



**Advisory Committee Meeting Minutes**  
**Thursday, August 16, 2018**

**Department of Consumer Affairs**  
**Hearing Room, 1<sup>st</sup> Floor**  
**1625 North Market Blvd.**  
**Sacramento, CA 95834**

**Advisory Committee Members in Attendance**

1. Diana Amaya
2. Joseph Holt
3. Katherine Lee-Carey
4. Margaret Reiter
5. Megumi Tsutsui
6. David Vice
7. Kevin Powers (on behalf of Assemblymember Jose Medina)
8. Sarah Mason (on behalf of Senator Jerry Hill)

**Committee Members Absent**

Tamika Butler  
Hanya Carbajal

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

Dr. Michael Marion Jr., Bureau Chief  
Leeza Rifredi, Deputy Bureau Chief  
Yvette Johnson, Enforcement Chief  
Beth Scott, Enforcement Chief  
Marina O'Connor, Licensing Chief  
Robert Bayles, Education Administrator  
Scott Valverde, Office of Student Assistance & Relief Chief  
Mina Hamilton, Legal Counsel, Department of Consumer Affairs  
Kristy Schieldge, Legal Counsel, Department of Consumer Affairs  
Kent Gray, Legislative Analyst  
Dean Grafilo, Director, Department of Consumer Affairs

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

BPPE Advisory Committee Chair Katherine Lee-Carey called the meeting to order at 9:31 AM.

## **Agenda #2 - Public Comment on Items not on the Agenda**

No public comments.

## **Agenda #3 - Review and Approval of May 15, 2018, Advisory Committee Meeting Minutes**

Margaret Reiter recalled suggesting a future agenda topic discussing the Bureau taking a lead role in identifying bad actor institutions. She stated that the suggestion for a future agenda topic was not included in the meeting minutes. Kristy Schieldge, DCA Legal Counsel, noted that the Committee could table the minutes until the next meeting to allow for additional review. Ms. Reiter responded that she did not think it was necessary to table the agenda item.

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

## **Agenda #4 - Remarks by Representative of the Department of Consumer Affairs**

Dean Grafilo, Director of Department of Consumer Affairs (DCA), provided remarks on behalf of DCA. He congratulated Dr. Michael Marion Jr. for his Senate confirmation as Bureau Chief. He reported on the success of his first teleconference meeting with various board members and advisory committee members. He added that there will be another teleconference meeting later this year. He explained that the August 6, 2018 Directors Quarterly meeting included bias training and added that the next meeting will be held on October 29, 2018. He explained that licensing and enforcement workgroups continue to meet monthly to discuss specific ideas to innovate in areas of licensing and enforcement. He noted that, during the August 2018 workgroup, the licensing workgroup discussed a tool for streamlining correspondence. He thanked the Bureau for continuing to participate in the workshops. He reported on the second cohort of the DCA Future Leadership program. He noted the importance of building future leaders and encouraged the Bureau to continue to participate in the program.

Mr. Holt asked about an update on the information systems for the Bureau. Mr. Grafilo noted that there was extensive work completed in the first phase, such as business process mapping. Dr. Marion reported that the Bureau is in phase 2 and that there would be an update on the progress provided later in the meeting.

## **Agenda #5 - Bureau Operations Update and Discussion**

### **Annual Reports and Compliance Report:**

BPPE Enforcement Chief Beth Scott provided a report on the compliance and annual reports units. Ms. Scott stated that she has been working with SOLID to form a workgroup on the inspection process. She added that the workgroup will include staff members from other boards and bureaus.

Ms. Scott noted that the unit filled both vacant inspector positions and is close to filling its vacant Office Technician position.

Ms. Scott referred to Attachment 5B in the meeting packet. She highlighted the increase, from the first quarter to the second quarter, in number of inspections performed by the compliance unit. She added that she expects to see an increase in the number of inspections to continue.

