



**R O S T E R**  
**NEW MOTOR VEHICLE BOARD**

2415 1<sup>st</sup> Avenue, MS L242  
Sacramento, California 95818

<b><u>NAME</u></b>	<b><u>APPOINTING AUTHORITY</u></b>	<b><u>STATUS</u></b>
Anne Smith Boland Term exp. 1-15-27	Governor's Office	Dealer Member
Ashley Dena Term exp. 1-15-26	Governor's Office	Dealer Member
Garrett Jensen Term exp. 1-15-27	Speaker of the Assembly	Public Member
Shirley G. Jones Term exp. 1-15-29	Governor's Office	Dealer Member
Ardashes (Ardy) Kassakhian Term exp. 1-15-26	Senate Rules Committee	Public Member
Bismarck Obando Term exp. 1-15-26	Governor's Office	Public Member
Alexandra Schultheis Term exp. 1-15-29	Governor's Office	Public Member
Jacob Stevens Term exp. 1-15-27	Governor's Office	Public Member

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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD  
**A G E N D A**  
**GENERAL MEETING**

Glendale City Hall  
Council Chamber Room  
613 E. Broadway, 2<sup>nd</sup> Floor  
Glendale, California 91206  
(818) 548-2094

February 20, 2026

Please note that Board action may be taken regarding any of the issues listed below. As such, if any person has an interest in any of these issues, they may want to attend.

The Board provides an opportunity for members of the public to comment on each agenda item before or during the discussion or consideration of the item as circumstances permit. (Gov. Code § 11125.7)

1. **8:30 a.m. -- Meeting called to order.**
2. **Roll Call.**
3. **Pledge of Allegiance.**
4. **Introduction and welcome of newly appointed Dealer Board Member Shirley G. Jones, and Public Board Members Alexandra Schultheis and Garrett Jensen.**
5. **Discussion concerning the state of the automotive industry by the Alliance for Automotive Innovation and California New Car Dealers Association (CNCDA) - Board Development Committee.**
6. **Approval of the Minutes from the July 31, 2025, meeting of the Committee on Equity, Justice and Inclusion, July 31, 2025, Special Meeting, August 1, 2025, General Meeting, and August 1, 2025, Special Meeting.**

7. **2026 Election of Board President and Vice President - Executive Committee.**
8. **Annual review and appointment to the following committees, by the incoming Board President:**
  - Administration Committee.
  - Board Development Committee.
  - Committee on Equity, Justice and Inclusion.
    - Working Committee on Land Acknowledgments.
    - Working Committee on Virtual and Telephonic Access to Public Meetings.
  - Executive Committee.
  - Fiscal Committee.
  - Government and Industry Affairs Committee.
  - Legislative Committee.
  - Policy and Procedure Committee.
  - Ad Hoc Committee to Review the Mission and Vision Statements.
9. **Appointment of Board Member designee in compliance with the Board's 1997 "Revised Board Policy Regarding Representation in Court Actions," by the incoming Board President.**
10. **Consideration of presentation of Resolution to Kathryn Doi, former Public Board Member.**
11. **Consideration of presentation of Resolution to Brady Schmidt, former Dealer Board Member.**
12. **Consideration of presentation of Resolution to Diana Woodward Hagle, former Administrative Law Judge.**
13. **Consideration of presentation of Resolution to Evelyn I. Matteucci, former Administrative Law Judge.**
14. **Consideration of presentation of Resolution to Dwight V. Nelsen, former Administrative Law Judge.**
15. **Consideration of presentation of Resolution to Kymberly Pipkin, former Administrative Law Judge.**
16. **Consideration of the revised *Guide to the New Motor Vehicle Board* to include information on statutory and regulatory changes - Administration Committee.**

17. **Update on Board Development Activities - Board Development Committee.**
18. **Board member education concerning changes to the Administrative Procedure Act and Bagley-Keene Open Meeting Act - Board Development Committee.**
19. **Board member education concerning changes to the Political Reform Act and Public Records Act - Board Development Committee.**
20. **Discussion and consideration of Land Acknowledgements - Committee on Equity, Justice and Inclusion.**
21. **Discussion and consideration of Virtual and Telephonic Access to Public Meetings - Committee on Equity, Justice and Inclusion.**
22. **Report on non-substantive changes suggested by the Office of Administrative Law to Section 551.19 (Motions; Form, Briefing, and Hearings) of Title 13 of the California Code of Regulations - Executive Committee.**
23. **Report on non-substantive changes suggested by the Office of Administrative Law to Section 599 (Article 7. New Motor Vehicle Board--Conflict-of-Interest Code) of Title 13 of the California Code of Regulations - Executive Committee.**
24. **Report on the Board's financial condition and related fiscal matters - Fiscal Committee.**
  - a. Report on the Board's Financial Condition through the 1<sup>st</sup> and 2<sup>nd</sup> quarters of Fiscal Year 2025-2026.
  - b. Report concerning the Board's collection of its Annual Board Fee.
  - c. Status report concerning the Board's collection of the Arbitration Certification Programs' annual fee.
25. **Discussion of the 2026 New Motor Vehicle Board Industry Roundtable focusing on California State Transportation Agency's (CalSTA) Core Four: Safety, Climate Action, Equity, and Economic Prosperity - Government and Industry Affairs Committee.**

26. **Discussion and consideration of jurisdictions and municipalities who applied for the ZEV Readiness Award (Strategic Plan Objective 2.7) - Government and Industry Affairs Committee**
  - City of Alameda
  - City of Carson
  - City of Pasadena
  - Contra Costa County
  - County of Santa Barbara
  - Fresno County Rural Transit Agency
  - San Joaquin Council of Governments
27. **Discussion and consideration of new motor vehicle dealers that took the EV (electric vehicle) Expert Pledge (Strategic Plan Objective 2.7) - Government and Industry Affairs Committee.**
28. **Discussion concerning pending legislation - Legislative Committee.**
29. **Annual report concerning Board adopted policies - Policy and Procedure Committee.**
30. **Annual report on the assignment of cases to Administrative Law Judges - Policy and Procedure Committee.**
31. **Consideration of the 2026 *Export or Sale-For-Resale Prohibition Policy Protest Guide* (Vehicle Code section 3085, et seq.) - Policy and Procedure Committee.**
32. **Consideration of revisions to the *Informational Guide for Manufacturers and Distributors*, which outlines their obligations to provide notices, schedules, and formulas mandated by the California Vehicle Code and Civil Code to the New Motor Vehicle Board and/or impacted dealers - Policy and Procedure Committee.**
33. **Discussion and consideration of the Board's vision and mission statements - Ad Hoc Committee to Review the Board's Mission and Vision Statements.**
34. **Report on the 4<sup>th</sup> Annual CalSTA (California State Transportation Agency) Leadership Summit by Tim Corcoran, Executive Director.**
35. **Report on the National Association of Motor Vehicle Boards and Commissions fall conference by Tim Corcoran, Executive Director.**

**36. Executive Director's Report.**

- A. Administrative Matters.
- B. Case Management.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

**37. Closed Executive Session.**

Pursuant to Government Code section 11126(a)(1), all members of the Board shall convene in a closed Executive Session.

**Consideration of annual performance review for Executive Director - Executive Committee.**

Consideration of annual performance review for Executive Director, by all members of the Board.

**38. Open Session.**

**39. Review of Board meeting dates for 2026.**

**40. Public Comment. (Gov. Code § 11125.7)**

**41. Adjournment.**

To request disability-related modifications or accommodations, please contact staff at (916) 445-1888 or [Alejandro.martinez2@dmv.ca.gov](mailto:Alejandro.martinez2@dmv.ca.gov). Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.



## Memorandum

**Date : FEBRUARY 5, 2026**

**To : ALL BOARD MEMBERS**

**From : TIMOTHY M. CORCORAN**

**Subject : UPCOMING EVENTS**

The following highlights the upcoming Board and industry events:

- February 3-6, 2026 NADA Show (Las Vegas)
- February 19, 2026, Special Meeting (Glendale)
- February 19, 2026, Meeting of the Ad Hoc Committee on Equity, Justice and Inclusion (Glendale)
- February 20, 2026, General Meeting (Glendale)
- April 7, 2026, California New Car Dealers Association's (CNCDA) Dealer Day (Sacramento)
- April 8, 2026, Industry Roundtable (Sacramento)
- July 16, 2026, Meeting of the Ad Hoc Committee on Equity, Justice and Inclusion (Sacramento)
- July 16, 2026, Special Meeting for Public Members (Sacramento)
- July 17, 2026, General Meeting (Sacramento)
- October 15, 2026, Meeting of the Ad Hoc Committee on Equity, Justice and Inclusion (Glendale)
- October 15, 2026, Special Meeting for Public Members (Glendale)
- October 16, 2026, General Meeting (Glendale)

If you have any questions or concerns about any of the upcoming Board meetings, please do not hesitate to contact me at (916) 244-6774.

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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD  
**M I N U T E S**

The Committee on Equity, Justice and Inclusion held a meeting on July 31, 2025, at Glendale City Hall, Council Chamber Room, 613 E. Broadway, 2nd Floor, Glendale, California 91206.

Kathryn Doi, Chair and Public Member called the meeting to order at 2:06 p.m.

**2. ROLL CALL AND ESTABLISHMENT OF QUORUM**

Committee on Equity, Justice and Inclusion Members Present:

Kathryn Ellen Doi, Chair  
Jake Stevens, Vice Chair  
Anne Smith Boland, Member  
Ashley Dena, Member  
Ardy Kassakhian, Member  
Bismarck Obando, Member

Committee Member Not Present: Brady Schmidt, Member

Board Staff Present: Timothy M. Corcoran, Executive Director  
Kim Vaye, Assistant Director and Equity Officer  
Robin P. Parker, Chief Counsel

Tammy Bayne, Administrative Law Judge

Ms. Vaye indicated that a quorum was established.

Chair Doi welcomed the Committee Members, staff and the public.

3. **PRIOR REVIEW OF PROPOSED REVISIONS TO THE BOARD ADOPTED DELEGATION OF AUTHORITY TO THE EXECUTIVE DIRECTOR TO PROCEED WITH THE RULEMAKING PROCESS TO INCLUDE NON-SUBSTANTIVE CHANGES SUGGESTED BY THE FAIR POLITICAL PRACTICES COMMISSION**

The members were provided with a memo from Tim Corcoran and Robin Parker concerning proposed revisions to the Board adopted delegation of authority to the Executive Director to proceed with the rulemaking process to include non-substantive changes suggested by the Fair Political Practices Commission. Ms. Parker provided the background leading to this proposed revision.

The members reviewed the proposed policy using the Equity Lens Assessment Rubric, which (1) identified stakeholders, (2) stakeholder input, (3) benefits, burdens, overall impact, (4) access, equity, and inclusion, and (5) measurable outcomes. The proposed revisions to the Board policy were approved for full Board review.

4. **GUEST SPEAKERS: CALIFORNIA RACIAL EQUITY COMMISSION**

Chair Doi welcomed Dr. Larissa Estes to the meeting. She is the Executive Director of the Racial Equity Commission, which is within the Governor's Office of Land Use and Climate Innovation. The Commission was established as part of Governor Newsom's Executive Order N-16-22, mandating state entities to embed and institutionalize racial equity strategies across their policies, programs, and initiatives.

Dr. Estes made an informative PowerPoint presentation on Community Engagement Strategies which encompassed an overview of the Racial Equity Commission, its activities to date, key themes from across California, how the community has helped the Commission, community engagement best practices, looking ahead at upcoming meetings, overview of framework outline, and next steps. Dr. Estes was available to answer Committee member questions.

5. **CHARTER REVIEW**

Ms. Vaye provided the members with the approved Charter for further review and discussion.

6. **FUTURE MEETING DATES DISCUSSION**

The dates for future Committee meetings coincide with meetings of the full Board, which will be discussed at the August 1, 2025, General Meeting. After the meeting, dates were set for February 19, 2026, July 17, 2026, and October 16, 2026.

7. **PUBLIC COMMENT (GOV. CODE § 11125.7)**

No additional public comment was presented.

8. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 2:59 p.m.

Submitted by

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KIMBERLEE VAYE  
Assistant Director and Equity Officer

APPROVED: \_\_\_\_\_

Jacob Stevens, Vice Chair  
Committee on Equity, Justice and Inclusion  
New Motor Vehicle Board

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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD  
**MINUTES**

The New Motor Vehicle Board (“Board”) held a Special meeting on July 31, 2025, at Glendale City Hall, Council Chamber Room, 613 E. Broadway, 2<sup>nd</sup> Floor, Glendale, California 91206.

Jacob Stevens, President and Public Member, called the meeting of the Board to order at 3:19 p.m.

**2. ROLL CALL**

Board Members Present:	Kathryn Ellen Doi Ardashes “Ardy” Kassakhian Bismarck Obando Jacob Stevens
Dealer Members observing:	Anne Smith Boland Ashley Dena
Board Staff Present:	Timothy M. Corcoran, Executive Director Kim Vaye, Assistant Director and Equity Officer Robin P. Parker, Chief Counsel  Tammy Bayne, Administrative Law Judge

Mr. Corcoran indicated that a quorum was established for case management.

**3. PLEDGE OF ALLEGIANCE**

Dr. Larissa Estes, Executive Director, California Racial Equity Commission, led the members and staff in the Pledge of Allegiance.

4. **ORAL PRESENTATION BEFORE THE PUBLIC MEMBERS OF THE BOARD**

KPAUTO, LLC, dba PUTNAM FORD OF SAN MATEO v. FORD MOTOR COMPANY

Protest No. PR-2826-23

President Stevens reminded the Dealer Members in attendance, that they may not participate in, hear, comment or advise other members upon or decide Agenda Items 4-5.

President Stevens read the following statement “comments made by the parties or their counsel that are made regarding any proposed decision, ruling or order must be limited to matters contained within the administrative record of the proceeding. No other information or argument will be considered by the Board. These are adjudicative matters that will be deliberated on in closed Executive Session. Therefore, pursuant to subdivision (e) of Government Code section 11125.7, members of the public may not comment on this matter.”

Oral comments were presented before the Public Members of the Board. Gavin M. Hughes, Esq. of the Law Offices of Gavin M. Hughes represented Protestant. Steven M. Kelso, Esq. of Greenberg Traurig, LLP represented Respondent. President Stevens authorized counsel for Respondent to provide the members with a handout of excerpts of the Proposed Decision, Ford’s Proposed Findings of Fact and Conclusions of Law, Exhibit P-111, and Government Code section 11517.

5. **CLOSED EXECUTIVE SESSION DELIBERATIONS**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board convenes in closed Executive Session to deliberate the decisions reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Pursuant to Government Code section 11517(c)(2), the Board could adopt the proposed decision, make technical or other minor changes, reject the proposed decision and remand the case, or reject the proposed decision and decide the case upon the record.

**CONSIDERATION OF PROPOSED DECISION**

KPAUTO, LLC, dba PUTNAM FORD OF SAN MATEO v. FORD MOTOR COMPANY

Protest No. PR-2826-23

Consideration of the Administrative Law Judge’s Proposed Decision, by the Public

Members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Member Doi moved to adopt the Administrative Law Judge's Proposed Decision as amended. Paragraph 3 of the Conclusion on page 43, lines 17-18, is amended to add "Section 3065" before "warranty protest." The amended paragraph is "Protestant is precluded from pursuing Section 3065.2(i)(2)(G) claims in this Section 3065 warranty protest." Member Stevens seconded the motion. The motion carried unanimously.

6. **OPEN SESSION**

The Public Members returned to Open Session. The decision in Agenda Item 5 was announced.

7. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 4:28 p.m.

Submitted by

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TIMOTHY M. CORCORAN  
Executive Director

APPROVED: \_\_\_\_\_

Jacob Stevens  
President  
New Motor Vehicle Board

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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD  
MINUTES

The New Motor Vehicle Board (“Board”) held a General meeting on August 1, 2025, at Glendale City Hall, Council Chamber Room, 613 E. Broadway, 2<sup>nd</sup> Floor, Glendale, California 91206.

Jacob Stevens, President and Public Member, called the meeting of the Board to order at 8:35 a.m.

**2. ROLL CALL**

Board Members Present:	Anne Smith Boland
	Ashley Dena
	Kathryn Ellen Doi
	Ardashes "Ardy" Kassakhian
	Bismarck Obando
	Brady Schmidt
	Jacob Stevens

Board Staff Present: Timothy M. Corcoran, Executive Director  
Kim Vaye, Assistant Director and Equity Officer  
Robin P. Parker, Chief Counsel

Tammy Bayne, Administrative Law Judge

Mr. Corcoran indicated that a quorum was established for general business.

### 3. PLEDGE OF ALLEGIANCE

Administrative Law Judge Tammy Bayne led the members and staff in the Pledge of Allegiance.

4. **PRESENTATION OF RESOLUTION TO KARTHICK RAMAKRISHNAN, FORMER PUBLIC BOARD MEMBER**

At the February 28, 2025, General meeting, the members unanimously moved to present Karthick Ramakrishnan, former Public Member, with a Resolution in appreciation of his dedication and service to the Board and the State of California. Mr. Ramakrishnan was not in attendance so the Resolution will be mailed. [The Resolution was subsequently mailed to the last known address but returned “undeliverable” and was then placed in Member Ramakrishnan’s informal personnel file].

5. **PRESENTATION OF RESOLUTION TO LATE ADMINISTRATIVE LAW JUDGE MERILYN WONG’S FAMILY**

This matter was postponed until after Agenda Item 20.

6. **APPROVAL OF THE MINUTES FROM THE FEBRUARY 28, 2025, MEETING OF THE COMMITTEE ON EQUITY, JUSTICE AND INCLUSION, FEBRUARY 28, 2025, GENERAL MEETING, AND MARCH 27, 2025, INDUSTRY ROUNDTABLE AND SPECIAL MEETING**

Member Kassakhian moved to adopt Minutes from February 28, 2025, meeting of the Committee on Equity, Justice and Inclusion, February 28, 2025, General Meeting, and March 27, 2025, Industry Roundtable and Special Meeting. Member Schmidt seconded the motion. The motion carried unanimously.

7. **DISCUSSION AND CONSIDERATION OF CREATING TWO-MEMBER WORKING COMMITTEES OF THE COMMITTEE ON EQUITY, JUSTICE AND INCLUSION TO FOCUS ON LAND ACKNOWLEDGEMENTS, AND VIRTUAL AND TELEPHONIC ACCESS TO PUBLIC MEETINGS, BY THE BOARD PRESIDENT**

President Stevens created two-member working committees of the Committee on Equity, Justice and Inclusion to focus on (1) land [and community] acknowledgments, and (2) virtual and telephonic access to public meetings.

8. **APPOINTMENT OF MEMBERS TO THE TWO-MEMBER WORKING COMMITTEES OF THE COMMITTEE ON EQUITY, JUSTICE AND INCLUSION TO FOCUS ON LAND ACKNOWLEDGEMENTS, AND VIRTUAL AND TELEPHONIC ACCESS TO PUBLIC MEETINGS, BY THE BOARD PRESIDENT**

President Stevens and Member Schmidt were appointed to the working Committee on land [and community] acknowledgements of the Committee on Equity, Justice and Inclusion.

President Stevens appointed Members Obando and Smith Boland to the working committee on virtual and telephonic access to public meetings of the Committee on Equity, Justice and Inclusion.

9. **UPDATE ON BOARD DEVELOPMENT ACTIVITIES - BOARD DEVELOPMENT COMMITTEE**

The members were provided a memo from Tim Corcoran concerning Board development activities. Mr. Corcoran noted that a recap of the recent Industry Roundtable would be discussed later in the meeting. Member Schmidt suggested scheduling the training items listed in the memo at the next General Meeting. In particular, President Stevens suggested case management training for new members in light of upcoming vacancies.

There was no Board action as this matter was for information only.

10. **DISCUSSION OF MATERIALS PERTAINING TO THE RECOGNITION OF JURISDICTIONS THAT ARE ZEV (ZERO EMISSION VEHICLE) READY (STRATEGIC PLAN OBJECTIVE 2.7) - EXECUTIVE COMMITTEE**

Ms. Vaye discussed the recognition of jurisdictions that are ZEV ready and the efforts behind this initiative, which launched on July 7, 2025. It originated from President Stevens and Member Kassakhian due to their experience with local governments.

Ms. Vaye remarked on the launch efforts that included California State Transportation Agency (CalSTA) sharing it on their social media. Ms. Vaye attended the 16<sup>th</sup> Annual California Climate and Energy Forum the day after the launch resulting in over 500 attendees from local government, cities, counties, and energy non-profits. In the works is including information in the *Beacon Newsletter* of the Institute for Local Governments, which is targeted at over 160 local governments that are already on the “path to sustainability, and they’re ready for climate action.” Ms. Vaye met with the California Air Resources Board (CARB), Veloz (a national, non-profit for clean energy), the Governor’s Office of Business and Economic Development (GO-Biz), and MCE (originally Marin County Energy).

In regard to the process, Ms. Vaye indicated that CalSTA vets the applicants, then the Government and Industry Affairs Committee decides which applicants to present for Board consideration. The draft certificate was shared with the members for their input. After Board approval, the recipient decides whether to receive the certificate at one of their own meetings or at a future Board meeting.

Mr. Corcoran acknowledged Ms. Vaye for single-handedly bringing this project to life and expressed how proud he is and happy to have Ms. Vaye working at the Board.

There was no Board action as this matter was for information only.

11. **REPORT ON NON-SUBSTANTIVE CHANGES SUGGESTED BY THE OFFICE OF ADMINISTRATIVE LAW TO THE FOLLOWING REGULATIONS - EXECUTIVE COMMITTEE**

- a. Request for Informal Mediation (13 CCR § 551.14)
- b. Contents (13 CCR § 555)

The members were provided with a memo from Tim Corcoran and Robin Parker concerning non-substantive changes suggested by the Office of Administrative Law (OAL) to the proposed regulatory text of Sections 551.14 and 555 of Title 13 of the California Code of Regulations, as highlighted below:

**§ 551.14. Request for Informal Mediation.**

...  
(c) The request for informal mediation shall set forth the nature of the matter which the board is requested to mediate. The request for informal mediation shall comply substantially with the following requirements:

...  
(2) Insofar as is known to the person requesting informal mediation, include the names, ~~residence addresses~~ and ~~business~~ addresses of persons and the dates, places and specific actions or practices involved in the matter.

**§ 555. Contents.**

The petition shall set forth in clear and concise language the nature of the matter which the petitioner wishes the board to consider. The petition shall comply substantially with the following requirements:

...  
(b) Insofar as is known to petitioner, include the names, ~~residence addresses~~ and ~~business~~ addresses of persons and the dates, places and specific actions or practices involved in the matter.

Ms. Parker commented that the Executive Committee approved the changes.

There was no Board action as this matter was for information only.

**12. REPORT ON NON-SUBSTANTIVE CHANGES SUGGESTED BY THE FAIR POLITICAL PRACTICES COMMISSION TO THE BOARD'S CONFLICT OF INTEREST CODE IN SECTION 599 OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS - EXECUTIVE COMMITTEE**

The members were provided with a memo from Tim Corcoran and Robin Parker concerning non-substantive changes suggested by the Fair Political Practices Commission (“FPPC”) to the Board’s Conflict of Interest Code.

As indicated in the memo, the FPPC reviews proposed changes to state entities’ Conflict of Interest Codes and provides feedback. During its review of the Board’s proposed amendments, FPPC suggested revisions that apply its standard language to the incorporation page and consultant language. Although there were many changes, they were not substantive.

Ms. Parker indicated that there is no Board policy that addresses non-substantive changes suggested by the FPPC so the policy for rulemaking reviewed by OAL was followed. (In Agenda Item 16, the Board amended the delegation to the Executive Director

to include non-substantive changes suggested by the FPPC.) The Executive Committee approved these changes so the staff could go forward with the rulemaking.

There was no Board action as this matter was for information only.

**13. REPORT ON THE BOARD'S FINANCIAL CONDITION AND RELATED FISCAL MATTERS - FISCAL COMMITTEE**

- a. Report on the Board's Financial Condition through the 3<sup>rd</sup> and 4<sup>th</sup> quarters of Fiscal Year 2024-2025.
- b. Report concerning the Board's collection of its Annual Board Fee.
- c. Status report concerning the Board's collection of the Arbitration Certification Programs' annual fee.
- d. Discussion and consideration of the Board's proposed budget for the current fiscal year.

The members were provided with a memo from Tim Corcoran, Kim Vaye, and Suzanne Luke. Ms. Vaye reported that for Agenda Item 13.a., there is a higher allotment for spending on temporary positions due to expenditures for retired annuitants as there were two in-house merits hearings. The budgeted amount was \$79,000 for part-time staff salary but expenditures were \$172,000.

As indicated in the memo, the 4<sup>th</sup> quarter of Fiscal Year 24-May 25 began with a budget appropriation of \$2.151 million, ending with a \$1,536,845 million reserve balance. Seventy-two percent of the budget appropriation was expended through May 2025.

In regard to Agenda Item 13.b., Ms. Vaye noted the Annual Fee collection will begin in early fall as the staff are gathering the information necessary for the fee collection.

Concerning Agenda Item 13.c., Ms. Vaye stated the Board collected \$1.756 million from 37 manufacturers and billed the Arbitration Certification Program \$3,056.20 for the collection, which will be reflected in the current fiscal year.

As indicated in the memo, the proposed Budget for the next fiscal year contains the following Department of Motor Vehicle (DMV) Baseline allotments:

- Personal Services \$1,924,000 and Operating Expenses and Equipment \$231,000, totaling \$2,155,000. Anticipated General Salary Increases (GSI), effective July 1, 2025, are not included in this allotment. Once GSI funding is released (typically in the fall), DMV Budgets will review and allocate adjustments accordingly.
- The Pro Rata for 2025/2026 increased by \$50,000 to \$184,643.

Ms. Vaye remarked that even though the Board's allotment for operating expenses decreased (\$254,000 to \$231,000), that will not impact the Board as it is "very lean" and

does not spend much. The Board does not pay rent, subscription costs continue to be reduced, overhead is low in terms of supplies, and the Attorney III position is vacant.

President Stevens reminded the members that out-of-state travel is limited to mission critical travel.

Member Obando requested an update on the proposed regulation increasing Board fees. Mr. Corcoran stated that the DMV is assisting with forwarding the rulemaking to the Department of Finance (DOF) for its review. Of note, if the DOF comes back with an increase in the fee approved by the Board, this will require a Board meeting for approval. Mr. Obando suggested reaching out to stakeholders if the fee is increased to ensure continued support.

There was no Board action as this matter was for information only.

**14. STATUS REPORT ON PARTICIPANT AND AUDIENCE RESPONSES TO THE QUESTIONNAIRE CONCERNING THE BOARD'S MARCH 27, 2025, INDUSTRY ROUNDTABLE - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

Ms. Vaye provided a PowerPoint of the participant and audience responses to the questionnaire concerning the Board's March 27, 2025, Industry Roundtable. There were about 100 attendees and 28 people responded to the questionnaire. Overall, the event was rated 4.39 out of 5 stars. The attendees represented at the Roundtable were 25% dealerships, 11% manufacturer/distributor, 7% each law firms and government, and the remaining 50% registration services. Mr. Corcoran said that from the one-on-one interactions he had, it felt like the entire event was a "home run." Ms. Vaye reported that the afternoon workshops, meet the regulators and building strategic partnerships, exceeded expectations.

Anthony Bento, Chief Legal Officer, California New Car Dealers Association (CNCDA), an attendee and presenter on the Industry Trends panel remarked that the workshops were incredibly beneficial and provided an opportunity to speak with DMV regulators. He hopes that the Board continues this in the future. Mr. Bento mentioned that the Bureau of Automotive Repair (BAR) has quarterly industry meetings. DMV does not offer these types of meetings.

Member Schmidt recommended biannual meetings with DMV regulators. Member Kassakhian echoed these comments and noted it further elevates the Board's role in the industry and state. Member Doi noted the meetings should be balanced with manufacturers. Member Schmidt stated manufacturers could be included in the same event as there is no reason to exclude anyone. All the stakeholders could be at a public event. Mr. Bento agreed with Mr. Schmidt and suggested attendance be open to everyone that is regulated and licensed by DMV Occupational Licensing, which includes both used and new car dealers, auto brokers, and salespeople.

Mr. Corcoran stated that Board staff routinely assists both dealers and manufacturers with various licensing questions. Recurring workshops with DMV was discussed leading up to the Roundtable, such as the frequency, would the Board host or is this something

DMV wanted to do independent of the Board similar to the BAR advisory group. Nothing has been committed to yet. Mr. Corcoran thought an industry workshop alongside or as part of the Industry Roundtable was doable. Member Schmidt offered to assist Mr. Corcoran in his conversations with DMV. Member Doi suggested that there be a facilitator at the workshop to provide structure.

Mr. Bento thanked the Board for their consideration and encouraged the Board to consider annual workshops at a minimum and not every other year. Member Schmidt intended the workshops to be biannual not biennial.

There was no Board action as this matter was for information only.

**15. DISCUSSION AND CONSIDERATION OF MATERIALS PERTAINING TO THE  
EV (ELECTRIC VEHICLE) EXPERT PLEDGE (STRATEGIC PLAN OBJECTIVE  
2.7) - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

Mr. Corcoran summed up the purpose of the EV Expert Pledge as “not selling an EV to everyone today. It’s about selling the right EV to the right customer at the right time.” Initially, this Strategic Plan Objective was about trying to create training about the broader EV ownership experience so the consumer has a positive experience that is shared with others. It is not about “pushing sales.” It is “responsible sales.” Since government moves slower than private industry, training was already being developed. The Center for Sustainable Energy’s ElectrifiQ Program met the criteria so without endorsing a training provider, the staff put out this Pledge: if a dealership is already selling EV’s then consider taking this Pledge to send at least one salesperson to the training to become an EV expert, a local source in their community to educate consumers about the technology, and better prepare consumers for ownership. If a dealer is willing to take the Pledge then the Board may recognize that commitment and issue a Certificate of Participation. The Board would have a list of dealerships available that took the Pledge.

Member Schmidt commented that the more the Board can clarify that the EV Pledge is really about educating dealer staff on responsible EV sales and putting the right consumers in the right vehicles is something he can support. He would like to see the EV Pledge again. Member Dena stated that it is presenting dealers to consumers in a better light. Member Schmidt said he would be happy to reconsider the EV Pledge and advocate for it.

Ms. Vaye discussed the materials pertaining to the EV Expert Pledge that launched May 12, 2025. It was amplified at the March Industry Roundtable. The CNCDA highlighted this in their newsletter and then DMV distributed information in its Occupational Licensing mailing list. CalSTA also highlighted this on its social media. To date, 48 Pledges have been received by 41 dealers of which 27 were used car dealers and 14 new car dealers. Seven non-dealers submitted the Pledge.

Ms. Vaye shared the Certificate of Participation with the members. The certificates will not be presented at a Board meeting but mailed to recipients. First, Board staff speak with the applicants to learn about their dealerships and engage in information sharing. There is a vetting process by Mr. Corcoran and Ms. Vaye. Member Schmidt remarked that this

ensures applicants are meeting the commitment of the Pledge so it is not just a “rubber stamp,” it is a vetted process. Member Doi asked if there is a rubric or criteria being provided to make sure it is being applied equitably. Mr. Corcoran stated the criteria is pledging that the dealership is going to send at least one salesperson to the EV training. Member Doi stated that signing up for the EV Pledge is not enough in that to participate the applicant needs to participate in a call with Mr. Corcoran or Ms. Vaye, which is a part of the criteria. After the meeting, it was verified that the materials reference this vetting process. Member Doi also suggested that the Pledge be clarified to only include new car dealers. Mr. Corcoran confirmed that it does.

Ms. Vaye presented four qualifying new car dealerships for Board consideration of the Certificate of Participation of the EV Expert Pledge: (1) Concord Honda; (2) San Francisco Toyota; (3) Bob Smith BMW/Mini; and (4) Ed Dena’s Auto Center.

President Stevens moved to award each of the four designated dealerships to receive the “Certificate of Participation of the EV Expert Pledge.” Member Doi seconded the motion. Members Smith Boland and Dena abstained. The motion carried unanimously.

**16. DISCUSSION AND CONSIDERATION OF PROPOSED REVISIONS TO THE BOARD ADOPTED DELEGATION OF AUTHORITY TO THE EXECUTIVE DIRECTOR TO PROCEED WITH THE RULEMAKING PROCESS TO INCLUDE NON-SUBSTANTIVE CHANGES SUGGESTED BY THE FAIR POLITICAL PRACTICES COMMISSION - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memo from Tim Corcoran and Robin Parker concerning proposed revisions to the Board adopted delegation of authority to the Executive Director to proceed with the rulemaking process to include non-substantive changes suggested by the Fair Political Practices Commission.

Ms. Parker indicated that the existing delegation to the Executive Director would be expanded to include non-substantive changes suggested by the FPPC. The proposed additions are underlined and highlighted yellow as follows:

The Board delegated to the Executive Director the ministerial duty of proceeding through the rulemaking process in compliance with the Administrative Procedure Act. All substantive changes to the proposed text suggested by Board staff, the public, the Fair Political Practices Commission (“FPPC”), or the Office of Administrative Law (“OAL”) would be brought before the members at the next meeting. Non-substantive changes suggested by OAL, FPPC, or staff would be submitted to the Executive Committee for consideration and ultimately reported to the Board at the next meeting.

All new and revised Board Policies are first reviewed by the Committee on Equity, Justice and Inclusion prior to Board consideration. This proposal was reviewed and approved by the Committee on Equity, Justice and Inclusion at its July 31, 2025, meeting.

Member Doi moved to adopt the proposed revision to the Board adopted delegation of authority to the Executive Director to proceed with the rulemaking process to include non-substantive changes suggested by the Fair Political Practices Commission. Member Kassakhian seconded the motion. The motion carried unanimously.

17. **REVIEW AND CONSIDERATION OF BOARD DELEGATIONS IN COMPLIANCE WITH THE 1996 PERFORMANCE AUDIT CONDUCTED BY BUSINESS, TRANSPORTATION & HOUSING AGENCY - EXECUTIVE COMMITTEE**

The members were provided with a memo from Tim Corcoran and Robin Parker updating the Board delegations that were originally adopted in 1997 in compliance with the 1996 Performance Audit conducted by Business, Transportation & Housing Agency.

As indicated in the memo, the revised delegations pertain to:

- The Ad Hoc Committee on Equity, Justice and Inclusion was converted to a standing committee. (November 1, 2024, General Meeting)
- During the rulemaking process increasing the Annual Board Fee, the Board granted staff discretion in consultation with the Executive Committee to reduce the fee to any number between \$400 and \$425 and \$.60 and \$.65. (November 1, 2024, General Meeting)
- The temporary discretion granted to the Executive Director to assign merits hearings to the Office of Administrative Hearings (OAH) outside the current assignment log is obsolete and was deleted. All merits hearings in new protests and existing protests will be assigned to OAH effective February 28, 2025. The Board's retired annuitant ALJs will be retained on the Alternative MSC Assignment Log and the Alternative Law and Motion Assignment Log. (February 28, 2025, General Meeting)
- The Board adopted delegation of authority to the Executive Director to proceed with the rulemaking process was amended to include non-substantive changes suggested by the Fair Political Practices Commission. (August 1, 2025, General Meeting)

President Stevens moved to adopt the Board delegations as amended. Member Smith Boland seconded the motion. The motion carried unanimously.

18. **DISCUSSION AND CONSIDERATION OF PROPOSED NON-SUBSTANTIVE REGULATORY AMENDMENTS TO THE BOARD'S CONFLICT OF INTEREST CODE IN SECTION 599 OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memo from Tim Corcoran and Robin Parker concerning proposed non-substantive regulatory amendments to the Board's Conflict of Interest Code in Section 599 of Title 13 of the California Code of Regulations.

As indicated in the memo, during the biennial review of the Board's Conflict of Interest Code, staff identified non-substantive changes to Section 599 of Title 13 of the California Code of Regulations. This section does not contain the Board's Conflict of Interest Code but provides detailed information on how a member of the public could request a copy. The proposed changes cleanup dated language and update the address for the Fair Political Practices Commission.

In the event the Office of Administrative Law deems the changes substantive, President Stevens read the following statement into the record for the proposed regulatory changes:

Given the Board's decision to go forward with the proposed regulatory amendments, I hereby delegate to the Executive Director the ministerial duty of proceeding through the rulemaking process in compliance with the Administrative Procedure Act and/or the Fair Political Practices Act. Notice of the proposed rulemaking will be published in the California Regulatory Notice Register and will be sent to the Public Mailing List.

During the public comment period, I want to invite and encourage written and oral comments. Additionally, a public hearing at the Board's offices may be held to accept oral and written comments. By the Board instructing staff to go forward with the proposed regulatory amendments, this does not necessarily indicate final Board action.

If any written or oral comments are received, the full Board will consider the comments and reconsider the text of the proposed regulatory amendments. Furthermore, if the staff decides that substantive modifications to the proposed text are necessary, the Board will consider those modifications at a noticed meeting.

However, non-substantive changes involving format, grammar, or spelling suggested by the Office of Administrative Law, the Fair Political Practices Commission, or the staff will not be considered by the Board because they are non-regulatory in nature. They will be considered by the Executive Committee and ultimately reported to the Board at a future meeting.

If there are no written or oral comments received, then the rulemaking process will proceed without further Board involvement.

Member Kassakhian moved to adopt the proposed regulation. Member Obando seconded the motion. The motion carried unanimously.

19. **DISCUSSION CONCERNING PENDING AND ENACTED LEGISLATION - LEGISLATIVE COMMITTEE**

- a. Pending Legislation of Special Interest: None
- b. Enacted Legislation of General Interest:

- (1) Senate Bill 26 (Senator Umberg) - Civil actions: restitution for or replacement of a new motor vehicle.
- c. Pending Legislation of General Interest:
  - (1) Assembly Bill 766 (Assembly Member Sharp-Collins) - State agencies and departments: strategic plans: diversity, equity, and inclusion.
  - (2) Senate Bill 766 (Senator Allen) - California Combating Auto Retail Scams (CARS) Act.
- d. Pending Federal Legislation of General Interest: None

The members were provided with a memo from Tim Corcoran and Robin Parker concerning pending and enacted legislation. Ms. Parker indicated that the only change from the memo the members received is that Senate Bill 766, the CARS Act, had a hearing on July 17<sup>th</sup> and a few additions to those opposed to the bill. Nothing impacts the Board. Ms. Parker is monitoring a number of bills. A subsequent report will be provided at the next meeting.

There was no Board action as this matter was for information only.

## 20. **EXECUTIVE DIRECTOR'S REPORT**

- A. Administrative Matters.
- B. Case Management.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

Mr. Corcoran provided the members with a report on Administrative Matters that identified all pending projects, the Board staff and committee assigned, estimated completion dates, and status. Mr. Corcoran indicated the staff have been working on revised vision and mission statements to present to the Ad Hoc Committee. He then discussed the 2026 Industry Roundtable and reminded the members that it will feature CalSTA's Core Four (Safety, Equity, Climate Action, and Economic Prosperity). And it may be beyond just New Motor Vehicle initiatives as it may include other CalSTA departments to participate in an end of administration celebration of what has been accomplished.

Ms. Vaye remarked the Board's space at DMV headquarters has not changed but there are now two sit-stand desks. Additionally, she plans to reach out to individual members to talk and plans to visit each dealer member at their dealership in the coming months. Lastly, the Roundtable will be held next year at the same location as this year (California Natural Resources Agency).

Member Doi expressed her thanks to the staff for an amazing Industry Roundtable and thought it was a tremendous success.

Ms. Parker indicated that case management has been busy with two Proposed Decisions and one Proposed Order at the Special meetings on July 31, 2025, and August 1, 2025. She recapped the upcoming law and motion hearings (8/11/25 and 9/3/25) and settlement conference (9/12/25). A merits hearing is scheduled for February 2026 with OAH presiding.

An update on pending rulemaking was provided by Ms. Parker:

1. The amendments to the Board's Conflict of Interest Code adding Ms. Vaye's position were effective August 9, 2025.
2. The final rulemaking packet pertaining to motion hearings with live testimony (Section 551.19) was submitted OAL for its review. (After the meeting, this was approved by OAL and effective January 1, 2026.)
3. The fee increase is pending review at the Department of Finance.

Ms. Parker remarked there has been an increase in the number of modification notices this year with more than 300 received and about 73 termination notices with 52 pertaining to recreational vehicles.

For Judicial Review, in the Putnam Ford retail labor rate matter, this case is fully briefing and the hearing was set for October 8, 2025.

There was no Board action as this matter was for information only.

5. **PRESENTATION OF RESOLUTION TO LATE ADMINISTRATIVE LAW JUDGE MERILYN WONG'S FAMILY**

At the February 28, 2025, General Meeting, the members unanimously moved to present a Resolution recognizing the late Merilyn Wong for her more than 40 years' service as a Hearing Officer, Administrative Law Judge, and the Board's Designated Mandatory Settlement Conference Judge from 2017 to 2024. David McClain, Merilyn's husband, and their son Daniel were presented with the Resolution.

Mr. David McClain remarked that receiving the Resolution was very meaningful for him. He commented that Merilyn loved the work she did. She devoted herself to it and remembered that for one opinion she spent at least 40-plus hours a week for three months working on it. Merilyn was diligent. In closing, David stated that he appreciated this award, and knows how much Merilyn loved serving the Board.

Ms. Parker told several stories about Judge Wong and the impact Judge Wong had on her personally and professionally. Judge Wong contributed so greatly to the Board by settling cases. She touched many people with her demeanor; she was calm, professional, and personable.

Gavin Hughes of the Law Offices of Gavin M. Hughes remarked on the impact Judge Wong had on him. He appreciated her professionally. Judge Wong understood the issues

and had an amazing demeanor. She could get the parties to come together and settle their dispute. Mr. Hughes loved spending time with her talking about sports, kids, and family.

## **21. SELECTION OF BOARD MEETING DATES FOR 2026**

The Board Members selected the following Board meeting dates for 2026:

- November 6, 2025, Special Meeting (Sacramento) [subsequently taken off calendar]
- February 20, 2026, General Meeting (Glendale)
- April 8, 2026, Industry Roundtable/Special Meeting (Sacramento)
- July 17, 2026, General Meeting (Sacramento)
- October 16, 2026, General Meeting (Glendale)

## **22. PUBLIC COMMENT (Gov. Code § 11125.7)**

Anthony Bento on behalf of the CNCDA asked the Board to consider agendizing a future meeting discussion on whether under Vehicle Code section 3065.2 actual hours or billed (sold) hours should be used for determining a retail labor rate. No additional public comment was presented.

## **23. ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at 10:43 a.m.

Submitted by

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TIMOTHY M. CORCORAN  
Executive Director

APPROVED: \_\_\_\_\_

Jacob Stevens  
President  
New Motor Vehicle Board

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Sacramento, California 95818  
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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD  
**MINUTES**

The New Motor Vehicle Board (“Board”) held a Special meeting on August 1, 2025, at Glendale City Hall, Council Chamber Room, 613 E. Broadway, 2<sup>nd</sup> Floor, Glendale, California 91206.

Jacob Stevens, President and Public Member, called the meeting of the Board to order at 11:35 a.m.

**2. ROLL CALL**

Board Members Present:	Kathryn Ellen Doi Ardashes “Ardy” Kassakhian Bismarck Obando Jacob Stevens
Dealer Member observing:	Anne Smith Boland
Board Staff Present:	Timothy M. Corcoran, Executive Director Kim Vaye, Assistant Director and Equity Officer Robin P. Parker, Chief Counsel
	Tammy Bayne, Administrative Law Judge (left the meeting after Agenda item 4.a.)

Mr. Corcoran indicated that a quorum was established for case management.

**3. PLEDGE OF ALLEGIANCE**

Anthony Bento, Chief Legal Officer, California New Car Dealers Association, led the members and staff in the Pledge of Allegiance.

#### **4. ORAL PRESENTATION BEFORE THE PUBLIC MEMBERS OF THE BOARD**

President Stevens reminded the Dealer Member in attendance, that they may not participate in, hear, comment or advise other members upon or decide Agenda Items 4-5.

President Stevens read the following statement “comments made by the parties or their counsel that are made regarding any proposed decision, ruling or order must be limited to matters contained within the administrative record of the proceeding. No other information or argument will be considered by the Board. These are adjudicative matters that will be deliberated on in closed Executive Session. Therefore, pursuant to subdivision (e) of Government Code section 11125.7, members of the public may not comment on this matter.”

- a. KM3G INC., d/b/a PUTNAM KIA OF BURLINGAME v. KIA AMERICA INC.  
Protest No. PR-2803-22

Oral comments were presented before the Public Members of the Board. Gavin M. Hughes, Esq. of the Law Offices of Gavin M. Hughes represented Protestant. Lauren A. Deeb, Esq. of Hogan Lovells US LLP represented Respondent.

- b. IVS NorCal LLC, d/b/a Kuhn INEOS Grenadier v. INEOS Automotive Americas, LLC  
Protest No. PR-2856-24

Oral comments were presented before the Public Members of the Board. Gavin M. Hughes, Esq. of the Law Offices of Gavin M. Hughes represented Protestant. Louis S. Chronowski, Esq. of Barack Ferrazzano Kirschbaum & Nagelberg LLP represented Respondent.

#### **5. CLOSED EXECUTIVE SESSION DELIBERATIONS**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board convenes in closed Executive Session to deliberate the decisions reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Pursuant to Government Code section 11517(c)(2), the Board could adopt the proposed decision, make technical or other minor changes, reject the proposed decision and remand the case, or reject the proposed decision and decide the case upon the record.

- a. **CONSIDERATION OF PROPOSED DECISION FOLLOWING REMAND**

KM3G INC., d/b/a PUTNAM KIA OF BURLINGAME v. KIA AMERICA INC.  
Protest No. PR-2803-22

Consideration of the Administrative Law Judge's Proposed Decision Following Remand, by the Public Members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Member Stevens moved to adopt the Administrative Law Judge's Proposed Decision Following Remand as amended. In the second sentence of paragraph 7, on page 2, lines 21-22, "pursuant to the Bagley-Keene Open Meeting Act" is deleted. The amended sentence is "Public comments were received by the Board from counsel for protestant and respondent." Member Doi seconded the motion. The motion carried unanimously.

b. **CONSIDERATION OF PROPOSED ORDER**

IVS NorCal LLC, d/b/a Kuhn INEOS Grenadier v. INEOS Automotive Americas, LLC  
Protest No. PR-2856-24

Consideration of the Administrative Law Judge's Proposed Order Granting Respondent's Motion to Dismiss Protest, by the Public Members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Member Doi moved to adopt the Administrative Law Judge's Proposed Order Granting Respondent's Motion to Dismiss Protest. Member Obando seconded the motion. The motion carried unanimously.

6. **OPEN SESSION**

The Public Members returned to Open Session. President Stevens announced the decisions in Agenda Item 5.a. and 5.b.

7. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 12:51 p.m.

Submitted by

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TIMOTHY M. CORCORAN  
Executive Director

APPROVED: \_\_\_\_\_

Jacob Stevens  
President  
New Motor Vehicle Board



## Memorandum

**Date : JANUARY 29, 2026**

**To : NEW MOTOR VEHICLE BOARD**

**From : JACOB STEVENS  
PRESIDENT**

**Subject : COMMITTEE ASSIGNMENTS**

At the February 20, 2026, General Meeting, we are going to review committee assignments.

The current committee assignments are as follows:

**ADMINISTRATION COMMITTEE**

Bismarck Obando, Chair  
Ashley Dena, Member

**BOARD DEVELOPMENT COMMITTEE**

Vacant, Chair  
Vacant, Member

**COMMITTEE ON EQUITY, JUSTICE AND INCLUSION**

Vacant, Chair  
Jake Stevens, Vice Chair  
Anne Smith Boland, Member  
Ashley Dena, Member  
Ardy Kassakhian, Member  
Bismarck Obando, Member

**Working Committee on Land Acknowledgments**

Jacob Stevens, Member  
Vacant, Member

**Working Committee on Virtual and Telephonic Access to Public Meetings**

Bismarck Obando, Member  
Anne Smith Boland, Member

**EXECUTIVE COMMITTEE**

Jake Stevens, President  
Anne Smith Boland, Vice President

Committee Assignments

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**FISCAL COMMITTEE**

Ardy Kassakhian, Chair

Anne Smith Boland, Member

**GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

Ashley Dena, Chair

Vacant, Member

**LEGISLATIVE COMMITTEE**

Jake Stevens, President

Anne Smith Boland, Vice President

**POLICY AND PROCEDURE COMMITTEE**

Jake Stevens, Chair

Vacant, Member

**AD HOC COMMITTEE TO REVIEW THE MISSION AND VISION STATEMENTS**

Ardy Kassakhian, Chair

Jake Stevens, Member

The description of the standing committees are as follows:

- **Administration Committee** - personnel, hiring, internal operations (as they relate to administration), office forms (including letterhead) and the Board's website.
- **Board Development Committee** - Board Member education, welcoming new Board Members, meeting with the CNCDA (all Board members, as their schedules allow, may volunteer for this activity) and the employee recognition program.
- **Committee on Equity, Justice and Inclusion** - Dedicated to fostering a culture that embraces equity, celebrates diversity, champions inclusion and belonging, and prioritizes accessibility and justice to remove barriers, promote fair treatment, and catalyze action to create and drive meaningful change for all stakeholders in the new motor vehicle industry.
- **Executive Committee** – comprised of the Board President and Vice President includes approval of Board meeting Agendas, meeting with Department and Agency Directors, monitoring the Business, Transportation & Housing Agency audit of Board activities, and other matters requiring Board representation.
- **Fiscal Committee** - budget and finance matters related to Board operation.
- **Government and Industry Affairs Committee** - expanding efforts related to government and industry outreach, including the Industry Roundtable. Review industry related advertising laws. Develop a Core Four - Safety initiative (OKR) related to improving the repair rate of California-registered vehicles subject to the Takata air bag inflator "stop drive" safety recall.

Committee Assignments

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- **Legislative Committee** - comprised of the Board President and Vice President unless otherwise designated by the President. Provides analyses on legislation that directly affects the Board's laws and functions.
- **Policy and Procedure Committee** - regulations, Board protocol (including parliamentary procedures and meeting minutes), legal action participation, case management and internal operations (as they relate to policy and procedure).

If you have any questions, please do not hesitate to contact me or Tim Corcoran at (916) 244-6774.



## Memorandum

**Date : JANUARY 29, 2026**

**To : PRESIDENT STEVENS**

**From : TIMOTHY M. CORCORAN  
ROBIN P. PARKER**

**Subject : APPOINTMENT OF BOARD MEMBER DESIGNEE IN COMPLIANCE WITH  
THE BOARD'S 1997 "REVISED BOARD POLICY REGARDING  
REPRESENTATION IN COURT ACTIONS," BY THE INCOMING BOARD  
PRESIDENT**

In response to the 1996 Performance Audit conducted by Business, Transportation & Housing Agency, the former Judicial Policies and Procedures Committee (members Livingston and Skobin) developed the initial policy regarding representation in court actions that was adopted by the Board at its October 22, 1996, General Meeting. One aspect of the initial policy concerning the Office of the Attorney General filing a "perfunctory answer with the court" was problematic as the Attorney General's Office was reluctant to make any appearance on the Board's behalf without thoroughly reviewing the underlying action. At its February 12, 1997, General Meeting, the Board adopted the attached "Revised Board Policy Regarding Representation in Court Actions" (hereinafter collectively referred to as "Policy").

According to the Policy, the Board, as a general rule, should not substantively participate in mandamus actions in which a Board decision is challenged. The Policy specifically provides that:

When the Board renders a final decision which is challenged by way of a petition for writ of administrative mandamus, and an important state interest is not raised in the mandamus proceeding, then the Board shall notify the parties to the proceeding (the petitioner and the real party in interest) of the Board's policy not to appear in the mandamus action, and request that the parties so notify the court. As such, unless the court specifically requests otherwise, the Board would not file any pleadings in the court action, which would obviate the necessity of involvement by the office of the Attorney General. (See attached Revised Policy, paragraph 2).

However, in mandamus actions in which an important state issue is raised, the Board would have the option to participate by the filing of pleadings opposing the petition and by presenting oral arguments on only those limited issues affecting the state interest. . . . In such situations, prior to Board participation, the matter would be presented to the full Board for review at a regularly scheduled meeting of the Board. In the absence of sufficient time for

Board Designee  
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consideration at a noticed Board meeting, the President, or a Board member designated by the President, can authorize the filing of appropriate pleadings in opposition to the petition and/or the presentation of oral arguments. When this occurs, a copy of the petition and supporting documents would be mailed to each Board member with an indication that the President, or . . . designee, has authorized Board participation. Any Board member who objects to Board participation would then immediately so notify staff, and the matter would be scheduled for discussion at either the next general meeting of the Board or, if three public members request, then at a special meeting of the Board. . . . [A]ny appearance by the Board would be made by the office of the Attorney General or, with the consent of the Attorney General, by the Board's own counsel. . . . (See attached Policy, paragraph 4, pages 2-3).

The above policy was modified in 2008 to provide that when a Dealer Member is President, only those matters in which a Dealer Member would be disqualified from having heard in the first place are delegated. Furthermore, if you have a Dealer Member as Board President, and a Public Member as Vice President, then the designation should automatically go to the Vice President.

The designation of a Board Member by the Board President consistent with this Policy is being agendaized for the February 20, 2026, General Meeting.

If you have any questions or require additional information, please contact me at (916) 244-6774 or Robin at (916) 244-6776.

