

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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MINUTES OF THE ADVISORY COMMITTEE FOR GENERAL INDUSTRY SAFETY ORDERS, SECTION 3203, EMPLOYEE ACCESS TO IIPP February 13, 2018 Sacramento, CA

1. Call to Order.

The meeting was called to order by the Chair, David Kernazitskas, Senior Safety Engineer, Occupational Safety and Health Standards Board (OSHSB), at 9:30 am on Tuesday, February 13, 2018, in Sacramento, CA. The Chair was assisted by Bernie Osburn, Staff Services Analyst, OSHSB.

2. Opening remarks.

Mr. Kernazitskas welcomed the attendees and started the introductions of the committee. He then reviewed the Standards Board policy regarding the use of advisory committees, explaining that the Board has found advisory committees to be an effective way to develop a proposal because of the expertise of the attendees. He also provided general information about the rulemaking process.

3. Discussion of the proposed rulemaking:

Background

The Chair explained that the advisory committee was convened as a result of Petition 562 (Dan Leacox) to discuss an employee's right to review and receive a copy of the employer's injury and illness prevention program (IIPP). Petition 562 was conditionally granted by the Board on June 15, 2017.

The Chair also discussed AB 978 (Limon) on the same topic, which was vetoed by Governor Brown with a message explaining that the OSHSB is best equipped to "develop a regulation of this kind."

The Chair explained that because both Petition 562 and AB 978 aimed to provide employees with access to their employer's IIPP, he expected that those present in the committee were in agreement on allowing such access. He said that he asked the authors of the petition and the bill to provide a statement addressing the necessity of providing such access.

Dan Leacox (Leacox and Associates) submitted the following:

This rulemaking is needed to clarify an employee's access to the IIPP. Access to the IIPP improves workplace safety by helping the employee understand how to engage with the employer to address workplace hazards the employee may notice. For example, the IIPP specifies who is responsible for implementing the program and the employer's system for communicating with employees about workplace safety and health.

Mark Schacht (California Rural Legal Assistance Foundation (CRLAF)) provided the following statement:

Health and safety experts agree that building a culture of workplace safety is an important element in any employer's effort to reduce injuries and workers' compensation costs. Worker familiarity with the IIPP is essential to establishing a culture of workplace safety, and promptly providing current and former employees, and their representatives, with a free copy of their employer's IIPP will assist employees in understanding their employer's safety program and the means by which they can participate.

Summarizing, the Chair said both statements indicate that employee access to the employer's IIPP is necessary to: 1) Help employees understand how to communicate hazards to the employer. 2) Aid in the understanding of the IIPP and the role of the employee in creating a safe workplace. He asked the committee if they had further comments on the need for the regulation or if they disagreed with summary of the statements. No further comments were made.

Discussion of Other Sections Where Employee Access to Employer Records is Allowed

The Chair then mentioned several places in Title 8 where the concept of allowing employees and/or third party representatives access to records exists: §3345 "Hotel Housekeeping Musculoskeletal Injury Prevention", §5189 "Process Safety Management of Acutely Hazardous Materials", §5194 "Hazard Communication", and §3204 "Access to Employee Exposure and Medical Records". He pointed out that the regulations use a variety of terms to describe third party employee representatives, including representative, recognized representative, designated representative, and labor union representative.

The Chair asked the committee if they had anything to add to the list of sections that mention employee or employee representative access to employer records. Various other sections of Title 8 and Labor Code were mentioned including §5120 "Safe Patient Handling", Labor Code §226 (Payroll Records), LC §1198.5 (Personnel Records), and sections dealing with access to an employer's injury logs (300 log).

Discussion of Proposed Text: Definitions

The Chair asked the committee to review the definitions of the proposed amendment. He asked if anyone had any concerns with the definition for "access". Mr. Schacht said that he wanted to be sure that access meant access to a free copy.

The Chair asked for comments on using the definition for "authorized representative" to identify an employee's third party representative. Bruce Wick (CalPASC) said that he agreed that a collective bargaining representative should have access to an IIPP on an employee's behalf. The Chair asked if anyone disagreed that an employee's collective bargaining representative should have access to an employer's IIPP. Everybody agreed that union representatives should have access to the IIPP of the employee's they represent.

The Chair asked Mr. Schacht why he felt it was important for employees to have a third party representative. Mr. Schacht responded that California has a vibrant underground economy, which uses

wage theft as a business model. He said that employers within the underground industry often retaliate against workers across all sectors of the economy, not just in agriculture. He said that if a third party representative is excluded from the regulation, a large portion of the California workforce would be excluded from the protections of this regulation because the workforce is often afraid to confront their employer and ask for documents, even though it is their right to receive them.

