

ITEM: 8

SUBJECT: Delegating to the Chair the Authority to Represent the Regional Board in Matters Involving Litigation in the Event of Absence of a Quorum

BOARD ACTION: *Reconsideration of Resolution Adopted in October 2004*

BACKGROUND: In 2004 a number of Board member appointments expired, leaving the possibility that there would only be five Board members by the end of 2004. Five Board members is the minimum quorum for conducting Board business. If a single Board member could not attend a Board meeting, the Board could not take action on any item requiring a decision by the Board members.

In anticipation of possible quorum problems, on 15 October 2004 the Board adopted Resolution R5-2004-0164, ***Delegating to the Chair the Authority to Represent the Regional Board in Matters Involving Litigation in the Event of Absence of a Quorum.*** Board members are routinely updated and consulted on litigation and settlements during Closed Sessions, but such discussions with the full Board can only take place during properly noticed Closed Sessions. In significant litigation and settlement cases the Board members often select one or two Board members to work with the Executive Officer, allowing consultation to occur when needed, and not only at scheduled meetings. If a quorum was not available, individual Board members could not be selected to work on litigation matters. This resolution allowed the Chair or other Board members appointed by the Chair to represent the Board in litigation matters.

When adopted in October 2004 it was expected that new Board members would be appointed in the near future, so the Chair directed that this resolution be returned to the Board for reconsideration within six months of adoption (by April 2005). Concerns about possible lack of quorums continued up to the November 2005 Board meeting, however, so reconsideration of this resolution was delayed. This is the first Board meeting since October 2004 that the availability of a quorum for the meeting was not a significant concern.

ISSUE: Does the Board wish to rescind or modify the subject delegation resolution?

Mgmt. Review _____
Legal Review _____

26/27 January 2006
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