Attachments

STATE OF CALIFORNIA



**MEMO**

**To : ALL BOARD MEMBERS**

**Date: January 29, 1997**

**From : NEW MOTOR VEHICLE BOARD**  
**Judicial Policies and Procedures Committee**  
**(Committee members: Dan Livingston and Alan Skobin)**  
**(916) 445-2080**

**Subject: REVISED BOARD POLICY REGARDING REPRESENTATION IN COURT ACTIONS**

At its General Meeting of October 22, 1996, the members of the Board adopted a policy regarding legal representation of the Board and Board appearances in court proceedings. A copy of the memorandum which sets forth the Board's policy in this regard is attached hereto.

Since the time that the Board's policy has been adopted and implemented, it has been determined that one aspect of this policy has not worked in the manner that we had hoped. Specifically, the policy requires that, in mandamus actions in which an important state issue is not raised, the office of the Attorney General would file a perfunctory answer with the court, and advise the court of the Board's policy not to file a memorandum of points and authorities in opposition to the petition or to present oral arguments on the issues raised. The problem that has arisen is the Attorney General's understandable reluctance to make any appearance on the Board's behalf without thoroughly reviewing the pleadings and Board decision in the underlying action to determine if any significant policy or legal issues are raised by the mandamus action. Accordingly, it is recommended that the Board's policy in this regard be revised as follows. When the Board renders a final decision which is challenged by way of a petition for writ of administrative mandamus, and an important state interest is not raised in the mandamus proceeding, then the Board shall notify the parties to the proceeding (the petitioner and real party in interest) of the Board's policy not to appear in the mandamus action, and request that the parties so notify the court. As such, unless the court specifically requests otherwise, the Board would not file any pleadings in the court action, which would obviate the necessity of involvement by the office of the Attorney General. In all other respects, the policy regarding legal representation of the Board and Board appearances in court proceedings, as set forth in the attached memorandum, would remain unchanged.

This matter will be discussed at the General Meeting of the Board scheduled for February 12, 1997. Your interest in this matter is greatly appreciated.

STATE OF CALIFORNIA



**MEMO**

**To :** ALL BOARD MEMBERS

**Date:** October 17, 1996

**From :** NEW MOTOR VEHICLE BOARD  
Judicial Policies and Procedures Committee  
(Committee members: Dan Livingston and Alan Skobin)  
(916) 445-2080

**Subject:** BOARD POLICY REGARDING REPRESENTATION IN COURT ACTIONS

This memorandum is in reference to the agenda item discussed at the last Board meeting, specifically the legal representation of the Board in court proceedings. The relevant issues involve the question as to when and to what extent the Board should participate in mandamus actions in which a Board decision is challenged, as well as whether Board staff or the Office of the Attorney General should represent the Board in those actions in which the Board participates<sup>1</sup>. The members of the Board referred this matter to the Board's Judicial Policies and Procedures Committee (the "Committee") for further evaluation and recommendation back to the full Board for consideration. The Committee has thoroughly reviewed the law and policies regarding these issues, and the following recommendations are a result of this analysis.

Government Code sections 11042 and 11043 require that all state agencies utilize the services of the Office of the Attorney General in all legal matters in which the agency is involved. Government Code section 11040 provides that the agency may employ independent legal counsel only after having obtained the written consent of the Attorney General. Section 11041 enumerates several agencies which are exempt from these requirements. The Board is not contained in the list of exempted agencies.

The Committee has reviewed and discussed the circumstances relating to mandamus actions in which the Board may be involved. There are often two distinct phases to the proceedings. In the first phase, the party challenging the decision would seek a court order staying the effect of the Board decision. This would either be done ex parte (with as little as 4 hours notice to the Board), or by noticed motion giving the Board 10 to 15 days notice. In the past, staff of the Board has appeared at the ex parte matters because of the difficulty with getting a Deputy Attorney General assigned to the matter and/or knowledgeable about the case with such short notice. However, as a result of the state of the law

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<sup>1</sup> Pursuant to Vehicle Code sections 3058 and 3068, as well as Code of Civil Procedure section 1094.5, any party to a final decision of the Board may challenge the Board decision by filing a petition for writ of administrative mandamus in the superior court.

regarding the Office of the Attorney General discussed above, it is the Committee's position that, in all future ex parte matters, that staff contact the Attorney General's office to apprise them of the pendency of the ex parte proceedings but to take no further action in representing the Board before the court without the consent of the Attorney General.

The second phase of the proceedings would be the briefing and hearing on the merits of the mandamus actions, ie. whether the Board's decision was supported by substantial evidence and whether the Board's actions were proper procedurally. In the past, the Attorney General's office has represented the Board in these matters, and the Board's staff has provided assistance by way of research and drafting of pleadings, as well support in court. The Committee has reviewed this practice and recommends that it be retained in all future cases, subject to the limitations below.

The second issue which was reviewed by the Committee pertains to when, and to what extent, the Board should participate in mandamus actions challenging a Board decision. An analogy was drawn between the Board and a civil action initiated and tried in the superior court. When the superior court renders a judgment in a civil action and a party files a petition for an extraordinary writ with the Court of Appeal, the superior court is named as the responding party, much the same as in those actions challenging a Board decision. The court, however, does not make an appearance in the writ proceeding before the Court of Appeal, but instead allows the real party in interest to present the relevant arguments to the appellate court supporting the actions taken by the superior court. The Committee has determined that this practice should be utilized by the Board and, as a result, recommends the following policy.

The Board, as a general rule, should not substantively participate in mandamus actions in which a Board decision is challenged. There are a number of sound reasons for such a policy. In most of the mandamus actions in which the Board is named as a respondent, the interests of both parties are adequately represented by their respective counsel. In addition, the appearance by the Board in such cases would lead to an unnecessary expenditure of state resources. Instead, the Attorney General (or Board attorneys, if permission is given by the Attorney General), should be requested to file only a perfunctory answer to the Petition for Writ of Administrative Mandamus, advising the court of the Board policy and that it is not appropriate for the Board to file a memorandum or points and authorities in opposition to the petition or to present oral arguments on the issues raised.

However, in mandamus actions in which an important state issue is raised, the Board would have the option to participate by the filing of pleadings opposing the petition and by presenting oral arguments on only those limited issues affecting the state interest. Examples of important state issues could include challenges to the jurisdiction of the Board, a decision which could affect future Board cases, unusual issues concerning the standard of review in the mandamus action, as well as serious matters of public safety. In such situations, prior to Board participation, the matter would be presented to the full Board for review at a regularly scheduled meeting of the Board. In the absence of sufficient time for consideration at a noticed Board meeting, the President, or a Board Member designated by the President, can authorize the filing of appropriate pleadings in opposition to the petition and/or the presentation of oral arguments. When this occurs, a copy of the petition and supporting documents would be mailed to each Board member with an indication that the President, or his designee, has authorized Board participation. Any Board member who objects to Board participation would then immediately so notify staff, and the matter would be scheduled for discussion at either the next general

meeting of the Board or, if three public members request, then at a special meeting of the Board. The same policy would apply to ex parte hearings for a stay of the Board's order, as well as law and motion proceedings in which a stay order is sought. In any event, any appearance by the Board would be made by the office of the Attorney General or, with the consent of the Attorney General, by the Board's own counsel.

The Committee has considered the various aspects regarding these issues, and believes that the policies, as set forth above, will ensure that the interests of the State and Board are adequately represented when appropriate.



# *New Motor Vehicle Board R E S O L U T I O N*

**W**HEREAS, Ms. Kathryn Doi was appointed to the Board in September 2013, by Governor Edmund G. Brown Jr. , and reappointed in March 2017, to serve as a public member and designated attorney member of the **NEW MOTOR VEHICLE BOARD**. She was reappointed by Governor Gavin Newsom in March 2021; and,

**W**HEREAS, Ms. Doi served on numerous committees, most recently as a member of the Board Development Committee, and chair of the Committee on Equity, Justice and Inclusion and Policy and Procedure Committee; served two terms as the Board's President in 2019 and 2020, and two terms as Vice President in 2017 and 2018; assisted the Board in many other capacities including her work on judicial matters and distinguished herself thereby; and,

**W**HEREAS, Ms. Doi actively engaged in the Board's business by providing sound advice and leadership, was thoughtful, friendly and outgoing to staff and fellow members; and,

**W**HEREAS, the foremost concern of Ms. Doi is public service to the people of the State of California, being active in political and community affairs, with exemplary service and dedication in the best interest of her fellow citizens, which merits the highest praise and recognition; and,

**W**HEREAS, Ms. Doi has given with great unselfishness and dedication of her time and expertise to matters concerning the motor vehicle industry and helped direct and protect the welfare of the automotive industry in this State, which is vital to California's economy and public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

**T**HEREFORE, BE IT RESOLVED that each and every member of the **NEW MOTOR VEHICLE BOARD** joins in expressing their profound appreciation to Ms. Kathryn Doi for her contribution to the Board, to the motor vehicle industry and to the people of the State of California.

*Dated this 20<sup>th</sup> day of February 2026*

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JACOB STEVENS, PRESIDENT

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ANNE SMITH BOLAND, VICE PRESIDENT

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ASHLEY DENA, MEMBER

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GARRETT JENSEN, MEMBER

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SHIRLEY G. JONES, MEMBER

---

ARDASHES KASSAKHIAN, MEMBER

---

BISMARCK OBANDO, MEMBER

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ALEXANDRA SCHULTHEIS, MEMBER



# *New Motor Vehicle Board*

# *R E S O L U T I O N*

**W**HEREAS, Mr. Brady Schmidt was appointed to the Board in December 2022, by Governor Gavin Newsom, to serve as a dealer member of the **NEW MOTOR VEHICLE BOARD**; and,

**W**HEREAS, Mr. Schmidt served on several committees and has served as both the Chair and Member of the Board Development Committee, a member of the Committee on Equity, Justice and Inclusion, and a member of the working committee on land acknowledgements of the Committee on Equity, Justice and Inclusion, and distinguished himself thereby; and,

**W**HEREAS, Mr. Schmidt actively engaged in the Board's business by providing sound advice and leadership, was thoughtful, friendly and outgoing to staff and fellow members; and,

**W**HEREAS, the foremost concern of Mr. Schmidt is public service to the people of the State of California, being active in political and community affairs, with exemplary service and dedication in the best interest of his fellow citizens, which merits the highest praise and recognition; and,

**W**HEREAS, Mr. Schmidt has given with great unselfishness and dedication of his time and expertise to matters concerning the motor vehicle industry and helped direct and protect the welfare of the automotive industry in this State, which is vital to California's economy and public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

**T**HEREFORE, BE IT RESOLVED that each and every member of the **NEW MOTOR VEHICLE BOARD** joins in expressing their profound appreciation to Mr. Brady Schmidt for his contribution to the Board, to the motor vehicle industry and to the people of the State of California.

*Dated this 20<sup>th</sup> day of February 2026*

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JACOB STEVENS, PRESIDENT

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ANNE SMITH BOLAND, VICE PRESIDENT

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ASHLEY DENA, MEMBER

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GARRETT JENSEN, MEMBER

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SHIRLEY G. JONES, MEMBER

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ARDASHES KASSAKHIAN, MEMBER

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BISMARCK OBANDO, MEMBER

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ALEXANDRA SCHULTHEIS, MEMBER



# *New Motor Vehicle Board R E S O L U T I O N*

**W**HEREAS, Diana Woodward Hagle was appointed as an Administrative Law Judge for the **NEW MOTOR VEHICLE BOARD** in April 2006, dutifully serving through September 2025, and distinguished herself thereby; and,

**W**HEREAS, Judge Woodward Hagle presided over a number of merits hearings, law and motion hearings, and settlement conferences with the utmost skill, professionalism, and legal knowledge. She was conscientious, fair, and a respected public servant to the people of California; and,

**W**HEREAS, Judge Woodward Hagle generously devoted her time, expertise, experience, and dedication toward the successful operation of the Board in matters concerning the motor vehicle industry, and helped advance and protect the integrity of the automotive industry in this State, which is vital to California's economy and the public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

**W**HEREAS, Judge Woodward Hagle mentored and trained her fellow judges, was friendly, and always accessible to Board staff and the parties and counsel that appeared before her; and,

**W**HEREAS, the foremost concern of Judge Woodward Hagle is public service to the people of the State of California, where prior to her appointment, she served as a Deputy Attorney General of the Department of Justice from 1969 to 2004. At the same time, she was enlisted in the California National Guard, the United States Army Reserves, and was a Colonel in the Judge Advocate General Corps. Judge Woodward Hagle demonstrated exemplary service and dedication in the best interest of her fellow citizens meriting the highest praise and recognition; and,

**T**HEREFORE, BE IT RESOLVED that each and every member of the **NEW MOTOR VEHICLE BOARD** joins in expressing their profound appreciation to Judge Diana Woodward Hagle for her contribution to the Board, to the motor vehicle industry and to the people of the State of California.

*Dated this 20<sup>th</sup> day of February 2026*

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JACOB STEVENS, PRESIDENT

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ANNE SMITH BOLAND, VICE PRESIDENT

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ASHLEY DENA, MEMBER

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GARRETT JENSEN, MEMBER

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SHIRLEY G. JONES, MEMBER

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ARDASHES KASSAKHIAN, MEMBER

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BISMARCK OBANDO, MEMBER

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ALEXANDRA SCHULTHEIS, MEMBER



# *New Motor Vehicle Board R E S O L U T I O N*

**W**HEREAS, Evelyn I. Matteucci was appointed as an Administrative Law Judge for the **NEW MOTOR VEHICLE BOARD** in January 2017, dutifully serving through 2021, and distinguished herself thereby; and,

**W**HEREAS, Judge Matteucci presided over merits hearings and law and motion hearings with the utmost skill, professionalism, and legal knowledge. She was conscientious, fair, and a respected public servant to the people of California; and,

**W**HEREAS, Judge Matteucci generously devoted her time, expertise, experience, and dedication toward the successful operation of the Board in matters concerning the motor vehicle industry, and helped advance and protect the integrity of the automotive industry in this State, which is vital to California's economy and the public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

**W**HEREAS, Judge Matteucci was friendly, and always accessible to Board staff and the parties and counsel that appeared before her; and,

**W**HEREAS, the foremost concern of Judge Matteucci is public service to the people of the State of California, where prior to her appointment, she was a civil servant of the State of California for over 25 years with positions at the Receiver's Office of Legal Affairs, the California Attorney General's Office, and then Business, Transportation & Housing Agency. Judge Matteucci demonstrated exemplary service and dedication in the best interest of her fellow citizens meriting the highest praise and recognition; and,

**T**HEREFORE, BE IT RESOLVED that each and every member of the **NEW MOTOR VEHICLE BOARD** joins in expressing their profound appreciation to Judge Evelyn I. Matteucci for her contribution to the Board, to the motor vehicle industry and to the people of the State of California.

*Dated this 20<sup>th</sup> day of February 2026*

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JACOB STEVENS, PRESIDENT

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ANNE SMITH BOLAND, VICE PRESIDENT

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ASHLEY DENA, MEMBER

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GARRETT JENSEN, MEMBER

---

SHIRLEY G. JONES, MEMBER

---

ARDASHES KASSAKHIAN, MEMBER

---

BISMARCK OBANDO, MEMBER

---

ALEXANDRA SCHULTHEIS, MEMBER



# **New Motor Vehicle Board R E S O L U T I O N**

**W**HEREAS, Dwight V. Nelsen was appointed as an Administrative Law Judge for the **NEW MOTOR VEHICLE BOARD** in January 2017, dutifully serving through August 2025, and distinguished himself thereby; and,

**W**HEREAS, Judge Nelsen presided over merits hearings and law and motion hearings with the utmost skill, professionalism, and legal knowledge. He was conscientious, fair, and a respected public servant to the people of California; and,

**W**HEREAS, Judge Nelsen generously devoted his time, expertise, experience, and dedication toward the successful operation of the Board in matters concerning the motor vehicle industry, and helped advance and protect the integrity of the automotive industry in this State, which is vital to California's economy and the public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

**W**HEREAS, Judge Nelsen was friendly, and always accessible to Board staff and the parties and counsel that appeared before him; and,

**W**HEREAS, the foremost concern of Judge Nelsen is public service to the people of the State of California, where prior to his appointment, he had extensive experience as an administrative law judge with the Office of Administrative Hearings and Appeals within the Department of Health Care Services. Judge Nelsen demonstrated exemplary service and dedication in the best interest of his fellow citizens meriting the highest praise and recognition; and,

**T**HEREFORE, BE IT RESOLVED that each and every member of the **NEW MOTOR VEHICLE BOARD** joins in expressing their profound appreciation to Judge Dwight V. Nelsen for his contribution to the Board, to the motor vehicle industry and to the people of the State of California.

*Dated this 20<sup>th</sup> day of February 2026*

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JACOB STEVENS, PRESIDENT

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ANNE SMITH BOLAND, VICE PRESIDENT

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ASHLEY DENA, MEMBER

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GARRETT JENSEN, MEMBER

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SHIRLEY G. JONES, MEMBER

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ARDASHES KASSAKHIAN, MEMBER

---

BISMARCK OBANDO, MEMBER

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ALEXANDRA SCHULTHEIS, MEMBER



# **New Motor Vehicle Board R E S O L U T I O N**

**W**HEREAS, Kymberly Pipkin was appointed as an Administrative Law Judge for the **NEW MOTOR VEHICLE BOARD** in September 2011, dutifully serving through March 2025, and distinguished herself thereby; and,

**W**HEREAS, Judge Pipkin presided over merits hearings, law and motion hearings, and settlement conferences with the utmost skill, professionalism, and legal knowledge. She was conscientious, fair, and a respected public servant to the people of California; and,

**W**HEREAS, Judge Pipkin generously devoted her time, expertise, experience, and dedication toward the successful operation of the Board in matters concerning the motor vehicle industry, and helped advance and protect the integrity of the automotive industry in this State, which is vital to California's economy and the public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

**W**HEREAS, Judge Pipkin mentored and trained her fellow judges, was friendly, and always accessible to Board staff and the parties and counsel that appeared before her; and,

**W**HEREAS, the foremost concern of Judge Pipkin is public service to the people of the State of California, where prior to her appointment to the New Motor Vehicle Board, she served as an Administrative Law Judge II with the State Personnel Board having retired after 30 years of state service, demonstrating exemplary service and dedication in the best interest of her fellow citizens meriting the highest praise and recognition; and,

**T**HEREFORE, BE IT RESOLVED that each and every member of the **NEW MOTOR VEHICLE BOARD** joins in expressing their profound appreciation to Judge Kymberly Pipkin for her contribution to the Board, to the motor vehicle industry and to the people of the State of California.

*Dated this 20<sup>th</sup> day of February 2026*

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JACOB STEVENS, PRESIDENT

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ANNE SMITH BOLAND, VICE PRESIDENT

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ASHLEY DENA, MEMBER

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GARRETT JENSEN, MEMBER

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SHIRLEY G. JONES, MEMBER

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ARDASHES KASSAKHIAN, MEMBER

---

BISMARCK OBANDO, MEMBER

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ALEXANDRA SCHULTHEIS, MEMBER



## Memorandum

**Date : JANUARY 29, 2026**

**To : ADMINISTRATION COMMITTEE  
BISMARCK OBANDO, CHAIR  
ASHLEY DENA, MEMBER**

**From : TIMOTHY M. CORCORAN  
ROBIN P. PARKER**

**Subject : CONSIDERATION OF THE REVISED *GUIDE TO THE NEW MOTOR VEHICLE BOARD* TO INCLUDE INFORMATION ON STATUTORY AND REGULATORY CHANGES**

The *Guide to the New Motor Vehicle Board* was most recently approved at the February 28, 2025, General Meeting. Each year it is thoroughly reviewed and updated. The New Motor Vehicle Board (“Board”) composition and staff updates are reflected in the attached Guide. The table of contents and all page references were updated. The section entitled “New as of 2026” was updated to reflect there were no changes to legislation or case law impacting the Board but there were several regulatory amendments. A new heading entitled “Assignment of Merits Hearings in Protests” was added to provide background on the transition to the Office of Administrative Hearings (OAH) for merits hearings.

The following additional edits are highlighted yellow in underline and strikeout font:

- All references to “residence,” “office,” or “business” when referring to addresses were deleted to reflect regulatory amendments operative July 1, 2025.
- All references to accepting papers via facsimile and requiring a facsimile number on papers were deleted to reflect regulatory amendments operative July 1, 2025.
- In the heading “Challenge to Presiding Officer” on page 10 (protests), a peremptory challenge of the merits hearing Administrative Law Judge (ALJ) would be filed with OAH and not with the Board as OAH is presiding over all merits hearings effective February 28, 2025.
- Footnote 6 on page 10 added language pertaining to the temporary discretion granted to the Executive Director at the April 28, 2023, General Meeting to assign additional merits hearings to OAH outside the current assignment log. This language is obsolete and was deleted.
- The revised procedure for assigning merits hearing ALJs adopted by the Board at its September 21, 2023, General Meeting was detailed in footnote 24 on page 68. This footnote has been updated to reflect merits hearings are transferred to OAH and the

Memo Guide to the New Motor Vehicle Board

Page 2

January 29, 2026

Board ALJs no longer preside.

- In the heading entitled “Summary of Board Action” on page 68, language was amended to reflect protest hearings may be considered by the entire Board as limited by statute or an ALJ. Reference to “Board” ALJs was deleted.
- Footnote 25 on page 69 deleted obsolete language pertaining to the Board presiding over merits hearing. Amendments reflect that if, after the Hearing Readiness Conference, the parties indicate they are ready for hearing, the Board submits to OAH a request for hearing and takes no further action in the protest unless the protesting dealer(s) file a Request for Dismissal. The hearing would commence in about three months subject to the availability of the parties and OAH.
- The phrase “designated by the Board” when referring to an ALJ was deleted in the heading “Hearings Open to the Public; Protective Orders” (protests) on page 70.
- In the heading “Challenge to Presiding Officer” on pages 75 (petitions), language pertaining to filing a peremptory challenge of the merits hearing ALJ with the Board was deleted along with references to Board ALJ. There has not been a merits hearing on a petition in more than 20 years. In the event there is one, the Board could revise its assignment of cases to exclusively use OAH for all merits hearings in protests to include petitions.

This matter is being agendized for discussion and consideration at the February 20, 2026, General Meeting.

If you have any question or require additional information, please contact me at (916) 244-6774 or Robin at (916) 244-6776.

cc: Jacob Stevens, President



*State of California*

**NEW MOTOR VEHICLE BOARD**

***Guide to the  
New Motor Vehicle Board***

February 2026

# **STATE OF CALIFORNIA**

## **NEW MOTOR VEHICLE BOARD**

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Sacramento, California 95818  
Phone: (916) 445-1888  
Email: [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov)  
Website: <http://www.nmvb.ca.gov>

**State of California**  
GAVIN NEWSOM, GOVERNOR

**California State Transportation Agency**  
TOKS OMISHAKIN, SECRETARY

## **BOARD MEMBERS**

**Public Members**  
GARRETT JENSEN  
ARDASHES (ARDY) KASSAKHIAN  
BISMARCK OBANDO  
ALEXANDRA SCHULTHEIS  
JACOB STEVENS

**Dealer Members**  
ANNE SMITH BOLAND  
ASHLEY DENA  
SHIRLEY G. JONES

## **EXECUTIVE STAFF**

TIMOTHY M. CORCORAN  
Executive Director  
KIMBERLEE VAYE  
Assistant Director and Equity Officer

## **LEGAL STAFF**

ROBIN P. PARKER  
Chief Counsel

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## **PREAMBLE**

This publication provides general information only as to the most pertinent Vehicle Code sections as they relate to practice before the New Motor Vehicle Board (“Board”). There are many other important Vehicle Code sections and Department of Motor Vehicles (“Department”) regulations not covered in this publication. The materials contained herein are intended to be informative and not advisory, limited in scope, and are not intended to be a substitute for careful reading of the specific statutes and regulations that may apply to your particular situation. Practitioners as well as the general public are invited to comment on the forms and contents of procedures. The Board only has one office in Sacramento. All correspondence, protests, and petitions should be sent to:

New Motor Vehicle Board  
ATTN: Legal Department  
2415 1<sup>st</sup> Avenue, MS L242  
Sacramento, California 95818

Correspondence can also be sent via email at [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov). The telephone number of the Board is (916) 445-1888 and the website address is [www.nmvb.ca.gov](http://www.nmvb.ca.gov). Detailed information can be found on the Board’s website. Please feel free to contact the Board’s staff for further information.

## **PREFACE**

The purpose of this publication is to familiarize the reader with the organization and jurisdiction of the Board, including the Board's operations and procedures. All statutory references are to pertinent sections of the Vehicle Code unless otherwise specified. The full text of pertinent sections of the Vehicle Code is available at <http://leginfo.legislature.ca.gov/faces/codes.xhtml> or on the Board's website. References to regulations are to Title 13 of the California Code of Regulations ("CCR").<sup>1</sup> The referenced sections will be noted in the following manner, for example, 13 CCR § 550, et seq. The regulations are also available on the Board's website or at the Office of Administrative Law's ("OAL") website ([www.oal.ca.gov](http://www.oal.ca.gov)). Once you reach the OAL site, select California Code of Regulations. You will be taken to the California Code of Regulations and can search by title; the Board's regulations are in Title 13. As the Board is a quasi-judicial agency that holds administrative hearings, statutes comprising the administrative adjudication provisions of the Administrative Procedure Act ("APA"; Gov. Code §§ 11400 through 11529) are applicable. Citations to relevant court decisions are interspersed throughout. The provisions of the APA are available at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

The Board also publishes the *Informational Guide for Manufacturers and Distributors* to assist manufacturers and distributors in clarifying California's vehicle franchise laws. It is designed for personnel in manufacturer or distributor market representation departments, dealer development departments, or legal departments. The *Informational Guide for Manufacturers and Distributors* is available free from the Board's offices at the above address, or can be accessed and downloaded from the Board's website at [www.nmvb.ca.gov](http://www.nmvb.ca.gov).

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<sup>1</sup> The Board's regulations, Sections 550 through 598, are under Title 13 (Motor Vehicles), Division 1 (Department of Motor Vehicles), Chapter 2 (New Motor Vehicle Board) of the California Code of Regulations. There are separate and different regulation provisions for petitions (Articles 2 and 4) and protests (Article 5).

## **INTRODUCTION**

### **Purpose**

The Board is a program within the Department. The Board was originally created in 1967 as the New Car Dealers Policy and Appeals Board. At that time, the Board's only function was hearing appeals<sup>1</sup> from final decisions of the Director of the Department adverse to the occupational license of a new motor vehicle dealer, manufacturer, distributor, or representative.<sup>2</sup> In 1973, the Legislature passed the California Automobile Franchise Act (Stats. 1973, Ch. 966, § 1, p. 2), which gave the Board its present name and created a broad statutory framework and a forum for regulating and settling disputes in the new vehicle industry. The constitutionality of this regulatory scheme has survived a due process challenge in the United States Supreme Court (*New Motor Vehicle Board v. Orrin W. Fox Co.* (1978) 439 U.S. 96).

### **Organization**

The organization of the Board is prescribed in Vehicle Code sections 3000 to 3016. The Board is comprised of nine members. The chart below identifies the composition of the Board.

<b>Who</b>	<b>Qualifications</b>	<b>Appointment</b>
Four licensed new motor vehicle dealers. (Dealers that deal exclusively in motorcycles, ATVs, or recreational vehicles are excluded from membership on the Board.)	Must have been licensed as a new motor vehicle dealer for not less than five years.	All by the Governor.
Five members from the general public.	One must be an attorney who has been a member of the California Bar for at least 10 years.	Three by the Governor. One by the Senate Rules Committee. One by the Speaker of the Assembly.

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<sup>1</sup> Effective January 1, 2020, the Board's jurisdiction to hear appeals was repealed. (Assembly Bill 179, Ch. 796)

<sup>2</sup> Throughout this Guide, the terms dealer, protestant, and franchisee are used interchangeably, as are the terms manufacturer/distributor, respondent, and franchisor.

## **Meetings**

The Board meets at least twice during each calendar year, with supplemental meetings held as necessary. Board meetings are open to the public with the exception of executive sessions, which are held to deliberate on pending matters before the Board. As public meetings conducted by a state entity, the Bagley-Keene Open Meeting Act (Gov. Code §§ 11120 through 11132) covers all requirements for public notice, agendas, public testimony and the conduct of Board meetings. To the extent practicable, the Board conducts business at meetings using procedures set forth in *Robert's Rules of Order*.

## **Jurisdiction**

The Board's statutory jurisdiction under Vehicle Code section 3050(b) extends over any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative. In the past, the courts construed this jurisdiction as primary and exclusive, meaning an aggrieved licensee must bring any dispute arising out of the franchise relationship before the Board prior to seeking judicial relief (*Yamaha Motor Company v. Superior Court* (1986) 185 Cal.App.3d 1232; *Yamaha Motor Company v. Superior Court* (1987) 195 Cal.App.3d 652; *Ray Fladeboe Lincoln-Mercury, Inc. v. New Motor Vehicle Board* (1992) 10 Cal.App.4<sup>th</sup> 51; *Mathew Zaheri Corp. v. Mitsubishi Motor Sales of America, Inc.* (1993) 17 Cal.App.4<sup>th</sup> 288.) However, subsequent court decisions have held otherwise (*Miller v. Superior Court* (1996) 50 Cal.App.4<sup>th</sup> 1665; *Hardin Oldsmobile v. New Motor Vehicle Board* (1997) 52 Cal.App.4<sup>th</sup> 585; *Tovas v. American Honda Motor Company, Inc.* (1997) 57 Cal.App.4<sup>th</sup> 506; *Kemp v. Nissan Motor Corporation in U.S.A.* (1997) 57 Cal.App.4<sup>th</sup> 1527.) As a consequence of these judicial decisions, subdivision (e) of Vehicle Code section 3050 was added by the Legislature in 1997 and became effective in 1998. It provides that the courts have jurisdiction over all common law and statutory claims originally cognizable in the courts. For those claims, a party may initiate an action directly in any court of competent jurisdiction.

In 2003, the Board's petition jurisdiction was further narrowed by the Third District Court of Appeal in *Mazda Motor of America, Inc. v. California New Motor Vehicle Board; David J. Phillips Buick-Pontiac, Inc., Real Party in Interest* (2003) 110 Cal.App.4<sup>th</sup> 1451. The court held that the Board's jurisdiction for licensee versus licensee petitions is limited to those in which the petitioner seeks relief under Vehicle Code section 3050, subdivision (c)(1) or (3) [effective January 1, 2020, this relief is now in subdivision (b)(1) and (b)(3)]. Subdivision (c)(1) allows the Board to direct the Department to conduct an investigation of matters that the Board deems reasonable. Subdivision (c)(3) permits the Board to order the Department to "exercise any and all authority or power that the department may have with respect to the issuance, renewal, refusal to renew, suspension, or revocation" of the occupational license of a manufacturer or distributor. The Board's jurisdiction under Vehicle Code section 3050, subdivision (c)(2) [effective January 1, 2020, this relief is now in subdivision (b)(2)], which provides that the Board may "undertake to mediate, arbitrate, or otherwise resolve any honest difference of opinion or viewpoint [i.e., hold a hearing] existing between any member of the public and any new motor vehicle dealer, manufacturer, ... distributor ...", is now limited to petitions brought by members of the public, and does not include licensees as petitioners.

Effective January 1, 2004, the Vehicle Code was amended to bring new recreational vehicles (“RVs”) as defined in Health and Safety Code section 18010(a) under the jurisdiction of the Board for purposes of dispute resolution and fee collection (Senate Bill 248, Stats. 2003, Ch. 703 § 11). This Guide integrates current Board processes and procedures to the extent they can be used to resolve disputes in the RV segment of the new motor vehicle industry and sets forth unique procedures that pertain to RV issues exclusively.

Effective January 1, 2020, the Board's jurisdiction over appeals was repealed.

## **NEW AS OF 2026**

### **Legislation**

There were no legislative changes impacting the Board's jurisdiction.

### **Case Law**

There were no new opinions impacting the Board's jurisdiction that were final in 2025.

### **Regulations**

The Board recently promulgated several regulatory amendments pertaining to case management. The Board's regulations, Sections 550 through 598, are under Title 13 (Motor Vehicles), Division 1 (Department of Motor Vehicles), Chapter 2 (New Motor Vehicle Board) of the California Code of Regulations ("CCR"). There are separate and different regulation provisions for petitions (Articles 2 and 4) and protests (Article 5). The following summarizes these regulatory changes:

13 CCR § 551.14 Request for Informal Mediation and 13 CCR § 555 Contents (in Petitions) - these sections were amended to delete references to "residence" and "business" when referring to addresses. (Operative July 1, 2025.)

13 CCR § 551.19 Motions; Form, Briefing, and Hearings - this section was amended to formalize holding motion hearings with live witness testimony via other electronic means if each party in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe exhibits. Party objections to a virtual hearing would be resolved pursuant to Government Code section 11440.30. (Operative January 1, 2026.)

13 CCR § 595 Format of First Page; Format and Filing of Papers - this section was amended to delete references to "residence" and "business" when referring to addresses. Additionally, references to accepting papers via facsimile and requiring a facsimile number on papers were deleted. (Operative July 1, 2025.)

### **Assignment of Merits Hearings in Protest**

For the past two years, the Board has been considering transitioning all merits hearings to the Office of Administrative Hearings or OAH. This proposal was reviewed and approved by the then Ad Hoc Committee on Equity, Justice and Inclusion at its November 1, 2024, meeting. At the Board's February 28, 2025, General Meeting, this proposal was unanimously approved. Effective immediately, all merits hearings in new and existing protests are assigned to OAH. All law and motion hearings and settlement conferences will continue to be heard by the Board Administrative Law Judges up to the Hearing Readiness Conference. If counsel for the parties at the Hearing Readiness Conference indicate they are prepared to go to hearing, then the Board submits to OAH a Request for Hearing and takes no further action in the protest unless a Request for Dismissal is filed. After the hearing, the assigned OAH Administrative Law Judge drafts a Proposed Decision for consideration by the Board at a public meeting.

## **POWERS AND DUTIES IN GENERAL**

The powers and duties of the Board are set out in Vehicle Code sections 3050 and 3051. New motor vehicle dealers, manufacturers, and distributors under the jurisdiction of the Board are charged fees to fund the Board's activities. (Veh. Code § 3016; 13 CCR § 553) In addition to delegating rulemaking authority to the Board, Vehicle Code section 3050 empowers the Board to resolve disputes arising in the form of protests or petitions.

As a quasi-judicial body, the Board has authority under Vehicle Code section 3050.1(a) to:

- Administer oaths;
- Take depositions;
- Certify to official acts; and,
- Issue subpoenas to compel attendance of witnesses and the production of documents.

### **Enforcement of Board Orders**

There are provisions for sanctions and penalties for violating orders of the Board or the requirements of those sections of the Vehicle Code within the Board's authority. Obedience to subpoenas and the compliance with discovery procedures can be enforced by application to the Superior Courts. (Veh. Code § 3050.2(a)) Vehicle Code section 3050.2(b) gives the Executive Director authority, at the direction of the Board, upon a showing of failure to comply with authorized discovery without substantial justification, to dismiss a protest or petition or suspend the proceedings pending compliance. Vehicle Code section 11726 provides for enforcement of Board orders by permitting any licensee to recover damages, attorney fees, and injunctive relief in any court of competent jurisdiction for a willful failure to comply with a Board order.

### **Mandatory Settlement Conferences**

In any protest or petition filed with the Board, the Board, its Executive Director, or an Administrative Law Judge ("ALJ") may order a mandatory settlement conference. (Veh. Code § 3050.4) For any proceeding, the settlement conference judge is precluded from hearing the proceeding on the merits or other motions in the case without stipulation by the parties. (13 CCR § 551.11) The failure of a party to appear, to be prepared, or to have the authority to settle the matter at such a conference may result in the Board taking action adverse to that party. (Veh. Code § 3050.4)

## **DISPUTES BETWEEN THE DEALER AND THE FRANCHISOR**

The Vehicle Code gives the Board jurisdiction to resolve disputes involving the following:

Type of Case	Vehicle Code Authority	Page Nos.
Attempts by the franchisor to terminate, modify, or refuse to continue (renew) the franchise.	3060, 3070	13-21
Attempts by the franchisor to establish a new, or relocate an existing, dealer (of the “same line-make”) if the current franchisee is within a radius of 10 air miles of the proposed location (called the “relevant market area”).	3062(a)(1), 3072(a)(1)	22-26
Attempts by the franchisor to establish a satellite warranty facility at, or relocate an existing satellite warranty facility to, a location that is within 2 miles of any dealership of the same line-make. (Note: there are no comparable provisions for RV dealers.)	3062(a)(2)	27-30
Disputes relating to the dealer’s delivery and preparation obligations, and compensation for such services.	3064, 3074	31-32
Disputes relating to reimbursement for warranty work performed by motor vehicle dealers.	3065	33-39
Disputes relating to a franchisee’s retail labor rate or retail parts rate. (Note: there are no comparable provisions for RV dealers.)	3065.4	40-49
Disputes relating to reimbursement for warranty work performed by RV dealers.	3075	50-52
Disputes relating to reimbursement for franchisor incentive programs by motor vehicle dealers.	3065.1	53-58
Disputes relating to reimbursement for franchisor incentive programs by RV dealers.	3076	59-60
Disputes relating to a franchisor’s performance standard, sales objective, or program for measuring a dealer’s sales, service, or customer service performance. (Note: there are no comparable provisions for RV dealers.)	3065.3(a)	61-64
Disputes relating to a franchisor’s allocation of vehicles or parts. (Note: there are no comparable provisions for RV dealers.)	3065.3(b)	61-64
Disputes relating to a franchisor’s imposition of a facility or equipment policy. (Note: there are no comparable provisions for RV dealers.)	3065.3(c)	61-64
Disputes relating to a franchisor competing with a dealer. (Note: there are no comparable provisions for RV dealers.)	3065.3(d)	65-66

Type of Case	Vehicle Code Authority	Page Nos.
All other disputes concerning the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, or distributor submitted by any member of the public <sup>3</sup> or disputes between a franchisor and a franchisee seeking an investigation or a licensing action by the Department.	3050(b)	72-77

**NOTE:** Vehicle Code section 3050(c) prohibits a dealer member from participating, hearing, commenting, advising other members upon, or deciding any matter that involves a protest filed “pursuant to Article 4 (commencing with Section 3060), unless all parties to the protest stipulate otherwise.”

Vehicle Code section 3066(f) states: “[a] member of the board who is a new motor vehicle dealer may not participate in, hear, comment, or advise other members upon, or decide, a matter involving a protest filed pursuant to this article [Article 4, i.e., protests involving motor vehicles other than RVs] unless all parties to the protest stipulate otherwise.” These constraints ensure procedures that preclude any suggestion of bias or partiality of Board decisions.

The dealer members may participate in those matters not involving a dispute between a franchisee and franchisor such as a petition filed by a member of the public. For matters before the Board in which relief is sought pursuant to Vehicle Code section 3050(b), dealer members may not participate and there are no provisions to allow parties to stipulate and permit participation.

In Article 4 protests (involving cars, motorcycles, and ATVs), dealer members may participate if both parties so stipulate. Dealer members participate in Article 5 recreational vehicle protests unless the dealer Board member also owns and/or has a financial interest in a recreational vehicle dealership. Both parties can stipulate to allow the dealer member to participate in this instance.

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<sup>3</sup> Members of the public have the option to seek informal mediation of their disputes (13 CCR § 551.14, et seq.) as well as administrative hearings on the merits pursuant to the Board’s petition process.

## **PROTESTS IN GENERAL**

### **Statutory Authority**

Vehicle Code section 3050(c) provides for the Board to hear and decide any protest presented by a franchisee against a franchisor.

### **Statutory Bases for Protest**

A protest can arise as a result of disputes contemplated by the following statutory provisions:

<b>Vehicle Code Section</b>	<b>Provision</b>
3060, 3070	The franchisor attempts to terminate, modify, or refuses to continue the franchise.
3062(a)(1), 3072(a)(1)	The franchisor attempts to establish an additional dealer or relocate an existing dealer within the relevant market area (any area within a radius of 10 miles from the site of a potential new dealership) where the same line-make is already represented.
3062(a)(2)	The franchisor attempts to establish an additional satellite warranty facility or relocate an existing satellite warranty facility within 2 miles of any dealership of the same line-make. ( <u>Note:</u> there are no comparable provisions for RV dealers.)
3064, 3074	Disputes relating to the dealer's delivery and preparation obligations, and compensation for such services.
3065, 3075	Disputes relating to reimbursement for warranty work performed by the dealer.
3065.4	Disputes relating to a franchisee's retail labor rate or retail parts rate or its franchisor's proposed adjusted retail labor rate or retail parts rate. ( <u>Note:</u> there are no comparable provisions for RV dealers.)
3065.1, 3076	Disputes relating to reimbursement for franchisor incentive programs.
3065.3(a)	Disputes relating to whether a franchisor's performance standard, sales objective or program for measuring a dealer's sales, service, or customer service performance is inconsistent with the standards set forth in subdivision (g) of Section 11713.13. ( <u>Note:</u> there are no comparable provisions for RV dealers.)
3065.3(b)	Disputes relating to whether a franchisor's allocation of vehicles or parts is inconsistent with the standards set forth in subdivision (a) of Section 11713.3. ( <u>Note:</u> there are no comparable provisions for RV dealers.)

Vehicle Code Section	Provision
3065.3(c)	Disputes relating to whether a franchisor's imposition of a facility or equipment policy is inconsistent with the standards set forth in subdivision (a), (b), (c), or (k) of Section 11713.13. ( <u>Note:</u> there are no comparable provisions for RV dealers.)
3065.3(d)	Disputes relating to whether a franchisor is competing with a dealer in violation of subdivision (o) of Section 11713.3. ( <u>Note:</u> there are no comparable provisions for RV dealers.)

### **Separate Protests**

A separate protest is required if there is more than one franchise.<sup>4</sup> For example, if a franchised dealer files a single protest to the attempted termination of its Chrysler, Dodge, Jeep, and RAM franchises, consistent with Vehicle Code section 3050 and 13 CCR § 583, the Board requires the dealer to file an amended protest for one of its franchises, i.e., Chrysler, and new protests for the other three franchises, i.e., Dodge, Jeep, and RAM.

### **Filing Protest**

Most protests have specific statutorily imposed time limits for filing. A protest is deemed filed upon its receipt by the Board via regular mail, email or facsimile,<sup>5</sup> or upon mailing of the protest, if it is sent by either certified or registered mail. Accordingly, it is suggested that all protests be emailed to the Board at [nmvb.@nmvb.ca.gov](mailto:nmvb.@nmvb.ca.gov) or sent by certified or registered mail to 2415 1<sup>st</sup> Avenue, MS L242, Sacramento, CA 95818.

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<sup>4</sup> Vehicle Code section 331 defines a “franchise” in part as follows: “a written agreement between two or more persons having all of the following conditions:

- (1) A commercial relationship of definite duration or continuing indefinite duration.
- (2) The franchisee is granted the right to offer for sale or lease, or to sell or lease at retail new motor vehicles or new trailers subject to identification pursuant to Section 5014.1 manufactured or distributed by the franchisor or the right to perform authorized warranty repairs and service, or the right to perform any combination of these activities.
- (3) The franchisee constitutes a component of the franchisor's distribution system.
- (4) The operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor.
- (5) The operation of a portion of the franchisee's business is substantially reliant on the franchisor for a continued supply of new vehicles, parts, or accessories.”

A recreational vehicle franchise is defined in Vehicle Code section 331.3 as “a written agreement between two or more persons having both of the following conditions: (a) A commercial relationship of definite duration or continuing indefinite duration; and (b) The franchisee is granted the right to offer for sale or lease, or to sell or lease at retail, new recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code, that are manufactured or distributed by the franchisor, or the right to perform authorized warranty repairs and service, or the right to perform any combination of these activities.”

<sup>5</sup> A franchisee seeking to file a protest via facsimile (fax) is requested to contact the Board's legal staff in advance at (916) 445-1888 or [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov).

## **Franchisor's Notice of Appearance**

The respondent shall file a written notice of appearance within 15 days of receipt of the protest (13 CCR § 585.1). Failure to timely file a notice of appearance shall result in the proceedings being suspended until such time as a notice of appearance is filed.

## **Filing Fee**

A filing fee of \$200, which should be in the form of a check or money order payable to the New Motor Vehicle Board, must accompany the protest and notice of appearance. Either the protestant or respondent may submit a request for a fee waiver. The Executive Director, upon a showing of good cause, may waive the \$200 filing fee (13 CCR § 553.40). (Samples are available on the Board's website.)

## **Interested Individuals**

Per Vehicle Code sections 3066 and 3080, any interested individual may apply to the Board for permission to appear at the hearing on any protest for the purpose of submitting direct evidence concerning the issues raised in the protest.

## **Motion for Intervention**

Any person, including a Board member, concerned with the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative may file a motion to intervene in a pending protest subject to the conditions set forth in 13 CCR § 551.13.

## **Challenge to Presiding Officer**

A party may request disqualification of a Board member or an ALJ for cause prior to the taking of evidence by filing an affidavit stating the grounds for the request (13 CCR § 551.1). Further, 13 CCR § 551.12(b) entitles a party, excluding an intervenor, in a protest to one disqualification without cause (peremptory challenge) of the assigned merits ALJ by filing the peremptory challenge with ~~the Board OAH~~ no later than either 20 days from the date of the order of time and place of hearing identifying the merits ALJ or 20 days prior to the date scheduled for commencement of the merits hearing, whichever is earlier (13 CCR § 551.12(b)(1)). ~~In the event a Board ALJ is unavailable to preside over the merits hearing, an ALJ from the Office of Administrative Hearings ("OAH") will be assigned.~~<sup>6</sup> A peremptory challenge of the assigned administrative law judge is not authorized for law and motion hearings, settlement conferences, and rulings on discovery disputes. Except for the convenience of the Board or for good cause

<sup>6</sup> At the January 25, 2023, General Meeting, the Board added OAH to the "Merit Hearings Judge Assignment Log." This will allow the Board to determine whether OAH is an effective alternative if the Board is unable to retain its merits ALJs. At the April 28, 2023, General Meeting, the Board granted temporary discretion (not to exceed 3 years) to the Executive Director to assign additional merits hearings to OAH outside the current assignment log. Prior to submitting a hearing to OAH that is outside the normal rotation, the Executive Director would seek Executive Committee permission.

shown, no merits hearing shall be continued by the filing of a peremptory challenge.

### **Amicus Curiae Briefs**

The Board, its Executive Director, or an ALJ may, in their discretion, allow the filing of amicus curiae briefs. (13 CCR § 551.13)

## **Table of Contents for Protest Section**

The chart below identifies the section and page numbers for procedural requirements particular to each type of protest but should be relied on only as a guide.

<b>Protest Section of Guide</b>	<b>Page Nos.</b>
Termination of the Franchise	13-17
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## **TERMINATION OF FRANCHISE**

### **Statutory Authority for Protest**

Vehicle Code sections 3060 and 3070 give the dealer the right to protest an attempt by the manufacturer or distributor to terminate or refuse to continue an existing franchise agreement.

### **Franchisor's Notice of Termination**

Vehicle Code sections 3060 and 3070 provide that no franchisor (manufacturer or distributor) shall terminate or refuse to continue a franchise (sales and service agreement) unless written notice of the franchisor's intent to terminate has been received by both the franchisee (dealer) and the Board. The notice must set forth the specific grounds for termination and must contain, on the first page thereof in at least 12-point bold type and circumscribed by a line, one of the following statements:

(When a 60-day notice of termination or refusal to continue is given.)

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days after receiving this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.**

(When a 15-day notice of termination is given.)

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 10 calendar days after receiving this notice or within 10 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.**

Termination notices are required to be separately issued to each franchisee and separately issued for each line-make represented by a franchisee. This is consistent with the Vehicle Code and 13 CCR § 593.1. Notices should not be combined to include more than one franchisee nor combined to include more than one line-make. For example, if American Honda seeks to terminate a motorcycle/ATV/scooter dealership and has a separate franchise for each line-make, then there should be three separate termination notices sent to the franchisee and the Board.

## **Time for Filing a Protest**

It is essential not to confuse the time within which to file a protest with the Board with the time at which a termination becomes effective. The time at which the termination will become effective is governed by the reasons for termination. The chart below identifies the reasons for termination, corresponding protest filing periods, and effective dates of termination.

<b>Reason for Termination</b>	<b>Filing Period</b>	<b>Effective Date of Termination</b>
Transfer of any ownership or interest in the franchise without the consent of the franchisor. The consent shall not be unreasonably withheld.	10 days from dealer's receipt of notice or 10 days after the end of any appeal procedure provided by the franchisor.	15 days after dealer's receipt of notice.
Misrepresentation by the franchisee in applying for the franchise.	As above.	As above.
Insolvency of the franchisee, or the filing of any petition by or against the franchisee under any bankruptcy or receivership law.	As above.	As above.
Any unfair business practice after written warning thereof.	As above.	As above.
Failure of the motor vehicle dealer to conduct its customary sales and service operations during its customary hours of business for seven consecutive business days, giving rise to a good faith belief on the part of the franchisor that the motor vehicle (recreational vehicle) dealer is in fact going out of business, except for circumstances beyond the direct control of the motor vehicle (recreational vehicle) dealer or by order of the Department.	As above.	As above.
Any other reason.	30 days from dealer's receipt of notice or 30 days after the end of any appeal procedure provided by the franchisor.	60 days after dealer's receipt of notice.

The protest shall be considered filed on the date of receipt via regular mail, or email or facsimile by the Executive Director of the Board or on the date of certified or registered mailing. A document which purports to be a protest will not be "filed" until the Executive Director has reviewed it for compliance with the Board's enabling statutes and regulations. If the Executive Director deems the document complies, it shall be filed as a protest (13 CCR § 598).

Failure of a dealer to file a timely protest with the Board will result in a loss of the right to a hearing before the Board. This could result in automatic termination of the franchise as of the time indicated in the notice of termination. Filing a timely protest will prevent the termination from becoming effective until the protest is resolved by the Board.

## **Required Elements of a Protest**

The required content of a protest under Vehicle Code sections 3060 and 3070 is described in 13 CCR § 585. A protest to the proposed termination or non-renewal of a franchise must contain all of the following (see Appendix for sample Form A):

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must be in writing and be signed by a franchisee or its attorney. <sup>7</sup>	13 CCR § 583
Must be responsive to the specific grounds of the termination set forth in the notice and set forth clearly and concisely the factual contentions of the franchisee with respect to the matter referred to in the notice.	13 CCR § 585(b)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 585(d)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 585(e)
Franchisee shall set forth an estimate of the number of days required to complete the hearing.	13 CCR § 585(f)
Franchisee shall request a pre-hearing conference if one is desired.	13 CCR § 585(g)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 585(c)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

<sup>7</sup> If the franchisee is a natural person, not a corporation or other legal entity, the protest shall be signed by that person or by the franchisee's attorney or representative. If the franchisee is a corporation or other legal entity, the protest shall be signed by an attorney representing the entity, or by an authorized representative of the entity (13 CCR § 583).

## **Good Cause**

If a timely protest is filed, the manufacturer or distributor cannot terminate the franchise until a hearing has been held and the Board acts on the proposed decision. At a hearing, the manufacturer or distributor will have the burden of proving "good cause" for termination. In making a determination of good cause under Vehicle Code sections 3061 or 3071, the Board shall take into consideration the existing circumstances, including, but not limited to all of the following:

<b>Circumstances</b>	<b>Vehicle Code Section</b>
Amount of business transacted by the franchisee, as compared to the business available to the franchisee.	3061(a), 3071(a)
Investment necessarily made and obligations incurred by the franchisee to perform its part of the franchise.	3061(b), 3071(b)
Permanency of the investment.	3061(c), 3071(c)
Whether it is injurious or beneficial to the public welfare for the franchise to be modified or replaced or the business of the franchisee disrupted.	3061(d), 3071(d)
Whether the franchisee has adequate motor vehicle or recreational vehicle sales and service facilities, equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of the consumers for the motor vehicles or recreational vehicles handled by the franchisee and has been and is rendering adequate services to the public. ( <u>Note:</u> In the case of RVs, not all franchise agreements require service facilities, equipment, vehicle parts, and qualified service personnel.)	3061(e), 3071(e)
Whether the franchisee fails to fulfill the warranty obligations of the franchisor to be performed by the franchisee. ( <u>Note:</u> In the case of RVs, not all franchise agreements require franchisees to have warranty obligations.)	3061(f), 3071(f)
Extent of the franchisee's failure to comply with the terms of the franchise.	3061(g), 3071(g)

## **Determination of Protest**

If the franchisor, having the burden, cannot establish good cause for terminating the franchise, the protest will be sustained, and the termination will not be permitted.

## **MODIFICATION OF FRANCHISE**

### **Statutory Authority for Protest**

Vehicle Code sections 3060(b) and 3070(b) give the dealer the right to protest an attempt by the manufacturer or distributor to modify or replace an existing franchise such that the modification substantially affects the dealer's sales or service obligations or investment.

### **Franchisor's Notice of Modification**

Vehicle Code sections 3060 and 3070 provide that no franchisor shall modify or replace an existing franchise with a succeeding franchise if the modification or replacement would substantially affect the existing franchisee's sales or service obligations or investment, unless written notice of modification or replacement is given to each affected franchisee and the Board at least 60 days prior to the modification or replacement.<sup>8</sup>

The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line, the following statement:

**NOTICE TO DEALER: Your franchise agreement is being modified or replaced. If the modification or replacement will substantially affect your sales or service obligations or investment, you have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the proposed modification or replacement of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days of your receipt of this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest rights will be waived.**

Modification notices are required to be separately issued to each franchisee and separately issued for each line-make represented by a franchisee. This is consistent with the Vehicle Code and 13 CCR § 593.1. Notices should not be combined to include more than one franchisee nor combined to include more than one line-make.

