

AVILA BEACH COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTOR
BOARD BY-LAWS AND POLICIES
Updated March 2022

1. OFFICERS OF THE BOARD OF DIRECTORS

- 1.1 The officers of the Board of Directors are the President and Vice President.
- 1.2 The President of the Board of Directors shall serve as presiding officer at all Board meetings. He/She shall have the same rights as the other Directors of the Board in voting, introducing motions, resolutions and ordinances, and any discussion of questions that follow said actions.
- 1.3 In the absence of the President, the Vice President of the Board of Directors shall serve as presiding officer over all meetings of the Board. If the President and Vice President of the Board are both absent, the remaining Directors present shall select one of themselves to act as the presiding officer of the meeting.
- 1.4 The President and Vice President of the Board shall be elected annually at the last meeting of each calendar year.
- 1.5 The term of office for the President and Vice President of the Board shall commence on January 1 of the year immediately following their election.
- 1.6 Generally, the President, or in his/her absence the Vice President, is the designated representative of the Board of Directors to speak on Board positions or policies.
- 1.7 The Board President, or in his/her absence the Vice President, is authorized to attend and is entitled to reimbursement, pursuant to Section 10 below, for his/her attendance at a County or State Agency meetings upon his/her determination that District representation is necessary to protect and/or advance the interest of the District or its residents/customers.

2. MEETINGS

2.1 Regular Meetings

Subject to holidays and scheduling, Regular meetings of the Board of Directors shall be held on the second Tuesday of each calendar month at 1:00 PM in the Avila Beach Community Services District Office, 100 San Luis Street, Avila Beach. The date, time and place of regular Board meetings shall be reconsidered at the annual organizational meeting of the Board.

2.2 Special Meetings

Special meetings may be called by the President or three (3) Directors with a minimum of twenty-four (24) hours public notice. The Special meeting agenda shall be prepared and distributed pursuant to the procedures of the Brown Act by the General Manager in consultation with the President or in his or her absence, the Vice President or those Directors calling the meeting.

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2.3 Closed Sessions

Closed sessions may be scheduled prior to or at the conclusion of regular and/or special meetings.

2.4 Directors shall attend all regular and special meetings of the Board unless there is good cause for absence.

2.5 The President, or in his/her absence the Vice President, shall be the presiding officer at District Board meetings. He/She shall conduct all meetings in a manner consistent with the policies of the District. He/She shall determine the order in which agenda items shall be considered for discussion and/or actions taken by the Board. He/She shall vote on all questions and on roll call votes his/her name shall be called last.

2.6 Three (3) Directors of the Board shall constitute a quorum for the transaction of business. When a quorum is lacking for a regular, adjourned, or special meeting, the President, Vice President, or any Director shall adjourn such meeting; or, if no Director is present, the District Secretary shall adjourn the meeting.

2.7 Except as otherwise specifically provided by law, a majority vote of the total membership of the Board of Directors is required for the Board of Directors to take action.

2.8 A roll call vote shall be taken upon the passage of all items considered by the Board, and shall be entered in the minutes of the Board, showing those Directors voting aye, those voting no, those not voting because of a conflict of interest or absent.

2.9 Any person attending a meeting of the Board of Directors may record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding that the recording cannot continue without disruptive noise, illumination, or obstruction of view that constitutes or would constitute a disruption of the proceedings.

2.10 All video tape recorders, still and/or motion picture cameras shall remain stationary and shall be located and operated from behind the public speaker's podium once the meeting begins. The presiding officer retains the discretion to alter these guidelines, including the authority to require that all video tape recorders, still and/or motion picture cameras be located in the back of the room.

3. RECONSIDERATION OF PRIOR BOARD ACTIONS

The following rules apply to reconsideration of prior Board actions.

3.1 After the passage of 9 months from the effective date of the motion, resolution, or ordinance, the matter may be placed on the agenda pursuant to Section 5.1 below, or other provisions of the Brown Act.

