



Advisory Committee Meeting Minutes Thursday, February 16, 2023

WebEx Meeting

Advisory Committee Members in Attendance

1. Kansen Chu
2. Melanie Delgado
3. Tess Dubois-Carey
4. Leigh Ferrin
5. Joseph Holt
6. Robert Boykin
7. Kevin Powers
8. Margaret Reiter

Committee Members Absent

Senator Richard Roth

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

Deborah Cochrane, Bureau Chief
Linh Nguyen, DCA Legal Counsel
Daniel Rangel, Bureau Enforcement Chief
Elizabeth Elias, Bureau Enforcement Chief
Ebony Santee, Bureau Education Administrator
Scott Valverde, Office of Student Assistance and Relief Chief
Yvette Johnson, Bureau Administration Chief
David Dumble, Bureau Legislative/Regulation Specialist
Melissa Gear, DCA Board and Bureau Relations
Jeff Alameida, DCA Information System Specialist

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

Committee Chair, Joseph Hot called the meeting to order.

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

Tess Dubois-Carey nominated Joseph Holt for Chair.

Margaret Reiter nominated Leigh Ferrin for Vice Chair.

Public Comment

No Public Comment.

Vote for Mr. Holt as Chair

(Joseph Holt: Aye; Margaret Reiter: Aye; Robert Boykin: Aye; Kansen Chu: Aye; Melanie Delgado: Aye; Tess Dubois-Carey: Aye; Leigh Ferrin: Aye) The motion passed.

Vote for Ms. Ferrin as Vice Chair

(Joseph Holt: Aye; Margaret Reiter: Aye; Robert Boykin: Aye; Kansen Chu: Aye; Melanie Delgado: Aye; Tess Dubois-Carey: Aye; Leigh Ferrin: Aye) The motion passed.

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

No Public Comment.

Agenda #4 - Review and Approval of November 16, 2022, Advisory Committee Meeting Minutes

Ms. Reiter moved to approve the November 16, 2022, meeting minutes; Ms. Dubois-Carey seconded the motion.

Public Comment

No Public Comment.

Vote

(Joseph Holt: Aye; Margaret Reiter: Aye; Robert Boykin: Aye; Kansen Chu: Aye; Melanie Delgado: Aye; Tess Dubois-Carey: Aye; Leigh Ferrin: Aye) The motion passed.

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

Melissa Gear, DCA Board and Bureau Relations Deputy Director, provided an update on the Department of Consumer Affairs (Department).

Ms. Gear stated that all DCA employees and board/committee members will need to complete the sexual harassment prevention training this year. She noted that the training is available on the DCA Learning Management System (LMS).

Ms. Gear reported that it is unclear what the outcome will be regarding our ability to continue hybrid or virtual meetings. She added there is no additional information to share but will provide updates and guidance as soon as it becomes available.

Mr. Holt asked who will make the decision regarding the future of holding virtual meetings and asked when a decision can be expected. Ms. Gear replied that it is a legislative decision that would need to go through a legislative process. She stated there are no definitive details on if or when a decision will be made. Mr. Holt asked if no decision is made will meetings have to be held in person after June 2023. Ms. Gear confirmed that will be the case.

Public Comment

No public comment.

Agenda #6 – Bureau Operations Update and Discussion

Update on the Bureau’s IT System Project

Jeff Alameida, DCA IT Project Manager, provided an update on the Bureau’s IT system project. He explained that he took over the project from former Project Director Sean O’Connor. He added that Mr. O’Connor is still assisting with strategy and implementation of the new system.

Mr. Alameida reported that, in quarter four of 2022, the team prioritized and resolved production type issues that were being repeated in the end user environment.

Mr. Alameida explained that the team is currently working to prioritize the remaining project scope to monitor, manage, and develop items more efficiently. He continued that the online processes for Student Tuition Recovery Fund (STRF) claim submissions and review will move

into production in the Spring. He added that the final round of data conversion of STRF claims from the legacy system will begin next week with user acceptance testing.

Mr. Alameida referenced the PowerPoint slide provided in the meeting packet covering the improved online institution search functionality.

Ms. Ferrin asked if the search results will include a description of the category types. Mr. O'Connor stated that some sort of hover-over function providing a definition of categories can be implemented. Ms. Reiter commented that it would be helpful if categories are labeled in a straightforward way to reduce the need for definitions. Mr. O'Connor noted that the team worked with subject matter experts to determine the most effective and simplified way to list information. He added that feedback is welcome and can be taken back to subject matter experts to reevaluate how categories are displayed.

