



Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833
P.O. Box 980818, West Sacramento, CA 95798-0818
P (916) 431-6959 F (916) 263-1897 www.bppe.ca.gov



Bureau for Private Postsecondary Education
Notice of Advisory Committee Meeting and Agenda

Tuesday, February 13, 2018, at 9:30 a.m.
Department of Consumer Affairs
Hearing Room, 1st Floor
1625 North Market Blvd., Sacramento, CA 95834

The Bureau plans to webcast this meeting on its website. Webcast availability cannot, however, be guaranteed due to limitations on resources or technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at the physical location. To view the Advisory Committee meeting webcast, please visit the following link: <https://thedcapage.wordpress.com/webcasts/>.

Agenda

The public may provide appropriate comment on any issue before the Advisory Committee at the time the item is discussed. If public comment is not specifically requested, members of the public should feel free to request an opportunity to comment.

1. Welcome, Introductions and Establishment of a Quorum
2. Public Comment on Items not on the Agenda (Note: The Committee may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125 and 11125.7(a))
3. Review and Approval of May 17, 2017, Advisory Committee Meeting Minutes
4. Remarks by a Representative of the Department of Consumer Affairs, which may include updates pertaining to the Bureau's Operations, Human Resources, Department's Administrative Services, Enforcement, Information Technology, Communications and Outreach, as well as Regulatory and Policy Matters.
5. Presentation by a Representative of the Department of Consumer Affairs' Office of Information Services on Business Modernization as it Relates to the Bureau's Information Technology Systems
6. Bureau Operations Update and Discussion related to the following:
 - a. Enforcement Report – Yvette Johnson
 - b. Compliance Report – Beth Scott
 - c. Licensing Report – Robert Bayles
 - d. Office of Student Assistance and Relief (OSAR) Report – Scott Valverde
 - e. Bureau Fund Condition – Department of Consumer Affairs Representative

7. Status Updates related to the following Regulations:
 - a. Student Tuition Recovery Fund (Title 5, California Code of Regulations (CCR) Sections 76000, 76020, 76120, 76130, 76200, 76210, 76212, and 76215)
 - b. Compliance Inspection and Complaint Prioritization (Title 5, CCR Sections 75200 (proposed changes), 75210 and 75300 (new))
 - c. Registration for Out-of-State Private Postsecondary Educational Institutions (California Education Code (CEC) sections 94850.5 and 94801.5)
 - d. English as a Second Language Programs (Title 5, CCR, Chapter 1, Section 70000 (k))
 - e. Application for Verification of Exempt Status (CEC Sections 94874, 94874.2, 94874.7, 94874.5, and 94927.5); Title 5, CCR Section 71395)
8. Discussion and Consideration of Draft Regulatory Language for Compliance with Laws and Procedures (CEC section 94885(a)(9); Title 5, CCR, Chapter 1, Section 71755)
9. Discussion on the Emergence of Income-Share Agreements (ISA) in Private Postsecondary Education
10. Future Agenda Items
11. Discuss Potential Meeting Dates for 2018
12. Adjournment

Notice to the Public

All times are approximate and subject to change. The meeting may be cancelled without notice. A lunch break will be taken at a time determined by the Advisory Committee members. Action may be taken on any item on the agenda. Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited. Agenda items may be taken out of order.

This meeting facility is accessible to the physically disabled. A person who needs a disability-related accommodation or modifications in order to participate in the meeting may make a request by contacting Richie Barnard at (916) 431-6930 or, for the hearing impaired, TDD (800) 326-2297; or by sending a written request to the Bureau at P.O. Box 980818, W. Sacramento, California 95798-0818, Attention: Richie Barnard. Providing at least five working days' notice before the meeting will help ensure the availability of accommodations or modifications.

Interested parties should call the Bureau at (916) 431-6959 to confirm the date and specific meeting site of any Advisory Committee meeting or access the Bureau's website at <http://www.bppe.ca.gov>. Requests for further information should be directed to Richie Barnard at (916) 431-6930.

WELCOME, INTRODUCTIONS AND ESTABLISHMENT OF A QUORUM

Committee Member Roster

Katherine Lee-Carey, Chair

- Institutional Representative (Appointed by DCA Director)

Margaret Reiter, Vice-Chair

- Consumer Advocate (Appointed by Senate Committee on Rules)

Diana Amaya

- Public Member (Appointed by Senate Committee on Rules)

Tamika Butler

- Public Member (Appointed by Speaker of the Assembly)

Joseph Holt

- Institutional Representative (Appointed by DCA Director)

Gabrielle Elise Jimenez

- Past Student of an Institution (Appointed by DCA Director)

Hanya Carbajal

- Past Student of an Institution (Appointed by DCA Director)

David Vice

- Institutional Representative (Appointed by DCA Director)

Assemblymember Jose Medina

- Non-Voting, Ex Officio Member (Appointed by Speaker of the Assembly)

Senator Jerry Hill

- Non-Voting, Ex Officio Member (Appointed by the Senate Committee on Rules)

Agenda Item 2

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

(Note: The Committee may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125 and 11125.7(a).)

Agenda Item 3

**REVIEW AND APPROVAL OF MAY 17, 2017, ADVISORY COMMITTEE MEETING
MINUTES**

ATTACHMENT:

Advisory Committee Draft Meeting Minutes from May 17, 2017



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

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**Advisory Committee Meeting Minutes
Wednesday, May 17, 2017**

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

Advisory Committee Members in Attendance

1. Diana Amaya
2. Tamika Butler
3. Joseph Holt
4. Katherine Lee-Carey
5. Margaret Reiter
6. David Vice

Committee Members Absent

Gabrielle Jimenez
Assemblymember Jose Medina
Senator Jerry Hill

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

Joanne Wenzel, Bureau Chief
Scott Valverde, OSAR Chief
Leeza Rifredi, Deputy Bureau Chief
Yvette Johnson, Enforcement Chief
Beth Scott, Enforcement Chief
Robert Bayles, Education Administrator
Dean Grafilo, Director, Department of Consumer Affairs
Mina Hamilton, Legal Counsel, Department of Consumer Affairs
Richie Barnard, Program Analyst

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

BPPE Advisory Committee Chair Katherine Lee-Carey called the meeting to order at 9:33 AM. Ms. Lee-Carey 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. Ms. Lee-Carey noted that Agenda Item 7 would be moved to follow Item 4 to accommodate a guest presenter.

