



Business, Consumer Services and Housing Agency– Governor Edmund G. Brown Jr.

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**Advisory Committee Meeting Minutes
Wednesday, August 19, 2015**

**Department of Consumer Affairs
Hearing Room
1625 North Market Blvd
Sacramento, California 95834**

Advisory Committee Members in Attendance:

Shawn Crawford
Margaret Reiter
Diana Amaya
Patrick Uetz
Marie Roberts De La Parra
Tamika Butler
Sylton Hurdle
Kate Lee- Carey
Laura Metune (for Assemblymember Medina)
Mitchell Fuerst

Committee Members Absent:

David Wood
Ken McEldowney
Senator Jerry Hill (Appointed by the Senate Committee on Rules)

Bureau for Private Postsecondary Education (Bureau) and DCA Staff in Attendance:

Joanne Wenzel, Bureau Chief
Alyson Cooney, Deputy Bureau Chief
Norine Marks, Legal Counsel, Department of Consumer Affairs
Mina Hamilton, Legal Counsel, Department of Consumer Affairs
Dr. Benjamin Walker, Quality of Education
Yvette Johnson, Enforcement Chief
Leeza Rifredi, Licensing Chief
Robert Bayles, Enforcement Chief
Greg Pruden, Department of Consumer Affairs
Taylor Schick, Department of Consumer Affairs
Matt Nishimine, Department of Consumer Affairs
Benjamin Triffo, Associate Governmental Program Analyst

Call to Order

The meeting was called to order by Mr. Crawford at 9:41 am on August 19, 2015, at the Department of Consumer Affairs Hearing Room at 1625 North Market Boulevard Sacramento, CA 95834.

Agenda Item # 1 - Welcome and Introductions

Mr. Crawford welcomed the Advisory Committee, BPPE staff, DCA staff, and the public to the meeting. Staff counsel is noted as present.

Agenda Item #2 – Public Comments on Items not on the Agenda.

Angela Perry, Public Advocates, requested an update on regulations in regards to uniform reporting requirements, additional information on the Bureau’s process moving forward on regulations, and when a second public hearing will be heard. Ms. Perry also asked for the steps that the Bureau is taking to identify problematic schools throughout California, and what is done when they are identified. Finally, Ms. Perry also requested information on any improvements the Bureau has made towards closed schools. She recommends that the Bureau follow the steps of the Federal Government, and extend the closed school discharge deadline for Corinthian students.

No further public comments.

Agenda Item #3 – Approval of Minutes- May 12, 2015

Ms. Reiter made note of two corrections within the previous meeting’s minutes, and requested that these changes be applied to provide clarity to comments that were made.

Ms. Reiter motioned to approve the minutes as corrected, Mr. Hurdle seconded the movement. (Butler: Abstain; Uetz: Aye; Amaya: Abstain; Reiter: Aye; Crawford: Aye; Lee-Carey: Abstain; De la Parra: Aye; Hurdle: Aye; Fuerst: Absent at time of vote; Metune: Absent at time of vote. Motion passes).

Agenda Item #4 – Remarks by Awet Kidane, Director, Department of Consumer Affairs

Mr. Kidane greeted the Advisory Committee, and thanked them for the opportunity to speak. He noted that a lot of work has been done since the last Advisory Committee meeting, but there is much more to do. SB 1247 has given the Bureau the opportunity to do good work, including hiring of more staff; but the Bureau must be mindful of budget needs.

Mr. Kidane stated that the “IT” situation has been difficult, and that currently they are reviewing two approaches. The first is streamlining the Annual Report process through front end data entry from the schools. The second is an analytics process for Enforcement. Finally, Mr. Kidane wanted to thank the Task Force for their hard work, and has been very impressed.

In regards to the budget, Ms. Reiter asked if the Bureau received what they requested, less, or more. Mr. Kidane noted that there was not a severe variation from what was requested; Ms. Wenzel noted that both Budget Change Proposals (BCPs) were approved.