The Chair asked Mr. Schacht how having a third party representative would address his concerns about the underground economy. Cynthia Rice (California Rural Legal Assistance, Inc. (CRLA)) responded that a third party representative helps protect employees from retaliation. She said that in her experience, a designated representative's request for a record is rarely lost. She added that worker requests are not as carefully documented, whether written or verbal.

Ed Ferris (International Longshore and Warehouse Union) asked why we were using “authorized representative” instead of “designated representative”, which is defined in §3204. The Chair said that “authorized representative” was taken from the assembly bill, but a different definition could be used if the committee agreed. Mr. Ferris said that he preferred to use “designated representative”.

Mr. Schacht said that the definition for “authorized representative” was taken from the Labor Code as part of the assembly bill, but that he preferred to use “designated representative” as well.

Kevin Bland (Ogletree, Deakins, Nash, Smoak & Stewart, P.C.) commented that he is not in favor of having a third party representative, but if this is the path taken, he would prefer to use the definition for “authorized [employee] representative” as defined in §347 (regulations for the Occupational Safety and Health Appeals Board), which reads:

(e) “Authorized Employee Representative” means a labor organization which has a collective bargaining relationship with the cited employer and which represents affected employees or an employee organization which has been formally acknowledged by a public agency as an employee organization that represents affected employees of the public agency;

He said that we should use definitions that already exist where possible.

Mr. Bland also added that many of his clients provide a copy of the IIPP to their employees as part of their new hire package. He said that he was concerned with providing additional access to the IIPP through a third party representative because it could infringe on the safe guards built into legal processes that protect both the plaintiff and the defendant (i.e. discovery rules, limitations, protective orders, and prescribed methods for Cal/OSHA citations and appeals). He said that he wanted to avoid a situation where a third party representative could access an employer's documents and look for a problem without having to follow established legal procedures.

The Chair asked Mr. Bland why he had concerns with providing a copy of the IIPP to an employee representative if he didn't have concerns with providing a copy of the IIPP to an employee. Mr. Bland responded that employers know who their employees are and openly train them on the contents of the IIPP. He said that employers have concerns with providing that same information to an unknown representative with unknown motives.

Deborah Gold (Certified Industrial Hygienist) said that we should use the term “designated representative” in the proposal because it has been around for decades and is clearly understood in Title 8. She said that many IIPPs are employee exposure records that can be accessed under §3204. She said that it was important to use the same definition of designated representative for both sections to avoid a conflict (between §3203 and §3204) when an employer is presented with a request for a copy of the IIPP. She said that sticking with established language and definitions would help ensure that we remain in harmony with federal regulations. She added that doing so would also be less confusing to employers.

Definition of Designated Representative for Unionized Employees

Marti Fisher (Chamber of Commerce) commented that represented employees should be required to use their collective bargaining agent to make requests for the IIPP. She said that the definition for designated representative should be modified to limit employees to a single representative and that collective bargaining agents should be the designated representatives for the employees they represent.

The Chair asked if Ms. Fisher’s comment intended to prevent a unionized employee from using a representative (cousin, neighbor, friend, etc.) other than the employee’s union representative. She and others in the room said that was their intent. Ms. Fisher said that she wanted to maintain the relationship that employers already had with the union representative.

The Chair pointed out that for medical and exposure record access, there was no requirement to go through a labor representative. Ms. Fisher said that she was not at the table when §3204 was developed and she did not feel that the practice of §3204 was necessary for the current proposal.

Mr. Bland said that employers work intimately with labor representatives to create a collective bargaining agreement with protections for both the employer and the employees. Both parties are well known to each other. He said that an outside organization, which lacks such a contract, can be viewed suspiciously to an employer.

Doug Parker (Worksafe) said that he was concerned with the limitation for union employees to use a designated representative other than their union representative. He said that doing so would in effect provide less rights to unionized employees than their non-union counterparts. He said that the purpose of this process is to improve health and safety and to improve access to that information for workers. He agreed that in most cases, the union representative would be the go-to person to request such information, but it would be challenging to have two sets of rules for businesses where not all employees are unionized.

