

Q & A on Panels

What is a panel?

A panel means any three members of the Board present at a meeting who are authorized to exercise the power and authority of the Board, excepting for certain decisions which may only be exercised by the full Board.

Who establishes the panels and decides how many panels to create?

The Commissioner may establish one or more panels as the Commissioner deems necessary.

Who assigns the Board members to the various panels?

The Commissioner shall assign each member of the Board to a panel or panels. However, each member of the Board must be assigned to the same number of panels as every other Board member.

How many panels will be established?

Five. Therefore each Board member will serve on three of the five panels.

How many members of the panel must attend a panel meeting in order for the panel to legally meet?

According to the Legislative Counsel Bureau, all three members of the panel must be in attendance or else the panel will need to postpone its meeting.

May a panel substitute another Board member for an absent member so that the panel will continue to have three members and thus be allowed to meet?

Yes. If the absence of one or more members of a panel would otherwise require the postponement of a hearing, the Commissioner may, with the written consent of all the parties to the hearing, randomly assign another member or members of the Board to the panel for the purposes of the hearing and disposition of the matter.

Which of the three panel members is to preside over a panel meeting?

1. If the Chair is a member of a panel, then he or she shall serve as the presiding officer.
2. If the Chair is not a member of a panel, then the Vice Chair, if he or she is on that panel, shall serve as the presiding officer.
3. If neither the Chair nor the Vice Chair is a member of a panel, then the Board member with the most seniority shall serve as the presiding officer.

Can someone substitute as the Presiding Officer for a given panel meeting?

The Commissioner may designate any member of a panel as the Acting Presiding Officer for a meeting of the panel with the consent of the Presiding Officer and the person to be designated as the Acting Presiding Officer.

Based on all the above, what are the panels and who will be the presiding officer for each panel?

<u>Panel</u>	<u>Presiding Officer</u>	<u>Member</u>	<u>Member</u>
Panel A	Eckersley	Masters	Larson
Panel B	Masters	Larson	Walker
Panel C	Larson	Walker	Cottino
Panel D	Eckersley	Walker	Cottino
Panel E	Eckersley	Cottino	Masters

Who determines when a given panel shall meet?

The Commissioner shall schedule the meetings of each panel in consultation with the members of the panel.

How often will a given panel meet?

Each panel is anticipated to meet quarterly for up to three days at a time. However, it is also anticipated that there periodically may be the need for a panel to telephonically meet for a short Board meeting between in-person meetings should business for that panel so warrant.

How and when is a case initially assigned to a panel?

Whenever a case is commenced by the filing of a complaint, petition or other pleading, the Commissioner shall assign the case to the next available panel for which a meeting agenda has not yet been posted. This shall be known as the initial panel.

What jurisdiction does the initial panel have with respect to a case assigned to it?

The panel to which a case is initially assigned shall resolve any motions, extend any due dates for which the Commissioner does not have the authority to do so, decide whether to send the case to a mandatory settlement conference, and/or decide whether to grant a hearing for that case.

If the initial panel decides that a hearing should be held in a case, what happens next?

The initial panel will randomly assign the case to a panel. The Commissioner has developed a method for doing so and will demonstrate that method at the upcoming Board meeting. In randomly assigning the case to a hearing panel, there is a 20% chance that the initial panel would also be the hearing panel.

What jurisdiction does the hearing panel have for a case?

The second panel, to be designated the hearing panel, would then conduct the hearing and decide the issues in the case, all of which would result in the issuance of an order.

What happens if a case settles and a stipulation to dismiss is filed?

If a stipulation to dismiss all or any part of a complaint or petition is filed, the Commissioner shall assign the stipulation to the next available panel, irrespective of whether the case had already been assigned to an initial panel or a hearing panel.

Can all five members of the Board initially hear a case?

Yes. If the Commissioner determines that a case involves an issue of statewide significance, the Commissioner may so designate the case and assign it to the full Board instead of a panel for all further proceedings. If such a designation is made, the Commissioner shall prepare and file written notice of the designation, stating the reasons for the designation, and serve a copy of the notice upon each party to the case.

Are there items that only the entire Board may deliberate and decide upon?

Yes. SB 460 provides that the following may only be decided by a majority vote of the entire membership of the Board:

- ✓ Election of a Chair and Vice Chair;
- ✓ Appointment or termination of employment of the Commissioner;
- ✓ Appointment or termination of employment of the Board Secretary;
- ✓ Annual setting of the fee charged to local government employers;
- ✓ Imposition of a civil penalty for failure to pay the annual fee;
- ✓ Making or adopting of any rule or regulation;
- ✓ Granting permission to a local government employer to withdraw recognition from an employee organization;
- ✓ Ordering an election to determine the representative, if any, of a bargaining unit.

Additionally, the draft regulations also provide for a split decision of a panel to potentially be reconsidered by the entire Board. This is done through the filing of a petition for reconsideration.