Ms. Reiter also asked about the status of BreEZe, or its replacements. Mr. Kidane noted that DCA is reevaluating BreEZe and wants to ensure that the Bureau is able to do its job efficiently and with the right technology. Ms. Reiter asked about how many Boards/Bureaus

are currently not in Phase One or Two of implementation. Mr. Kidane stated that there are 19 in Phase Three.

Ms. Reiter asked what was meant by the analytics process that will be implemented. Ms. Wenzel stated that the Bureau is setting up processes to assist with prioritization of compliance inspections and complaint investigations. The system will compare information from the Annual Reports process and the Bureau's computer software (S.A.I.L.) to help prioritize institutions for review. Ms. Wenzel is optimistic that the system will be up and running next year.

Ms. Reiter asked Mr. Kidane if there is anything specific that the Advisory Committee can do to assist with this process. Mr. Kidane stated that continuing to ask questions like these and keeping the topic on the forefront will ensure that everyone is on the same page.

Ms. De La Parra thanked the Director for the opportunity to serve on the Task Force, and she recognizes that they couldn't do their work without Ms. Wenzel and her staff.

There was no public comment.

Agenda Item #5 – Update on the Progress of the Task Force on High-Demand Technology Fields Established Pursuant to California Education Code Section 94880.1

Mr. Crawford stated the Task Force is working diligently to fulfill their statutory charge. At the previous meeting there were discussions around recommendations and the preliminary draft of the Task Force's report.

Ms. Lee-Carey asked about the goal of the report, and what they mean to accomplish. Mr. Crawford discussed the three main charges of the Task Force along with the Task Force's methodology, who they have spoken to, and what they are looking to do going forward. Ms. Lee-Carey followed up by recommending that the Task Force look at the Distance Education Accrediting Commission (DEAC) for ideas regarding short-term programs that may not fit the mold of a traditional program that is overseen by the Bureau.

Ms. Reiter asked if the preliminary draft of the report is available online. Ms. Wenzel stated that it is.

Ms. Perry had public comment regarding the Task Force. She requests that the Bureau provide information on how they are seeking out unlicensed schools, and if the Bureau is actively pursuing all options to address these schools.

No further public comment.

Agenda Item #6- Bureau Operations Update

(a). Enforcement Report – Yvette Johnson and Robert Bayles

Ms. Johnson began by addressing some of the questions that were previously asked, stating that there are dedicated staff members who actively search for unapproved schools, and issue orders of abatement. Ms. Reiter asked if there are numbers that can be provided on the amount of orders that have been issued. Ms. Johnson stated that she can provide these numbers, but discovering who the owners are can be difficult.

Ms. Johnson noted that her unit has also been actively reviewing problematic schools, and that they have been reviewing financials, data from the School Performance Fact Sheets, and other sources to help identify these schools.

Ms. Metune asked if the Bureau has collected on any of the citations for unlicensed activity. Ms. Johnson stated that they have collected on a few, though the dollar amounts typically range from \$5,000-\$10,000. Ms. Butler followed up by asking what the barriers are to collecting on the orders. Ms. Johnson stated that the biggest barrier is discovering who the owners of the school are, and obtaining their social security numbers. Ms. Metune asked if there are statutory barriers, to which Ms. Johnson stated that there are not.

Ms. Reiter asked if the Bureau can close schools, or simply fine them. Ms. Johnson stated that they can only fine the schools. Ms. Reiter added that more power through statute to the Bureau on Enforcement matters may be beneficial. Ms. Metune asked if the Bureau has authority to physically post notices on unauthorized schools' doors; Ms. Johnson stated that they do not.

Ms. Johnson spoke on the Complaints Investigation Unit, stating that they have received 766 cases though the 14'-15' fiscal year and have closed 673 of these cases. That is six fewer cases than the previous fiscal year. The Complaint Investigation Unit is averaging 56 cases closed per month, with a receipt of 64 complaints a month.

