



Advisory Committee Meeting Minutes
Wednesday, February 15, 2017

Department of Consumer Affairs
First Floor Hearing Room
1747 North Market Blvd.
Sacramento, CA 95834

Advisory Committee Members in Attendance

1. Diana Amaya
2. Joseph Holt
3. Gabrielle Elise Jimenez
4. Katherine Lee-Carey
5. Margaret Reiter
6. David Vice

Committee Members Absent

Tamika Butler
Assemblymember Jose Medina
Senator Jerry Hill

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

Joanne Wenzel, Bureau Chief
Leeza Rifredi, Deputy Bureau Chief
Beth Scott, Enforcement Chief
Jeffrey Mason, Chief Deputy Director, Department of Consumer Affairs
Norine Marks, Legal Counsel, Department of Consumer Affairs
Mina Hamilton, Legal Counsel, Department of Consumer Affairs
Phuong Thach, Enforcement Manager
Richie Barnard, Program Analyst
Kent Gray, Legislative/Regulatory Analyst

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

BPPE Advisory Committee Vice-Chair Margaret Reiter called the meeting to order at 9:43 A.M. Ms. Reiter welcomed the Advisory Committee, BPPE Staff, DCA Staff, and the public to the meeting. BPPE staff member Richie Barnard called rolled. Six Advisory Committee members were present, thus a quorum was established.

Agenda #2 - Election of Advisory Committee Chair and Vice Chair by Committee Members

Ms. Reiter asked the Committee for nominations for Committee Chair. David Vice nominated Katherine Lee-Carey for Chair. Diana Amaya nominated Ms. Reiter for Chair. The following members voted in favor of Ms. Lee-Carey for Chair: Joseph Holt, Gabrielle Elise Jimenez, Katherine Lee-Carey, and David Vice. Ms. Amaya voted in favor of Ms. Reiter for Chair. Ms. Lee-Carey won Chair by majority vote.

Ms. Lee-Carey assumed the Chair position. She asked the Committee for Vice Chair nominations. David Vice nominated Ms. Reiter for Vice Chair. No other members were nominated. The following members voted in favor of Ms. Reiter for Vice Chair: Mr. Holt, Ms. Jimenez, Mr. Vice, and Ms. Amaya. Ms. Reiter won Vice-Chair by majority vote.

Agenda #3 - Announcement of Future Meeting Dates

Joanne Wenzel, Bureau Chief, announced the following future BPPE Advisory Committee meeting dates: May 17, 2017; August 15, 2017; and November 15, 2017. Ms. Wenzel noted that all of the announced dates will be held in the Hearing Room at 1625 North Market Blvd. in Sacramento.

Ms. Wenzel stated that there are two open positions to the Advisory Committee. She added one position is open for a past student of an institution, and the other open position is for a consumer advocate.

Agenda #4 - Public Comment on Items not on the Agenda

There was no public comment.

Agenda #5 - Review and Approval of May 17, 2016, Advisory Committee Meeting Minutes

Ms. Reiter moved to approve the minutes; Joseph Holt seconded the motion. (Ms. Reiter: Aye; David Vice: Aye; Diana Amaya: Aye; Mr. Holt: Aye; Gabrielle Jimenez: Aye; Ms. Lee-Carey: Aye). The motion passed.

Agenda #6 - Remarks by Representative of the Department of Consumer Affairs

DCA Chief Deputy Director Jeffrey Mason provided remarks on behalf of the Department of Consumer Affairs. Mr. Mason thanked the Committee members for their commitment and public service.

Mr. Mason stated that the DCA executive team is working with the Bureau to establish the Office of Student Assistance and Relief, per Senate Bill No. 1192 Private postsecondary education: California Private Postsecondary Education Act of 2009.

Mr. Mason noted the Bureau is currently working on mapping out its processes and procedures for the transition to a new IT solution. He stated that once the processes and procedures are mapped out then DCA will determine what the best IT solution will be for the Bureau. He stated that many DCA boards and bureaus are on BreZE, but the Bureau's processes and procedures will ultimately determine what IT system is implemented.

Mr. Mason discussed the current situation with Accrediting Council for Independent Colleges and Schools' (ACICS) loss of recognition by the Department of Education. He stated that it is important for DCA and the Bureau to continually reach out to impacted institutions and students to relay pertinent information and options. He added that DCA continues to monitor the situation at the Federal level.

Mr. Mason indicated that with all the recent school closings, including ITT, the Bureau has had a positive impact on students through outreach activities. He noted that the Bureau has been helpful by informing students of their rights, recovery options, and directing them where to go for additional help. He added that it is evident of the Bureau's devotion to the students.

