



Advisory Committee Meeting Minutes Wednesday, November 8, 2023

WebEx Meeting

Advisory Committee Members in Attendance

1. Kansen Chu
2. Leigh Ferrin
3. Tess Dubois-Carey
4. Tracy Tambascia
5. Melanie Delgado
6. Joseph Holt
7. Robert Boykin
8. Kevin Powers
9. 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
Greg Donkerbrook, Bureau Licensing Chief
Daniel Rangel, Bureau Enforcement Chief
Elizabeth Elias, Bureau Enforcement Chief
Scott Valverde, Office of Student Assistance and Relief Chief
Yvette Johnson, Bureau Administration Chief
David Dumble, Bureau Legislative/Regulation Specialist
Tamika Garvin, Bureau Licensing Manager
Jason Piccione, DCA Chief Information Officer
Yvonne Dorantes, Board and Bureau Relations Assistant Deputy Director

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

Committee Chair, Joseph Holt called the meeting to order.

Mr. Holt announced that this would be Margaret Reiter's last meeting as a member serving on the Committee.

Ms. Reiter stated that she has enjoyed her time serving on the Committee since her appointment in 2010. She noted that the Committee has good participants who can disagree on policy but still work together cooperatively. She wished everyone the best moving forward.

Deborah Cochrane commented that the Bureau is in a better place thanks to Ms. Reiter's contributions. She thanked Ms. Reiter for her service and added that she will be greatly missed.

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

No public comment.

Agenda #3 - Review and Approval of August 16, 2023, Advisory Committee Meeting Minutes

Tess Dubois-Carey moved to approve the August 16, 2023 meeting minutes; Leigh Ferrin seconded the motion.

Public Comment

No public comment.

Vote

(Joseph Holt: Aye; Leigh Ferrin: Aye; Margaret Reiter: Aye; Robert Boykin: Aye; Kansen Chu: Aye; Melanie Delgado: Aye; Tess Dubois-Carey: Aye; Tracy Tambascia: Aye)

The motion passed.

Agenda #10 - Chair and Vice Chair Elections

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

Ms. Reiter moved to nominate Ms. Ferrin for Chair of the Committee; Ms. Delgado seconded the motion.

Mr. Holt moved to nominate Ms. Dubois-Carey for Vice Chair of the Committee; Ms. Ferrin seconded the motion.

Public Comment

One member of the public provided a comment.

Vote on Ms. Ferrin for Chair

(Joseph Holt: Aye; Leigh Ferrin: Abstain; Margaret Reiter: Aye; Robert Boykin: Aye; Kansen Chu: Aye; Melanie Delgado: Aye; Tess Dubois-Carey: Aye; Tracy Tambascia: Aye)

The motion passed.

Vote on Ms. Dubois-Carey for Vice Chair

(Joseph Holt: Aye; Leigh Ferrin: Aye; Margaret Reiter: Aye; Robert Boykin: Aye; Kansen Chu: Aye; Melanie Delgado: Aye; Tess Dubois-Carey: Abstain; Tracy Tambascia: Aye)

The motion passed.

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

Yvonne Dorantes, Board and Bureau Relations Assistant Deputy Director, provided an update on the Department of Consumer Affairs (Department).

Ms. Dorantes reported that boards and bureaus may continue to conduct remote meetings without noticed public locations available to the public through December 31, 2023. She outlined four meeting options that will be available starting January 1, 2024.

Ms. Dorantes reported that sexual harassment prevention training for members is due on December 31, 2023.

Public Comment

No public comment.

Agenda #5 – Bureau Operations Update and Discussion

Update on the Bureau’s IT System Project

Tamika Garvin, Bureau Licensing Manager, provided an update on the IT system project. She referenced Attachment 5(a). She stated that on August 8, 2023, 38 tickets were successfully deployed improving the non-accredited licensing application process. She added that an additional 39 tickets are scheduled to be deployed in mid-November 2023.

Jason Piccione, DCA Chief Information Officer, provided additional updates on the IT system project. He referenced Attachment 5(a). He noted that the conversion from SAIL to Connect is estimated in October 2024.

Ms. Reiter suggested that Bureau staff at a future meeting provide an outline with descriptions of the type of data that will be included in the conversion to Connect.

Ms. Ferrin commented that it would be helpful to have feedback from institutional representatives at future meetings regarding the impact of the online application system and the usefulness of the system.

Public Comment

No public comment.

Licensing Report

Greg Donkerbrook, Bureau Licensing Chief, reported on the Licensing Unit. He explained that he is in the process of reviewing how licensing data is tracked and presented and has found areas for improvement. He added the main goal is to ensure any changes implemented are done carefully and purposefully to ensure quality information and accurate data is presented to all stakeholders.

Mr. Donkerbrook outlined Attachment 5(b).

