



Statutes, Regulations, Policies & Procedures Work Group Notice & Agenda

Wednesday, June 4, 2025 9:00 – 10:30 a.m.

Location: *Virtual Only*

In Attendance:

Thomas Ahneman, Chair of the SRPP Work Group
Roberto Fernandez
Lauren Gauthier
Salvatore Luciano

Greg Daniels, Executive Director
Aaron Felman, Staff Attorney
Aleshia Hall, Administrative Assistant

1. **Call to Order** of the Meeting of the Statutes, Regulations, Policies, & Procedures Work Group. Mr. Ahneman called the meeting to order at 9:05 a.m.

- a. Roll Call of Work Group Members He welcomed Bob Fernandez to the group. Brenda Sisco has joined the group but is not able to attend today.

2. **Approval of Minutes:** Mr. Ahneman did not get an opportunity to approve the minutes from the April 22, 2025, meeting; therefore, they will be disseminated to the Work Group with the minutes from today's meeting for approval at the next meeting.

3. **Old Business:**

At the request of Mr. Ahneman, Attorney Felman offered an overview of the changes made to condense and simplify this document as much as possible:

- **Definitions:** A detailed explanation of the changes made to this section was shared. These updates reflect the discussion at the last meeting. Additional time and effort is required to determine if sections should be eliminated from this initial document.
- **References** to sections of the statute were also reviewed and updated.
- **Hearings** section was updated to simplify the language and make it more concise. Some unnecessary sections were eliminated.
- **4e-34** section discusses subpoenas. The law requires that subpoena powers are granted only by statute or other legal authority. SCSB does not have subpoena power. We can make an official request, ideally indexed and in writing from a hearing officer, to request documents in the context of a hearing, but we cannot subpoena

documents. This new language makes that clear. Ms. Gauthier does not feel it is necessary to expound upon it in this document; however, former SCSB Chair Larry Fox did receive a memo in the past from the Attorney General's office. She will share that document with Attorney Felman for future reference.

- **Sec 1-4e 35 Rules of evidence (e) In camera inspection section** was updated to ensure compliance with all legal protections. The section was condensed as much as possible; however, this is a robust section to ensure compliance. He will continue to work on this section.
- **Sec 1-4e 38 Proposed final decision in a contested case.** The section was written to consider the totality of the situation.
- **ARTICLE 3 , Section 3, Investigations:** Much of this section is under the purview of the Chief Procurement Officer (CPO). As it pertains to hearings, hearing officers and Board members assigned to preside over the hearing. This is outside the purview of the statute. An investigation would occur very early on. In our statute, there is little mention beyond the CPO; the CPO is not a Board member, so this document is speaking to the Board's authority. The CPO's duties are very broad and do not necessarily fall under Rules of Practice. In order to simplify this document, that section should be removed and dealt with later because of the broad scope of language in our statute. He has taken it out for now, but we can add it back later if we decide that is our preference.
- Mr. Ahneman requested that future edits be shared in a format that shows the changes that were made. Attorney Felman will activate the *track changes* option that will capture this detail in a WORD document. Mr. Ahneman recommended that he save the document in a format that cannot be edited by the recipients. At the request of Mr. Ahneman, Attorney Felman agreed to provide edits two weeks prior to the next meeting. The Work Group will review and respond within one week before the meeting. A final draft for discussion will be disseminated prior to the meeting; this process should help to facilitate these meeting discussions.

4. New Business

- Mr. Ahneman confirmed the changes that Staff Attorney Felman were made in accordance with our last meeting.
- Details of the consolidation of language was discussed. The Administration section was removed.
- Ms. Gauthier recommended that we simplify that SCSB can only do five different types of hearings. Only 4e-16 and 4e-26 are driven by Board members and the others involve UAPA. She recommended that we structure the document to be in two separate sections: Section 1 for the Board specific hearings of 4e-16 and 4e-36 and Section 2 to address the other three types of UAPA hearings.

ARTICLE 1: GENERAL PROVISIONS

- **1 4e-7 Hearing Officers:** Mr. Luciano and Ms. Gauthier want to take authority away from the Executive Director in this section and consistently throughout this document. Mr. Fernandez asked about past practice regarding the assignment of

hearing officers. Mr. Ahneman explained that we have never had a formal hearing/officer. The SCSB Chair appoints the Chairs of the Subcommittees and Work Groups. Ms. Gauthier referenced that in the past, the Chair appointed the Executive Director for the role.

