031 [Examination Credit: Professional Geologist, Professional Geophysicist and Specialty Certification]

MOTION:	Mr. King and Ms. Mathieson moved to approve the revised text and direct staff to continue with the rulemaking process to adopt Title 16, California ;Code of Regulations sections 3022, 3022.1, and 3022.2 and to amend 16 CCR 3031.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Mohammad Qureshi	X				
Fel Amistad	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel				X	
Andrew Hamilton	X				
Kathy Jones Irish				X	
Eric Johnson				X	
Coby King	X				
Asha Lang				X	
Betsy Mathieson	X				
Frank Ruffino				X	
William Silva	X				
Robert Stockton				X	
Steve Wilson	X				

VIII. Executive Officer's Report

- F. Association of State Boards of Geology (ASBOG)
Erik Weiland, President of ASBOG and past Chairman of the Arizona Board of Technical Registration, thanked the Board for its support to ASBOG.

Mr. Weiland discussed the upcoming transition to a new psychometrician because their current psychometrician is retiring in 2022. He reported that they are also working toward Computer Based Testing (CBT) and are pleased to have Laurie Racca as Chair of the Examinations Committee to aid in the transition to the new process.

He also advised Arizona has added the category of “Trained Geologist” that can practice geology but cannot sign off on any documents.

Mr. Weiland added that he appreciated the video the Board produced regarding licensure.

Ms. Mathieson reported that Senator Monning gave a welcome speech at the ASBOG annual business meeting.

Mr. Moore noted that Jerry Carter of NCEES also attended the ASBOG meeting. Mr. Weiland expressed his appreciation for the opportunity to collaborate with NCEES.

Mr. Weiland noted that a university in Michigan, which is not a licensure state, administered the Fundamentals of Geology examination to their graduating seniors. They developed an agreement with them to monitor the examination including the test facility. Some universities are using the exam as an exit exam to evaluate their own programs.

IV. Administration

A. Fiscal Year 2017/18 Budget Summary

Mr. Alameida reviewed DCA’s Fi\$Cal memo. The intent of the memo is to reiterate that we are currently utilizing the Fi\$Cal system. He noted that there have been reporting issues that have carried over into the current Fiscal Year. There is a limited amount of financial expense and revenue information collected from DCA however, the Board continues to maintain internal financial reports. The Board is waiting for Fiscal Month 13 reports from FY 2017/18 to be finalized.

B. Fiscal Year 2018/19 Budget Status

Mr. Alameida reported that the Board received a report from DCA in the last week. He explained that for Fiscal Year 2018/19, the revenue the Board reports annually to the DCA Budget Office and the Governor’s proposed budget indicates the estimates and projections for the revenue for Fiscal Year 2018/19.

III. Consideration of Rulemaking Proposals (Cont.)

A. Approval of Rulemaking Proposal to Amend Title 16, California Code of Regulations sections 407 and 3005 [Fees]

Mr. Alameida explained that the purpose of this fee structure is to baseline fees equal to their individual costs and adjust certain fees to match strategic priorities while producing adequate revenue to fund approved budgetary requirements.

MOTION:	Mr. King and Mr. Wilson moved to approve the proposed language and direct staff to begin the rulemaking process to amend Title 16, California Code of Regulations sections 407 and 3005.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Mohammad Qureshi	X				
Fel Amistad	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel				X	
Andrew Hamilton	X				
Kathy Jones Irish				X	
Eric Johnson				X	
Coby King	X				
Asha Lang				X	
Betsy Mathieson	X				
Frank Ruffino				X	
William Silva	X				
Robert Stockton				X	
Steve Wilson	X				

VIII. Executive Officer's Report (cont.)

B. Update on Board's Business Modernization Report

Mr. Alameida reported that the Board is in Stage II of the Project Approval Lifecycle (PAL) process, which is the Alternatives Analysis. The report was reviewed by Ms. Irish and was submitted to DCA and approved by the Office of Information Services (OIS) and is currently with the Budget Office. Once the Budget Office completes its review, it will be submitted to the California Department of Technology (CDT).