Mr. Mason asked the Committee if they had any questions. Ms. Reiter asked if the Office of Student Assistance Relief (OSAR) positions were open. Ms. Wenzel replied that the positions are currently not open. She continued that the positions are currently going through the California Department of Human Resources (CalHR). She added that the OSAR positions have not been funded, but the funding would be included in the Governor's budget, which is up for approval in July 2017. Ms. Wenzel concluded that OSAR needs to be functioning by July 1, 2017 and positions would need to be filled as soon as CalHR approves the positions. Mr. Mason added that creating new positions require a very specific process, and he expects for those positions to be approved by CalHR soon.

Ms. Reiter noted that the Bureau has been waiting 7 years for an updated IT solution. She asked Mr. Mason what the Committee or Bureau could do to get an updated IT system. Mr. Mason reiterated that, in order to achieve the most effective IT solution, it is important to entirely map out business processes and procedures first. Ms. Reiter requested that a timeline on the launch of a new IT solution be available at the next Committee meeting.

Agenda #7 - Bureau Operations Update

Enforcement Report:

BPPE Enforcement Chief Beth Scott provided an update on the compliance unit. She noted that the Bureau completed 168 compliance inspections in calendar year 2015 and completed 166 in calendar year 2016. She stated that one of her main focuses is developing and implementing a comprehensive training program for inspectors. She added that the unit will be working to increase the number and quality of compliance inspections.

Ms. Scott pointed out that the Bureau is working with the Office of Information Services (OIS) to generate a compliance prioritization report that will highlight institutions with the most pressing risk factors. She added that the unit is currently reviewing and mapping out all of the business processes and procedures for the upcoming IT system update. She stated that the unit is exploring alternative methods to administering student surveys in order to reach more students to gain additional input.

Ms. Scott asked the Committee if there were any questions or comments. Ms. Lee-Carey asked how the student surveys are currently being administered. Ms. Scott explained that prior to compliance inspections the unit will reach out to students via email, and that the inspector will administer paper surveys to students at the institution in conjunction with the compliance inspection.

Mr. Holt asked for additional information on the training program for the inspectors. Ms. Scott replied that the goal is to implement a structured academy type training program. She added that the program for new inspectors would focus on rules and regulations, minimum operating standards, and the appropriate items to investigate during an inspection. She explained that part of the intent is to automate some of the processes involved in the inspections to increase efficiency. She concluded that one of the main goals would be for inspectors to work with institutions prior to inspections to resolve concerns that could result in a notice to comply. Mr. Holt asked if there was a timeline for the training program to be implemented. Ms. Scott replied that as new inspectors are hired in the next 6 to 8 weeks there will be a functioning training program in place, but added that the program will be continually improved upon.

Ms. Reiter asked Ms. Scott how close the unit is to meeting the statutory required number of inspections within a 5 year period. Ms. Scott explained that the unit has started streamlining processes and restructuring positions within the unit to increase efficiency. She added that the unit will be hiring personal at the Staff Services Analyst classification to handle less complex inspections, which will give the Associate Governmental Program Analysts more time to complete more complex inspections. She stated that the unit has started to work more with the Annual Reporting unit to help ensure institutions are meeting minimum operating standards, which should result in fewer compliance issues. She concluded that the unit has been very proactive in encouraging institutions to attend the workshops provided by BPPE in order to reduce the amount of compliance issues encountered during the inspections.

Mr. Vice asked Ms. Scott if the 166 compliance inspections conducted in 2016 were split evenly between announced and unannounced. Ms. Scott replied that the inspections were roughly evenly split between announced and unannounced. Mr. Vice asked if the compliance unit, due to ACICS losing recognition by the Department of Education, put more focus on ACICS accredited institutions. Ms. Scott confirmed that the unit had put additional focus on ACICS institutions. Mr. Vice asked if there were any distinctive trends found in the ACICS institutions. Ms. Scott replied that she was not aware of any trends.

Ms. Lee-Carey commented to Ms. Scott, in regards to training, that one aspect to focus on is consistency. Ms. Lee-Carey elaborated that one of the challenges that institutions face during inspections are the inconsistencies between what desk investigators report versus what the onsite investigators report. Ms. Lee-Carey asked Ms. Scott if the pre-visit auditing type activities have been combined with the onsite activities to fall under the same investigator. Ms. Scott clarified that currently the desk inspection activities are generally handled by the same person who conducts the onsite investigation. Ms. Lee-Carey added that another challenge for institutions is that inspectors sometimes lack knowledge of how an institution operates. She suggested offering inspectors training on how institutions operate to include the different departmental responsibilities throughout the institution. Ms. Lee-Carey added that perhaps institutions could assist with that aspect of training and provide information on what issues are commonly encountered during the inspections. Ms. Reiter added that it could also be helpful to include student advocates in the training process to relay common issues students encounter.