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- 3.2** Prior to the passage of 9 months, any member of the Board of Directors or the General Manager may request the Board of Directors, by motion, to agree to reconsider a prior Board action at a subsequent meeting of the Board.
- 3.3** The President of the Board of Directors, upon a determination that there is a need to take immediate action, may place an item on the agenda for reconsideration.

4. PUBLIC COMMENT AND RULES OF DECORUM

4.1 Public comment

Subject to the following rules, a block of 20 minutes is set aside for each agenda item for public comment, including general public comment:

- (a)** Comments on agendized items should be held until the appropriate item is called.
- (b)** Unless otherwise directed by the presiding officer, public comment shall be presented from the podium.
- (c)** The person giving public comment shall state his/her name and whether or not he/she lives within the District boundary prior to giving his/her comment. Public comment shall be directed to the presiding officer of the Board.
- (d)** The presiding officer, after consideration of the length of the Agenda, the nature of the Agenda item, and meeting limitations, may expand or further limit the 20minute time allocation for public comment.
- (e)** Each public commenter shall be limited to 3 minutes unless shortened or extended by the presiding officer with consideration of the length of the Agenda, the nature of the Agenda item, and meeting limitations.

4.2 Rules of Decorum

The rules of decorum, below, shall apply to public comment and attendance at District meetings.

- (a)** Members of the audience shall not engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, whistling, stamping of feet, clapping and talking (other than giving public comment) or other acts which disrupts the orderly conduct of the District meeting.
- (b)** Each person addressing the Board of Directors shall do so in an orderly and civil manner and shall not engage in conduct which disrupts the orderly conduct of the District meeting.

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- (c) No person shall address the Board of Directors without first being recognized by the presiding officer.
- (d) Public comment and public testimony shall be directed to the presiding officer and shall be addressed to the Board of Directors as a whole. The presiding officer shall determine whether, or in what manner, the District will respond to questions.
- (e) Persons addressing the Board are limited to one opportunity per Agenda item unless otherwise directed by the presiding officer in his/her discretion.
- (f) A person cannot defer his/her time allocation to another person.
- (g) Persons addressing the Board shall confine the subject matter of their comments to the Agenda item being considered by the Board of Directors.
- (h) Each person addressing the Board of Directors shall do so in an orderly and civil manner and shall not engage in conduct which disrupts the orderly conduct of the District meeting.
- (i) The presiding officer may rule a speaker out of order who is unduly repetitious or extending discussion of irrelevance.

4.3 Enforcement of Rules of Decorum

Any person who violates the Rules of Decorum may, at the discretion of the President, be removed from the meeting. The Rules of Decorum shall be enforced in the following manner:

- (a) Warning. The presiding officer shall warn the person who is violating the rules of decorum.
- (b) Expulsion. If after receiving a warning from the presiding officer, the person persists in violating the rules of decorum the presiding officer shall order the person to leave the Board meeting room for the remainder of the meeting.
- (c) Assisted Removal. If such person does not voluntarily remove himself/herself, the presiding officer may order any law enforcement officer who is on duty at the meeting, or who may be summoned to the meeting, to remove the person from the Board room.
- (d) Restoration of Order. If order cannot be restored by the removal of individuals who are disrupting the meeting, the Board meeting will be continued under the provisions of Government Code Section 54957.9.

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4.4 Limitations (Government Code Section 59454.3(c))

The Rules of Decorum shall not be interpreted to prohibit public criticism of the policies, procedures, programs or services of the District, or the acts or omissions of the District Board of Directors.

5. AGENDAS

5.1 The General Manager, in cooperation with the Board President, shall prepare the agenda for each regular and special meeting of the Board of Directors. Any Director may call the General Manager and request any item to be placed on the agenda no later than 4:00 P.M. on the Tuesday prior to the meeting date.

5.2 At least 72 hours before a regular meeting, the District shall cause to be posted an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

5.3 The agenda for a special meeting shall be posted at least 24 hours before the meeting following the guidelines of Section 5.2 above.