Mr. Holt asked what work has been done to improve application processing timeframes. Mr. Donkerbrook explained that he has talked with staff members to seek feedback on what is working well and what can be improved. He continued that he has reviewed procedures and investigated what processes may need written procedures to ensure those processes are being properly performed. He added that he has also been focusing on accountability to ensure staff are promptly being responsive to institutions throughout the application process.

Ms. Ferrin commented that it would be helpful to identify which areas of the process are holding up processing times as opposed to only using the overall timeframes presented.

Ms. Reiter commented that it is important to determine what areas need to be improved upon to ensure institutions are not operating beyond an expired approval awaiting renewal.

Public Comment

No public comment.

Quality of Education Report

Mr. Donkerbrook reported on the Quality of Education Unit. He outlined Attachment 5(c).

Public Comment

No public comment.

Annual Report (AR) Report

Elizabeth Elias, Bureau Enforcement Chief, reported on the Annual Report (AR) Unit. She outlined Attachment 5(d).

Public Comment

No public comment.

Compliance and Discipline Report

Ms. Elias reported on the Compliance and Discipline Unit. She outlined Attachment 5(e).

Ms. Reiter commented it would be helpful at the next meeting to see in the report a list of the cases referred to the Attorney General.

Public Comment

One member of the public provided a comment.

Complaint and Investigation Report

Daniel Rangel, Bureau Enforcement Chief over complaints and investigations, reported on the Complaint and Investigation Unit. He outlined Attachment 5(f).

Mr. Holt asked if there is any disadvantage to an individual student complaint that has been consolidated with a group of complaints on the same topic. Mr. Rangel explained that

complaints go through a rigorous review process at intake. He stated that complaints are given attention based on the type of complaint and level of student harm.

Public Comment

No public comment.

Office of Student Assistance and Relief (OSAR) Report

Scott Valverde, OSAR Chief, reported on the OSAR Unit. He outlined Attachment 5(g).

Public Comment

No public comment.

Student Tuition Recovery Fund (STRF) Report

Yvette Johnson, Bureau Administration Chief, provided a report on STRF. She covered Attachment 5(h).

Public Comment

No public comment.

Agenda Item #6 - Status Updates and Discussion on Regulatory Proposals

David Dumble, Bureau Legislative/Regulation Specialist, provided a status update on Bureau regulatory matters.

Reduction of STRF Assessment Rate to \$0.00, Effective April 1, 2024

Mr. Dumble reported that the STRF currently exceeds \$25 million. He stated that the Bureau will change 5 California Code of Regulations (CCR) section 76120 to reduce the STRF Assessment Rate to \$0.00. He added that the effective date will be April 1, 2024, to give institutions enough time to prepare for the rate change.

Mr. Holt recommended that the Bureau be very proactive in alerting institutions of the upcoming rate change.

Public Comment

Three members of the public provided a comment.

Expired Approvals to Operate (5 CCR sections 71475 and 71480)

Mr. Dumble outlined the Proposed Regulatory Change Regarding Expired Approvals Memo in the meeting materials. He explained that current regulations cause confusion, and that the proposed change would give institutions a 30-day grace period following approval expiration to continue to operate while preparing to submit a renewal application.

Mr. Holt commented that the existing regulation is unclear and agreed that a change is needed to provide clarity. He noted that in dialogue with other institutions, there is a consensus that a 30-day grace period is reasonable. He noted that sending notice letters 6 months and 3 months in advance is sufficient. He continued that in addition to calling the institution 30 days before expiration the Bureau should also send a letter by mail and send a notice by email. He also encouraged a phone call to an institution one week before expiration if a renewal application has still not been received.

Ms. Reiter commented that she was unable to find statutory language authorizing a grace period to operate following the expiration of an institution's approval to operate. She explained that she does not think there is any statutory authority allowing an institution to operate following the 5 year approval period. She noted that if an institution submits a renewal application before expiration and the Bureau has not yet decided on it, then there is common sense that the institution should be able to continue to operate without consequence. She suggested not providing a 30-day grace period following expiration. She added that, ideally, if the Bureau was able to make a determination on renewal within 6 months of an institution's expiration, then the institution should be required to apply for renewal 6 months before expiration. She noted that it would not be feasible based on current application processing timeframes.

Ms. Dubois-Carey commented she agreed with Mr. Holt that an email renewal notification would be helpful. She added that she supports a 30-day grace period to renew.

Public Comment

No public comment.

Minimum Operating Standards for Financial Standards and Associated Reporting Requirements
(5 CCR sections 71745, 74110, and 74115)

Mr. Dumble outlined the Proposed Regulatory Change Regarding Financial Resources, Statements, and Reporting Memo in the meeting materials.