VI. Enforcement

A. Enforcement Statistical Reports

1. Fiscal Year 2018/19 Update

Ms. Criswell presented the Enforcement Statistics. Mr. King noted the increase in aging of citations. Ms. Criswell explained that it is still early in the Fiscal Year, and so there have been only a small number of cases; therefore, she is not yet concerned. Currently, there are a few pending citations appeal matters at the Attorney General's Office.

VII. Exams/Licensing

A. Update on 2018 Examinations

Mr. Moore reported that the national examinations were administered October 26-27, 2018, for engineers and surveyors. The geology examinations were

administered October 9-10, 2018. Mr. Moore anticipates a more informative report at the December meeting regarding the results.

VIII. Executive Officer's Report

A. Rulemaking Status Report

Mr. Moore noted that this item was already discussed during the Consideration of Rulemaking Process.

D. Personnel

Mr. Moore reported that the Staff Civil Engineer position has been filled by Natalie King. She will start November 30, 2018. Staff member Erin LaPerle accepted a position with the Board's Licensing Unit. Antoinette Parnell has been hired as an Evaluator to backfill Daniel Quanchi's vacancy, as he is now working in the Enforcement Unit.

E. ABET

Mr. Moore reported that visits are ongoing.

G. National Council of Examiners for Engineering and Surveying (NCEES)

The Advisory Committee on Council Activities (ACCA) posed a question about proxy voting. Most member board administrators indicated they did not believe their boards would be in favor of it due to justification for travel to the meetings. The Board agreed that it would have similar concerns.

H. Update on Outreach Efforts

Mr. Moore reviewed the Board's outreach efforts.

C. Review and Approval of the 2018 Sunset Review Report

Ms. Eissler reviewed the comments made by Board Members and provided recommendations. President Qureshi noted that the Sunset Report will be due to the Legislature by December 1, 2018.

MOTION:	Mr. Wilson and Ms. Alavi move to approve with amendments to the Sunset Review Report as discussed and deliver the report to the Legislature. If there are substantial changes to the report, both Mr. Hamilton and Mr. Wilson will review it and approve the report on behalf of the Board.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Mohammad Qureshi	X				
Fel Amistad	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel				X	
Andrew Hamilton	X				

Kathy Jones Irish				X	
Eric Johnson				X	
Coby King	X				
Asha Lang				X	
Betsy Mathieson	X				
Frank Ruffino				X	
William Silva	X				
Robert Stockton				X	
Steve Wilson	X				

Ms. Mathieson suggested organizing a Geology and Geophysicist TAC meeting to get more input and discuss continued licensure for the Professional Geophysicist. Mr. Moore suggested it might be prudent to wait until we receive feedback from the Legislative Committees on the information contained in our Sunset Review Report before scheduling a meeting so that we would know what concerns would need to be addressed.

IX. Technical Advisory Committees (TACs)

A. Assignment of Items to TACs

No report given.

B. Appointment of TAC Members

No report given.

C. Reports from the TACs

No report given.

X. President's Report/Board Member Activities

President Qureshi and Ms. Mathieson attended the ASBOG annual business meeting held earlier in the week in Monterey.

XI. Approval of Meeting Minutes

A. Approval of the Minutes of the September 6, 2018, and October 11, 2018, Board Meetings

MOTION:	Vice-President Amistad and Mr. Hamilton moved to approve the September minutes.
VOTE:	7-0-2, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Mohammad Qureshi	X				
Fel Amistad	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel				X	
Andrew Hamilton	X				

Kathy Jones Irish				X	
Eric Johnson				X	
Coby King	X				
Asha Lang				X	
Betsy Mathieson			X		
Frank Ruffino				X	
William Silva			X		
Robert Stockton				X	
Steve Wilson	X				

