



BOARD MEETING MINUTES

Thursday, August 23, 2018 and Friday, August 24, 2018

Board Member(s) Present

Richard Bookwalter – President
Sharon Pavlovich – Vice President
Jeff Ferro
Denise Miller
Beata Morcos

Board Staff Present

Jeff Hanson, Enforcement Manager
Jody Quesada, Analyst
Norine Marks, Attorney
Reza Pejuhesh, Attorney

Thursday, August 23, 2018

9:30 am - Board Meeting

1. Call to order, roll call, establishment of a quorum.

The meeting was called to order at 9:33 a.m., roll was called, a quorum was established.

Board Member Laura Hayth was absent.

2. President's Remarks – Informational only; no Board Action to be taken.

President Richard Bookwalter thanked the University of St. Augustine for hosting the California Board of Occupational Therapy (CBOT), introduced Board staff and reported Executive Officer Heather Martin would be absent due to illness. Mr. Bookwalter invited public attendees to introduce themselves at will.

3. Board Member Remarks – Informational only; no Board Action to be taken.

Vice President Sharon Pavlovich reminded the Board that the annual Occupational Therapy Association of California (OTAC) would take place in Pasadena in October. Ms. Pavlovich thanked OTAC and expressed her gratefulness for the opportunity to present with her team at the conference and share their Sexuality Talk/Questionnaire.

Mr. Bookwalter reported that he, Vice President Sharon Pavlovich and Executive Officer Heather Martin would be giving a presentation for CBOT at the conference.

4. Public Comment session for items not on the agenda.

There were no public comments for items not on the agenda.

5. Review and vote on approval of the May 31-June 1, 2018, Board meeting minutes.

Board staff was asked to review the draft minutes and present them at the October Board meeting.

6. Review and vote on approval of the June 20, 2018, Special Teleconference Board meeting minutes.

Board staff was asked to review the draft minutes and present them at the October Board meeting.

7. Discussion and consideration of the proposed removal of the word “referred” from the definition of “Occupational therapy” in Business and Professions Code section 2570.2 as amended by Assembly Bill (AB) 2221, and whether this pertains to a physician’s referral.

President Bookwalter reviewed the existing language of BPC 2570.2(k) and the proposed changes to 2570.2, that would result from AB 2221.

Mr. Bookwalter gave examples of clients that came from referrals and those that sought services without a referral.

Discussion ensued regarding the fact that the existing language does not specify who the referral must come from, so the Board did not recognize a difference in the proposed language.

Denise Miller stated that people commonly refer themselves for occupational therapy services and practitioners need to be ready for the future of healthcare.

Jeff Ferro stated that if the Executive Officer (EO) needs a motion on this topic the Board should hold off until a time the EO is available for direction.

The Board members agreed.

Public Comment

Heather Kitching, President of OTAC and licensed occupational therapist agreed with the Board members’ comments regarding a physician referral not being needed to deliver services and that practitioners need to be forward thinking about the future of occupational therapy. Ms. Kitching expressed her concern regarding the statement “subsequent to diagnosis of disease or disorder”. Ms. Kitching stated that there is a whole world of “no referral” scenarios that need to be considered.

Kristin Neville, AOTA’s State Affairs Manager stated that it was her understanding after speaking with Executive Officer Heather Martin that removing referral language doesn’t take away the fact that insurance companies commonly require a referral for reimbursement purposes.

8. Discussion and consideration of whether the residency/clinical/internship experience completed as part of a Doctor of Occupational Therapy (OTD) degree program is considered “practice” and further discussion regarding the OTD programs in California which are not accredited by the Accreditation Council on Occupational Therapy Education (ACOTE).

President Bookwalter reviewed the issue at hand and the provided explanation document.

Jeff Hanson, CBOT Enforcement Manager, reported that OTD students enrolled in OTD programs not accredited by ACOTE do not meet the exemption criteria in BPC Section 2570.4 because the language is specific to students being enrolled in an ‘accredited program.’

Denise Miller stated that she was happy ACOTE made the decision to go with a single point of entry after four years of discussion and that AOTA members should honor that and move forward. Ms. Miller stated she felt the Board has the authority to ask ACOTE whether they believe an unlicensed doctoral student can sign off on treatment or not, so the Board, who is tasked with consumer protection can make a decision.