Ms. Cynthia Rice added that requiring employees to use their union representative would leave out managers and supervisors who are not represented by unions. She said that agricultural workers often do not have clearly defined boundaries of who are and who are not represented. Furthermore, even where the union relationship is clearly defined, she said that sometimes the union representative is not as accessible as a designated representative. She had concerns with making unionized employees have less rights than other employees.

Ms. Gold said that she agreed with Mr. Parker and Ms. Cynthia Rice in that unionized workers should be allowed to choose their designated representative and not be forced to use their union representative. She explained that she was aware of employees who did not get along with their union representative and may prefer to use a different representative.

Definition of the IIPP – What is required to be provided to the employee?

Mr. Bland said that we needed to be specific on what the IIPP is and what it isn't. The Chair asked if the currently proposed language was sufficient. The Chair said that he did not intend to change the definition of the IIPP as it is currently understood by the Appeals Board. Mr. Bland and others said that they had concerns with the proposed language.

The Chair asked Eric Berg (DOSH) for information on what is expected when a Cal/OSHA compliance officer makes a document request for an IIPP. Mr. Berg explained that the inspector looks for the elements of subsection 3203(a) and requests copies of training and injury records separately because they are not part of the IIPP. Mr. Berg said that the Lock-Out/Tag-Out program or Process Safety Management Program are not part of the IIPP either.

Mr. Leacox asked if training records were part of the IIPP. Mr. Bland asked if inspection records were part of the IIPP. Mr. Berg responded that those were proof that the employer was implementing the IIPP, but were not necessarily part of the IIPP. Mr. Berg said that when he inspects an IIPP for compliance he is looking to ensure that the employer has met the requirements of subsections 3203(a)(1-7).

James MacKenzie (Southern California Edison) said that the proposed text could imply that more than 3203(a)(1-7) is required. Mike Donlon (Department of Water Resources) suggested modifying the text to specifically require the program elements and not "that which is required for compliance [with subsection 3203(a)]."

Mr. Parker said that he did not agree with the effort to define what is and is not an IIPP. He said that he felt that was beyond the scope of the advisory meeting.

Mr. Donlon suggested that proposed subsection 3203(a)(8)(A)(4) read "The Program provided to an employee or designated representative need not include any information beyond the Program required by subsection 3203(a)." The Chair asked the committee if they agreed with the proposed change. Mr. Bland said that people often inaccurately refer to their entire safety program as the IIPP, but that this language would clarify that the IIPP is the core elements listed in subsection 3203(a).

Mr. MacKenzie recommended adding the word "written" to the requirement so that employers know that it is a written program.

Discussion of Proposed Text: Time Needed for Employer to Respond to a Request for the IIPP

The Chair moved on to discuss the time necessary for an employer to respond to a request for access to an IIPP. He asked if the 15 days used in §3204 was appropriate or if 5 or 10 days from various versions of the assembly bill were necessary.

Ms. Gold suggested that the program be provided within one business day. She said that 15 days is too long, but said that she could live with 5 business days.

Ms. Cynthia Rice agreed that one business day was reasonable and that a postmark within one business day would suffice. She said that 15 days was too long for an employee to wait to learn whom to contact for communication of workplace hazards. She later agreed that 5 working days was enough time to receive a copy of the program.

Mr. Bland said that he preferred the 15 day period. He said that most employers would be able to respond more quickly, but that some would require more time.

Ms. Fisher said that the employee responsible for providing the program may not be available in one day to provide the program. She said that copying the program would require more time. She felt that 15 days was more reasonable.

Mr. Donlon said that his organization wouldn't need 15 days, but if an employee was sick, the one day period would be problematic. He said that he could live with 5 or 10 days.

Mr. MacKenzie said that a couple weeks would be reasonable because he could be out of the office traveling for work.

Amber Novey (LIUNA) said that her contractors are on construction sites and may not have immediate access to the IIPP. She said that 15 days was too long, but one day is too short. She said that 5 or 10 days would be reasonable.

Mr. Leacox said that 5 or 10 days would be enough time for most employers, who have established safety programs. He said that temporary employees and other unique employment situations could affect the amount of time necessary to respond. He said that he did not have a specific time period in mind, but opined that allowing the employer to choose the medium (printed or electronic) for providing the program could expedite delivery.

Mr. Donlon said that he agreed that 15 days was too long. He said that if an employee was injured and away from work on disability, it may take more time to provide a copy, however. He said that 10 business days would be adequate for most employers.

Matt Broad (Teamsters) said that 5 days is reasonable for providing a copy of the IIPP.

