



Advisory Committee Meeting Minutes Wednesday, February 23, 2022

WebEx Meeting

Advisory Committee Members in Attendance

1. Kansen Chu
2. David Vice
3. Melanie Delgado
4. Leigh Ferrin
5. Joseph Holt
6. Sarah Mason (on behalf of Senator Richard Roth)
7. Kevin Powers (on behalf of Assemblymember Jose Medina)
8. Margaret Reiter

Committee Members Absent

Diana Amaya

Bureau for Private Postsecondary Education (Bureau) and Department of Consumer Affairs (DCA) Staff in Attendance

Deborah Cochrane, Bureau Chief
Leeza Rifredi, Deputy Bureau Chief
Linh Nguyen, DCA Legal Counsel
Carrie Holmes, DCA Board and Bureau Relations Deputy Director
Jason Alley, acting Bureau Enforcement Chief
Daniel Rangel, Bureau Enforcement Chief
Ebony Santee, Bureau Licensing Chief
April Oakley, Office of Student Assistance and Relief Manager
Yvette Johnson, Bureau Administration Chief
Sean O'Connor, DCA Chief of Project Delivery and Administrative Services
David Dumble, Bureau Legislative/Regulation Specialist

Agenda #1 - Welcome, Introductions, and Establishment of a Quorum

Committee Vice Chair, Margaret Reiter called the meeting to order.

Committee members and Bureau staff thanked former Committee member, Katherine Lee Carey for her service to the Committee.

Agenda #2 - Elections for Advisory Committee Chair and Vice Chair

Ms. Reiter called on nominations for Chair of the Committee.

David Vice moved to nominate Joseph Holt as Chair; Ms. Reiter seconded the motion.

Public Comment

No Public Comment.

Vote

(Kansen Chu: Aye; David Vice: Aye; Melanie Delgado: Aye; Leigh Ferrin: Aye; Joseph Holt: Aye; Margaret Reiter: Aye) The motion passed.

Mr. Holt called on nominations for Vice Chair of the Committee.

Mr. Vice nominated Ms. Reiter for Vice Chair of the Committee; Ms. Ferrin seconded the motion.

Public Comment

No public comment.

Vote

(Kansen Chu: Aye; David Vice: Aye; Melanie Delgado: Aye; Leigh Ferrin: Aye; Joseph Holt: Aye; Margaret Reiter: Aye) The motion passed.

Agenda #3 - Public Comment on Items not on the Agenda

Angela Perry provided a comment.

Agenda #4 - Review and Approval of November 3, 2021, Advisory Committee Meeting Minutes

Public Comment

No Public Comment.

Mr. Chu moved to approve the November 3, 2021, meeting minutes; Mr. Vice seconded the motion.

Vote

(Kansen Chu: Aye; David Vice: Aye; Melanie Delgado: Aye; Leigh Ferrin: Aye; Joseph Holt: Aye; Margaret Reiter: Aye) The motion passed.

Agenda #5 - Remarks by Representative of the Department of Consumer Affairs

Carrie Holmes, Deputy Director for Board and Bureau Relations, provided an update on the Department of Consumer Affairs (Department).

Ms. Holmes thanked Katherine Lee Carey for her dedication and service to the Committee.

Ms. Holmes explained that, as California moves into a new endemic reality, updated public health guidance has relaxed universal masking for vaccinated individuals in many indoor settings. She noted that unvaccinated individuals must still wear face coverings in all indoor settings and in some high-risk settings such as health care facilities face coverings are required for everyone regardless of vaccination status. She added that local orders may be more restrictive to respond to community conditions and to please be aware of changing public health guidance.

Ms. Holmes reported that on January 5, 2022, Governor Newsom signed an executive order allowing Boards and Committees to meet remotely through March 31, 2022. She noted that the newly proposed legislation, Assembly Bill 1733, would allow Boards and Committees to meet remotely on a permanent basis while also providing members of the public with virtual and physical options to participate in the meetings. She added, that since the passage of the bill is uncertain, preparations should be made for in-person meetings. She noted that Committee members need to verify full vaccination with the Department's Office of Human Resources or participate in COVID testing.