### **Time for Filing a Protest**

Filing a timely protest will prevent the modification from becoming effective until the protest is resolved by the Board. It is essential not to confuse the time within which to file a protest with the Board with the time at which a modification becomes effective. The chart below identifies the protest filing period and effective date of modification:

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<sup>8</sup> Despite the franchisor's decision that the notices to the franchisee and the Board are not required, to avoid a claim that it has violated any of the Vehicle Code provisions, a franchisor may decide to issue notices that comply with the statutes. The franchisor also may at the same time expressly state, along with the notices or in the notices themselves, that the franchisor believes that the notices were not required and also claim that there is no right in the franchisee to file a protest despite the notices stating to the contrary (as required by the statutory language).

<b>Reason for Modification</b>	<b>Filing Period</b>	<b>Effective Date of Modification</b>
As stated by franchisor.	30 days from dealer's receipt of notice or 30 days after the end of any appeal procedure provided by the franchisor.	60 days after dealer's receipt of notice.

The protest shall be considered filed on the date of receipt via regular mail, or email or facsimile by the Executive Director of the Board or on the date of certified or registered mailing. A document which purports to be a protest will not be "filed" until the Executive Director has reviewed it for compliance with the Board's enabling statutes and regulations. If the Executive Director deems the document complies, it shall be filed as a protest (13 CCR § 598).

Failure of a dealer to file a timely protest with the Board will result in a loss of the right to a hearing before the Board. This could result in the modification becoming effective as stated in the notice. Filing a timely protest will prevent the modification or replacement from becoming effective until the protest is resolved by the Board.

## **Required Elements of Protest**

The required content of a protest under Vehicle Code sections 3060 and 3070 is described in 13 CCR § 585. A protest of modification or replacement of an existing franchise must contain all of the following (see Appendix for sample Form A):

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must be in writing and be signed by a franchisee or its attorney. <sup>9</sup>	13 CCR § 583
Must be responsive to the specific grounds of the modification or replacement set forth in the notice and set forth clearly and concisely the factual contentions of the franchisee with respect to the matter referred to in the notice.	13 CCR § 585(b)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 585(d)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 585(e)
Franchisee shall set forth an estimate of the number of days required to complete the hearing.	13 CCR § 585(f)
Franchisee shall request a pre-hearing conference if one is desired.	13 CCR § 585(g)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 585(c)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

## **Good Cause**

If a timely protest is filed, the manufacturer or distributor cannot modify the franchise if such modification would substantially affect a dealer's sales or service obligations or investment until a hearing has been held by the Board. At the hearing, the dealer has the initial burden to establish that there is a proposed modification, which would substantially affect the dealer's sales or service obligations or investment. If the dealer meets this burden, the burden of proof shifts to the manufacturer or distributor to prove "good cause" for the modification. In making a determination of good cause pursuant to Vehicle Code sections 3061 or 3071, the Board shall take into consideration the existing circumstances, including, but not limited to, all of the following:

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<sup>9</sup> See footnote 7.

<b>Circumstances</b>	<b>Vehicle Code Section</b>
Amount of business transacted by the franchisee, as compared to the business available to the franchisee.	3061(a), 3071(a)
Investment necessarily made and obligations incurred by the franchisee to perform its part of the franchise.	3061(b), 3071(b)
Permanency of the investment.	3061(c), 3071(c)
Whether it is injurious or beneficial to the public welfare for the franchise to be modified or replaced or the business of the franchisee disrupted.	3061(d), 3071(d)
Whether the franchisee has adequate motor vehicle or recreational vehicle sales and service facilities, equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of the consumers for the motor vehicles or recreational vehicles handled by the franchisee and has been and is rendering adequate services to the public. ( <u>Note:</u> In the case of RVs, not all franchise agreements require service facilities, equipment, vehicle parts, and qualified service personnel.)	3061(e), 3071(e)
Whether the franchisee fails to fulfill the warranty obligations of the franchisor to be performed by the franchisee. ( <u>Note:</u> In the case of RVs, not all franchise agreements require franchisees to have warranty obligations.)	3061(f), 3071(f)
Extent of the franchisee's failure to comply with the terms of the franchise.	3061(g), 3071(g)

### **Determination of Protest**

The modification will not be permitted if the Board decides the manufacturer or distributor failed to establish good cause for the intended modification.

If a replacement franchise is the successor franchise to an expiring or expired term franchise, the prior franchise shall continue in effect until resolution of the protest by the Board. In the event of multiple protests, hearings shall be consolidated to expedite the disposition of the issue.

## **ADDITIONAL OR RELOCATED FRANCHISE**

### **Statutory Authority for Protest**

Vehicle Code sections 3062(a)(1) and 3072(a)(1) give a dealer the right to protest the establishment of an additional dealership or relocation of an existing dealership of the same line-make within a ten-mile radius of the proposed new or relocating dealership. Any protest filed pursuant to this section is, by statute, filed against the manufacturer or distributor that is attempting to establish or relocate one of its dealers.

**NOTE:** The proposed new dealer, or the existing dealer seeking to relocate, may appear in the proceedings as an interested individual. The rights of an interested individual to participate in the proceedings are somewhat limited, and subject to the ALJ's management of the hearing. In general, interested individuals have no right to formal discovery or right of cross-examination at the hearing.

### **Franchisor's Notice of Additional or Relocated Franchise**

Vehicle Code sections 3062(a)(1) and 3072(a)(1)<sup>10</sup> require that the manufacturer or distributor must first give written notice to the Board and to dealerships of the "same line-make" within the "relevant market area" of the proposed new or relocating dealership.

The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line, the following statement:

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.**

Establishment and relocation notices are required to be separately issued to each franchisee and separately issued for each line-make represented by a franchisee. This is consistent with the Vehicle Code and 13 CCR § 593.1. Notices should not be combined to include more than one franchisee nor combined to include more than one line-make. For example, if General Motors LLC seeks to establish an additional Buick/Cadillac/GMC dealership and has a separate franchise for each line-make, then there should be separate establishment notices sent to each franchisee of any of the three line-makes within the relevant market area of the proposed new location (as defined in Vehicle Code section 507) and the Board.

For motor vehicles other than RVs, "line-make" is not defined in the code. What is or is not a same

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<sup>10</sup> The last sentence in the "Notice to Dealer" language in Section 3072(a) contains commas as follows: "If, within this time, you file with the board . . ."

“line-make” is obvious in most situations. However, gray areas can exist. In this Guide, the working definition of “line-make” for the automobile industry corresponds to that used by the Department as a classification system for registering vehicles, licensing dealers, and resolving questions related to OL 124 Form (Certificate of Proposed Franchise) relevant market area requirements. For instance, in the automotive industry, a manufacturer such as General Motors would have several “makes” including Buick, Chevrolet, and Cadillac. Each “make”, in turn, would be comprised of several “lines” or models, e.g., Chevrolet has Silverado and Tahoe “lines” or models.

For the RV industry, which lacks uniformity, “recreational vehicle line-make” is defined in Vehicle Code section 3072.5 as: “a group or groups of recreational vehicles defined by the terms of a written agreement that complies with Section 331.3.” It is essential that RV franchisors are precise when defining a line-make in RV franchise agreements and ensure that their makes are registered with the Department.

Relevant market area is defined in Vehicle Code section 507 as “any area within a radius of 10 miles from the site of a potential new dealership.” The distance is determined by a straight-line measurement between the nearest points of the new dealership’s location and the protesting dealership’s location. There are times when a survey will be necessary to determine whether a dealer desiring to protest is within the relevant market area.

### **Exceptions to the Right to Protest**

#### **New Motor Vehicle Dealers (including RVs)**

There are exceptions to the requirement of notice to existing dealers within the relevant market area of a franchisor’s intent to establish or relocate a dealership. These exceptions are located in Vehicle Code sections 3062 and 3072, and provide that no notice is required to be given, and there is no right to protest, if:

1. The relocation is of an existing dealership to a location that is both within the same city as, and is within one mile from, the existing (relocating) dealership location;
2. The establishment of a dealership at the same location of a dealership that has been out of operation for less than one year;
3. The relocation entails the establishment at a location of a dealership that is both within the same city as, and is within one-quarter mile from, the location of a dealership of the same line-make that has been out of operation for less than 90 days; or
4. The establishment entails a display of vehicles at fairs, expositions, or similar exhibits provided that no actual sales are made at the event and the display does not exceed 30 days.

Vehicle Code sections 3062 and 3072 require that if an “off-site sale” is intended, the manufacturer or distributor must give notice to all dealers of the same line-make within 10 miles of the proposed site. Such dealers would have a right to protest the off-site sale, even though a financial institution and a licensed dealer sponsor the event.

### **Recreational Vehicle Dealers Only**

For RVs, the exceptions to notice requirements are found in Vehicle Code section 3072. The exceptions are essentially the same as provided in Vehicle Code 3062 as stated above with the addition of one more exception. That one exception is for an annual show sponsored by a national trade association of recreational vehicle manufacturers that complies with all of the requirements of subdivision (d) of Vehicle Code section 11713.15.<sup>11</sup> (Veh. Code § 3072(b)(4))

### **Time for Filing a Protest**

Filing a timely protest will preclude the manufacturer or distributor from establishing or relocating the dealership until the Board resolves the protest.

The chart below identifies the protest filing period and effective date of the relocation or establishment of a dealership.

Type of Notice	Filing Period	Effective Date of Relocation/Establishment
A notice by franchisor of intent to establish or relocate franchisee.	20 days from dealer's receipt of notice or 20 days after the end of any appeal procedure provided by the franchisor, whichever is later.	As stated by franchisor.

If, within the above filing period, a franchisee files with the Board a request for additional time to file a protest, the Board or its Executive Director, on a showing of good cause, may grant an additional 10 days to file the protest.

If no protest is filed, or if the protest is not filed within the statutory filing period, the manufacturer or distributor will be able to establish the proposed dealership or relocate the existing dealership without proceeding before the Board.

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<sup>11</sup> Effective September 19, 2018, subdivision (d) of Vehicle Code section 11713.15 was amended to except a recreational vehicle dealer being issued a temporary branch license from the notice requirements if the show is located in a county with a population of 9,000,000 or more persons, or at a location within 30 miles from the prior approved location of the show, and at least 10 manufacturers are participating in the show. (Assembly Bill 2330, Stats. 2018, Ch. 537)

## **Required Elements of Protest**

The required content of a protest pursuant to Vehicle Code sections 3062 and 3072 is set forth in detail in 13 CCR § 585. A protest of the relocation or establishment of a franchise must contain all of the following (see Appendix for sample Form A):

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must be in writing and be signed by a franchisee or its attorney. <sup>12</sup>	13 CCR § 583
Must be responsive to the specific grounds of the establishment or relocation set forth in the notice and set forth clearly and concisely the factual contentions of the franchisee with respect to the matter referred to in the notice.	13 CCR § 585(b)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 585(d)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 585(e)
Franchisee shall set forth an estimate of the number of days required to complete the hearing.	13 CCR § 585(f)
Franchisee shall request a pre-hearing conference if one is desired.	13 CCR § 585(g)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 585(c)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

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<sup>12</sup> See footnote 7.

## **Good Cause**

If a timely protest is filed, the manufacturer or distributor cannot establish an additional franchise or relocate an existing franchise until the protest is resolved by the Board. At the hearing, the protesting dealer has the burden of proving that there is good cause to prevent the establishment of the additional dealer or relocation of an existing dealership. In making a determination of good cause pursuant to Vehicle Code sections 3063 or 3073, the Board shall take into consideration the existing circumstances, including, but not limited to, all of the following:

<b>Circumstances</b>	<b>Vehicle Code Section</b>
Permanency of the investment.	3063(a), 3073(a)
Effect on the retail motor vehicle (recreational vehicle) business and the consuming public in the relevant market area.	3063(b), 3073(b)
Whether it is injurious to the public welfare for an additional franchise to be established or an existing dealership to be relocated.	3063(c), 3073(c)
Whether the franchisees of the same line-make or same recreational vehicle line-make in the relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of the line-make or recreational vehicle line-make in the market area. This includes the adequacy of motor vehicle or recreational vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel. ( <u>Note:</u> For RVs, adequate sales shall be considered, however, not all RV franchise agreements require service facilities, equipment, supply of vehicle parts, and qualified service personnel.)	3063(d), 3073(d)
Whether the establishment of an additional franchise would increase competition and therefore be in the public interest.	3063(e), 3073(e)

## **Determination of Protest**

If the Board decides the protesting dealer cannot prove good cause to prevent the establishment or relocation, the manufacturer or distributor will be permitted to proceed with its intended action.

## **ADDITIONAL OR RELOCATED SATELLITE WARRANTY FACILITY**

### **Statutory Authority for Protest**

Vehicle Code section 3062(a)(2) gives a new motor vehicle dealer the right to protest an additional satellite warranty facility or the relocation of an existing satellite warranty facility within 2 miles of any dealership of the same line-make. Satellite warranty facility is defined as “a facility operated by a franchisee where authorized warranty repairs and service are performed and the offer for sale or lease, the display for sale or lease, or the sale or lease of new motor vehicles is not authorized to take place.” (Veh. Code § 3062(e)(2)) Any protest filed pursuant to this section is, by statute, filed against the manufacturer or distributor that is attempting to establish or relocate one of its satellite warranty facilities. There are no comparable statutory provisions for RV dealers for such protests.

### **Franchisor's Notice of Additional or Relocated Satellite Warranty Facility**

Vehicle Code section 3062(a)(2) requires that the manufacturer or distributor must first give written notice to the Board and to dealerships of the same line-make within 2 miles of the proposed location.

The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line, the following statement:

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.**

The notices are required to be separately issued to each franchisee and separately issued for each line-make represented by a franchisee. This is consistent with the Vehicle Code and 13 CCR § 593.1. Notices should not be combined to include more than one franchisee nor combined to include more than one line-make.

### **Time for Filing a Protest**

Filing a timely protest will preclude the manufacturer or distributor from establishing or relocating the satellite warranty facility until the protest is resolved by the Board. The chart on the next page identifies the protest filing period and effective date of the relocation or establishment of a satellite warranty facility.

If, within the filing period set forth in the table, a franchisee files with the Board a request for additional time to file a protest, the Board or its Executive Director, on a showing of good cause, may grant an additional 10 days to file the protest.

If no protest is filed, or if the protest is not filed in time, the manufacturer or distributor will be able to establish the proposed satellite warranty facility or relocate the existing satellite warranty facility without proceeding before the Board.

<b>Type of Notice</b>	<b>Filing Period</b>	<b>Effective Date of Relocation/ Establishment</b>
A notice by franchisor of intent to establish or relocate franchisee.	20 days from dealer's receipt of notice or 20 days after the end of any appeal procedure provided by the franchisor, whichever is later.	As stated by franchisor.

## **Required Elements of Protest**

The required content of a protest under Vehicle Code section 3062(a)(2) is described in 13 CCR § 585. A protest of the relocation or establishment of a satellite warranty facility must contain all of the following (see Appendix for sample Form A):

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must be in writing and be signed by a franchisee or its attorney. <sup>13</sup>	13 CCR § 583
Must be responsive to the specific grounds of the establishment or relocation of the satellite warranty facility set forth in the notice and set forth clearly and concisely the factual contentions of the franchisee with respect to the matter referred to in the notice.	13 CCR § 585(b)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 585(d)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 585(e)
Franchisee shall set forth an estimate of the number of days required to complete the hearing.	13 CCR § 585(f)
Franchisee shall request a pre-hearing conference if one is desired.	13 CCR § 585(g)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 585(c)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

## **Good Cause**

If a timely protest is filed, the manufacturer or distributor cannot establish an additional satellite warranty facility or relocate an existing satellite warranty facility until the protest is resolved by the Board. At the hearing, the protesting dealer has the burden of proving that there is good cause to prevent the establishment of the additional satellite warranty facility or relocation of an existing satellite warranty facility.

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<sup>13</sup> See footnote 7.

In making a determination of good cause pursuant to Vehicle Code section 3063, the Board shall take into consideration the existing circumstances, including, but not limited to, all of the following:

<b>Circumstances</b>	<b>Vehicle Code Section</b>
Permanency of the investment.	3063(a)
Effect on the retail motor vehicle business and the consuming public in the relevant market area.	3063(b)
Whether it is injurious to the public welfare for an additional franchise to be established or an existing dealership to be relocated.	3063(c)
Whether the franchisees of the same line-make in the relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of the line-make in the market area, which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel.	3063(d)
Whether the establishment of an additional franchise would increase competition and therefore be in the public interest.	3063(e)

### **Determination of Protest**

If the Board decides the protesting dealer is unable to prove good cause not to allow the establishment or relocation of the satellite warranty facility, the manufacturer or distributor will be permitted to proceed with its intended action.

## **COMPENSATION FOR DELIVERY AND PREPARATION**

### **Statutory Authority**

Vehicle Code sections 3064 and 3074 require every new motor vehicle or recreational vehicle manufacturer and distributor to specify the dealer's delivery and preparation obligations prior to the delivery of new motor vehicles or new recreational vehicles to retail buyers.

### **Franchisor's Notice of Compensation for Delivery and Preparation**

Manufacturers and distributors are required to file with the Board a copy of the delivery and preparation obligations and a schedule of compensation to be paid to the dealers for the work and services they are required to perform in connection with the delivery and preparation obligations. The schedule of compensation must be reasonable with the issue of reasonableness being subject to the approval of the Board. In order to initiate Board action, a franchisee must file a protest with the Board.

### **Time for Filing a Protest**

There is no specific statutory time period in the Vehicle Code within which to file a protest involving delivery and preparation obligations and compensation. Failure to file a protest within a reasonable time, however, could result in a dealer losing the right to a hearing by the Board.

## **Required Elements of Protest**

The required content of a protest under Vehicle Code sections 3064 and 3074 is described in 13 CCR § 586. A protest involving delivery and preparation obligations must contain all of the following (see Appendix for sample Form A):

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must be in writing and be signed by a franchisee or its attorney. <sup>14</sup>	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

## **Determination of Protest**

If a dealer files a protest challenging the reasonableness of the schedule, the Board will resolve the dispute in light of all the relevant circumstances including, but not limited to, the time required to perform each function.

If there is a hearing, the dealer has the burden of proving that the schedule of compensation is not reasonable (Veh. Code §§ 3066(c) and 3080(c)).

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<sup>14</sup> See footnote 7.

## **WARRANTY CLAIMS - Motor Vehicle Dealers**

### **Franchisor's Notice of Compensation for Warranty Reimbursement**

Vehicle Code section 3065(a) requires every new motor vehicle manufacturer or distributor (franchisor) to properly fulfill every warranty agreement made by it and to adequately and fairly compensate its dealers (franchisees) for labor and parts used to satisfy the warranty obligations of the franchisor, including but not limited to diagnostics, repair, service, and all other conditions of the obligation, including costs directly associated with the disposal of hazardous materials that are associated with a warranty repair. (Veh. Code § 3065(a))

Franchisors are required to use time allowances for the diagnosis and performance of work and service that are reasonable and adequate for a qualified technician to perform the work or services. (Veh. Code § 3065(a)(1))

Additionally, “[a] franchisor shall not unreasonably deny a written request submitted by a franchisee for modification of a franchisor’s uniform time allowance for a specific warranty repair, or a request submitted by a franchisee for an additional time allowance for either diagnostic or repair work on a specific vehicle covered under warranty, provided the request includes any information and documentation reasonably required by the franchisor to assess the merits of the franchisee’s request.” (Veh. Code § 3065(a)(1))

Manufacturers and distributors are required to file copies of their warranty reimbursement schedules with the Board, which must be reasonable with respect to the time and compensation allowed to the dealer for the performance of warranty diagnostics, repair, and service. (Veh. Code § 3065(a))

### **Reasonableness of the Warranty Reimbursement Schedule**

Subdivision (b) of Section 3065 was amended to clarify what constitutes a reasonable warranty reimbursement schedule: “a franchisor shall compensate each of its franchisees for parts and labor at rates equal to the franchisee’s retail labor rate and retail parts rate, as established pursuant to Section 3065.2.” Effective January 1, 2020, a franchisee no longer has a protest right to contest the reasonableness of its franchisor’s warranty reimbursement schedule or formula. (Veh. Code § 3065(b))

A franchisee and a franchisor can enter into a “voluntary written agreement signed by both parties that compensates for labor and parts used to satisfy the warranty obligations of the franchisor at rates other than the franchisee’s retail rates, provided that the warranty reimbursement schedule adequately and fairly compensates the franchisee.” (Veh. Code § 3065(b))

### **Protest of Pre-Repair Challenges to the Reduction in Time and Compensation (Labor Time Guides) Applicable to Specific Parts or Labor Operations**

Manufacturers and distributors are prohibited from imposing a fixed percentage or other reduction in the time or compensation allowed to the dealer for warranty repairs not attributable to a specific

repair. (Veh. Code § 3065(a)(2))

The time or compensation applicable to a specific warranty repair may be reduced only upon 15 days' prior written notice to the dealer. (Veh. Code § 3065(a)(2))

A franchisee can file a protest to challenge the reduction in time or compensation applicable to specific parts or labor operations. The protest needs to be filed within 6 months "following the franchisee's receipt of notice of the reduction." If there is a hearing, the franchisor has the burden of "establishing the reasonableness of the reduction and adequacy and fairness of the resulting reduction in time or compensation." (Veh. Code § 3065(a)(3))

### **Approval of Warranty Claims**

Vehicle Code section 3065(d)(1) requires that warranty claims be approved or disapproved within 30 days after their receipt by the franchisor. Any claim not specifically disapproved in writing within 30 days from receipt by the franchisor shall be deemed approved on the 30<sup>th</sup> day.

Approved warranty claims must be paid within 30 days of approval. However, Vehicle Code section 3065(d)(5) provides that failure to approve or pay within these time limits, in individual instances for reasons beyond the reasonable control of the franchisor, do not violate Article 4 (pertains to motor vehicles other than RVs).

### **Disapproval of Warranty Claims for a Defective Part**

Vehicle Code section 3065(c) requires the franchisor that disallows a franchisee's warranty claim for a defective part on the basis that the part was not defective must return the part to the franchisee at the franchisor's expense, or reimburse the franchisee for the part, at the franchisor's option.

### **Disapproval of Warranty Claims**

A franchisor shall not disapprove a claim unless the claim meets one of the following categories:

1. False;
2. Fraudulent;
3. Repairs were not properly made;
4. Repairs were inappropriate to correct a warranty failure due to an improper act or omission of the franchisee; or
5. Material noncompliance with reasonable and nondiscriminatory documentation and administrative claims submission requirements. (Veh. Code § 3065(d)(2))

A franchisor who disapproves a claim is required to notify the franchisee in writing of the disapproval 30 days after receipt by the franchisor and each notice shall state the specific grounds upon which the disapproval is based. (Veh. Code § 3065(d)(3))

## **Protest of Initial Disapproval of Warranty Claims**

A franchisee can file a protest of the initial disapproval of a warranty claim within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065(d)(6))

## **Franchisor Provided “Reasonable” Appeal Process**

Vehicle Code section 3065(d)(3) requires franchisors to provide a reasonable appeal process that allows the franchisee at least 30 days after receipt of the written disapproval notice to provide additional supporting documentation or information rebutting the disapproval.

If the disapproval is based upon noncompliance with documentation or administrative claims submission requirements, the franchisor shall allow the franchisee at least 30 days from the date of receipt of the notice to cure any material noncompliance.

If the disapproval is rebutted and material noncompliance is cured before the applicable deadline, the franchisor shall approve the claim.

There are potentially two 30-day time periods: (1) reasonable appeal; and (2) opportunity to cure.

## **Final Denial of Warranty Claim**

If the franchisee provides additional supporting documentation or information purporting to rebut the disapproval, attempts to cure noncompliance relating to the claim, or otherwise appeals denial of the claim and the franchisor continues to deny the claim, the franchisor shall provide the franchisee with a written notification of the final denial within 30 days of completion of the appeal process, which shall conspicuously state “Final Denial” on the first page. (Veh. Code § 3065(d)(4))

## **Protest of Final Denial of Warranty Claim following a Franchisor’s Appeal Process**

A franchisee can file a protest of the final denial of a warranty claim following a franchisor’s appeal process within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065(d)(6))

## **Audits of Franchisee Warranty Records**

Audits of franchisee warranty records may be conducted by the franchisor on a reasonable basis, and for a period of 9 months after a claim is paid or a credit issued.

A franchisor shall not select a franchisee for an audit, or perform an audit, in a punitive, retaliatory, or unfairly discriminatory manner.

A franchisor may conduct no more than one random audit of a franchisee in a 9-month period.

The franchisor’s notification to the franchisee of any additional audit within a 9-month period shall

be accompanied by written disclosure of the basis for that additional audit. (Veh. Code § 3065(e)(1))

If a false claim was submitted by a franchisee with the intent to defraud the franchisor, a longer period for audit and any resulting chargeback may be permitted if the franchisor obtains an order from the Board. (Veh. Code § 3065(f))

### **Disapproval of Previously Approved Warranty Claims**

Previously approved claims shall not be disapproved or charged back to the dealer unless the claim meets one of the following categories:

1. False;
2. Fraudulent;
3. Repairs were not properly made;
4. Repairs were inappropriate to correct a warranty failure due to an improper act or omission of the franchisee; or
5. Material noncompliance with reasonable and nondiscriminatory documentation and administrative claims submission requirements. (Veh. Code § 3065(e)(2))

A franchisor shall not disapprove or chargeback a claim based upon an extrapolation from a sample of claims, unless the sample of claims is selected randomly, and the extrapolation is performed in a reasonable and statistically valid manner.

If the franchisor disapproves of a previously approved claim following an audit, within 30 days after the audit, the franchisor shall provide to the franchisee a written disapproval notice stating the specific grounds upon which the claim is disapproved. (Veh. Code § 3065(e)(3))

### **Protest of Warranty Claim Disapproval of a Previously Approved Claim Following an Audit**

A franchisee can file a protest of the warranty claim disapproval of a previously approved claim following an audit within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065(e)(6))

### **Franchisor Provided “Reasonable” Appeal Process**

Vehicle Code section 3065(e)(3) requires franchisors to provide a reasonable appeal process that allows the franchisee a reasonable period of not less than 30 days after receipt of the written disapproval notice to respond to any disapproval with additional supporting documentation or information rebutting the disapproval and to cure noncompliance, with the period commensurate with the volume of claims under consideration.

If the franchisee rebuts any disapproval and cures any material noncompliance relating to a claim before the applicable deadline, the franchisor shall not chargeback the franchisee for that claim.

## **Final Denial of Warranty Claim Following an Audit**

If the franchisee provides additional supporting documentation or information purporting to rebut the disapproval, attempts to cure noncompliance relating to the claim, or otherwise appeals denial of the claim and the franchisor continues to deny the claim, the franchisor shall provide the franchisee with a written notification of the final denial within 30 days of completion of the appeal process, which shall conspicuously state "Final Denial" on the first page. (Veh. Code § 3065(e)(4))

## **Protest of Final Denial of Warranty Claim Following an Audit Following the Franchisor's Appeal Process**

A franchisee can file a protest of the final denial of a warranty claim following an audit following the franchisor's appeal process within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065(e)(6))

## **Franchisor Chargeback for Warranty Claims**

Vehicle Code section 3065(e)(5) provides that the franchisor shall not chargeback the franchisee until 45 days after receipt of the written disapproval of a previously approved claim following an audit or final denial of warranty claim following an audit following the franchisor's appeal process, whichever is later.

Any chargeback to a franchisee for warranty parts or service compensation shall be made within 90 days of receipt of that written notice.

If the franchisee files a protest pursuant to this subdivision prior to the franchisor's chargeback for denied claims, the franchisor shall not offset or otherwise undertake to collect the chargeback until the Board issues a final order on the protest.

If the Board sustains the chargeback or the protest is dismissed, the franchisor shall have 90 days following issuance of the final order or the dismissal to make the chargeback, unless otherwise provided in a settlement agreement.

In summary, days 45-90 are the only days to chargeback a dealer for warranty claims. A manufacturer or distributor cannot chargeback a dealer before day 44, or after day 91. But if a protest is filed prior to a chargeback, then the franchisor cannot chargeback the dealer during the above time period. It must wait until the Board decides the protest and if the protest is dismissed or the Board sustains the chargeback, then the franchisor can chargeback the dealer but must do so within 90 days after the Board action (or within time period allowed by settlement agreement, if any).

However, if a false claim was submitted by a franchisee with the intent to defraud the franchisor, a longer period for an audit and any resulting chargeback may be permitted if the franchisor obtains an order from the Board. (Veh. Code § 3065(f))

## **Required Elements of Protest**

The required content of a protest under Vehicle Code section 3065 is described in 13 CCR § 586. A protest involving warranty claims must contain all of the following (see Appendix for sample Form A):

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must be in writing and be signed by a franchisee or its attorney. <sup>15</sup>	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

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<sup>15</sup> See footnote 7.

**WARRANTY CLAIMS PROTESTS**  
**Motor Vehicle Dealers**

<b>Vehicle Code Section</b>	<b>Type of Protest</b>	<b>Notice to Dealer</b>	<b>Time to File Protest</b>	<b>Burden of Proof if there is a Hearing</b>
3065(a)	<b>Pre-Repair</b> Challenge to the reduction in time and compensation (labor time guides) applicable to specific parts or labor operations	Written notice of reduction provided by the franchisor to the franchisee.	Within 6 months following the franchisee's receipt of the written notice of reduction	Franchisor has burden to establish the reasonableness of the reduction and adequacy and fairness of the resulting compensation (3065(a))
3065(d)(3)	<b>Post-Repair</b> Initial disapproval of warranty claims	Franchisor provides a written notice of disapproval within 30 days after the franchisor's receipt of a warranty claim submitted by a franchisee.	Within 6 months after receipt of the written notice	Franchisor has the burden (3065(d)(6))
3065(d)(4)	<b>Post-Repair/Post-Appeal</b> Final denial of warranty claim following franchisor's appeal process	Notice of Final Denial to the franchisee.	Within 6 months after receipt of the written notice	Franchisor has the burden (3065(d)(6))
3065(e)(3)	<b>Post-Audit</b> Warranty claim disapproval of a previously approved claim following an audit	Franchisor provides a written Notice of Disapproval within 30 days after the audit stating the specific grounds.	Within 6 months after receipt of the written notice	Franchisor has the burden (3065(e)(6))
3065(e)(4)	<b>Post-Audit/Post-Appeal</b> Final denial of warranty claim following an audit following franchisor's appeal process	Notification of the Final Denial to the franchisee.	Within 6 months after receipt of the written notice	Franchisor has the burden (3065(e)(6))

## **RETAIL LABOR RATE OR RETAIL PARTS RATE - Motor Vehicle Dealers**

### **Establishment or Modification of Franchisee's Retail Labor Rate or Retail Parts Rate**

A franchisee can establish or modify its retail labor rate or retail parts rate no more often than once per calendar year by submitting in writing to its franchisor whichever of the following is **fewer** in number:

- 100 sequential qualified repair orders, including any nonqualified repair orders in the same time period.<sup>16</sup>
- All repair orders completed during any 90-consecutive-day period.

(Veh. Code § 3065.2(a)(1)(A)-(B))

### **How a Franchisee Calculates its Retail Labor Rate?**

To calculate its ***retail labor rate***, a franchisee shall determine the total charges for labor from the qualified repair orders submitted as indicated above in Vehicle Code section 3065.2(a)(1)(A)-(B) and divide that amount by the total number of hours. (Veh. Code § 3065.2(a)(2))

### **How a Franchisee Calculates its Retail Parts Rate?**

To calculate its ***retail parts rate***, a franchisee shall determine the total charges for parts from the qualified repair orders submitted as indicated above in Vehicle Code section 3065.2(a)(1)(A)-(B) and divide that amount by the franchisee's total cost of the purchase of those parts, then subtract one, and multiply by 100 to produce a percentage. (Veh. Code § 3065.2(a)(3))

### **Statutorily Required Notice to the Franchisor by the Franchisee of its Retail Labor Rate and Retail Parts Rate**

The franchisee is statutorily required to provide its franchisor with ***notice*** of its retail labor rate and retail parts rate as calculated above. (Veh. Code § 3065.2(a)(4))

### **How Repair Orders are Submitted Pursuant to Section 3065.2?**

A franchisee may submit any of the following to its franchisor:<sup>17</sup>

1. For calculating both its retail labor rate and retail parts rate, a franchisee can submit

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<sup>16</sup> As used in Vehicle Code section 3065.2(a), a “qualified repair order” is defined as “a repair order, closed at the time of submission, for work that was performed outside of the period of the manufacturer’s warranty and paid for by the customer, but that would have been covered by a manufacturer’s warranty if the work had been required and performed during the period of the warranty.” (Veh. Code § 3065.2(j)) Qualified repair orders submitted under Vehicle Code section 3065.2(a) shall be from a period occurring not more than 180 days before the submission. (Veh. Code § 3065.2(b))

<sup>17</sup> For purposes of Vehicle Code section 3065.2, a franchisee may submit its repair orders electronically to its franchisor. (Veh. Code § 3065.2(b))

- a single set of qualified repair orders; or
- 2. For calculating only its retail labor rate or only its retail parts rate, a franchisee can submit a set of qualified repair orders.

(Veh. Code § 3065.2(b)(1)-(2))

**What Types of Charges included in a Repair Order should be Omitted in Calculating a Franchisee's Retail Labor Rate and Retail Parts Rate?**

In calculating its retail labor rate and retail parts rate, the franchisee shall omit any charges included in a repair order from the calculation that do not reflect the franchisee's retail customer-pay labor and parts rates including, but not limited to, any of the following:

- 1. Manufacturer, manufacturer branch, distributor, or distributor branch special events, specials, or promotional discounts for retail customer repairs.
- 2. Parts sold, or repairs performed, at wholesale.
- 3. Routine maintenance, including, but not limited to, the replacement of bulbs, fluids, filters, batteries, and belts that are not provided in the course of, and related to, a repair.
- 4. Items that do not have individual part numbers including, but not limited to, nuts, bolts, and fasteners.
- 5. Vehicle reconditioning.
- 6. Accessories.
- 7. Repairs of conditions caused by a collision, a road hazard, the force of the elements, vandalism, theft, or owner, operational, or third-party negligence or deliberate act.
- 8. Parts sold or repairs performed for insurance carriers.
- 9. Vehicle emission inspections required by law.
- 10. Manufacturer-approved goodwill or policy repairs or replacements.
- 11. Repairs for government agencies or service contract providers.
- 12. Repairs with aftermarket parts, when calculating the retail parts rate, but not the retail labor rate.
- 13. Repairs with aftermarket parts.

14. Replacement of or work on tires, including front-end alignments and wheel or tire rotations.
15. Repairs of motor vehicles owned by the franchisee or an employee thereof at the time of the repair.

(Veh. Code § 3065.2(c)(1)-(15))

**A Franchisor may Contest to the Franchisee the “Material Accuracy” of the Retail Labor Rate or Retail Parts Rate by Submitting a “Notification” to the Franchisee**

A franchisor may contest to the franchisee the “material accuracy” of the retail labor rate or retail parts rate within 30 days after receiving the statutorily required notice from the franchisee discussed above or, if the franchisor requests supplemental repair orders pursuant to paragraph (4) of Vehicle Code section 3065.2(d), within 30 days after receiving the supplemental repair orders. (Veh. Code § 3065.2(d)(1))

If the franchisor seeks to contest the retail labor rate, retail parts rate, or both, it shall submit no more than one ***notification*** to the franchisee. (Veh. Code § 3065.2(d)(1))

The notification is limited to the assertion that the rate is “materially inaccurate” or fraudulent, and ***shall*** include the following:

1. A full explanation of any and all reasons for the allegation;
2. Evidence substantiating the franchisor’s position;
3. A copy of all calculations used by the franchisor in determining the franchisor’s position; and,
4. A proposed ***adjusted retail labor rate or retail parts rate***, as applicable, on the basis of the repair orders submitted by the franchisee, or if applicable, on the basis of supplemental repair orders submitted pursuant to Vehicle Code section 3065.2(d)(5).

After submitting the notification, the franchisor shall not add to, expand, supplement, or otherwise modify any element of that notification, including, but not limited to, its grounds for contesting the retail parts rate, retail labor rate, or both under Vehicle Code section 3065.2(a). (Veh. Code § 3065.2(d)(1))

**The Franchisor’s Proposed Adjusted Retail Labor Rate or Retail Parts Rate is Effective if the Franchisee Agrees**

If the franchisee agrees with the conclusions of its franchisor and any corresponding adjustment to the retail labor rate or retail parts rate then no further action is required. The new adjusted rate is effective as of the 30<sup>th</sup> calendar day after the franchisor’s receipt of the notice submitted

pursuant to Vehicle Code section 3065.2(a). (Veh. Code § 3065.2(d)(2))

**If the Franchisee does not Agree with the Proposed Adjusted Rate then a Protest can be Filed with the Board**

In the event the franchisor provides all of the information required in its notification as indicated above, and the franchisee does not agree with the adjusted rate proposed by the franchisor, the franchisor shall pay the franchisee at the franchisor's proposed adjusted retail labor rate or retail parts rate until the Board issues a decision on a protest filed pursuant to Vehicle Code section 3065.4, or until any mutual resolution between the franchisor and the franchisee.

The franchisor's proposed adjusted rate shall be deemed to be effective as of the 30<sup>th</sup> day after the franchisor's receipt of the notice submitted pursuant to Vehicle Code section 3065.2(a). (Veh. Code § 3065.2(d)(3))

**If the Franchisor Determines that the Franchisee's Retail Labor Rate or Retail Parts Rate is "Substantially Higher" than the Franchisee's Current Warranty Rate, the Franchisor can Request Supplemental Repair Orders**

Based on the franchisee's set of repair orders submitted, if the franchisor determines that the franchisee's submission for a retail labor rate or retail parts rate is substantially higher than the franchisee's current warranty rate, the franchisor may request, in writing, all repair orders closed within the period of 30 days immediately preceding, or 30 days immediately following, the set of repair orders submitted by the franchisee. The written request should be made within 30 days after the franchisor's receipt of the notice submitted pursuant to Vehicle Code section 3065.2(a). (Veh. Code § 3065.2(d)(4))

If the franchisee fails to provide the ***supplemental repair orders***, all time periods under this section shall be suspended until the supplemental repair orders are provided. (Veh. Code § 3065.2(d)(4))

If the franchisor requests supplemental repair orders, the franchisor may calculate a ***proposed adjusted retail labor rate or retail parts rate***, as applicable, based upon any set of the qualified repair orders submitted by the franchisee, if the franchisor complies with the requirements outlined in Vehicle Code section 3065.2(d)(5)(A)-(C)

**What if the Franchisor does not Contest the Retail Labor Rate or Retail Parts Rate?**

If the franchisor does not contest the retail labor rate or retail parts rate, or if the franchisor fails to timely contest the rate submitted by the franchisee, the uncontested retail labor rate or retail parts rate takes effect on the 30<sup>th</sup> day after the franchisor's receipt of the notice.

The franchisor shall use the new retail labor rate or retail parts rate, or both, if applicable, to determine compensation to fulfill warranty obligations by the franchisee. (Veh. Code § 3065.2(e))

## **Considerations in Calculating the Retail Labor Rate and Retail Parts Rate**

When calculating the retail parts rate and retail labor rate, all of the following shall apply:

1. Promotional reward program cash-equivalent pay methods shall not be considered discounts.
2. The franchisor is prohibited from establishing or implementing a special part or component number for parts used in warranty work, if the result of the special part or component lowers compensation to the franchisee below that amount calculated pursuant to this section.

This paragraph does not apply to parts or components that are subject to a recall and are issued a new special part or component number.

This paragraph does not prohibit a franchisor from changing prices of parts in the ordinary course of business.

(Veh. Code § 3065.2(f)(1)-(2)(A)-(B))

## **Considerations when the Franchisor is Compensating the Franchisee for the Retail Parts Rate**

When the franchisor is compensating the franchisee for the ***retail parts rate***, all of the following shall apply:

1. If the franchisor furnishes a part to a franchisee at no cost for use in performing warranty obligations, the franchisor shall compensate the franchisee the amount resulting from multiplying the wholesale value of the part by the franchisee's retail parts rate determined pursuant to Vehicle Code section 3065.2.
2. If the franchisor furnishes a part to a franchisee at a reduced cost for use in performing warranty obligations, the franchisor shall compensate the franchisee the amount resulting from multiplying the wholesale value of the part by the franchisee's retail parts rate determined pursuant to Vehicle Code section 3065.2, plus the franchisee's cost of the part.
3. The ***wholesale value of the part***, for purposes of Vehicle Code section 3065.2(g), shall be the greater of:
  - A. The amount the franchisee paid for the part or a substantially identical part if already owned by the franchisee.
  - B. The cost of the part shown in a current franchisor's established price schedule.

- C. The cost of a substantially identical part shown in a current franchisor's established price schedule.

(Veh. Code § 3065.2(g)(1)-(3)(A)-(C))

### **The Method for Establishing or Modifying a Franchisee's Retail Labor Rate, Retail Parts Rate, or Both**

A franchisee's retail labor rate, retail parts rate, or both shall be calculated only using the method prescribed in Vehicle Code section 3065.2.

A franchisor shall not use or require a franchisee to use any other method including, but not limited to, any of the following:

1. Substituting any other "purported repair sample" for that submitted by a franchisee.
2. Imposing any method related to the establishment of a retail labor rate or retail parts rate that is unreasonable or time consuming, or require the use of information that is unreasonable or time consuming to obtain, including part-by-part or transaction-by-transaction calculations or utilization of the franchisee's financial statement.
3. Unilaterally calculating a retail labor rate or retail parts rate for a franchisee, except as provided in Vehicle Code section 3065.2(d).
4. Using a franchisee's sample, submitted for establishing or increasing its retail parts rate, to establish or reduce the franchisee's retail labor rate or using a franchisee's sample, submitted for establishing or increasing its retail labor rate, to establish or reduce the franchisee's retail parts rate.

(Veh. Code § 3065.2(h)(1)-(4))

### **What Actions Franchisors are Precluded from Undertaking?**

Subdivision (i) of Vehicle Code section 3065.2 precludes a franchisor from:

1. Attempting to influence a franchisee to implement or change the prices for which the franchisee sells parts or labor in retail repairs because the franchisor is seeking compensation or exercising any right pursuant to this section.
2. Directly or indirectly, taking or threatening to take any adverse action against a franchisee for seeking compensation or exercising any right pursuant to Vehicle Code section 3065.2, by any action including, but not limited to, the following:
  - A. Assessing penalties, surcharges, or similar costs to a franchisee.
  - B. Transferring or shifting any costs to a franchisee.

- C. Limiting allocation of vehicles or parts to a franchisee.
- D. Acting or failing to act other than in good faith.
- E. Hindering, delaying, or rejecting the proper and timely payment of compensation due under Vehicle Code section 3065.2 to a franchisee.
- F. Establishing, implementing, enforcing, or applying any discriminatory policy, standard, rule, program, or incentive regarding compensation due under Vehicle Code section 3065.2.
- G. Conducting or threatening to conduct nonroutine or nonrandom warranty, nonwarranty repair, or other service-related audits in response to seeking compensation or exercising any right pursuant to Vehicle Code section 3065.2.

(Veh. Code § 3065.2(i)(1)-(2)(A)-(G)

Subdivision (i) does not prohibit a franchisor from increasing prices of vehicles or parts in the ordinary course of business. (Veh. Code § 3065.2(i)(3))

**Protest for Franchisor's Failure to Comply with Section 3065.2 or if Franchisee Disputes the Franchisor's Proposed Adjusted Retail Labor Rate or Retail Parts Rate**

If a franchisor ***fails to comply*** with Vehicle Code section 3065.2, or if a franchisee disputes the franchisor's ***proposed adjusted retail labor rate or retail parts rate***, the franchisee may file a protest with the Board for a declaration of the franchisee's retail labor rate or retail parts rate.

If there is a hearing, the franchisor has the burden of proof that it complied with Vehicle Code section 3065.2 and that the franchisee's determination of the retail labor rate or retail parts rate is materially inaccurate or fraudulent. (Veh. Code § 3065.4(a))

**Time for Filing a Protest**

Protests pertaining to compliance with Section 3065.2 or franchisee disputes of the franchisor's proposed adjusted retail labor rate or retail parts rate are not subject to any specific statutory time limitations for filing. However, failure to file a protest within a reasonable time could result in a dealer losing the right to a hearing before the Board.

## **Required Elements of Protest**

The required content of a protest under Vehicle Code section 3065.4 is described in 13 CCR § 586. A protest involving retail labor rate or retail parts rate must contain all of the following (see Appendix for sample Form A):

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must be in writing and be signed by a franchisee or its attorney. <sup>18</sup>	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

## **Determination of Protest**

In a decision, the Board may determine the difference between the amount the franchisee has actually received from the franchisor for fulfilled warranty obligations and the amount that the franchisee would have received if the franchisor had compensated the franchisee at the retail labor rate and retail parts rate as determined in accordance with Vehicle Code section 3065.2 for a period beginning 30 days after receipt of the franchisee's initial submission under Vehicle Code section 3065.2(a). (Veh. Code § 3065.4(b))

The franchisee may submit a request to the franchisor to calculate the unpaid warranty reimbursement compensation and the franchisor shall provide this calculation to the franchisee within 30 days after receipt of the request. The request for the calculation will also be deemed a request for payment of the unpaid warranty reimbursement compensation. (Veh. Code §

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<sup>18</sup> See footnote 7.

3065.4(b))

If the franchisor fails to make full payment within 30 days after the franchisee submits a request for payment, the franchisee may file an action in superior court for injunctive and other relief to enforce the determination or order of the Board. The franchisee may also recover in superior court its actual expenses in bringing and maintaining an enforcement action. (Veh. Code § 3065.4(c))

Either the franchisor or the franchisee may seek judicial review of the Board's determination pursuant to Vehicle Code section 3068. (Veh. Code § 3065.4(d))

**RETAIL LABOR RATE OR RETAIL PARTS RATE PROTESTS**  
**Motor Vehicle Dealers**

<b>Vehicle Code Section</b>	<b>Type of Protest</b>	<b>Notice</b>	<b>Time to File Protest</b>	<b>Burden of Proof if there is a Hearing</b>
3065.4(a)	Franchisee contends its franchisor failed to comply with Section 3065.2 pertaining to the establishment or modification of the franchisee's retail labor rate, retail parts rate, or both	Franchisee provides notice to the franchisor of its retail labor rate and retail parts rate calculated in accordance with Section 3065.2(a)	None specified	Franchisor has the burden of proof that it complied with Section 3065.2 (3065.4(a))
3065.4(a)	Franchisee disputes the franchisor's proposed adjusted retail labor rate or retail parts rate	Franchisor may contest to the franchisee the material accuracy of the retail labor rate or retail parts rate that was calculated by the franchisee under Section 3065.2(d) within 30 days after receiving notice from the franchisee or, if the franchisor requests supplemental repair orders pursuant to Section 3065.2(d)(4), within 30 days after receiving the supplemental repair orders (3065.2(d)(1))	None specified	Franchisor has the burden of proof that the franchisee's determination of the retail labor rate or retail parts rate is "materially inaccurate or fraudulent" (3065.4(a))

## **WARRANTY CLAIMS - RV Dealers**

### **Statutory Authority**

Vehicle Code section 3075 requires every new recreational vehicle manufacturer or distributor to properly fulfill every warranty agreement made by it and adequately and fairly compensate its dealers for labor and parts used to perform warranty repairs and service.

### **Franchisor's Notice of Compensation for Warranty Reimbursement**

The manufacturers and distributors are required to file copies of their warranty reimbursement schedules or formulas with the Board. The schedule or formula must be reasonable with respect to the time and compensation allowed for the performance of warranty work.

### **Approval of Warranty Claims**

Vehicle Code section 3075(d) also requires that warranty claims be approved or disapproved within 30 days after their receipt by the franchisor. Any claim not specifically disapproved in writing within 30 days from receipt by the franchisor shall be deemed approved on the 30<sup>th</sup> day.

Approved warranty claims must be paid within 30 days of approval. However, Vehicle Code section 3075(d) states: "Failure to approve or pay within the above specified time limits, in individual instances for reasons beyond the reasonable control of the franchisor, do not constitute a violation of this article [Article 5 RV protests]."

### **Disapproval of Warranty Claims**

Vehicle Code section 3075(c) requires that the franchisor that disallows a franchisee's warranty claim for a defective part on the basis that the part was not defective must return such part to the dealer at the franchisor's expense, or reimburse the dealer for the part, at the franchisor's option.

The dealer is also entitled to written notice of disapproval within 30 days after the warranty claims are received by the franchisor. The notice must contain the specific grounds for disapproval (Veh. Code § 3075(d)).

### **Audits of Franchisee Warranty Records**

Audits of franchisee warranty records may be conducted by the franchisor on a reasonable basis, and for a period of 12 months after a claim is paid or a credit issued. Any chargeback to a franchisee for warranty parts or service compensation shall be made within 90 days of the completion of the audit. However, if a false claim was submitted by a franchisee with the intent to defraud the franchisor, a longer period for an audit and any resulting chargeback may be permitted if the franchisor obtains an order from the Board. (Veh. Code § 3075(e))

## **Time for Filing a Protest**

Protests involving warranty disputes are not subject to any specific statutory time limitations for filing. However, failure to file a protest within a reasonable time could result in a dealer losing the right to a hearing before the Board.

## **Required Elements of Protest**

The required content of a protest under Vehicle Code section 3075 is described in 13 CCR § 586. A protest involving warranty claims must contain all of the following (see Appendix for sample Form A):

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must be in writing and be signed by a franchisee or its attorney. <sup>19</sup>	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall state either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

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<sup>19</sup> See footnote 7.

### **Good Cause**

Franchisee claims for warranty compensation shall not be disapproved except for good cause such as performance of non-warranty repairs, lack of material documentation, or fraud. (Veh. Code § 3075(e))

### **Determination of Protest**

If a protest is filed, the Board shall determine whether the schedule or formula is reasonable, taking into account the dealer's labor rate to its retail customers. If there is a hearing, the franchisee has the burden of proving that the warranty reimbursement schedule is not reasonable, but the franchisor has the burden of proof to establish that a franchisee acted with intent to defraud the franchisor when the issue is material (Veh. Code § 3080(c)).

## **FRANCHISOR INCENTIVE PROGRAM CLAIMS - Motor Vehicle Dealers**

### **Statutory Authority**

Pursuant to Vehicle Code section 3065.1, all claims made by a new motor vehicle franchisee for payment under the terms of a franchisor incentive program shall be approved or disapproved within 30 days after receipt by the franchisor.

### **Franchisor's Notice of Denial of Franchisor Incentive Program Reimbursement**

Vehicle Code section 3065.1(a) requires that a franchisor who denies payment under the terms of a franchisor incentive program shall notify the franchisee within 30 days after receipt by the franchisor and provide specific grounds on which the disapproval was based.

### **Approval/Disapproval of Franchisor Incentive Program Reimbursement**

Any claim not specifically disapproved in writing within 30 days from receipt shall be deemed approved on the 30<sup>th</sup> day. If incentive program compensation claims are approved, they must be paid within 30 days of approval. However, Vehicle Code section 3065.1(f) provides that the failure to approve or pay within the above specified time limits, in individual instances for reasons beyond the reasonable control of the franchisor, do not constitute a violation of Article 4 (pertains to motor vehicles other than RVs).

### **Disapproval of Franchisor Incentive Program Claims**

A franchisor shall not disapprove a claim unless the claim meets one of the following categories:

1. False;
2. Fraudulent;
3. The claim is ineligible under the terms of the incentive program as previously communicated to the franchisee; or
4. Material noncompliance with documentation and administrative claims submission requirements if the requirements are reasonable and nondiscriminatory. (Veh. Code § 3065.1(b))

### **Protest of Initial Disapproval of Franchisor Incentive Program Claims**

A franchisee can file a protest of the initial disapproval of a franchisor incentive program claim within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065.1(e))

## **Franchisor Provided “Reasonable” Appeal Process**

Vehicle Code section 3065.1(c) requires franchisors to provide a reasonable appeal process that allows the franchisee at least 30 days after receipt of the written disapproval notice to provide additional supporting documentation or information rebutting the disapproval.

If the disapproval is based upon noncompliance with documentation or administrative claims submission requirements, the franchisor shall allow the franchisee at least 30 days from the date of receipt of the disapproval notice to cure any material noncompliance.

If the disapproval is rebutted, and material noncompliance is cured before the applicable deadline, the franchisor shall approve the claim.

There are potentially two 30-day time periods: (1) reasonable appeal; and (2) opportunity to cure.

## **Final Denial of Franchisor Incentive Program Claim**

If the franchisee provides additional supporting documentation or information purporting to rebut the disapproval, attempts to cure noncompliance relating to the claim, or otherwise appeals denial of the claim and the franchisor continues to deny the claim, the franchisor shall provide the franchisee with a written notification of the final denial within 30 days of completion of the appeal process, which shall conspicuously state “Final Denial” on the first page. (Veh. Code § 3065.1(d))

## **Protest of Final Denial of Franchisor Incentive Program Claim following a Franchisor’s Appeal Process**

A franchisee can file a protest of the final denial of a franchisor incentive program claim following a franchisor’s appeal process within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065.1(e))

## **Audits of Franchisee Incentive Program Records**

Audits of franchisee incentive program records may be conducted by the franchisor on a reasonable basis, and for a period of 9 months after a claim is paid or a credit issued.

A franchisor shall not select a franchisee for an audit, or perform an audit, in a punitive, retaliatory, or unfairly discriminatory manner.

A franchisor may conduct no more than one random audit of a franchisee in a 9-month period.