Ms. Reiter asked how an inspector would proceed when discovering an institution does not have school performance fact sheets (SPFS) on file. Ms. Scott stated that not having the SPFS on file is a statutory material violation that would result in an enforcement referral and likely a citation. Ms. Reiter asked if it would also be a violation if refund calculations were not found in a student file. Ms. Scott stated that a determination would be made on a case by case basis with student protections as the primary concern. She continued that part of the determination would be based on whether the institution was issuing refunds or if the institution was not properly documenting the refunds. Ms. Reiter asked how the inspector would determine if the refund was actually made if it was not properly documented. Ms. Scott responded that the inspector can cross reference other documentation such as financial ledgers.

Ms. Tsutsui asked if inspectors spot check the amount students were refunded based on the amounts outlined in the enrollment agreement and compare those amounts to the amount a student received from federal funding. Ms. Scott explained that inspectors use a worksheet to do calculations to ensure students are receiving the proper refund. Ms. Tsutsui asked if that was performed proactively, even without a student complaint regarding refunds. Ms. Scott stated that the process is part of the inspection.

Ms. Reiter suggested, as part of the upcoming IT system, including “date” as a searchable component when searching for inspection results on the Bureau’s website. Ms. Lee-Carey commented that some statuses, with the same outcome, are listed on the website inconsistently and that it would be more helpful if the same statuses were consistently labeled with the same language.

Ms. Reiter asked when the Bureau expects to catch up on the mandatory number of inspections required by statute. Ms. Scott stated that once the goal of each inspector performing three inspections a month is met, then the Bureau will fulfill the statutory requirement. Ms. Scott

added that the number of inspections performed is trending up, and the unit is making strides in catching up.

Ms. Amaya asked how many inspections the Bureau is statutorily required to perform.

Ms. Scott replied that the Bureau is required to perform two inspections per institution within a five-year period.

Ms. Scott provided a report on the annual report unit. She detailed how the unit has assigned staff members to assist new schools with the annual report submission process. She continued that this gives new schools more hands-on assistance with the process and its requirements, which should result in less compliance issues and greater student protections. She detailed that the unit held a successful conference call with new schools allowing them an opportunity to ask questions and seek direction.

Ms. Scott reported that the Office of Information Services (OIS) is currently working with the Bureau to improve the annual report submission process. She noted that the opening of the online portal for annual report submissions has been delayed until the new system is in place in October 2018. She explained that the new system will make the process more efficient for institutions and Bureau staff. She stated the new system will let an institution save the progress of its submission allowing the institution to continue the submission at a later time. She added that the new system will increase efficiencies for staff, which will result in annual reports becoming available for review online much sooner. She noted that the due date for an institution to submit its annual report will be extended, and that tutorials will be included with the release of the new system.

Ms. Reiter asked if the conference calls were announced and available to Committee members. Ms. Scott explained that the calls are advertised on the Bureau's website and through email blasts. She continued that the calls are limited to 20 lines, and there has continually been a high demand from institutions who want to participate. Ms. Lee-Carey suggested including a webcast of the conference calls.

Mr. Bayles detailed the surveys that are distributed to students during compliance inspections. He referred the Committee to the current and proposed surveys under Attachment 5B in the meeting packet. He explained that the proposed survey has been revised to be compatible with the Bureau's Scantron system. He explained that Scantron allows staff to generate an immediate analysis. Ms. Lee-Carey asked how staff handles narrative responses using Scantron. Mr. Bayles stated that Scantron has the capability to identify text narrative in the comment section.

Mr. Vice suggested, in regard to the School Performance Fact Sheet (SPFS) survey question, including an explanation of what is a SPFS. He noted that a student may not know what a SPFS entails.

Mina Hamilton, Bureau Legal Counsel, advised that since the student survey is not a specific agenda topic, the Committee should hold off on comments. Dr. Marion stated that the Committee can provide comments to Bureau staff.

Ms. Reiter asked if the survey is given to both current students and former graduates. Mr. Bayles responded that the survey is only provided to current students.

#### Enforcement Report:

BPPE Enforcement Chief Yvette Johnson provided a report on the enforcement unit. She explained that the unit is down to three vacancies and is currently interviewing for those positions. She added that current staff has been mentoring new staff through a unit implemented buddy system.

