
From: Francesconi, Mike@CDFA <mike.francesconi@cdfa.ca.gov>
Sent: Tuesday, February 6, 2024 4:53 PM
To: Francesconi, Mike@CDFA
Cc: Lara, Gilbert@CDFA; Elliott, Denise@CDFA; Southwick, Charles@CDFA
Subject: Letter D2024-01 Bagley-Keen Open Meeting Act and CDFA Policy
Attachments: image003.emz; D2024-02 Bagley-Keene and CDFA Policy Final.pdf; DAA Point of Contact 1.24.2024.pdf; 2023.10.25.Bagley Keene Update - SB544_Final ADA.pdf

Good afternoon CEOs and Board Chairs,

Please find the attached, letter D2024-02 that addresses new rules for the Bagley-Keene Open Meeting Act (BK) and new CDFA policy for submission of a draft board meeting notice & agenda. In response to BK changes and the heightened public scrutiny CDFA F&E and CDFA Legal have collaborated to develop a policy where DAA submits their draft board notice and agenda to F&E resource coordinators 15 days before a meeting, see letter for details. In addition, this letter discusses challenges faced by DAAs with public participation during meetings and the BK new rules for having board members participate through video teleconferencing.

After reading letter D2024-02 and if you still have questions about BK or CDFA's new policy, you are more than welcome to attend the online training offered to new board members on February 8, 2024, via Zoom at 12:00 pm – 1:00 pm.

Zoom Link

<https://us02web.zoom.us/j/4105967704?omn=86896154279>

Meeting ID: 410 596 7704

One tap mobile

+16694449171,,4105967704# US
+16699006833,,4105967704# US (San Jose)

Please ensure that this information is shared with the fair board at the next regularly scheduled board meeting listed as an item of "correspondence". For future reference, you may view and download the F&E Circular Letters at <https://www.cdfa.ca.gov/FairsAndExpositions/> which are located under the "Correspondence" tab.

Sincerely,

Mike

Mike Francesconi
Branch Chief
CDFA Fairs and Expositions
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mike.francesconi@cdfa.ca.gov



CALIFORNIA DEPARTMENT OF

FOOD & AGRICULTURE

Karen Ross, Secretary

February 6, 2024

D2024-02

TO: All District Agricultural Association Board Chairs and CEOs

SUBJECT: Meeting and Posting Requirements for the Bagley-Keene Open Meeting Act January 1, 2024, update, and new CDFA policy for the submission of Notice & Agenda to CDFA F&E 15 days before each regularly scheduled meeting.

The California Department of Food and Agriculture (CDFA) Fairs and Expositions Branch (F&E) wants to bring your attention to recent changes in the law, specifically Government Codes: 11120 – 11132, also known as the Bagley-Keene Open Meeting Act which came into effect on January 1, 2024.

The recent CDFA F&E Circular Letter D2023-06 outlines the modifications and new requirements for all District Agriculture Associations (DAA) meetings. To assist you, we have attached a copy of the D2023-06 Industry Memo for your reference.

In response to these changes and the heightened public scrutiny surrounding DAA fairs, the CDFA F&E and CDFA Legal teams have collaborated to develop policy strategies. These strategies aim to ensure that DAA meeting notices adhere to the following key principles:

1. **Accurate Agenda Items:** Meetings must be agendized correctly, providing sufficient information for the public to understand the topics to be discussed.
2. **Timely Corrections:** Any necessary corrections to the agenda, including proper notice of Closed Session topics, should occur before the 10-day posting requirement for regular board meetings.
3. **Advance Notice for Closed Sessions:** The CDFA Legal Team should receive ample notice of any intended Closed Sessions before the 10-day posting requirement.
4. **Support for Board Chairs and CEOs:** F&E will assist Board Chairs and CEOs by offering resources and guidance before the meeting.
5. **Early Completion of Notice and Agenda:** The Notice and Agenda should be complete and ready for posting to the Fair Website and Distribution List 10 days before the meeting.