Ms. Dubois-Carey asked why the Bureau is considering changing the law that requires institutions to be able to demonstrate sufficient financial resources to pay all operating expenses due within 30 days. Ms. Cochrane responded that financial subject matter experts who work with the Bureau suggested expanding the 30 days. Mr. Holt commented that it would be helpful to have a case study example or data showing that an extension of the 30 days would benefit consumer protection.

Mr. Holt commented on the new language under CCR section 71745(a)(6). He stated that an institution not being in default on debts is a good addition but noted that the phrase “remain current” is vague. He provided the example of an institution paying a debt a week after the due date. He explained that the institution would not be current but would not be in default.

Ms. Reiter noted that in some portions of the regulations the phrase “generally accepted accounting principles” is used, while in other areas the phrase “established by the American Institute of Certified Public Accountants” is used. She suggested adding a definition defining “generally accepted accounting principles” as “established by the American Institute of Certified Public Accountants.”

Ms. Reiter commented that there have been some major institutions collapse, with dire consequences to students, due to the lack of financial stability. She suggested reviewing these closures to determine if there was a lack of monitoring, the school was not complying, or if current regulations were inadequate to protect students.

Ms. Reiter stated that she is not sure what “default” means in CCR section 71745(a)(6). She suggested clarifying how long a payment is behind before it is considered in default. She agreed with Mr. Holt that the phrase “current” needs to be defined.

Ms. Reiter pointed out that some of the major institutions that closed were participating in Federal Student Aid Programs. She noted that the financial requirements under those programs did not prevent the closures, but they do have a heightened monitoring status for institutions that are not fully meeting requirements. She suggested that the Bureau consider implementing a similar monitoring system that would include additional reporting requirements and/or a requirement that an institution put up a bond to cover a certain amount of time of operating expenses.

Ms. Reiter referred to the proposed changes in CCR section 74110(a)(8). She noted that another provision requires the financials of institutions at a certain level of revenue to be audited and

not just reviewed. She suggested ensuring the proposed language does not conflict with that provision.

Ms. Reiter stated that in CCR section 74115(b)(5) the phrase “performed the verification and substantiation procedures” should be added to the language to ensure it is not setting up audit requirements with different or lesser standards than generally accepted account principles.

Ms. Reiter commented that is very helpful to have financial subject matter experts reviewing the regulatory language. She explained that 30 days is not a very long time for an institution to cover operating expenses. She noted that a company can be on the verge of bankruptcy and still cover 30 days of expenses. She stated that she strongly supports extending the 30 days requirement.

Ms. Ferrin stated that she supports extending the time frame that an institution must be able to cover operating expenses beyond 30 days. She noted that she would caution against relying too heavily on historical case studies in setting a standard. She explained that there is a real benefit in being proactive to prevent harm before it occurs.

Public Comment

One member of the public provided a comment.

Agenda #7 – Considerations for Amending STRF Statute

Mr. Holt explained that the STRF assessment fee structure is tied to the STRF fund balance. He continued that if the fund goes above twenty-five million dollars, then the Bureau must stop collecting STRF fees, and if the fund drops below twenty million dollars, then the Bureau must start collecting fees. He stated that the ceiling and floor being so close results in an undue administrative burden on the Bureau and institutions because of the frequent change in fee structure. He also referenced the anomaly in the closure of Silicon Valley. He explained that over the last ten years the average STRF claim payout, excluding Silicon Valley, has been just under \$6,000, but the average Silicon Valley STRF claim payout has been greater than \$18,000.

Mr. Holt asked the Committee if it is within the appropriate scope of work of the Committee to proactively discuss in detail statutory and regulatory parameters and potentially suggest improvements. He also asked what means the Committee should pursue to influence improvement. He noted that the Committee’s explicit role is to advise the Bureau, but the Committee does not have an authorized or a formal position in informing the legislature.

Ms. Reiter explained that the statute outlines when the Bureau should collect STRF assessment fees based on the fund balance. She suggested that it would make sense for the statute to allow the Bureau to change the fee without needing to go through the regulatory process. She

stated that she thinks it is appropriate for the Committee to advise the Bureau on what statutory changes should be pursued.

Mr. Dumble explained that the Bureau does not have to go through the administration regulatory process to make rate changes. He explained that the Bureau uses Section 100, which is an expedited procedure that allows the change to be made within a couple of months instead of close to a year.

Kevin Powers commented that feedback from the Committee regarding statutes pertaining to the Bureau is welcome and encouraged.

Public Comment

No public comment.

Agenda #8 – Future Agenda Items

No future agenda items were suggested.

Public Comment

No public comment.

Agenda #9 – Future Meeting Dates

Ms. Cochrane stated the dates in February, May, and November will be virtual, and the meeting in August will be an in-person meeting held in Sacramento. She stated that a notice would be sent to members once a consensus is met on the exact dates.

Public Comment

No public comment.

Agenda #11 – Adjournment

The meeting adjourned at 1:10 pm.