Mr. Parker said that Worksafe can live with the 5 day period. He said that if employers make the program readily accessible to employees, there is a reduced likelihood that employees will need to request a copy. He said that employers who do not have an IIPP, are more likely to put off creating an IIPP if they know that they have more than 5 days to respond to a request. He opined that such employers could wait until they get a request to create the program.

The Chair proposed 7 calendar days as a compromise. Mr. Bland said that 7 calendar days was worse than 5 business days, citing a Thanksgiving holiday weekend.

Discussion of Proposed Text: Printed or Electronic Copy

Brian Little (California Farm Bureau) said that not all employers would have the ability to email a copy of the IIPP and he didn't want an employee to be able to force an employer to provide the program electronically if doing so would burden the employer. He mentioned farm labor contractors as an example of an employer who may have difficulty providing the IIPP electronically.

Mr. Ferris suggested placing the phrase "Where readily available" at the beginning of the subsection for clarity. He said that the employee should be able to request the format (printed or electronic) for receiving the copy of the IIPP.

Mr. Schacht insisted that where both are available, the employee should have the choice. Mr. Little asked why it was important for the employee to decide which format the IIPP should be provided in and not left to the employer to decide. Ms. Cynthia Rice responded that if some employers lack the ability to deliver the IIPP electronically, even more employees can be expected to have difficulty receiving it electronically.

Ms. Gold suggested doing what is done in the Haz-Com regulation (§5194). She said that the paper copy of the program is the default format to be provided. She explained that paper copies of safety data sheets are expected to be available to employees unless specific steps are taken to ensure access to them electronically. She suggested that a paper copy of the IIPP be required unless the employer and the requester make arrangements to provide an electronic copy.

Mr. Little said that he would be okay with specifying paper as the default format for providing the IIPP. The committee agreed.

Discussion of Proposed Text: Employee Access via Website or Server

The Chair moved on to discuss provisions for companies that provide ready access to the IIPP through an intranet server or website.

Mr. MacKenzie said that his company has over 12,000 employees who have access to the IIPP at all times. He said that providing a copy of the document through another means would create another administrative process for his company.

Mr. Donlon said that his employees must access a computer at least once a week to complete their time sheets. He explained that they can access a copy of the IIPP and print it out or email it to themselves anytime they are on one of the computers. He said that he did not want to develop another system to provide employee access to the IIPP when he already has met the intent of the proposed regulation in a less burdensome manner. He said that the IIPP should be easily available to employees accessing the program in this manner.

Gail Blanchard (California Hospital Association) said that her organization makes the IIPP available to employees electronically. She said that she has concerns with requiring a supervisor to respond to a request for a written program when the program is easily accessible by the employee. She doesn't want

the burden of creating a process for supervisors to handle a request with a deadline when every employee has already been shown how to handle the request on their own.

Ms. Cynthia Rice said that she was concerned that low wage employees would not be able to access the IIPP using their employer's computer terminal. She said that some employees would have language barriers and not have the ability to print the program. She also said that she was concerned that an employee could be disciplined for taking too much time to review the IIPP at work. She added that it would be necessary for the employee to be able to print the copy if desired so that he/she could review the program at home.

Mr. Schacht said that he was concerned that allowing employers to provide the program online could lead to employers creating a webpage, uploading the program, and considering themselves in compliance even though their employees have no readily available means for accessing the website or receiving a copy of the program.

The Chair responded that he would not view such an employer to be in compliance with the proposal's intent. He suggested that the committee produce language that would prevent an employer from complying with the regulation by posting the IIPP online if the employees do not have a convenient means to access, email, and print the document. He said that only employers whose employees routinely access the company intranet and have access to a company printer and email should be able to comply with the regulation under the proposed requirements.

Ms. Gold suggested that the employee be able to choose whether or not to access the program on the company's website, while retaining the right to ask the employer directly for a copy of the program. She said that she didn't think employees should be forced to go to a website to access the program.

Mr. Berg suggested that adding the ability to print or email the program to one's self to the proposed language may make it more palatable to the committee. He suggested the language read:

Employers that provide access to the program at all times during the work shift (i.e. using a company server or website, or by providing access without the need to inform the employer of a desire to receive a copy) shall be considered to be in compliance with the provisions of this section requiring employee access.

Ms. Gold said that the proposed text should clarify that employees must have access to a printed copy of the program if desired. She said that some employees would not have access to a printer. Ms. Cynthia Rice agreed.

The Chair said that he understood Ms. Gold's and Mr. Berg's points and that he would work on the language outside of the committee to address their suggestions.