BPPE Enforcement Manager Phuong Thach provided an update on the complaints investigation unit. Ms. Thach reported that the Bureau received 921 complaints in 2016 and closed 1011 complaints. She stated that 10% more complaints were closed than received, and that there was a 25% increase in closures compared to 2015. She continued that, as of December 31, 2016, the Bureau had 964 pending complaints with 37% of the complaints being internally generated. She noted that in 2015 the average age for a complaint case was 503 days, and in 2016 the case age was reduced by 5% to 478 days.

Ms. Thach reported that 27% of complaints received in 2016 were in the "fraud-other" category. She added that "fraud-other" includes allegations of inaccurate, falsified, or missing records, and the selling of hours. Ms. Lee-Carey asked what is selling of hours. Ms. Thach explained that selling of hours refers to an institution selling a certificate or degree without requiring the student to do work. Ms. Thach continued that 18% of the complaints received pertained to unapproved institutions, and 9% regarded quality of education issues. She noted that 6% of the complaints were in regards to refunds, and 6% pertained to irregularities in the admission process.

Mr. Vice asked how many of the complaints received in 2016 were from unique individuals.

Ms. Wenzel explained that the complaints reported are broken in to internally or externally generated. Ms. Thach added that each external complaint reported came from a different individual.

Mr. Holt asked for more information about the “fraud-other” category in the complaint report. Ms. Thach explained that the Bureau’s IT system only allows for 23 different categories of complaint types. She noted that the Bureau submitted a request to OIS to add more specific categories of allegations into the IT system.

Mr. Holt asked what type of complaints take over 500 days to resolve. Ms. Thach explained that some of the complaints involve other agencies which can extend the case age. Ms. Wenzel explained that the Bureau has been under staffed, which created an extensive backlog. She added that the Bureau has more staff now, and both older and newer complaints are being resolved. She also pointed out that any complaint that involves the attorney general’s office or sworn peace officers increases the case age. Ms. Reiter asked if there is a reason the case age report does not indicate the time when complaints are held up with other agencies. Ms. Wenzel explained that the reports follow a standardized format based on DCA reporting guidelines. Ms. Reiter noted that it could be constructive to include in the report how long complaints are with other agencies.

Mr. Vice asked if the type of institution, such as accredited or unaccredited, is tracked in complaint reporting. Ms. Thach stated that accreditation is not considered. She continued that the type of allegation is more of a priority. Ms. Wenzel added the Bureau is focused on the potential of student harm.

Ms. Reiter asked, in regards to closed complaints, what the difference is between not substantiated/unsubstantiated and not substantiated/insufficient evidence. Ms. Thach explained that not substantiated/unsubstantiated is when the evidence obtained during an investigation does not support the allegation or indicate a violation. She continued that not substantiated/insufficient evidence is when the evidence collected is not sufficient or not complete enough to confirm a violation.

Mr. Vice reiterated that the Bureau consider the different types of institutions when tracking complaints received. He stated that if different institutions accredited by one particular agency begin receiving a large number of complaints, then it could be constructive to track that information to identify trends. Ms. Wenzel asked Mr. Vice what all types of institutions he would like to see tracked. Mr. Vice stated that, in addition to the accreditor of an institution, the different categorical types could include accredited, unaccredited, and institutions who have accreditation pending. He continued that part of the reasoning to track accredited verse unaccredited is to see which type of institution is taking up more of the Bureau’s resources. He stated that could be factor in determining how to allocate fees.

Report on BPPE Strategic Plan:

Ms. Wenzel provided a report on the Bureau's strategic plan. She referred to page 7 of the Strategic Plan and named off the following goal areas: licensing, complaints, discipline, compliance, quality of education, regulations and legislation, outreach and consumer education, and organizational effectiveness. She explained that under each goal area there are more specific goals listed. She continued that each unit within the Bureau has analyzed the goals to generate objectives to meet the goals. She concluded that the Bureau actively revisits the plan to track progress.

Licensing Report:

Deputy Bureau Chief Leeza Rifredi provided a report on licensing. She reported that since July 1, 2016 the Bureau has received 446 applications. She continued that there are 294 applications currently under review by staff and a total of 385 pending applications. She stated that 479 applications were closed with an average approval time of 115 days. She added that on July 1, 2016 there were a total of 423 pending applications, and as of January 1, 2017 there were 385 pending applications; resulting in a 9% reduction in pending applications. She concluded that in the previous fiscal year pending applications were reduced by 40%.