The franchisor’s notification to the franchisee of any additional audit within a 9-month period shall be accompanied by written disclosure of the basis for that additional audit. (Veh. Code § 3065.1(g)(1))

## **Disapproval of Previously Approved Franchisor Incentive Program Claims**

Previously approved claims shall not be disapproved or charged back to the dealer unless the claim meets one of the following categories:

1. False;
2. Fraudulent;
3. The claim is ineligible under the terms of the incentive program as previously communicated to the franchisee; or
4. Material noncompliance with documentation and administrative claims submission requirements if the requirements are reasonable and nondiscriminatory.

These are the same categories for initial disapproval of a franchisor incentive program claim. (Veh. Code § 3065.1(g)(2))

A franchisor shall not disapprove or chargeback a claim based upon an extrapolation from a sample of claims, unless the sample of claims is selected randomly, and the extrapolation is performed in a reasonable and statistically valid manner.

If the franchisor disapproves of a previously approved claim following an audit, within 30 days after the audit, the franchisor shall provide to the franchisee a written disapproval notice stating the specific grounds upon which the claim is disapproved. (Veh. Code § 3065.1(g)(3))

## **Protest of Franchisor Incentive Program Claim Disapproval of a Previously Approved Claim Following an Audit**

A franchisee can file a protest of the franchisor incentive program claim disapproval of a previously approved claim following an audit within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065.1(g)(6))

## **Franchisor Provided “Reasonable” Appeal Process**

Vehicle Code section 3065.1(g)(3) requires franchisors to provide a reasonable appeal process that allows the franchisee a reasonable period of not less than 30 days after receipt of the written disapproval notice to respond to any disapproval with additional supporting documentation or information rebutting the disapproval and to cure any material noncompliance, with the period commensurate with the volume of claims under consideration.

If the franchisee rebuts any disapproval and cures any material noncompliance relating to a claim before the applicable deadline, the franchisor shall not chargeback the franchisee for that claim.

## **Final Denial of Franchisor Incentive Program Claim Following an Audit**

If the franchisee provides additional supporting documentation or information purporting to rebut the disapproval, attempts to cure noncompliance relating to the claim, or otherwise appeals denial of the claim and the franchisor continues to deny the claim, the franchisor shall provide the franchisee with a written notification of the final denial within 30 days of completion of the appeal process, which shall conspicuously state "Final Denial" on the first page. (Veh. Code § 3065.1(g)(4))

## **Protest of Final Denial of Franchisor Incentive Program Claim Following an Audit Following the Franchisor's Appeal Process**

A franchisee can file a protest of the final denial of a franchisor incentive program claim following an audit following the franchisor's appeal process within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065.1(g)(6))

## **Franchisor Chargeback for Franchisor Incentive Program Claims**

Vehicle Code section 3065.1(g)(5) provides that the franchisor shall not chargeback the franchisee until 45 days after receipt of the written disapproval of a previously approved claim following an audit or final denial of a franchisor incentive program claim following an audit following the franchisor's appeal process, whichever is later.

If the franchisee cures any material noncompliance relating to a claim, the franchisor shall not chargeback the dealer for that claim.

Any chargeback to a franchisee for incentive program compensation shall be made within 90 days of receipt of that written notice.

If the Board sustains the chargeback or the protest is dismissed, the franchisor shall have 90 days following issuance of the final order or the dismissal to make the chargeback, unless otherwise provided in a settlement agreement.

If the franchisee files a protest pursuant to this subdivision prior to the franchisor's chargeback for denied claims, the franchisor shall not offset or otherwise undertake to collect the chargeback until the Board issues a final order on the protest. (Veh. Code § 3065.1(g)(6))

In summary, days 45-90 are the only days to chargeback a dealer for franchisor incentive program claims. A manufacturer or distributor cannot chargeback a dealer before day 44, or after day 91. But if a protest is filed prior to a chargeback, then the franchisor cannot chargeback the dealer during the above time period. It must wait until the Board decides the protest and if the protest is dismissed or the Board sustains the chargeback, then the franchisor can chargeback the dealer but must do so within 90 days after the Board action (or within time period allowed by settlement agreement, if any).

However, if a false claim was submitted by a franchisee with the intent to defraud the franchisor, a longer period for an audit and any resulting chargeback may be permitted if the franchisor

obtains an order from the Board. (Veh. Code § 3065.1(h))

### **Required Elements of Protest**

The required content of a protest under Vehicle Code section 3065.1 is described in 13 CCR § 586. A protest involving franchisor incentive program claims must contain all of the following (see Appendix for sample Form A):

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must be in writing and be signed by a franchisee or its attorney. <sup>20</sup>	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall state either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

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<sup>20</sup> See footnote 7.

**FRANCHISOR INCENTIVE PROGRAM PROTESTS**  
**Motor Vehicle Dealers**

<b>Vehicle Code Section</b>	<b>Type of Protest</b>	<b>Notice to Dealer</b>	<b>Time to File Protest</b>	<b>Burden of Proof if there is a Hearing</b>
3065.1(a)	<b>Initial Disapproval</b> Initial disapproval of franchisor incentive program claims	Franchisor provides a written notice of disapproval within 30 days after the franchisor's receipt of a claim submitted by a franchisee.	6 months from receipt of the written notice	Franchisor has the burden (3065.1(e))
3065.1(d)	<b>Final Denial/Post-Appeal</b> Final denial of franchisor incentive program claim following a franchisor's appeal process	Written notice of Final Denial to the franchisee.	6 months from receipt of the written notice	Franchisor has the burden (3065.1(e))
3065.1(g)(3)	<b>Post-Audit</b> Franchisor incentive program claim disapproval of a previously approved claim following an audit	Franchisor provides a written notice of disapproval within 30 days after the audit stating the specific grounds.	6 months after receipt of the written notice	Franchisor has the burden (3065.1(g)(6))
3065.1(g)(4)	<b>Post-Audit/Post-Appeal/Final Denial</b> Final denial of a franchisor incentive program claim following an audit following the franchisor's appeal process	Written notification of the Final Denial.	6 months after receipt of the written notice	Franchisor has the burden (3065.1(g)(6))

## **FRANCHISOR INCENTIVE PROGRAM CLAIMS - RV Dealers**

### **Statutory Authority**

Pursuant to Vehicle Code section 3076, all claims made by a recreational vehicle franchisee for payment under the terms of a franchisor incentive program shall be approved or disapproved within 30 days after receipt by the franchisor.

### **Franchisor's Notice of Denial of Franchisor Incentive Program Reimbursement**

Vehicle Code section 3076(a) requires that a franchisor who denies payment under the terms of a franchisor incentive program, shall notify the franchisee within 30 days and provide specific grounds on which the disapproval was based.

### **Approval/Disapproval of Franchisor Incentive Program Reimbursement**

Any claim not specifically disapproved in writing within 30 days from receipt shall be deemed approved on the 30<sup>th</sup> day. If incentive program compensation claims are approved, they must be paid within 30 days of approval. However, Vehicle Code section 3076(a) provides that the failure to approve or pay within the above specified time limits, in individual instances for reasons beyond the reasonable control of the franchisor, do not constitute a violation of Article 5, pertaining to RVs.

### **Audits of Franchisee Incentive Program Records**

Vehicle Code section 3076(b) provides for audits of franchisee incentive program records if reasonable and for a period of 18 months after a claim is paid or a credit issued. Any chargeback to a franchisee for incentive program compensation shall be made within 90 days of completion of the audit. However, if a false claim was submitted by the franchisee with the intent to defraud the franchisor, a longer period for the audit and any resulting chargeback may be permitted if the franchisor obtains an order to that effect from the Board.

### **Time for Filing a Protest**

Following the disapproval of a claim, a franchisee shall have one year from receipt of the notice of disapproval in which to appeal and file a protest with the Board.

## **Required Elements of Protest**

The required content of a protest under Vehicle Code section 3076 is described in 13 CCR § 586. A protest involving franchisor incentive program claims must contain all of the following (see Appendix for sample Form A):

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must be in writing and be signed by a franchisee or its attorney. <sup>21</sup>	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

## **Good Cause**

Franchisee claims for incentive program compensation shall not be disapproved except for good cause, such as ineligibility under the terms of the incentive program, lack of material documentation, or fraud. (Veh. Code § 3076(b))

## **Determination of Protest**

The franchisee has the burden of proof, but the franchisor has the burden of proof to establish that a franchisee acted with intent to defraud the franchisor when the issue is material (Veh. Code § 3080(c)).

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<sup>21</sup> See footnote 7.

**LIMITATIONS ON CERTAIN FRANCHISOR ACTIONS  
INCONSISTENT WITH EXISTING STANDARDS - Motor Vehicle Dealers**

**a. Franchisor Performance Standards, Sales Objectives, or Programs for Measuring a Dealer's Sales, Service, or Customer Service Performance (Veh. Code § 3065.3(a))**

Vehicle Code section 3065.3(a) provides that “[n]o franchisor shall establish or maintain a performance standard, sales objective, or program for measuring a dealer's sales, service, or customer service performance that is inconsistent with the standards set forth in subdivision (g) of Section 11713.13.”

Subdivision (g) of Vehicle Code section 11713.13 provides that:

It is unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to do, directly or indirectly through an affiliate, any of the following:

. . .  
(g) (1) Establish or maintain a performance standard, sales objective, or program for measuring a dealer's sales, service, or customer service performance that may materially affect the dealer, including, but not limited to, the dealer's right to payment under any incentive or reimbursement program or establishment of working capital requirements, unless both of the following requirements are satisfied:

(A) The performance standard, sales objective, or program for measuring dealership sales, service, or customer service performance is reasonable in light of all existing circumstances, including, but not limited to, the following:

- (i) Demographics in the dealer's area of responsibility.
- (ii) Geographical and market characteristics in the dealer's area of responsibility.
- (iii) The availability and allocation of vehicles and parts inventory.
- (iv) Local and statewide economic circumstances.

(v) Historical sales, service, and customer service performance of the line-make within the dealer's area of responsibility, including vehicle brand preferences of consumers in the dealer's area of responsibility.

(B) Within 30 days after a request by the dealer, the manufacturer, manufacturer branch, distributor, distributor branch, or affiliate provides a written summary of the methodology and data used in establishing the performance standard, sales objective, or program for measuring dealership sales or service performance. The summary shall be in detail sufficient to permit the dealer to determine how the standard was established and applied to the dealer.

**b. Franchisor Allocation of Vehicles or Parts (Veh. Code § 3065.3(b))**

Vehicle Code section 3065.3(b) provides that “[n]o franchisor shall allocate vehicles or parts in a manner inconsistent with the standards set forth in subdivision (a) of Section 11713.3.”

Subdivision (a) of Vehicle Code section 11713.3 provides that:

It is unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to do, directly or indirectly through an affiliate, any of the following:

(a)(1) To refuse or fail to deliver in reasonable quantities and within a reasonable time after receipt of an order from a dealer having a franchise for the retail sale of a new vehicle sold or distributed by the manufacturer or distributor, a new vehicle or parts or accessories to new vehicles that are of a model offered by the manufacturer or distributor to other franchisees in this state of the same line-make, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered in this state. This subdivision is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer, manufacturer branch, distributor, or distributor branch.

(2) To fail to disclose to any franchisee, upon written request, the basis upon which new motor vehicles of the same line-make are allocated or distributed to franchisees in the state and the basis upon which the current allocation or distribution is being made or will be made to the franchisee.

...

**c. Franchisor's Imposition of a Facility or Equipment Policy (Veh. Code § 3065.3(c))**

Vehicle Code section 3065.3(c) provides that “[n]o franchisor shall impose a facility or equipment policy inconsistent with the standards set forth in subdivision (a), (b), (c), or (k) of Section 11713.13.

Vehicle Code section 11713.13 provides, in part, as follows:

It is unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to do, directly or indirectly through an affiliate, any of the following:

(a) Prevent, or attempt to prevent, by contract or otherwise, a dealer from acquiring, adding, or maintaining a sales or service operation for another line-make of motor vehicles at the same or expanded facility at which the dealer currently operates a dealership if the dealer complies with any reasonable facilities and capital requirements of the manufacturer or distributor.

(b) Require a dealer to establish or maintain exclusive facilities, personnel, or display space if the imposition of the requirement would be unreasonable in light of all existing circumstances, including economic conditions. . . .

(c) Require, by contract or otherwise, a dealer to make a material alteration, expansion, or addition to any dealership facility, unless the required alteration, expansion, or addition is reasonable in light of all existing circumstances, including economic conditions and advancements in vehicular technology. . . .

...

(k) (1) Implement a program or policy that coerces or requires the franchisee to install direct current fast charging stations, unless all of the following are satisfied: . . .

### **Time for Filing a Protest**

There is no specific statutory time period in the Vehicle Code within which to file a Vehicle Code section 3065.3 protest. Failure to file a protest within a reasonable time, however, could result in a dealer losing the right to a hearing by the Board.

### **Required Elements of Protest**

The required content of a protest under Vehicle Code section 3065.3 is described in 13 CCR § 586.5. A protest must contain all of the following (see Appendix for sample Form A):

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must be in writing and be signed by a franchisee or its attorney. <sup>22</sup>	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586.5(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586.5(a)(3)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586.5(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586.5(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

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<sup>22</sup> See footnote 7.

## **Determination of Protest**

If there is a hearing, the franchisor has the burden of proof as follows: (Veh. Code § 3065.3(e)).

<b>Vehicle Code</b>	<b>Type of Protest</b>	<b>Burden of Proof</b>
3065.3(a)	Performance Standard	The franchisor has the burden of proof that it complied with Section 3065.3; i.e., its “performance standard, sales objective, or program for measuring a dealer’s sales, service, or customer service performance. . .” is not inconsistent with the standards set forth in subdivision (g) of Vehicle Code section 11713.13.
3065.3(b)	Allocation of Vehicles or Parts	The franchisor has the burden of proof that it complied with Section 3065.3; i.e., its allocation of vehicles or parts is not inconsistent with the standards set forth in subdivision (a) of Vehicle Code section 11713.3.
3065.3(c)	Imposition of Facility or Equipment Policy	The franchisor has the burden of proof that it complied with Section 3065.3; i.e., imposition of its facility or equipment policy is not inconsistent with the standards set forth in subdivisions (a), (b), (c), or (k) of Vehicle Code section 11713.13.

## **FRANCHISOR COMPETING WITH A DEALER - Motor Vehicle Dealers**

Vehicle Code section 3065.3(d) provides that “[n]o franchisor shall compete with a dealer in violation of subdivision (o) of Section 11713.3.”

Subdivision (o) of Vehicle Code section 11713.3 provides that:

It is unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to do, directly or indirectly through an affiliate, any of the following:

...

(o) (1) To compete with their franchisees in the sale, lease, or warranty service of new motor vehicles.

(2) A manufacturer, branch, or distributor, or an entity that controls or is controlled by a manufacturer, branch, or distributor, shall not, however, be deemed to be competing in the following limited circumstances:

(A) Owning or operating a dealership for a temporary period, not to exceed one year at the location of a former dealership of the same line-make that has been out of operation for less than six months. However, after a showing of good cause by a manufacturer, branch, or distributor that it needs additional time to operate a dealership in preparation for sale to a successor independent franchisee, the board may extend the time period.

(B) Owning an interest in a dealer as part of a bona fide dealer development program that satisfies all of the following requirements:

...

(4) In addition to the exceptions identified in paragraphs (2) and (3), a manufacturer, manufacturer branch, distributor, or distributor branch, or an affiliate thereof, shall not be deemed to be competing with their franchisees in any of the following limited circumstances:

...

## **Time for Filing a Protest**

There is no specific statutory time period in the Vehicle Code within which to file a Vehicle Code section 3065.3 protest. Failure to file a protest within a reasonable time, however, could result in a dealer losing the right to a hearing by the Board.

## **Required Elements of Protest**

The required content of a protest under Vehicle Code section 3065.3 is described in 13 CCR § 586.5. A protest must contain all of the following (see Appendix for sample Form A):

<b><u>Content Requirements</u></b>	<b><u>Regulatory Authority</u></b>
Must be in writing and be signed by a franchisee or its attorney. <sup>23</sup>	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586.5(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586.5(a)(3)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586.5(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586.5(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

## **Determination of Protest**

If there is a hearing, the franchisor has the burden of proof that it complied with Vehicle Code section 3065.3; i.e., the franchisor is not competing with a dealer in violation of subdivision (o) of Vehicle Code section 11713.3. (Veh. Code § 3065.3(e)).

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<sup>23</sup> See footnote 7.

## **HEARING PROCEDURES**

### **Pre-Hearing Procedure**

Upon receiving a protest, the Board shall institute hearing proceedings similar to those of a formal civil trial, including the scheduling of various pre-hearing conferences, settlement conferences, arrangements for discovery, identification of witnesses, and so on. The Board may impose sanctions if a party fails to comply with the Board's discovery orders or fails to participate properly in a settlement conference.

### **Discovery**

Pursuant to Vehicle Code section 3050.1, the Board may authorize the parties to engage in the civil discovery process. Discovery is limited to requests for depositions and demands for production of documents (Code Civ. Proc. § 2016.010, et seq.), with the exception of provisions for written interrogatories (Code Civ. Proc. § 2030.010). Section 551.6 of the Board's regulations implements and makes specific the Board's procedures for requesting depositions where the witness resides within California or outside of California.

The enactment of the Electronic Discovery Act (Assembly Bill 5, Stats. 2009, Ch. 5, "Act"), effective June 29, 2009, broadened the categories of discoverable materials (documents, tangible things, land or other property) by adding "electronically stored information" (ESI).

Effective January 1, 2013, sections of the Civil Discovery Act relating to ESI were amended in order to address several inconsistencies (Senate Bill 1574, Stats. 2012, Ch. 72). ESI is now included among the things under a witness's control that the witness would be bound by law to produce pursuant to a subpoena. Additionally, when any method of discovery permits, compels, prevents, or limits the production, inspection, copying, testing, or sampling of documents or tangible things, the same method would also apply to ESI. In general, if a demand for production does not specify a form or forms for producing a type of ESI, the responding party would be required to produce the information in the form or forms in which it is ordinarily maintained or in a form that is reasonably usable, but need not produce the same ESI in more than one form.

### **Subpoenas**

Authority for issuing subpoenas in Board proceedings is found in Vehicle Code section 3050.1 and 13 CCR § 551.2.

Section 551.2(b) of the Board's regulations specifically incorporates Code of Civil Procedure section 1985, et seq., excepting the provisions of subdivision (c) of section 1985. Section 1985.8 of the Code of Civil Procedure imposes additional requirements on the parties, (or the court, if necessary), to resolve ESI issues as to the form, burdens and expenses of production, shifting or allocation of costs, and issues arising from other characteristics of ESI. The Act requires the parties, or the court, to weigh various cost/benefit factors in light of the amount in controversy in the proceeding to shape and limit the scope and nature of requests to produce ESI.

Unlike the civil courts, the parties cannot issue their own subpoenas. On the request of any party, the Board, its Executive Director or an ALJ may issue subpoenas for the production of papers, records, and books by a witness or a deponent, and the appearance of a non-party witness or deponent. Hearing subpoenas are issued in accordance with 13 CCR § 551.2(b) and an affidavit is not required to support the request. For a hearing subpoena duces tecum, an affidavit must accompany the request.

Subpoenas for the attendance and testimony of a non-party deponent, or for a subpoena duces tecum for deposition of a non-party, are issued by the Board in accordance with Code of Civil Procedure section 2016.010, et seq., excepting the provisions of section 2020.210, subdivisions (a) and (b). (13 CCR § 551.2(c)) No affidavits are required. Counsel for the parties can issue notices of depositions to parties. (Code Civ. Proc. § 2025.010, et seq.) Subpoenas for out-of-state, non-party witnesses or deponents will be issued by the Board but need to be enforced in the out-of-state court. (Code Civ. Proc. § 2026.010, et seq.)

Government Code section 11450.30 and 13 CCR § 551.2(e) permit a person served with a subpoena or a subpoena duces tecum to object to its terms by a motion for a protective order, including a motion to quash. The assigned ALJ would resolve the objection. The ALJ may make another order that is appropriate to protect the parties or the witness from unreasonable or oppressive demands, including violations of the right to privacy.

Following service of the subpoena on the witness or deponent, a copy of the subpoena and executed proof of service shall be filed with the Board. (13 CCR § 551.2(d))

### **Summary of Board Action**

All hearings on protests filed pursuant to Vehicle Code sections 3060, 3062, 3064, 3065, 3065.1, 3065.3, 3065.4, 3070, 3072, 3074, 3075, or 3076, may be considered by the entire Board<sup>24</sup> or may, at its discretion be conducted by an ALJ one of the Board's ALJs. At the hearing, oral argument is heard, evidence is admitted, testimony is received, and a written decision is rendered. The procedures are described in detail in Vehicle Code sections 3066 and 3080. The Board on receiving a protest does the following:

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<sup>24</sup> Board ALJs generally preside over merits hearings not the Board itself. (See footnote 6 pertaining to OAH and the discussion on page 7 pertaining to dealer member participation in Article 4 protests.) For new protests, the Board adopted a numerical designation system. The ALJ is assigned based on the last digit of the Protest No. If a Board ALJ is unavailable, OAH would preside. For existing protests, ALJs will continue to be assigned at the Hearing Readiness Conference using the Merit Hearings Judge Assignment Log on a rotational basis.

Step	Action
1	By order fix a time within sixty (60) days of the order and place of hearing. <sup>25</sup>
2	<p>Send a copy of the order to the franchisor, the protesting franchisee, and all individuals and groups that have requested notification by the Board of protests and decisions by the Board.</p> <ul style="list-style-type: none"> <li>Except in the case of a franchisee who deals exclusively in motorcycles, the Board or its Executive Director may accelerate or postpone the date initially established for the hearing.</li> <li>For the purpose of accelerating or postponing the hearing date, good cause must be established and in no event may the rescheduled hearing date be more than 90 days after the Board's initial order.</li> <li>"Good cause" for accelerating or postponing a hearing includes, but is not limited to, the effects on, and any irreparable harm to, the parties or interested persons or groups if the request for a change in hearing date is not granted.</li> <li>Application for continuance shall be in writing and filed with the Executive Director at least 10 days prior to the date of hearing. No continuances otherwise will be granted except in extreme emergencies such as serious accident or death. (13 CCR § 592)</li> </ul>
3	The Board or an ALJ presides over merits hearings on protests. <sup>26</sup>

### **Stipulation of Fact**

A hearing initiated by the filing of a protest may be held in whole or in part on a stipulation of fact, which is essentially an agreement between the parties defining points that are not in contention, and other parts of the dispute that have been resolved. Stipulations are of value in that they tend to facilitate and expedite conflict resolution. (See 13 CCR § 587 for procedural details of stipulation of fact before the Board.)

<sup>25</sup> In practice, the parties stipulate to a date for the merits hearing and the Board issues the order of time and place of hearing approximately 45 days prior to the hearing. If OAH is assigned to preside over the merits hearing, the protest is transferred to OAH after If, after the Hearing Readiness Conference, the parties indicate they are ready for hearing, the Board submits to OAH a request for hearing and takes no further action in the protest unless the protesting dealer(s) file a Request for Dismissal. The hearing would commence and would go to hearing in about three months subject to the availability of the parties and OAH.

<sup>26</sup> See footnote 24.

## **Stipulated Decisions**

The Board may adopt stipulated decisions and orders without a hearing pursuant to Vehicle Code sections 3066 and 3080 to resolve one or more issues raised by a protestant or petitioner before the Board. If the Board adopts a stipulated decision and order to resolve a protest filed under Vehicle Code section 3060 or 3070, and the parties stipulate that good cause exists to terminate, a hearing requiring a determination of good cause will not be required. (Veh. Code § 3050.7(b))

## **Hearings Open to the Public; Protective Orders**

Hearings before the Board or an ALJ ~~designated by the Board~~ are open to the public. For good cause shown, a party may seek an order closing all or part of the hearing or for other protective orders as set forth in Government Code section 11425.20 and 13 CCR § 551.20. The motion may be in writing or made orally on the record. It may be made at the commencement of or during the course of the hearing but must be made as early as is practicable. The motion shall clearly identify the relief sought; the facts, circumstances, and legal authority; and shall include declarations or evidence that support the motion. The ALJ has discretion to allow an oral or written opposition to the motion. When ruling on the motion, the ALJ shall specifically set forth the facts, legal basis, and findings that support any protective order, order to seal parts of the record, or order to close the hearing to the public. The motion, opposition, and any resulting orders then become part of the record.

## **Failure to Appear at a Hearing**

Any party who fails to appear at a hearing will not be entitled to a further opportunity to be heard unless good cause for such failure is shown to the Board or to the ALJ within five (5) days thereafter. The lack of such a showing may, in the discretion of the Board or the ALJ, be interpreted as an abandonment of interest by the party in the subject matter of the proceeding. (13 CCR § 589)

## **Decision of the Board**

When matters are submitted to the Board for decision, or the Board receives a proposed decision of the ALJ, the Board shall take the matter under submission and conduct deliberations in executive session. The deliberations of the Board shall be in private and shall not be reported. (Veh. Code § 3008; 13 CCR § 588)

The decision of the Board shall be in writing, contain findings of fact, and a determination of the issues presented. The Board shall sustain, conditionally sustain, overrule, or conditionally overrule the protest. The decision becomes final when delivered or mailed to the parties and there are no provisions for reconsideration or rehearing. If the Board fails to act within 30 days after the close of the hearing, within 30 days after the Board receives a proposed decision where the case is heard before an ALJ, or within a period which may be mutually agreed on by the parties, then the proposed action of the franchisor shall be deemed to be approved. (Veh. Code §§ 3067 and 3081)

## **Court Reporting and Transcripts of Board Proceedings**

Under the authority of 13 CCR § 551.7 the Board may assume all or part of the cost of reporting any proceedings or may allocate costs entirely to one of the parties or apportion it among the various parties at its discretion. For all merits hearings and dispositive motions, reporting costs will be allocated as follows:

<b>Circumstances</b>	<b>Reporting Costs including Appearance, Delivery Fees, and any other Costs</b>	<b>Transcript Fees for the Board and Office of Administrative Hearings (if applicable)</b>
Hearings on the merits and dispositive motions <sup>27</sup>	Participating parties	Participating parties
Other motions (venue, consolidation, continuation, etc.)	Requesting party or parties	Requesting party or parties
Pre-hearing conference	Requesting party or parties	Requesting party or parties
Discovery disputes (ruling on objections to production, motions to quash, etc.)	Requesting party or parties	Requesting party or parties

For merits and dispositive motion hearings, the parties, on an equal basis, are responsible for arranging reporting services, paying for the reporter's appearance fee, the delivery fee and any other costs, and the cost of certified hearing transcript(s) for the New Motor Vehicle Board and Office of Administrative Hearings, if applicable. Counsel are responsible for purchasing their own transcript(s), if desired.

In any other instance, where any party or parties deem reporting services necessary (including requests for reporter's appearance and for transcripts), the requesting party (or parties on any basis they agree upon) will be responsible for arranging reporter services and will be responsible for payment to the reporting service of the reporter's appearance fee, the delivery fee, and any other costs. The requesting party or parties will also be responsible for providing the Board and Office of Administrative Hearings, if applicable, with a certified copy of the transcript. Counsel are responsible for purchasing their own transcript(s), if desired.

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<sup>27</sup> "Dispositive motions" are those that result in a final determination of the protest or petition before the Board.

## **PETITIONS**

### **Statutory Authority for Petitions**

Vehicle Code section 3050(b) provides for any person to petition the Board to “[c]onsider any matter concerning the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative pursuant to Chapter 4 (commencing with Section 11700) of Division 5 submitted by any person. . . .”

Subdivision (b)(2)(B) of Section 3050, in which the relief sought is adjudication, only pertains to petitions filed with the Board by any member of the public, including a consumer, or other person that is not applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative pursuant to Chapter 4 (commencing with Section 11700) of Division 5. It is intended that, for the Board to have jurisdiction over a petition pursuant to this subdivision, the petitioner must have filed the petition or consent to the jurisdiction by the Board. This subdivision does not affect petitions filed by licensees nor does it affect respondents (see Vehicle Code section 3051 identifying the licensees within the Board’s jurisdiction).

### **Filing a Petition with the Board**

A licensee or member of the public wishing to bring a dispute before the Board pursuant to Vehicle Code section 3050(b) is required to file a petition (see Appendix for sample Forms B1 and B2). The petition shall clearly identify the facts, legal authority, and relief sought and include declarations or other evidence or documents that support the petition. (13 CCR § 556)

In the past, petitions filed with the Board have alleged such things as the unreasonable refusal of a franchisor to approve a change in ownership, unreasonable refusal of a franchisor to approve a relocation, discrimination in allocation of products, failure to supply products authorized to be sold under the terms of the franchise, and other violations of the Vehicle Code. Such petitions requested a hearing before the Board and sought relief in the form of a Board order that required the respondent to either do, undo, or refrain from doing some action that caused harm to the licensee petitioner.

However, as a result of *Mazda Motor of America, Inc. v. California New Motor Vehicle Board; David J. Phillips Buick-Pontiac, Inc., Real Party in Interest* (2003) 110 Cal.App.4<sup>th</sup> 1451, the Board’s jurisdiction to hold hearings and issue such orders is now limited to petitioners who are members of the public under Vehicle Code section 3050(b)(2)(A). In all instances where licensees are the petitioners, the Board may only direct the Department to investigate or take licensing action against the respondent under Vehicle Code section 3050(b)(1) and (3).

In all circumstances, the petition shall be served on the respondent and proof of service filed with the Board.

### **Time for Filing a Petition**

There are no specific statutory time limits in the Vehicle Code within which a petition must be filed, but failure to file the petition within a reasonable time after the occurrence of events giving rise to the basis for the petition could result in the Board refusing to take any action. The respondent shall file a written answer within 30 days of the date the petition is served on the respondent. By declaration, the respondent may submit, as exhibits to the answer, photographic, documentary or similar physical evidence relevant to the matter in support of the answer with an appropriate description thereof in the answer sufficient to identify them and to explain their relevancy. (13 CCR § 558).

### **Petition Filing Fee**

A filing fee of \$200, which should be in the form of a check or money order payable to the New Motor Vehicle Board, must accompany the petition and answer. Either the petitioner or respondent may submit a request for a fee waiver. The Executive Director, upon a showing of good cause, may waive the \$200 filing fee (13 CCR § 553.40). (Samples are available on the Board's website.)

## **Required Elements of Petition**

The required content of a petition under Vehicle Code section 3050(b) is described in 13 CCR § 555 (see Appendix for sample Forms B1 and B2).

<b>Content Requirements</b>	<b>Regulatory Authority</b>
Must set forth in clear and concise language the nature of the matter, which the petitioner wishes the Board to consider.	13 CCR § 555
Must contain the petitioner's name, mailing address and telephone number; the name, mailing address and telephone number of the petitioner's attorney or authorized agent, if any; and the name and address of the licensee or applicant for license (respondent) whose activities or practices are in question. All correspondence and notices to the petitioner shall thereafter be addressed to petitioner's address, if the petitioner appears in person, or to the address of the petitioner's attorney or agent, if so represented.	13 CCR § 555(a)
Must include the names, <b>residence addresses and business addresses of persons</b> , and the dates, places and specific actions or practices involved.	13 CCR § 555(b)
Shall include a concise recitation of applicable law and citation to the applicable statutes and authorities if the actions or practices described in the petition are alleged to be a violation of law.	13 CCR § 555(c)
For petitioners who are members of the public only, petitioner shall state if the petitioner desires that the Board mediate, arbitrate, or resolve a difference between the petitioner and respondent, and describe the relief sought.	13 CCR § 555(d)
Petitioner may submit, as exhibits to the petition, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the petition.	13 CCR § 555(e)
For petitioners who are members of the public only, petitioner shall set forth an estimate of the number of days required to complete the hearing.	13 CCR § 555(f)
For petitioners who are members of the public only, petitioner shall request a pre-hearing conference if one is desired.	13 CCR § 555(g)
Petitioner shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Petitioner shall serve a copy of the petition on the respondent and proof of service shall accompany the petition submitted to the Board.	13 CCR § 555.1 13 CCR § 551.24

## **First Consideration**

If the petitioner is a member of the public seeking relief under Vehicle Code section 3050(b)(2)(A), upon the filing of a petition with the Board, a copy shall be forwarded by the Executive Director of the Board to each Board member for consideration. Within 10 days of receipt of a copy of the petition, unless any member of the Board notifies the Executive Director of an objection, the Executive Director shall set the matter for a hearing.

## **Resolution of Petitions without a Hearing**

If the petitioner is a licensee or member of the public seeking relief under Vehicle Code section 3050(b)(1) and/or (3), these petitions would not be submitted to the Board for first consideration, as the authority for first consideration (13 CCR § 557), limits first consideration to matters in which a hearing is sought, i.e., Vehicle Code section 3050(b)(2)(A) petitions. These petitions would be agendized for consideration of the relief requested by the petitioner at the next regularly scheduled meeting. Such petitions are not assigned to an ALJ and are not subject to the normal evidentiary hearing process. The Board members, at a noticed meeting, would hear from the parties by way of written and oral arguments, and consider granting the relief requested. After consideration, the public members of the Board shall take final action and issue a written order that either grants the appropriate relief pursuant to Vehicle Code section 3050(b)(1) or (b)(3), or orders the petition dismissed (13 CCR § 562(b), (d), and (e)). The public members of the Board may also request further briefing and/or the submission of further evidence and continue the matter to a later open meeting for consideration and final action.

## **Challenge to Presiding Officer**

A party may request disqualification of a Board member or an ALJ for cause prior to the taking of evidence by filing an affidavit stating the grounds for the request (13 CCR § 551.1). Further, 13 CCR § 551.12(b) entitles a party, excluding an intervenor, in a petition to one disqualification without cause (peremptory challenge) of the assigned merits ALJ by filing the peremptory challenge **with the Board** no later than either 20 days from the date of the order of time and place of hearing identifying the merits ALJ or 20 days prior to the date scheduled for commencement of the merits hearing, whichever is earlier (13 CCR § 551.12(b)(1)). **In the event a Board ALJ is unavailable to preside over the merits hearing, an ALJ from the Office of Administrative Hearings will be assigned.** A peremptory challenge of the assigned administrative law judge is not authorized for law and motion hearings, settlement conferences, and rulings on discovery disputes. Except for the convenience of the Board or for good cause shown, no merits hearing shall be continued by the filing of a peremptory challenge.

## **Motion for Intervention**

Any person, including a Board member, concerned with the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative may file a motion to intervene in a pending petition subject to the conditions set forth in 13 CCR § 551.13.

## **Amicus Curiae Briefs**

The Board, its Executive Director, or an ALJ may, in their discretion, allow the filing of amicus curiae briefs. (13 CCR § 551.13)

## **Summary of Board Action**

For petitions seeking relief under Vehicle Code section 3050(b)(1) and/or (3) brought by a franchisee, including RV franchisees, a member of the Board who is a new motor vehicle dealer may not participate in, hear, comment, advise other members upon, or decide any petition. (Veh. Code § 3050(b)) For petitions brought by members of the public seeking Vehicle Code section 3050(b)(1) and/or (3) relief, all members of the Board may participate.

After considering this type of petition, the Board may do any one or any combination of the following:

- (1) Direct the Department to conduct an investigation and submit a written report;
- (2) Order the Department to exercise any and all authority or power that the Department may have with respect to the issuance, renewal, refusal to renew, suspension, or revocation of the license of respondent; and/or
- (3) Order the petition dismissed, with or without prejudice.

As stated above, if the petitioner is a member of the public seeking relief under Vehicle Code section 3050(b)(2), the Board retains the authority to hear and/or mediate the matter.

## **Hearing Procedures**

The Board's powers in relation to petitions are discretionary, and there is no automatic right to a hearing for a member of the public seeking relief under Vehicle Code section 3050(b)(2)(A). If the Board orders a hearing, the pre-hearing procedures are similar to those involving protests. For procedural details for hearings on petitions, see 13 CCR § 580.

## **Informal Mediation**

Prior to a member of the public initiating a petition seeking relief under Vehicle Code section 3050(b)(2)(A), a party or parties may request the Board informally mediate the potential dispute, that is, the activities or practices of a licensee or applicant for a license that are in question (13 CCR §§ 551.14-551.17). If both parties consent to informal mediation, then a mutually agreeable date for the mediation is calendared. Each party files and serves a pre-mediation statement setting forth the facts, issues, and proposed resolution of the matter. The Board, its Executive Director, or an ALJ designated by the Board or its Executive Director preside over the informal mediation and may authorize discovery (other than interrogatories) as appropriate. Evidence in the form of declarations may also be considered. All communications, negotiations, and settlement discussions between the participants of an informal mediation are confidential. At any time during this process, either party may request that the informal mediation be converted to a formal petition.

### **Members of the Public in Relation to New Recreational Vehicle Transactions**

Members of the public have all the rights and remedies available in disputes with licensees in new recreational vehicle transactions as they do in transactions with other types of new motor vehicles under the jurisdiction of the Board with one distinction. Vehicle Code section 3078(a) states:

If the board receives a complaint from a member of the public seeking a refund involving the sale or lease of, or a replacement of, a recreational vehicle, as defined in subdivision (a) of Section 18010 of the Health and Safety Code, from a recreational vehicle dealership, as defined in subdivision (d) of Section 3072, the board shall recommend that the complainant consult with the Department of Consumer Affairs.

Thus, if a member of the public specifically seeks a refund or a replacement of a new recreational vehicle, the Board shall recommend that the complaint be referred to the Department of Consumer affairs, rather than the Board. However, nothing precludes a member of the public from seeking help from the Board in resolving the dispute as is available for any other new motor vehicle purchaser.

## **JUDICIAL REVIEW**

### **Appeal to Superior Court**

Judicial review of final orders and decisions of the Board may be sought in Superior Court pursuant to Code of Civil Procedure section 1094.5 via a petition for writ of administrative mandamus. A petition for writ of administrative mandamus questions whether the Board proceeded without or in excess of jurisdiction, whether there was a fair hearing, and whether there was any prejudicial abuse of the Board's discretion. Parties seeking judicial review of a final order or decision should refer to Vehicle Code sections 3068 and 3082 and local rules of court.

## **APPENDIX**

**Form A - Protest**

**Form B1 - Petition (Veh. Code § 3050(b)(2)(A))**

**Form B2 - Petition (Veh. Code § 3050(b)(1) or (b)3))**

## **SAMPLE FORM A -**

## **PLEADING FORMAT OF PROTEST**

The information contained in this sample form is intended to be informative and not advisory, limited in scope, and not intended to be a substitute for a careful reading of the specific statutes and/or regulations which may apply to your situation. For information on the format of filings and notices with the New Motor Vehicle Board, see 13 CCR § 593.1, et seq. **Sample forms can be obtained from the Board's website, [www.nmvb.ca.gov](http://www.nmvb.ca.gov).**

**Identification of Attorney or Party Representing Self:**

In the top left-hand corner beginning with line one, place the name of the attorney (include state bar number) or individual representing itself, **office address or residence** address, telephone number, and email address, if available. Single space this section. Skip one line then add which party is filing this document. In the case of a protest, the individual filing the protest is known as the "Protestant," whereas the individual responding would be the "Respondent."

[name of attorney and state bar number, or name of party representing itself]

2 \_\_\_\_\_ [address]

3 \_\_\_\_\_ [telephone number, ~~fax number~~ and email address, if available]

4 \_\_\_\_\_ Attorney for [Protestant] or in pro per [if party representing itself]

Leave the upper right-hand corner blank between lines 1 and 7 for the use of the Board.

**Title of the Court:**

On lines 8-9, place the title of the agency and the state in which the action is brought.

**Title of the Case:**

Below the title of the court, flushed left, place the title of the case in the caption. The title of the case consists of the names of all of the parties.

**Case Number:**

The number of the case should be placed to the right of the title of the case or caption. Parties may leave the actual number blank until the Board has assigned the case a number.

**Nature of Filing and Name of Action:**

Below the number of the case, place the type of action filed along with the particular code section pursuant to which the action is filed.

## Footer:

Except for exhibits, each paper filed with the Board must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer must contain the title of the paper or some clear and concise abbreviation in at least 10-point font.

11	In the Matter of the Protest of	)	
		)	
12	NAME OF FRANCHISEE,	)	Protest No. PR-
		)	
13	Protestant,	)	PROTEST
		)	
14	v.	)	[Vehicle Code section 3060, 3062, 3064, 3065, 3065.1, 3065.3, 3065.4, 3070, 3072, 3074, 3075, and 3076]
15	NAME OF FRANCHISOR,	)	[Dates of the hearing and any future pre-hearing or settlement conferences, if known]
16	Respondent.	)	

---

**Introduction:**

State the name of the party filing the document, the type of document filed (e.g., protest, response, motion) and the applicable statutory authority.

20     Protestant, [NAME OF PARTY/DEALERSHIP NAME], files this protest under the  
21     provisions of the California Vehicle Code section [applicable code section] with  
22     reference to the following facts:

**Body:**

Using numbered paragraphs, state the allegations in a clear and chronological order.

23     1. Protestant is a new motor vehicle dealer selling [type of new motor vehicle or recreational vehicle] and is located at [address]. Protestant's telephone number is [telephone number].

2. Respondent distributes/manufacturers [type/model of product] and is the franchisor of Protestant.

3. Protestant is represented in this matter by [attorney/law firm], whose address and telephone number are [address and telephone number].

4. On or about [date of occurrence(s)], Protestant received from Respondent a notice that Respondent intends to [terminate/modify/relocate/establish] its existing franchise agreement effective [number of days] from Protestant's receipt of said notice. A copy of said letter is attached as Exhibit A.

5. Protestant generally denies each and every allegation contained in the written notice of [termination/modification/relocation/establishment].

6. Respondent does not have good cause to [terminate/modify/relocate/establish] the franchise by reason of the following facts:

    (a) [Specific facts upon which Protestant bases the allegations].

7. Protestant and its attorneys of record desire to appear before the Board. The estimated length of hearing on this matter will take [number of days] to complete.

8. A Pre-Hearing Conference is requested.

Dated:

Signed:

**SAMPLE FORM B1 - PLEADING FORMAT OF PETITION (Veh. Code § 3050(b)(2)(A))**

The information contained in this sample form is intended to be informative and not advisory, limited in scope, and not intended to be a substitute for a careful reading of the specific statutes and/or regulations which may apply to your situation. For information on the format of filings and notices with the New Motor Vehicle Board, see 13 CCR § 593.1, et seq. **Sample forms can be obtained from the Board's website, [www.nmvb.ca.gov](http://www.nmvb.ca.gov).**

**Identification of Attorney or Party Representing Self:**

In the top left-hand corner beginning with line one, place the name of the attorney (include state bar number) or individual representing self, **office address or residence** address, telephone number, and email address, if available. Single space this section. Skip one line then add which party is filing this document. In the case of a petition, the individual filing the petition is known as the “Petitioner,” and the party responding would be the “Respondent.”

1 \_\_\_\_\_ [name of attorney and state bar number, or name of party representing itself]

2 \_\_\_\_\_ [address]

3

4 \_\_\_\_\_ Attorney for [Petitioner] or in pro per [if party representing itself]

Leave the upper right-hand corner blank between lines 1 and 7 for the use of the Board.

**Title or the Court.**

On lines 8-9, place the title of the agency and the state in which the action is brought.

NEW MOTOR VEHICLE BOARD  
STATE OF CALIFORNIA

9 STATE OF CALIFORNIA

**Title of the Case:**

Below the title of the court, flushed left, place the title of the case in the caption. The title of the case consists of the names of all of the parties.

**Case Number:**

The number of the case should be placed to the right of the title of the case or caption. Parties may leave the actual number blank until the Board has assigned the case a number.

### **Nature of Filing and Name of Action:**

Below the number of the case, place the type of action filed along with the particular code section pursuant to which the action is filed.

## Footer:

Except for exhibits, each paper filed with the Board must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer must contain the title of the paper or some clear and concise abbreviation in at least 10-point font.

20 [NAME OF INDIVIDUAL], petitions the New Motor Vehicle Board, pursuant to Vehicle Code section 3050(b)(2)(A), with reference to the following facts:

1. Petitioner is, and at all times mentioned herein, an individual and consumer of a new motor vehicle or vehicles in the State of California.
2. Respondent is, and at all times mentioned herein, a licensee authorized to do business and doing business in the State of California.
3. Petitioner is represented in this matter by (name, address, and telephone number of law firm, or representative).
4. Petitioner's mailing address and telephone number are as follows:
5. Respondent's mailing address and telephone number are as follows:
6. (Outline the particulars of the dispute).
7. WHEREFORE, Petitioner prays as follows: (A hearing and relief available under Vehicle Code section 3050(b)(2)(A)).

Dated:

Signed:

Petition (Veh. Code § 3050(b)(2)(A))

**SAMPLE FORM B2 - PLEADING FORMAT OF PETITION (Veh. Code § 3050(b)(1) or (3))**

The information contained in this sample form is intended to be informative and not advisory, limited in scope, and not intended to be a substitute for a careful reading of the specific statutes and/or regulations which may apply to your situation. For information on the format of filings and notices with the New Motor Vehicle Board, see 13 CCR § 593.1, et seq. **Sample forms can be obtained from the Board's website, [www.nmvb.ca.gov](http://www.nmvb.ca.gov).**

**Identification of Attorney or Party Representing Self:**

In the top left-hand corner beginning with line one, place the name of the attorney (include state bar number) or individual representing itself, **office address or residence** address, telephone number, and email address, if available. Single space this section. Skip one line then add which party is filing this document. In the case of a petition, the individual filing the petition is known as the "Petitioner," and the party responding would be the "Respondent."

1 \_\_\_\_\_ [name of attorney and state bar number, or name of party representing itself]

2 \_\_\_\_\_ [address]

3 \_\_\_\_\_ [telephone number, ~~fax number~~ and email address, if available]

4 \_\_\_\_\_ Attorney for [Petitioner] or in pro per [if party representing itself]

Leave the upper right-hand corner blank between lines 1 and 7 for the use of the Board.

Leave the upper right-hand corner blank between lines 1 and 7 for the use of the Board.

**Title of the Court:**

On lines 8-9, place the title of the agency and the state in which the action is brought.

## 8 NEW MOTOR VEHICLE BOARD

9 STATE OF CALIFORNIA

### **Title of the Case:**

Below the title of the court, flushed left, place the title of the case in the caption. The title of the case consists of the names of all of the parties.

**Case Number:**

The number of the case should be placed to the right of the title of the case or caption. Parties may leave the actual number blank until the Board has assigned the case a number.

**Nature of Filing and Name of Action:**

Below the number of the case, place the type of action filed along with the particular code section pursuant to which the action is filed.

## Footer:

Except for exhibits, each paper filed with the Board must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer must contain the title of the paper or some clear and concise abbreviation in at least 10-point font.

19 [NAME OF INDIVIDUAL/LICENSEE], petitions the New Motor Vehicle Board, pursuant to  
Vehicle Code section 3050(b), with reference to the following facts:

1. Petitioner is, and at all times mentioned herein, a licensee of the Department of Motor Vehicles authorized to do business and doing business in the State of California or is an individual and consumer of a new motor vehicle or vehicles in the State of California.

2. Respondent is, and at all times mentioned herein, a licensee of the Department of Motor Vehicles authorized to do business and doing business in the State of California.

3. Petitioner is represented in this matter by (name, address, and telephone number of law firm).

4. Petitioner's mailing address and telephone number are as follows:

5. Respondent's mailing address and telephone number are as follows:

6. (Outline the particulars of the dispute).

7. WHEREFORE, Petitioner prays as follows: (That the Board provides relief available under Vehicle Code section 3050(b)(1) and/or 3050(b)(3).)

Dated:

Signed:

Petition (Veh. Code § 3050(b)(1) or (3))



## Memorandum

**Date : JANUARY 29, 2026**

**To : BOARD DEVELOPMENT COMMITTEE**  
**VACANT, CHAIR**  
**VACANT, MEMBER**

**From : TIMOTHY M. CORCORAN**

**Subject : UPDATE ON BOARD ACTIVITIES**

In an effort to have on-going discussions regarding Board Member education and activities of interest, the Board Development Committee suggested agendizing this topic at each Board Meeting to get input from the members. Additionally, education on topics of interest are scheduled for most General Meetings.

At the February 20, 2026, General Meeting, a presentation on the state of the automotive industry will be presented by the Alliance for Automotive Innovation and California New Car Dealers Association (CNCDA).

As a result of feedback from the members at the August 1, 2025, General Meeting, the case management training for new members has been expanded to include detailed information on statutorily required notices, petitions, Article 4 (cars, motorcycles, heavy-duty trucks) and Article 5 (recreational vehicle) protests, potential paths (merits, law and motion, or settlement), grounds for termination and the good cause factors, law and motion and merits hearings, potential outcomes, and the role of the Dealer and Public Members.

Educational presentations will be agendized for each Board Meeting. Board Members can advise staff of any topics they wish to receive more information or training, which will be added to the following list:

- Presentation from dealer and manufacturer attorneys on common disputes between, and differing perspectives of, franchisees and their franchisors.
- Presentation on industry strategies to assure ZEV profitability, by dealer and manufacturer representatives.
- Presentation on implementation of alternative fuel vehicles in mass transit.
- Presentations highlighting local efforts to make communities ZEV-ready.
- Topics on Board procedure, including:

## Update on Board Development Activities

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- Writs of Administrative Mandate.
- Stipulated Decisions and Orders.
- Dealer Member Participation.
- Foundational Board published cases and their common application.
- Petitions.
- Case management procedures:
  - Paths a protest can take (law and motion, settlement, merits hearing).
  - Types of protests and the various burdens of proof.
  - Role of the statutorily required notices and time to file a protest.
  - Protests that do not require a notice.

The information in this memorandum is provided for informational purposes only at the February 20, 2026, General Meeting. No Board action is required.

If you have any questions or require additional information, please do not hesitate to contact me at (916) 244-6774.

cc: Jacob Stevens, President



## Memorandum

**Date : JANUARY 29, 2026**

**To : BOARD DEVELOPMENT COMMITTEE**  
**VACANT, CHAIR**  
**VACANT, MEMBER**

**From : TIMOTHY M. CORCORAN**  
**ROBIN P. PARKER**

**Subject : BOARD MEMBER EDUCATION CONCERNING CHANGES TO THE  
ADMINISTRATIVE PROCEDURE ACT AND BAGLEY-KEENE OPEN  
MEETING ACT**

Attached are detailed summaries of the Administrative Procedure Act and Bagley-Keene Open Meeting Act that encompass changes effective January 1, 2026. All substantive changes in the summaries are highlighted yellow in underline and strikeout font.

A brief summary of the acts and changes are as follows:

### **Administrative Procedure Act**

The Administrative Procedure Act (“APA”), Government Code section<sup>1</sup> 11340, et seq., is the basic law controlling administrative agencies in California. The APA consists of three chapters of the Government Code. Chapter 3.5 (Gov. Code §§ 11340-11361) establishes the Office of Administrative Law and sets forth the law covering the quasi-legislative function of administrative agencies, i.e., the promulgation of regulations. When the Board elects to amend, adopt, or repeal regulations, it does so in compliance with Chapter 3.5.

Chapter 4.5 (Gov. Code §§ 11400-11475.70) applies to any adjudicative proceeding required to be conducted under Chapter 5 (Gov. Code §§ 11500-11529). These statutes are the basic authority or “rules of procedure” governing administrative quasi-judicial proceedings. They govern administrative hearing procedures unless the statutes relating to a specific agency’s proceedings provide otherwise. (Gov. Code §§ 11410.50, 11415.10, and 11415.20)

The Board’s specific authority to conduct administrative hearings is found in Vehicle Code section 3000, et seq. and in the Board’s regulations in Title 13 of the California Code of Regulations (“Board’s Regulations”), section 550, et seq. Specific Board procedures set forth with particularity in the Vehicle Code and the Board’s Regulations are controlling over the APA. Also, Vehicle Code sections 3066(a), 3080(a), and 3085.2(a) expressly incorporate Government Code sections 11507.3, 11507.6, 11507.7, 11511, 11511.5, 11513, 11514, 11515, and 11517 into Board procedures for hearings on protests only. No provisions in the

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<sup>1</sup> All statutory references are to the Government Code.

Vehicle Code or the Board's Regulations exempt the Board from the APA. Any provisions of the APA not in conflict or inconsistent would supplement the Vehicle Code and the Board's Regulations. To the extent it is subject to the APA, the Board is in compliance with all applicable provisions.