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

There was no public comment.

Agenda #3 - Review and Approval of February 15, 2017, Advisory Committee Meeting Minutes

Margaret Reiter moved to approve the minutes; David Vice seconded the motion. There was no public comment. (Ms. Reiter: Aye; Mr. Vice: Aye; Diana Amaya: Aye; Joseph Holt: Aye; Tamika Butler: Sustained; Ms. Lee-Carey: Aye). The motion passed.

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

Dean Grafilo introduced himself as the new Director of DCA. He stated his goal is to ensure there are sound, reasonable, and fair consumer protections for all Californians. He continued that his goal is to reach out to subject matter experts and others who can add perspective to specific issues. He asked the Committee if there were any questions or concerns.

Ms. Reiter pointed out that it is helpful having the Director attend the Committee meetings. She suggested that there are a number of non-profit student advocacy groups who the Director could reach out to for input on specific issues relating to the Bureau. She also noted that Bureau needs a new IT system and has needed one for several years. She added that there has been no timeline presented on when this issue may be resolved. She requested that Mr. Grafilo or a designee provide a timeline on the various steps required to receive a new IT system and when the Bureau can expect the system to become operational. She noted that the Bureau has received criticisms that could be resolved with a new IT system.

Mr. Grafilo stated that it is difficult to provide exact timelines on the implementation of modernized IT system. Ms. Reiter responded that she understands the difficulties, but believes that after 7 years it should not be so difficult to put together specific timelines. She added that she and the Committee would be willing to assist in any way to ensure a new IT system is implemented. Mr. Grafilo stated that he would provide more specifics on the issue at the next Committee meeting.

There was no public comment.

Agenda #7 - Presentation on Annual Fees pursuant to California Education Code (CEC) 94930.5 and the Status of the Bureau's Fund Condition

Deputy Bureau Chief Leeza Rifredi and Matt Nishimine of the DCA Budget Office presented on the Bureau's annual fees and fund condition. Mr. Nishimine provided some background explaining that in 2016 the Bureau commissioned a fee audit to examine its fee amounts and fee structures. He continued that the Bureau had been operating with a structural imbalance with revenues below annual expenditures. He added that, beginning in January 2017, Senate Bill No. 1192 changed the Bureau's fee structure to include modifications to the annual main institution fee and annual branch fee.

Mr. Nishimine outlined that the previous fee structure was calculated by multiplying an institution's main campus's total gross annual revenues by three quarters of one percent with a maximum cap of \$25,000, and the branch fee was set at \$1,000 per branch. He explained that beginning January 1, 2017 the fee was adjusted to .45 of 1 percent times the total gross annual revenues per each institutional location including both main and branch locations. He noted that the current minimum is \$2,500, and the maximum is \$60,000 per location. He stated that the maximum for all locations combined is \$750,000.

Mr. Nishimine reported on the current status of the fund condition by first noting that the report was limited to only 4 months of data. Mr. Nishimine stated that revenues have increased. He stated that institutions are complying with the new fee structure. He added that the Bureau is cautiously optimistic revenue projections will be met, which will eliminate the Bureau's structural imbalance putting the Bureau on a stable financial footing. Mr. Nishimine pointed out that due to the limited data sample it is too soon to draw any conclusions on the future impact of the new fee structure.

Ms. Rifredi reported that 342 institutions had been invoiced under the new structure, and 71% of those invoices have been paid. She stated that 3% of the invoiced institutions paid the maximum amount, and 50% paid the minimum amount. She noted that compared to the 2016 annual fee, 65% of the invoiced institutions had an increase in annual fee and 44% had a decrease. She added that 9% that were previously paying the \$25,000 maximum are now paying less, and 10% are paying more than the previous maximum. She reported that the year over year increase for January was 5%, February was 50%, March was 53%, and April was 71%.

Ms. Lee-Carey asked how many schools in a year receive an invoice. Ms. Rifredi pointed out that, of the 342 institutions invoiced, 257 were mains and 85 were branches. She added that there are approximately 1,100 main institutions that pay an annual fee over the course of a year.

Mr. Vice questioned if the intention of the fee restructure is to gain an approximate 50% increase. Mr. Nishimine stated that the adjustments increase full year revenues to

approximately 16 million dollars. Mr. Holt asked what percentage under budget or shortfall was the Bureau previously undergoing. Mr. Nishimine stated that for FY 2015-16, revenues were 10 million dollars, and expenditures were 12.6 million dollars.

Ms. Butler asked when the data will convey a confident representation of the impact of the fee change. Mr. Nishimine replied that a full year of annual fee data would be needed to draw a clear conclusion.

Ms. Reiter asked if the percentage shortfall from FY 2015-16 was projected to increase for the following years. Mr. Nishimine explained that the Bureau increased staffing from 67 positions to over 100 positions and costs increased. Mr. Holt asked if the number of institutions under the Bureau has decreased. Ms. Wenzel responded that, despite some notable closures, there has been an uptick in applications for approvals.

Public Comment:

Robert Johnson representing California Association of Private Postsecondary Schools (CAPPS) provided a public comment. Mr. Johnson stated that the Bureau did not follow the fee audit when restructuring fees. He also noted that the fee is set to automatically increase. He stated that the fee increase has greatly reduced profit for many institutions and put some into a negative cash flow situation. He added that one of the reasons 29% of the invoices have gone unpaid is because many of the schools do not have the money to pay the fee.

Mr. Johnson questioned how the Bureau can generate projections for staffing costs, yet cannot do projections on fee revenues. He added that the Bureau should be able to ask schools for projected payments for the next year.

Mr. Johnson stated that CAPPS provided information to the legislative debate regarding fee restructuring. He stated that the legislation did not take into account the data CAPPS provided.

Mr. Johnson pointed to the fee increase for institutional branches. He outlined how the fee went from \$1,000 to \$60,000 for some institutional branches. He added that some schools are paying over \$700,000 a year to the Bureau. He stated that the increased fee will lead to an increase in costs for students.

Mr. Vice asked about the automatic fee increase built in to legislation. He asked if the fee increase can be rescinded. Mr. Johnson responded that the automatic fee increase can be halted through negotiations. Mr. Vice stated that if the current data shows a 50% increase in annual fees, which meets the Bureau's revenue goal, then the automatic increase should be halted. Mr. Nishimine noted that the automatic fee increase is not scheduled to take effect until July 2018.