Ms. Johnson detailed that the unit has increased its collaborative efforts with other DCA boards and bureaus. She noted that the unit recently, working closely with the California Board of Barbering and Cosmetology, issued three emergency decisions to ensure student protections. She added that staff has also been collaborating with the Department of Insurance and Department of Industrial Relations to investigate quality of education concerns in instances when students use worker compensation and/or vouchers to fund educational expenses.

Ms. Johnson reported that the Office of Attorney General (OAG) will be providing staff with training in investigative techniques, courtroom testifying, evidence collection, and report writing. She added that the training will be beneficial to both new staff and senior staff, and that it will provide a more complete picture of the investigative process. Ms. Mason asked who from OAG will be providing the training. Ms. Johnson responded that staff from the OAG licensing section will be conducting the training.

Ms. Johnson outlined an update to the unit's procedures for outreach efforts with students who have filed complaints. She explained that staff is sending letters to students who have had no contact with the Bureau in 2018 to provide an opportunity for students to re-engage with the Bureau.

Ms. Johnson explained that the unit has started to develop specialized teams to address specific issues. She provided the example of a team that is dedicated to handling student refund complaints. She added that specialized teams are increasing efficiencies in the complaint process and resulting in faster turnaround times.

Ms. Johnson referred to Attachment 5A in the meeting packet and outlined positive impacts resulting from investigator's advocacy on behalf of students.

Ms. Tsutsui asked what the Bureau's process is for identifying a custodian of records when an institution closes. Ms. Johnson explained that when a school closes the school is required in regulation to assign a custodian for student records and to provide the Bureau with the contact

information for the custodian. Ms. Tsutsui asked what occurs when a school closes due to the owner being a bad actor, but the owner is listed as the custodian of records. Ms. Hamilton explained that legislative actions would be required to bring about further changes to the custodian of records framework. Ms. Tsutsui suggested that, without implementing new regulations or statutes, the Bureau review processes to determine if there is a way to ensure student records are always maintained.

Ms. Reiter asked what attributed to the upward trend of complaints closed in May and June of 2018. Ms. Johnson reported that managers worked overtime to help with the backlog.

Ms. Reiter asked what sources for complaints are generated internally. Ms. Johnson explained that internally generated complaints originate from Bureau staff, which sometimes are triggered by anonymous tips.

Mr. Vice asked what the difference in priorities is assigned to complaints. Ms. Johnson stated that urgent complaints hold some aspect of the following: immediate danger to public safety, health, or welfare, imminent or ongoing criminal activity, unlicensed activity posing immediate danger to the public, financial fraud with potential to harm a substantial number of people, and arrest or convictions. She added that high priority complaints can consist of significant financial harm to an individual, and/or unlicensed activities.

Ms. Tsutsui asked if students are informed that there is a 3-year statute of limitations on fraud accusations. Ms. Johnson stated that the Bureau informs students that filing a complaint with the Bureau does not prohibit them from seeking other remedies regarding fraud accusations. Ms. Hamilton added that the 3-year statute of limitations applies to civil law but does not apply to the Bureau when investigating accusations of fraud.

Mr. Vice asked if the Bureau works with accrediting agencies to resolve complaints when it involves a school that is accredited. Ms. Johnson replied that the Bureau works with accrediting agencies when it applies.

Ms. Tsutsui suggested that, when a student attended a university more than 120 days prior to the school closing and the student experienced a significant loss in quality of education, the Bureau should review the provision that grants the student eligibility for the Student Tuition Recovery Fund (STRF).

#### Licensing Report:

Bureau Licensing Chief Marina O'Connor provided a report on the licensing unit. She referred to Attachment 5C in the meeting packet and outlined the statistics. She pointed out that the majority of full approval and renewal of full approval applications are only a few months old.

Ms. Lee-Carey asked how the unit is on staffing. Ms. O'Connor stated that the unit has one vacancy that will be posted soon.

### Education Administration Report:

Education Administrator Robert Bayles provided a report on the Quality of Education Unit. He reported that his team was involved in the business process mapping in preparation for the Bureau's new IT system. He added that the business process mapping is part of stage 2 of the Department of Technology's (DOT) 4 stage process for implementing a new IT system. He noted that DOT approved the Bureau's plan in May 2018. He continued that the Bureau is currently working on a business requirement document as part of the stage 2 process.