Mr. Vice asked how long it takes for an application to get assigned to an analyst. Ms. Rifredi pointed out that the oldest full approval application that is still pending assignment is from February 22, 2016. She stated that it can take up to a year. She added, however, that staff is working older and newer applications simultaneously. Ms. Lee-Carey stated that a year is a long time to be pending assignment, and why it takes so long. Ms. Rifredi pointed out that if applications are received incomplete, then institutions are given up to a year to submit a complete application. Ms. Lee-Carey suggested tracking and reporting how many applications pending assignment are incomplete. Mr. Holt added that, regarding the length of time applications are pending assignment, it would be helpful to distinguish whether administrative non-performance is due to the institution or the Bureau.

Student Tuition Recovery Fund (STRF) Report:

Ms. Rifredi provided a report on STRF and student outreach. She reported that since July 1, 2016 the Bureau has received 465 STRF claims. She added that 132 claims have been paid at an amount of \$502, 577. She continued that 60 claims were deemed ineligible and 43 were denied. She pointed out that ineligible could mean that the claimant was either not a California resident or the institution in the claim was not closed. She stated that the claims that are denied could be due to incomplete applications, no proof of attendance, or no economic loss.

Ms. Rifredi continued that 404 claims are currently being reviewed, 215 claims are pending additional information from the student, and 132 claims have been sent to the State Controller's Office for payment. She noted that there are a total of 751 active claims. She added that, of the 132 claims that have been processed for payment, 13 were for Corinthians and

totalled \$14, 394.83. She concluded that 6 Corinthians claims were deemed ineligible, 4 were denied, and 12 new Corinthians claims were received.

Mr. Vice asked how long it typical takes to process a STRF claim. Ms. Rifredi estimated that it can take between 60 to 90 days.

Ms. Reiter asked, in regards to the claims that are pending additional information, if the information needed is requested in the application or is it additional information that is not requested in the application. Ms. Rifredi responded that it is generally missing information that was originally requested in the application. She added that it could be pending the outcome of a loan discharge, or it could be insufficient evidence of the economic loss claimed.

Ms. Reiter asked if the number of claims coming from Corinthians student were low due to the students having their loans discharged. Ms. Rifredi confirmed that many of the Corinthians students had their loans discharged. Ms. Lee-Carey asked if the Bureau is expecting an increase in claims filed by Corinthians students due to the changes in Senate Bill No. 1192 (Changes to the California Private Postsecondary Education Act of 2009). Ms. Rifredi responded there is an expected increase due to the inclusion of Heald College students. She noted that the Bureau has reached out to Heald students who have previously denied claims and will be reaching out to other Heald students regarding the change in STRF eligibility. Ms. Wenzel added that the Bureau is preparing to reach out to all Corinthian students to include Everest, Heald, and WyoTech.

Ms. Lee-Carey asked how much money is currently in STRF. Ms. Rifredi reported that there is currently 27.5 million dollars in STRF.

Student Outreach Report:

Ms. Rifredi reported that the Bureau attended the following events: in July 2016 the Chicano Latino Expo in Sacramento; in August 2016 the Chicano Latino Youth Leadership Expo in Los Angeles; in October 2016 the SoCal College Fair in Pomona; in October 2016 the Latino College Expo in Montebello; in October 2016 the Tru Hope Youth Summit & College /Career Fair in Stockton; and in November 2016 the Cash for College Expo in Los Angeles. She pointed out that with the establishment of OSAR to expect participation in many more outreach events for current and prospective students.

Ms. Reiter asked whether any of the outreach events listed included outreach to the schools that closed. Ms. Rifredi responded that the events listed do not include closed schools. Ms. Wenzel added that the Bureau deployed staff to every school closure, including multiple locations for the closure of ITT Technical Institute.

Ms. Rifredi reported that as of January 2017 the Bureau has received 7381 transcript request for Corinthian Schools. She noted that 429 Corinthians student transcripts were not found due

to the student attending a non-degree program prior to 2000; the school campus not being located in California; or the Bureau not being the custodian of the transcript.

Ms. Reiter asked how the Bureau handles a request for a transcript when the campus is not located in California. Ms. Rifredi stated the Bureau directs the student to the agency located in the same state as the campus or provides any other information the Bureau has on the custodian of the transcript.