Ms. Reiter suggested reviewing the order of details on the school detail page to ensure the information students are most interested in is listed at the top of the page.

Mr. Holt asked if Committee members could participate in the user acceptance testing for the school search function. Mr. O'Connor stated it may be possible to enable members to participate as external stakeholders in the testing, and that feedback is welcome even after the feature goes live.

Ms. Reiter suggested adding language clarifying that the school function search on the website is only for private postsecondary schools approved by the Bureau. She added it could be helpful to provide links to websites that provide information on other categories of schools. Ms. Reiter further suggested including students and people who work with students in the external stakeholder group providing feedback on the school search function.

Public Comment

One member of the public provided a comment.

Licensing Report

Ebony Santee, Bureau Education Administrator, reported on the Licensing Unit. She outlined Attachment 6(b).

Mr. Holt asked if any progress has been made on tracking the time an application is pending due to further action being required by a school and how much time it is pending with Bureau staff. Ms. Santee responded that staff is working on tracking and reporting on that data point.

Ms. Reiter requested that a future licensing report show the number of approved institutions over the past few years.

Public Comment

One member of the public provided a comment.

Quality of Education Report

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

Public Comment

Two members of the public provided a comment.

Annual Report (AR) Report

Elizabeth Elias, Bureau Enforcement Chief, reported on the Annual Report (AR) Unit. She outlined Attachment 6(d).

Mr. Holt asked if staff have received any feedback from schools regarding the mechanism for submitting annual reports online. Ms. Elias responded that there is sometimes an issue with heavy traffic on the portal due to several schools waiting until the last minute to submit the report. Ms. Elias noted an increase in staff who can assist when an institution gets locked out of the portal.

Mr. Holt asked about staff addressing non-submittals of the annual report. Ms. Elias commented that staff is currently working on identifying schools that have not submitted the annual report and will follow up when applicable with a citation for failure to submit.

Public Comment

No public comment.

Compliance and Discipline Report

Ms. Elias reported on the Compliance and Discipline Unit. She outlined Attachment 6(e).

Ms. Reiter requested an ongoing summary report on what schools were recently inspected and an overview of inspection results. Ms. Elias responded that staff is currently working on a similar report for disciplinary actions and will consider that feedback.

Mr. Holt requested a future report, like the OSAR reports on workshops, to include summary information on compliance workshops and the dates workshops were conducted.

Ms. Reiter suggested that when a case with the Attorney General's (AG) office becomes public then the institution could be named in the Bureau's reporting of that case. Ms. Elias stated that staff is in the final stages of publishing a monthly summary online including all disciplinary actions, pending citations, and any other disciplinary action taken by the Bureau.

Mr. Holt asked who is involved in prioritizing enforcement cases based on risk of student harm. Ms. Elias responded that she works in coordination with the Bureau Chief, the other Enforcement Chief, and legal counsel.

Public Comment

No public comment.

Complaint and Investigation Report

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

Ms. Reiter asked if it would be possible to add in the report a discipline referral category for inaccurate school performance fact sheets. Mr. Rangel stated that complaints often fall within multiple categories and staff continue to discuss how to best categorize for reporting. Ms. Reiter suggested categorizing complaints based on the violations identified in the referral as opposed to categorizing complaints based on the initial complaint.

Ms. Reiter asked how complaints involving income sharing agreements are being handled. She stated that a contract that is deemed unlawful is typically considered void meaning the institution would not be able to collect anything from the student. Mr. Rangel stated he would take that question back to staff to research.

Public Comment

One member of the public provided a comment.

Office of Student Assistance and Relief (OSAR) Report

Scott Valverde, OSAR Chief, reported on the OSAR Unit. He outlined Attachment 6(g).

Ms. Ferrin asked if OSAR staff collaborate with local legal aid organizations in conjunction with outreach events. Mr. Valverde stated that collaboration with legal aid organizations is part of outreach development procedures.

Public Comment

No public comment.

Student Tuition Recovery Fund (STRF) Report

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

Ms. Reiter asked what the average time is for determining the outcome of a claim. Ms. Johnson stated that staff is working on that statistic.

Public Comment

No public comment.

Agenda Item #7 - Status Update and Discussion related to the following Regulatory Matters

David Dumble, Bureau Legislative/Regulation Specialist, provided a status update on Bureau regulatory matters. He referred to the BPPE Regulatory Package Tracker in the meeting packet.

Public Comment

No public comment.