There were no legislative changes to the APA effective January 1, 2026. However, there were regulatory and procedural changes in the attached summary as follows:

- Footnotes providing obsolete legislative and regulatory updates were deleted. (Summary, pp. 4 [footnotes 2, 3], 20 [footnote 7], 26 [footnote 8])
- The sample Order of Time and Place of Hearing was replaced to reflect the Office of Administrative Hearings is presiding over merits hearings. (Summary, p. 11)
- In the heading "Article 9: General Procedural Provisions," additional subdivisions of Government Code section 11440.30 were added to address party objections to a hearing being held by telephone, television, or other electronic means. Section 551.19 of the Board regulations specify the procedural requirements for motions including whether the motion is oral or written, whether an opposition or reply brief is permissible, and if the hearing is in person or telephonic. Effective January 1, 2026, the regulation was amended to reflect hearings on motions with live testimony can be conducted in person or by other electronic means. (Summary, pp. 11-12)
- A footnote was added in the "Administrative Adjudication: Formal Hearings" heading reflecting that effective February 28, 2025, all merits hearings in new and existing protests will be assigned to the Office of Administrative Hearings and the Board's retired annuitant merits ALJs were separated in the fall of 2025. (Summary, footnote 6, p. 19)
- The paragraph on venue was amended to highlight the difference in application of Government Code section 11508 depending on whether OAH or a Board ALJ presides over the merits hearing. (Summary, p. 20)

### **The Bagley-Keene Open Meeting Act**

The Bagley-Keene Open Meeting Act ("Act"), at Government Code section 11120 -11132, is one of the "sunshine laws" that ensures citizens have knowledge of the activities and workings of government. A democratic government assumes that those who elect public officials will have free access to what those public officials are doing. Access to government meetings and records provides citizens with the information they need to participate in the democratic process and to insist that government officials are held accountable for their actions. The best way to emphasize the intent of open meeting laws is to set forth the first section of the Act as follows:

- It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

Board Education – APA and Open Meeting Act

Page 3

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- In enacting this article, the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.
- The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. (Gov. Code § 11120)

The changes to the Bagley-Keene Open Meeting Act in the attached summary are:

- Language clarifying that the Act not only applies to existing members but newly appointed members who have not yet assumed office was added in the heading “General Provisions and Application to the Board.” (Summary, p. 1)
- The citation in the first paragraph in the “Committees - Advisory and Delegated” heading was updated to reflect “California Department of Justice, Bagley-Keene Open Meeting Act Guide 2026, p. 4.” (Summary, p. 4)
- Effective January 1, 2026, through January 1, 2030, Senate Bill 470 (Senator Laird; Ch. 222, Stats. 2025) amended Sections 11123.2 and 11123.5, which pertain to open or closed teleconference meetings, and teleconference meetings. Previous amendments by Senate Bill 544 were set to be repealed January 1, 2026. These deadlines were extended four years until 2030. (Summary, pp. 8, 10)

In January 2026, the California Department of Justice updated its *2024 Bagley-Keene Open Meeting Act Guide*. The updated Guide is available at [2026 Bagley-Keene Open Meeting Act Guide](#). This version added the following:

- On page 9, a reference was added to a 2024 AG Opinion (107 Cal. Atty. Gen. Ops. 47, 58 (2024)) regarding the conference exception to the public meeting requirement.
- On page 11, language was added from the 2024 AG Opinion: The Legislature has not defined “conference,” but a plain reading suggests an event with multiple presentations facilitating an interchange of views among multiple parties. Also, footnote 5 on that page has additional information from the 2024 AG Opinion.
- On page 19, this sentence was added: If an individual attends a meeting remotely and the website or online platform requires the submission of information as a condition to logging in, the individual may use a pseudonym or other anonymous information to log in and attend the meeting. (Gov. Code, § 11124, subd. (c).) This addition reflects a change in statute that became operative on January 1, 2024.
- Also, on page 19, this sentence was added: On the other hand, security measures that require identification in order to gain admittance to a government building are permitted so long as security personnel do not share the identifying information with

Board Education – APA and Open Meeting Act

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the state body. This sentence first appeared in the previous Attorney General's 2004 Handy Guide. We have received requests to add the language back in. The sentence reflects longstanding Attorney General Office advice.

- On page 20, this sentence was added for clarification: Individuals may give public comment without identifying themselves. If a state body uses speaker cards or similar method to manage public comments, individuals may use a pseudonym on the speaker card or decline to provide a name. (Gov. Code, § 11124.) This language mirrors advice in the Attorney General's Online State Ethics Training and previous 2004 Handy Guide.
- On pages 24 and 25, the expiration date for the new teleconference rules have been extended from January 1, 2026 to January 1, 2030. This implements new legislation (SB 470) that becomes effective on January 1, 2026.

This matter is for information only at the February 20, 2026, General Meeting. If you have any question or require additional information, please contact me at (916) 244-6774 or Robin at (916) 244-6776.

cc: Jacob Stevens, President



## Memorandum

**Date : JANUARY 29, 2026**

**To : BOARD DEVELOPMENT COMMITTEE**  
**VACANT, CHAIR**  
**VACANT, MEMBER**

**From : TIMOTHY M. CORCORAN**  
**ROBIN P. PARKER**

**Subject : BOARD MEMBER EDUCATION CONCERNING CHANGES TO THE POLITICAL REFORM ACT AND PUBLIC RECORDS ACT**

Below are brief summaries of the Political Reform Act and Public Records Act that encompass changes that are of interest to the New Motor Vehicle Board (Board) effective January 1, 2026.<sup>1</sup> All substantive changes in the summaries are highlighted yellow in underline and strikeout font.

A brief summary of the acts and changes are as follows:

### **The Political Reform Act**

The Political Reform Act (“PRA”), Government Code<sup>2</sup> section 81000, et seq., is the basic ethics law in California. Although a significant focus of the PRA is on campaign financing, election committees and lobbying, the main purpose of the PRA, in relation to the Board’s operations, is to ensure that Board decisions are made fairly without regard to who is affected by those decisions. The PRA provides that Board members and staff are required to publicly disclose their financial interests in entities specified in the Board’s Conflict of Interest Code (Form 700 or Statement of Economic Interests) and to refrain from participating in decisions in which there is such an interest.

Assembly Bill 1029 amended, repealed, and added Sections 82304, 87206, and 87530 effective January 1, 2026, but not operative until January 1, 2027. (Assembly Bill 1029, Stats. 2025, Ch. 85 § 2) This bill pertains to digital financial assets.

The PRA defines “investment” to mean any financial interest in or security issued by a business entity, including, among other things, stocks and any partnership or other ownership interest owned by the public official or that person’s immediate family, as specified. The act specifies that an asset is an investment only if its fair market value equals or exceeds \$2,000.

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<sup>1</sup> At the March 30, 2022, General Meeting, the Board Members requested that resource materials be provided only upon request and not be included in the Board Meeting materials.

<sup>2</sup> All statutory references are to the Government Code.

Existing law defines digital financial asset to mean a digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not legal tender, whether or not denominated in legal tender, subject to specified exceptions.

Beginning January 1, 2027, the definition of “investment” is expanded to include a digital financial asset, and would specifically require public officials to disclose interests in their digital financial assets, as specified. The bill would also require the Board’s Conflict of Interest Code to require designated employees to disclose interests in digital financial assets, as specified.

The Fair Political Practices Commission (“FPPC”) releases publications concerning the most recent amendments to the PRA and a “State” factsheet entitled “Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans.” At this time, these updated publications have not yet been released but will be provided upon receipt.

### **Public Records Act**

The California Public Records Act (“CPRA”), Government Code section 7920.000 et seq., was reorganized and recodified, effective January 1, 2022. The changes became operative on January 1, 2023. There were no substantive changes made to the CPRA when it was reorganized.

The CPRA provides public access to state and local government information. It is the other major “sunshine law” that ensures citizens have knowledge of the activities and workings of government. The policy supporting the CPRA is expressed by the legislative intent of the law as follows: “the Legislature . . . finds and declares that access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” (Gov. Code § 7921.000)

The CPRA favors disclosure unless there is a specific reason not to, which is usually based on confidentiality and privacy considerations. These reasons, set forth as specific statutory exemptions, have been interpreted and evaluated by the courts over the years. Nondisclosure can also be justified if it can be established that the public interest in nondisclosure outweighs the public interest in disclosure. The state policy favoring disclosure was emphasized with the passage of Proposition 59, which states in part as follows: “A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.”

Relevant changes to the Public Records Act effective January 1, 2026, follow:

- For purposes of Article 3 (commencing with Section 7928.200), which pertains to “Online Posting or Sale of Personal Information of Elected or Appointed Official,” Section 7920.500 was amended to include as an elected or appointed official: (1) active or retired judge, court commissioner, or judge of the State Bar Court; (2) active or retired federal judge or federal defender; (3) active or retired judge of a federally recognized Indian tribe; and (4) appointee of a court to serve as children’s counsel in a family or dependency proceeding.

Political Reform Act and Public Records Act

Page 3

January 29, 2025

- The CPRA requires agencies make their records available for public inspection, except as specified. Existing law requires within 10 days of a request for a copy of records the agency determine whether the request seeks copies of disclosable public records in its possession and to promptly notify the requestor of the determination and the reasons therefor. This time limit may be extended by no more than 14 days under “unusual circumstances” as defined. Amendments to Section 7922.535 expand the definition of unusual circumstances to include the inability of the agency, because of a cyberattack, to access its electronic servers or systems in order to search for and obtain a record that the agency believes is responsive to a request and is maintained on the servers or systems in an electronic format. The extension would apply only until the agency regains its ability to access its electronic servers or systems and search for and obtain electronic records that may be responsive to a request.
- In the Article pertaining to “Online Posting or Sale of Personal Information of Elected or Appointed Official,” a number of changes were made as follows:
  - Existing law makes it a misdemeanor for a person to knowingly post the home address or telephone number of any elected or appointed official, or of their residing spouse or child, on the internet with the intent to cause imminent great bodily harm or threatening to cause imminent great bodily harm, as provided. Government Code Section 7928.210 was repealed as it is largely duplicative of Penal Code Section 146e, and was recast as Penal Code Section 76.5.
  - Government Code Sections 7928.215, 7928.220, and 7928.225 prohibited a person, business, or association from publicly posting or publicly displaying on the internet the home address or telephone number of any elected or appointed official if that official has made a written demand of that person, business, or association to not disclose the official’s home address or telephone number. Additionally, they specified how an official whose information has been posted in violation of these sections may act to enforce their rights to keep this information private. These provisions were repealed.
  - Existing law prohibits a person, business, or association from soliciting, selling, or trading on the internet the home address or telephone number of an elected or appointed official with the intent to cause imminent great bodily harm to the official or to any person residing at the official’s home address. Government Code Section 7928.230 was repealed and recodified as Civil Code section 1798.84.

This matter is for information only at the February 20, 2026, General Meeting.

If you have any question or require additional information, please contact me at (916) 244-6774 or Robin at (916) 244-6776.

cc: Jacob Stevens, President



## Memorandum

**Date : JANUARY 29, 2026**

**To : COMMITTEE ON EQUITY, JUSTICE, AND INCLUSION (EJI)**  
**JACOB STEVENS, VICE-CHAIR**  
**VACANT, CHAIR**

**From : KIMBERLEE VAYE**

**Subject : DISCUSSION OF LAND ACKNOWLEDGMENTS, VIRTUAL ACCESS  
(GENERAL ACCESSIBILITY) TO PUBLIC MEETINGS, AND PROPOSED  
VISION, MISSION AND VALUES**

At the August 1, 2025, General Board meeting, two 2-member working committees were formed on Land Acknowledgments and Virtual and Telephonic Access to Public Meetings.

To learn best practices and formulate recommendations in these two goal areas, Board members and staff met and sought guidance from other State departments including, but not limited to the Racial Equity Commission, Caltrans, and CalABLE.

Utilizing the Equity Lens Assessment rubric, the EJI Committee will also review the Ad Hoc Committee's proposed new Vision, Mission, and Values, for the Board.

These matters are being agendized for discussion and consideration at the February 19, 2026, meeting of the Committee on Equity, Justice and Inclusion, and for discussion and consideration at the February 20, 2026, General Meeting.

If you have any questions or require additional information, please contact me at (916) 818-2993.

### ***Findings and Recommendations from the Working Committee on Land Acknowledgements***

- Member working group met to discuss alignment of priorities, Board resources, and staff capacity.
- Reviewed multiple California State departments and counties' existing Land and Labor Acknowledgement statements.

### **Recommendations**

- ✓ Land Acknowledgment placed on Agenda after Pledge of Allegiance.
- ✓ Land Acknowledgment placed on website along with Vision and Mission statements.

### Proposed NMVB Land Acknowledgment

*We acknowledge that the land we now call California is the ancestral lands of the over 109 Nations, Tribes, and Peoples, along with over 60 non-federally recognized tribes located throughout the state. The Indigenous Peoples of this area have a deep, reciprocal relationship with the land as its original stewards. Their ways, methods, and traditions contribute to California's rich biodiversity and impact the transportation network for the state. Our transportation network not only connects us to families, friends, work, and leisure, it connects us to our past and future. We acknowledge that our nation and economy were created using the labor of enslaved African and Indigenous peoples, and the labor of many immigrants which enrich our communities.*

*We know this statement is only meaningful when coupled with actionable steps and sustained commitment. As such, we embrace our past, and commit to ongoing collective learning, fostering authentic relationships, and practicing inclusiveness and equity for everyone who calls this state home.*

### **Actionable steps:**

- ✓ When possible, staff will purchase products and services from BIPOC-owned businesses.\*
- ✓ When reasonable, when traveling for Board business, staff and members will stay at BIPOC-owned lodging.
- ✓ Staff will research BIPOC-led organizations and non-profits for possible collaboration with community engagement opportunities.
- ✓ Staff will research state-sponsored events happening and support when possible (Annual California Native American Day at the Capitol, California Native American Caucus events, Native American Heritage month, Missing, Murdered, Indigenous People Awareness Day/Month).

\*BIPOC= Black, Indigenous, and People of Color



## New Motor Vehicle Board

### Applying an Equity Lens to Policy Development and Review

NMVB commits to using a systematic application of an Equity Lens Assessment Rubric when developing new policies and reviewing existing ones. In doing so, we seek to do the following:

- Infuse equity in evaluation of NMVB policies, processes, and programs.
- Identify potential disparate effects on underserved and marginalized individuals, groups, and communities, and minimize unintended adverse consequences.
- Reduce or eliminate barriers.
- Make decisions that result in more equitable outcomes across policies, programs, practices, and processes.

## Equity Lens Assessment Rubric

**Policy: Land Acknowledgement**

**Date Reviewed: 2/19/2026**

Criterion	Equity Lens Tool	Phase One	Phase Two	Phase Three
<b>Stakeholders identified</b>	<i>Who is impacted by the content of this policy, practice, or decision?</i>	No stakeholders have been identified	Some stakeholders have been identified.	All stakeholders have been identified
<b>Stakeholder Input</b>	<i>Are the people impacted by the policy, practice, or decision included in the development discussion?</i>	No stakeholder input has been included in the development of this policy	Informal and segmented stakeholder input has been included in the development of this policy	All relevant stakeholders have been formally involved with the development of this policy
<b>Benefits/ Burdens/Overall Impact</b>	<i>What are the benefits and burdens?</i>	No benefits and burdens of the policy have been identified	Some benefits and burdens of the policy have been identified	A comprehensive understanding of the benefits and burdens of the policy have been identified
<b>Access, Equity, and Inclusion</b>	<i>In what ways does this policy, practice, or decision increase or decrease access, equity, and inclusion?</i>	The policy does not address increases and decreases in access, equity, and inclusion	The policy addresses some increases and decreases in access, equity, and inclusion.	The policy addresses all increases and decreases in access, equity, and inclusion
<b>Measurable Outcomes</b>	<i>What are the measurable outcomes of the policy practice, or decision?</i>	No measurable outcomes have been identified	Some measurable outcomes have been identified or outcomes that have been identified are not measurable	All measurable outcomes have been identified
	Mark applicable phase with X			

**1) STAKEHOLDERS IDENTIFIED** What groups, organizations or individuals may be most affected by and/or concerned with the issues related to the proposed policy?

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California Tribes and Native American people. New Motor Vehicle Board members, staff, and members of the public, including consumers and industry stakeholders.

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**2) STAKEHOLDER INPUT** Have those stakeholders most involved or impacted been informed, meaningfully involved, and authentically represented in the development of the policy?

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This goal was written in the EJI Charter established November 1, 2024: "Engage in individual and group reflection and research to develop a land acknowledgement for cities where board meetings are held." Throughout 2025, the Board has engaged in education and reflection during EJI Committee and General Board meetings with educational videos and discussions and guest speaker from the Racial Equity Commission. A working committee was formed that further explored California State departments and counties' existing Land and Labor Acknowledgement statements.

We understand that ideally, Land Acknowledgments are developed in collaboration with Tribal partners. Due to the nature and scope of the Board, we do not have direct relationships with Tribes and have developed our Land Acknowledgment based on research and discussions with other State departments to ensure it is accurate and respectful. Moreover, we want to focus on meaningful actions and therefore have developed tangible ways to support indigenous communities.

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**3) BENEFITS, BURDENS, OVERALL IMPACT** Which groups, organizations, or individuals are currently most advantaged by the issues this policy seeks to address? Which are disadvantaged? How are they affected differently? Is there evidence that inequity exists? Is evidence needed? If so, what?

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No disadvantages foreseen with the Land Acknowledgment. To avoid performative gestures the Board has created actionable steps:

- ✓ When possible, staff will purchase products and services from BIPOC-owned businesses.\*
- ✓ When reasonable, when traveling for Board business, staff and members will stay at BIPOC-owned lodging.
- ✓ Staff will research BIPOC-led organizations and non-profits for possible collaboration with community engagement opportunities.

- ✓ Staff will research state-sponsored events happening and support when possible (Annual California Native American Day at the Capitol, California Native American Caucus events, Native American Heritage month, Missing, Murdered, Indigenous People Awareness Day/Month).

\*BIPOC= Black, Indigenous, and People of Color.

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4) **ACCESS, EQUITY, AND INCLUSION** In what ways does this policy increase or decrease access, equity, and inclusion? Is there equity in the language? What types of words are used to describe individuals/groups identified in the policy? Are there further ways to maximize equitable opportunities and impacts?

---

The action steps address ways to maximize impact and the Land Acknowledgement closes with “*We know this statement is only meaningful when coupled with actionable steps and sustained commitment. As such, we embrace our past, and commit to ongoing collective learning, fostering authentic relationships, and practicing inclusiveness and equity for everyone who calls this state home.*”

---

5) **MEASURABLE OUTCOMES** What is the intent behind the policy? What are the desired outcomes? Who is responsible for implementation and oversight?

---

The intent of Land Acknowledgment and Action Steps is to be in alignment with the current Equity, Justice, and Inclusion work of the Board and to acknowledge the ongoing presence and contributions of California Native American peoples. Implementation and oversight are the responsibility of the Executive Director and the Assistant Director and Equity Officer. The Board is responsible for general oversight.

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**Board Members present:**

**Outstanding concerns?** [i.e. Are there better ways to achieve the purpose of policy and align with board goals? Does the policy need revisions to ensure positive impacts on equity and inclusion? Is there a need for ongoing evaluation of the policy to ensure Board accountability and stakeholder participation?]

**Policy approved for Full Board review? Y/ N**

Resources: <https://harvard.edu>; <https://dei.virginia.edu>; <https://policies.wsu.edu>; <https://ualr.edu>



## Memorandum

**Date : JANUARY 29, 2026**

**To : COMMITTEE ON EQUITY, JUSTICE, AND INCLUSION (EJI)**  
**JACOB STEVENS, VICE-CHAIR**  
**VACANT, CHAIR**

**From : KIMBERLEE VAYE**

**Subject : DISCUSSION OF LAND ACKNOWLEDGMENTS, VIRTUAL ACCESS  
(GENERAL ACCESSIBILITY) TO PUBLIC MEETINGS, AND PROPOSED  
VISION, MISSION AND VALUES**

At the August 1, 2025, General Board meeting, two 2-member working committees were formed on Land Acknowledgments and Virtual and Telephonic Access to Public Meetings.

To learn best practices and formulate recommendations in these two goal areas, Board members and staff met and sought guidance from other State departments including, but not limited to the Racial Equity Commission, Caltrans, and CalABLE.

Utilizing the Equity Lens Assessment rubric, the EJI Committee will also review the Ad Hoc Committee's proposed new Vision, Mission, and Values, for the Board.

These matters are being agendized for discussion and consideration at the February 19, 2026, meeting of the Committee on Equity, Justice and Inclusion, and for discussion and consideration at the February 20, 2026, General Meeting.

If you have any questions or require additional information, please contact me at (916) 818-2993.

***Findings and Recommendations from the 2-member Working Committee on  
Virtual and Telephonic Access to Public Meetings – ACCESSIBILITY***

Strategic Plan Goal 4.5: Explore options to improve accessibility for all  
NMVB public meetings

- Met to discuss alignment of priorities, Board resources, and staff capacity.
- Shadowed Racial Equity Commission hybrid meeting on 10/14/25 at Sacramento State University.
- Shadowed CalABLE hybrid meeting on 12/9/25 at Paul Bonderson Building at 901 P Street, Sacramento.

**Recommendations**

- ✓ Transition to hybrid (Zoom) meetings to increase participation for members of the public, staff, and guest speakers.
- ✓ Ensure our public-physical meeting/event spaces are accessible and clearly marked.
- ✓ Create clear directions on all materials sent via email, posted on webpage, or available at physical location (i.e., how to access Zoom, how to access physical meeting location, available parking and transit options).
- ✓ Staff shall create and maintain an “Accessible Meeting and Event Checklist.”
- ✓ Staff shall create and maintain a hybrid (Zoom) meeting checklist.
- ✓ Staff shall create and maintain a list of statewide buildings/spaces that have available conference rooms and AV equipment (no or low cost).



## New Motor Vehicle Board

### Applying an Equity Lens to Policy Development and Review

NMVB commits to using a systematic application of an Equity Lens Assessment Rubric when developing new policies and reviewing existing ones. In doing so, we seek to do the following:

- Infuse equity in evaluation of NMVB policies, processes, and programs.
- Identify potential disparate effects on underserved and marginalized individuals, groups, and communities, and minimize unintended adverse consequences.
- Reduce or eliminate barriers.
- Make decisions that result in more equitable outcomes across policies, programs, practices, and processes.

### Equity Lens Assessment Rubric

Policy: Virtual and Telephonic Access to Public Meetings- Accessibility

Date Reviewed: 2/19/2026

Criterion	Equity Lens Tool	Phase One	Phase Two	Phase Three
<b>Stakeholders identified</b>	<i>Who is impacted by the content of this policy, practice, or decision?</i>	No stakeholders have been identified	Some stakeholders have been identified.	All stakeholders have been identified
<b>Stakeholder Input</b>	<i>Are the people impacted by the policy, practice, or decision included in the development discussion?</i>	No stakeholder input has been included in the development of this policy	Informal and segmented stakeholder input has been included in the development of this policy	All relevant stakeholders have been formally involved with the development of this policy
<b>Benefits/ Burdens/Overall Impact</b>	<i>What are the benefits and burdens?</i>	No benefits and burdens of the policy have been identified	Some benefits and burdens of the policy have been identified	A comprehensive understanding of the benefits and burdens of the policy have been identified
<b>Access, Equity, and Inclusion</b>	<i>In what ways does this policy, practice, or decision increase or decrease access, equity, and inclusion?</i>	The policy does not address increases and decreases in access, equity, and inclusion	The policy addresses some increases and decreases in access, equity, and inclusion.	The policy addresses all increases and decreases in access, equity, and inclusion
<b>Measurable Outcomes</b>	<i>What are the measurable outcomes of the policy practice, or decision?</i>	No measurable outcomes have been identified	Some measurable outcomes have been identified or outcomes that have been identified are not measurable	All measurable outcomes have been identified
	Mark applicable phase with X			

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**1) STAKEHOLDERS IDENTIFIED** What groups, organizations or individuals may be most affected by and/or concerned with the issues related to the proposed policy?

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The overall goal of this policy is to provide members of the public, staff, and guest speakers the ability to participate in all meetings. Board members, Executive Staff, and Legal will continue meetings with a physical location open to the public. Members of the public who wish to observe or address the Board may join the Board Members at the noticed, physical location, or may use the Zoom application to address the Board from a remote location.

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**2) STAKEHOLDER INPUT** Have those stakeholders most involved or impacted been informed, meaningfully involved, and authentically represented in the development of the policy?

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Strategic Plan goal 4.5: “Explore options to improve accessibility for all NMVB public meetings.” A two-member working committee was formed at the August 1, 2025 General Meeting. Working committee members and Assistant Director and Equity Officer met to discuss alignment of priorities, Board resources, and staff capacity. To learn best practices, staff shadowed the Racial Equity Commission hybrid meeting on 10/14/25 at Sacramento State University and CalABLE hybrid meeting on 12/9/25 at Paul Bonderson Building at 901 P Street, Sacramento.

All changes to attendance options for public meetings will be reflected on website and posted Agendas.

---

**3) BENEFITS, BURDENS, OVERALL IMPACT** Which groups, organizations, or individuals are currently most advantaged by the issues this policy seeks to address? Which are disadvantaged? How are they affected differently? Is there evidence that inequity exists? Is evidence is needed? If so, what?

---

No disadvantages foreseen. This policy benefits all New Motor Vehicle Board stakeholders that would like to attend a meeting but are unable to or choose not to attend at the noticed public location. Moreover, we are making improvements to ensure our public-physical meeting/event spaces are accessible and clearly marked and create clear directions on all materials sent via email, posted on webpage, or available at physical location (i.e., how to access Zoom, how to access physical meeting location, available parking and transit options).

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**4) ACCESS, EQUITY, AND INCLUSION** In what ways does this policy increase or decrease access, equity, and inclusion? Is there equity in the language? What types of words are used to describe individuals/groups identified in the policy? Are there further ways to maximize equitable opportunities and impacts?

---

Providing a way for the public, staff, and guest speakers to remotely join increases equity, access, and inclusion in public board meetings. Written instructions will be provided for virtual participation along with clear instructions for building access and transportation options.

Staff welcome recommendations to improve access to the public. This can be done by emailing [feedback@nmvb.ca.gov](mailto:feedback@nmvb.ca.gov).

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**5) MEASURABLE OUTCOMES** What is the intent behind the policy? What are the desired outcomes? Who is responsible for implementation and oversight?

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The intent of providing virtual and telephonic access to public board meetings is to be in alignment with the current Equity, Justice, and Inclusion goals of the Board. Implementation and oversight are the responsibility of the Executive Director and the Assistant Director and Equity Officer. The Board is responsible for general oversight.

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**Board Members present:**

**Outstanding concerns?** [i.e. Are there better ways to achieve the purpose of policy and align with board goals? Does the policy need revisions to ensure positive impacts on equity and inclusion? Is there a need for ongoing evaluation of the policy to ensure Board accountability and stakeholder participation?]

**Policy approved for Full Board review? Y/ N**

Resources: <https://harvard.edu>; <https://dei.virginia.edu>; <https://policies.wsu.edu>; <https://ualr.edu>



## Memorandum

**Date : JANUARY 29, 2026**

**To : EXECUTIVE COMMITTEE**  
**JACOB STEVENS, CHAIR**  
**ANNE SMITH BOLAND, MEMBER**

**From : TIMOTHY M. CORCORAN**  
**ROBIN P. PARKER**

**Subject : REPORT ON NON-SUBSTANTIVE CHANGES SUGGESTED BY THE OFFICE OF ADMINISTRATIVE LAW TO SECTION 551.19 (MOTIONS; FORM, BRIEFING, AND HEARINGS) OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS**

At the August 1, 2025, General Meeting, the members revised its long-standing policy adopted April 26, 2002, concerning promulgating regulations:

The Board delegated to the Executive Director the ministerial duty of proceeding through the rulemaking process in compliance with the Administrative Procedure Act. All substantive changes to the proposed text suggested by Board staff, the public, the Fair Political Practices Commission ("FPPC"), or the Office of Administrative Law ("OAL") would be brought before the members at the next meeting. Non-substantive changes suggested by the OAL, FPPC, or staff would be submitted to the Executive Committee for consideration and ultimately reported to the Board at the next meeting.

At the February 28, 2025, General Meeting, the Board adopted proposed regulatory amendments to Section 551.19 of Title 13 of the California Regulations. This regulation specifies the procedural requirements for motions including whether the motion is oral or written, whether an opposition or reply brief is permissible, and if the hearing is in person or telephonic. Since 2020, the Board's merits hearings and motion hearings with live testimony have been held remotely via Zoom and teleconference. To formalize this process in motion hearings with live testimony, regulatory amendments were promulgated. The Notice was published on May 30, 2025. The public comment period closed on July 14, 2025 with no comments submitted. The final rulemaking packet was submitted to OAL for review on July 28, 2025. During its review, OAL suggested the following changes, which are highlighted yellow:

§ 551.19. Motions; Form, Briefing, and Hearings.

(a) Unless made during a hearing while on the record, all motions shall be in writing and filed with the board with an attached proof of service on all parties.

(b) Motions and any response thereto including opposition to motion and reply to opposition shall conform to the requirements of Article 6 herein. The motion and any response shall state in plain language the relief sought and the facts, circumstances, and legal authority that support the motion or the response.

(c) Briefing may be permitted by stipulation of the parties or by order of the board.

(d) Notwithstanding Except as provided in Government Code section 11440.30(b) of the Administrative Procedure Act, the ALJ may conduct the hearing by telephone, television, or other electronic means if each party in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe exhibits. In the event of live testimony, the hearing shall be conducted in person before the ALJ or other electronic means if each party in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe exhibits.

The Executive Committee approved these changes so the staff could proceed with the proposed regulatory amendments. The proposed amendments were approved by OAL and filed with the Secretary of State on September 9, 2025. The amendments were effective January 1, 2026.

This matter is being agendized for information only at the February 20, 2026, General Meeting. If you have any question or require additional information, please contact me at (916) 244-6774 or Robin at (916) 244-6776.



## Memorandum

**Date : JANUARY 29, 2026**

**To : EXECUTIVE COMMITTEE**  
**JACOB STEVENS, CHAIR**  
**ANNE SMITH BOLAND, MEMBER**

**From : TIMOTHY M. CORCORAN**  
**ROBIN P. PARKER**

**Subject : REPORT ON NON-SUBSTANTIVE CHANGES SUGGESTED BY THE OFFICE OF ADMINISTRATIVE LAW TO SECTION 599 (ARTICLE 7. NEW MOTOR VEHICLE BOARD--CONFLICT-OF-INTEREST CODE) OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS**

At the August 1, 2025, General Meeting, the members revised its long-standing policy adopted April 26, 2002, concerning promulgating regulations:

The Board delegated to the Executive Director the ministerial duty of proceeding through the rulemaking process in compliance with the Administrative Procedure Act. All substantive changes to the proposed text suggested by Board staff, the public, the Fair Political Practices Commission ("FPPC"), or the Office of Administrative Law ("OAL") would be brought before the members at the next meeting. Non-substantive changes suggested by the OAL, FPPC, or staff would be submitted to the Executive Committee for consideration and ultimately reported to the Board at the next meeting.

The Board adopted non-substantive amendments to Section 599 of Title 13 of the California Regulations at the August 1<sup>st</sup> meeting. This section does not contain the Board's Conflict of Interest Code but provides detailed information on how a member of the public could request a copy. The proposed changes cleanup dated language and update the address for the Fair Political Practices Commission.

During its review, OAL suggested the following changes, which are highlighted yellow:

### Article 7. New Motor Vehicle Board--Conflict-of-Interest Code

**NOTE: Pursuant to a regulation of the Fair Political Practices Commission (Title 2, CCR, section 18750(k)(2)), an agency adopting a conflict of interest code has the options of requesting that the code either be (1) printed in the CCR in its entirety or (2) incorporated by reference into the CCR. Here, t**The adopting agency has requested its conflict of interest code be incorporated by reference into the California Code of Regulations CR. However, t**The full text of the**

Non-Substantive Changes - OAL Section 599

Page 2

January 29, 2026

regulations is available to the public for review or purchase at cost at the following locations:

NEW MOTOR VEHICLE BOARD  
2415 1<sup>ST</sup> AVENUE, MS L242  
SACRAMENTO, CALIFORNIA 95818

FAIR POLITICAL PRACTICES COMMISSION  
~~428 J STREET, SUITE 620~~  
1102 Q STREET, SUITE 3000  
SACRAMENTO, CALIFORNIA 95814 95811

ARCHIVES  
SECRETARY OF STATE  
1020 O STREET  
SACRAMENTO, CALIFORNIA 95814

The conflict-of-interest code is designated as Article 7 of Chapter 2 of Division 1 of Title 13 of the California Code of Regulations, and consists of sections numbered and titled as follows:

Article 7. New Motor Vehicle Board--Conflict-of-Interest Code

Section	
599.	General Provisions
	Appendix A
	Appendix B

NOTE: Authority cited: Section 3050(a), Vehicle Code; and Sections 81008, 87300, 87304 and 87306, Government Code. Reference: Section 87302 81000, et seq., Government Code.

The Executive Committee approved these changes so the staff could proceed. The amendments were filed with the Secretary of State on January 7, 2026. Non-substantive changes do not have an effective date since the changes are without regulatory effect. They will be part of the California Code of Regulations once published.

This matter is being agendized for information only at the February 20, 2026, General Meeting. If you have any question or require additional information, please contact me at (916) 244-6774 or Robin at (916) 244-6776.



## Memorandum

**Date : JANUARY 29, 2026**

**To : FISCAL COMMITTEE**  
**ARDY KASSAKHIAN, CHAIR**  
**ANNE SMITH BOLAND, MEMBER**

**From : SUZANNE LUKE**  
**KIMBERLEE VAYE**  
**TIMOTHY CORCORAN**

**Subject : REPORT ON THE BOARD'S FINANCIAL CONDITION**

The following is a financial summary of the Board's expenditures and revenue reflecting July through November of Fiscal Year (FY) 2025-2026.]

### Revenue Fiscal Year 2025-26

Beginning Reserve Balance	Quarter 1 Revenue	Partial Quarter 2 Revenue Oct thru Nov	Quarter 3 Revenue	Quarter 4 Revenue
\$1,613,956	\$237,186	\$1,033,671	\$	\$

Includes deposit up to January 2026 for the collection of NMVB annual fees.

### Expenditures Fiscal Year 2025-26

Annual Appropriation	Quarter 1 Expenditures	Partial Quarter 2 Expenditures Oct thru Nov	Quarter 3 Expenditures	Quarter 4 Expenditures	Total Expenditures	Appropriation Remaining %
\$2,212,000	\$363,928	\$209,034	\$	\$	\$572,962	74%

In November there was a change in PS and Retirement allotments. The total allotment went from \$65k to \$56k due to OPEB deduction not being included in the original submission.

### Administrative Expenditures Fiscal Year 2024-25

Pro Rata	DMV Administrative Charge
\$184,643 (estimate) YTD: \$111,024	\$106,273 Pending Deduction

Pro Rata assessments: 8/15/2025 \$37,405. 11/14/2025 \$73,619.

Current Reserve Balance – \$2,200,827 balance after November Expenditures. Includes Pro Rata assessments for August and November.

January 29, 2026

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- New Motor Vehicle Board (NMVB) Annual Fee – This collection is now complete. Staff have collected \$872,756 from manufacturers and distributors under NMVB jurisdiction.
- Board Fee Increase Update - Department of Finance approved our Fee Increase Regulation package on 12/22/25. Subject to approval by the Office of Administrative Law, this amended regulation will raise the Annual Board Fee for each manufacturer or distributor to \$0.65 per new motor vehicle sold, leased, or otherwise distributed to consumers in California during the preceding calendar year, with a minimum fee of \$425. Additionally, the dealer fee will be adjusted to \$425 for each year of licensure.
- Administrative Law Judges (ALJs) – As of 12/31/25, all Retired Annuitants ALJs have been separated. Our Permanent Intermittent ALJ remains with the Board.

This memorandum is being provided for informational purposes only, and no Board action is required. If you have any questions prior to the Board Meeting, please contact me at (916) 818-2993.

Attachments as stated

cc: Jacob Stevens, President

**Revenue and Expenditure Summary**  
Fiscal Year 2025-2026  
Covers July 1, 2025 to November 30, 2025

**REVENUES**

New Dealer Licensing Fee:	\$393,445
Manufacturer and Distributor Fee	\$872,756 (includes up to January 2026 deposit)
NMVB Filing Fee	\$1,600
Miscellaneous Services	\$0
Arbitration Program	\$3,056
Year-to-date total:	\$1,270,857

**EXPENDITURES**

**Payroll**

Full-Time staff salaries:  
Budgeted Amount: \$1,170,000  
Expended: \$334,440

Part-Time staff salaries:  
Budgeted Amount: \$79,000  
Expended: \$43,031

Benefits:  
Budgeted Amount: \$694,000  
Expended: \$170,296

**Operating Expense and Equipment**

*General Expense* (includes equipment, office supplies, dues, legal library, etc.):  
Budgeted Amount: \$37,000  
Expended: \$6,579

*Travel In-State*:  
Budgeted Amount: \$26,500  
Expended: \$8,771

*Office of Administrative Hearings*:  
Budgeted Amount: \$155,000  
Expended: \$296

*Professional Services (Court Reporter)*:  
Budgeted Amount: \$8,000  
Expended: \$3,163

*Encumbrance Balance*  
\$5,951

**TOTAL OPERATING EXPENSE AND EQUIPMENT**

Budgeted Amount: \$231,000

Expenditure Year to Date: \$19,244

**GRAND TOTAL – Fiscal Year 2025-2026**

Beginning Reserve Balance: \$1,613,956

Revenue Year to Date: \$1,270,857

Expenditure Year to Date: \$572,962

# General Overview of New Motor Vehicle Board's Industry Roundtable

## ***Ideas to Impact ~ The Power of Collaboration***

**Date:** April 8, 2026

**Time:** 8:30-3:00 PT

**Location:** California Natural Resources Agency, Floor 2, Room 221 A-C  
715 P St. Sacramento, CA 95814

**Keynote Speaker:** Toks Omishakin, Secretary, California State Transportation Agency

*CalSTA Core Four Priorities~ Safety, Equity, Climate Action, and Economic Prosperity*

### **Morning Session**

- ***Pathways to Prosperity*** As the automotive industry rapidly evolves- with advancements in EV technology, diagnostics, and smart systems- the demand for highly skilled technicians continues to grow. This panel explores the importance of introducing students to automotive technology early in their education and creating clear pathways to the profession.
- ***Spotlight on Safety*** Highlights from the tremendous progress we've made in California with the National Safety Council's Check to Protect vehicle safety recall program through diverse partnerships and thoughtful collaboration.
- ***California's Zero Emission Vehicle Transition*** The accelerated shift towards zero-emission vehicles presents opportunities and challenges for the industry, communities, and policymakers. This panel explores navigating this landscape through coordinated planning, and most importantly, cross-sector collaboration.

### **Afternoon Session**

***Meet the Regulation Experts*** Engage in discussions with Department of Motor Vehicles, Bureau of Automotive Repair and California Air Resources Board on laws, rules and regulations, and programs that apply to: new and used vehicle dealers, brokers, dismantlers, registrations services, vehicle verifiers, and other vehicle-related businesses; clean truck and diesel programs, compliance, funding, and initiatives; and any other questions you may have!

***Visit [nmvb.ca.gov](http://nmvb.ca.gov) to learn more.***



## Memorandum

**Date : JANUARY 29, 2026**

**To : GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE  
ASHLEY DENA, CHAIR  
VACANT, MEMBER**

**From : KIMBERLEE VAYE**

**Subject : DISCUSSION AND CONSIDERATION OF EV EXPERT SIGNATORIES AND ZEV  
READINESS APPLICANTS**

The New Motor Vehicle Board's EV Expert Pledge was launched May 12, 2025 and the Zero Emission Vehicle (ZEV) Readiness Awards were launched July 8, 2025. Pledges and award applicants are accepted on a rolling basis.

At the August 1, 2025 Board meeting, four new motor vehicle dealerships were recognized for the EV Expert Pledge. For the 2026 goal, the Board intends to have secured at least one signatory dealer, recognized by the Board, in each of the 13 "economic regions" of California, as defined by the Governor's Office of Business and Economic Development. As of November 2025, we have four EV Expert Pledge signatory dealers, representing three regions of the state. Throughout 2026, we will be targeting the remaining regions across the state. At the February 20, 2026, General Meeting Board meeting, three additional new motor vehicle dealerships will be presented for consideration.

Seven ZEV Readiness Award applicants will be presented for discussion and consideration at the February 20, 2026, General Meeting Board. If chosen, applicants will be notified to discuss next steps on receiving the award.

If you have any questions or require additional information, please do not hesitate to contact me at (916) 818-2993. ]

cc: Jacob Stevens, President



## City of Alameda Population~ 80,000

“Alameda is Electric” Ribbon  
Cutting Ceremony

Photo credits: Maurice Ramirez

Expansion of public EV charging is a priority established by the City Council and documented in the Alameda 2040 General Plan, CARP, and City Council Strategic Plan.

Provides express permits for EV charger installation and Alameda Municipal Power (AMP) offers clean transportation programs including rebates for electric vehicles, e-bikes and EV chargers.

In 2024, AMP launched a multi-family EV charging technical assistance program to provide technical assistance with planning and designing EV charging projects at no cost for multifamily properties in Alameda's equity priority areas.





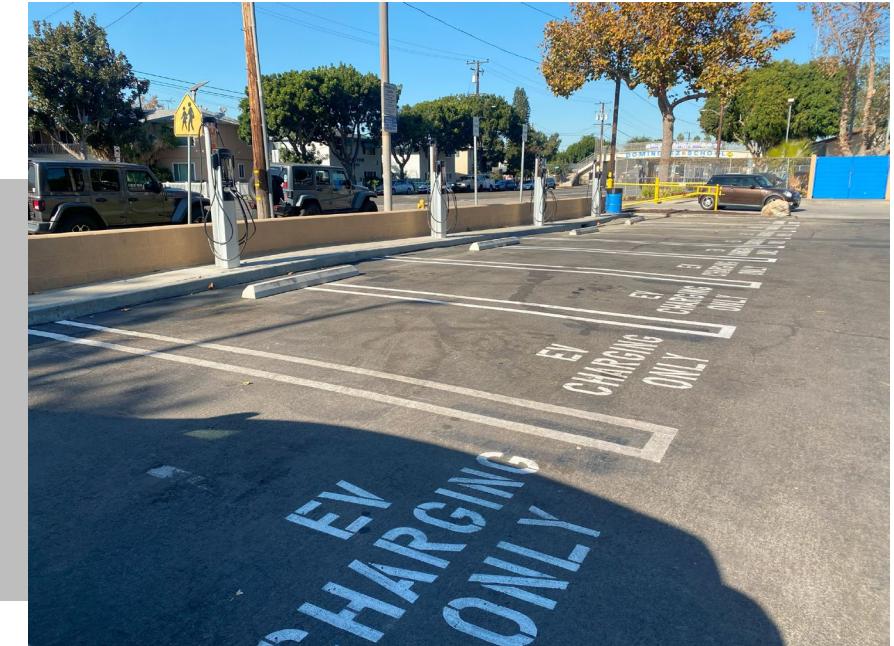
City of Carson  
Population~  
96,000

Ribbon Cutting Ceremony

Over 150 public Level 2 and DC fast-charging ports have been installed at City parks, community centers, and other City facilities.

Based on community feedback, the City prioritized installations in neighborhood parks and at busy community sites where families tend to spend more time.

City developed an interactive GIS story map that visually displays the location and number of chargers installed across Carson, including chargers on private property that are available for public use. This tool not only shows the scale of the investment but also helps residents and visitors easily find nearby charging options.



City of  
Pasadena  
Population~  
137,195



Shopper's Lane



City of Pasadena owns 243 Level 2 chargers and 49 Level 3 fast chargers. 116 Level 2 chargers and 45 Level 3 chargers are available to the public. Located across 30 different site locations.

Rates remain low due to subsidies provided by CARB's Low Carbon Fuel Standard (LCFS) Program. More than 10,000 sessions occur each month on Pasadena's network.

Produces literature including tips booklets and coloring books in English and Spanish on how EVs work and the best ways to charge.

Rooftop Garage



Victory Park



Contra Costa  
County  
Population~  
1,400,000



Over 200 level 2 EV charging ports across the County and another 200+ level 2 and 72 DC Fast Chargers funded by state and federal grants.

In coordination with local school districts and Contra Costa Community College District, the County is developing EV technician training pathways—including internships and pre-apprenticeship programs tied to charger installation and maintenance.

**EV-4-All** charger locations were prioritized based on proximity to disadvantaged communities, health burden data, and travel patterns. The project helps address the disproportionately low number of chargers in the County's most pollution-impacted neighborhoods. Reducing the number of fossil fuel vehicles, reduces localized pollution causing asthma.



County of  
Santa  
Barbara  
Population~  
155,000



Zero Emission Vehicle Plan was developed in consultation with the County's Equity Advisory & Outreach Committee. This plan seeks to accelerate adoption of zero emission vehicles through expanding infrastructure, education, incentives and resources.

Admin Building - Features charging stations for both (20) fleet vehicles and (8) general public



Camino del Remedio - Features charging stations for both (3) fleet vehicles and (13) general public



County partners with the Santa Barbara County Promotores Network to conduct outreach in Spanish and Mixteco for sustainability topics, including EVs.



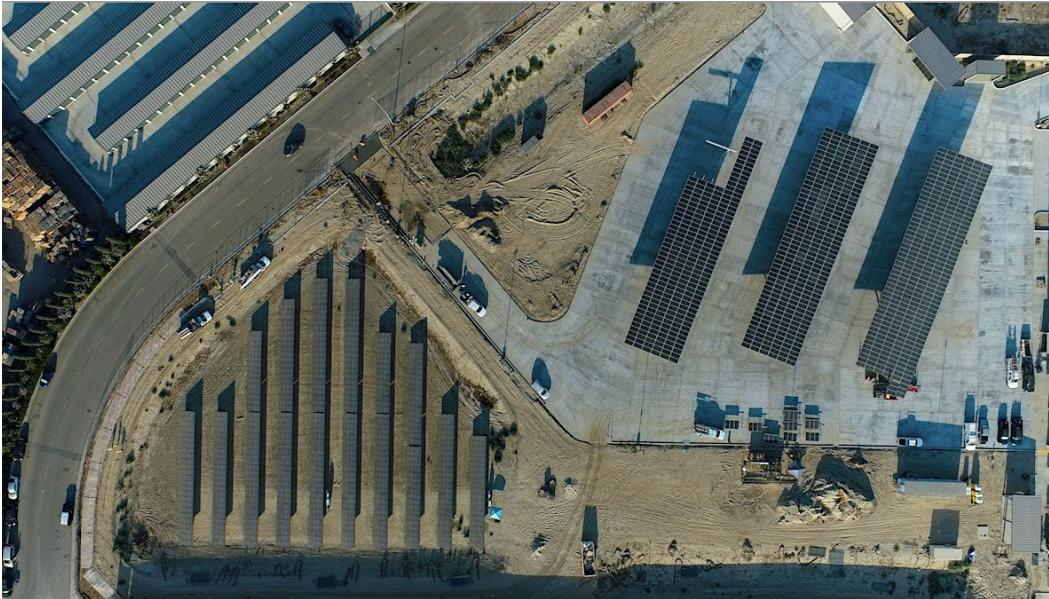
Fresno County Rural Transit Agency  
Population~ 330,000

Photo-FCRTA Operations and Maintenance Facility Project

Fresno County Rural Transit Agency services the thirteen rural incorporated cities and nearly 40 unincorporated communities in Fresno County.

Developed an Operation and Maintenance Facility in Selma, CA with net benefits to the environment, residents, and transit riders in the heart of the San Joaquin Valley.

Project consists of a battery storage, solar panels with level 1 & 2 chargers, EV charging and inductive charging for fleet, a ponding basin with solar panels, a maintenance building, dispatching center, offices, and a bus wash station.



# San Joaquin Council of Governments Population~ 816,018

Stockton Mobility Collective Ribbon  
Cutting Ceremony

Community Engagement for ZEV  
Locations



Stockton Mobility Collective was a catalyzing project for the agency's ZEV readiness efforts, and community engagement was foundational in guiding project implementation. SJCOG addressed mobility challenges and improved accessibility to clean transportation options for the community.

EV carsharing, e-bikesharing, a transit trip planning and mobile payment app, and transportation incentives to income-qualifying residents. Virtual and in-person workshops, digital and paper surveys, in-language materials, and tabling at local events.

Partnered with Míocar, a nonprofit electric carsharing operator, and Housing Authority of the County of San Joaquin, to offer residents affordable short-term rental rates at \$4/hour or \$35/day. The ZEV infrastructure located in historically underserved neighborhoods with well-documented mobility challenges. Míocar members took more than 4,000 trips and drove 335,183 miles in 2024.

Microcars at  
Conway Homes



Microcar  
Orientation with  
resident



Tracy Transit Station





## Memorandum

**Date : JANUARY 29, 2026**

**To : GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE  
ASHLEY DENA, CHAIR  
VACANT, MEMBER**

**From : KIMBERLEE VAYE**

**Subject : DISCUSSION AND CONSIDERATION OF EV EXPERT SIGNATORIES AND ZEV  
READINESS APPLICANTS**

The New Motor Vehicle Board's EV Expert Pledge was launched May 12, 2025 and the Zero Emission Vehicle (ZEV) Readiness Awards were launched July 8, 2025. Pledges and award applicants are accepted on a rolling basis.

At the August 1, 2025 Board meeting, four new motor vehicle dealerships were recognized for the EV Expert Pledge. For the 2026 goal, the Board intends to have secured at least one signatory dealer, recognized by the Board, in each of the 13 "economic regions" of California, as defined by the Governor's Office of Business and Economic Development. As of November 2025, we have four EV Expert Pledge signatory dealers, representing three regions of the state. Throughout 2026, we will be targeting the remaining regions across the state. At the February 20, 2026, General Meeting Board meeting, three additional new motor vehicle dealerships will be presented for consideration.

Seven ZEV Readiness Award applicants will be presented for discussion and consideration at the February 20, 2026, General Meeting Board. If chosen, applicants will be notified to discuss next steps on receiving the award.

If you have any questions or require additional information, please do not hesitate to contact me at (916) 818-2993. ]

cc: Jacob Stevens, President



## Memorandum

**Date : JANUARY 29, 2026**

**To : POLICY AND PROCEDURE COMMITTEE**  
**JACOB STEVENS, CHAIR**  
**VACANT, MEMBER**

**From : TIMOTHY M. CORCORAN**  
**ROBIN P. PARKER**

**Subject : ANNUAL REPORT CONCERNING BOARD ADOPTED POLICIES**

Over the past 25 years, the Board has adopted a wide range of policies pertaining to Board operations. While these policies do not have the force of law, they serve as guides to the Board and staff. They may be modified or abolished as the Board deems appropriate. The staff has consolidated the policies into a single document for purposes of consistency and to educate new members.

The attached summary provides the Board with an opportunity to review the policies. The substantives changes from 2025 are highlighted in underline and strikeout font, and pertain to:

- Updates were made to the “Appointment of Hearing Officers” to reflect removal of ALJs from assignment logs and the elimination of the “Alternate Law and Motion ALJ Assignment Log.” There are no retired annuitant ALJs.
- The following updates were made to the “Case Assignments”:
  - The policy adding the Office of Administrative Hearings (“OAH”) to the “Merit Hearings Judge Assignment Log” to be next in line to preside over a protest hearing between a franchisee and franchisor was deleted because effective February 28, 2025, all merits hearings in new protests and existing protests will be assigned to OAH.
  - The temporary discretion granted to the Executive Director to assign merits hearings to OAH outside the current assignment log was deleted.
  - The Board adopted a numerical designation system for assigning Administrative Law Judges to merits hearing was deleted.
  - Robin Parker was appointed the designated Mandatory Settlement Conference Hearing Officer.

- Board Delegations were updated to reflect:
  1. The Ad Hoc Committee on Equity, Justice and Inclusion is a standing committee.
  2. The Board granted staff discretion in consultation with the Executive Committee to reduce the proposed Annual Fee to any number between \$400 and \$425 and \$.60 and \$.65. If this occurs, staff will bring this matter to the full Board at its next meeting. This delegation is expected to last for 12-18 months so it is reflected in the Delegations.
  3. The temporary discretion granted to the Executive Director to assign merits hearings to the OAH outside the current assignment log is obsolete in light of action taken by the Board at its February 28, 2025, General Meeting.
  4. Effective February 28, 2025, all merits hearings in new protests and existing protests will be assigned to OAH.
  5. The expansion of the rulemaking delegation of authority to the Executive Direction.
- The rulemaking delegation of authority to the Executive Direction was expanded to include non-substantive changes suggested by the Fair Political Practices Commission.
- The *Guide to the New Motor Vehicle Board, Informational Guide for Manufacturers and Distributors, and Export or Sale-for-Resale Prohibition Policy Protest Guide* were updated.

This matter is being agendized for informational purposes only at the February 20, 2026, General Meeting, and no Board action is required.

If you have any questions or require additional information, please contact me at (916) 244-6774 or Robin at (916) 244-6776.

Attachment

## NEW MOTOR VEHICLE BOARD ADOPTED POLICIES

Since 1996, the New Motor Vehicle Board (“Board”) has adopted a wide range of policies pertaining to Board operations and practices. They supplement State and Department of Motor Vehicles (herein “Department” or “DMV”) policies and pertain to issues unique to Board operations. While these policies do not have the force of law, they serve as guides to the Board and staff.

BOARD MEETINGS		
CATEGORY	POLICY	DATE
Bagley-Keene Open Meeting Act Education and Compliance	<p>The Office of the Attorney General recommended that the Board appoint a full-time employee of the Board who is an attorney as the Bagley-Keene compliance officer, rather than hire outside services. In order to comply with this recommendation, the General Counsel<sup>1</sup> is the Bagley-Keene Compliance Officer with responsibility for Board member education and compliance.</p> <p>The Bagley-Keene Open Meeting Act requires that all state bodies “designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting.” In order to ensure compliance, the General Counsel is responsible for maintaining the closed meeting minutes in accordance with the Bagley-Keene Open Meeting Act.</p>	July 12, 1996; May 25, 2000
Board Meeting Procedures	<p>The Board approved Parliamentary Procedures are to be utilized in the conduct of its meetings. In the event that a procedural issue arises which is not covered by the Parliamentary Procedures, the relevant provision(s) of Robert’s Rules of Order, The Modern Edition (1989 Version) will control the situation to which the issue applies. The Board revised the Parliamentary Procedures to reflect the changes in organizational structure and the procedure for debate and voting.</p>	March 18, 1997 - Business, Transportation & Housing Agency <sup>2</sup> Audit Recommendation 7; January 8, 2003; September 27, 2011

<sup>1</sup> Robin Parker, Chief Counsel, is performing all of the duties previously assigned to the Board’s General Counsel including but not limited to the Bagley-Keene Compliance Officer, maintaining the closed meeting minutes in accordance with the Bagley-Keene Open Meeting Act, the Audit Compliance Officer, and coordinating with the DMV’s Chief Counsel in the event the Board elects to request DMV to take disciplinary actions against a licensee for failure to file statutorily mandated schedules and formulas.