Public Comment:

Robert Johnson representing California Association of Private Postsecondary Schools provided a public comment. Mr. Johnson stated that there have been instances when institutions received contradictory information from separate units of the Bureau regarding compliance issues. Mr. Johnson asked the Committee which department has the final say on compliance issues. Ms. Wenzel responded that the Enforcement unit makes the final determination on matters regarding compliance. Mr. Johnson stated that there seems to be an issue with interpretation of statutes and regulations from one unit to another. He continued that the approval unit may say one thing, while the enforcement unit says something different. Ms. Wenzel stated that the best course of action would be for the institution to ask for input from management in that unit regarding issues of interpretation. Ms. Wenzel added that one of the greatest challenges for the Bureau is consistency in the application of statutes and regulations.

Mr. Johnson explained a scenario where an applicant sends in additional information based upon request from the Bureau, but never receives a response back on whether the additional information met the requirements of the request. He asked if there is a letter that is generated for these types of instances. Ms. Wenzel explained that there are three types of letters that may be sent to an institution. She stated if the initial application is missing information, then an incomplete application letter will be sent letting the institution know what information was not included. She continued that upon further review by a licensing analyst there may be a deficiency letter sent out, or the analyst may call the institution to request additional information. She added that the licensing analyst will only send one deficiency letter to the institution. She continued that when the application moves on to the Bureau's quality of education unit, then the analyst in quality of education may also send a deficiency letter asking for additional information. She concluded that, following those steps, if an applicant is denied, then a denial letter will be sent out.

Mr. Johnson reiterated that the licensing unit could find something deficient that another unit may not find deficient. Ms. Rifredi responded that the licensing unit will only send one deficiency letter. She continued that if the institution still has deficiencies after responding to the deficiency letter the licensing unit sent, then the application still moves on to the quality of education unit. She stated that the quality of education analyst will include the deficiencies carried over from the licensing unit in the deficiency letter that goes out from the quality of education unit. She added that the quality of education unit may discover deficiencies that are specific to quality of education and will include those deficiencies in the letter.

Ms. Wenzel stated that deficiencies included in a letter sent out by the quality of education unit are not necessarily contradictory or new, but may have been unresolved while in the licensing unit and then carried over with the application. She added that in the past the Bureau sent additional deficiency letters, which resulted in a longer application process. She explained that if an analyst is continually sending deficiency letters to an institution, then that analyst will not have as much time to work on additional applications from other institutions. Ms. Wenzel concluded that the Bureau is always looking for ways to improve processes.

Mr. Johnson commented on transcript retention. He stated that California needs a repository for student transcripts. Ms. Reiter asked Mr. Johnson if his organization has conducted research on what a repository would cost, and what fees institutions could potentially pay to cover the cost of a repository. Mr. Johnson responded that, with the advancements and cost reductions in digital storage, it would cost much less now than when transcripts needed to be stored in a large warehouse. Ms. Wenzel noted that the Bureau has increasingly taken on the role of retaining student transcripts for students.

Mr. Johnson stated that his organization looked at the cost of running a transcript repository. He pointed out that an independent non-profit organization would not have the statutory authority needed to mandate the use of a repository. He continued noting that direction from legislation would be required for a non-governmental entity to effectively run a transcript repository.

Agenda #8 - Informational Report on the Status of Accrediting Council for Independent Colleges and Schools' (ACICS) Recognition by the Department of Education

Ms. Wenzel provided a report on ACICS. She explained that on June 23, 2016 National Advisory Committee on Institutional Quality and Integrity (NACIQI) recommend to the Department of Education that ACICS re-recognition be denied. She continued that on July 1, 2016 the Bureau contacted 64 institutions that were approved by means of accreditation with ACICS to alert the institutions of the situation and to invite them to attend a stakeholder meeting on July 14, 2016. She added that at the stakeholder meeting she talked about an institutions status of approval to operate should the Department of Education end recognition of ACICS. She stated that institutions will retain approval with the Bureau until the Bureau takes an action to remove their approval to operate. She added that it is possible emergency actions could be taken if the Bureau believes there is immediate harm to students. She noted that at the stakeholder meeting resolutions were discussed to deal with the immediate situation and to offer institutions ways to reduce risk. She concluded that institutions were advised to apply for "full" approval (approval for institutions not accredited).

Ms. Wenzel stated that on July 26, 2016 the Bureau sent letters to students of ACICS institutions. She added that the letter explained what was happening with ACICS, and encouraged students to speak with their institutions regarding their institutions plan in the

event ACISC loses recognition by the Department of Education. She added that the letter included links to the Department of Education that explained the issues and accusations pertaining to ACICS. She pointed out that students were informed the actions being taken against ACICS were not a direct reflection of their institution.