Mr. Bayles outlined Attachment 5D in the meeting packet. He noted that the unit is tracking 49 schools that are required to achieve full accreditation by July 1, 2020.

### Student Tuition Recovery Fund (STRF) Report:

Office of Student Assistance and Relief (OSAR) Chief Scott Valverde provided a report on OSAR. Mr. Valverde reported that OSAR had meetings to build partnerships with the following groups: California Workforce Association, Sacramento Employment and Training Agency, California Massage Therapy Council, Goodwill Industries, Board of Barber and Cosmetology, Breakthrough Sacramento, California Community College Chancellor's Office, San Diego Community College District, and the California Student Aid Commission. He noted that the efforts have been focused on expanding OSAR's knowledge base, access to resources, and student outreach opportunities.

Mr. Valverde detailed efforts to increase awareness of OSAR. He explained that, following OSAR presentations at outreach events, awareness has been increasing as a result of word of mouth. He noted that OSAR has been proactively using web resources, such as social media, to push information to the public. He added that OSAR has worked closely with DCA's Office of Public Affairs to utilize print, radio, and TV media to increase awareness of OSAR's services. He stated that OSAR flyers have been placed in all of the America's Job Center locations in the Sacramento area, and that OSAR intends to work with the California Workforce Association to place flyers in all workforce locations throughout the state.

Mr. Valverde reported that OSAR is continuously working with Bureau chiefs and the Closed School unit to prepare for any impending school closure. He added that staff is working on the logistics of setting up workshops with schools that have expressed intent to close. He noted that webpages pertaining to specific school closures have been added to the OSAR website. He outlined that since the previous Committee meeting OSAR staff organized four outreach events for school closures.

Ms. Tsutsui asked what outreach OSAR intends to do for the closure of The Art Institute of California and Argosy University. Mr. Valverde stated that, in addition to providing information online, advance notices will go out directly to students regarding workshops that will be available during the day and evening. He added that staff will evaluate other institutions that offer similar programs and are in close proximity geographically to the closing campuses. He noted OSAR will also coordinate with the Community College Chancellor's Office to provide information on similar programs. He noted that focus will be placed on ensuring adequate resources are made available to students.

Ms. Mason asked what resources are needed and allocated for a school closure workshop. Mr. Valverde responded that the resources needed varies depending on the situation. He continued that initially the focus is on introducing OSAR to the students to ensure there is an understanding of why OSAR is holding the workshop and what OSAR has to offer the students. He added that the majority of the time spent at workshops involve staff working with students one on one to ensure needs are met. He noted that STRF application assistance is also a major focus.

Ms. Reiter suggested adding a link to community colleges on the OSAR website. She added it would be helpful to have a breakdown on the difference in the cost of attending a public and private college.

Mr. Vice suggested highlighting the waiting list and graduation rates for public colleges.

Ms. Schieldge recommended OSAR be careful to not advocate for one type of education over another. She suggested OSAR only provide data based on student goals.

Mr. Holt suggested adding third-party entities and resources, such as the College Scorecard that is provided by the Department of Education.

Mr. Valverde detailed Attachment 5E in the meeting packet.

Ms. Mason asked if OSAR has performed an analysis on how many students are eligible for STRF. Mr. Valverde stated that analysis has not been performed. Ms. Lee-Carey noted it would be difficult to determine the number of students who are eligible for STRF because eligibility is unknown until a student applies. She added that it would be helpful to have a general idea on the numbers. Mr. Valverde explained that much of OSAR's focus in regard to data analysis has been on meeting statutory and regulatory reporting requirements. He added that OSAR can look at providing broader projections moving forward.

Mr. Valverde outlined the example PowerPoint presentation provided in Attachment 5E in the meeting packet. He noted that presentations are tailored depending on the audience. He added that staff is working on a student handbook for researching colleges. He noted that staff will also be putting up additional resources on the OSAR website.

Ms. Reiter asked if any new or additional methods have been utilized to locate students. Mr. Valverde reported that staff have been using LexisNexis and the National Loan Service Database.