5.4 In addition to the posting requirements set out above, regular meeting Agendas and special meeting Agendas shall be posted on the District's web page and delivered to individuals who have filed a written request with the District requesting the agendas or expressed an interest in receiving the Agendas (Interested Parties List).

5.5 Consent Agenda

Those items on the District Agenda which are considered to be of a routine and non-controversial nature are placed on the "Consent Agenda". These items shall be approved, adopted, and accepted, etc. by one motion of the Board of Directors; for example, approval of Minutes, approval of Warrants, various Resolutions accepting developer improvements, minor budgetary items, status reports, and routine District operations.

(a) Directors may request that any item listed under "Consent Agenda" be removed from the "Consent Agenda", and the Board will then take action separately on that item. Members of the public will be given an opportunity to comment on the "Consent Agenda"; however, only a member of the Board of Directors can remove an item from the "Consent Agenda". Items which are removed ("pulled") by Directors of the Board for discussion will typically be heard after other "Consent Agenda" items are approved unless the President chooses an earlier or later time.

(b) A Director may ask questions on any item on the "Consent Agenda". When a Director has a minor question for clarification

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concerning a consent item which will not involve extended discussion, the item may be discussed for clarification and the questions will be addressed along with the rest of the "Consent Agenda". Directors are encouraged to seek clarifications prior to the meeting if possible.

- (c) When a Director wishes to consider/"pull" an item simply to register a dissenting vote, or conflict of interest, the Director shall inform the presiding officer that he/she wishes to register a dissenting vote, or conflict of interest, on a particular item without discussion. The item will be handled along with the rest of the Consent Agenda, and the District Secretary shall register a "no" vote, or conflict of interest, in the minutes on the item identified by the Director.

5.6 No action or discussion may be taken on an item not on the posted agenda; provided, however, matters deemed to be emergencies or of an urgent nature may be added to the agenda under the procedures of the Brown Act. Pursuant to the Brown Act:

- (a) Directors may briefly respond to statements or questions from the public;
- (b) Directors may, on their own initiative or in response to public questions, ask questions for clarification, provide references to staff or other resources for factual information, or request staff to report back at a subsequent meeting;
- (c) The Board may take action to direct the General Manager to place a matter on a future agenda;
- (d) Directors may make brief announcements or make a brief report on his/her own activities under the Director Comment portion of the Agenda.

6. PREPARATION OF MINUTES AND MAINTENANCE OF RECORDINGS

6.1 The minutes of the Board shall be kept by the District Secretary and shall be neatly produced and kept in a file for that purpose, with a record of each particular type of business transacted set off in paragraphs with proper subheads. In addition to other information, described below, that the Board may deem to be of importance, the following information (if relevant) shall be included in each meeting's minutes:

- Date, place and type of each meeting;
- Directors present and absent by name;
- Administrative staff present by name;
- Call to order;
- Time and name of late arriving Directors;
- Time and name of early departing Directors;
- Names of Directors absent or declaring a conflict of interest during any Agenda item upon which action was taken;

