

Options for DACAG to Address Late Breaking Issues  
Prepared by Galen Lemei for Discussion on September 20, 2019

The Bagley-Keene Open Meetings Act provides the following with respect to notice of meetings of state bodies (emphasis added):

Government Code section 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.

The following are potential options for dealing with issues that arise between meetings, or after the agenda for a meeting has posted. Note that Options 1 and 2 are available options that are currently available. Option 3 would be a modification to DACAG noticing practice. Option 4 would require proactive action by the Advisory Group.

1. Take urgency action under Gov Code § 11125.3.
  - Requires 48 hour notice, and a vote of 2/3 of the voting members (or all members present) that there exists a need to take immediate action that came to the attention of the Advisory Group after the agenda was posted.
  - Only works for issues that arise after agenda posted but before meeting is held. However, this has been fairly common occurrence.
  - Some administrative burden for agency liaisons.
2. Informally assign responsibility to individual to speak on behalf of body.
  - Doesn't constitute "action" of Advisory Group.
  - Provides maximum flexibility going forward in who speaks to what issue.

- Message from individual needs to be nuanced. Can't purport to speak on behalf of body, but can channel concerns of body.
  - Full Advisory Group can choose to endorse or ratify the message of individual member after the fact, or modify as appropriate.
3. Create standing items for actions that arise routinely.
- The standing notice language would need to provide specificity as to what Advisory Group will or may do. If comments are to be submitted, must specify to whom and what the topic is.
  - With respect to the action itself, Advisory Group could either adopt comments, or assign responsibility to an individual member per option 1, or some combination thereof.
4. Proactively formally delegate responsibility to speak on behalf of body to an individual member, who may informally work with other members.
- Could either designate subject matter leads or the Chair for all matters.
  - Option of bringing back to full Advisory Group for ratification or endorsement.
  - Note that if responsibility is assigned to multiple members (i.e., a committee), then a separate delegated body is arguably created per Gov Code § 11121(b).
  - Requires vote of the body.