Mr. Johnson stated that if any changes are going to be made to the automatic fee increase, then actions need to be taken now. He added that just the increase in branch fees should be sufficient to cover Bureau's expenses.

Mr. Vice noted that by law institutions must be profitable or lose access to Title IV funds. He added that an increase in fees results in tuition increases for students. He added that fees should be structured in a way to avoid putting the burden on the student. He asked if there is any reason to suspect that the current trend of a 50% increase will not continue. Mr. Nishimine responded that the historical revenue stream for the Bureau is very volatile from month to month, and that it is far too early to draw any definite conclusions.

Mr. Johnson stated that the fee restructure was based on politics and not on the data. He added that there are no definitive projections because the fee amounts were chosen arbitrarily. He concluded that if the aim is to have institutions over pay for fees, then the current structure is great; but if the aim is to have institutions pay a reasonable fee that will provide for adequate oversight by the Bureau and allow institutions to add services for the students, then the current fee is not so great.

Ms. Reiter asked Mr. Johnson if CAPPs has performed an analysis to determine a different fee structure. Mr. Johnson replied that CAPPs has not determined a different fee structure.

Ms. Reiter asked Mr. Johnson if CAPPs had a particular recommendation regarding the fee structure. Mr. Johnson said CAPPs does not have access to the data needed to conduct an analysis.

Ms. Reiter noted that there is not necessarily a need for an immediate action on the automatic fee increase. She continued that there would be time for action to be taken closer to the July 1, 2018 effective date.

Greg Gollaher of the Fashion Institute of Design and Merchandising (FIDM) provided a public comment. He stated that FIDM's annual fee will be substantially higher this year. He explained that the increase in fees will limit FIDM from providing students the same services as it has in the past. He noted that the Bureau should be able to project expected revenue streams from annual fees based on historical data. He continued that the quality of education FIDM provides for students will diminish, and the contribution FIDM makes to the California economy will diminish.

Mr. Vice asked Mr. Gollaher if FIDM would need to increase tuition cost to maintain the same type of services it has been providing. Mr. Gollaher responded that the institution would look at faculty and students services, but was not sure if the increase in fees would directly result in an increase of tuition.

Mr. Nishimine indicated that projections were generated and provided to the Legislature prior to their determination on the new fee structure. He added that the projections he provided

today are on track to align with the projections that were previously supplied to the Legislature, but it is still too early to make any final determination.

Ms. Reiter asked Mr. Gollaher for the number of FIDM branches. Mr. Gollaher replied that FIDM has four branches. Ms. Reiter asked if his complaint was regarding estimated Bureau operational expenses reported by the Bureau. Mr. Gollaher replied that he was not suggesting any specific fee structure to replace the current structure, but was expecting different results than what came out of the Legislature. Ms. Reiter asked, based on a search of the FIDM website showing tuition estimates at \$33,000, what the average four year program cost at FIDM. Mr. Gollaher responded that he did not have that information at the time.

Agenda #5 - Bureau Operations Update and Discussion

Enforcement Report:

BPPE Enforcement Chief Yvette Johnson provided a report on enforcement. She reported that in the 1st quarter of 2017 then Bureau received 220 complaints, with an average of 73 complaints per month. She added that the number of complaints closed increased month over month. She explained that 36% of the complaints were generated internally and 64% were generated externally.

Ms. Johnson stated that there is still a back log of complaints, and staff is working the oldest complaints and the newest complaints received. She noted that 107 cases are beyond the three year mark, and added that some of those cases are with outside agencies. Mr. Holt asked if the report indicating that 5 cases are held up with outside agencies was correct. Ms. Johnson confirmed that was true.

Ms. Lee-Carey asked why the other, larger majority of the 107 cases, were being held up for over three years. Ms. Johnson explained that there is a turnover of staffing in the complaints investigations unit. She added that each staff member may be working 60 cases or more at any time. She continued that when turnover occurs exiting staff member's caseload must be turned over to another staff member. Ms. Lee-Carey asked if the caseload is prioritized by the severity of the case or based on the time the complaint was received. Ms. Johnson replied that the seriousness of the case takes priority. She added that some of the variables of seriousness, in regards to prioritization, include health, safety, and/or if there is an immediate danger to the public.

Mr. Holt questioned if it could be assumed that there is an on-going dialogue with the complainant if the case is over three years in age. Ms. Johnson confirmed that to be likely. Ms. Reiter asked what the Bureau could do to reduce the case age. Ms. Johnson responded that consistent staffing would help. She added that if there was a way to reduce the current backlog, then the case age would improve moving forward.

Ms. Reiter asked if increasing staff pay would help with the staffing consistency issue. Ms. Wenzel explained the Bureau operates under the rules established by the union and added that much of the consistency comes down to choice of individual staff members. She noted that staffing inconsistencies are something all state agencies deal with, and that the Bureau has had an estimated 15% vacancy rate for years.

Ms. Reiter asked what classification are investigators. Ms. Johnson responded that there are Staff Service Analysts (SSA) who do desk investigations and Associate Governmental Program Analyst (AGPA) who do the field investigations. Ms. Reiter asked if increasing pay for staff or promoting individuals to a higher level is an option to reduce turnover. Ms. Wenzel explained that classifications and job descriptions are set by the California Department of Human Resources. She continued that classifications are based on the type of work staff performs. Ms. Reiter asked if any staff were working out of class. Ms. Wenzel responded that no staff member is working out of class.

Ms. Amaya asked how many staff members are in the department. Ms. Johnson outlined that there are eleven AGPA's, three full time and two intermittent SSA's, and one Office Technician. She added that there are four vacant AGPA positions.

Mr. Vice asked, of the roughly 70 complaints received each month, how many are from accredited versus non-accredited institutions. Ms. Johnson replied that around 55% of complaints come from non-accredited institutions, and 45% come from accredited institutions.

Mr. Holt asked about other complaint closure reasons aside from the top 5 that were included in the report. Ms. Johnson explained that the Bureau's current IT system is limited to a set of closure reasons that can be selected. Ms. Butler asked what category is chosen if the reason for closure is not an option. Ms. Johnson replied that staff must choose the closest related reason that is listed as an option. Mr. Holt and Ms. Butler requested to see the entire breakdown of complaint closure reasons at the next meeting.