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- Approval of the minutes or modified minutes of preceding meetings;
 - Approval of financial report
 - Record by number (a sequential range is acceptable) of all warrants approved for payment;
 - Record of the vote of each Director on every action item for which the vote was not unanimous;
 - Resolutions and ordinances described as to their substantive content and sequential numbering;
 - Record of all contracts and agreements, and their amendment, approved by the Board;
 - Approval of the annual budget;
 - Approval of all polices, rules and/or regulations;
 - Approval of all dispositions of District assets;
 - Approval of all purchases of District assets; and,
 - Time of meeting adjournment.
- 6.2** The minutes of the Board of Directors shall record the aye and no votes taken by the members of the Board of Directors for the passage or denial of all ordinances, resolutions or motions.
- 6.3** The District Secretary shall be required to make a record only of such business as was actually considered by a vote of the Board and, except as provided in Sections 6.4, 6.5, and 6.6 below, the District secretary shall not be required to record any remarks of Directors or any other person.
- 6.4** The District Secretary shall attempt to record the names and general place of residence of persons addressing the Board during general public comment.
- 6.5** Any Director may request for inclusion into the minutes brief comments pertinent to an agenda item, only at the meeting in which the item is discussed. In addition, the minutes shall include the names of speakers who provided public comment on each agenda item and a summary of the Directors' reports. Materials submitted with such comments shall be appended to the minutes at the request of the General Manager, District Counsel, the Board President, or any Director.
- 6.6** Whenever the Board acts in a quasi-judicial proceeding such as in assessment matters, the District Secretary shall compile a summary of the testimony of the witnesses.
- 6.7** Subject to equipment malfunction, an audio tape recording of regular and special meetings of the Board of Directors will be made. Any recording of a District meeting made for whatever purpose at the direction of the District shall be subject to inspection pursuant to the California Public Records Act. Consistent with Government Code Section 54953.5(b), the District will maintain the recordings for a 30-day period after the recording. In addition to the 30-day requirement, the District will attempt to maintain the recordings, without legal obligation to do so, for 2 years after the date of the recording.

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7. DIRECTOR GUIDELINES

- 7.1 Directors shall prepare themselves to discuss agenda items at meetings of the Board of Directors. Directors are encouraged to seek clarification prior to the meeting, if possible.
- 7.1 Members of the Board of Directors shall exercise their independent judgment on behalf of the interest of the entire District, including the residents, property owners and the public as a whole.
- 7.2 Directors shall at all times conduct themselves with courtesy to each other, to staff and to members of the audience present at Board meetings.
- 7.3 Differing viewpoints are healthy in the decision-making process. Individuals have the right to disagree with ideas and opinions, but without being disagreeable. Once the Board of Directors takes action, dissenting Directors should not create barriers to the implementation of said action.
- 7.4 Pursuant to Section 54952.2 of the Brown Act:
- (a) Except during an open and public meeting, a majority of the Board of Directors shall not use a series of communications of any kind, directly or thru intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the District.
 - (b) Subsection (a) above shall not be construed as preventing District management staff from engaging in separate conversations or communications with members of the District Board of Directors in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the District, so long as that management staff person does not communicate to members of the Board of Directors the comments or positions of any other member or members of the Board of Directors.
- 7.5 Directors shall not be prohibited by action of the Board of Directors from citing his or her District affiliation or title in any endorsement or publication, so long as no misrepresentation is made, or implied, about the District's position on the issue.
- 7.6 Directors, by making a request to the General Manager, shall have access to information relative to the operation of the District, including, but not limited to, statistical information, information serving as the basis for certain actions of Staff, justification for Staff recommendations, etc. If the General Manager cannot timely provide the requested information by reason of information deficiency, or major interruption in work schedules, work loads, and priorities, then the General Manager shall inform the individual Director why the information is not or cannot be made available. All Directors will receive a copy of all information being distributed.
- 7.7 In handling complaints from residents or property owners within the District, or other members of the public, Directors are encouraged to listen carefully to the

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concerns, but the complaint should be referred to the General Manager for processing and the District's response, if any.

- 7.8 Directors, when seeking clarification of policy-related concerns, especially those involving personnel, legal action, land acquisition and development, finances, and programming, should refer said concerns directly to the General Manager.
- 7.9 Directors and General Manager should develop a working relationship so that current issues, concerns and District projects can be discussed comfortably and openly.

8. AUTHORITY OF DIRECTORS

- 8.1 The Board of Directors is the unit of authority within the District. Apart from his/her normal function as a part of this unit, Directors have no individual authority. As individuals, Directors may not commit the District to any policy, act or expenditure.
- 8.2 Directors do not represent any fractional segment of the District but are, rather, a part of the body which represents and acts for the District as a whole.
- 8.3 The primary responsibility of the Board of Directors is the formulation and evaluation of policy. Routine matters concerning the operational aspects of the District are to be delegated to professional staff members of the District.
- 8.4 Directors are responsible for monitoring the District's progress in attaining its goals and objectives.