Proposed language for Date of Closure proposal (5 CCR Section 76245, CEC Section 94926.5, SB 1433 (2022))

Mr. Dumble outlined the proposed language on page 92 of the meeting packet.

Memo: Institutional Closures and Senate Bill 1433

Mr. Valverde covered the memo titled Institutional Closures and Senate Bill 1433 in the meeting packet.

Mr. Holt expressed concern over the language about having a closure plan signed under penalty of perjury. He commented that a closure plan is based on expected future actions. He asked how a perjury standard could be applied to something that was intended to happen one way but ended up happening another way.

Mr. Holt also expressed concern over the language about the Bureau's discretion to independently determine whether an institution is closed if the institution fails to submit a timely renewal application. He noted a need to identify an institution as closed when an institution has not corresponded with the Bureau over an extremely long period of time.

Ms. Reiter suggested adding "in accordance with federal regulations" to the language in 76240(4)(B).

Ms. Reiter suggested changing the proposed language in 76245(a) from saying "has ceased operating" to "has ceased offering educational programs." She added that the language should more specifically point to the last day of instruction as opposed to ceasing operations.

Ms. Reiter commented that the time frames set in 76245(b) are critical for people who might qualify for a discharge or refund. She continued that if an institution does not respond to the notice that is sent regarding closure, then the date the notice is sent should be considered the date of closure.

Ms. Reiter stated that the language in 76245(c), regarding the failure to submit a renewal application, seems reasonable given an institution receives multiple renewal notices. Mr. Holt suggested looking at instances of institutions submitting a late renewal application over the past five years then consider if all those institutions had been closed. Mr. Dumble clarified that the intention is to not immediately close an institution if an institution fails to submit a renewal application but rather trigger a closed school investigation. Mr. Holt suggested adding that clarification in the language. Ms. Cochrane noted that the Bureau sends multiple renewal notices to institutions prior to the expiration of approval.

Mr. Valverde asked the Committee for feedback on defining "school closure." Mr. Holt commented that the Department of Education and accreditors do not consider a school closed if the school restructures and/or moves operations to another state. Ms. Reiter asked why a school closure status is needed for an institution that reorganizes or moves out of state. Mr. Valverde responded that an institution that moves out of state or reorganizes has many of the same impacts on students as a closure, such as access to student records and the student's ability to continue in the educational program. Ms. Reiter stated that an institution would either need an accreditor's approval or the Bureau's approval to make a substantive change but added that an institution that no longer intends to operate under the Bureau's jurisdiction may not abide by substantive change rules. She noted that there is a need for a process to address the issue but is not sure how it would be a school closure.

Mr. Holt indicated support for the current definition of an "authorized school representative." Ms. Reiter commented that 75010(c) only states who may receive a notice to comply from the Bureau. She pointed out that 71160 defines an "institution representative." She suggested requiring institutions to maintain and provide the Bureau with a current list of institution

representatives and only individuals on that list would be authorized to give notice of school closure.

Ms. Ferrin commented on defining the closure date. She agreed with Ms. Reiter's point that if an institution fails to respond to a notice of closure, then the date of closure should be the date the notice was sent out. Mr. Holt indicated support for setting the closure date as the date of the notice if the school does not respond. Ms. Reiter added that if a school stopped offering classes before the notice was sent out, then there could be some language clarifying that the date of closure would be backdated to when the school stopped offering classes. Mr. Holt noted that some schools go periods of time without offering classes but are recruiting students for future classes.

Mr. Valverde asked the Committee for feedback on what factors to consider when determining whether a school is closed. Mr. Holt indicated support for the current list of factors. Ms. Reiter suggested considering "other reliable sources" or "other sources the Bureau considers reliable."

Mr. Valverde asked the Committee for feedback on instances when an institution gives a closure that is inconsistent with reliable facts and/or harmful to students. Ms. Reiter pointed out that if an institution gives an inaccurate closure date, then the school would be in violation of CEC 94897 (Prohibited Business Practices). Ms. Ferrin suggested adding "which shall be the last date of instruction" to the end of the proposed language 76245(a)(2).

Public Comment

No public comment.

Agenda #8 – Suggestions for Future Agenda Items

Ms. Reiter suggested a discussion on the efficacy of highlighting and promoting school performance fact sheets to students.

Ms. Reiter requested analytics on the type of traffic occurring on the Bureau website.

Public Comment

No public comment.

Agenda #9 – Adjournment

The meeting adjourned at 1:28 pm