Ms. Reiter asked if complaints that are received by unapproved institutions are included in the non-accredited statistics. Ms. Johnson replied that unapproved institutional complaints do fall within that non-accredited statistics. Ms. Reiter requested that at the next meeting complaints statistics be shown without the unapproved schools included in the accredited vs. non-accredited breakdown.

BPPE Enforcement Chief Beth Scott provided a report on compliance and the annual reports unit. She reported that vacancies are being filled in the annual reports unit. She noted that the unit has been approved to order a scantron machine, which will enhance and automate generating survey results.

Ms. Scott detailed that in the compliance unit there are 11 inspector positions filled with one vacancy. She stated that the Bureau website has been updated to include the result of any Notice to Comply filed after May 1, 2017.

Ms. Reiter asked Ms. Scott when the unit will be on track to comply with the requirement to inspect every school within five years. Ms. Scott replied that she should be able to provide that information at the next meeting.

Ms. Reiter noted that, in reference to complaints, she would like to know when enforcement might close out the complaints in the backlog. She also asked if the Committee could see a random sampling of complaints including ones closed for not substantiated/unsubstantiated and non-jurisdictional referrals/closed schools/STRF.

Licensing Report:

BPPE Enforcement Education Administrator Robert Bayles provided a report on licensing. He detailed that the Bureau has received 93 full approval applications in FY 2016-17. He added that 67 of those applications are under review and 66 are pending assignment. He noted that 45 full approval applications have been approved, 11 were withdrawn or abandoned, and 19 were denied. He concluded that the average days to approve a full approval application is 168.

Mr. Bayles reported that the oldest approval pending assignment dates back to April 5, 2016, and the oldest renewal pending assignment dates back to April 8, 2016. He added that 44% of approval applications pending assignment were received incomplete, and 68% of renewal applications pending assignment were received incomplete.

Mr. Holt asked to what extent are applications reviewed when determined to be incomplete. Mr. Bayles explained that all applications are given a quantitative review for completion within 30 days of being received by the Bureau. He noted that applications deemed incomplete stay in the pending assignment queue until deemed complete. He added that once applications are assigned to an analyst the application receives a thorough qualitative assessment.

The Committee broke at 11:35 AM, and reconvened at 11:45 AM.

Student Tuition Recovery Fund (STRF) Report:

BPPE Enforcement Deputy Bureau Chief Leeza Rifredi introduced Scott Valverde as the new Chief for the Office of Student Assistance and Relief. She continued pointing to the statistics on institutional closures. She reported that 47 main, 15 branches, and 9 satellite locations closed during FY 2016/17. She added that over 6000 students were impacted by those closures. She noted that the Bureau has received 412 STRF claims during FY 2016/17. She explained that outreach was conducted with students from ITT, Fast Response, Sage College, and Westech College.

Ms. Rifredi reported that the Bureau has received over 15,000 transcript requests in FY 2016/17. She added that 11% of transcripts requested were not found. She explained they may

have not been found because they were non-degree programs prior to 2000, the school was not located in California, or the BPPE was not the custodian of the transcript.

Ms. Rifredi stated that the Bureau received 731 STRF claims in FY 2016/17. She added that over one million dollars was paid towards 250 claims. She noted that 114 claims were deemed ineligible, and 74 were denied. She reported that there are currently 376 STRF claims in process, and added that the STRF fund is currently over 27 million dollars.

Ms. Rifredi pointed out that staff recently went to Redlands for an outreach event. Ms. Wenzel noted that OSAR will be taking over the outreach efforts moving forward. She added that OSAR will be working with other state agencies, non-profit entities, and legislative offices to set up outreach events.

Mr. Holt asked what the relationship will be, in regards to how internal referrals will be handled, between OSAR and the complaints unit at the Bureau. Ms. Wenzel responded that OSAR's focus will be more on STRF, but added that there will be an open line of communication maintained between OSAR and the rest of the Bureau.

Ms. Butler commented that the majority of the outreach events in FY 2016/17 were focused on the Latino community. Ms. Wenzel noted that OSAR will be overseeing outreach events in the future and is open for suggestions on communities to target.

There was no public comment.

Agenda #6 - Informational Report on the Status of Accrediting Council for Independent Colleges and Schools' (ACICS)

Ms. Wenzel provided a report on ACICS. She detailed that ACICS institutions must meet benchmarks set by the Department of Education (DOE) in order to remain eligible for Title IV. She noted that the Bureau continues to investigate ACICS schools as appropriate and is prepared to take any actions necessary for violations of the law. She explained that the current DOE administration is standing by the decision made by the former administration.

Ms. Reiter asked if there are plans to send additional letters to students. Ms. Wenzel replied that if there are any actions taken by the DOE or the Bureau then the Bureau will reach out to the students who may be impacted. Ms. Reiter stated that she would like additional information, regarding the decision and student options/alternatives, added to any future letters that may be sent out to ACICS impacted students.

There was no public comment.

The Committee broke for lunch at 12:08 AM, and returned at 1:01 PM.

Agenda #8 - Status Updates related to the following Previously Noticed Regulations

Ms. Wenzel reported that the STRF regulations are going through the final review and approval process. She noted that there has been a slow down due to the changes brought about by SB 1192. She added that there was an extension request filed with OAL. She stated that she anticipates the regulations to be at OAL by the next Advisory Committee meeting. Ms. Reiter asked if students have been informed about the change in STRF regulations in regard to eligibility. Ms. Wenzel reported that some Corinthian students were not eligible before, but are now. She continued that OSAR will be reaching out to those students. She added that OSAR will also be focusing on third party payer claimants.

Ms. Wenzel provided an update on the compliance inspection prioritization regulations. She reported that those regulations have been approved and will become effective July 1, 2018.

Ms. Wenzel stated that the application processing goals and timelines regulations are going through the review and approval process. She stated that the next step will be to notice the regulations.

There was no public comment.

Agenda #9 - Discussion and Consideration of Draft Regulatory Language regarding Registration for Out-of-State Private Postsecondary Educational Institutions (CEC sections 94850.5 and 94801.5)

Ms. Wenzel provided some background explaining that the regulation for out of state registration was presented at the last meeting, but that the Committee did not see the regulations until the day of the meeting. She added that the regulations were included today to give the Committee an opportunity to comment after reviewing them further.