To streamline this process, the CDFA Legal Office and CDFA F&E have introduced a new policy:

DAAs within the network of California Fairs are now required to submit a draft of their agenda to the CDFA F&E for review 15 days before any Board of Directors meeting. Please refer to the attached assignment listing to identify the CDFA F&E Resource Coordinator assigned to your DAA.

In addition to this policy change, F&E has identified some challenges faced by DAAs with the new meeting rules. To support our DAAs, we recommend careful consideration and adoption of the following points:

General Public Participation:

- The public must be allowed entry to the meeting location (physical address).
- If a teleconference option is provided (though not required), the public must be allowed to view the teleconferenced meeting in its entirety (except for a closed session).
- Public comment must be allowed for items not listed on the agenda AND for each item on the agenda whether informational or for a board action.
 - If the item is an action item, the board chair must call for any public comment BEFORE the vote is taken.
 - If the item is informational, the board chair should call for any public comment AFTER the information is provided.
 - If the item is a closed session, the board chair should call for public comment BEFORE adjourning to a closed session. Public comment is not required during a reconvene after reporting out of a closed session.
- Any Public making comments must be allowed the same amount of time as any other commenter.
 - If the Chair establishes a 3-minute speaking time for public comments, this 3-minute time must be allowed for each instance of public comments and cannot be adjusted later in the meeting for purposes of shortening the meeting.
- All meetings must comply with the Americans with Disabilities Act (ADA).

Updated Teleconference Requirements:

- Teleconference can be offered for your meeting (it is not required).
- If a Teleconference option is offered, all open session items must be visible and audible to the public, at each teleconference location.
- If a Teleconference Option is offered, ALL action items must be taken by Roll Call Voting.

- A Majority (Quorum) of members of the board **MUST** be present at the teleconference locations (physical address listed on the agenda).
 - Example: if your board has nine (9) board members, five (5) board members **MUST** be present onsite at your meeting address(es). The remaining four (4) members may attend and participate from a remote location.

- If your board is unable to meet the quorum requirement at the in-person location of the meeting, and a board member attending remotely would like to be counted toward the quorum requirement; the board member must:
 1. have a physical or mental disability as defined by Government Code §[12926](#) and §[12926.1](#), and
 2. notify the state body (fair office) of the need to participate remotely in writing in advance of the meeting.
 - This written notice should justify the need to attend remotely in no more than 20 words.
 - Any notices provided for remote attendance are to be included in the board minutes of the meeting.
- The Board must take action to approve a board member's remote participation and inclusion in the quorum requirement. The Board action for a physical location exemption for board members needing to be included in the quorum requirement must occur at EACH meeting.
 - For the purposes of this vote, any board member attending remotely, including the board member requesting the exemption, should recuse themselves and abstain from voting on this action.
 - Only board members present on-site at the meeting location should vote on the approval of the board member's participation and inclusion to the quorum requirement.
- ANY board member attending from a remote location MUST use their full name on the label for their teleconference participation AND must always appear on Camera during the meeting.
- If the Teleconference software ceases working, or the online streaming of the teleconferenced meeting stops at any point during the meeting (except during a Closed

Session) regardless of the number of board members present at the on-site meeting location; the meeting of the board must stop.

- If the teleconference can be restored in a reasonable amount of time, the meeting may resume when the teleconference capability is restored.
- If the teleconference is not able to be restored, all discussion must cease, any remaining discussion and agenda items must be tabled, and the meeting must be rescheduled.
 - The fair website must be updated with a note to the public indicating the meeting was stopped due to teleconferencing and technical issues/errors, and when the next meeting will be scheduled to finish the remaining discussion and agenda items.
- ANY Board member attending from a remote location MUST announce the presence of ANY other individual of 18 years or older who is in the room or enters the room during the meeting. This announcement must be recorded in the minutes.

For any questions, please contact Mike Francesconi at mike.francesconi@cdfa.ca.gov or (916) 900-5365.

Sincerely,



Mike Francesconi
Branch Chief
Fairs & Expositions Branch