9. AUTHORITY OF THE GENERAL MANAGER

- 9.1 Pursuant to Government Code Section 61051, the General Manager shall be responsible for all of the following:
 - (a) The implementation of the policies established by the Board of Directors for the operation of the District.
 - (b) The appointment, supervision, discipline, and dismissal of the District's employees, consistent with the employee relations system established by the Board of Directors.
 - (c) The supervision of the District's facilities and services.
 - (d) The supervision of the District's finances.
- 9.2 The General Manager is appointed as the Board's Secretary and Treasurer.

10. DIRECTOR REIMBURSEMENT

- 10.1 Subject to the following rules and budgetary limitations, each Director is authorized to attend and is entitled to reimbursement for his/her actual and necessary expenses (including the cost of programs and seminars), for his/her

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attendance at programs, conferences, and seminars that are related to District functions and/or Director development.

- (a) It is the policy of the District to exercise prudence with respect to hotel/motel accommodations. It is also the policy of the District for Directors and staff to stay at the main hotel/motel location of a conference, seminar, or class to gain maximum participation and advantage of interaction with others whenever possible.

If lodging is in connection with a conference or organized education activity, lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the member of the Board of Directors at the time of booking. If the group rate is not available, the Director shall use lodging that is comparable with the group rate. Personal phone calls, room service, and other discretionary expenditures are not reimbursable.

- (b) Members of the Board of Directors shall use government and group rates offered by a provider of transportation for travel when available. Directors, using his/her private vehicle on District business, shall be compensated at the prevailing IRS per diem mileage rate.

- (c) Any Director traveling on District business shall receive, in addition to transportation and lodging expenses, a per diem allowance to cover ordinary expenses such as meals, refreshments and tips. Reimbursement rates for meals will be pursuant to the U.S. General Services Administration (GSA) per diem rates for the locale of the destination(s) except for meals included in the registration fees for the conference, seminar or training activity. The 2022 GSA meals and incidentals per diem rates for San Luis Obispo are \$17 for breakfast, \$18 for lunch, \$34 for dinner and \$5 for incidentals, for a daily total not to exceed \$74.

- (d) All travel and other expenses for District business, conferences, or seminars outside of the State of California shall require separate Board authorization, with specific accountability as to how the District shall benefit by such expenditure.

10.2 All expenses that do not fall within the reimbursement policy set forth in Section 10.1, above, shall be approved by the Board of Directors, at a public meeting, before the expense is incurred.

10.3 Board members shall submit an expense report on the District form within ten (10) calendar days after incurring the expense. The expense report shall be accompanied by receipts documenting each expense.

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- 10.4** Members of the Board of Directors shall provide brief reports on the program, conferences, and seminars attended at the expense of the District at the next regular meeting of the Board of Directors.

11. ETHICS AND SEXUAL HARASSMENT PREVENTION TRAINING

- 11.1** Pursuant to Assembly Bill (AB) 1234 (Salinas, 2005, Local Agencies: Compensation and Ethics); Assembly Bill 1825 (Reyes, 2004, Sexual Harassment: Training and Education); AB 1661 (2016, McCarty, Local Government: Sexual Harassment Prevention Training and Education); the statutes added or amended by AB 1234, AB 1825 and AB 1661; and any other statute or regulation with which the District must comply, all Directors and designated District personnel shall receive at least 2 hours of Ethics Sexual Harassment Prevention training every two years, or as frequently as is required by law.
- 11.2** Each newly elected Board Member and designated District personnel shall receive Ethics Sexual Harassment Prevention training no later than one year from the first day of service with the District and thereafter shall receive Ethics and Sexual Harassment Prevention training at least once every two years, or as frequently as is required by law.

12. COMMITTEES

12.1 Standing Committees

- (a)** The following shall be standing committees of the Board:

- Finance Committee;
- Personnel Committee;
- Facilities Committee;
- Drought Committee;

- (b)** The Board may create other standing committees at its discretion.