Ms. Reiter pointed out that under section 9 of the application the wording "verification of accreditation" should be further clarified to note the type of verification required. She suggested requiring the verification for accreditation come directly from the accrediting body and the verification of state approval come directly from the approving state agency.

Ms. Reiter questioned why applications may be accepted up until August 1, 2017 if the regulation becomes effective on July 1, 2017. Ms. Wenzel explained that the regulation is worded that way because the Bureau was not sure when the application would become available to the institutions. She added that now that the Bureau anticipates the application becoming available by June 1, 2017, the regulation may be reworded.

Ms. Reiter commented that the wording regarding an institution that does not register with the Bureau should be changed from "shall not operate in California" to "shall not offer distance education to the public in California and shall not enroll students in distance education in

California.” She also suggested adding language which states that the Bureau may keep records in the event that an out of state institution appeals a decision made by the Bureau.

Ms. Lee-Carey brought up the question of how an institution that is not registered in California offering distance education online would distinguish its marketing to exclude the public of California. Ms. Reiter responded that an institution that is not registered in California offering distance education would just need to add a disclaimer stating that the offer is not available in California.

Mr. Vice asked what would happen if a student living in another state moved to California while enrolled in distance education at an institution not registered in California. Ms. Wenzel suggested that the institution would need to be registered to continue to offer the distance education to that student.

Ms. Lee-Carey commented in regards to renewal that language could be added to state that an institution should submit a renewal application 30 days prior to the expiration date.

Ms. Reiter questioned whether the Bureau would track STRF payments from registered schools. Ms. Wenzel stated that the Bureau would track out of state institutions STRF assessments the same as in state institutions.

Public Comment:

Mr. Johnson asked if the Bureau has contacted out of state institutions regarding the need to register to offer distance education in California. Ms. Wenzel stated that without knowing what all institutions are out there, the Bureau could not directly contact each one. She noted that the Bureau posted a notice on its website in January 2017 regarding the registration requirement. She added that the Bureau presented information on out of state registration at a National Association of State Administrators and Supervisors of Private Schools (NASASPS) conference.

Agenda #10 - Discussion of Draft Regulatory Language regarding English as a Second Language Programs (Title 5, California Code of Regulations, Chapter 1, Section 70000 (k))

Ms. Lee-Carey opened up discussion asking if any Committee member had a comment.

Ms. Reiter stated that she believes the institutions who have urged the Bureau to pass this regulation intended the regulation to be narrower. She added that she thinks the regulation is too broad and may allow exemption for some institutions that are not included in the intent of this regulation.

Ms. Reiter suggested adding language to the regulation that an institution shall include a statement to students that the institution is not approved or is exempt from approval of the Bureau. She stated it is important students understand that the Bureau is not regulating these types of institutions.

Ms. Reiter stated that language regarding refunds should be modified to state that the institution shall keep a refund policy that is at least as generous as required by their accrediting agency. She explained that the regulation should not be interpreted as though the institution could not offer a more generous refund policy.

Mr. Reiter commented that the language regarding brokering any private loans is too narrow. She added that the word “loan” is too narrow, and that it should use the word “credit” instead. She noted that there should be language stating that the institution does not prepare students for employment upon completion of the program. She also added that there should be language that states the institution is explicitly liable for the conduct of their recruiting agents.

Public Comment:

Raymond Trybus of the San Diego University of Integrative Studies provided public comment. Mr. Trybus wanted to stress an opposition to the new regulation based on the assertion that the regulation creates an uneven playing field between English language institutions that offer degree programs and ones that do not offer degree programs. He added another opposition based on the assertion that exempting English language institutions from Bureau oversight reduces protections for consumers.

Mr. Trybus presented the Committee with a spreadsheet he compiled outlining materials provided on English language only institutions websites that included how those institutions describe their institutions and programs. He asserted that the English language only institutions appeared to be offering more than a tourist, recreational, cultural, or entertainment only type program. He concluded that because these institutions are describing themselves comparable to English language institutions that offer degree programs, they should not be exempted from Bureau oversight.

Ms. Wenzel noted that if an institution does not meet the terms of the exemption, then the institution would not be granted exemption. She noted that if any of the institutions listed in the spreadsheet summary provided by Mr. Trybus do not meet the requirements outlined in the proposed regulation, then those institutions would not be eligible for exemption. She added that any student attending an institution approved by the Bureau or not may still contact the Department of Consumer Affairs regarding a complaint.

Mr. Vice pointed out that institutions seeking exemption would still have to meet the criteria set forth by their accrediting body. He added that if the vast majority of the students attending English only institutions are not from the United States and on visas, then it does not seem fitting to have those institutions under Bureau oversight. Ms. Lee-Carey added that the student’s goal is likely not to prepare for post-secondary education by attending an institution that would be eligible under this exemption. Ms. Reiter commented that the way the current regulation is drafted the exemption is not limited to institutions that only provide programs to foreign students. She added that if the intent is to limit the exemption to schools providing only

recreational programs, then the regulation needs to specifically outline that eligibility is contingent upon a school not providing post-secondary education entry preparation or employment.

Mr. Holt noted that the schools who would be seeking exemption under the new regulation are currently under Bureau oversight. He added that it would be helpful to see enforcement data on these schools to determine if oversight is an issue. Ms. Reiter brought up that prior to English language only schools being regulated by the Bureau those types of institutions were often centers for fraud. She noted that those institutions fraudulently targeted students who could not speak English. She added that several years ago when the Bureau began regulating those types of institutions the fraud was reduced.

Patrick Whalen of Ellison Wilson Advocacy group provided public comment. Mr. Whalen pointed out that his group has been pursuing this regulation for a number of years, and the institutions he represents have been diligently trying to continually fit within the current regulatory scheme that really does not apply to them.

Mr. Whalen noted that the institutions he represents do not claim to offer any programs that will lead to post-secondary education or to employment. He added that the institutions are not denying that English language skills are a valuable asset that can be applied to a number of various areas including business.

Mr. Whalen detailed that he does not disagree with any of the suggestions made by the Committee members to narrow the regulation. He added that the institutions he represents will need to stay within the framework of the regulation if they wish to remain eligible for the exemption.