Jeff Ferro stated that he wanted clarification regarding whether the Board had authority to make a condition that ACOTE cannot move forward with accreditation changes until loop holes are closed so that the Board can ensure consumer safety.

Sharon Pavlovich stated that prior to approaching ACOTE, the Board should assess where each school is at in their accreditation process.

Mr. Bookwalter agreed with Ms. Pavlovich.

Ms. Miller commented that the Board has an existing law regarding this situation and a way to protect the public and she felt that the schools and ACOTE should come before the Board and engage in dialogue.

Mr. Bookwalter suggested sending a definitive letter to the schools explaining the Board’s concerns and what the Board sees as a violation of the Business and Professions Codes and ask the schools and ACOTE how they feel the school(s) are compliant with the laws of the profession.

- Jeff Ferro moved to send a letter to all California OT programs and ACOTE notifying them of the doctoral program issue and ask how each program is currently structured and how this will affect their students.
- Denise Miller seconded the motion.

Public Comment

Kristen Neville stated that she agrees with Ms. Miller that ACOTE should keep licensing boards in the loop and involved. Ms. Neville offered her assistance if the Board wanted AOTA to facilitate conversation or meetings.

Heather Kitching commented that from a consumer protection prospective she was proud of the Board’s discussion because it is clear to her that either you are licensed or you are not. Ms. Kitching added that a license holder has to know that they are responsible for these students no matter what stage of their education they are in.

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| VOTES | Richard Bookwalter | Sharon Pavlovich | Jeff Ferro | Laura Hayth | Denise Miller | Beata Morcos |
| | Y | Y | Y | Absent | Y | Y |

The motion passed.

9. Discussion and possible action on legislation impacting the Board:
 - a) Assembly Bill (AB) 1659 (Low), Healing arts boards: inactive licenses.

President Bookwalter stated that the Board supported this bill last meeting and that there was no progression or changes.

Public Comment

There was no public comment.

- b) AB 2138 (Chiu and Low), Licensing boards: denial of application: criminal conviction.

Mr. Bookwalter stated that the Board’s position was to ‘oppose unless amended’, asking that the Board be removed from the bill.

An in-depth discussion surrounding the fact that the bill is currently sitting on the Governor’s desk, timelines, the Board’s position, Board staff gathering data to support the Board’s decision, and the scheduling of a teleconference ‘Special’ Board meeting in early September to include the data that was gathered in an additional position letter.

- Jeff Ferro moved to check and ensure whether the June 19, 2018, ‘Oppose Unless Amended’ letter was cc’d to Governor’s office, if not forward the letter to the Governor’s office for consideration should the bill make it to the Governor’s desk.
- Sharon Pavlovich seconded the motion.

Public Comment

There was no public comment.

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| VOTES | Richard Bookwalter | Sharon Pavlovich | Jeff Ferro | Laura Hayth | Denise Miller | Beata Morcos |
| | Y | Y | Y | Absent | Y | Y |

The motion passed.

President Bookwalter stated that he would confer with Board staff to decide whether a ‘Special’ meeting is needed in September to discuss AB 2138.

A concern was raised regarding the draft minutes and whether the final position was properly reported. The Board members subsequently asked Board staff to review the tape recording and verify the final motion that passed.

c) AB 2221 (Bloom), Occupational Therapy Practice Act.

President Bookwalter stated that he discovered the bill was amended on August 22nd, however, the Board did not have that version included in the meeting materials.

Denise Miller asked that a copy of the newest version of the language be brought to the second day of the meeting, if available. President Bookwalter agreed to hold this bill over for discussion at the second day of the meeting with hopes that the newest version could be made available.

Public Comment

Heather Kitching reported that the newest version should be available the following day or Monday at the latest and that all of CBOT's requested changes were included.

Kristin Neville, AOTA's State Affairs Manager stated that there was a respectful conversation with the psychologists addressing their concerns that the language could be misinterpreted as occupational therapy practitioner had the ability to perform psychotherapy.

The conversation below took place on the second day of the meeting August 24, 2018, first a.m. The Board was provided with an August 20, 2018, version of the bill which was not the most current version that Ms. Kitching referenced on Day 1.