MOTION:	Vice-President Amistad and Mr. Wilson moved to approve the October minutes.
VOTE:	6-0-3, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Mohammad Qureshi	X				
Fel Amistad	X				
Natalie Alavi			X		
Alireza Asgari	X				
Duane Friel				X	
Andrew Hamilton	X				
Kathy Jones Irish				X	
Eric Johnson				X	
Coby King			X		
Asha Lang				X	
Betsy Mathieson	X				
Frank Ruffino				X	
William Silva			X		
Robert Stockton				X	
Steve Wilson	X				

XII. Discussion Regarding Proposed Agenda Items for Next Board Meeting

A. December 13-14, 2018, Board Meeting will be held in Riverside at the Department of General Services, 3737 Main Street, Magnolia Room, Riverside, CA 92501

B. 2019 Board Meeting Schedule

Upon review of the 2019 Board meeting calendar, the Board moved the February 14-15 dates to February 21-22 and the August 1-2 dates to August 8-9.

It was suggested that Chico and Calabasas would be possible meeting locations. It was also suggested that the June meeting be held in San Diego.

XIII. Other Items Not Requiring Board Action

No report given.

XIV. Closed Session – The Board met in Closed Session to discuss, as needed:

- A. Personnel Matters [Pursuant to Government Code sections 11126(a) and (b)]
- B. Examination Procedures and Results [Pursuant to Government Code section 11126(c)(1)]
- C. Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)]
- D. Pending Litigation [Pursuant to Government Code section 11126(e)]
 - 1. Mauricio Jose Lopez v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, San Bernardino County Superior Court Case No. CIVDS1718786

4:08 p.m. Andrew Hamilton left the meeting.

XV. Open Session to Announce the Results of Closed Session

During Closed Session, the Board took action on eight stipulations and one proposed decision and discussed litigation as noticed.

XVI. Adjourn

The meeting adjourned at 4:15 p.m.

PUBLIC PRESENT

Kathy Nitayangkul, Polaris Consulting
Lynn Kovach, Polaris Consulting
Benjamin Wilson, Monterey Bay Engineers
Bob DeWitt, ACEC
Steve Hao, Caltrans
Rob McMillan, CLSA
Jim Foley
Brian Wilson, Monterey Bay Engineers

XII. 2019 Board Meeting Schedule (Possible Action)

2019 Board for Professional Engineers, Land Surveyors, and Geologists

Board Meetings

January 2019						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

February 2019						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

March 2019						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

April 2019						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May 2019						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

June 2019						
S	M	T	W	T	F	S
30						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

July 2019						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August 2019						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September 2019						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

October 2019						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

November 2019						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

December 2019						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Holidays	
1/1	New Year's
1/21	M. L. King, Jr. Day
2/18	President's Day
5/27	Memorial Day
7/4	Independence Day
9/2	Labor Day
11/11	Veteran's Day
11/28-11/29	Thanksgiving Break
12/25	Christmas

Board Meeting Dates
February 21-22
April 11-12
June 6-7
August 18-9
September 26-27
November 21-22

Key	
BOARD MEETINGS	HOLIDAYS
NCEES FUNCTIONS	ASBOG ANNUAL MTG.

2/8 - 2/9 Board Presidents' Assembly
Atlanta, Georgia

5/16 - 5/18 Southern/Western Zone Meeting
Boise, Idaho

8/14 - 8/17 NCEES Annual Meeting
Washington, D.C.

11/5 - 11/9 ASBOG Admin. Workshop, Annual Mtg., and Council of Examiners

2019

XIII. Discussion Regarding Proposed Agenda Items for Next Board Meeting

XIV. Discussion Regarding Recitation of the Pledge of Allegiance at Board Meetings (Possible Action)

XV. Closed Session – The Board will meet in Closed Session to discuss, as needed:

- A. Personnel Matters [Pursuant to Government Code sections 11126(a) and (b)]
- B. Examination Procedures and Results [Pursuant to Government Code section 11126(c)(1)]
- C. Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)]
- D. Pending Litigation [Pursuant to Government Code section 11126(e)]
 - i. Mauricio Jose Lopez v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, San Bernardino County Superior Court Case No. CIVDS1718786

XVI. Open Session to Announce the Results of Closed Session

XVII. Adjourn