Mr. Whalen encouraged the Bureau to check enforcement data for any trends among the institutions he represents, and noted that his understanding is that there have been no issues with English language only institutions he represents since the Bureau was reestablished in 2010. He added that by exempting English language only institutions from Bureau oversight, the Bureau will be freeing up resources to focus on areas where consumer protections for students are necessary.

The Committee broke for 2:20 PM and reconvened at 2:27 PM.

Agenda #11 - Discussion and Consideration of Draft Regulatory Language for the Application For Verification of Exempt Status (CEC Sections 94874, 94874.2, 94874.7, 94874.5, and 94927.5); Title 5, CCR Section 71395)

Ms. Lee-Carey asked if the Committee had any comments. Ms. Reiter noted that the application should be consistent in that relevant statutes and regulations are either spelled out or

referenced throughout the entire application. She also pointed out that 94874(a) and 94874(b) under section 3 are worded exactly the same.

Public Comment:

Mr. Johnson provided a public comment. He stated that many institutions ask why they should apply for exemption. He asked what the Bureau tells institutions regarding exemption. Ms. Wenzel replied that there is no mandate that a school who meets the requirements of an exemption apply for exemption. She noted that some schools may want to apply so they can provide verification of exemption to other organizations or show they are in good standing with the state.

Agenda #12 - Future Agenda Items

Ms. Wenzel advised the Committee that they may be asked to meet to give advice on the other applications in work. She noted that the verification of exemption application is just the first of all Bureau applications needing to be reworked. She added that the applications are being worked in conjunction with the minimum operating standards.

Ms. Reiter suggested a topic that involves determining how to identify institutions early on that are potential risks to students in order to resolve issues before they blossom in to more impactful situations. She added that she would like the Bureau to be the point agency that catches problems early on.

Mr. Vice pointed out that today's meeting would be the last for Bureau Chief Ms. Wenzel, and the Committee thanked her for her service. Ms. Wenzel explained she would be retiring in July 2017. She stated that it had been a pleasure to serve, and she hoped that the Bureau would continue to make improvements

There was no public comment.

Agenda #13 - Adjournment

Mr. Vice moved to adjourn the meeting; Ms. Butler seconded. (Ms. Reiter: Aye; Mr. Vice: Aye; Ms. Amaya: Aye; Mr. Holt: Aye; Ms. Butler: Aye; Ms. Lee-Carey: Aye). The motion passed. The meeting adjourned at 2:40 PM.

Agenda Item 4

REMARKS BY A REPRESENTATIVE OF THE DEPARTMENT OF CONSUMER AFFAIRS

(Note: May include updates pertaining to the Bureau's Operations, Human Resources, Department's Administrative Services, Fees, Enforcement, Information Technology and BreEZe, Communications and Outreach, as well as Regulatory and Policy Matters)

Agenda Item 5

**PRESENTATION BY A REPRESENTATIVE OF THE DEPARTMENT OF
CONSUMER AFFAIRS' OFFICE OF INFORMATION SERVICES ON BUSINESS
MODERNIZATION AS IT RELATES TO THE BUREAU'S INFORMATION
TECHNOLOGY SYSTEMS**

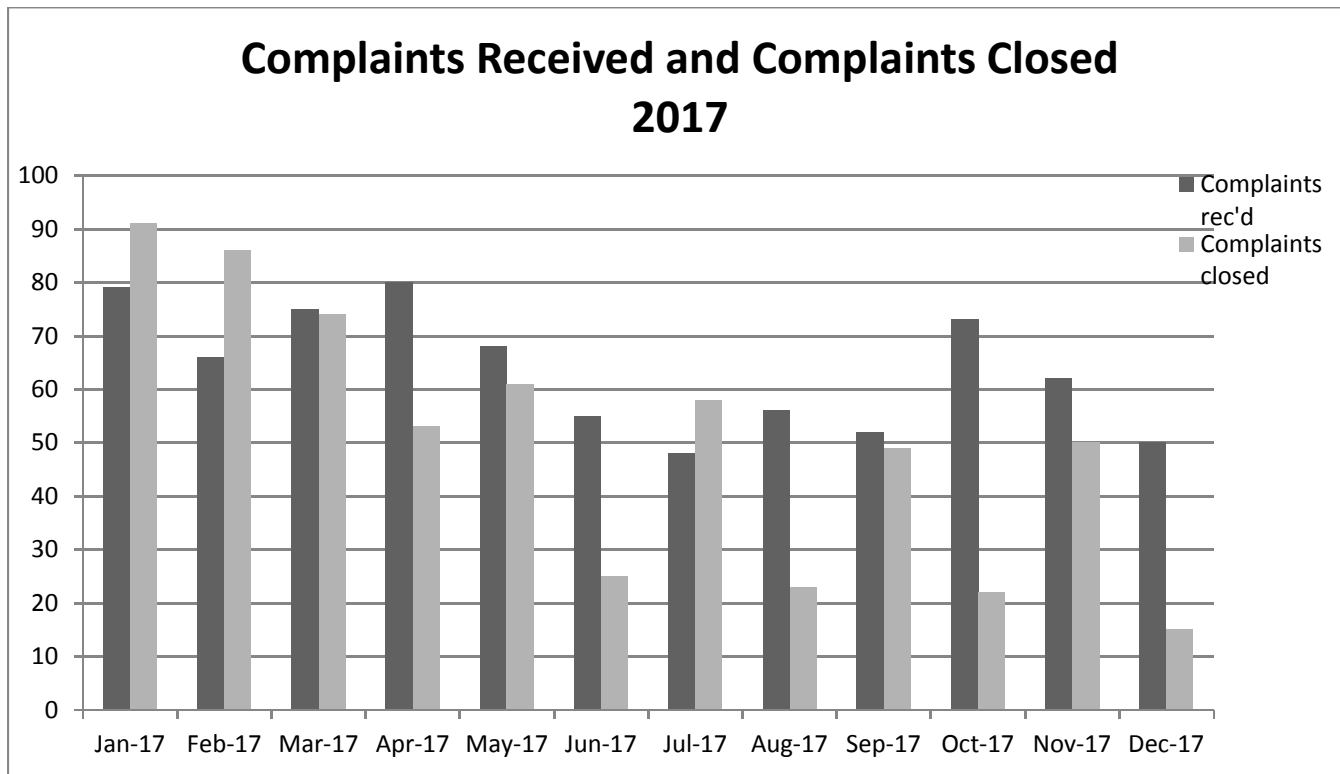
BUREAU OPERATIONS UPDATE RELATED TO THE FOLLOWING:

- a. Enforcement Report – Yvette Johnson**
- b. Compliance Report – Beth Scott**
- c. Licensing Report – Robert Bayles**
- d. Office of Student Assistance and Relief (OSAR) Report – Scott Valverde**
- e. Bureau Fund Condition – DCA Representative**

ATTACHMENT:

- A. Enforcement Statistics**
- B. Compliance Statistics**
- C. Licensing Applications Statistics**
- D. OSAR Statistics**

COMPLAINT INVESTIGATIONS STATISTICS 2017
BPPE Advisory Committee Meeting
February 13, 2018

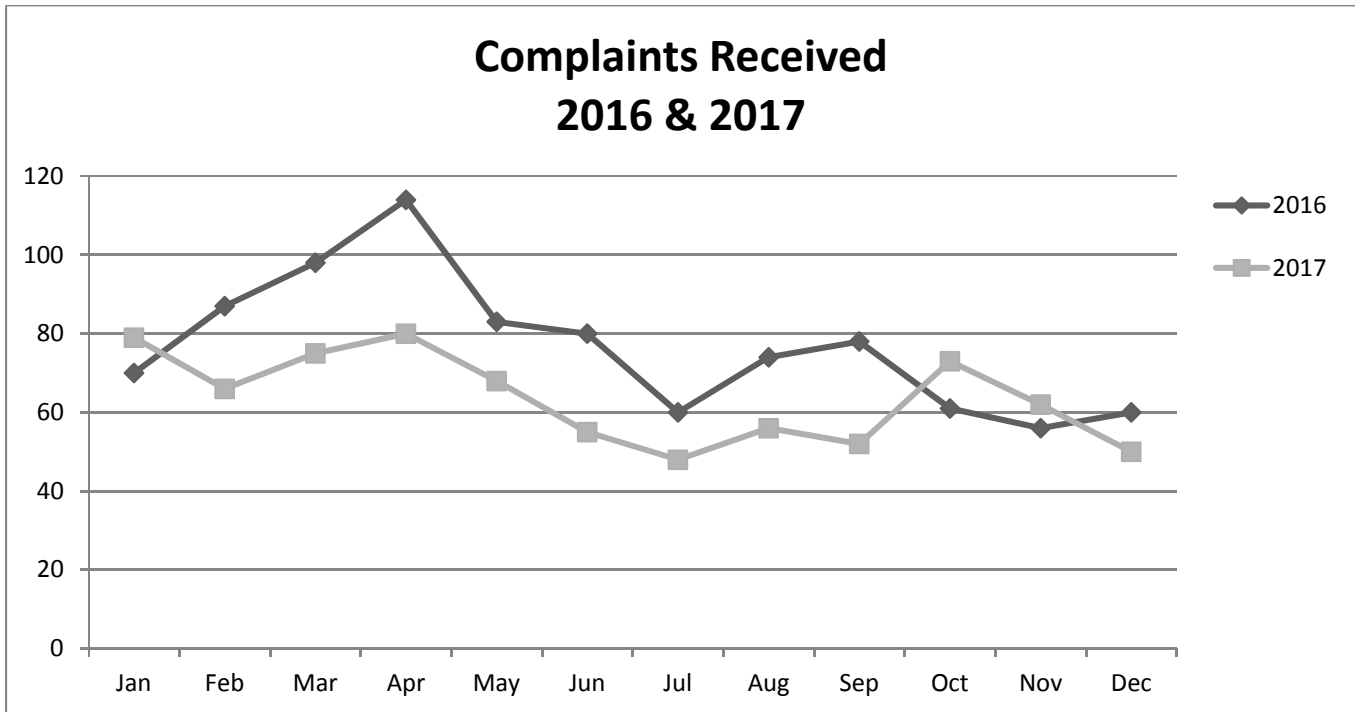


Source: CPEI Monthly Statistical Reports

2017 CALENDAR YEAR

Month/Year	Complaints Rec'd	Complaints Closed	Pending
Jan-17	79	91	952
Feb-17	66	86	932
Mar-17	75	74	933
Apr-17	80	53	960
May-17	68	61	967
Jun-17	55	25	997
Jul-17	48	58	987
Aug-17	56	23	1020
Sep-17	52	49	1023
Oct-17	73	22	1074
Nov-17	62	50	1086
Dec-17	50	15	1121
	764	607	

COMPLAINT INVESTIGATIONS STATISTICS 2017
BPPE Advisory Committee Meeting
February 13, 2018