Ms. Metune inquired about the mandate from SB 1247 requiring Bureau staff be trained by the Attorney General's (AG) Office. Ms. Johnson stated that training has been ongoing, and is being well received by staff. Ms. Butler asked how often the trainings are occurring; Ms. Johnson stated that there have been three so far this year, and that they take place every couple of months. Ms. Metune asked if any of the cases that have been turned over to the AG's office have been returned due to lack of information. Ms. Johnson stated that they have not had any cases sent back as of yet.

Ms. Metune asked about the vacancies and turnover within the Enforcement Unit, and what their staffing plan is moving forward. Ms. Johnson noted that they have finished almost all interviews, and that turnover numbers have gone down due to Limited Term positions becoming Permanent.

Ms. Johnson next referenced the notice that is posted at the institution during an inspection, and recapped the process that an inspector goes through in posting said notice. Ms. Reiter stated that online students do not have access to this information, and that perhaps regulations need to be reviewed to address this. She also mentioned that posting some form of a brief summary of a school's violations (with information on where to find details of the violations) may be beneficial to students as well.

Ms. Amaya asked if the notice is provided in any language other than English. Ms. Johnson stated that they do not have the notice in any other language. Ms. Reiter noted that this should be looked at for schools that have students who do not speak English.

Ms. Johnson next referenced the survey that is provided to students during a compliance inspection, for which Ms. Butler asked if the survey is in other languages. Ms. Johnson stated that it is not. Ms. Johnson went on to describe how the inspector provides the surveys

to students, and how they conduct follow-up discussions with students. Ms. Reiter stated that she has some suggestions for modifications to the survey. She noted that “N/A” should be replaced by “Don’t Know”; that the numbered questions be listed first in the survey (instead of the narrative questions); that questions regarding if the student knows placement rates, completion rates, etc. should be added, as well as how long the student has been in school; that questions be added asking if the student knows if their credits transfer to a public school and is there information that the student was told before they enrolled that is different now. Ms. Reiter added that she can email all of her survey questions to the Bureau.

Mr. Fuerst asked if the Bureau has considered doing an electronic survey. Ms. Johnson stated that the Bureau often doesn’t receive feedback from surveys if they aren’t administered on site, which is why electronic methods haven’t been used. She also noted that they do not receive many responses on “fill in the blank questions”, which is why they use the numbered questions with greater frequency. Ms. Metune asked if the Bureau has reached out to students who are no longer at the school. Ms. Johnson stated that they have not considered this option.

Ms. Lee-Carey stated that expecting students to remember/recall what the placement rate, or completion rate was when they enrolled is unrealistic due to the fact that the information is presented in different time frames in different disclosures (due to differences in state/accreditor requirements). Ms. Lee-Carey is in favor of the current method that the Bureau uses.

Based on a reminder by legal counsel that compliance inspection surveys was not noticed for discussion on the Agenda for the meeting, the Advisory Committee concluded their discussion about the content of the surveys, and no action was taken.

No further questions from the Advisory Committee.

(b). Licensing Report – Leeza Rifredi and Benjamin Walker, Ed.

Ms. Rifredi began by reviewing the fiscal year numbers. The Licensing Unit has received 891 total applications, and has closed out 1,154 applications. Currently there are a total of 713 pending applications, with 441 pending with staff, and 272 pending assignment.

Ms. Rifredi referenced the previous Advisory Committee meeting, and the question regarding the status of the two oldest applications. The two applications are from late 2010, both of which are waiting for the final manager review and signature to be approved. There are also twenty applications from 2011 that are in their final stages. Ms. Lee-Carey asked if staffing is sufficient, due to backlog. Ms. Rifredi stated that they are in the same situation as Enforcement; with productivity becoming more efficient as staff are staying due to limited term positions becoming permanent.

Ms. Metune asked about the applications from 2010 and 2011, and if Ms. Rifredi can speak on the reasons for their delay. Ms. Rifredi stated that a large portion of these issues stem from a delay in receiving responses from institutions; turnover in staff also added to the delay.