Ms. Holmes stated that there are currently three appointments to the Committee to be made by the Director including two student representative positions and one institutional representative. She noted that individuals who are interested in serving should visit the Department's homepage to apply for an appointment.

Public Comment

No public comment.

Agenda #6 – Bureau Operations Update and Discussion

Update on the Bureau's IT System Project

Sean O'Connor provided an update on the Bureau's IT system project. He reported that since the start of the project implementation phase there have been three major software releases delivering functionality currently being used by external users and Bureau staff. He stated that the project is trending to come in under budget and is scheduled to be completed by the end of April 2022.

Mr. O'Connor explained the project is currently in its last major product implementation phase. He continued that the current focus is on bringing over the remaining application types and conversion of all the remaining licensing and application data. He added the team is also working on an online Student Tuition Recovery Fund (STRF) claim submission and institution annual fee submission functionality.

Mr. O'Connor stated that following the last software releases the team will move into the operations and maintenance phase. He explained the team will continue to update the system to accommodate for law changes and make improvements to user experience and services. He added the existing online annual report submission system will be incorporated into the new system to store all data within one system.

Public Comment

Angela Perry provided a public comment.

Update on Accrediting Council for Independent Colleges and Schools (ACICS) Institutions

Bureau Licensing Chief Ebony Santee provided an update on ACICS institutions. She explained that, with the outcome of the ACICS appeal to the U.S. Department of Education (Department) pending, the Bureau is proactively preparing to address student and institution concerns should the Department's recognition of ACICS be discontinued.

Ms. Santee continued that the Bureau has identified 21 institutions that could be impacted by ACICS loss of recognition and has requested student rosters and information on the institutions' plans should their accreditation status change. She noted that the Office of Student Assistance and Relief (OSAR) made initial contact with students to detail services that students can utilize and answer any questions.

Ms. Santee stated the Bureau continues to monitor the ACICS situation so that it will be ready to respond as needed once a decision has been rendered by the Department.

Public Comment

No public comment.

Licensing Report

Ms. Santee reported on the Licensing Unit. She outlined Attachment 6(c).

Public Comment

No public comment.

Quality of Education Report

Ms. Santee reported on the Quality of Education Unit. She outlined Attachment 6(e).

Public Comment

Robert Johnson provided a public comment.

Annual Report (AR) Report

Jason Alley, acting Bureau Enforcement Chief over compliance and discipline, provided a report on the Annual Report unit. He stated that the deadline to submit the 2020 Annual Report was December 1, 2021. He reported that 111 institutions did not submit in time and noted that staff is preparing enforcement referrals for those institutions.

Public Comment

Angela Perry provided a public comment.

Compliance and Discipline Report

Mr. Alley reported on the Compliance and Discipline Unit. He outlined Attachment 6(f).

Leigh Ferrin asked what it costs the Bureau when a school closes. She asked about costs associated with personal outreach and record storage. Mr. Alley stated that he did not have that information but would look into it for a future meeting.

Public Comment

Robert Johnson provided a public comment.

Complaint and Investigation Report

Daniel Rangel, Bureau Enforcement Chief over complaints and investigations, reported on the Complaint and Investigation Unit. He outlined Attachment 6(g).

Public Comment

Robert Johnson provided a public comment.

Office of Student Assistance and Relief (OSAR) Report

April Oakley, Office of Student Assistance and Relief Manager, reported on the OSAR Unit. She outlined Attachment 6(h).

Public Comment

No public comment.

Student Tuition Recovery Fund (STRF) Report

Yvette Johnson, Bureau Administration Chief, provided a report on STRF. She covered Attachment 6(i).

Mr. Holt asked about the pending STRF claims from Silicon Valley University. He asked if the pending claims are categorically different from the approved claims. Ms. Johnson stated that each claim must be reviewed independently but the pending claims are mostly coming from students who attended the institution around the same time.

Public Comment

Robert Johnson provided a public comment.