Board Discussion

President Bookwalter commented that the Board's previous position was "Support if Amended" and then asked his fellow Board members what position the Board wanted to take.

The Board members discovered the changes they requested had been made in the August 20, 2018, version.

The Board members discussed supporting the August 20, 2018, version because it addressed the requests of the Board or reaffirming their position of "Support if Amended" for the upcoming version until a time of which the final version is made public and the requested changes are within that version.

Beata Morcos stated that Board should wait until the most updated version is made available.

Denise Miller expressed that she was not comfortable taking a position on the version of the bill that is not yet in print.

- Denise Miller moved to 'Support' the August 20, 2018, version of AB 2221 as written.
- Beata Morcos seconded the motion.

Public Comment

Heather Kitching reported that she received the most current version of AB 2221 by email that had an RN# which meant the document had hit a certain level of formality.

Mr. Bookwalter asked Ms. Kitching to forward the email to Executive Officer Heather Martin.

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| VOTES | Richard Bookwalter | Sharon Pavlovich | Jeff Ferro | Laura Hayth | Denise Miller | Beata Morcos |
| | Y | Y | Absent | Absent | Y | Y |

The motion passed.

Mr. Bookwalter asked the Board members if they wanted to send a letter outlining the Board’s position.

The Board members did not unanimously agree to send a position letter. Mr. Bookwalter questioned what the point of the Board’s position would be if they didn’t inform anybody in the format of a position letter.

Vice President Sharon Pavlovich stated that she is comfortable with what she heard but commented that waiting until Monday when the final version would be available in print would enable the Board to include the two absent Board members.

Beata Morcos stated that Board should send only one letter and that should be after the most updated version is made available.

Mr. Bookwalter stated his concern that the Board’s position letter may not be included in the bill analysis if the Board had to wait to schedule a ‘Special’ meeting to discuss the newest version.

Discussion ensued regarding the pros and cons of sending multiple letters.

Board Attorney, Reza Pejuhesh informed the Board that if a ‘Special’ meeting was approved the soonest it could be scheduled would be Thursday of the following week.

The discussion below took place on August 24th after the Board members were given a ‘substantive’ copy of AB 2221 the was made available by Heather Kitching, President of OTAC.

Ms. Morcos asked if it would be permissible for the Board to review the version that Ms. Kitching had in her possession.

Mr. Pejuhesh confirmed that the Board could review the version.

President Bookwalter asked the Board members if they wished to take a position on the August 22, 2018, version.

Denise Miller read the changes that were notated in the provided document. Ms. Miller questioned the use of “promotes.”

Ms. Kitching stated that it was the view of the two associations that removing “and supports functioning” and using only “promotes mental health by supporting occupational performance in people with...” got them to the place they wanted to be with the expanse of their ever-growing practice.

President Bookwalter spoke in favor of the proposed language in the unofficial version dated August 22, 2018.

Denise Miller agreed.

- Denise Miller moved to accept the proposed amendments on the August 22, 2018, ‘substantive’ version of AB 2221.
- Beata Morcos seconded the motion.

Ms. Miller amended her motion.

- Denise Miller moved that the Board take a position of ‘Support’ regarding the proposed amendments on the August 22, 2018, ‘substantive’ version of AB 2221.
- Beata Morcos seconded the motion.

Public Comment

Heather Kitching thanked the Board for a thoughtful discussion and allowing the substantive document.

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| VOTES | Richard Bookwalter | Sharon Pavlovich | Jeff Ferro | Laura Hayth | Denise Miller | Beata Morcos |
| | Y | Y | Absent | Absent | Y | Y |

The motion passed.

- Beata Morcos moved to direct the Executive Officer to write a letter of ‘Support’ and have the Board President review the letter.
- Denise Miller seconded the motion.

Public Comment

There was no public comment.

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| VOTES | Richard Bookwalter | Sharon Pavlovich | Jeff Ferro | Laura Hayth | Denise Miller | Beata Morcos |
| | Y | Y | Absent | Absent | Y | Y |

The motion passed.

- d) AB 2386 (Rubio), Services credentialing: services credential with a specialization in occupational therapy or physical therapy services.

President Bookwalter reviewed the bill included in the meeting materials.