Mr. Leacox said that he had concerns with the words "at all times" because it may not be feasible. The Chair suggested using "readily available" instead of "at all times".

Ms. Cynthia Rice pointed out that some employers, like Apple, do not use paper and they have "ready" access to computers. She said that others do not.

Ms. Nicole Rice (California Manufacturers and Technology Association) said the exception should apply to more than just those employees that sit at a desk all day. She said that many of her employers have employees who regularly access a computer terminal, but are not confined to a desk for much of the day.

Jay Weir (AT&T) said that requiring every employee to have immediate access to a printer is not feasible. He explained that AT&T has 30,000 employees who are in the field with a tablet. Continuing, he pointed out that they all have access to the IIPP, but rarely will have access to a printer during the course of their day. He said that they can download the document to their tablet anytime they choose, however.

The Chair suggested adding a prohibition for “barriers to access” in obtaining a printed copy of the IIPP.

Mr. Schacht said that he was still concerned with an unscrupulous employer who creates a website to comply with the regulation. He said that not all employees would be able to access the program using a computer.

Ms. Cynthia Rice said that some employers set up computer terminals for employees to access records without ensuring that employees have the skills necessary to access the information using the computer. She said that using the term “barrier” may need more definition.

Mr. Donlon said that he did not have immediate access to his IIPP because he was attending the meeting today. He said that he would have access when he returned to the office and cautioned the committee about writing language that required near-constant access to the IIPP, even while away on a business trip or meeting.

Mr. Leacox suggested using the phrase “usual and customary” to describe an employee’s access to a computer terminal from which to obtain access to the IIPP. Mr. Schacht said that the terms would still need to be litigated to be clearly understood.

Mr. MacKenzie said that the concept of allowing employee access without the need for the employee to request access should be explored further. He also said that he agreed with Mr. Donlon that requiring an employee to be constantly at a computer terminal for access would not work.

Ms. Gold said that the UC system uses websites to provide information to employees. She suggested placing such electronic access as an option for compliance instead of the currently proposed exception language. She said that the regulation should still allow employees to request a paper copy if desired, but she opined that the paper option would not be used often if electronic access was readily available.

Ms. Nicole Rice said that millennial employees prefer to access information online. She said that the world is changing and that allowing electronic access is forward-looking and allows workplaces to adopt the trend toward paperless workplaces.

Ms. Cynthia Rice said that if millennials prefer to be paperless, they have that choice. We need to allow for a more green approach, but employees need to be able to choose.

Discussion of Proposed Text: Repeat Requests for Copies of the IIPP

The Chair moved on to discuss proposed subsection (D), regarding repeated requests for a copy of the program. He explained that the intent of the proposed text was to allow requesters one free copy of the current program, but to discourage subsequent requests for the same document by allowing an employer to charge for copies.

Mr. Bland said that many of his employers provide a copy of the IIPP to their employees when they are hired and each time it is updated. He said that he was concerned that employees would request subsequent copies. He suggested a limit on the number of copies an employee could receive to deter employees from abusing the required access.

Ms. Fisher suggested adding language to limit the frequency of employee requests for the program. She said that employees should be limited to one copy of the program from one representative (not multiple copies from multiple representatives of the same employee).

Mr. Schacht assured Ms. Fisher that multiple requests were not the intent of the proposal. He explained that sometimes employees would need to use a different representative to make the request, however (i.e. for a paralegal on vacation).

Mr. Little asked what “non-discriminatory” meant as proposed in the text. Mr. Parker said that he understood it to mean that one cannot be selective in the fees they charge (i.e. one cannot charge one person differently than another). The committee discussed what would be meant by reasonable administrative costs, but the Chair reminded them that the language was taken from §3204 as existing language.

Ms. Cynthia Rice said that she was concerned that employees who received a copy of the IIPP upon hiring would be charged for a copy five years later because the IIPP had not been updated during that time. She opined that it was unreasonable to expect every employee to keep the IIPP as part of the new-hire paperwork an employee receives when hired.

The Chair said that he understood Ms. Cynthia Rice’s concern and asked the committee to help resolve the employer concern that employees could harass an employer with multiple requests for copies of the IIPP.

Mr. Parker said that he didn’t support the language to charge for multiple copies and suggested that a time period be introduced to allow employees to access another free copy, even if the program hadn’t been updated. He said that the time period should not apply to electronic copies.