Agenda Item #7 - Status Updates on Regulations

Update on Town Hall held January 24, 2022

Ms. Johnson reported that on January 24, 2022, the Bureau held a virtual town hall to solicit early input on regulatory ideas and concepts from stakeholders. She stated that there were close to 200 participants. She explained that specific topics included the implementation of Senate Bill 802's change to the definition of educational programs, which now excludes programs that include fewer than 32 hours of instruction and are not designed to lead to employment, and the minimum operating standards regulatory package.

Ms. Johnson explained that comments taken from the town hall are being taken into consideration in the continued effort to draft regulations. She added that anyone who was unable to attend the town hall can find the materials on the Bureau website.

Ms. Cochrane added that the town hall was a new type of event for the Bureau. She added that there was a good amount of participation and constructive feedback during the meeting and after the meeting.

Public Comment

Robert Johnson provided a public comment.

Angela Perry provided a public comment.

Update on STRF Fee Increase Approved by Office of Administrative Law (Title 5, California Code of Regulations (CCR) section 76120)

David Dumble, Bureau Legislative/Regulation Specialist, provided an update on the STRF assessment fee increase. He stated that the fee is increasing from fifty cents to two dollars and fifty cents per one thousand dollars and will become effective on April 1, 2022. He added that the Bureau has sent notice to institutions regarding the increase and will be sending out additional notices in the coming weeks. He noted that there is also an alert notice on the Bureau website.

Public Comment

No public comment.

Status on Application for Verification of Exempt Status (California Education Code (CEC) sections 94874, 94874.2, 94874.7, 94874.5, and 94927.5; CCR section 71395)

Mr. Dumble reported that the Application for Verification of Exempt Status regulatory package was sent to DCA for review on February 1, 2022.

Public Comment

Robert Johnson provided a public comment.

Status on Annual Report/Labor Market Outcome Data Reporting (CCR sections 74110, CEC section 94892.6, and Assembly Bill 1340 (Chiu, Chapter 519, Statutes of 2019))

Mr. Dumble provided a status on the Annual Report/Labor Market Outcome regulatory package. He stated that the package is currently under review with DCA.

Mr. Holt asked if the DCA Director has certified that the IT system has been updated and is capable of processing the data as required. Mr. Dumble stated that the Bureau has not received certification. He added that the Bureau is working with DCA to work out a timetable for certification.

Public Comment

No public comment.

Regulatory Proposals Based on 2021 Statutory Language Being Developed

Mr. Dumble outlined Attachment 7(e)(i), regarding regulatory changes required by Senate Bill 607's repeal of "ability-to-benefit" requirements.

Ms. Reiter commented that institutions should still have the option to test students to determine if a student should be admitted. She also noted that the term "obviously unqualified" is not a legally well-defined term.

Mr. Dumble outlined Attachment 7(e)(ii) regarding the proposed language for 5 CCR section 71640 (Application for Ownership, Control, or Business Organization Form). He stated that the Bureau determined the proposed regulation is not needed to implement the changes to Education Code 94885.1 and 94885.5 added in Senate Bill 802. Mr. Holt commented that he is not sure if there is enough specificity in the statutory text to differentiate between somebody who applied for accreditation and somebody who has been granted accreditation or provisional accreditation.

Mr. Dumble outlined Attachment 7(e)(iii), discussing the change in the definition of educational programs regarding programs of less than 32 hours in length that do not lead to employment.

Ms. Reiter commented that the word advertisement is sometimes used in a very narrow sense and can cause issues when enforcing a statute. She suggested that it would be good to use the phrase in Education Code section 94868 that states “to offer to the public” means to advertise, publicize, solicit, or recruit. She stated that phrase more clearly defines what it means to offer something to the public. She also commented that it would be helpful to provide language that clarifies the distinction between exam preparation programs and programs designed to instruct students in skills and knowledge necessary to satisfy the qualifications for licensure.

Public Comment

No public comment.