Public Comment

Heather Kitching, President of OTAC reported that the bill was dead for the year. Ms. Kitching stated that OTAC is still fact finding, and wished to present the facts so that people can make an educated decision. Ms. Kitching commented that the bill has a lot of support.

There was no further Board discussion.

- e) AB 2483 (Voepel), Indemnification of public officers and employees: antitrust awards.

President Bookwalter reported that the hearing was canceled on June 26, 2018, at the request of the author.

Public Comment

There was no public comment.

There was no further Board discussion.

- f) AB 3110 (Mullen), Athletic trainers.

President Bookwalter reminded the Board that their most recent position was "Oppose Unless Amended" and the June 25, 2018, letter from the Board outlined the reasons for their position.

Denise Miller stated that her vote was not meant to send a message that the Athletic Trainers (ATs) shouldn't develop their own board and become licensed but directed at some of the omissions in the bill that needed to be refined.

Jeff Ferro stated that the Board and the ATs had previously spent a lot of time making mutual changes to the language and somewhere down the line those changes disappeared and the old language was back which he found disappointing.

Mr. Bookwalter stated that he noticed not all the mutual changes made to the language were reverted and that he received an email from OTAC that showed there was a change to the status of the bill. Mr. Bookwalter asked for Mike Chisar to address that topic during public comment.

Public Comment

Mike Chisar, Governmental Affairs Chair, California Athletic Trainers' Association thanked the Board and said he appreciated all the work the Board has done. Mr. Chisar said many of the changes were "foisted" upon them by committee staff. Mr. Chisar stated that the reason for his attendance is that he respects the Board and wants to continue that working relationship. Mr. Chisar reported that the bill has stalled and the ATs are committed to working with DCA, Committee staff on both sides and stakeholders to craft language that is more workable and implementable. Mr. Chisar thanked the Board for detailing their concerns in their position letter and promised to come back when the language when the process is further along in order to keep the Board in the loop.

Heather Kitching stated that OTAC has been supportive of regulatory language being established for the ATs relative to the protection of the California consumer. She added that OTAC has always had concerns regarding the language and scope of the ATs but remain interested in being collaborative.

Board Comment

Vice President Sharon Pavlovich thanked Mr. Chisar for coming and sympathized with the ATs and the hard work they have put forth. Ms. Pavlovich offered encouragement and support and her hopefulness for future collaboration between CBOT and the ATs.

President Bookwalter also thanked Mr. Chisar for bringing an in-person update and wished him good luck in the future.

- g) Senate Bill 1348 (Pan), Postsecondary education: allied health professional clinical programs: reporting.

President Bookwalter reported that the bill was placed in the Appropriations Suspense file on June 27, 2018.

Public Comment

There was no public comment.

There was no further Board discussion.

10. Legislative Items for Future Meeting. The Board may discuss other items of legislation in sufficient detail to determine whether such items should be on a future Board meeting agenda and/or whether to hold a Special Meeting of the Board to discuss such Items pursuant to Government Code section 11125.4.

President Bookwalter asked if any of the Board members had additional items of legislation to discuss.

The Board members did not have any additional legislative items to discuss.

Public Comment

There was no public comment.

11. Discussion and possible action on the Ad Hoc Committee on Fieldwork's Report to the Board on alternative approaches to increasing the availability of fieldwork sites in California for students completing academic requirements for licensure.

Sharon Pavlovich, Chairperson of the Ad Hoc Committee on Fieldwork thanked all the members of the committee. Ms. Pavlovich reported that the grant proposal for the California Community Colleges Chancellor's Office to gather occupational therapy workforce data was approved and looked forward to the report.

Committee member Jeff Ferro stated that the data would be used to address the need of expansion of the profession and to satisfy fieldwork needs.

Ms. Pavlovich reported that committee member Ada Boone Hoerl, OTA Program Director, and Jim Collins, Dean of Science and Allied Health, both with Sacramento City College, had a very supportive, and enthusiastic discussion regarding the possible development of a pilot apprenticeship program at Sacramento City College.

Committee member Jeff Ferro asked that the Board accept the Committee's recommendation to approve the development of a pilot program for apprenticeship.

- Denise Miller moved to accept the recommendation of the Ad Hoc Fieldwork committee to develop a pilot program for apprenticeship.
- Beata Morcos seconded the motion.