Ms. Wenzel explained that on September 22, 2016 the Department of Education accepted the recommendation of Department staff and NACIQI to deny renewal of recognition. She added that on September 22, 2016 the Bureau sent letters to institutions requesting information on their plan of action in response to ACICS's situation and requested current student rosters. She continued that on October 3, 2016 a letter was sent to students advising them of the ongoing situation with ACICS and urging them again to speak to their institution.

Ms. Wenzel stated that on October 21, 2016 ACICS appealed the decision, and they remained recognized until a final action on the appeal was taken. She continued that on December 22, 2016 the Secretary of Education upheld the decision of the Department of Education and recognition of ACICS ceased. She noted that institutions with Title IV were given 18 months to find new accreditation.

Ms. Wenzel reported that the vast majority of ACICS institutions applied for full approval with the Bureau. She added that Bureau has been in the process of drafting and prioritizing actions against institutions based on non-compliance and potential student harm.

Ms. Wenzel explained that ACICS was denied a temporary restraining order on December 21, 2016, and on December 22, 2016 ACICS filed suit in DC court. She added that a hearing on the issuance of a preliminary order will be held on February 21, 2017.

Mr. Holt asked if the Bureau has received information from institutions that was requested in the letters that were sent. Mr. Barnard replied that the majority of institutions have provided the information that was requested. Mr. Holt asked if the Bureau was satisfied with the information received or if there are concerns regarding institutions that have not provided the requested information. Ms. Wenzel replied that the Bureau has concerns and is taking appropriate action.

Agenda #9 - Summary of Major Provisions in Senate Bill No. 1192: Changes to the California Private Postsecondary Education Act of 2009

Ms. Wenzel reported on the major provisions in Senate Bill No. 1192. She referred to Attachment 9A (December 6, 2016, letter to institutions regarding changes to SB 1192) in the meeting materials and outlined the major provisions.

Public Comment:

Mr. Johnson made a comment regarding the fee increases set forth by Senate Bill No. 1192. Mr. Johnson stated that his organization was able to demonstrate with some evidence that the fees proposed by the new bill will exceed Bureau needs. He suggested that moving forward the Bureau should assist with reassessing fees to ensure it is not exceeding its needs. He expressed that his organization does not think the Bureau should over fund. He stated that his organization aims to resolve fee disagreements between the Bureau and institutions before it becomes a legislative dispute. He continued that increased fees ultimately result in the students paying more for their education. He concluded that the Bureau should continually monitor the fee structure.

Ms. Wenzel responded that the Bureau is monitoring and tracking fees. She added that the fees are being tracked based on school code to include data from main and branch campuses. She noted that the new fee structure went in to effect in January 2017, and the Bureau will continue to track the fee data moving forward. Mr. Johnson pointed out the importance of tracking branch fees because the fee structure for branches changed significantly.

Agenda #10 - Review of Requirements in the Bagley-Keene Open Meeting Act (Government Code Section 11120 et seq.)

Bureau Legal Counsel Mina Hamilton and Norine Marks provided a presentation on the Bagley-Keene Open Meeting Act. Ms. Hamilton stated that members, as individuals and/or as a group, of the Committee are responsible for adhering to the Bagley-Keene Open Meeting Act. She summarized the Act explaining that its primary purpose is to ensure all Committee activities are open to the public. She added that a knowing violation of the Act is a misdemeanor and can result in a civil lawsuit. She outlined Attachment 10A (Top Ten Rules of the Bagley-Keene Open Meeting Act).

Ms. Reiter asked for clarification regarding having discussions with other members outside of a meeting. Ms. Marks recommended that discussion stay between no more than two members at once to avoid the chance of the discussion reaching a majority of the members.

Mr. Holt asked if there are any restrictions against members getting together if Committee business is not discussed. Ms. Marks explained that it is acceptable as long as there is no discussion on topics that are within the jurisdiction of the Committee.

Agenda #11 - Status Updates related to the following Previously Noticed Regulations

Ms. Wenzel provided a status update on previously noticed regulations. She stated that Title 5, CCR Section 74110 and 74112 (Annual Report, School Performance Fact Sheet Disclosures) were approved on July 14, 2016 and are currently being implemented. Ms. Wenzel added that

because the regulations included material changes to the Annual Report and School Performance Fact Sheet the Bureau has conducted workshops to assist institutions with the changes.

Ms. Wenzel stated that there have been multiple modifications to STRF. She noted that most recently on February 7, 2017 modified language was presented that includes a Spanish language application and other amendments. She added that the comment period ends on February 23, 2017.