Mr. Reiter asked if staff are including information about OSAR with transcript request responses. Mr. Valverde explained that information regarding OSAR is in the process of being added to the transcript information page on the Bureau's website. He added that an OSAR flyer is currently going out to students who have requested a transcript.

Public Comment:

No comment.

**Agenda #6 - Status Updates on Regulations**

Dr. Marion pointed to the meeting agenda and provided a status update on Bureau regulations. He reported that the package Registration for Out-of-State Private Postsecondary Education Institutions (CEC sections 94850.5 and 94801.5) has been approved by the Office of Administrative Law (OAL). He noted that the English as a Second Language Program (Title 5, CCR, Section 7000 (k)) regulatory package and the Application for Verification of Exempt Status (CEC Sections 94874, 94874.2, 94874.7, 94874.5, and 94927.5) regulatory package is currently being reviewed by DCA. He stated that the Compliance with Laws Procedures (Title 5, CCR, Section 71755) regulatory package has been noticed and is under review by Bureau counsel.

Ms. Mason asked if timelines for each regulatory package could be added to future status updates. Dr. Marion stated that the idea has already been discussed, and that timelines will be incorporated in the future.

Public Comment:

No comment.

**Agenda #7 - Discussion Regarding Assembly Bill 1178 (Postsecondary Education: Student Loans) (2017-2018) Regarding Student Debt Disclosures**

Mr. Gray detailed Assembly Bill 1178 and the resulting general provision under CEC 69509.6. He explained that the provision requires institutions to provide students with specific individualized student loan and financial information. He noted that, by law, all Bureau approved institutions are required to abide by the new provision.

Ms. Lee-Carey asked if Out-of-State registered schools are required to follow the provision. Mr. Gray stated that, in regard to the Bureau, Out-of-State registered schools are not required to follow the provision.

Ms. Tsutsui asked who is currently enforcing the provision. Mr. Gray stated that the California Student Aid Commission has jurisdiction over the provision, as well as other law enforcement entities in the state.

**Public Comment:**

Robert Johnson, representing California Association of Private Postsecondary Schools (CAPPS), provided a public comment. Mr. Johnson stated that it is troubling for the Bureau to apply a general provision of the law to a specific scenario. He stated that there have been instances in the past when the Bureau cited an institution for a specific issue based on a general authority. He stated that he appreciates that the Bureau is working on a regulation based on a specific statute. Dr. Marion asked, for educational purposes, if Mr. Johnson could send him the referenced instances when a school was cited for a specific issue based on general authority.

**Agenda #8 - Future Agenda Items**

Ms. Lee-Carey suggested providing an update on Bureau financials in regard to the new fee structure. She added that it would be helpful to highlight the impacts and difference resulting from the fee change.

Ms. Mason suggested adding a discussion on the interworking relationships the Bureau's Enforcement unit has with other boards and bureaus. She added that the discussion could include an outline of all the entities that have a memorandum of understanding with the Bureau.

Mr. Holt suggested adding an update on the Bureau's IT system project under the on-going Bureau Update agenda item.

Ms. Reiter requested that the Committee be provided with a sampling of complaints. She noted that once a sampling is provided to the Committee, then it could be discussed at a future meeting.

Ms. Reiter suggested having a discussion on the Bureau being the lead agency in identifying problematic schools. She noted that the discussion could include recommendations on what is needed for the Bureau to be the lead agency, such as staffing redistribution or the Bureau setting up an office in Southern California.

Ms. Reiter suggested having a discussion or legal analysis on how OSAR should be utilized in regard to the statute.

Ms. Reiter requested a report on how the Bureau uses the 120-day exception in regard to student STRF eligibility.

Ms. Reiter suggested a discussion on how the Bureau intends to address institutions increasingly choosing Western Association of Schools and Colleges (WASC) and Distance Education Accrediting Commission (DEAC) as accreditors, regarding those agencies lack of outcome requirements.

Ms. Lee-Carey suggested an update on the Bureau's assessment of Income Sharing Agreements (ISA). Ms. Reiter added providing an update on ISA's in regard to statutes and regulations.

### **Agenda #9 - Adjournment**

Ms. Lee-Carey adjourned the meeting with the consent of all Committee members present.