Public Comment

There was no public comment.

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| VOTES | Richard Bookwalter | Sharon Pavlovich | Jeff Ferro | Laura Hayth | Denise Miller | Beata Morcos |
| | Y | Y | Y | Absent | Y | Y |

The motion passed.

CLOSED SESSION

The Board entered in to Closed Session at 2:06 p.m.

Closed Session concluded at 3:04 p.m.

RECONVENE IN OPEN SESSION

The Board reconvened in open session at 3:05 p.m.

12. Recess for the day.

The Board meeting adjourned at 3:06 p.m.

Friday, August 24, 2018

9:30 am - Board Meeting

13. Call to order, roll call, establishment of a quorum.

The meeting was called to order at 9:40 a.m., roll was called, a quorum was established. Laura Hayth and Jeff Ferro were absent.

President Bookwalter welcomed all members of the public in attendance and thanked the University of St. Augustine for hosting the CBOT meeting and thanked Dionte' Reese, OT Program Director Administrative Assistant for being so helpful and accommodating.

14. Public Comment session for items not on the agenda.

There were no public comments for items not on the agenda.

15. Discussion and consideration of licensee request for the Board to establish policy statement or position that suture removal is included within the scope of an occupational therapist’s practice.

President Bookwalter stated that a licensee is asking the Board to issue a policy statement and/or take a position on whether suture removal is within the scope of practice for OTs with hand therapy approval.

Beata Morcos asked the practitioner Board members if they were trained to perform this function.

Ms. Pavlovich and Ms. Miller explained that competencies can be developed on the job and suture removal can be performed with additional training classes.

- Denise Miller moved to refer this inquiry to the Practice committee to further identify the role of OTs in suture removal and to provide a response on behalf of the Board to the licensee posing the question.
- Beata Morcos seconded the motion.

Public Comment

There was no public comment.

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| VOTES | Richard Bookwalter | Sharon Pavlovich | Jeff Ferro | Laura Hayth | Denise Miller | Beata Morcos |
| | Y | Y | Absent | Absent | Y | Y |

The motion passed.

16. Discussion and consideration of the Board’s ability to accept the surrender of a license.

President Bookwalter thanked Attorney Reza Pejuhesh for the memo he developed to provide some explanation regarding the authority of the Board to accept the license surrenders.

Mr. Pejuhesh informed the Board members that they may invoke attorney/client privilege in order to hold the topic over until the time where all Board members are present to discuss the issue. He explained this would make the memo not available for public consumption.

President Bookwalter agreed that the memo should not be discussed until a meeting where all Board members are present.

- Sharon Pavlovich moved to invoke attorney/client privilege regarding the memo until a time chosen by the Board.
- Denise Miller seconded the motion.

Public Comment

There was no public comment.

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| VOTES | Richard Bookwalter | Sharon Pavlovich | Jeff Ferro | Laura Hayth | Denise Miller | Beata Morcos |
| | Y | Y | Absent | Absent | Y | Y |

The motion passed.

17. Discussion about permissible communications between Board members outside of noticed meetings of the Board.

Attorney Reza Pejuhesh explained the document he provided regarding permissible communications. Mr. Pejuhesh reminded the Board to be cognizant of what constitutes a meeting and then gave situational examples.

President Bookwalter stated the reason he asked for this recap revolved around a question that he had and he felt that scenarios would be helpful. Mr. Bookwalter thanked Mr. Pejuhesh for his explanation.

18. Discussion and possible action on updated Board Administrative Manual.

President Bookwalter referenced the manual in the materials and reminded Board Members they had seen it a couple times. Denise Miller asked that Board staff to provide a version that included strikeouts for comparison.

Beata Morcos agreed.

President Bookwalter asked that review of the Board Administrative manual be held over to the October Board meeting.

Public Comment

There was no public comment.

19. Discussion and possible action on selecting new Board logo.

The Board members reviewed the logos prepared by DCA's Office of Publications, Design & Editing. The Board Members invited Beverly Dovan, an occupational therapy student in the audience, to provide her input. Ms. Dovan's pick was in line with that of the Board. Option #10 was unanimously chosen.

The Board thanked Ms. Dovan for her presence and her input.