Ms. Wenzel explained that Title 5, CCR Section 75200, 75210, and 75300 (Compliance Inspection and Complaint Prioritization) new and modified regulations will be sent to the Office of Administration Law (OAL) on February 15, 2017. She added that OAL will have 30 days to approve the modifications or suggest changes.

Agenda #12 - Discussion of Draft Regulatory Language regarding Registration for Out-of-State Private Postsecondary Educational Institutions (Emergency and Permanent Regulations)

Ms. Lee-Carey led the discussion on the draft regulatory language regarding registration for out-of-state private postsecondary educational institutions. She referenced the draft language in Attachment 12A (Proposed Language to Adopt Section 71396 of Division 7.5 of Title 5 of the California Code of Regulation (CCR) (Application Form; STRF Compliance). She asked the Committee for comments on the proposed language.

Ms. Reiter asked how soon the Bureau anticipated filing the proposed language. Ms. Wenzel replied that the Bureau will be moving forward with the language as soon as possible. She added that the Bureau has a mandate to have out-of-state institutions registered by July 1, 2017. She explained that the out-of-state registration application will be processed as an emergency regulation, but the full package will go through the normal regulatory process.

Ms. Lee-Carey asked for clarification on the emergency regulatory process. Bureau Legislative Analyst Kent Gray provided clarification on the emergency process. He explained that once internal approval is obtained from the Department, then there is an advance notice for intent of emergency regulation. He added that there is a 5 day public comment period. He stated that following public comment the emergency package is submitted to OAL, which has 10 business days to process the package. He noted that OAL will continue to accept public comments within the first 5 days of the 10 day period. He explained that following approval by OAL, the emergency regulation will last for 180 days. He added that the emergency regulations can be extended twice for 90 days at a time. He concluded that the permanent regulations for out-of-state registration must be completed by the January 1, 2018 statutory deadline.

The Committee deferred to make a formal recommendation to the Bureau regarding the proposed language for the adoption of Section 71396, 71397, 71398, and 71399 of Division 7.5

of Title 5 of the California Code of Regulation. The Committee agreed that individual Committee members could submit comments during the public comment period.

Agenda #13 - Discussion of Draft Regulatory Language regarding English as a Second Language Programs (Title 5, California Code of Regulations, Chapter 1, Section 70000 (k))

Ms. Wenzel provided background on English as a second language (ESL) programs. She explained that ELS programs involve English language learning, the recruitment for students is conducted primarily outside of the United States, and there is no set time frame or specific learning objectives. She added that the programs are not considered vocational because they do not directly lead to employment, and they are not considered academic because they focus only on English as a language. She noted that it is impractical for ESL institutions to complete a performance fact sheet because there are no placement results to be reported. She stated that students of ESL programs are generally not eligible for STRF because they are typically not California residents. She concluded that the current regulatory language does not exempt ESL institutions as it originally intended to do so.

Ms. Reiter pointed out that the proposed language does not exclude ESL institutions that enroll California residents. She explained that, by not excluding institutions that enroll residents of California, there is a possibility institutions that represent job placement could gain exemption. Mr. Vice stated that some institutions offer ESL programs to visa only students, but also offer vocational programs to California residents. Ms. Wenzel stated that the proposed language only pertains to institutions that offer ESL programs exclusively because the Bureau does not deal with program exemptions. She continued that an institution that offers any programs in addition to ESL would not be eligible for exemption under the proposed language.

Ms. Reiter stated that there are often agents that work in foreign countries who recruit students to ESL programs in California. She stated that an agent could make misrepresentations to potential students. She concluded that, in order to gain exemption, an institution should be required to take on liability for the conduct of its recruitment agents. Ms. Wenzel questioned how the Bureau would enforce a provision that deals with activities occurring in a foreign country. Mr. Holt suggested adding language that states that an institution be required to exercise due diligence in monitoring its agents recruitment practices. Mr. Vice stated that the proposed language requires ESL institutions to be accredited, and added that by definition visa students are not allowed to work in the United States. Ms. Reiter clarified that the institution should be required to take liability for any misrepresentation made by the agent.

Ms. Reiter stated that the language should include criteria that states the student may receive a certificate of completion, but shall not receive a diploma or any type of degree upon completion.

Ms. Reiter stated that the language should require institutions to provide an explicit disclaimer to students explaining that the program is strictly recreational and is not intended to lead to job placement or entrance into another educational institution.

Ms. Reiter stated that the portion of the proposed language in CCR 7000 (k)(2)(E-H) should align with standard financial language for the sake of interpretation.