Dr. Walker began by discussing the Accreditation Plan Process statistics. He reviewed the benchmarks that are set for schools, and the Bureau. There have been 160 total institutions

that have received information regarding their accreditation plan. Out of the 160, there have been 107 plans received, eight closed schools, twenty eight have received accreditation by accrediting bodies, fourteen schools have total outstanding plans (eleven have received suspension notifications, three have provided the Bureau information stating that they do not need to receive a suspension letter), one school is in a teach-out program, one school is exempt, and one school is listed as “other”. Dr. Walker is working with the Enforcement Unit on how to address the eleven schools who have received suspension letters. He is also working with Bureau Chief Wenzel on a plan for visiting the 107 schools who have submitted plans.

Ms. Metune asked about the visiting committees, and if there have been difficulty gaining participants. Dr. Walker stated that he is currently developing a plan on how to assign subject matter experts to visit these schools, and currently there has not been anyone assigned.

No further questions from the Advisory Committee.

(c). Budget and Fund Conditions – Matt Nishimine and Joanne Wenzel

Mr. Nishimine began by discussing the analysis of fund conditions. Mr. Nishimine stated that revenues have been declining, and that the Fund will be insolvent in 2018-2019. The Budget Office is working with the Bureau to review fees, and to create a plan for the 2016-2017 budget. Fee revenues were down in nearly every license type within the Bureau except for “Change of Location”. There are three areas that are causing the majority of the lost revenue; the first is initial licensure; the second is renewal main campus/branch schools; the third is annual branch fees. All three areas came in below estimates.

Mr. Fuerst asked Ms. Wenzel if this revenue decline is due to there being fewer schools in California. Ms. Wenzel noted that it does seem that there is a contraction in schools. She also made note that in 2014 the Workforce Investment Board identified over 500 unapproved schools in California. After review it was determined that there were 150 schools that were in need of submitting an application. These 150 schools were built into the projections for applications from the previous year; however the applications did not materialize for various reasons.

Ms. Lee-Carey asked if the State Authorization contracts have helped with the lost income, and if there have been contracts received. Ms. Wenzel stated that the Bureau has received approximately one hundred contracts. Ms. Lee-Carey inquired if these contracts have added a need for additional staff. Ms. Wenzel stated that currently it has not, but the Bureau is prepared in the event that complaint numbers increase. Ms. Lee-Carey also asked about renewal applications, and how they are being worked. Ms. Wenzel stated that unfortunately they are part of the backlog, and that she will have additional information at the next Advisory Committee meeting.

Ms. Metune inquired if the Bureau has a process to determine if institutions are paying the correct annual fee amount. Ms. Wenzel stated that she is actually going to discuss this item later in the meeting.

No further questions for the Advisory Committee.

(d). Student Tuition Recovery Fund (STRF) – Alyson Cooney

Ms. Cooney greeted the Task Force, and introduced herself. Ms. Cooney began by discussing the year end STRF numbers: to start there were three claims carried over from the previous year, there have been 453 claims, of which 103 have been paid, and 213 claims have been denied, with approximately \$1.1 million paid in claims. There will be approximately 55 claims rolled into the new fiscal year. The STRF fund is currently at approximately \$29 million.

Ms. Metune asked about the reasons for STRF claim denials. Ms. Cooney stated that there is often not an economic loss, as the student transfers credit to another institution; Ms. Cooney stated that the Bureau also receives claims from graduates of closed schools. Ms. Metune asked if the Bureau reviews credits that don't transfer to a new institution. Ms. Cooney stated that if there is an economic loss, a student can receive compensation for the units that didn't transfer.

Ms. Cooney next provided an update on Heald and Corinthian Colleges. She noted that there have been over 2,900 Corinthian (includes Heald) transcript requests, the majority of which are manual requests, though there are some electronic requests that are starting to come through. There are no requests older than August 1st. However, since then there have been over 1,200 additional requests. Ms. Metune asked if students are provided with their rights under Federal and State law when they submit their transcript requests. Ms. Cooney stated that they are provided this information during the school closure process.