20. Discussion and consideration of new web-based technologies allowing licensees to upload their continuing competence information and certificates of completion, and have the Board be able to view the information submitted in real time. Discussion and consideration of requests by vendors of such technology to make a presentation to the Board at a future meeting.

President Bookwalter asked the Board for their thoughts on this topic.

Vice President Pavlovich asked if multiple entities had contacted Board staff about the matter. Ms. Pavlovich was advised that two vendors have contacted Board staff but there could be other similar vendors. Vice President Pavlovich stated that she thought all of the vendors should be invited to the next meeting to speak.

Denise Miller stated that she felt it would be best for the vendors including the Associations to bring their offerings to the Executive Officer first. Ms. Miller stated that cost should be a consideration factor and she would prefer strict parameters around presentation time limits. Ms. Miller indicated she would be interested in the product if it reduced renewal processing times and did not impose a burden on staff.

Beata Morcos questioned whether these actions would mean the Board was endorsing a specific company. Ms. Morcos expressed her concern about adding a new system and the resulting additional work and delays that implementation of new systems could pose to Board staff.

President Bookwalter asked staff for input.

Enforcement Manager Jeff Hanson reported that this type of platform may be helpful to licensees. Mr. Hanson stated the Department of Consumer Affairs does not regulate these activities and that the decision to proceed would be up to the Board.

Board Attorney Reza Pejuhesh cautioned the Board regarding the competitive aspect of the bidding process and avoiding the appearance that any vendor has been given preferential treatment. Mr. Pejuhesh suggested developing criteria and applying a points system to create a short list of vendors to make a presentation to the Board.

The Board members agreed that Board staff should implement Mr. Pejuhesh's suggestions and present the results in a matrix format. There was a consensus amongst the Board for staff to do more work to make the proposal clearer and identify risks, benefits, and costs.

Public Comment

There was no public comment.

21. Executive Officer's Report.
 - a. Operational and budget reports.
 - b. BreEZe updates.
 - c. Presentation of licensing and enforcement data and reports.
 - d. Future agenda Items.
 - e. Other informational items.

President Bookwalter reviewed the documents included in the Board Meeting materials.

Mr. Bookwalter had questions regarding the fund condition reserves comparison from last meeting to the current meeting and stated he would ask Executive Officer Heather Martin to address the issue at the next meeting.

Mr. Bookwalter asked for input regarding the request to pare down the renewal notice that is sent to each licensee as a courtesy reminder to renew their license. Mr. Bookwalter stated that the change would replace the current four-page document with a one-page document.

Denise Miller stated her support of the pared down version and commented on the ease of her personal renewal experience in BreEZe.

Mr. Bookwalter asked Heather Kitching for her opinion.

Public Comment

Ms. Kitching stated that she liked the pared down version. Ms. Kitching stated that in her personal experience, “all transitions from paper to electronic are tough to start but after a couple of years, folks usually forget the pain.”

Board Attorney, Reza Pejuhesh stated his concern that the new one-page version does not mention that the use of a paper renewal was still acceptable.

- Denise Miller moved that the Board support an abbreviated process regarding the ‘Notice of Renewal’ letter and directed staff to work with legal on the wording of the letter.
- Beata Morcos seconded the motion.

Public Comment

There was no public comment.

Board Discussion

The Board asked that the Executive Officer include the finalized letter in her future report.

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| VOTES | Richard Bookwalter | Sharon Pavlovich | Jeff Ferro | Laura Hayth | Denise Miller | Beata Morcos |
| | Y | Y | Absent | Absent | Y | Y |

The motion passed.

22. Selection of 2019 meeting dates.

The Board members decided to move the selection of 2019 meeting dates to the October meeting so that all Board members could participate.

Public Comment

Heather Kitching extended an invite for the Board to hold a 2019 meeting at California State University, Dominguez Hills.

23. Selection of Strategic Planning date(s).

The Board asked that Executive Officer give further direction at the next meeting.

Public Comment

There was no public comment.

24. Suggested agenda items for a future meeting.

Denise Miller stated that she liked the comparative report used in Ms. Martin's report and would appreciate that type of report being used to display the data compiled for the web based technology vendors that are chosen.

There were no further suggestions.

Public Comment

There was no public comment.

Adjournment.

The meeting adjourned at 12:22 p.m.