- **1 4e-11 Waiver of regulations:** Mr. Luciano wants to remove or *any hearing officer* to require that the Board approve deviation from sections 1-4e 1 to 1-4e-69. Mr. Luciano believes that the Board should be notified of any deviation. After Mr. Fernandez recommended that we note that the Board be notified of the deviation within a specific period of time and explain that in the description of duties for the position. Ms. Gauthier agreed that it could go into the description. 1-4e-7.
- **1-4e-13 Computation of time:** Ms. Gauthier believes that a day is a calendar day; 4e-36 works on 30 calendar days. Most of our other practices do not require that strict of a timeline. Mr. Ahneman believes we should operate on a *normal business day*. This would incorporate business days, holidays, and any unforeseen reasons for business closure. Attorney Felman will revise this section accordingly. Mr. Fernandez explained that the government does work on calendar days; however, there is a big difference between business days and calendar days. Attorney Felman will examine how this applies to the 4e-36 committee.
- **1-4e-14 Extension of time:** Mirror the same language as 1-4-11.
- **1-4e-15 Effect of filing, public records:** After a discussion on the language, Attorney Felman recommended that he reword this section to empower a clerk to issue these documents in the name of the Board.
- **1-4e-16 Consolidation of proceedings:** Ms. Gauthier wants to remove the authority from the Executive Director or designee throughout. Mr. Fernandez asked what the previous practice was for the Chair and Executive Director's authority and what happens if the Chair is not available. Ms. Gauthier said that in the absence of a Chair, the Board would appoint an acting Chair or Board. Mr. Luciano referenced Section 1-4e-2 that the Board can do business with a quorum. Mr. Ahneman agreed to remove the Executive Director at this time but may add him back later. He believes that the Executive Director can be used to accomplish many of these things. Ms. Gauthier said that if we want the Executive Director to do things, the Chair or the Board will direct them to do so. Ms. Gauthier elaborated that listing the Executive Director imbues them with authority that she believes should only be afforded to them by the Chair or Board.
- **1-4e-18 Ex parte communication:** (a) a common will be added for clarification. (c) a common will be added for clarification.
- **1-4e-19 Date and mode of filing:** Mr. Luciano recommended language be clarified to be received by the agency rather than by the Board. Mr. Ahneman said that the definition as written accomplishes that and understands the language is clear as written. Ms. Gauthier expressed concerns about the public reaching out to Board members and considering that notification. Executive Director Daniels noted the legal implications of our rulings that are appealable to the courts; therefore, there is some structure that we need to follow for due process and structure. While he appreciates that it is an administrative hearing and it is not as stringent as a courtroom, there are some guard rails that need to be followed for appeal. Although 4e-36 is not appealable by statute, other areas are, and we should have consistency for that

purpose. Mr. Ahneman recommended that we clarify in plain language. Attorney Felman clarified that we are not constrained by the superior court system; however, there are legal implications for due process that need to be considered. He agreed that we should make the language more specific and explain the typical means of filing as electronic and USPS mail. Although they are standard modes of delivery, fax and hand-delivery transmissions are problematic for us.

Mr. Fernandez explained that many State Boards do get brought into court proceedings. He recommended that we mirror how other committees perform document filings, holdings, proceedings, and retention that can progress into superior court.

Mr. Luciano agreed that if Executive Director Daniels wants to handle the documents in accordance with Superior Court guidelines then he should do so. The language in our document should be spoken plainly.

- **1-4e-21 Identification of communications to the board.** Change from *board docket number* to *case number*.
- **1-4e-23 Service.** Change to mirror the same language discussed in 1-4e-19.

ARTICLE 2 CONTESTED CASES

- **4e-24 Commencement of contested case.** Ms. Gauthier again recommended restructuring the document to separate board driven cases from UAPA cases. Change the word *docketed* to *received*.
- **4e-25 Form of complaint (1):** Ms. Gauthier believes that the words *other applicable statutes or regulations* appears to give SCSB authority over other statutes. After a discussion, Attorney Felman agreed to simplify or remove the wording according
- **4e-26 Procedure in response to complaint:** Ms. Gauthier and Mr. Luciano want to remove the authority from the Executive Director.
- **4e-27 Designation of Parties:** As referenced throughout the meeting, both Ms. Gauthier and Mr. Luciano want to remove authority from the Executive Director.

5. Next Action Items:

- The next meeting of the SRPP will be scheduled to take place on Wednesday, July 23, 2025, from 9:00 – 10:30 a.m.

6. **Adjournment:** Per Mr. Ahneman, the meeting was adjourned at 10:33 a.m.

Respectfully submitted,

Aleshia Hall
Administrative Assistant