- (c)** Standing committees shall be advisory committees to the Board of Directors and shall not commit the District to any policy, act or expenditure. Each standing committee may consider District-related issues, on a continuing basis, assigned to it by the Board of Directors. Members of the standing committees shall be appointed by the Board of Directors.

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- (d) All standing committee meetings shall be conducted as public meetings in accordance with the of the Brown Act.

12.2 Ad Hoc Committees

The Board President may appoint such ad hoc committees as may be deemed necessary or advisable by himself/herself and/or the Board. The duties of the ad hoc committees shall be outlined at the time of appointment, and the committee shall be considered dissolved when its final report has been made.

13. CONFLICTS AND RELATED POLICY

State laws are in place which attempt to eliminate any action by a Director or the District which may reflect a conflict of interest. The purpose of such laws and regulations is to insure that all actions are taken in the public interest. Laws which regulate conflicts are very complicated. The following provides a brief policy summary of various conflict related laws. Directors are encouraged to consult with District Legal Counsel and/or the FPPC at 1-800-ASK-FPPC (1-800-275-3772), prior to the day of the meeting, if they have questions about a particular agenda item.

13.1 Conflict of Interest

Each Director is encouraged to review the District Conflict Code on an annual basis. The general rule is that an official may not participate in the making of a governmental decision if it is: reasonably foreseeable that the decision will have a material financial effect on the official or a member of his or her immediate family or on an economic interest of the official, and the effect is distinguishable from the effect on the public generally. Additionally, the FPPC regulations relating to interests in real property have recently been changed. If the real property in which the Director has an interest is located within 500 feet of the boundaries of the property affected by decision, that interest is now deemed to be directly involved in the decision.

13.2 Interest in Contracts, Government Code Section 1090.

The prohibitions of Government Code Section 1090 provide that the Board of Directors may not contract with any business in which another Director has a financial interest.

13.3 Incompatible Office, Government Code Section 1099.

The basic rule is that public policy requires that when the duties of two offices are repugnant or overlap so that their exercise may require contradictory or inconsistent action, to the detriment to the other public interest, their discharge by one person is incompatible with that interest. When a Director is sworn in for such a second office, he/she is simultaneously terminated from holding the first office.

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14. REVIEW OF GENERAL MANAGER & LEGAL COUNSEL CONTRACTS

- 14.1 The District's General Manager's contract shall be reviewed by the Board of Directors annually during the months of April and/or May of each year.
- 14.2 The District's Legal Counsel's contract shall be reviewed by the Board of Directors annually during the months of May and/or June of each year.

15. CONTINUING EDUCATION

Directors are encouraged to attend educational conferences and professional meetings when the purposes of such activities are to improve District operation. Subject to budgetary constraints, there is no limit to the number of Directors attending a particular conference or seminar when it is apparent that their attendance is beneficial to the District.

16. REVIEW OF ADMINISTRATIVE DECISIONS

Any judicial review of any administrative act taken after a hearing by a district shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure.

17. MEMBERSHIP IN ASSOCIATIONS

17.1 The Board of Directors shall ordinarily hold membership in and attend meetings of such national, state, and local associations as may exist which have applicability to the functions of the District, and shall look upon such memberships as an opportunity for in-service training.

17.2 The Board of Directors shall maintain membership in the California Special Districts Association and shall insure that the annual dues are paid when due until otherwise directed by the Board.

17.3 The Board of Directors shall maintain membership in the San Luis Obispo Chapter of the California Special Districts Association and shall insure that the annual dues are paid when due.

17.4 At the regular Board meeting, a member of the Board shall be selected to represent the District in accordance with said chapter's constitution/bylaws, and another member of the Board or staff.

18. BOARD BY-LAWS REVIEW POLICY

The Board By-Laws and Policies shall be reviewed annually at the first regular meeting in February. The review shall be provided by District Counsel and ratified by Board action.

19. RESTRICTIONS ON BY-LAWS

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The rules contained herein shall govern the Board in all cases to which they are applicable, and in which they are not inconsistent with State or Federal laws.