Discussion on Procedures for Denying an Out-of-State Application (CCR section 71397)

Ms. Johnson opened discussion on regulations on procedures for denying Out-of-State registration applications. She outlined the memo titled Consideration of Out-of-State Registration Applications in Attachment 7(f).

Mr. Holt commented that consideration of materiality and relevance of outstanding judgments against an institution should be considered when determining whether to deny applications. Mr. Holt suggested that increased reporting requirements and increased frequency or rigor of compliance visits could be risk factors that may warrant conditions being placed on registration.

Ms. Ferrin suggested the utility of monitoring the institution and communicating with students through an anonymous survey to seek feedback on students’ experience with the institution and using that feedback as a consideration in the determination of whether to place conditions on registrations. She added, that depending on the length of monitoring periods, reporting on outcomes could also be helpful.

Ms. Reiter suggested that an institution on heightened cash monitoring would be a fairly high degree of risk. Ms. Reiter also suggested that the number of California students enrolled is a factor to consider.

Discussion on Consideration of Changes in Signature Requirement (CCR sections 71380, 71390, 71395, 71475, And 71480)

Ms. Johnson opened discussion on consideration of changes in signature requirements. She outlined the memo titled Application Signature Requirements in Attachment 7(f).

Mr. Holt commented that it seems excessive to require signatures from each member of a nonprofit institution's governing body. He noted that it would make more sense to only require a signature from the chair or chief executive of the institution.

Ms. Reiter commented that she thinks the point of requiring signatures from an institution's governing body is for members of the body to feel like they have responsibility for what is going on at the institution. She suggested setting up the process so that each member could sign a separate document and could sign by DocuSign. She suggested another option would be to allow members of the governing body to delegate signature authority to another, which would hold that member liable for what is signed by the delegated authority.

Kevin Powers asked if the signatures can be electronic or if they have to be wet signatures. Ms. Cochrane responded that the regulations do not specify. She added that it is an issue that is being reviewed.

Mr. Holt commented that not all application types should have the same signature requirements. He noted that the application types are very different in terms of the degree of importance.

Ms. Reiter commented that, in regard to a problematic institution, any application type could have a significant negative impact on students.

Public Comment

Angela Perry provided a public comment.

Agenda Item #8 - Discussion of The Adoption of Reasonable Rules for the Conduct Of Advisory Committee Affairs (Pursuant to Senate Bill 802 (Roth, Chapter 552, Statutes Of 2021))

Ms. Cochrane opened up a discussion on the adoption of reasonable rules for the conduct of the Advisory Committee affairs. She referred the Committee to the Advisory Committee Handbook included in the meeting materials.

Mr. Holt commented on the portion of the handbook that discusses "collective will." He stated that holding to a more formal motion process could help the Committee express a collective will.

Ms. Reiter commented that in some cases forcing the Committee into a collective view is counterproductive. She added that the rules are flexible enough to allow for motions if a member wants to get a collective view, but that making a motion is not necessarily a requirement for the Bureau to hear opinions from Committee members.

Public Comment

No public comment.

Agenda #9 – Suggestions for Future Agenda Items

Ms. Reiter suggested the Bureau perform a financial analysis on the cost of school closures to determine the need for a bond.

Ms. Reiter suggested having a discussion on the relationship between federal complaint handling and the Bureau's state authorization contract process to include complaint resolution data regarding state authorization contracted institutions.

Ms. Reiter suggested having a discussion on programs under 32 hours no longer needing approval. She noted that approved schools offering less than 32-hour programs with no oversight and programs over 32 hours could lead to students assuming all programs are covered by Bureau oversight.

Ms. Reiter requested a discussion on what information is available and could be available on the Bureau website. Ms. Delgado also requested more consideration regarding the Bureau website.

Ms. Reiter requested information on how far back in time SAIL data goes.

Ms. Reiter suggested considering whether the Bureau should have a Sunset date set.

Mr. Holt requested that Bureau staff provide forward modeling on the new STRF Assessment rate.

Public Comment

Angela Perry provided a public comment.

Agenda #10 – Adjournment

The meeting adjourned at 1:56 pm.