Ms. Reiter stated that the word “offered” in the proposed language in CCR 7000 (k)(3)(B) should be changed to another word like “represent.”

Ms. Reiter stated that the Bureau may want to consider including a dollar amount cap in the language. Mr. Vice responded that being overly prescriptive or restrictive in the language could exclude many, otherwise suitable, institutions from gaining exemption.

Public Comment:

Dr. Raymond Trybus, President of San Diego University of Integrative Studies, provided a comment on the proposed language defining ESL programs. Dr. Trybus stated that his institution strongly opposes the proposed language. He stated that it is unequitable to require institutions that offer ESL programs and vocational programs to go through the approval process required by the Bureau, but not require institutions that only offer ESL programs to go through the same approval process. He also stated that ESL programs require accreditation, which is based on academic standards. He continued that it follows that all ESL institutions should be subject to the approval process through the Bureau because both accreditation and approval deal with academic standards.

Dr. Trybus continued pointing out activities of unregulated ESL institutions. He stated that some institutions fail to generate refunds. He noted instances of recruiting agents misleading students. He concluded that without the Bureau’s oversight the students have no consumer protections.

Dr. Trybus stated that some ESL institutions offer preparation for the Test of English as a Foreign Language (TOEFL). He claimed that preparation for the TOEFL, if not vocational, is at least related to higher education. He concluded that ESL institutions are not purely recreational, but rather prepare students for higher education.

Dr. Trybus noted, in regards to the student performance fact sheets, that the placement numbers may not be relevant, but the program completion numbers are relevant.

Patrick Whalen of Ellison Wilson Advocacy provided a comment on the proposed language defining ESL programs. Mr. Whalen stated that the coalition he represents does not agree that institutions that exclusively offer ESL programs are the same as institutions that offer ESL programs combined with vocational or academic programs. Mr. Whalen characterized the students who attend the institutions in his coalition as those who want a recreational

experience that includes a full immersion into the English language. He stated that some students do take the TOEFL or attempt to gain citizenship in the United States, but that is not the core of the students who attend the institutions in his coalition. He added that the focus is on marketing the cultural and tourist aspect, and that recruiting agents are basically travel agents.

Mr. Whalen stated, in regards to the student performance fact sheets, that the program completion rates are difficult to report because students sometimes jump from one program to another without finishing. He added that the fact sheets were intended to regulate vocational or degree granting institutions, while ESL institutions he represents do not offer those types of programs.

Agenda #14 - Discussion of Draft Regulatory Language regarding Application Processing Goals and Timelines pursuant to California Education Code section 94888(b)(2)

Ms. Lee-Carey started the discussion on the draft regulatory language regarding application processing goals and timelines pursuant to California Education Code (CEC) section 94888(b)(2). She summarized the language as requiring the Bureau to notify institutions of an approval within 30 days of the Bureau deeming the application complete and compliant.

Ms. Reiter stated that the drafted language should match CEC section 94887 (Granting Approval to Operate) to say the “applicant has presented sufficient evidence to the Bureau, and the Bureau has independently verified the information provided by the applicant...the applicant has the capacity to satisfy the minimum operating standards.”

Agenda #15 - General Discussion of Upcoming Rulemaking Packages

Ms. Wenzel provided a status on upcoming rulemaking packages. She explained that the new applications will span multiple rulemaking packages. She noted that the Bureau is working to amend the applications to ensure they are more complete. She added that if any interested parties would like to provide input on the Bureau’s applications or minimum operating standards, then the Bureau will work to address any concerns. She concluded that the Bureau is aiming to have proposed language for the applications at the May 15, 2017, BPPE Advisory Committee meeting.

Agenda #16 - Future Agenda Items

Ms. Wenzel asked for input from the Committee on future agenda items. Ms. Reiter stated she would like more information on the Bureau’s process for issuing and following up with a Notice to Comply. She also stated she would like more information on how the Bureau tracks whether students are getting accurate information in student disclosures.

Public Comment:

Laura Brown with the California Coalition of Accredited Career Schools provided a public comment on future agenda items. She stated that she would like to see an agenda item on the annual fees, in regards to the amount the Bureau has collected and a possible projection on the future intake of fees.

Agenda #17 - Adjournment

Mr. Vice moved to adjourn the meeting; Ms. Amaya seconded. (Ms. Reiter: Aye; Mr. Vice: Aye; Ms. Amaya: Aye; Mr. Holt: Aye; Ms. Jimenez: Aye; Ms. Lee-Carey: Aye). The motion passed. The meeting adjourned at 4:30 p.m.