Mr. Bland said that the employee should be able to request a copy every twelve months, unless the program had been updated. Mr. Donlon agreed, as did Ms. Cynthia Rice.

Discussion of Proposed Text: Employee Access Only to Relevant Portions of IIPP

The Chair moved on to subsection (E) for discussion on providing only that portion of the IIPP that covered the affected employee. Mr. Schacht asked whether or not any of the employers could think of a situation where this requirement would apply.

Mr. MacKenzie said that he had some site specific elements, but that Southern California Edison had one corporate IIPP. Mr. Bland said that a corporation may have different operations in different locations with different people in charge of implementing the IIPP. He said that a requester should only be able to access the IIPP that applied to that employee's duties, and not for other operations in which the employee plays no role.

Anne Katten (CRLAF) asked if DOSH had any experience with this issue. Mr. Berg said that he mostly reviews just one program: the one supplied by the employer. Mr. Donlon said that DWR used to have multiple IIPPs and that he has seen refineries with multiple IIPPs depending on whether the employee is in the field or onsite.

Mr. Weir said that AT&T has one plan to cover its 300,000 employees. He said that they have different targets, or safety requirements, for the various positions, however. Ms. Katten insisted that if an employee is covered by more than one program, the employee should have access to all applicable programs.

Discussion of Proposed Text: Communication of Right to Access; Protection of Union Rights

The Chair read (F) which requires the employer to communicate to employees that they have the right to access the IIPP. He read (G) and explained that it was not intended to affect labor union rights. The committee had no comments.

Review

After reviewing the proposed text, the Chair revisited the definition for "designated representative".

Ms. Fisher said that she remains concerned and opposed to a third party representative, but if that is what ends up in the regulation, she says it is important to have adequate controls and protections in place to protect the employer. No further comments were made.

The Chair asked if subsection 3203(a)(8)(A)(4), regarding what constitutes the IIPP, needed further refinement. Mr. Leacox said that he would discuss further outside of the meeting, but didn't have any concerns to express at this time.

Mr. Wick said that there were bad employers and that we needed to help protect employees from them. He said that employees of many of the attendees present already enjoy the access intended to be provided by the current rulemaking effort. He added the committee should avoid burdening employers who already provide ready access to their IIPP.

Mr. Schacht said that the assembly bills stemmed from repeated efforts of lawyers to view a copy of an employer's IIPP on behalf of a represented employee. He said that providing worker access would benefit employee safety. He did not want to punish good employers, but urged caution in protecting them to avoid providing a loophole for unscrupulous employers to use.

8. Economic Impact.

The Chair explained to the committee that an important and required part of the rulemaking process is the identification of the cost impact of the proposed rulemaking. The committee discussed the fact that many, if not most, employers already provide employees access to the IIPP through means such as a copy of the IIPP provided to new hires, a printed copy available onsite for review, or a company webpage. The committee did not expect a major cost impact as long as provisions to protect employers from the harassment of repeated requests was addressed in the regulatory language.

9. Conclusion.

The Chair recapped the meeting as follows:

- 1) Employers must provide access to the IIPP within 5 business days of a request.
- 2) The employee will receive a free hard copy of the IIPP, unless he/she agrees to accept an electronic copy.
- 3) Access to the IIPP can be provided using a company server or website as long as there are no barriers to access.
- 4) Employees can request one copy of the IIPP per year, unless the program is updated.
- 5) Employees can use a designated representative to request access to the IIPP.

The Chair reviewed the rulemaking process with the committee. He stated that committee members will receive a copy of the meeting minutes, along with a copy of the updated proposal within 1-2 months. He explained that they will have an opportunity to comment on the new language before he moves forward with preparation of a formal rulemaking proposal.

The Chair said that after he prepares the necessary rulemaking documents, there will be a 45-day public comment period, concluding with a public hearing. Anyone may attend the public hearing and provide oral comments. Changes may result from public comment and/or during the review process. If any substantive changes are made, there will be one or more additional 15-day periods for public review and comment. After that it will go to the Board for adoption at a Business Meeting. After adoption by the Board, the proposal will go to the Office of Administrative Law (OAL) which will have 30 working days to review it for compliance with the Administrative Procedures Act. Finally the proposal will be filed with the Secretary of State and, unless otherwise specified, will become effective (enforceable) on a quarterly basis as explained in California Code, Government Code §11343.4.

The Chair estimated that the rulemaking process could take up to a year from when the formal notice is published for public comment. He thanked the committee members for their attendance and participation and adjourned the meeting at 3:15pm.