<sup>2</sup> Business, Transportation & Housing Agency was superseded by the California State Transportation Agency (CalSTA) on July 1, 2013.

CATEGORY	POLICY	DATE
Board Meeting Procedures -continued-	<p>At the December 2, 2019, General Meeting, changes were approved to automatically fill vacant committee Chair positions with the Member. At the November 4, 2020, General Meeting, the reference to “appeals” in Article 5 (debate and voting) was deleted due to the repeal of appeals effective January 1, 2020.</p> <p>The presiding Administrative Law Judge (“ALJ”) shall prepare a decision cover sheet/analysis which is provided to members with their meeting materials when a proposed decision or ruling is agendized. The decision cover sheet/analysis should be limited to two pages and not contain a recommendation.</p>	December 2, 2019; November 4, 2020  December 8, 1998; May 25, 2000
Board Policy Review by the Committee on Equity, Justice and Inclusion	The Committee on Equity, Justice and Inclusion will review all new and revised policies prior to Board action to further institutionalize equity within Board programs. <sup>3</sup>	September 21, 2023
Dealer Member Participation in Recreational Vehicle (“RV”) Protests and Petitions	Dealer Board members may not participate in petitions involving RV licensees. Dealer members of the Board will participate in, hear, comment, or advise other members upon, or decide protests between RV dealers and franchisors, unless a Dealer Member also has an interest in an RV dealership in which case the Dealer Member will be recused from participation in the matter, unless the parties stipulate to such participation. A stipulation concerning such participation was adopted.	December 11, 2003; January 31, 2007; March 28, 2007; November 15, 2007
Public Comment During Consideration of Proposed Decision, Order, or Ruling Conducted Pursuant to the Administrative Procedure Act	In compliance with section 11125.7, each agenda item other than an item that requires Board consideration of a proposed decision, ruling, or order, the President or presiding officer shall invite public comment after the item has been presented by staff. The President or presiding officer of the meeting may limit the number and/or the duration of the public comment or comments depending on the time constraints and size of the agenda. The following language is to be inserted into the President’s or presiding officer’s introductory statement prior to Board consideration of a proposed decision, ruling or	September 10, 2009; February 4, 2010

<sup>3</sup> At the November 1, 2024, General Meeting, President Kassakhian converted the Ad Hoc Committee on Equity, Justice and Inclusion to the Committee on Equity, Justice and Inclusion. Delegations made to the Ad Hoc Committee were transferred to the standing committee.

CATEGORY	POLICY	DATE
Public Comment During Consideration of Proposed Decision, Order, or Ruling Conducted Pursuant to the Administrative Procedure Act -continued-	order, as follows: "Comments by the parties or by their counsel that are made regarding any proposed decision, ruling, or order must be limited to matters contained within the administrative record of the proceedings. No other information or argument will be considered by the Board. Members of the public may not comment on such matters."	
<b>BOARD MEMBERS</b>		
Board Development	In order to ensure familiarity with Board operations and the new motor vehicle industry in general, the Board will provide new member orientation and ongoing educational seminars to new and existing members.	July 18, 2000
Gifts and Honoraria	<p>The Board shall comply with the statutory requirements of the Political Reform Act. In general, the Act provides for a limitation on gifts received by state board members as follows:</p> <ul style="list-style-type: none"> <li>▪ Gifts provided for or arranged by a lobbyist or lobbying firm if the lobbyist or firm are registered to lobby the member or the employee's agency are prohibited if the aggregate value exceeds \$10 per calendar month from a single lobbyist or lobbying firm.</li> <li>▪ State board members and designated staff may not accept gifts aggregating more than \$420<sup>4</sup> from any other single source if that gift would have to be reported on the recipient's Statement of Economic Interest (Form 700). Gifts received from a single source, totaling \$50 or more in a calendar year generally must be reported. The definition of "single source" is set forth in the NMVB Conflict-of-Interest, Appendix B – Disclosure Category which was approved by the Fair Political Practices Commission July 3, 2013, and the Secretary of State on July 24, 2013. The amendments were operative August 23, 2013. (There have been subsequent amendments to the conflict-of-interest code.)</li> </ul>	April 27, 2001; March 23, 2010

<sup>4</sup> The gift amount is \$630.00 (2 CCR §§ 18700 and 18940.2). For purposes of Government Code section 89503, the adjusted annual gift limitation of \$630.00 is in effect January 1, 2025, through December 31, 2026.

CATEGORY	POLICY	DATE
Gifts and Honoraria -continued-	<ul style="list-style-type: none"> <li>With regards to honoraria, the Act provides that members of state boards may not receive honoraria from any source that would be required to be reported on the Form 700 for that official.</li> </ul>	
<b>COURT PROCEEDINGS</b>		
Court Participation on Issues of Interest to the Board	<p>The Board, as a general rule, should not substantively participate in mandamus actions in which a Board decision is challenged. When the Board renders a final decision which is challenged by way of a petition for writ of administrative mandamus, and an important State interest is not raised in the mandamus proceeding, then the Board shall notify the parties to the proceeding of the Board's policy not to appear in the mandamus action, and request that the parties so notify the court and keep it on the proof of service list. As such, unless the court specifically requests otherwise, the Board would not file any pleadings in the court action, which would obviate the necessity of involvement by the office of the Attorney General. However, in mandamus actions in which an important State issue is raised, the Board would have the option to participate by the filing of pleadings opposing the petition and by presenting oral arguments on only those limited issues affecting the State interest. In such situations, prior to Board participation, the matter would be presented to the full Board for review at a regularly scheduled meeting of the Board. In the absence of sufficient time for consideration at a noticed Board meeting, the President, or a Board member designated by the President, can authorize the filing of appropriate pleadings in opposition to the petition and/or the presentation of oral arguments. When this occurs, a copy of the petition and supporting documents would be mailed to each Board member with an indication that the President, or designee, has authorized Board participation. Any Board member who objects to Board participation would then immediately so notify staff and the matter would be scheduled for discussion at either the next general meeting of the Board or, if three public members request, then at a special meeting of the Board. Any appearance by the Board would be made by the office of the Attorney General or, with the</p>	October 22, 1996, February 12, 1997; March 18, 1997 - Business, Transportation & Housing Agency Audit Recommendation 5

CATEGORY	POLICY	DATE
Court Participation on Issues of Interest to the Board -continued-	<p>consent of the Attorney General, by the Board's own counsel.</p> <p>When a Dealer Member is President, only those matters in which a Dealer Member would be disqualified from having heard in the first place are delegated. Furthermore, if you have a Dealer Member as Board President, and a Public Member as Vice President, then the designation should automatically go to the Vice President.</p>	June 26, 2008
Filing Amicus Briefs	<p>The Board will not file any amicus briefs without the consent of Business, Transportation &amp; Housing Agency ("Agency"). As a prerequisite to requesting the consent of Agency, the Board must (a) discuss and approve the consent request at a noticed public meeting, or (b) in the case where time constraints do not permit the foregoing the President may authorize the request for consent. In any instance when the President authorizes the request, a notice shall be immediately sent to Board members. If any member seeks immediate review of this action, the member may request that the President call a special meeting of the Board to discuss the matter. If there is no such immediate review requested, the matter will be included in the agenda of the next regularly scheduled Board meeting. If the Board determines that it does not want to file the amicus brief, the request for consent will be withdrawn.</p>	July 12, 1996 - Business, Transportation & Housing Agency Audit Recommendation 4
<b>CONSUMER MEDIATION PROGRAM</b>		
Consumer Mediation Program	<p>The goal of the Consumer Mediation Program is to informally mediate solutions to disputes between consumers and new car dealers, manufacturers, and distributors. Staff will provide consumers information on the Lemon Law and refer such complaints to the appropriate entity for resolution. Complaints for which other agencies have exclusive jurisdiction will also be referred to those agencies. Program activities will not be advertised, nor will consumer newsletters be disseminated. Rather, activities will be based on referrals from other agencies and sources.</p> <p>Vehicle Code section 3078 requires that the staff recommend a member of the public consult with the Department of Consumer Affairs when seeking a refund involving the sale or lease of, or a</p>	December 8, 1998 - Business, Transportation & Housing Agency Audit Recommendation 1 and 10.  April 22, 2004

CATEGORY	POLICY	DATE
Consumer Mediation Program -continued-	<p>replacement of, a recreational vehicle. The Board adopted the use of a Mediation Checklist for Recreational Vehicle Jurisdiction when dealing with complaints from the public regarding RVs. The checklist will enable staff to guide the consumer through key Lemon Law criteria and enable the consumer to choose the proper course of action to pursue.</p> <p>An inter-agency memo will be sent to agencies the Board refers to and those that refer to the Board to reinforce the Board's jurisdiction and services offered by the Consumer Mediation Program.</p>	May 26, 2011
<b>HEARING OFFICERS/ADMINISTRATIVE LAW JUDGES<sup>5</sup></b>		
Appointment of Hearing Officers	<p>Under section 590 of Title 13 of the California Code of Regulations, Robin Parker, Chief Counsel, was appointed by the Board as a hearing officer for the purposes of conducting pre-hearing conferences, rulings on discovery objections, and mandatory settlement conferences. Anthony Skrocki was designated the Law and Motion ALJ responsible for hearing all pre-hearing and discovery motions. In the event of Judge Skrocki's unavailability, an "Alternate Law and Motion ALJ Assignment Log" was established. Robin Parker was added to the "Alternate Law and Motion ALJ Assignment Log" and authorized to preside over law and motion matters in the event no other ALJ is available within a reasonable timeframe and the parties so stipulate. <u>ALJ Skrocki was separated effective December 31, 2025, so the Board no longer has retired annuitant ALJs. The "Alternate Law and Motion ALJ Assignment Log" is moot.</u></p> <p>In January 2005, the Board appointed three ALJs: Richard J. Lopez;<sup>6</sup> Jerold A. Prod;<sup>7</sup> and Norman Gregory (Greg) Taylor.<sup>8</sup> Marybelle Archibald<sup>9</sup> was</p>	<p>August 21, 1997; September 30, 2004; June 26, 2008; November 20, 2008</p> <p>January 26, 2005; September 21, 2005; April 5,</p>

<sup>5</sup> The term hearing officer and ALJ are used interchangeably throughout this document. Effective January 1, 2004, references to "hearing officer" were changed to "administrative law judge" in Vehicle Code sections 3000, et seq. The Board's regulations and job classifications for hearing officer were also changed to ALJ.

<sup>6</sup> Due to a work-related conflict, Judge Lopez resigned from the Board effective June 30, 2007. Judge Lopez was removed from the MSC and Merits Judge Assignment Logs.

<sup>7</sup> Judge Prod retired in August 2013, so he was taken off the assignment logs.

<sup>8</sup> Due to a work-related conflict, Judge Taylor resigned from the Board. However, in August 2006, Judge Taylor was hired on a contract basis and was available on an initial six-month basis. An extension of this contract was granted until May 14, 2007. On May 1, 2007, Judge Taylor was removed from the MSC and Merits Judge Assignment Logs.

CATEGORY	POLICY	DATE
Appointment of Hearing Officers -continued-	<p>also appointed in September 2005, as was and Diana Woodward Hagle in April 2006. Linda Waits was also appointed as an ALJ in December 2007 (resigned in October 2010). In September 2011, the Board appointed three ALJs: Lonnie M. Carlson (resigned in October 2014), Kymberly M. Pipkin (resigned effective March 28, 2025) and Victor D. Ryerson (resigned effective August 1, 2017). In January 2017, the Board appointed Evelyn I. Matteucci and Dwight V. Nelsen as ALJs. In December 2019, four Board Members appointed Steve Smith as an ALJ subject to checking his references and being ratified by the full Board at its March 5, 2020, General Meeting. ALJs Matteucci and Smith were taken off the assignment logs in 2022 and 2023, respectively. In April 2023, Tammy Bayne was hired as a permanent intermittent Law and Motion ALJ. <u>ALJs Nelsen and Woodward Hagle were taken off the assignments logs in August and September 2025, respectively.</u></p>	2006; December 13, 2007; September 27, 2011; January 18, 2017; December 2, 2019; March 5, 2020; April 28, 2023;
Case Assignments	<p>The Board ALJs (excluding Robin Parker and Anthony Skrocki) will preside over merits hearings. To preserve the random selection of ALJs as well as the even distribution of cases, ALJs will be assigned on a rotational basis at the Hearing Readiness Conference utilizing an assignment log similar to the Merits Judge Substitution Log adopted by the Board at its January 8, 2003, meeting. If the judge selected to preside over the next hearing is not available, the Board will attempt to schedule the merits hearing with the next Board ALJ on the log. If for any reason no judge is available, the hearing will be scheduled with an OAH Judge. The new ALJs will be assigned utilizing this process.</p> <p>On an interim basis, ALJs will be assigned based upon a Merits and MSC Judge Assignment Log. All of the ALJs (Archibald, Lopez, and Prod until they resigned) were assigned to the respective logs. The effectiveness of this interim system was reported at the March 8, 2006, General meeting. Diana Woodward Hagle was added to the assignment logs, as was Judge Taylor until his</p>	September 30, 2004; April 21, 2005  November 16, 2005; April 5, 2006; September 28, 2006

<sup>9</sup> In March 2011, Judge Archibald resigned effective after the completion of the Proposed Decision and Proposed Decision Following Remand in *Shayco, Inc., dba Ontario Volkswagen v. Volkswagen of America, Inc.*, Protest No. PR-2265-10.

CATEGORY	POLICY	DATE
Case Assignments -continued-	<p>contract expired. Judge Wong requested that she be added to the MSC Log.</p> <p>The assignment logs were updated as follows:</p> <ul style="list-style-type: none"> <li>▪ If an ALJ's case resolves prior to the commencement of the hearing but after assignment of the matter, the ALJ is inserted first in the rotation so that he or she would be the next ALJ to receive the first opportunity to preside over a merits hearing.</li> <li>▪ If an ALJ must decline presiding over a merits hearing because they were the Mandatory Settlement Conference ALJ, then the ALJ is inserted back into the rotation. Once the merits hearing in which the conflict arose is assigned; the ALJ with the conflict would be the next judge to receive the first opportunity to preside over a merits hearing.</li> </ul>	February 4, 2014
	<p>Merilyn Wong, on an interim basis, was designated the Mandatory Settlement Conference ALJ starting in June 2016. In November 2017, she was designated the permanent Mandatory Settlement Conference ALJ due to her success in settling protests. An Alternative MSC Judge Assignment Log was established in the event ALJ Wong is unavailable. Additionally, at ALJ Wong's request, she was taken off the Alternative Merits Judge Assignment Log and the Alternative Law &amp; Motion Judge Assignment Log so her focus would be exclusively on settlement. Judge Wong passed away in October 2024.</p> <p><b>The Office of Administrative Hearings ("OAH") was added to the "Merit Hearings Judge Assignment Log" next in line to preside over a protest hearing between a franchisee and franchisor. For a period not to exceed three years, the Executive Director has discretion to assign additional merits hearings to OAH outside the current assignment log. Prior to submitting a hearing to OAH that is outside the normal rotation, the Executive Director will seek Executive Committee permission. The use of OAH in general and any additional assignments will be</b></p>	<p>June 28, 2016, January 18, 2017, July 19, 2017, November 7, 2017</p> <p>January 25, 2023; April 28, 2023</p>

CATEGORY	POLICY	DATE
Case Assignments	reported to the Board in the Executive Director's Report.	
-continued-	<p>The Executive Director has discretion to remove an ALJ from an assignment log based on performance. Any proposed changes would be discussed in advance with the Policy and Procedure Committee. If appropriate, updates would be reported to the Board in the Executive Director's Report or in closed Executive Session as a personnel matter.</p>	April 28, 2023
	<p>For new protests starting with Protest No. PR-2832-23, the Board adopted a numerical designation system. The ALJ is assigned based on the last digit of the Protest No. The first protest in numerical order is always the lead case in consolidated matters and would be used for ALJ assignments. In the event a Board ALJ is not available, OAH would be the default. The approved numerical designation is:</p>	September 21, 2023
	<ol style="list-style-type: none"> <li>1, 6 OAH</li> <li>2, 7 Pipkin</li> <li>3, 8 OAH</li> <li>4, 9 Nelsen</li> <li>5, 0 Woodward-Hagle</li> </ol>	
	<p>For existing protests, ALJs will continue to be assigned at the Hearing Readiness Conference using the Merit Hearings Judge Assignment Log on a rotational basis.</p>	
	<p>Effective February 28, 2025, all merits hearings in new protests and existing protests will be assigned to the Office of Administrative Hearings. The Board's retired annuitant ALJs will be retained on the Alternative MSC Assignment Log and the Alternative Law and Motion Assignment Log. Robin Parker was appointed the designated Mandatory Settlement Conference Hearing Officer.</p>	February 28, 2025
Cited Proposed Decisions/Rulings/Orders	<p>Historically, the Board staff prepared two versions of proposed decisions, rulings, and orders. One version contained citations to the record and the other version did not. The Board staff will prepare only one version of proposed decisions, rulings, and orders that contains citations to the record.</p>	January 26, 2006

CATEGORY	POLICY	DATE
Cited Proposed Decisions/ Rulings/Orders -continued-	<p>Additionally, the following sentence will be included in all Board issued proposed decisions, rulings, and orders: "The references to testimony, exhibits, or other parts of the record contained herein are examples of the evidence relied upon to reach a finding, and are not intended to be all-inclusive."</p>	
Hearing Officer Selection	<p>The following process shall be used in the examination and selection of Board Hearing Officers.</p> <p>(1) The civil service testing panel for the hearing officer classification shall consist of, at a minimum, one member of the Board, one Board employee approved by the Board, the Department's designated representative from its Human Resources Branch (who serves as panel chair), and a public member assigned from a list certified by the State Personnel Board.</p> <p>(2) Once the civil service list for the classification has been certified by the Department, the actual hiring interview will be conducted by the Administration Committee of the Board. (The Board may also wish to appoint an alternate Board member to this committee in the event that one of the committee members is unavailable for the hiring interview). This committee may request that a member of the Board's executive staff participate in this process as well.</p> <p>(3) Once the hiring committee selects one or more qualified and desirable applicants from the list, these individual(s) will be requested, if practical, to attend the next scheduled General Meeting of the Board, at which time they will be asked to make a brief presentation to the Board concerning their qualifications and experience. Members of the Board will be given an opportunity to ask questions of these applicants. The Board members will then vote on whether to actually hire these individuals as hearing officers. If one or more of the applicants are hired, the Board will then modify the numerical designation on the hearing officer list to assign a number or numbers to the new hearing officers.</p>	December 8, 1998; November 28, 2000
Reclassification of Hearing Officer to Administrative Law Judge	<p>The Hearing Officer series specification which includes Hearing Officer I, Hearing Officer II, and Chief Hearing Officer was changed to an ALJ class with two salary ranges, Range A and Range B. This change was necessitated by the passage of</p>	November 7, 2003

CATEGORY	POLICY	DATE
Reclassification of Hearing Officer to Administrative Law Judge -continued-	Assembly Bill 1718 (Chaptered September 22, 2003) that transferred the authorization granted to a hearing officer to an ALJ and deleted references to hearing officer in the Vehicle Code. Also, the responsibilities and duties assigned to incumbents of the Hearing Officer class were no longer an accurate representation. Implementation of this change required approval of the State Personnel Board and the Department of Personnel Administration, which was completed September 2012.	
Separation of Powers	The Board rules prevent the ALJ at a settlement conference from presiding at the hearing on the merits or in any proceeding relating to motions for temporary relief or interim orders unless otherwise stipulated by the parties (13 CCR § 551.11).	September 9, 1998
<b>CASE PROCESSING</b>		
Administrative Procedure Act	<p>To ensure compliance with the Administrative Procedure Act, the Board adopted the following discretionary procedures:</p> <ul style="list-style-type: none"> <li>▪ Alternative Dispute Resolution (Government Code section 11420.10, et seq.), which allows the Board, with the consent of all the parties, to refer a dispute to mediation by a neutral mediator, binding arbitration by a neutral arbitrator, or nonbinding arbitration by a neutral arbitrator.</li> <li>▪ Informal Hearings (Government Code section 11445.10, et seq.), which allows the Board to permit informal hearings in certain limited instances. The informal hearing procedure provides a forum in the nature of a conference in which a party has an opportunity to be heard by the presiding officer.</li> <li>▪ Declaratory Decisions (Government Code section 11465.10, et seq.), which provides for issuance of a declaratory decision as to the applicability to specified circumstances of a statute, regulation, or decision within the primary jurisdiction of the Board.</li> </ul>	August 21, 1997
Case Management Procedures	In an effort to ensure the expeditious management of protests and petitions, staff will refer, as necessary, a specific matter to the appropriate ALJ for review, and/or staff will report the status of the case to the Board as an agenda item at a	April 27, 2001

CATEGORY	POLICY	DATE
Case Management Procedures -continued-	<p>scheduled Board meeting to allow for Board action and the opportunity for the parties to appear and comment. In an effort to ensure that protest matters proceed to hearing within the statutorily mandated time frame, the Board staff is directed to adhere to the mandates of Vehicle Code section 3066, which provides that hearings may not be postponed beyond 90 days from the Board's original order setting the hearing date, and Title 13 of the California Code of Regulations section 592 which provides that hearings may not be continued within 10 days of the date for hearing except in extreme emergencies. Any request for a continuance which would violate the above referenced sections or when it appears that it would be beneficial to the expeditious management of the case will be referred to the assigned "merits" ALJ for review. Petition matters that do not proceed to hearing within a reasonable period of time will also be referred to the assigned "merits" ALJ for review.</p>	
Case Assignment Reports	<p>In order to ensure that the mechanism for assigning cases to Board ALJs is working fairly and efficiently, the Board will receive periodic updates on the status of assigning cases to Board ALJs.</p>	September 12, 2000; November 28, 2000
Review of Case Status	<p>The legal staff will review the status of all cases that are at least one-year old no less frequently than once each quarter. The parties will be contacted informally, or a telephonic Status Conference will be noticed to ascertain what action, if any, the Board can take to resolve the dispute.</p>	July 12, 1996
<b>ADMINISTRATION</b>		
Acceptance of Credit Card Payments	<p>The Board will allow the acceptance of credit card payments for all Board fees and costs subject to Master Service Agreements (13 CCR § 553.40). In 2022, the Board began allowing online credit card payments. In the absence of a vendor contract, credit card payments cannot be accepted.</p>	April 26, 2002; February 2005
Administrative Law Judge Guide	<p>The Board will establish and maintain a <i>New Motor Vehicle Board Administrative Law Judges' Benchbook</i>. To timely revise the <i>Benchbook</i>, which is an internal training manual, future updates be reported on the Executive Director's Report.</p>	April 26, 2002; March 11, 2003; March 9, 2004; March 8, 2005; March 8, 2006; March 28, 2007; May 2, 2008; April

CATEGORY	POLICY	DATE
Administrative Law Judge Guide -continued-		23, 2009; June 15, 2010; December 13, 2011; March 20, 2012; March 13, 2013; July 15, 2014; March 25, 2015; February 10, 2016; July 19, 2017; March 13, 2018; November 7, 2022
Annual Board Fee in Light of Two-Year License Renewal	The Annual Board fee of \$225.00 for dealers and \$0.338 per vehicle sold in California, with a minimum of \$225.00, for manufacturers and distributors will remain unchanged in light of the Department of Motor Vehicles two-year Occupational License renewal. <sup>10</sup>	September 21, 2005
Annual Board Fee Waiver Criteria	The Board will exempt from collection of its annual fee all manufacturers or distributors of motor vehicles (including motorcycles, recreational vehicles, and all-terrain vehicles) within the purview of its jurisdiction who do not have independent dealers in California or do not sell vehicles in California (13 CCR § 553(b)). Although a manufacturer or distributor may be exempt from collection of the annual Board fee, the Board will continue to exercise jurisdiction over these licensees. An annual questionnaire (Data Summary Form) will be sent to all exempted licensees concerning whether they have dealers or sold vehicles in California during the prior calendar year.	September 6, 2001; see also amendment to 13 CCR § 553(b) operative September 2003
Arbitration Certification Program Fee Collection	The Board will exercise its discretion to collect or not collect fees when the amount to be collected is nominal, and provide the Department of Consumer Affairs, Arbitration Certification Program with an accounting of the manufacturers and the amounts owed but not collected as a result of the Board exercising its discretion.	January 31, 2007
Audit Compliance Officer	The Board has designated the General Counsel <sup>11</sup> to service as its Audit Compliance Officer to ensure that all facets of the 1996 Business, Transportation	November 20, 2008; May 26, 2011

<sup>10</sup> At its February 4, 2011, General Meeting, the members approved reinstating the Annual Board Fee per manufacturer or distributor to \$.45 per vehicle with a minimum of \$300.00 and the dealer fee to \$300.00. This proposed rulemaking was effective March 30, 2012. Fee increases of \$.65 per vehicle with a minimum of \$425.00 and a dealer fee of \$425.00 were approved by the Department of Finance. The final rulemaking packet was submitted to the Office of Administrative Law on December 30, 2025.

<sup>11</sup> See footnote 1.

CATEGORY	POLICY	DATE
Audit Compliance Officer -continued-	& Housing Agency Performance Audit are complied with. This includes the Corrective Action Plan Committee's proposal which was adopted by the Board at its December 8, 1998, General meeting, and the Audit Review Committee's recommendations concerning restructuring the senior management positions which were adopted at the May 25, 2000, General meeting. This report was made an exception report.	
Budget Process	The Fiscal Committee will meet each May to review the Board's proposed budget. Consideration of the budget will be agendized each June. This enables the Board to take a more active role in the budget process.	September 7, 2007
Delegation in Compliance with the 1996 Performance Audit Conducted by Business, Transportation & Housing Agency	<p>The Audit recommended that "Delegation authorities should be formally adopted by the Board. Delegations which include signature authority should specify transaction type or dollar limits where applicable and should distinguish between the granting of powers reserved to the Board and duties arising from existing statutory provisions already reserved to individuals." In November 1996, the Budget and Finance Committee (Joe Drew and Lucille Mazeika) prepared an analysis of the duties of the Board members and staff that was adopted by the Board at its March 18, 1997, General Meeting. The Committee considered all of the duties of the Board and staff, and recognized those which, by statute or regulation, are retained by the Board or are already delegated to designated individuals.</p> <p>At its November 20, 2008, General Meeting, the members adopted revised delegations with updated statutory language and formal Board delegations of duties that occurred at noticed meetings.</p> <p>At its September 10, 2009, General Meeting, the members adopted the revised delegations that included minor grammatical changes. Additionally, the "Administrative Duties" delegation pertaining to "Procurement" was revised to delegate to the Executive Director "the authority to procure any necessary equipment, supplies, and services up to the amount budgeted in a line item of the Board's approved budget. If, due to extenuating</p>	<p>March 18, 1997 - Business, Transportation &amp; Housing Agency Audit Finding 15</p> <p>November 20, 2008</p> <p>September 10, 2009</p>

CATEGORY	POLICY	DATE
Delegation in Compliance with the 1996 Performance Audit Conducted by Business, Transportation & Housing Agency -continued-	<p>circumstance, the necessary expenditure exceeds the amount budgeted, the Executive Director shall contact the members of the Fiscal Committee by telephone and discuss this matter. The Committee may authorize the procurement which may then be ratified by the full Board at its next regularly scheduled meeting."</p>	
	<p>This matter was made an exception report.</p>	May 26, 2011
	<p>Senate Bill 155, effective January 1, 2014, made a number of non-substantive and substantive changes that resulted in updated delegations being adopted at the July 15, 2014, General Meeting.</p>	July 15, 2014
	<p>Effective January 1, 2016, a number of changes were made to separate provisions pertaining to Article 5 RV protests from Article 4 vehicle protests, and Article 6 was added to allow an association to file an export or sale-for-resale prohibition policy protest on behalf of two or more impacted dealers (Assembly Bills 759 and 1178). The revised delegations reflecting these changes were adopted at the February 10, 2016, General Meeting.</p>	February 10, 2016
	<p>Effective January 1, 2017, Vehicle Code section 3065 was amended (Assembly Bill 287) to specify that warranty obligations include all costs associated with the disposal of hazardous materials that are associated with a recall repair.</p>	January 18, 2017
	<p>Article 6 of the Vehicle Code was repealed effective January 1, 2019. The Board revised its Legislative Policy, which contained three changes that resulted in updated delegations to the Executive Director.</p>	June 7, 2019
	<p>Effective January 1, 2020, Assembly Bill 179 re-lettered Vehicle Code section 3050, repealed Article 3 Appeals (Sections 3052-3058), added the methodology for calculating a franchisee's "retail labor rate" or "retail parts rate" in Section 3065.2, added two new protests in Sections 3065.3 and 3065.4, restored the Board's authority to hear Article 6 Export or Sale-for-Resale Prohibition Policy protests and made many conforming</p>	February 16, 2021

CATEGORY	POLICY	DATE
Delegation in Compliance with the 1996 Performance Audit Conducted by Business, Transportation & Housing Agency -continued-	<p>changes. Updates were made to reflect promotions to Staff Services Manager II and Chief Counsel.</p> <p>Effective January 1, 2023, Assembly Bill 2956 deleted obsolete references to appeals in Section 3008. (Stats. 2022, Ch. 295) Updates were made reflecting the Executive Director's temporary discretion to assign additional merits hearings to OAH outside the current assignment log.</p> <p>Updates were made to reflect the following:</p> <ol style="list-style-type: none"> <li>1. Discretion granted to the Executive Director to remove an ALJ from an assignment log based on performance.</li> <li>2. Recruitment and hiring practices should be designed and implemented with the goal of filling at least 44% of Board public contact positions with bilingual employees who have passed the Department of Motor Vehicles' Bilingual Verbal Proficiency Examination.</li> <li>3. The Ad Hoc Committee on Equity, Justice and Inclusion will review all new and revised policies prior to Board action in order to further institutionalize equity within Board programs.</li> <li>4. Effective January 1, 2024, Assembly Bill 473 added three new protests to Vehicle Code section 3065.3.</li> <li>5. The Board adopted Strategic Plan June 2024-30.</li> <li>6. The Executive Director was granted the discretion to take action responsive to the objectives in the Strategic Plan.</li> <li>7. Personnel duties in the Delegation of Administrative Duties were updated to reflect the newly created Assistant Director and Equity Officer position.</li> </ol> <p><u>A number of updates were approved to reflect the following:</u></p> <ol style="list-style-type: none"> <li>1. The Ad Hoc Committee on Equity, Justice and Inclusion is a standing committee. Footnote 2 was added explaining this on page 2.</li> <li>2. The Board granted staff discretion in consultation with the Executive Committee to reduce the proposed Annual Fee to any number</li> </ol>	<p>April 28, 2023</p> <p>August 9, 2024</p> <p>August 1, 2025</p>

CATEGORY	POLICY	DATE
Delegation in Compliance with the 1996 Performance Audit Conducted by Business, Transportation & Housing Agency -continued-	<p>between \$400 and \$425 and \$.60 and \$.65. If this occurs, staff will bring this matter to the full Board at its next meeting. This delegation is expected to last for 12-18 months so it is reflected in the Delegations.</p> <p>3. The temporary discretion granted to the Executive Director to assign merits hearings to the OAH outside the current assignment log is obsolete in light of action taken by the Board at its February 28, 2025, General Meeting.</p> <p>4. Effective February 28, 2025, all merits hearings in new protests and existing protests will be assigned to OAH. The Board's retired annuitant ALJs will be retained on the Alternative MSC Assignment Log and the Alternative Law and Motion Assignment Log.</p> <p>5. The rulemaking delegation of authority to the Executive Direction was expanded to include non-substantive changes suggested by the Fair Political Practices Commission.</p>	
Delegation of Authority Concerning Promulgating Regulations	<p>The Board will delegate delegated to the Executive Director the ministerial duty of proceeding through the rulemaking process in compliance with the Administrative Procedure Act. All substantive changes to the proposed text suggested by Board staff, the public, the Fair Political Practices Commission ("FPPC"), or the Office of Administrative Law ("OAL") will would be brought before the members at the next meeting. Non-substantive changes suggested by the Office of Administrative Law OAL, FPPC, or staff will would be submitted to the Executive Committee for consideration and ultimately reported to the Board at the next meeting.</p> <p>The Board adopted proposed regulations increasing the dealer licensing fee to \$425 and the per vehicle fee to \$.65 for manufacturers and distributors with a minimum of \$425. If necessary, during the rulemaking process, the Board granted the staff discretion in consultation with the Executive Committee to reduce the fee to any number between \$400 and \$425 and \$.60 and \$.65. If this occurs, staff will bring this matter to the full Board at its next meeting.</p>	<p>April 26, 2002; August 1, 2025</p> <p>November 1, 2024</p>

CATEGORY	POLICY	DATE
Document Requests	<p>The Board will charge fees for document requests that are consistent with Evidence Code section 1563, and all fees for document requests that total \$10.00 or less (less than 40 pages and less than 15 minutes of actual labor) will be waived by the Board, subject to review and approval by the Executive Director.</p> <p>The statutory references to the California Public Records Act were updated to reflect the reorganization and recodification in Government Code section 7920.000, et seq.</p>	October 22, 1996; September 6, 2001; December 13, 2006  January 25, 2023
Document Retention Policy	<p>The Board adopted Document Retention Policy:</p> <ul style="list-style-type: none"> <li>▪ The Board's judicial and administrative case files will be retained in their entirety, including exhibits and transcripts, at the Board's offices for a period of ten years after the case is no longer active.</li> <li>▪ After the expiration of the ten-year period, all Final Decisions along with all briefs submitted at the close of the administrative record will be separately retained as permanent public records and stored at the Board's offices. The remainder of each file, i.e., exhibits and transcripts, will then be confidentially destroyed.</li> <li>▪ Records of consumer complaints that are received by the Mediation Services Program will be retained for three years after the case is closed followed by confidential destruction.</li> <li>▪ Administrative records including, but not limited to, budget reports, travel expense claims, purchase agreements, and property survey reports will be retained, in the Board's offices for eight years from the end of the fiscal year in which the document was prepared, followed by confidential destruction.</li> <li>▪ Employee personnel files, which include documents relating to health benefits, payroll deductions, performance appraisals, and the like, will be retained for eight years beyond separation followed by confidential destruction.</li> </ul>	October 29, 2002
Electronic Public Mailing List	The Board will maintain a permanent Electronic Public Mailing List.	September 6, 2001
Employee Recognition	The Board will utilize an Employee Recognition Award Program to recognize staff members for	July 18, 2000; September 30,

CATEGORY	POLICY	DATE
Employee Recognition -continued-	their outstanding accomplishments. On at least an annual basis, employee nominations based on merit are submitted to the Board Development Committee and a recipient is selected in coordination with the Executive Director. The Employee Recognition Award program was renamed the "Solon C. Soteras Employee Recognition Award".	2004; March 8, 2006
Facsimile Document Requests	There will be no charge for document requests sent via facsimile. However, if an individual required an excessive number of documents be sent via fax, then they could be referred to an attorney support service.	December 13, 2006
Financial Reports	In order to keep the Board apprised of its financial condition, the Board will receive quarterly financial updates at regularly scheduled Board meetings.	May 25, 2000; July 18, 2000
Information Security	The Executive Director is the Liaison Information Security Officer and responsible for ensuring compliance with information security procedures. This ensures that the Board complies with the Government Code that requires each agency have an officer who is responsible for ensuring that the organization's systems and procedures are in compliance.	August 20, 1996; December 12, 2000
Informational Materials	The Board will establish and maintain a <i>Guide to the New Motor Vehicle Board</i> and any necessary related materials. (February 12, 1997 - Business, Transportation & Housing Agency Audit Recommendation 13)	February 26, 1999; September 6, 2001; December 5, 2002; December 11, 2003; December 16, 2004; January 26, 2006; January 31, 2007; February 11, 2008; April 23, 2009; February 4, 2010; September 27, 2011; March 20, 2012; January 22, 2013; April 9, 2014; February 11, 2015; February 10, 2016; January 18, 2017; January 24, 2018; January 24, 2019; March 5, 22, 2013; April 9, 2014; February 11, 2015; February 10, 2016; January 18, 2017; January 24,

CATEGORY	POLICY	DATE
Informational Materials -continued-	<p>The Board will establish and maintain an <i>Informational Guide for Manufacturers and Distributors</i> that assists factory personnel in complying with California's franchise laws including the statutorily required notices.</p>	2018; January 24, 2019; March 5, 2020; February 16, 2021; March 30, 2022; April 28, 2023; April 25, 2024; <u>February 28, 2025</u>  September 6, 2001; January 8, 2003; March 9, 2004; January 26, 2005 and 2006; January 31, 2007; February 11, 2008; April 23, 2009; February 4, 2010 and 2011; March 20, 2012; January 22, 2013; April 9, 2014; February 11, 2015; February 10, 2016; January 18, 2017; January 24, 2018; January 24, 2019; March 5, 2020; February 16, 2021; March 30, 2022; January 25, 2023; April 25, 2024; <u>February 28, 2025</u>
	<p>The Board will establish and maintain an <i>Export or Sale-for-Resale Prohibition Policy Protest Guide</i> that assists associations, as defined, in filing a Vehicle Code section 3085 protest.</p>	March 5, 2020; February 16, 2021; March 30, 2022; January 25, 2023; April 25, 2024; <u>February 28, 2025</u>
Internal Board Audits	In order to ensure that the Board is scheduled for audits at predetermined fixed intervals, the Board will be considered one of the divisions of DMV for purposes of scheduled compliance audits.	February 12, 1997
Legislative Committee	A Legislative Committee was created. The composition is the Executive Committee unless otherwise designated by the Board President. The Legislative Committee will provide CalSTA with its own analysis, drafted by staff counsel and approved by the Committee on any Legislation of Special Interest. If there is insufficient time for	June 7, 2019

CATEGORY	POLICY	DATE
Legislative Committee -continued-	<p>Committee approval, the Executive Director is delegated the power to approve the analysis. The Committee will be provided a copy of the analysis and fully briefed.</p> <p>The Committee will continue to provide the Department with bill analyses at the Department's request, drafted by staff counsel and approved by the Committee on any Legislation of Special Interest. If there is insufficient time for Committee approval, the Executive Director is delegated the power to approve the analysis. The committee will be provided a copy of the analysis and fully briefed.</p> <p>In the bill analyses provided to CalSTA, the Committee will not take a formal position on any bill, with the exception of Legislation of Special Interest that proposes to drastically increase or reduce the Board's statutory authority and/or workload or intends to eliminate the Board. Absent CalSTA approval, the Committee will not publicly take a position on any bill.</p> <p>The Committee delegates to the Executive Director the ability to discuss pending Legislation of Special Interest with stakeholders or sponsors regarding technical input without prior Committee approval.</p> <p>A Legislative Committee analysis will not be subject to disclosure under the Public Records Act.</p> <p>The statutory references to the California Public Records Act were updated to reflect the reorganization and recodification in Government Code section 7920.000, et seq.</p>	January 25, 2023
Legislative Policy	<p>The Board staff will provide technical and procedural advice to stakeholders on pending legislation. The Board will participate in industry discussions of legislation, if requested. This will ensure that the Board explains its operations and helps the parties better understand what the fiscal and operational ramifications, if any, will be.</p> <p>The full Board will be apprised of legislation of both special and general interest (as defined) at</p>	August 20, 1996 June 7, 2019

CATEGORY	POLICY	DATE
Legislative Policy -continued-	noticed Board Meetings. Absent CalSTA approval, the Board would not publicly take a position on any bill.	
Licensees for Purposes of Collecting Annual Board Fees	In an effort to ensure those entities that can benefit from the Board's assertion of jurisdiction are properly assessed fees, those licensees that manufacture or distribute products that are legally outside of the Board's jurisdiction because they do not produce motor vehicles regularly used on highways, would be eliminated from the Board's jurisdiction for purposes of collecting the annual Board fee (13 CCR § 553).	April 27, 2001
Mission and Vision Statements	<p>The Board's mission is: To enhance relations between dealers and manufacturers throughout the state by resolving disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner.</p> <p>The Board's vision is: To demonstrate professionalism, integrity, and accountability in securing fair resolutions to motor vehicle industry disputes.</p>	March 6, 2001; April 24, 2003; April 22, 2004; March 8, 2005; March 8, 2006; March 28, 2007; June 26, 2008; April 24, 2009; June 5, 2009; March 23, 2010; March 29, 2011; March 20, 2012; May 22, 2012; March 13, 2013; April 9, 2014; March 25, 2015; March 16, 2016; March 15, 2017; March 13, 2018; June 7, 2019; December 2, 2019; December 7, 2021
Out-of-State Travel	The Board will approve the budgetary allotment for and participation in any out-of-state travel. It will review all out-of-state travel proposals prior to the time the requests for out-of-state travel are submitted to Agency. Prior Board review and approval will also be obtained when any previously approved out-of-state trip is modified as to time, individuals traveling, or destinations.	July 12, 1996 - Business, Transportation & Housing Agency Audit Recommendation 19
Performance Rating Criteria	Formalize performance appraisal criteria for the Executive Director position.	September 16, 2020
Proposed Stipulated Decisions and Orders (Confidential, Filed under Board Seal)	If the parties have jointly agreed that the terms of a Proposed Stipulated Decision and Order are confidential and should be maintained under Board seal to affect the agreed upon terms and conditions, then that is the criteria used by the Board.	June 7, 2019

CATEGORY	POLICY	DATE
Proposed Stipulated Decisions and Orders (Confidential, Filed under Board Seal) -continued-	The statutory references to the California Public Records Act were updated to reflect the reorganization and recodification in Government Code section 7920.000, et seq.	January 25, 2023
Recruitment and Hiring Practices (Bilingual Employees)	Recruitment and hiring practices should be designed and implemented with the goal of filling at least 44% of Board public contact positions with bilingual employees who have passed the Department of Motor Vehicles' Bilingual Verbal Proficiency Examination.	September 21, 2023
Statutorily Mandated Schedules or Formulas	In light of the amendments to Vehicle Code section 3065 (Assembly Bill 179, ch. 796, effective January 1, 2020), the Board revised its existing policy to provide for the return of an Annual Notice to educate manufacturers and distributors concerning their filing requirements pursuant to Vehicle Code sections 3064/3074 and 3065/3075.	December 13, 2007; December 2, 2019
Strategic Plan July 2024 – June 2030	The Strategic Plan objectives are: (1) Improve outcomes for all motor vehicle consumers; (2) Contribute to the advancement of the CalSTA Core Four priorities: Safety, Equity, Climate Action and Economic Prosperity; (3) Transform our organization to become more resilient and conserve limited resources; and (4) Reimagine the engagement experience to meet the needs of the public, our industry, and litigant stakeholders. The Executive Director was granted discretion to take action responsive to these objectives.	April 25, 2024
Transcript Policy	<p>For merits and dispositive motion hearings, the parties, on an equal basis, are responsible for arranging reporting services, paying for the reporter's appearance fee, the delivery fee and any other costs, and the cost of certified hearing transcript(s) for the Board and OAH, if applicable. Counsel are responsible for purchasing their own transcript(s), if desired.</p> <p>In any other instance, where any party or parties deem reporting services necessary (including requests for reporter's appearance and for transcripts), the requesting party (or parties on any basis they agree upon) will be responsible for arranging reporter services and will be responsible for payment to the reporting service of the reporter's appearance fee, the delivery fee, and any other costs. The requesting party or parties will</p>	September 21, 2023

CATEGORY	POLICY	DATE
Transcript Policy -continued-	<p>also be responsible for providing the Board and OAH, if applicable, with a certified copy of the transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.</p> <p>For instances in which an ALJ or staff deem reporting services necessary, the above policy would not apply. The Board would be responsible for scheduling the court reporter and incur all associated fees and costs.</p>	
Website	On the Board's website, consumers can access the Board's Consumer Mediation Pamphlet in Spanish.	September 21, 2005
William G. Brennan Hearing Room	In remembrance of the Board's previous Executive Director, William (Bill) G. Brennan, who passed away November 2, 2017, the Board renamed Hearing Room #1 The "William G. Brennan Hearing Room" as a symbolic gesture to solidify his legacy.	March 13, 2018



## Memorandum

**Date : JANUARY 29, 2026**

**To : POLICY AND PROCEDURE COMMITTEE**  
**JACOB STEVENS, CHAIR**  
**VACANT, MEMBER**

**From : TIMOTHY M. CORCORAN**  
**ROBIN P. PARKER**

**Subject : ANNUAL REPORT ON THE ASSIGNMENT OF CASES TO ADMINISTRATIVE LAW JUDGES**

Annually, the staff reports on the assignment of cases to the Board's Administrative Law Judges (ALJ). The hearings and settlement conferences are counted by the case and not by the occurrence. For example, if the hearing on a motion to dismiss resumed three times, only a single hearing is counted. Similarly, if six protests were consolidated to rule on discovery objections, the single hearing is counted. In addition, Pre-Hearing Law and Motion in relation to a merits hearing, such as a motion in limine, is not counted separately.

The table below illustrates the matters by category that were heard by each ALJ or Hearing Officer in 2025.

Administrative Law Judge/ Hearing Officer <sup>1</sup>	Mandatory Settlement Conference	Law and Motion Hearing	Discovery Hearing	Merits Hearing
Bayne	N/A	2	4	N/A
OAH (Office of Administrative Hearings)	0	0	0	0
Parker	1 <sup>2</sup>	0	0	N/A
Skrocki	N/A	2	0	N/A

<sup>1</sup> ALJ Pipkin resigned effective March 28, 2025. ALJ Woodward Hagle presided over the hearing on remand in PR-2803-22 *KM3G Inc., dba Putnam Kia of Burlingame v. Kia America Inc.* These dates are not counted in the total as this hearing was reflected in the 2024 update as the merits hearing was initially heard on October 9-13, 2023. In light of all merits hearings being assigned to OAH, ALJs Nelsen and Woodward-Hagle were separated as Retired Annuitants in August and September 2025, respectively. ALJ Skrocki was separated effective December 31, 2025.

<sup>2</sup> On February 28, 2025, the Board appointed Robin Parker as the Board's Designated Mandatory Settlement Conference Hearing Officer.

Assignment of ALJs

Page 2

January 29, 2026

Hearing Type	2025 Total
Law and Motion	4
Discovery	4
Mandatory Settlement Conference	1
Merits Hearing	0
Merits Hearing Days	0

This matter is for information only at the February 20, 2026, General Meeting.

If you have any question or require additional information, please contact me at (916) 244-6774 or Robin at (916) 244-6776.

cc: Jacob Stevens, President



## Memorandum

**Date : JANUARY 29, 2026**

**To : POLICY AND PROCEDURE COMMITTEE**  
**JACOB STEVENS, CHAIR**  
**VACANT, MEMBER**

**From : TIMOTHY M. CORCORAN**  
**ROBIN P. PARKER**

**Subject : CONSIDERATION OF THE *EXPORT OR SALE-FOR-RESALE PROHIBITION POLICY PROTEST GUIDE* (VEHICLE CODE SECTION 3085, et seq.)**

The *Export or Sale-for-Resale Prohibition Policy Protest Guide* is reviewed annually to ensure it complies with recent statutory and regulatory amendments. The Board composition and staff updates are reflected in the attached Guide. The following additional edits are highlighted yellow in underline and strikeout font:

- Effective July 1, 2025, Section 595 of the Board's regulations was amended to delete references to facsimile. Footnote 2 on page 3 was deleted along with the reference to filing a protest via facsimile.
- In the "Summary of Board Action" heading on page 6, reference to "one of the Board's ALJs" was deleted to reflect hearings may be considered by the entire Board or may, at the Board's discretion, be conducted by an ALJ. This would include a Board ALJ or Office of Administrative Hearings ALJ.

This matter is being agendized for discussion and consideration at the February 20, 2026, General Meeting.

If you have any question or require additional information, please contact me at (916) 244-6774 or Robin at (916) 244-6776.



**STATE OF CALIFORNIA**  
**NEW MOTOR VEHICLE BOARD**

***Export or Sale-For-Resale Prohibition  
Policy Protest Guide***

***Vehicle Code Section 3085, et seq.***

February 2026

## **PREAMBLE**

The materials contained herein are intended to be informative and not advisory, limited in scope, and are not intended to be a substitute for careful reading of the specific statutes and regulations that may apply to your particular situation.

All correspondence and protests should be sent to:

New Motor Vehicle Board  
ATTN: Legal Department  
2415 1<sup>st</sup> Avenue, MS L242  
Sacramento, California 95818

Correspondence can also be sent via email at [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov). The telephone number of the Board is (916) 445-1888 and the website address is [www.nmvb.ca.gov](http://www.nmvb.ca.gov). Detailed information can be found on the Board's website. Please feel free to contact the Board's staff for further information.

All statutory references are to pertinent sections of the Vehicle Code unless otherwise specified. The full text of pertinent sections of the Vehicle Code is available on the Board's website or at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>. References to regulations are to Title 13 of the California Code of Regulations. The referenced sections will be noted in the following manner, for example, 13 CCR § 550, et seq. The regulations are also available on the Board's website or at the Office of Administrative Law's ("OAL") website ([www.oal.ca.gov](http://www.oal.ca.gov)). Once you reach the OAL site, select California Code of Regulations. You will be taken to the California Code of Regulations and can search by title; the Board's regulations are in Title 13. As the Board is a quasi-judicial agency that holds administrative hearings, statutes comprising the administrative adjudication provisions of the Administrative Procedure Act ("APA"; Gov. Code § 11400 through 11529) are applicable and available at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

The Board also publishes a *Guide to the New Motor Vehicle Board* which details Article 4 (cars, motorcycles, and ATVs) and Article 5 (recreational vehicles) protests and petitions. An *Informational Guide for Manufacturers and Distributors* is also published to assist manufacturers and distributors in clarifying California's vehicle franchise laws. Both guides are available free from the Board's offices at the above address, or can be accessed and downloaded from the Board's website at [www.nmvb.ca.gov](http://www.nmvb.ca.gov).

# **STATE OF CALIFORNIA**

## **NEW MOTOR VEHICLE BOARD**

2415 1<sup>st</sup> Avenue, MS L242

Sacramento, California 95818

Phone: (916) 445-1888

E-mail: [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov)

Website: <http://www.nmvb.ca.gov>

**State of California**  
GAVIN NEWSOM, GOVERNOR

**California State Transportation Agency**  
TOKS OMISHAKIN, SECRETARY

## **BOARD MEMBERS**

### **Public Members**

GARRETT JENSEN

ARDASHES (ARDY) KASSAKHIAN

BISMARCK OBANDO

ALEXANDRA SCHULTHEIS

JACOB STEVENS

### **Dealer Members**

ANNE SMITH BOLAND

ASHLEY DENA

SHIRLEY G. JONES

## **EXECUTIVE STAFF**

TIMOTHY M. CORCORAN

Executive Director

KIMBERLEE VAYE

Assistant Director and Equity Officer

## **LEGAL STAFF**

ROBIN P. PARKER

Chief Counsel

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## **INTRODUCTION**

Assembly Bill 179, (Stats. 2019, Ch. 796) effective January 1, 2020, was sponsored by the California New Car Dealers Association with essentially the same language that sunset on January 1, 2019. (Assembly Bill 1178 (Stats. 2015, Ch. 526)) This bill returns the Board's authority to hear export or sale-for-resale prohibition policy protests in Article 6 of the Vehicle Code and now sunsets on January 1, 2030.

An association, which is defined as an organization primarily owned by, or comprised of, new motor vehicle dealers and that primarily represents the interests of dealers, may bring a protest challenging the legality of an export or sale-for-resale prohibition policy of a manufacturer, manufacturer branch, distributor, or distributor branch (herein "manufacturer" or "distributor") at any time on behalf of two or more dealers subject to the challenged policy pursuant to subdivision (y) of Section 11713.3. (Veh. Code § 3085) The purpose of this publication is to familiarize the reader with this protest.

## **POWERS AND DUTIES IN GENERAL**

The powers and duties of the Board are set out in Vehicle Code sections 3050 and 3051. As a quasi-judicial body, the Board has authority under Vehicle Code section 3050.1(a) to:

- Administer oaths;
- Take depositions;
- Certify to official acts; and,
- Issue subpoenas to compel attendance of witnesses and the production of documents.

## **Enforcement of Board Orders**

There are provisions for sanctions and penalties for violating orders of the Board or the requirements of those sections of the Vehicle Code within the Board's authority. Obedience to subpoenas and the compliance with discovery procedures can be enforced by application to the Superior Courts. (Veh. Code § 3050.2(a)) Vehicle Code section 3050.2(b) gives the Executive Director authority, at the direction of the Board, upon a showing of failure to comply with authorized discovery without substantial justification, to dismiss a protest or suspend the proceedings pending compliance.

## **Mandatory Settlement Conferences**

In a protest filed with the Board, the Board, its Executive Director, or an Administrative Law Judge<sup>1</sup> ("ALJ") may order a mandatory settlement conference. (Veh. Code § 3050.4) For any proceeding, the settlement conference judge is precluded from hearing the proceeding on the merits or other motions in the case without stipulation by the parties. (13 CCR § 551.11) The failure of a party to appear, to be prepared, or to have the authority to settle the matter at such a conference may result in the Board taking action adverse to that party. (Veh. Code § 3050.4)

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<sup>1</sup> An Administrative Law Judge means an ALJ of the Board or the Office of Administrative Hearings. (13 CCR § 550(a))

## **EXPORT OR SALE-FOR-RESALE PROHIBITION POLICY PROTEST**

### **Statutory Authority**

Vehicle Code section 3050(d) provides for the Board to hear and decide a protest presented by an association challenging a policy of a manufacturer or distributor pursuant to Section 3085.