Ms. Reiter asked if when a student graduates, and in the near future the school closes, whether STRF is available for that student. Ms. Cooney stated that the student did not suffer an economic loss due to the student obtaining their degree; therefore they are not eligible for STRF. Ms. Wenzel clarified that the Bureau reviews those cases for students who graduated within 120 days of school closure; however, most requests come from students who graduated years before closure.

Mr. Uetz asked if there is an estimate on the number of students who are eligible for STRF from Corinthian. Ms. Wenzel stated that there were approximately 4800 students enrolled at Everest and Wyotech, with 7500 enrolled at Heald. Ms. Metune added that estimates show approximately 13,000 total students who have been affected. There have been approximately 250 STRF claims submitted by Corinthian students.

Ms. Metune asked if Corinthian students are given two or four years to file a STRF claim. Ms. Wenzel stated that it depends on whether the Bureau has documentation on whether the student received a "Closed School Packet". The Bureau has documentation showing that they provided this information to 80% of the Corinthian students. Ms. Metune recommends that the deadline be extended to four years for Corinthian students.

Ms. Reiter recommended that the Bureau speak with students who haven't applied for STRF, and see why they have not. Ms. Wenzel noted that contact information for students hasn't been reliable, and that the Bureau has attempted to contact these students.

Mr. Fuerst stated that with the lack of STRF applications, and the balance of the STRF fund being at \$29 million, it is disappointing that there is legislation to increase the STRF fund capacity, as it is California students who will suffer.

Ms. Cooney also mentioned that the Bureau has been given access to a warehouse rented by Corinthian that houses approximately 30,000 boxes of records, containing approximately 8 million documents that will need to be scanned. There have been some documents that have been provided electronically.

Ms. Reiter recommended a discussion on modifying statute to require schools to maintain records in an electronic format.

Ms. Cooney next discussed the Bureau's school closure policy. In the event of a closure, the Bureau immediately sends staff to the locations to provide onsite support. When staff arrives they meet with students in a group, and go over common items for students (transcripts, next steps, etc.). Bureau staff also meets with students one-on-one to address individual questions.

Ms. Reiter asked if there are documents provided to students at the closed schools that list answers to common questions. Ms. Cooney stated that she can provide this information to the Advisory Committee. Ms. Reiter also recommended that the Bureau work with legal aid organizations during school closures, so that they can assist students.

Public comment was next offered on Agenda Item #6.

Robert Johnson, California Association of Private Postsecondary Schools, addressed the Advisory Committee with public comment. Mr. Johnson provided insight on the STRF application window and the history on why there are two year, and four year windows. Mr. Johnson echoed previous statements regarding the decline in the number of schools in California, noting that by his estimates there are only approximately 1,200-1,000 schools left in the state. Mr. Johnson also commented that accredited schools are the institutions that provide the most revenue to the school, which there are about 500 in the state. He believes that the number of schools is diminishing due to the amount of Administrative Oversight, and the cost of fees involved with operating a school, making it difficult to conduct business in California. He also believes that this has led to a shift to more out-of-state online based programs. With this in mind, Mr. Johnson believes by increasing fees to meet budget needs will ultimately end up hurting the Bureau.

Ms. Metune requested a survey of Mr. Johnson's schools and the fees that they pay, along with fees paid by institutions in other states.

Angela Perry, Public Advocates, had public comment. Ms. Perry thanked Bureau staff for the updates that have been provided. Ms. Perry recommended that the Bureau put together an update report that shows progress the Bureau has made since the State Audit; this will help with the Bureau's sunset report.

Adjourn for lunch at 12:39 p.m.
Meeting resumed at 1:53 p.m.

Agenda Item #7 – Review of the fee schedule in CEC 94930.5, pursuant to CEC section 94880(c).