### **Filing a Protest**

There is no specific statutory time period in the Vehicle Code within which to file a protest involving an export or sale-for-resale prohibition policy protest.

A protest is deemed filed upon its receipt by the Board via regular mail, email ~~or facsimile~~<sup>2</sup>, or upon mailing of the protest, if it is sent by either certified or registered mail. Accordingly, it is suggested that all protests be emailed to the Board at [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov) or mailed by certified or registered mail to 2415 1<sup>st</sup> Avenue, MS L242, Sacramento, CA 95818.

### **Manufacturer's or Distributor's Notice of Appearance**

The respondent shall file a written notice of appearance within 15 days of receipt of the protest. (13 CCR § 585.1) Failure to timely file a notice of appearance shall result in the proceedings being suspended until such time as a notice of appearance is filed.

### **Filing Fee**

A filing fee of \$200, which should be in the form of a check or money order payable to the New Motor Vehicle Board, must accompany the protest and notice of appearance. Either the protestant or respondent may submit a request for a fee waiver. The Executive Director, upon a showing of good cause, may waive the \$200 filing fee (13 CCR § 553.40). Samples are available on the Board's website.

### **Interested Individuals**

Pursuant to Vehicle Code section 3085.2, any interested individual may apply to the Board for permission to appear at the hearing on any protest for the purpose of submitting direct evidence concerning the issues raised in the protest.

### **Motion for Intervention**

Any person, including a Board member, concerned with the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative may file a motion to intervene in a pending proceeding subject to the conditions set forth in 13 CCR § 551.13.

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<sup>2</sup>An Association seeking to file a protest via facsimile (fax) is requested to contact the Board's legal staff in advance at (916) 445-1888 or [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov).

## **Challenge to Presiding Officer**

A party may request disqualification of a Board member or an ALJ for cause prior to the taking of evidence by filing an affidavit stating the grounds for the request. (13 CCR § 551.1) Further, 13 CCR § 551.12(b) entitles a party, excluding an intervenor, in a Board proceeding to one disqualification without cause (peremptory challenge) of an assigned ALJ by filing the peremptory challenge with the Board no later than either 20 days from the date of the order of time and place of hearing identifying the ALJ or 20 days prior to the date scheduled for commencement of the hearing, whichever is earlier. (13 CCR § 551.12(b)(1)) Except for the convenience of the Board or for good cause shown, no hearing shall be continued by the filing of a peremptory challenge.

## **Amicus Curiae Briefs**

The Board, its Executive Director, or an ALJ may, in their discretion, allow the filing of amicus curiae briefs. (13 CCR § 551.13)

## **Required Elements of Protest**

The required content of a protest under Vehicle Code section 3085 is as follows:

<b>Content Requirements</b>	<b>Authority</b>
Must be in writing and conform to the provisions of Article 6 commencing with 13 CCR § 593.1.	13 CCR § 583
The association shall simultaneously deliver a \$200 filing fee in the form of a check or money order payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
The association shall serve a copy of the protest on the manufacturer or distributor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 551.24

## **Determination of Protest**

If there is a hearing, the association has the burden of proof to show that the challenged export or sale-for-resale prohibition policy violates subdivision (y) of Section 11713.3. The relief sought in this protest is limited to a declaration that an export or sale-for-resale prohibition policy of a manufacturer or distributor violates the prohibitions of subdivision (y) of Section 11713.3. No monetary relief may be sought on behalf of the association or any dealers represented by the association.

## **HEARING PROCEDURES**

### **Pre-Hearing Procedure**

Upon receiving a protest, the Board shall institute hearing proceedings similar to those of a formal civil trial, including the scheduling of various pre-hearing conferences, settlement conferences, arrangements for discovery, identification of witnesses, and so on. The Board may impose sanctions if a party fails to comply with the Board's discovery orders or fails to participate properly in a settlement conference.

### **Discovery**

Pursuant to Vehicle Code section 3050.1, the Board may authorize the parties to engage in the civil discovery process. Discovery is limited to requests for depositions and demands for production of documents (Code Civ. Pro. § 2016.010, et seq.), with the exception of provisions for written interrogatories (Code Civ. Proc. § 2030.010). Section 551.6 of the Board's regulations implements and makes specific the Board's procedures for requesting depositions where the witness resides within California or outside of California.

### **Subpoenas**

Authority for issuing subpoenas in Board proceedings is found in Vehicle Code section 3050.1 and 13 CCR § 551.2. Unlike the civil courts, the parties cannot issue their own subpoenas. On the request of any party, the Board, its Executive Director or an ALJ may issue subpoenas for the production of papers, records, and books by a witness or a deponent, and the appearance of a non-party witness or deponent. Hearing subpoenas are issued in accordance with 13 CCR § 551.2(b) and an affidavit is not required to support the request. For a hearing subpoena duces tecum, an affidavit must accompany the request.

Subpoenas for the attendance and testimony of a non-party deponent, or for a subpoena duces tecum for deposition of a non-party, are issued by the Board in accordance with Code of Civil Procedure section 2016.010, et seq., excepting the provisions of section 2020.210, subdivisions (a) and (b). (13 CCR § 551.2(c)) No affidavits are required. Counsel for the parties can issue notices of depositions to parties. (Code Civ. Proc. § 2025.010, et seq.) Subpoenas for out-of-state, non-party witnesses or deponents will be issued by the Board, but need to be enforced in the out-of-state court. (Code Civ. Proc. § 2026.010, et seq.)

Government Code section 11450.30 and 13 CCR § 551.2(e) permit a person served with a subpoena or a subpoena duces tecum to object to its terms by a motion for a protective order, including a motion to quash. The assigned ALJ would resolve the objection. The ALJ may make another order that is appropriate to protect the parties or the witness from unreasonable or oppressive demands, including violations of the right to privacy.

Following service of the subpoena on the witness or deponent, a copy of the subpoena and executed proof of service shall be filed with the Board. (13 CCR § 551.2(d))

## **Summary of Board Action**

Hearings on protests filed pursuant to Vehicle Code section 3085, may be considered by the entire Board or may, at its discretion be conducted by ~~one of the Board's~~ an ALJs. At the hearing, oral argument is heard, evidence is admitted, testimony is received, and a written decision is rendered. The procedures are described in detail in Vehicle Code section 3085.2. The Board, on receiving a protest, does the following:

<b>Step</b>	<b>Action</b>
1	By order fix a time within sixty (60) days of receipt of the protest.
2	Send a copy of the order to the manufacturer or distributor, the protesting association, and all individuals and groups that have requested notification by the Board of protests and decisions by the Board.
3	The Board or an ALJ designated by the Board presides over merits hearings on protests. (See also 13 CCR § 590)

**NOTE:** Vehicle Code section 3050(d) prohibits a dealer member of the Board from participating, hearing, commenting, advising other members upon, or deciding any matter that involves a protest filed “pursuant to Article 6 (commencing with Section 3085), unless all participants to the protest stipulate otherwise.” Vehicle Code section 3085.2(c) states: “[a] member of the board who is a new motor vehicle dealer may not participate in, hear, comment, or advise other members upon, or decide, a matter involving a protest filed pursuant to this article [Article 6, i.e., protests filed by an association] unless all parties to the protest stipulate otherwise.” These constraints ensure procedures that preclude any suggestion of bias or partiality of Board decisions.

## **Stipulated Decisions**

The Board may adopt stipulated decisions and orders without a hearing pursuant to Vehicle Code section 3085.2 to resolve one or more issues raised by a protest filed with the Board. (Veh. Code § 3050.7)

## **Hearings Open to the Public; Protective Orders**

Hearings before the Board or an ALJ designated by the Board are open to the public. For good cause shown, a party may seek an order closing all or part of the hearing or for other protective orders as set forth in Government Code section 11425.20 and 13 CCR § 551.20. The motion may be in writing or made orally on the record. It may be made at the commencement of or during the course of the hearing but must be made as early as is practicable. The motion shall clearly identify the relief sought; the facts, circumstances, and legal authority; and shall include declarations or evidence that support the motion. The ALJ has discretion to allow an oral or written opposition to the motion. When ruling on the motion, the ALJ shall specifically set forth the facts, legal basis, and findings that support any protective order, order to seal parts of the record, or order to close the hearing to the public. The motion, opposition, and any resulting orders then become part of the record.

## **Failure to Appear at a Hearing**

Any party who fails to appear at a hearing will not be entitled to a further opportunity to be heard unless good cause for such failure is shown to the Board or to the ALJ within five (5) days thereafter. The lack of such a showing may, in the discretion of the Board or the ALJ, be interpreted as an abandonment of interest by the party in the subject matter of the proceeding. (13 CCR § 589)

## **Decision of the Board**

When matters are submitted to the Board for decision, or the Board receives a proposed decision of the ALJ, the Board shall take the matter under submission and conduct deliberations in executive session. The deliberations of the Board shall be in private and shall not be reported. (Veh. Code § 3008; 13 CCR § 588)

The decision of the Board shall be in writing, contain findings of fact, and a determination of the issues presented. The Board shall sustain, conditionally sustain, overrule, or conditionally overrule the protest. The decision becomes final when delivered or mailed to the parties and there are no provisions for reconsideration or rehearing. The Board shall act within 30 days after the hearing, within 30 days after the Board receives a proposed decision when the case is heard before an ALJ, or within a period necessitated by Section 11517 of the Government Code, or as may be mutually agreed upon by the parties. (Veh. Code § 3085.4)

## **Court Reporting and Transcripts of Board Proceedings**

Under the authority of 13 CCR § 551.7 the Board may assume all or part of the cost of reporting any proceedings or may allocate costs entirely to one of the parties or apportion it among the various parties at its discretion. For all merits hearings and dispositive motions (those that result in a final determination of the protest before the Board), reporting costs will be allocated as follows:

<b>Circumstances</b>	<b>Reporting Costs including Appearance Delivery Fees, and any other Costs</b>	<b>Transcript Fees for the Board and Office of Administrative Hearings (if applicable)</b>
Hearings on the merits and dispositive motions	Participating parties	Participating parties
Other motions (venue, consolidation, continuation, etc.)	Requesting party or parties	Requesting party or parties
Pre-hearing conference	Requesting party or parties	Requesting party or parties
Discovery disputes (ruling on objections to production, motions to quash, etc.)	Requesting party or parties	Requesting party or parties

For merits and dispositive motion hearings, the parties, on an equal basis, are responsible for arranging reporting services, paying for the reporter's appearance fee, the delivery fee and any

other costs, and the cost of certified hearing transcript(s) for the New Motor Vehicle Board and Office of Administrative Hearings, if applicable. Counsel are responsible for purchasing their own transcript(s), if desired.

In any other instance, where any party or parties deem reporting services necessary (including requests for reporter's appearance and for transcripts), the requesting party (or parties on any basis they agree upon) will be responsible for arranging reporter services and will be responsible for payment to the reporting service of the reporter's appearance fee, the delivery fee, and any other costs. The requesting party or parties will also be responsible for providing the Board and Office of Administrative Hearings, if applicable, with a certified copy of the transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

## **JUDICIAL REVIEW**

### **Appeal to Superior Court**

Judicial review of final orders and decisions of the Board may be sought in Superior Court pursuant to Code of Civil Procedure section 1094.5 via a petition for writ of administrative mandamus. A petition for writ of administrative mandamus questions whether the Board proceeded without or in excess of jurisdiction, whether there was a fair hearing, and whether there was any prejudicial abuse of the Board's discretion. Parties seeking judicial review of a final order or decision should refer to Vehicle Code section 3085.6.

## APPENDIX

## Sample Protest

The information contained in this sample form is intended to be informative and not advisory, limited in scope, and not intended to be a substitute for a careful reading of the specific statutes and/or regulations which may apply to your situation. For information on the format of filings with the New Motor Vehicle Board, see 13 CCR § 593.2, et seq. **Sample forms can be obtained from the Board's website, [www.nmvb.ca.gov](http://www.nmvb.ca.gov).**

**Identification of Attorney or Party Representing Self:**

In the top left-hand corner beginning with line one, place the name of the attorney (include state bar number) or individual representing itself, address, telephone number, and e-mail address. Single space this section. Skip one line then add which party is filing this document. In the case of a protest, the individual filing the protest is known as the "Protestant," whereas the individual responding would be the "Respondent."

1 \_\_\_\_\_ [name of attorney and state bar number, or name of party representing itself]

2 \_\_\_\_\_ [address]

3 \_\_\_\_\_ [telephone number and email address]

4 \_\_\_\_\_ Attorney for [Protestant] or In pro per [if party representing itself]

Leave the upper right-hand corner blank between lines 1 and 7 for the use of the Board.

**Title of the Court:**

On lines 8-9, place the title of the agency and the state in which the action is brought.

## 8 NEW MOTOR VEHICLE BOARD

9 STATE OF CALIFORNIA

**Title of the Case:**

Below the title of the court, flushed left, place the title of the case in the caption. The title of the case consists of the names of all of the parties.

**Case Number:**

The number of the case should be placed to the right of the title of the case or caption. Parties may leave the actual number blank until the Board has assigned the case a number.

**Nature of Filing and Name of Action:**

Below the number of the case, place the type of action filed along with the particular code section pursuant to which the action is filed.

## Footer:

Except for exhibits, each paper filed with the Board must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer must contain the title of the paper or some clear and concise abbreviation in at least 10-point font.

11	In the Matter of the Protest of	)	
		)	
12	NAME OF ASSOCIATION,	)	Protest No. PR-
		)	
13	Protestant,	)	PROTEST
		)	
14	v.	)	[Vehicle Code section 3085]
		)	
15	NAME OF MANUFACTURER OR	)	
	DISTRIBUTOR,	)	
16		)	[Dates of the hearing and any future pre-hearing or settlement conferences]
17	Respondent.	)	

**Introduction:**

State the name of the party filing the document, the type of document filed (e.g., protest, response, motion) and the applicable statutory authority.

20 Protestant, [Name of Association], files this protest under the provisions of  
 21 California Vehicle Code section 3085, with reference to the following facts:

**Body:**

Using numbered paragraphs, state the allegations in a clear and chronological order.

22 1. Protestant is an association as defined in Vehicle Code section 3085(b) challenging the legality of an export or sale-for-resale prohibition policy of [manufacturer or distributor] on behalf of [identify two or more dealers subject to the challenged policy]. These dealers are subject to the policy being challenged pursuant to subdivision (y) of Vehicle Code section 11713.3. Protestant's mailing address is [address] and telephone number is [telephone number].

2. Respondent is a licensed [manufacturer or distributor] authorized to do business and doing business in the State of California. Respondent's mailing address is [address] and telephone number is [telephone number].

3. Protestant is represented in this matter by [attorney/law firm], whose address and telephone number are [address and telephone number].

4. [Outline the particulars of the dispute].

5. Protestant and its attorneys desire to appear before the Board. The estimated length of hearing on this matter will take [number of days] to complete.

6. A Pre-Hearing Conference is requested.

7. WHEREFORE, Protestant prays for: (A declaration that an export or sale-for-resale prohibition policy of [manufacturer or distributor] violates the prohibitions of subdivision (y) of Vehicle Code section 11713.3.)

Dated:

Signed:



## Memorandum

**Date : JANUARY 29, 2026**

**To : POLICY AND PROCEDURE COMMITTEE**  
**JACOB STEVENS, CHAIR**  
**VACANT, MEMBER**

**From : TIMOTHY M. CORCORAN**  
**ROBIN P. PARKER**

**Subject : CONSIDERATION OF REVISIONS TO THE *INFORMATIONAL GUIDE FOR MANUFACTURERS AND DISTRIBUTORS*, WHICH OUTLINES THEIR OBLIGATION TO PROVIDE NOTICES, SCHEDULES, AND FORMULAS MANDATED BY THE CALIFORNIA VEHICLE CODE AND CIVIL CODE TO THE NEW MOTOR VEHICLE BOARD AND/OR IMPACTED DEALERS**

The *Informational Guide for Manufacturers and Distributors* was most recently approved at the February 28, 2025, General Meeting. Each year it is thoroughly reviewed for accuracy. The Board composition and staff updates are reflected in the attached Guide. The following additional edits are highlighted yellow in underline and strikeout font:

- In the section on “What is the Procedure if the Board Objects or an Impacted Dealer Opposes the Request for Extension,” on page 16, the number of Board meetings was changed from every 6-8 weeks to 3-4 times per year.

This matter is being agendized for discussion and consideration at the February 20, 2026, General Meeting.

If you have any question or require additional information, please contact me at (916) 244-6774 or Robin at (916) 244-6776.



*State of California*

**NEW MOTOR VEHICLE BOARD**

***INFORMATIONAL GUIDE  
FOR MANUFACTURERS  
AND DISTRIBUTORS***

**February 2026**

**STATE OF CALIFORNIA**  
**NEW MOTOR VEHICLE BOARD**

2415 1<sup>st</sup> Avenue, MS L242  
Sacramento, California 95818  
Phone: (916) 445-1888  
Email: [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov)  
Website: [www.nmvb.ca.gov](http://www.nmvb.ca.gov)

♦ ♦ ♦

**State of California**  
GAVIN NEWSOM, Governor

**California State Transportation Agency**  
TOKS OMISHAKIN, SECRETARY

**BOARD MEMBERS**

**Public Members**  
GARRETT JENSEN  
ARDASHES (ARDY) KASSAKHIAN  
BISMARCK OBANDO  
ALEXANDRA SCHULTHEIS  
JACOB STEVENS

**Dealer Members**  
ANNE SMITH BOLAND  
ASHLEY DENA  
SHIRLEY G. JONES

**EXECUTIVE STAFF**

TIMOTHY M. CORCORAN  
Executive Director  
KIMBERLEE VAYE  
Assistant Director and Equity Officer

**LEGAL STAFF**

ROBIN P. PARKER  
Chief Counsel

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## INTRODUCTION

This Informational Guide has been prepared to assist manufacturers<sup>1</sup> and distributors in clarifying California's vehicle franchise laws and to familiarize the vehicle industry with the statutorily required notices, schedules, and formulas mandated by the Vehicle Code and Civil Code. The Guide consists of frequently asked questions and answers, and sample notices. It is designed for those factory personnel within a Market Representation Department, Dealer Development Department, or Legal Department.

The laws summarized below pertain to a manufacturer's or distributor's obligation to provide notices, schedules, and formulas mandated by the Vehicle Code and Civil Code, to the New Motor Vehicle Board (Board) and/or impacted dealers. For example, the proper procedure for noticing a termination of a franchise, modification of a franchise agreement, or clearing the market for an off-site sale are covered.

Questions concerning the procedural requirements of filing a notice, schedule, or formula, may be directed to the Board legal staff at (916) 445-1888 or [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov). The Board's website ([www.nmvb.ca.gov](http://www.nmvb.ca.gov)) contains detailed information on the Board and contains links to California statutes and the California Code of Regulations.

## LEGAL DISCLAIMER

The purpose of this Informational Guide is to familiarize the automotive industry with the statutorily required notices, schedules, and formulas mandated by the California Vehicle Code and Civil Code. The information contained herein is intended to be informative and not advisory, is limited in scope, and not intended as legal advice or as a substitute for careful reading of the specific statutes and regulations that may apply to a specific situation.

## QUESTIONS AND ANSWERS

### What Is the New Motor Vehicle Board?

The Board is located within the California Department of Motor Vehicles (DMV) with oversight provided by California State Transportation Agency formerly Business, Transportation & Housing Agency. The Board is a quasi-judicial administrative agency with independent authority to resolve disputes between franchised dealers and manufacturers of new vehicles (includes motorcycles, recreational vehicles, and all-terrain vehicles).<sup>2</sup>

Created in 1967, the Board, originally named the New Car Dealer's Policy and Appeals Board, was limited to hearing appeals<sup>3</sup> from final decisions of the Director of DMV that adversely affected the occupational license of vehicle dealers or manufacturers. Legislation enacted in 1973 gave the Board its present name and implemented the statutory framework that created a forum to resolve disputes in an efficient, fair, and cost-effective manner.

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<sup>1</sup> Throughout this Guide, the terms dealer and franchisee are used interchangeably, as are the terms manufacturer/distributor and franchisor.

<sup>2</sup> Effective January 1, 2004, the recreational vehicle industry, excluding park trailers and truck campers, was added to the list of licensees within the Board's jurisdiction. (See Veh. Code § 3070, et seq.) Since 1994, the Board has had jurisdiction over all-terrain vehicle dealers and manufacturers. Effective January 1, 2005, the all-terrain vehicle industry is licensed by the DMV. The reference contained herein to "vehicle dealer" or "franchisee" includes new motor vehicles, motorcycles, recreational vehicles, and all-terrain vehicles.

<sup>3</sup> Effective January 1, 2020, the Board's jurisdiction to hear appeals was repealed. (Assembly Bill 179, ch. 796)

In keeping with its mission, most cases brought to the Board are resolved early in the process. Early dispute resolution improves relations between dealers and manufacturers, and reduces the need for costly, protracted litigation in areas where the Board has developed special expertise. A small number of cases proceed to a formal hearing on the merits of the dispute.

The Board also has a Consumer Mediation Services Program that attempts, through informal mediation, to resolve disputes between consumers and new motor vehicle dealers, and/or manufacturers.

### **What Are the Statutorily Required Notices, Schedules, or Formulas?**

The Vehicle Code and Civil Code mandate that franchisors file notices, schedules, and formulas with the Board and/or impacted dealers in the following instances:

TYPE	STATUTE	NOTICE TO BOARD	NOTICE TO DEALER
Franchise Termination or Refusal to Continue (Non-Renewal)	Veh. Code § 3060(a) Veh. Code § 3070(a)	Yes	Yes
Franchise Modification or replacement*	Veh. Code § 3060(b) Veh. Code § 3070(b)	Yes	Yes
Establishment**	Veh. Code § 3062(a) Veh. Code § 3072(a)	Yes	Yes
Relocation**	Veh. Code § 3062(a) Veh. Code § 3072(a)	Yes	Yes
Off-Site Sale**	Veh. Code § 3062(c) Veh. Code § 3072(b)(3)	Yes	Yes
Delivery and Preparation Schedule	Veh. Code § 3064 Veh. Code § 3074	Yes	No
Warranty Reimbursement Schedule or Formula	Veh. Code § 3065 Veh. Code § 3075	Yes	No
Factory Ownership**	Veh. Code § 11713.3(o)	Yes	No
Dealer Development	Veh. Code § 11713.3(o)	Yes	No
Motor Vehicle Warranty Adjustment Programs	Civil Code § 1795.92	Yes	Yes

- \* The Board and dealer are noticed only if the modification or replacement would “substantially affect the franchisee’s sales or service obligations or investment.”<sup>4</sup>
- \*\* Notification is required only if there are dealers of the same line-make within the relevant market area. Vehicle Code section 507 defines relevant market area as “any area within a radius of 10 miles from the site of a potential new dealership.” This has been construed as air miles (“as the crow flies”).

Notices are required to be separately issued to each franchisee and separately issued for each line-make represented by a franchisee. This is consistent with the Vehicle Code and Section 593.1 of Title 13 of the

<sup>4</sup> Despite the franchisor’s decision that the notices to the franchisee and the Board are not required, to avoid a claim that it has violated any of the Vehicle Code provisions, a franchisor may decide to issue notices that comply with the statutes. The franchisor also may at the same time expressly state, along with the notices or in the notices themselves, that the franchisor believes that the notices were not required and also claim that there is no right in the franchisee to file a protest despite the notices stating to the contrary (as required by the statutory language.)

California Code of Regulations. Notices should not be combined to include more than one franchisee nor combined to include more than one line-make.

### **If a Manufacturer or Distributor Wants to Terminate or Refuse to Continue an Existing Franchise (Non-Renewal), What Must Be Done?**

Vehicle Code sections 3060(a) and 3070(a) provide that no franchisor shall terminate or refuse to continue any existing franchise (non-renewal) unless: (1) the franchisee and the Board have received written notice; (2) if a protest is filed, the Board finds that there is good cause for termination or refusal to continue following a hearing; and (3) the franchisor has received the written consent of the franchisee, or the appropriate period for filing a protest has lapsed.

The statute provides for either a 60-day or 15-day notice of termination. The **60-day notice of termination** shall set forth the specific grounds for termination or refusal to continue. The **15-day notice of termination** requires the specific grounds with respect to any of the following:

1. Transfer of any ownership or interest in the franchise without the consent of the franchisor, which consent shall not be unreasonably withheld.
2. Misrepresentation by the franchisee in applying for the franchise.
3. Insolvency of the franchisee, or filing of any petition by or against the franchisee under any bankruptcy or receivership law.
4. Any unfair business practice after written warning thereof.
5. Failure of the motor vehicle dealer to conduct its customary sales and service operations during its customary hours of business for seven consecutive business days, giving rise to a good faith belief on the part of the franchisor that the motor vehicle dealer is in fact going out of business, except for circumstances beyond the direct control of the motor vehicle dealer or by order of the DMV.

The statutes are unambiguous concerning the format and content for the notices. The “notice to dealer” language below must be on the first page of the written notice, in at least 12-point bold type, and circumscribed by a line to segregate it from the rest of the text.

*(To be inserted when a **60-day notice of termination** or refusal to continue is given.)*

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days after receiving this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.**

*(To be inserted when a **15-day notice of termination** is given.)*

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 10 calendar days after receiving this notice or within 10 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.**

## **What Steps Are Necessary to Issue a Notice of Termination or Refusal to Continue (Non-Renewal)?**

<b>Steps Necessary to Issue a Notice of Termination or Refusal to Continue</b>	<b>Completed ✓</b>
Determine if a 15-day or 60-day notice of termination is appropriate. A 60-day notice is appropriate for refusal to continue an existing franchise.	
Draft the appropriate notice being mindful of the statutory language outlined above.	
Specify the grounds for termination or refusal to continue in the notice.	
Send the notice to the dealer whose franchise is being terminated or not continued. It is prudent to send via certified mail, return receipt requested. Nothing in the statute requires this, but the statutory time to file a protest with the Board does not commence until receipt by the dealer and the Board.	
Send a copy of the notice to the Board, attention Executive Director, with a cover memo indicating a contact name and phone number. The statutory time to file a protest does not commence until receipt by both the dealer and the Board. <sup>5</sup>	
Note: If you are unsure of the correct procedures, you may want to consult with legal counsel.	

## **After Proper Notice of Termination or Refusal to Continue (Non-Renewal) to the Dealer and Board, Under What Circumstances Can the Dealership Be Terminated?**

The dealership can be terminated if:

1. The franchisor has received the written consent of the franchisee; or,
2. The appropriate period for filing a protest has lapsed (10 or 30 days from the dealer's receipt of the notice depending on whether a 15-day or 60-day notice of termination); or,
3. If a protest is filed, the Board finds that there is good cause for termination or refusal to continue following an evidentiary hearing.

## **If a Manufacturer or Distributor Wants to Modify a Franchise, What Must Be Done?**

Vehicle Code sections 3060(b) and 3070(b) provide that no franchisor shall modify or replace a franchise with a succeeding franchise if the modification or replacement would substantially affect the franchisee's sales or service obligations or investment unless the franchisor has first given the Board and each affected franchisee written notice thereof at least 60 days in advance of the modification or replacement.

The notice requirements are like those for terminations. The "notice to dealer" language below must be on the first page of the written notice, in at least 12-point bold type, and circumscribed by a line to segregate it from the rest of the text.

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<sup>5</sup> The Board's preference is to receive notices by email (nmvb@nmvb.ca.gov). Alternatively, notices can be sent regular, certified or registered mail to 2415 1<sup>st</sup> Avenue, MS L242, CA 95818.

**NOTICE TO DEALER:** Your franchise agreement is being modified or replaced. If the modification or replacement will substantially affect your sales or service obligations or investment, you have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the proposed modification or replacement of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days of your receipt of this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest rights will be waived.

### What Steps Are Necessary to Issue a Notice of Modification?

Steps Necessary to Issue a Notice of Modification	Completed ✓
Determine if the modification “substantially affects the dealer’s sales or service obligations or investment.” (See footnote 4.)	
Draft the appropriate notice of modification being mindful of the statutory language outlined above.	
Send the notice to the dealer whose franchise is being modified. It is prudent to send via certified mail, return receipt requested. Nothing in the statute requires this, but the statutory time to file a protest with the Board does not commence until receipt by the dealer and the Board.	
Send a copy of the notice to the Board, attention Executive Director, with a cover memo indicating a contact name and phone number. The statutory time to file a protest does not commence until receipt by both the dealer and the Board. <sup>6</sup>	
Note: If you are unsure of the correct procedures, you may want to consult with legal counsel.	

### If a New Franchise Is to Be Established or an Existing Franchise Relocated, What Must Be Done?

Vehicle Code sections 3062(a) and 3072(a) provide that if a franchisor seeks to enter into a franchise establishing an additional **motor vehicle dealership**, or seeks to relocate an existing motor vehicle dealership, that has a relevant market area within which the same line-make<sup>7</sup> is represented, or seeks to relocate an existing motor vehicle dealership, the franchisor shall, in writing, first notify the Board and each franchisee in that line-make in the relevant market area of the franchisor’s intention. If a protest is not filed or has already been resolved, this process is referred to as “clearing the market.”

<sup>6</sup> See Footnote 5.

<sup>7</sup> For motor vehicles other than RVs, “like-make” is not defined in the code. What is or is not a same “line-make” is obvious in most situations. However, gray areas can exist. In this Guide, the working definition of “line-make” for the automobile industry corresponds to that used by the DMV as a classification system for registering vehicles, licensing dealers, and resolving questions related to OL 124 relevant market area requirements. For instance, in the automotive industry, the DMV considers a manufacturer such as General Motors would have several “makes” including Buick, Chevrolet, and Cadillac. Each “make,” in turn, would be comprised of several “lines” or models, e.g., Chevrolet has Silverado and Tahoe “lines” or models. For the RV industry which lacks uniformity, the “recreational vehicle line-make” is defined in Vehicle Code section 3072.5 as: “a group or groups of recreational vehicles defined by the terms of a written agreement that complies with Section 331.3.” It is essential that RV franchisors are precise when defining a line-make in RV franchise agreements and ensure their makes are registered with DMV.

If a franchisor of new cars, trucks, or motorcycles seeks to enter into a franchise that authorizes a **satellite warranty facility** to be established at, or relocated to, a proposed location which is within two miles of any dealership of the same line-make, the franchisor shall first give notice in writing of the franchisor's intention to establish or relocate a satellite warranty facility at the proposed location to the Board and each franchisee operating a dealership of the same line-make within two miles of the proposed location. (Veh. Code 3062(a)(2)) The recreational vehicle statutes do not contain a similar provision concerning satellite warranty facilities.

The “notice to dealer” language below must be on the first page of the written notice, in at least 12-point bold type, and circumscribed by a line to segregate it from the rest of the text.<sup>8</sup>

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.**

### **What Are the Exceptions to Vehicle Code Sections 3062 and 3072 Notice Requirements?**

The requirements above, do not apply in the following situations:

1. The relocation of an existing dealer to any location that is **both** within the same city as, and within one (1) mile from, the existing dealership location.
2. The establishment at a location that is **both** within the same city as, and within one-quarter (1/4) mile from, the location of a dealership of the same line-make that has been out of operation for less than 90 days.
3. Any temporary display of vehicles at a fair, exposition, or similar exhibit that does not exceed 30 days. No actual sales may occur at the temporary location.
4. The reopening of a dealership that has not been in operation for less than one year.

An additional exception pertains to recreational vehicle dealers only: An annual show sponsored by a national trade association of recreation vehicle manufacturers that complies with Vehicle Code section 11713.15(d).<sup>9</sup>

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<sup>8</sup> The last sentence in the “Notice to Dealer” language in Section 3072(a) contains commas as follows: “If, within this time, you file with the board...”

<sup>9</sup> Effective September 19, 2018, subdivision (d) of Vehicle Code section 11713.15 was amended to exempt a recreational vehicle dealer being issued a temporary branch license from the notice requirements if the show is located in a county with a population of 9,000,000 or more persons, or at a location within 30 miles from the prior approved location of the show, and at least 10 manufacturers are participating in the show. (Assembly Bill 2330, Stats. 2018, ch. 537)

## What Steps Are Necessary to Issue a Notice of Establishment or Relocation?

Steps Necessary to Issue a Notice of Establishment or Relocation	Completed ✓
Determine if an exception to Vehicle Code section 3062 or 3072 notice requirements applies.	
Draft the appropriate notice of establishment or relocation being mindful of the statutory language outlined above.	
Identify the proposed location for the establishment or relocation.	
Send the notice to all dealers of the same line-make within the relevant market area (10-mile radius). It is prudent to send via certified mail, return receipt requested. Nothing in the statute requires this, but the statutory time to file a protest with the Board does not commence until receipt by the dealer and the Board.	
Send a copy of the notice to the Board, attention Executive Director, with a cover memo indicating a contact name and phone number. The statutory time to file a protest does not commence until receipt by both the dealer and the Board. <sup>10</sup>	
Note: If you are unsure of the correct procedures, you may want to consult with legal counsel.	

## After Proper Notice of Establishment or Relocation to the Dealer(s) and Board, Under What Circumstances Can the Franchisor Establish the Proposed Dealership or Relocate the Existing Dealership?

The proposed dealership can be established, or an existing dealership relocated if:

1. The appropriate period for filing a protest has lapsed (20 days from the dealer's receipt of the notice or 30 days if an extension of time was granted by the Board); or,
2. If a protest was filed, after an evidentiary hearing before the Board, the protesting dealer is unable to prove good cause not to allow the establishment or relocation.

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<sup>10</sup> See Footnote 5.

## What Is a Notice of Off-Site Sale?

Vehicle Code sections 3062(c) and 3072(b)(3) require that if an “off-site sale” is intended, the franchisor must give notice to all dealers of the same line-make within the relevant market area (10 miles) of the proposed site and the Board. The impacted dealer(s) would have a right to protest the off-site sale.

The “notice to dealer” language below must be on the first page of the written notice, in at least 12-point bold type, and circumscribed by a line to segregate it from the rest of the text.<sup>11</sup>

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.**

If there are no dealers of the same line-make within 10 miles of the proposed off-site sale location, notice to the Board is not required.

## What Is a Certificate of Proposed Franchise (OL 124)?

The Certificate of Proposed Franchise (OL 124) notifies DMV that a dealer is authorized to sell a line-make at a particular address. The OL 124 (see sample on pages 9-10) requires that a manufacturer or distributor certify that notice to the Board is not required under Vehicle Code section 3062 or 3072 (for example, “no other franchised dealers of the same line-make within the relevant market area”) or that there are franchised dealers of the same line-make within the relevant market area and notice has been given, but no protests have been filed or the protest(s) filed were resolved (i.e., dismissed or Board Decision overruling the protest.) Even though an annual trade show sponsored by a national trade association of recreation vehicle manufacturers is exempt from the Vehicle Code section 3072 notice requirements (see page 6), an OL 124 form must be issued by the manufacturer to each dealer participating in the show.

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<sup>11</sup> The last sentence in the “Notice to Dealer” language in Section 3072(a) contains commas as follows: “If, within this time, you file with the board...”



## LICENSING OPERATIONS DIVISION

## CERTIFICATE OF PROPOSED FRANCHISE

DMV USE ONLY						
OCCUPATIONAL LICENSING NUMBER						

**Instructions:**

- This form must be completed by a licensed Manufacturer or Distributor.
- The licensed dealer is responsible for submitting this form to the Department of Motor Vehicles with the appropriate application form(s).
- This form will **NOT** be accepted if modified or altered and must contain an original signature.

The location is a  Permanent Location

Temporary Branch Location (must be 30 days or less)

Date(s) of Event: From: \_\_\_\_\_ To: \_\_\_\_\_

I/We

MANUFACTURER/DISTRIBUTOR NAME

LICENSE NUMBER

hereby certify that:

Written notification to the New Motor Vehicle Board and each franchisee is not required pursuant to Vehicle Code section 3062(b) or 3072(b), or there are no other franchised dealers of the same line-make located within the relevant market area.

Written notification has been provided to the Board and each franchisee of this line-make of the franchisor's intent to enter into a franchise establishing an additional motor vehicle dealership or relocate an existing motor vehicle dealership within the relevant market area, and no protests have been filed or the protest(s) filed were resolved (i.e., dismissed or Board Decision overruling the protest). (A change in ownership of an existing established location shall not be construed as establishing an additional location.) Enter date of notification below.

MAKE OF VEHICLE(S), MOTORHOME(S), OR RECREATIONAL TRAILER(S)

DATE THE NEW MOTOR VEHICLE BOARD AND DEALER(S) WERE NOTIFIED, IF APPLICABLE

PROPOSED FRANCHISEE NAME (AS IT APPEARS ON LICENSE OR APPLICATION FOR LICENSE)	DEALER LICENSE NUMBER (IF APPLICABLE)
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ADDRESS (AS SHOWN ON LICENSE OR APPLICATION FOR LICENSE)	CITY	STATE	ZIP CODE
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AUTHORIZED SIGNATURE (OWNER OF RECORD OR LICENSED REPRESENTATIVE)	DATE
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X PRINT OR TYPE NAME	OWNER OR REPRESENTATIVE LICENSE NUMBER
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**CALIFORNIA VEHICLE CODE (CVC) - Sections 3062 or 3072\*, state in part:****Establishing or Relocating Dealerships**

3062. (a) (1) Except as otherwise provided in subdivision (b), if a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership, or seeks to relocate an existing motor vehicle dealership, that has a relevant market area within which the same line-make is represented, the franchisor shall, in writing, first notify the board and each franchisee in that line-make in the relevant market area of the franchisor's intention to establish an additional dealership or to relocate an existing dealership. Within 20 days of receiving the notice, satisfying the requirements of this section, or within 20 days after the end of an appeal procedure provided by the franchisor, a franchisee required to be given the notice may file with the board a protest to the proposed dealership establishment or relocation described in the franchisor's notice. If, within this time, a franchisee files with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant an additional 10 days to file the protest. When a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor may not establish the proposed dealership or relocate the existing dealership until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting the establishment of the proposed dealership or relocation of the existing dealership. In the event of multiple protests, hearings may be consolidated to expedite the disposition of the issue.

...

(b) Subdivision (a) does not apply to either of the following:

- (1) The relocation of an existing dealership to a location that is both within the same city as, and within one mile from, the existing dealership location.
- (2) The establishment at a location that is both within the same city as, and within one-quarter mile from, the location of a dealership of the same line-make that has been out of operation for less than 90 days.

(c) Subdivision (a) does not apply to a display of vehicles at a fair, exposition, or similar exhibit if actual sales are not made at the event and the display does not exceed 30 days. ...

(d) For the purposes of this section, the reopening of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership. ...

\*Section 3072, pertaining to recreational vehicles, contains virtually identical provisions, however, there are additional exemptions not listed above. Recreational vehicle manufacturers and distributors are encouraged to review the entire California Vehicle Code Section.



## OL-124, CERTIFICATE OF PROPOSED FRANCHISE

*Applicable to New Motor Vehicles, Motorcycles, All-Terrain Vehicle and Recreational Vehicles as defined by Health and Safety Code Section 18010 (a)*

TYPE TRANSACTION	OL-124 NOT REQUIRED	OL-124 REQUIRED PURSUANT TO CVC 11704	BOARD/MARKET AREA FRANCHISE NOTICE NOT REQUIRED	BOARD/MARKET AREA FRANCHISE NOTICE REQUIRED
1. New license (Buy/Sell) of a currently occupied location (Main or branch location application)		X	X	
2. New location - Not currently occupied, except as exempt pursuant to CVC 3062(b), 3072(b). See #9, #10, and #11		X	X	X
3. Change of Business Name		X	X	X
4. Adding a Make Distinctive Business Name		X - For new Make	X	
4a. Adding a Non-Make Distinctive Business	X			
5. Change of Corporate Name/LLC or LLP Name		X	X	
6. Change of Corporate Officers/LLC or LLP Manager	X		X	
7. Change of Address (Postal Service change - no physical movement of location)	X - Formerly known as prior address	X		
8. Change of Address (New location is beyond 1 mile of current licensed location)		X	X	X
9. Change of Address (New location is within 1 mile of current licensed location and within the same city)		X	X	
9a. Change of Address (New location is within 1 mile of current licensed location and within a different city)		X	X	X
10. Establishing location within the same city, within 1/4 mile of a location that has been out of operation for less than 30 days		X	X	
11. Reopening a location that has not been in operation for less than one year		X - Or copy of prior OL-124	X	
11a. Reopening a location that has not been in operation for one year or more		X	X	X
12. Temporary Branch locations - Display only with no sales activity that does not exceed 30 days	X - No application required	X	X	X
12a. Temporary Branch locations - Display only with no sales activity but display exceeds 30 days	X - No application required	X	X	X
13. Temporary Branch locations with sales activity on site and other same line-make dealers within RMA		X	X	X
13a. Temporary Branch locations with sales activity on site and no other same line-make dealers within RMA		X	X	X
14. Addition of a line-make to an existing established location and other same line-make dealers within RMA		X	X	X
14a. Addition of a line-make to an existing established location and there are no other same line-make dealers within RMA		X	X	X
15. Renewal of License (Application must be submitted no later than 30 days after license expiration date)	X			
16. Establishing or Relocating Satellite Warranty facility more than 2 miles from a same line-make dealer	X - No application required	X	X	
16a. Establishing or Relocating Satellite Warranty facility within 2 miles of a same line-make dealer	X - No application required		X	

*Additional Information:*

- 1) The OL-124 must reflect the business name and address as it appears on the corresponding application for an Occupational License.
- 2) The dealer is responsible for submitting the OL-124 with an appropriate application to an Occupational Licensing Inspection's Office.
- 3) The OL-124 must be signed by an owner of the Manufacturer/Distributor on file with Occupational Licensing or a licensed Representative.
- 4) Relevant Market Area pursuant to California Vehicle Code Section 507, is any area within a radius of 10 miles from the site of a potential new dealership.
- 5) The powers and duties of the New Motor Vehicle Board are defined in Division 2, Chapter 6, of the California Vehicle Code.

**APPLICANT SHOULD RETAIN THIS PAGE FOR THEIR INFORMATION.  
DO NOT SUBMIT WITH APPLICATION.**

## **When Is an OL 124 Not Required?**

An OL 124 is not required for a temporary display of vehicles at a fair, exposition or similar exhibit, if no actual sales are made at those events and the display does not exceed 30 days.

## **Who Is Authorized to Sign an OL 124?**

A licensed representative or an owner, as reflected in DMV records, of the manufacturer/distributor must sign the OL 124. Vehicle Code section 512 defines a representative as “any person regularly employed by a manufacturer or distributor for the purpose of negotiating or promoting the sale of the manufacturer’s or distributor’s vehicles to their franchisees or for regularly supervising or contacting franchisees or prospective franchisees” in California for any purpose. Vehicle Code section 11900, et seq. pertains to the licensing of representatives.

## **What Steps Are Necessary to Issue a Notice of Off-Site Sale?**

<b>Steps Necessary to Issue a Notice of Off-Site Sale</b>	<b>Completed ✓</b>
Determine if an exception to the Vehicle Code section 3062 or 3072 notice requirements applies (e.g., temporary off-site display or Annual National RV Trade Show).	
Identify the proposed location for the off-site sale.	
Draft the appropriate notice of off-site sale being mindful of the statutory language outlined above.	
Send the notice to all dealers of the same line-make within the relevant market area (10-mile radius). It is prudent to send via certified mail, return receipt requested. Nothing in the statute requires this, but the statutory time to file a protest with the Board does not commence until receipt by the dealer and the Board.	
Send a copy of the notice to the Board, attention Executive Director, with a cover memo indicating a contact name and phone number. The statutory time to file a protest does not commence until receipt by both the dealer and the Board. <sup>12</sup>	
Note: If you are unsure of the correct procedures, you may want to consult with legal counsel.	

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<sup>12</sup> See Footnote 5.

## **After Proper Notice of Off-Site Sale to the Dealer(s) and Board, Under What Circumstances Is the Market “Clear” for Purposes of Proceeding with the Off-Site Sale?**

The proposed off-site sale can go forward and an OL 124 filed with DMV if the appropriate period for filing a protest has lapsed (20 days from the dealer's receipt of the notice or 30 days if an extension of time was granted by the Board). The filing of a protest of a proposed off-site sale results in the sale not going forward.

## **Is a Franchisor Required to File a Copy of the OL 124 with the Board as Well as DMV?**

A franchisor is not required to file a copy of the OL 124 with the Board. However, if it is filed, as a courtesy, it will be reviewed for completeness. Please ensure that the appropriate box on the OL 124 form is checked, i.e., notice to the Board is not required or there are franchised dealers of the same line-make within the relevant market area that were noticed but no protests have been filed or the protest(s) filed were resolved (i.e., dismissed or Board Decision overruling the protest).

## **What Steps Can Be Taken If There Is Not Enough Time to “Clear the Market?”**

The statutorily required notice should be sent to the impacted dealers with sufficient time to “clear the market.” Generally, this is not a problem when a franchisor clears the market for an establishment or relocation of a dealership. However, for an off-site sale, the impacted dealers have 20 days to file a protest and may request a 10-day extension upon a showing of good cause. In the event a dealer requests permission to participate in an off-site sale and there is not sufficient time to clear the market, all impacted dealers, i.e., those of the same line-make within the relevant market area, may file a protest with the Board and simultaneously file a request for dismissal of the protest. Unless a request for a fee waiver is received and approved, a \$200.00 filing fee is required. Detailed information concerning a fee waiver can be obtained from the Board legal staff at (916) 445-1888.

## **What Types of Information Does the Board Not Require?**

There are a number of manufacturers and distributors that submit OL 124 forms and correspondence to the Board that are not necessary. The Board does not need to be informed if a dealer does any of the following:

1. Changes name of dealership, dba, or corporation;
2. Changes the ownership structure;
3. Voluntarily terminates;
4. Transfers its ownership interest to another entity;
5. Relocates to another location if no other dealers of the same line-make are within the relevant market area;
6. Is established as a new franchisee if no other dealers of the same line-make are within the relevant market area;
7. Participates in an off-site sale of used vehicles;
8. Participates in an off-site display of vehicles for less than 30 days;
9. Participates in an off-site sale of new vehicles and no other dealers of the same line-make are within the relevant market area.

## **What Is the Impact of a Faulty or Defective Notice?**

Providing a timely and accurate notice gives a manufacturer or distributor the ability to quickly finalize its intended action, i.e., termination, modification, establishment, and so on. In the event a notice does not comply with the statute, the Board legal staff may contact the franchisor and offer suggestions to correct the notice. However, the faulty notice may delay the proposed action.

The purpose of a notice is to start the statutory time period in which an aggrieved dealer has to protest its franchisor's intended action. When the notice is not in compliance, the time to file the protest does not commence.<sup>13</sup> The First District Court of Appeal (*British Motor Car Distributors, Ltd., d/b/a Maserati Import Company v. New Motor Vehicle Board; British Motors of Monterey, Inc., Real Party in Interest* (1987) 194 Cal.App.3d 81, 91-94) held that the limitations period of Vehicle Code section 3060 is expressly dependent upon the franchisor first complying with the notice provisions and any other interpretation would reward franchisors who send out defective notices. Even if a manufacturer or distributor never provides proper notice to the Board or franchisee, the lack of notice does not prevent the Board from exercising its powers to resolve disputes between franchisees and franchisors.

## **What Is a Delivery and Preparation Obligations Compensation Schedule?**

Manufacturers and distributors typically reimburse their dealers for preparing the new vehicles for delivery to purchasers. Vehicle Code sections 3064 and 3074 provide that every franchisor **shall** file with the Board a copy of their delivery and preparation obligations, as well as a schedule of compensation to be paid franchisees for the work and services they are required to perform in connection with the delivery and preparation obligations.

The statute does not specify when or how often the compensation schedule should be filed. Pursuant to current Board policy, all filings in this regard are maintained for three years. Therefore, every manufacturer and distributor is required to file a current copy of their delivery and preparation obligations (PDI) and PDI schedule of compensation with the Board once every three years or whenever there are changes to the information. Please keep in mind that the documents provided by franchisors are public records and subject to disclosure under the California Public Records Act. (Gov. Code § 7920.000, et seq.)

Section 586(b) and (c) of Title 13 of the California Code of Regulations require a manufacturer and distributor to file the above information with the Board no later than 30 days after the date the license is issued or within 30 days after the date of renewal of the license if no schedule or formula has previously been filed with the Board. Additionally, any addition, deletion, change or modification to the information on file with the Board must be updated with the new information on or before the date the changes become effective.

## **What Is a Warranty Reimbursement Schedule or Formula?**

Manufacturers and distributors typically reimburse dealers for warranty repairs at a pre-established rate. Vehicle Code section 3065 provides that every franchisor **shall** file a copy of its warranty reimbursement schedule with the Board, which must be reasonable with respect to the time and compensation allowed to the dealer for the performance of warranty diagnostics, repair, service, and all other conditions of the obligation, including costs directly associated with the disposal of hazardous materials that are associated with a recall repair. Vehicle Code section 3075 provides that every recreational vehicle franchisor **shall** file a copy of its warranty reimbursement schedule or formula with the Board, which must be reasonable with respect to the time and

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<sup>13</sup> If a dealer waits an unreasonable period to file a protest when it was put on notice, even though the notice did not comply, an Administrative Law Judge may take equitable defenses into consideration when faced with a motion to reject a protest for timeliness. This would be a factual determination made by an Administrative Law Judge and would be outside the purview of information provided by the Board legal staff.

compensation allowed to the dealer for the performance of warranty and all other conditions of the obligation.

The statute does not specify when or how often the warranty reimbursement schedule or formula should be filed. Pursuant to current Board policy, all filings in this regard are maintained for three years. Therefore, every manufacturer and distributor is required to file a current copy of their warranty reimbursement schedule or formula with the Board once every three years or whenever there are changes to the information. As indicated above, please keep in mind that the documents provided by franchisors are public records and subject to disclosure under the California Public Records Act.

Section 586(b) and (c) of Title 13 of the California Code of Regulations require a manufacturer and distributor to file the above information with the Board no later than 30 days after the date the license is issued or within 30 days after the date of renewal of the license if no schedule or formula has previously been filed with the Board. Additionally, any addition, deletion, change or modification to the information on file with the Board must be updated with the new information on or before the date the changes become effective.

### **What Notices Are Required with Respect to Factory Ownership or Operation of a Dealership Within 10-Miles of an Independent, Franchised Dealer of the Same Line-Make?**

Effective January 1, 2024, subdivision (o) of Vehicle Code section 11713.3 precludes a manufacturer or distributor from competing with their franchisees in the sale, lease, or warranty service of new motor vehicles except in limited circumstances. A manufacturer or distributor is not deemed to be competing with an independent, franchised dealer when: (1) owning or operating a dealership for a temporary period, not to exceed one year at the location of a former dealership of the same line-make that has been out of operation for less than six months [Part A or Veh. Code § 11713.3(o)(2)(A)]; and (2) owning an interest in a dealer as part of a bona fide dealer development program that satisfies certain requirements [Part B or Veh. Code § 11713.3(o)(2)(B)]. There are several instances in which a manufacturer or distributor may be required to file a statutory notice with the Board.

Under Part A every manufacturer, branch, and distributor that temporarily owns or operates a dealership is required to give written notice to the Board, **within 10 days**, each time it commences or terminates operation of a dealership and each time it acquires, changes, or divests itself of an ownership interest.

### **If a Manufacturer or Distributor Seeks to Own or Operate a Dealership in Preparation for Sale to a Successor Independent Franchisee and Needs to Extend The Statutory One-Year Period, What Steps Are Necessary to Request an Extension of Time (Veh. Code § 11713.3(o)(2)(A))?**

Vehicle Code section 11713.3(o)(2)(A) provides that after a showing of good cause by a manufacturer or distributor that it needs additional time to operate a dealership in preparation for sale to a successor independent franchisee, the Board may extend (beyond one year) the time period. The Board regulation (Section 565 of Title 13 of the California Code of Regulations, hereinafter 13 CCR § 565) establishes the timeframe and procedure for filing a request for an extension of the one-year time period in Part A.

The manufacturer or distributor is required to give written notice of its intention to seek an extension of time for good cause shown to the Board and to each franchisee operating a dealership of the same line-make within the relevant market area, i.e., an impacted dealer.

The written notice is required to meet a prescribed format that is like other statutorily required notices in the Vehicle Code. The “notice to dealer” language below must be on the first page of the written notice, in at least 12-point bold type, and circumscribed by a line to segregate it from the rest of the text. (13 CCR § 565(c))

**NOTICE TO DEALER: If you oppose this request, you may send a letter to the NEW MOTOR VEHICLE BOARD in Sacramento and have your opposition considered by the board. You must file your opposition with the board within 20 days of your receipt of this notice.**

Upon receipt of a request for extension of time, the Board will notify each franchisee of the same line-make within the relevant market area, that a timely request has been received, that the franchisee has the opportunity to send a letter to the Board opposing the request and have that opposition considered by the Board at its next scheduled meeting, and that the status quo will be maintained until the Board acts upon the request for extension. (13 CCR § 565(d))

### **What Steps Are Necessary to File a Request for an Extension of Time?**

<b>Steps Necessary to File a Request for Extension of Time</b>	<b>Completed ✓</b>
Sixty days prior to the expiration of the one-year period, the manufacturer or distributor shall give written notice of its intention to seek an extension of time for good cause shown to the Board and to each franchisee operating a dealership of the same line-make within the relevant market area. (13 CCR § 565(b) and (l))	
A list of all franchisees operating a dealership of the same line-make within the relevant market area shall be provided to the Board along with the request for extension. (13 CCR § 565(g)(1))	
A statement of facts detailing the specific need for the extension of time shall be provided to the Board along with the request for extension. (13 CCR § 565(g)(2))	
The requested expiration date of the extension shall be provided to the Board along with the request for extension. (13 CCR § 565(g)(3))	
A chronology of actions both taken and planned by the manufacturer or distributor to prepare for the sale of the franchise to a successor independent franchisee shall be provided to the Board along with the request for extension. (13 CCR § 565(g)(4))	
A statement to the effect that the information required in 13 CCR § 565(g)(2)-(4) has been provided to each franchisee operating a dealership of the same line-make within the relevant market area shall be provided to the Board along with the request for extension. (13 CCR § 565(g)(5))	
A statement that the requesting party does or does not agree that the dealer members of the Board may participate in the consideration of the request shall be provided to the Board along with the request for extension. (13 CCR § 565(g)(6))	

Requests that are not timely received will not be considered by the Board and will be deemed denied.

## **What is the Procedure after the Board Receives a Timely Request for Extension of Time?**

Upon the timely filing of a request for extension, a copy of the request is forwarded to the members of the Board. Unless the manufacturer or distributor consents to dealer member participation (13 CCR § 565(g)(6)), the matter is considered by the public members only.<sup>14</sup>

In determining whether good cause has been shown for granting the request for an extension of time, the Board shall take into consideration the existing circumstances, the written request, written responses in opposition to the request, and comments of interested parties. (13 CCR § 565(e)(1)-(3))

The members of the Board have 30 days from receipt of the request for extension to review it. Any time during the 30-day period, a Board member objection to the request can be lodged with the Executive Director. Within 20 days of receiving the notice, any franchisee required to be given notice may file an opposition to the request for an extension of time. (13 CCR § 565(m)) If there have been no timely objections to the request for extension by the members of the Board and no timely oppositions by impacted dealers have been received, then the Executive Director shall grant the extension. (13 CCR § 565(h)) The granting of the extension occurs without the requirement of a noticed Board meeting.

## **What is the Procedure if the Board Objects or an Impacted Dealer Opposes the Request for Extension?**

In the event of a timely notice of objection to the request for extension by a member of the Board and/or a timely opposition by an impacted dealer has been received, the matter shall be considered by the Board at its next scheduled meeting. (13 CCR § 565(i)) The Executive Director notifies the manufacturer or distributor that the matter will be considered by the Board at its next scheduled meeting and that the status quo will be maintained until the Board acts upon the request. The manufacturer and impacted dealer(s), if any, shall be given at least 10 days' notice of the time, date, and location of the Board meeting at which the request will be considered. (13 CCR § 565(j)) The Board meets 3-4 times per year ~~approximately every 6 to 8 weeks~~. However, if necessary, a Special Board meeting could be scheduled. Depending on the location of the parties, the meeting could be held in Sacramento, San Francisco, or Los Angeles.

## **What Notices Are Required with Respect to Factory Ownership of a Dealership as Part of a Dealer Development Program?**

Under Part B of Vehicle Code section 11713.3(o) (see discussion on page 14), every manufacturer, branch, and distributor that owns an interest in a dealer as part of a bona fide dealer development program as defined is required to give written notice to the Board, **annually**, of the name and location of each dealer in which it has an ownership interest, the name of the bona fide dealer development owner or owners, and the ownership interests of each owner expressed as a percentage.

The statute does not specify when the annual notice should be sent to the Board. Every January, the Board staff remind the industry of this obligation.

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<sup>14</sup> The Board consists of nine members. Four members are licensed new motor vehicle dealers and five members are from the general public. In most instances, dealer members are precluded from participating in matters involving disputes between a dealer and manufacturer or distributor. In Article 4 protests (involving cars, motorcycles, and ATVs), dealer members may participate if both parties so stipulate. Dealer members participate in Article 5 recreational vehicle protests unless a dealer Board member also owns and/or has a financial interest in a recreational vehicle dealership. Both parties can stipulate to allow the dealer member to participate in this instance.

## **What Is a Motor Vehicle Warranty Adjustment Program?**

Manufacturers and distributors occasionally establish a motor vehicle warranty adjustment program (“hidden warranties.”) Civil Code section 1795.92 provides that “[a] manufacturer **shall**, within 90 days of the adoption of an adjustment program,<sup>15</sup> subject to priority for safety or emission-related recalls, notify by first-class mail all owners or lessees of motor vehicles eligible under the program of the condition giving rise to and the principal terms and conditions of the program.” (Emphasis added.) Copies of all notices mailed shall be sent to the Board. (Civil Code § 1795.92(b)) The Board’s preference is to receive these notices by email at [nmvb@nmvb.ca.gov](mailto:nmvb@nmvb.ca.gov).

## **What Is the Consequence of Failing to File or to Timely File a Statutorily Required Notice, Schedule, or Formula?**

Vehicle Code section 3050(b)(3) gives the Board power to “[o]rder the department [DMV] to exercise any and all authority or power that the department [DMV] may have with respect to the issuance, renewal, refusal to renew, suspension, or revocation of the license of any new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative as that license is required under Chapter 4 (commencing with Section 11700) of Division 5.” (See 13 CCR § 593.3) Depending on the facts and circumstances in a particular case, the Board may exercise this power for inadequate filing of statutorily required notices.

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<sup>15</sup> Civil Code section 1795.90 defines “adjustment program” as “any program or policy that expands or extends the consumer’s warranty beyond its stated limit or under which a manufacturer offers to pay for all or any part of the cost of repairing, or to reimburse consumers for all or any part of the cost of repairing, any condition that may substantially affect vehicle durability, reliability, or performance, other than service provided under a safety or emission-related recall campaign. ‘Adjustment program’ does not include ad hoc adjustments made by a manufacturer on a case-by-case basis.”

## Sample 15-Day Termination Notice

Date

Name of Manufacturer/Distributor  
Address

Name of Impacted Dealer  
Address

Re: 15-Day Notice of Termination (Veh. Code §§ 3060(a) or 3070(a))

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 10 calendar days after receiving this notice or within 10 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.**

Dear \_\_\_\_\_:

Identify the specific reasons for seeking termination of the franchise set forth in California Vehicle Code section 3060(a)(1)(B) or 3070(a)(1)(B).

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Sincerely,

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Manufacturer/Distributor

cc: New Motor Vehicle Board

*This sample provides a basic means for drafting a notice for filing with the Board but should not be mistaken as a substitute for personalized advice from a qualified attorney or other person sufficiently knowledgeable about the Board. The Board strives to provide relevant, accurate and complete information. However, the Board cannot and does not warrant the relevancy, accuracy, completeness or propriety of the information provided in this sample.*

## Sample 60-Day Termination or Refusal to Continue Notice

Date

Name of Manufacturer/Distributor  
Address

Name of Impacted Dealer  
Address

Re: 60-Day Notice of Termination or Refusal to Continue  
(Veh. Code §§ 3060(a) or 3070(a))

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days after receiving this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.**

Dear \_\_\_\_\_:

Identify the reasons for terminating or refusing to continue the franchise.

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Sincerely,

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Manufacturer/Distributor

cc: New Motor Vehicle Board

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## Sample Modification Notice

Date

Name of Manufacturer/Distributor  
Address

Name of Impacted Dealer  
Address

Re: 60-Day Notice of Modification (Veh. Code §§ 3060(b) or 3070(b))

**NOTICE TO DEALER: Your franchise agreement is being modified or replaced. If the modification or replacement will substantially affect your sales or service obligations or investment, you have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the proposed modification or replacement of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days of your receipt of this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest rights will be waived.**

Dear \_\_\_\_\_:

Detail information pertaining to the proposed modification or replacement of the franchise agreement.

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Sincerely,

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Manufacturer/Distributor

cc: New Motor Vehicle Board

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## Sample Establishment or Relocation Notice

Date

Name of Manufacturer/Distributor  
Address

Name of Impacted Dealer  
Address

Re: Notice of Establishment or Relocation (Veh. Code §§ 3062(a)(1) or 3072(a)(1))<sup>1</sup>

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.**

Dear \_\_\_\_\_:

Designate the location of the site for the proposed establishment of a new dealership, or relocation of an existing dealership, where there is already an existing dealership of the same line-make within the “relevant market area” (that area within a radius of 10 miles of the proposed location.)

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Sincerely,

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\_\_\_\_\_  
Manufacturer/Distributor

cc: New Motor Vehicle Board

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<sup>1</sup> The last sentence in the “Notice to Dealer” language in Section 3072(a)(2) contains commas as follows: “If, within this time, you file with the board...”

## Sample Establishment or Relocation of a Satellite Warranty Facility Notice

Date

Name of Manufacturer/Distributor  
Address

Name of Impacted Dealer  
Address

Re: Notice of Establishment or Relocation of a Satellite Warranty Facility (Veh. Code § 3062(a)(2))

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.**

Dear \_\_\_\_\_:

Designate the location of the site for the proposed establishment of a new satellite warranty facility or relocation of an existing satellite warranty facility that is within two miles of any dealership of the same line-make.

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Sincerely,

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Manufacturer/Distributor

cc: New Motor Vehicle Board

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## Sample Off-Site Sale Notice

Date

Name of Manufacturer/Distributor

Address

Name of Impacted Dealer

Address

Re: Notice of Off-Site Sale (Veh. Code §§ 3062(c) or 3072(b)(3))<sup>1</sup>

**NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.**

Dear \_\_\_\_\_:

Detail information pertaining to the proposed off-site sale where there is an existing dealership of the same line-make within a radius of 10 miles of the location proposed for the off-site sale.<sup>2</sup>

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Sincerely,

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\_\_\_\_\_  
Manufacturer/Distributor

cc: New Motor Vehicle Board

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<sup>1</sup> The last sentence in the “Notice to Dealer” language in Section 3072(a)(2) contains commas as follows: “If, within this time, you file with the board...”

<sup>2</sup> For recreational vehicles, an annual show sponsored by a national trade association of recreation vehicle manufacturers is exempt from the 3072 notice requirements.

## Sample Notice of Request for Extension of Time

Date

Name of Manufacturer/Distributor

Address

Name of Impacted Dealer

Address

Re: Notice of Request for Extension of Time (Veh. Code § 11713.3(o) and 13 CCR § 565)

**NOTICE TO DEALER: If you oppose this request, you may send a letter to the NEW MOTOR VEHICLE BOARD in Sacramento and have your opposition considered by the board. You must file your opposition with the board within 20 days of your receipt of this notice.**

Dear \_\_\_\_\_:

Detail information pertaining to the request for extension of time for good cause shown, including, but not limited to, the following:

A list of all franchisees operating a dealership of the same line-make within the relevant market area (13 CCR § 565(g)(1)).

A statement of facts detailing the specific need for the extension of time (13 CCR § 565(g)(2)).

The requested expiration date of the extension (13 CCR § 565(g)(3)).

A chronology of actions both taken and planned by the manufacturer or distributor to prepare for the sale of the franchise to a successor independent franchisee (13 CCR § 565(g)(4)).

A statement to the effect that the information required in Title 13 of the California Code of Regulations section 565(g)(2)-(4) has been provided to each franchisee operating a dealership of the same line-make within the relevant market area (13 CCR § 565(g)(5)).

A statement that the requesting party does or does not agree that the dealer members of the Board may participate in the consideration of the request (13 CCR § 565(g)(6)).

Sincerely,

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\_\_\_\_\_  
Manufacturer/Distributor

cc: New Motor Vehicle Board

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## Memorandum

**Date : JANUARY 29, 2026**

**To : COMMITTEE ON EQUITY, JUSTICE, AND INCLUSION (EJI)**  
**JACOB STEVENS, VICE-CHAIR**  
**VACANT, CHAIR**

**From : KIMBERLEE VAYE**

**Subject : DISCUSSION OF LAND ACKNOWLEDGMENTS, VIRTUAL ACCESS  
(GENERAL ACCESSIBILITY) TO PUBLIC MEETINGS, AND PROPOSED  
VISION, MISSION AND VALUES**

At the August 1, 2025, General Board meeting, two 2-member working committees were formed on Land Acknowledgments and Virtual and Telephonic Access to Public Meetings.

To learn best practices and formulate recommendations in these two goal areas, Board members and staff met and sought guidance from other State departments including, but not limited to the Racial Equity Commission, Caltrans, and CalABLE.

Utilizing the Equity Lens Assessment rubric, the EJI Committee will also review the Ad Hoc Committee's proposed new Vision, Mission, and Values, for the Board.

These matters are being agendized for discussion and consideration at the February 19, 2026, meeting of the Committee on Equity, Justice and Inclusion, and for discussion and consideration at the February 20, 2026, General Meeting.

If you have any questions or require additional information, please contact me at (916) 818-2993.

PROPOSED VISION, MISSION AND VALUES  
NEW MOTOR VEHICLE BOARD  
FEBRUARY 2026

**VISION:** Building trust, cultivating relationships, and resolving disputes.

**MISSION:** To be a trusted government resource benefiting all Californians, enriching relations between new motor vehicle dealers and manufacturers, and delivering fair resolutions for consumers.

**VALUES:**

- Collaboration
- Efficiency
- Equity
- Integrity
- Transparency



## New Motor Vehicle Board

### Applying an Equity Lens to Policy Development and Review

NMVB commits to using a systematic application of an Equity Lens Assessment Rubric when developing new policies and reviewing existing ones. In doing so, we seek to do the following:

- Infuse equity in evaluation of NMVB policies, processes, and programs.
- Identify potential disparate effects on underserved and marginalized individuals, groups, and communities, and minimize unintended adverse consequences.
- Reduce or eliminate barriers.
- Make decisions that result in more equitable outcomes across policies, programs, practices, and processes.

## Equity Lens Assessment Rubric

Policy:

Date Reviewed: 2/19/2026

Criterion	Equity Lens Tool	Phase One	Phase Two	Phase Three
<b>Stakeholders identified</b>	<i>Who is impacted by the content of this policy, practice, or decision?</i>	No stakeholders have been identified	Some stakeholders have been identified.	All stakeholders have been identified
<b>Stakeholder Input</b>	<i>Are the people impacted by the policy, practice, or decision included in the development discussion?</i>	No stakeholder input has been included in the development of this policy	Informal and segmented stakeholder input has been included in the development of this policy	All relevant stakeholders have been formally involved with the development of this policy
<b>Benefits/ Burdens/Overall Impact</b>	<i>What are the benefits and burdens?</i>	No benefits and burdens of the policy have been identified	Some benefits and burdens of the policy have been identified	A comprehensive understanding of the benefits and burdens of the policy have been identified
<b>Access, Equity, and Inclusion</b>	<i>In what ways does this policy, practice, or decision increase or decrease access, equity, and inclusion?</i>	The policy does not address increases and decreases in access, equity, and inclusion	The policy addresses some increases and decreases in access, equity, and inclusion.	The policy addresses all increases and decreases in access, equity, and inclusion
<b>Measurable Outcomes</b>	<i>What are the measurable outcomes of the policy practice, or decision?</i>	No measurable outcomes have been identified	Some measurable outcomes have been identified or outcomes that have been identified are not measurable	All measurable outcomes have been identified
	Mark applicable phase with X			

**1) STAKEHOLDERS IDENTIFIED** What groups, organizations or individuals may be most affected by and/or concerned with the issues related to the proposed policy?

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New Motor Vehicle Board members, staff, and members of the public, including consumers and industry stakeholders.

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**2) STAKEHOLDER INPUT** Have those stakeholders most involved or impacted been informed, meaningfully involved, and authentically represented in the development of the policy?

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Board staff met on 7/22/2025 to discuss individual and collective ideas for the vision and mission. Ideas were synthesized by Assistant Director and Equity Officer before presenting to the Ad Hoc Vision and Mission Statement Committee on 10/9/2025. Vision, Mission, and Values was agreed upon by committee on 10/15/2025.

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**3) BENEFITS, BURDENS, OVERALL IMPACT** Which groups, organizations, or individuals are currently most advantaged by the issues this policy seeks to address? Which are disadvantaged? How are they affected differently? Is there evidence that inequity exists? Is evidence needed? If so, what?

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No disadvantages foreseen with the new Vision, Mission, and Values statements. Benefits all New Motor Vehicle Board stakeholders for Board to have updated statements that reflect our statutory responsibilities and that are also in alignment with our current Strategic Plan goals and objectives.

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**4) ACCESS, EQUITY, AND INCLUSION** In what ways does this policy increase or decrease access, equity, and inclusion? Is there equity in the language? What types of words are used to describe individuals/groups identified in the policy? Are there further ways to maximize equitable opportunities and impacts?

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Equity is one of the proposed values. Individuals and groups identified in the Vision and Mission Statements: Californians, new motor vehicle dealers and manufacturers, and consumers. Maximizing impact: Share with others and identify ways to partner and collaborate on shared values.

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**5) MEASURABLE OUTCOMES** What is the intent behind the policy? What are the desired outcomes? Who is responsible for implementation and oversight?

Intent of new vision, mission, and values statements is to be in alignment with the current work of NMVB. Implementation and oversight is the responsibility of the Executive Director and the Assistant Director and Equity Officer. The Board is responsible for general oversight.

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**Board Members present:**

**Outstanding concerns?** [i.e. Are there better ways to achieve the purpose of policy and align with board goals? Does the policy need revisions to ensure positive impacts on equity and inclusion? Is there a need for ongoing evaluation of the policy to ensure Board accountability and stakeholder participation?]

**Policy approved for Full Board review? Y/ N**

Resources: <https://harvard.edu>; <https://dei.virginia.edu>; <https://policies.wsu.edu>; <https://ualr.edu>

11.1.24



***EXECUTIVE  
DIRECTOR'S  
REPORT***

*February 20, 2026*

A.

# ADMINISTRATIVE MATTERS

Project Title/Manager	Project Goal (Description)	Estimated Completion Date	Status
<b>ADMINISTRATION COMMITTEE</b>			
<b>1. <u>Update Guide to the New Motor Vehicle Board</u></b> Robin Parker	Update the <i>Guide to the New Motor Vehicle Board</i> to incorporate statutory and regulatory changes.	February 2026	In progress. The revised Guide will be considered at the February 20, 2026, General Meeting.
<b>BOARD DEVELOPMENT COMMITTEE</b>			
<b>1. <u>Schedule Board Member Education Presentations</u></b> Tim Corcoran	Develop a schedule for prioritizing topics and speakers for Board member education presentations for upcoming meetings.	Ongoing	In progress. Board education will be presented at each General Meeting.
<b>2. <u>Solon C. Soteras Employee Recognition Award Recipient</u></b> Tim Corcoran	Compile the nominations provided by staff and select a nominee for the Solon C. Soteras Employee Recognition Award.	TBD	In progress. The nominee will be considered at a future General Meeting.
<b>COMMITTEE ON EQUITY, JUSTICE AND INCLUSION</b>			
<b>1. <u>Develop Strategies for Board Consideration</u></b> Kim Vaye	Develop strategies for the Board's consideration, which advance California State Transportation Agency's stated goal of "Enhancing the lives of all Californians – particularly people of color and disadvantaged communities..."	Ongoing	In progress. This will be discussed at the February 19, 2026, Committee Meeting.
<b>2. <u>Charter Review</u></b> Kim Vaye	Review the Charter that includes the purpose of the Committee, membership, responsibilities, meetings, equity goals, and deliverables.	Ongoing	In progress. This will be discussed at the February 19, 2026, Committee Meeting.

Project Title/Manager	Project Goal (Description)	Estimated Completion Date	Status
<b>3. Land Acknowledgments</b> <u>Kim Vaye</u>	Discussion and consideration of Land Acknowledgements.	February 2026	In progress. After review by the Equity, Justice and Inclusion Working Committee on Land Acknowledgments, this matter will be considered at the February 20, 2026, General Meeting.
<b>4. Virtual and Telephonic Access to Public Meetings</b> <u>Kim Vaye</u>	Discussion and consideration of virtual and telephonic access to public meetings.	February 2026	In progress. After review by the Equity, Justice and Inclusion Working Committee on Virtual and Telephonic Access to Public Meetings, this matter will be considered at the February 20, 2026, General Meeting.
<b>5. Vision and Mission Statements</b> <u>Kim Vaye</u>	Discussion and consideration of Vision and Mission Statements	February 2026	In progress. After review by the Equity, Justice and Inclusion Committee, this matter will be considered at the February 20, 2026, General Meeting.

Project Title/Manager	Project Goal (Description)	Estimated Completion Date	Status
<u><b>Land Acknowledgments for Board Meetings</b></u> <u><b>for Board Meetings</b></u> Kim Vaye	Explore writing land acknowledgments for Board meetings.	August 2025	<u>Completed</u> A two-member working committee was created and members appointed at the August 1, 2025, General Meeting.
<u><b>Review Proposed Revisions to the Board Adopted Delegation of Authority to the Executive Director to Proceed with the Rulemaking Process to Include Non-Substantive Changes Suggested by the Fair Political Practices Commission</b></u> <u><b>for Board Meetings</b></u> Kim Vaye	This proposal will be reviewed by the Committee on Equity, Justice and Inclusion prior to being considered by the Board at its August 1 2025, General Meeting.	July 2025	<u>Completed</u> The revised delegation was approved by the Committee on Equity, Justice and Inclusion at its July 31, 2025, Committee Meeting.
<b>EXECUTIVE COMMITTEE</b>			
<u><b>1. Strategic Plan July 2024 - June 2030</b></u> Tim Corcoran, Kim Vaye	Develop and implement the Board's first Strategic Plan encompassing July 2024 through June 2030. Delegate discretion to the Executive Director to implement action items responsive to the objectives in the Strategic Plan.	Ongoing	In progress. The Strategic Plan was adopted at the April 25, 2024, General Meeting and the Executive Director was granted discretion to implement action items.
<u><b>Consider Amendments to Board delegations</b></u> Tim Corcoran, Robin Parker	Review and consider amendments to the Board adopted delegations in compliance with the 1996 Performance Audit.	August 2025	<u>Completed</u> Revised delegations were adopted at the August 1, 2025, General Meeting.

Project Title/Manager	Project Goal (Description)	Estimated Completion Date	Status
<b>FISCAL COMMITTEE</b>			
<b>1. <u>Quarterly Financial Reports</u></b> Tim Corcoran, Kim Vaye, Suzanne Luke	Quarterly reports on the Board's financial condition and related fiscal matters.	Ongoing	In progress. A status report will be provided at the February 20, 2026, General Meeting.
<b>2. <u>Status report concerning the Board's collection of the Annual Board Fee</u></b> Tim Corcoran, Kim Vaye, Suzanne Luke	The staff will provide a report concerning the Board's collection of the Annual Fee.	Ongoing	In progress. A status report will be provided at the February 20, 2026, General Meeting.
<b>3. <u>Status Report on the Collection of Fees for the Arbitration Certification Program</u></b> Tim Corcoran, Kim Vaye, Suzanne Luke	The staff will provide a report concerning the annual fee collection for the Department of Consumer Affairs, Arbitration Certification Program.	Ongoing	In progress. A status report will be provided at the February 20, 2026, General Meeting.
<b>4. <u>Proposed Board Budget for the Next Fiscal Year</u></b> Tim Corcoran, Kim Vaye, Suzanne Luke	The staff, in conjunction with the Fiscal Committee, will discuss and consider the Board's proposed Budget for fiscal year 2026-2027.	July 2026	In progress. A report will be presented for consideration at the July 17, 2026, General Meeting.
<b><u>Proposed Board Budget for the Next Fiscal Year</u></b> Tim Corcoran, Kim Vaye, Suzanne Luke	The staff, in conjunction with the Fiscal Committee, will discuss and consider the Board's proposed Budget for fiscal year 2025-2026.	August 2025	<u>Completed</u> The 2025-2026 Budget was presented at the August 1, 2025, General Meeting.
<b>GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE</b>			
<b>1. <u>EV (Electric Vehicle) Export Pledge (CalSTA Core Four)</u></b> Tim Corcoran, Kim Vaye	Ask new car dealers to pledge to have one EV expert on their sales team. (Strategic Plan Objective 2.4)	Ongoing	In progress. EV Expert Pledge submissions will be considered at the February 20, 2026, General Meeting.

Project Title/Manager	Project Goal (Description)	Estimated Completion Date	Status
<b><u>2. Recognition of Jurisdictions and municipalities that are ZEV Ready (CalSTA Core Four)</u></b> Tim Corcoran, Kim Vaye	Recognize local jurisdictions that demonstrate Zero Emission Vehicle Readiness. (Strategic Plan Objective 2.7)	Ongoing	In progress. Jurisdictions and municipalities that demonstrate ZEV Readiness will be considered at the February 20, 2026, General Meeting.
<b><u>3. Host Board Industry Roundtable</u></b> Tim Corcoran, Kim Vaye, Robin Parker	Host the Industry Roundtable to highlight the CalSTA Core Four – Safety, Climate Action, Equity, Economic Prosperity.	April 2026	In progress. The Roundtable is in conjunction with CNCDA's Dealer Day on April 8, 2026.
<b><u>Participant Surveys for Industry Roundtable</u></b> Tim Corcoran, Kim Vaye	Based upon the feedback provided at the Industry Roundtable in the surveys, highlight areas for improvement and develop a preliminary list of suggested topics for a future event.	August 2025	<u>Completed</u> Feedback was presented at the August 1, 2025, General Meeting.
<b>LEGISLATIVE COMMITTEE</b>			
<b><u>1. Review of Pending Legislation</u></b> Tim Corcoran, Robin Parker	The staff will provide an overview of pending legislation of special and general interest, and pending federal legislation, if any.	Ongoing	In progress. An update will be provided at the February 20, 2026, General Meeting.
<b><u>Review of Pending and Enacted Legislation</u></b> Tim Corcoran, Robin Parker	The staff will provide an overview of pending legislation of special and general interest, and enacted legislation and pending federal legislation, if any.	Ongoing	<u>Completed</u> A report was presented at the August 1, 2025, General Meeting.

Project Title/Manager	Project Goal (Description)	Estimated Completion Date	Status
<b>POLICY AND PROCEDURE COMMITTEE</b>			
<b>1. <u>Promulgate Amendments to Increase the Annual Board Fee in Sections 553 and 553.20 of Title 13 of the California Code of Regulations</u></b> Robin Parker	In compliance with the Administrative Procedure Act, amend Sections 553 and 553.20 of the Board's regulations to increase the fees paid by dealers, manufacturers, and distributors to fully fund the Board's operation.	February 2026	In progress. The Board approved the text at the November 1, 2024, General Meeting. The Notice was published June 13, 2025, and public comment closed on July 28, 2025. A 15-day notice of additional documents was issued on October 21, 2025. No comments were submitted. The Department of Finance approved the increase. The final rulemaking packet was submitted to OAL on December 30, 2025.
<b>2. <u>Report on the Assignment of Cases to Board Administrative Law Judges</u></b> Tim Corcoran, Robin Parker	Annual report on the assignment of cases to Board Administrative Law Judges ("ALJs").	February 2026	In progress. A report on the assignment of cases to Board ALJs will be presented at the February 20, 2026, General Meeting.
<b>3. <u>Update the Informational Guide for Manufacturers and Distributors</u></b> Tim Corcoran, Robin Parker	Update the <i>Informational Guide for Manufacturers and Distributors</i> .	February 2026	In progress. The revised Guide will be considered at the February 20, 2026, General Meeting.

Project Title/Manager	Project Goal (Description)	Estimated Completion Date	Status
<b>4. <u>Update the Export or Sale-For-Resale Prohibition Policy Guide</u></b> Tim Corcoran, Robin Parker	Update the <i>Export or Sale-For-Resale Prohibition Policy Guide</i> for Vehicle Code section 3085 protests filed by an association, as defined.	February 2026	In progress. The revised Guide will be considered at the February 20, 2026, General Meeting.
<b><u>Draft Proposed Regulatory Amendments to the Board's Conflict of Interest Code</u></b> Tim Corcoran, Robin Parker	In compliance with the Administrative Procedure Act, amend the Board's Conflict of Interest Code as set forth in Section 599 of Title 13 of the California Code of Regulations to cleanup dated language and update the address for the Fair Political Practices Commission.	August 2025	<b>Completed</b> The proposed amendments were approved at the August 1, 2025, General Meeting.
<b><u>Proposed Revisions to the Board Adopted Delegation of Authority to the Executive Director to Proceed with the Rulemaking Process to Include Non-Substantive Changes Suggested by the Fair Political Practices Commission</u></b> Tim Corcoran, Robin Parker	In April 2002, the Board delegated to the Executive Director the ministerial duty of proceeding through the rulemaking process in compliance with the Administrative Procedure Act. Non-substantive changes suggested by the Office of Administrative Law (OAL) or staff are considered by the Executive Committee and reported to the Board at the next meeting. The Proposed amendment encompasses non-substantive changes suggested by the Fair Political Practices Commission.	August 2025	<b>Completed</b> The revised delegation was approved by the Committee on Equity, Justice and Inclusion at its July 31, 2025, Committee Meeting. The proposed amended delegation was adopted at the August 1, 2025, General Meeting.

Project Title/Manager	Project Goal (Description)	Estimated Completion Date	Status
<u><b>Promulgate Amendments to Include Electronic Means in Motion Hearings with Live Witness Testimony in Section 551.19 of Title 13 of the California Code of Regulations</b></u> Robin Parker	In compliance with the Administrative Procedure Act, amend the regulation pertaining to live witness testimony in a motion hearing so the hearing may be held in-person or by other electronic means if each party in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe exhibits. This is consistent with the Board's current practice.	January 2026	<u>Completed</u> The Board approved the text at the February 28, 2025, General Meeting. The Notice was published on May 30, 2025, and public comment closed on July 14, 2025. The final rulemaking packet was approved by OAL. The amendments are operative January 1, 2026.
<u><b>Promulgate Amendment to the Board's Conflict of Interest Code</b></u> Tim Corcoran, Robin Parker	In compliance with the Administrative Procedure Act, amend the Board's Conflict of Interest Code as set forth in Section 599 of Title 13 of the California Code of Regulations to cleanup dated language and update the address for the Fair Political Practices Commission.	January 2026	<u>Completed</u> The Board approved the text at the August 1, 2025, General Meeting. The changes without regulatory affect were submitted to OAL and approved on January 7, 2026.
<b>AD HOC COMMITTEE TO REVIEW THE MISSION AND VISION STATEMENTS</b>			
1. <u><b>Revise the Board's Mission and Vision Statements</b></u> Tim Corcoran, Kim Vaye	Review updated vision, mission and value statements.	February 2026	In progress. After review by the Equity, Justice and Inclusion Committee, this matter will be considered at the February 20, 2026, General Meeting.

# B. CASE MANAGEMENT

# CASE VOLUME

## JULY 15, 2025, THROUGH FEBRUARY 3, 2026

VEHICLE CODE SECTION	CASE TYPE	NUMBER OF NEW CASES	NUMBER OF RESOLVED CASES	NUMBER OF PENDING CASES
3060	Termination	2	6	6
3060	Modification	3	2	3
3062	Establishment	0	0	0
3062	Relocation	4	0	4
3062	Off-Site Sale	0	0	0
3064	Delivery/Preparation Obligations	0	0	0
3065	Warranty Reimbursement	5	2	5
3065.1	Incentive Program Reimbursement	0	1	0
3065.3	Performance Standard	0	0	1
3065.4	Retail Labor Rate or Retail Parts Rate	0	1	0
3070	Termination	0	0	0
3070	Modification	0	0	0
3072	Establishment	0	0	0
3072	Relocation	0	0	0
3072	Off-Site Sale	0	0	0
3074	Delivery/Preparation Obligations	0	0	0
3075	Warranty Reimbursement	0	0	0
3076	Incentive Program Reimbursement	0	0	0
3085	Export or Sale-For Resale	0	0	0
3050(b)	Petition	0	0	0
TOTAL CASES:		14	12	19

# PENDING CASES

BY CASE NUMBER

<b>ABBREVIATIONS</b>			
<b>ALJ</b>	Administrative Law Judge	<b>Bd. Mtg.</b>	Board Meeting
<b>HRC</b>	Hearing Readiness Conference	<b>IFU</b>	Informal Follow-Up
<b>MH</b>	Merits Hearing	<b>CMH</b>	Continued Merits Hearing
<b>RMH</b>	Resumed Merits Heading	<b>MSC</b>	Mandatory Settlement Conference
<b>CMSC</b>	Continued Mandatory Settlement Conference	<b>RMSC</b>	Resumed Mandatory Settlement Conference
<b>MTCP</b>	Motion to Compel Production	<b>MTC</b>	Motion to Continue
<b>MTD</b>	Motion to Dismiss	<b>PHC</b>	Pre-Hearing Conference
<b>CPHC</b>	Continued Pre-Hearing Conference	<b>RPHC</b>	Resumed Pre-Hearing Conference
<b>PD</b>	Proposed Decision	<b>RFPD</b>	Requests for Production of Documents
<b>PSDO</b>	Proposed Stipulated Decision and Order	<b>ROB</b>	Rulings on Objections
<b>CROB</b>	Continued Rulings on Objections	<b>RROB</b>	Resumed Rulings on Objections
<b>SC</b>	Status Conference	<b>CSC</b>	Continued Status Conference
<b>* Consolidated, non-lead case</b>			

# PROTESTS

	CASE NUMBER/ DATE FILED	STATUS	PROTEST NAME	COUNSEL	CASE TYPE
1.	PR-2821-23 5-27-23	MH with OAH: 2-23-26 (5 days)	Liberty Motors, Inc., dba Liberty Chevrolet v. General Motors LLC	Protestant: Gavin M. Hughes, Robert A. Mayville, Jr.  Respondent: Robert Ellis	Modification
2.	PR-2858-24 8-13-24	HRC: 2-16-26 MH: OAH	Jasper Auto Group, Inc. dba Victorville Hyundai, a California corporation v. Hyundai Motor America, a California corporation	Protestant: Victor P. Danhi, Adjoa M. Anim- Appiah, Esq.  Respondent: John Streelman, Rachel Sternlieb, Mariah Emmons, Lourdes Escalante	Termination
3.	PR-2859-24 9-13-24	Order pending post-Phase I bifurcated hearing	Raceway Ford, Inc. dba Raceway Ford v. Ford Motor Company	Protestant: Gavin Hughes, Robert Mayville  Respondent: Elizabeth McNellie, Jeremiah Wood, Marcus McCutchen	Performance Standard

CASE NUMBER/ DATE FILED		STATUS	PROTEST NAME	COUNSEL	CASE TYPE
4.	PR-2860-24 12-19-24	Parties are working on settlement IFU: 2-9-26	Sunroad Auto LLC d/b/a Kearny Mesa Kia, California limited liability company v. Kia America, Inc., a California corporation	Protestant: Aaron H. Jacoby, Franjo M. Dolenac, Susanne L. Boniadi  Respondent: Lauren A. Deeb	Termination
5.	PR-2862-25 1-23-25	HRC: 4-16-26	Hanlees Seven, Inc., dba Genesis of Richmond v. Genesis Motor America	Protestant: Gavin Hughes, Robert Mayville  Respondent: John Streelman, Rachel Sternlieb, Mariah Emmons	Termination
6.	PR-2863-25 1-30-25	RMSC pending IFU: 2-26-26	H & B Group, Inc. dba Nissan of Bakersfield v. Nissan North America, Inc.	Protestant: Gavin Hughes, Robert Mayville  Respondent: Steven McFarland, Christopher Genovese, Patrick Quinn	Warranty

CASE NUMBER/ DATE FILED		STATUS	PROTEST NAME	COUNSEL	CASE TYPE
7.	PR-2868-25 6-13-25	CPHC: 2-18-25	West Valley Cycle Sales, Inc., a California corporation v. BMW of North America, LLC, a California corporation	Protestant: Victor P. Danhi, Adjoa M. Anim- Appiah, Esq.  Respondent: Dean A. Martoccia, Stephen M. Bledsoe	Termination
8.	PR-2871-25 8-26-25 (passenger cars)	RPHC: 3-17-26 Parties are working on settlement	Oremor European, LLC, a California limited liability company dba Mercedes- Benz of El Cajon v. Mercedes-Benz USA, LLC, a Delaware limited liability company	Protestant: Victor P. Danhi, Susanne Boniadi  Respondent: Rich Otera, Steven McFarland	Modification
9.	PR-2872-25* 8-26-25 (light trucks)	RPHC: 3-17-26 Parties are working on settlement	Oremor European, LLC, a California limited liability company dba Mercedes- Benz of El Cajon v. Mercedes-Benz USA, LLC, a Delaware limited liability company	Protestant: Victor P. Danhi, Susanne Boniadi  Respondent: Rich Otera, Steven McFarland	Modification

CASE NUMBER/ DATE FILED		STATUS	PROTEST NAME	COUNSEL	CASE TYPE
10.	PR-2874-25 11-25-25	CPHC: 2-13-26	Rusnak/ Pasadena dba Bentley Pasadena, A California Corporation v. Bentley Motors, Inc., A Delaware Corporation	Protestant: Halbert Rasmussen, Julie S. Pearson, Ryan Evans  Respondent: Owen Smith, David Lurie, Olivia Glass	Termination
11.	PR-2875-25 12-5-25	ROB: 3-5-26 HRC: 5-18-26 MH: OAH	Martin's Auto Group Inc. dba Oxnard Mitsubishi v. Mitsubishi Motors North America, Inc.	Protestant: John K. Rounds, Randall V. Sutter, Charles A. Thornburg  Respondent: Brandon Bigelow, Bill Benson	Termination
12.	PR-2876-25 12-12-25	Parties working on resolution and proposed schedule IFU: 2-12-26	DPEP 7 Inc dba Pedder CDR + J of Poway v. FCA US LLC (Chrysler)	Protestant: Gavin Hughes, Robert Mayville  Respondent: Mark Clouatre	Warranty
13.	PR-2877-25* 12-12-25	Parties working on resolution and proposed schedule IFU: 2-12-26	DPEP 7 Inc dba Pedder CDR + J of Poway v. FCA US LLC (Dodge)	Protestant: Gavin Hughes, Robert Mayville  Respondent: Mark Clouatre	Warranty

CASE NUMBER/ DATE FILED		STATUS	PROTEST NAME	COUNSEL	CASE TYPE
14.	PR-2878-25* 12-12-25	Parties working on resolution and proposed schedule IFU: 2-12-26	DPEP 7 Inc dba Pedder CDR + J of Poway v. FCA US LLC (Jeep)	Protestant: Gavin Hughes, Robert Mayville  Respondent: Mark Clouatre	Warranty
15.	PR-2879-25* 12-12-25	Parties working on resolution and proposed schedule IFU: 2-12-26	DPEP 7 Inc dba Pedder CDR + J of Poway v. FCA US LLC (RAM)	Protestant: Gavin Hughes, Robert Mayville  Respondent: Mark Clouatre	Warranty
16.	PR-2880-25 12-29-25	Parties working on resolution and proposed schedule IFU: 2-4-26	Leehan of Davis Inc., dba Hanlee's Chrysler Dodge Jeep RAM v. FCA US LLC (Chrysler)	Protestant: Gavin Hughes, Robert Mayville  Respondent: Mark Clouatre	Relocation
17.	PR-2881-25* 12-29-25	Parties working on resolution and proposed schedule IFU: 2-4-26	Leehan of Davis Inc., dba Hanlee's Chrysler Dodge Jeep RAM v. FCA US LLC (Dodge)	Protestant: Gavin Hughes, Robert Mayville  Respondent: Mark Clouatre	Relocation
18.	PR-2882-25* 12-29-25	Parties working on resolution and proposed schedule IFU: 2-4-26	Leehan of Davis Inc., dba Hanlee's Chrysler Dodge Jeep RAM v. FCA US LLC (Jeep)	Protestant: Gavin Hughes, Robert Mayville  Respondent: Mark Clouatre	Relocation

CASE NUMBER/ DATE FILED		STATUS	PROTEST NAME	COUNSEL	CASE TYPE
19.	PR-2883-25* 12-31-25	Parties working on resolution and proposed schedule IFU: 2-4-26	Leehan of Davis Inc., dba Hanlee's Chrysler Dodge Jeep RAM v. FCA US LLC (RAM)	Protestant: Gavin Hughes, Robert Mayville  Respondent: Mark Clouatre	Relocation

## PETITIONS

CASE NUMBER/ DATE FILED	STATUS	PETITION NAME	COUNSEL

C.

**JUDICIAL**

**REVIEW**

**Either the Protestant/Petitioner/Appellant or Respondent seeks judicial review of the Board's Decision or Final Order by way of a petition for writ of administrative mandamus (Code of Civil Procedure section 1094.5). The writ of mandamus may be denominated a writ of mandate (Code of Civil Procedure section 1084).**

1. KPAUTO, LLC, DBA PUTNAM FORD OF SAN MATEO v. CALIFORNIA NEW MOTOR VEHICLE BOARD; FORD MOTOR COMPANY  
Court of Appeal, First Appellate District, Division 1, No. A175485, A175485  
San Mateo County Superior Court No. 24-CIV-05035  
New Motor Vehicle Board No. CRT-283-24  
Protest No. PR-2759-21

In December 2021, KPAuto, LLC, dba Putnam Ford of San Mateo's (Putnam Ford) filed a Retail Labor Rate protest pursuant to Vehicle Code section 3065.4. Putnam Ford argued its current warranty labor reimbursement rate was significantly below its effective labor rate charged to retail customers. Putnam Ford requested an adjusted retail rate of \$436.76 per hour in July 2021. Ford Motor Company (Ford) denied this request because it was alleged to be double the rate being charged by other Ford dealers in the market and it claimed the submission was inaccurate or fraudulent. Ford proposed an adjusted retail labor rate of \$220.00. This was an increase from the \$177 per hour retail labor rate.

An 8-day Zoom merits hearing was held before Administrative Law Judge Wim van Rooyen of the Office of Administrative Hearings in September 2023. In the Proposed Decision, the ALJ determined that Ford had shown by a preponderance of the evidence that Putnam Ford's submission and determination of its retail labor rate were materially inaccurate. The Proposed Decision overruled Putnam Ford's protest. At the June 28, 2024, Special Meeting, the Public Members adopted the Proposed Decision as amended as its final Decision.

Putnam Ford filed a Verified Petition for Writ of Administrative Mandate (Petition) on August 12, 2024. The Board was served on August 28, 2024. A copy of the administrative record was provided.

Putnam Ford contends that the Board:

- Denied Putnam Ford a fair hearing and prejudicially abused its discretion by failing to proceed in the manner required by law.
- Denied Putnam Ford a fair hearing and violated Putnam Ford's due process rights.
- Prejudicially abused its discretion by failing to proceed in the manner required by law.

Putnam Ford seeks the issuance of a peremptory writ of administrative mandate directing the Board to set aside and vacate its Decision and to adopt and issue a new and different decision sustaining the protest. In the alternative, the issuance of a writ

of administrative mandate directing the Board to set aside and vacate its Decision and remand this case to the Board to consider evidence which in the exercise of reasonable diligence, could not have been produced or that was improperly excluded at the hearing.

President Kassakhian determined that there is not a state interest at issue in the writ so the Board will not participate via the Attorney General's Office.

On September 23, 2024, Petitioner filed Notice of Board's intent not to appear. On October 3, 2024, Real Party in Interest filed its Answer. At the January 22, 2025, hearing on the parties' First Joint Motion to Seal Exhibit A, the court denied the motion without prejudice. At the January 29, 2025, Case Management and Trial Setting Conference, the parties stipulated to, and the court ordered, the following dates:

- Petitioner's Opening Brief - Friday, April 18, 2025 . . . amended to May 9, 2025;
- Joint Appendix listing and containing regularly cited portions of the administrative record - Friday, April 18, 2025 . . . amended to May 9, 2025;
- Real Party in Interest's Opposition Brief - June 20, 2025 . . . amended to July 11, 2025;
- Petitioner's Reply Brief - Friday, August 8, 2025 . . . amended to August 29, 2025.

At the April 2, 2025, hearing on the parties' Second Joint Motion to Seal Exhibit A, the court denied the motion without prejudice. At the August 13, 2025, hearing on the Third Joint Motion to Seal Exhibit A, the court adopted its tentative ruling and granted the motion to seal.

On August 29, 2025, Petitioner filed its Motion for Leave to Amend to Filed First Amended Writ Petition. The effect of the amendment is to place at issue in this Petition proceeding the legal issue of whether the Board failed to proceed in the manner required by law when it precluded Putnam from offering evidence Ford violated Section 3065.2(i)(2)(G) through its retaliatory audit of Putnam. Petitioner argues leave to amend is necessary and proper because Ford first disputed in the Labor Rate Protest that it engaged in any retaliatory adverse conduct towards protestant. Ford argued that Putnam will have the opportunity to litigate that issue in the warranty audit protest (PR-2826-23). Then in the warranty audit protest, Ford disputed Putnam could litigate that issue. The Board issued a final Decision in PR-2826-23 precluding Putnam from raising the Section 3065.2(i)(2)(G) claims. Furthermore, Petitioner contends the Board further failed to proceed in the manner required by law when it precluded Putnam from presenting evidence and argument of Ford's adverse action against Putnam Ford in the form of a nonroutine and nonrandom warranty audit Ford conducted in response to Putnam Ford's labor rate submission and Section 3065.4 Protest. The hearing set for January 7, 2026, was vacated by the Court.

On September 5, 2025, Petitioner filed an *Ex Parte* Application to Advance Hearing on Motion for Leave to Amend and Continue Hearing on Writ Petition. The Application

seeks to continue the hearing on the Writ Petition from October 8, 2025, to January 7, 2026, and advance the Motion for Leave to Amend hearing from January 7, 2026, to October 8, 2025. The hearing on the Application set for September 18, 2025, was continued to September 25, 2025. The Court denied the application, advances the motion for leave to amend, and denies the motion for leave to amend.

At the October 8, 2025, hearing on the Writ Petition, Petitioner KPAuto, LLC, dba Putnam Ford of San Mateo's request for a writ of administrate mandate, pursuant to Code of Civil Procedure, section 1094.5 was granted in part and denied in part. The parties were served on November 7, 2025. An amended order was issued on November 18, 2025. The only difference is a correction to a reference to "3095.2" in the original version which became the intended citation "3065.2" in the amended version.

Putnam Ford provided the Board with an electronic service copy of a notice of appeal on December 13, 2025, and a second notice of appeal on January 14, 2026. Notices designating the record on appeal were submitted on January 14, 2026, and January 23, 2026. On February 2, 2026, the Court of Appeal, First Appellate District, Division 1, assigned case no. A175485 to the first notice of appeal (11/7/25 order) and case no. A175487 to the second notice of appeal (11/18/25 amended order). On January 13, 2026 and January 23, 2026, Ford filed cross-appeals.

2. KM3G, INC., DOING BUSINESS AS PUTNAM KIA OF BURLINGAME v. CALIFORNIA NEW MOTOR VEHICLE BOARD; KIA AMERICA, INC.  
Sacramento County Superior Court No. 25WM000170  
New Motor Vehicle Board Court No. CRT-284-25  
Protest No. PR-2803-22

On September 15, 2022, KM3G, Inc., doing business as Putnam Kia of Burlingame (Putnam Kia) filed a Vehicle Code section 3065.4 protest disputing Kia America Inc.'s (Kia) denial of its submission for an increased retail labor rate. Putnam Kia requested an adjusted retail labor rate of \$447.52 per hour in March 2022. Kia denied this request as it was materially inaccurate and potentially fraudulent. Kia proposed an adjusted retail labor rate of \$268.89. This was an increase from \$225.30 per hour. Pursuant to Vehicle Code section 3065.4, Putnam Kia argued Kia failed to comply with Vehicle Code section 3065.2 by denying its submission for an increased labor rate. Putnam Kia used time allowances identified as sold hours on its repair orders to make its calculations.

A 9-day Zoom merits hearing was held before Administrative Law Judge (ALJ) Diana Woodward Hagle on October 9-13, 2023, and February 12-15, 2024. At the November 1, 2024, Special Meeting, the Board remanded the ALJ's Proposed Decision for additional briefing and/or to open the record for additional evidence or testimony for the purpose of making a determination pursuant to subdivision (a) of Section 3065.4 "for a declaration of the franchisee's retail labor rate." Additionally, for the ALJ to reconsider paragraphs 161-174 in the subheading entitled "[t]he Consequences of

Putnam's Failure to Conform its Submission to the Express Requirements of Section 3065.2" and paragraph 120. The Remand Hearing was held May 12-14, 2025. At the Remand Hearing, expert witnesses testified regarding a declaration of the franchisee's retail labor rate pursuant to Vehicle Code section 3065.4(a). Kia's expert's proposed retail labor rate was \$268.85/hour. Putnam Kia's expert's proposed retail labor rate at the conclusion of the Remand Hearing was \$322.96/hour.

At the August 1, 2025, Special Meeting, the Public Members of the Board adopted ALJ Woodward Hagle's Proposed Decision Following Remand as amended. The Board overruled the protest and determined that:

- a. Kia complied with Section 3065.2 by timely responding to Putnam Kia's submission in conformity with statutory requirements.
- b. The phrase actual hours is the correct interpretation of the word hours in the statutory phrase "the total number of hours that generated those [labor] charges." Putnam Kia's use of sold hours in its calculations was materially inaccurate.
- c. Kia established that by using "sold hours," Putnam Kia inaccurately claimed that \$440/hour was the labor rate it generally charged its customers for retail repairs, then submitted that claim as a basis for a higher warranty labor rate from Kia.
- d. The Board declared a retail labor rate of \$268.85/hour for Putnam Kia.

Putnam Kia filed a Verified Petition for Writ of Administrative Mandate (Petition) on September 18, 2025 and the Board was served on September 26, 2025. Kia acknowledged service on October 16, 2025. A copy of the administrative record has been requested but will take time to prepare.

Putnam Kia contends:

- The Board in error determined that the statutory phrase "the total number of hours that generated those charges" means actual technician hours.
  - Such hours are not used to price customer pay repairs, are unlawful when pricing customer repairs, and are not relied on by Kia in any other statutory labor rate submission.
  - Billed or sold hours should be used.
- The Board's Decision erred as a matter of law when it relieved Kia of its statutory burden of proof to show it complied with Section 3065.2 including when providing a proposed adjusted retail labor rate.
- The Board failed to provide it a fair trial and abused its discretion in reaching the Decision.
- The Board failed to proceed in the manner required by law, the Decision is not

supported by the findings, and the findings are not supported by the evidence.

Putnam Kia seeks:

- The issuance of a peremptory writ of administrative mandate directing the Board to set aside and vacate its Decision and to adopt and issue a new and different decision sustaining the protest.
- In the alternative, the issuance of a writ of administrative mandate directing the Board to set aside and vacate its Decision and remand this case to the Board with the direction to take further findings on the evidence improperly excluded during the Remand Hearing and to calculate a retail labor rate based on the sold hours in the repair orders.
- Putnam Kia asserts that even if the Court determines actual hours are the total number of hours that generated those charges, the Court should still issue a writ of administrative mandamus directing the Board to take further findings on the evidence improperly excluded during the Remand Hearing and to calculate a retail labor rate working from and correcting Kia's proposed adjusted retail labor rate which supports a \$350.35 per hour retail labor rate, or otherwise reach a retail labor rate for Putnam that complies with Section 3065.2.

President Stevens determined that there is not a state interest at issue in the writ so the Board will not participate via the Attorney General's Office. The parties were notified of this decision on October 29, 2025. The Administrative Record was available on December 8, 2025.

# NOTICES FILED

PURSUANT TO VEHICLE CODE SECTIONS

3060/3070 AND 3062/3072

JULY 15, 2025, THROUGH FEBRUARY 3, 2026

**These are generally notices relating to termination or modification (Sections 3060 and 3070) and establishment, relocation, or off-site sales (Sections 3062 and 3072).**

## SECTIONS 3060/3070

Manufacturer	Number of Notices
BMW/Mini	
Ford	
GM (Buick, Cadillac, Chevrolet, GMC)	33
Honda/Acura	
Hyundai/Genesis	
Kia	1
Nissan/Infiniti	
Stellantis (Chrysler, Jeep, Dodge, RAM,)	
Stellantis (Alfa Romeo, FIAT)	
Stellantis (Maserati)	
Subaru	
Toyota/Lexus	
Volkswagen/Audi	
Miscellaneous Car/Heavy Duty Truck	145
Miscellaneous Motorcycles	
Miscellaneous Recreational Vehicle	28
<b>Total</b>	<b>207</b>

## SECTIONS 3062/3072

Manufacturer	Number of Notices
BMW	
Ford	
GM (Buick, Cadillac, Chevrolet, GMC)	
Honda/Acura	
Hyundai/Genesis	
Kia	
Nissan/Infiniti	
Stellantis (Chrysler, Jeep, Dodge, RAM)	4
Stellantis (Alfa Romeo, FIAT)	
Stellantis (Maserati)	
Subaru	
Toyota/Lexus	
Volkswagen/Audi	
Miscellaneous Car/Heavy Duty Truck	
Miscellaneous Motorcycles	
Miscellaneous Recreational Vehicle	
<b>Total</b>	<b>4</b>



## Memorandum

**Date : FEBRUARY 5, 2026**

**To : ALL BOARD MEMBERS**

**From : TIMOTHY M. CORCORAN**

**Subject : BOARD MEETING DATES**

The following identifies planned Board meeting dates:

- February 19, 2026, Special Meeting (Glendale)
- February 19, 2026, Meeting of the Ad Hoc Committee on Equity, Justice and Inclusion (Glendale)
- February 20, 2026, General Meeting (Glendale)
- April 8, 2026, Industry Roundtable (Sacramento)
- July 16, 2026, Meeting of the Ad Hoc Committee on Equity, Justice and Inclusion (Sacramento)
- July 16, 2026, Special Meeting for Public Members (Sacramento)
- July 17, 2026, General Meeting (Sacramento)
- October 15, 2026, Meeting of the Ad Hoc Committee on Equity, Justice and Inclusion (Glendale)
- October 15, 2026, Special Meeting for Public Members (Glendale)
- October 16, 2026, General Meeting (Glendale)

If you have any questions or concerns about any of the upcoming Board meetings, please do not hesitate to contact me at (916) 244-6774.