Ms. Wenzel began by noting that there is a mandate that the Advisory Committee review the fee schedule, and that she felt that after hearing comments on the budget and Sunset Review, that it would be a good time to review. Ms. Wenzel reviewed the regulations pertaining to the fee schedule, including the different fee amounts. Ms. Wenzel also listed the different types of substantive changes that may result in a fee, along with the annual fee.

Mr. Hurdle asked when the last time fees were increased, to which Ms. Wenzel stated that they have never been adjusted, up or down.

Ms. Metune requested more information on how schools are organized, how much they are paying, and the Bureau's workload associated with regulating the different types of institutions. She believes this information would be beneficial to the legislative members in the event that fees need to be modified.

Ms. Lee-Carey added that there is some inequity with how fees are being calculated for different institutions, and this needs to be evaluated. Ms. Wenzel stated that a lot of the inequity stems from Approval by Means of Accreditation and that the Bureau will organize schools based on how accreditors structure the school.

Mr. Crawford recommended that an analysis be done on fees, the number of schools paying the maximum fee amounts, and fees for accredited vs non-accredited institutions.

Ms. Reiter asked if the Bureau has conducted any analysis on how much it costs to complete various approvals for institutions, and the reasons why larger schools pay larger annual fees. Ms. Wenzel stated that this has not happened yet, but that's why she thought it would be beneficial to have this discussion.

Ms. Metune recommended reviewing how public higher education programs view costs of running a program, to see if it would be applicable to this sector.

Ms. Wenzel also noted that there are approximately 120 schools that did not pay a fee at all, some of which believe that they are not required to pay a fee due to the fact that they are not enrolling students at the time. Ms. Lee-Carey stated that basing fees on revenue may be part of the problem. Ms. Metune mentioned putting approvals on hold/inactive if the institution isn't enrolling students. Ms. Wenzel stated that currently the Bureau does not do this.

Mr. Crawford asked for public comment.

Robert Johnson addressed the Advisory Committee. Mr. Johnson made note that the current fee schedule is actually higher than those of the previous version of the Bureau. Mr. Johnson recommended fees be determined based on size of the institution, and whether the school is accredited or not.

There were no further public comments.

Agenda Item #8- Regulatory Update

(a). Accreditation Regulations (Title 5, California Code of Regulations Sections 70000, 71400, 71650, 75150 (proposed changes), 71105, 71105.5, 71410, 71471, 71775, 71775.5, 74240, 74250, 75140 (new))

Ms. Wenzel stated that parts of these regulations are the emergency regulations and they were readopted on July 30th. The full regulations will have a hearing on September 8th. All language for the regulations are on the Bureau's website.

(b). Reports (Title 5, California Code of Regulations Sections 74110, 74112)

There was a public hearing on July 21st, and that the Bureau is currently working through public comment; and anticipates a 15 day modified language. There will be no further public hearing on the modified language.

(c). Student Tuition Recovery Fund (Title 5, California Code of Regulations Sections 76000, 76020, 76120, 76130, 76200, 76210, 76212, and 76215)

These regulations are pending notice, and are in the process of making edits to the Initial Statement of Reasons and the notice. There will be a minimum of a thirty day notice after the internal review process is completed.

(d). Compliance Inspection and Complaint Prioritization (Title 5, California Code of Regulations Sections 75200 (proposed changes), 75210 and 75300 (new))

The language has been drafted, and the package is currently in the review process.

Angela Perry, Public Advocates, wanted to thank the Advisory Committee and Ms. Wenzel for the update.

Before moving to the next agenda item, Mr. Crawford noted that he wanted to discuss details on the next Advisory Committee meeting. Topics for the next meeting may include the student survey, the STRF process, an audit update, student outreach materials, Task Force update, and a Bureau Operations update.

Angela Perry, Public Advocates, had an additional public comment requesting that there are handouts for the Bureau Operations Update at the next meeting. Ms. Butler agreed with the statement.

No further public comment.

Agenda Item #9- Adjournment

Meeting adjourned at 2:59 p.m.