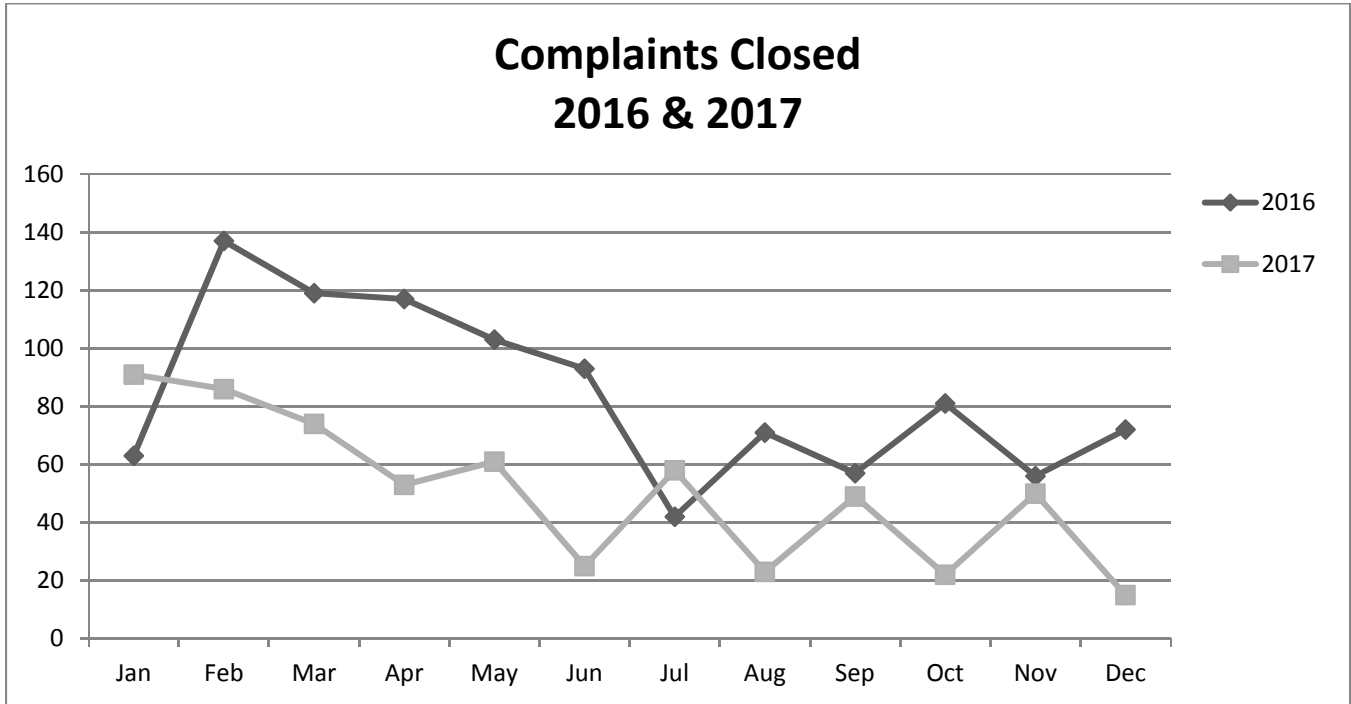


Source: CPEI Monthly Statistical Reports

COMPLAINTS RECEIVED

Month/Year	2016	2017
Jan	70	79
Feb	87	66
Mar	98	75
Apr	114	80
May	83	68
Jun	80	55
Jul	60	48
Aug	74	56
Sep	78	52
Oct	61	73
Nov	56	62
Dec	60	50
Total	921	764

COMPLAINT INVESTIGATIONS STATISTICS 2017
BPPE Advisory Committee Meeting
February 13, 2018

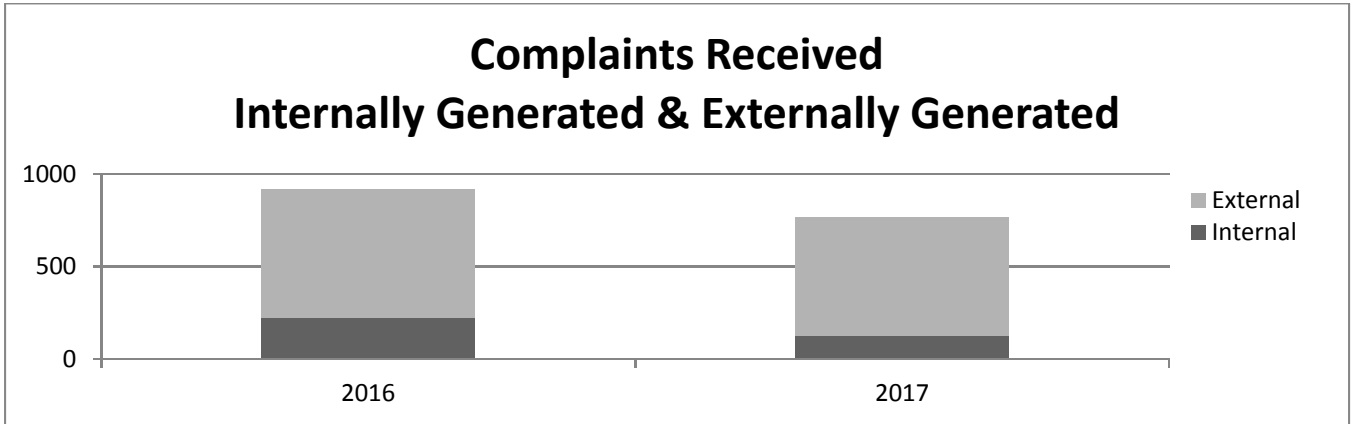


Source: CPEI Monthly Statistical Reports

COMPLAINTS CLOSED

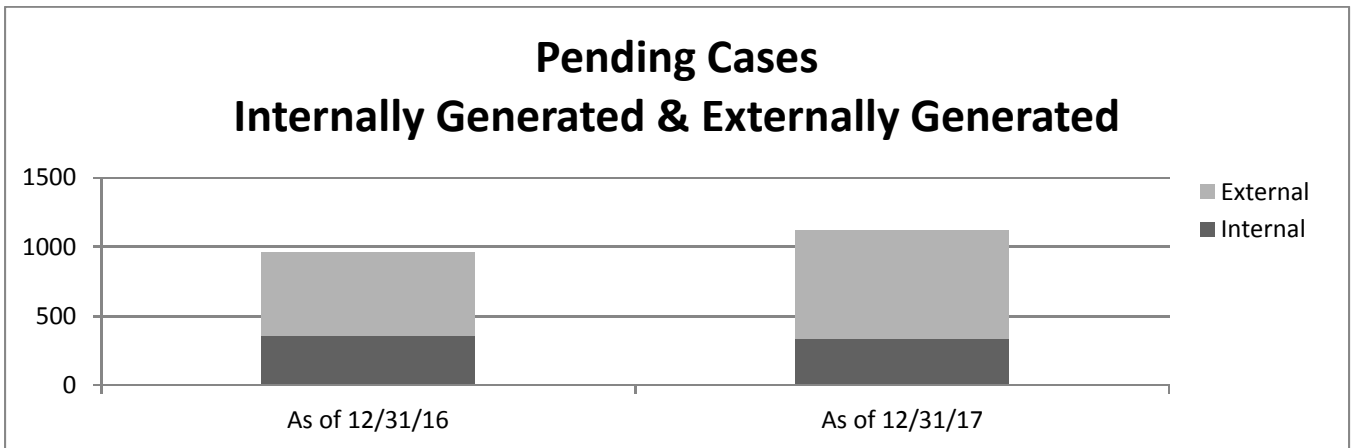
Month/Year	2016	2017
Jan	63	91
Feb	137	86
Mar	119	74
Apr	117	53
May	103	61
Jun	93	25
Jul	42	58
Aug	71	23
Sep	57	49
Oct	81	22
Nov	56	50
Dec	72	15
Total	1011	607

COMPLAINT INVESTIGATIONS STATISTICS 2017
BPPE Advisory Committee Meeting
February 13, 2018



Source: BPPE Complaint Case Tracking Log

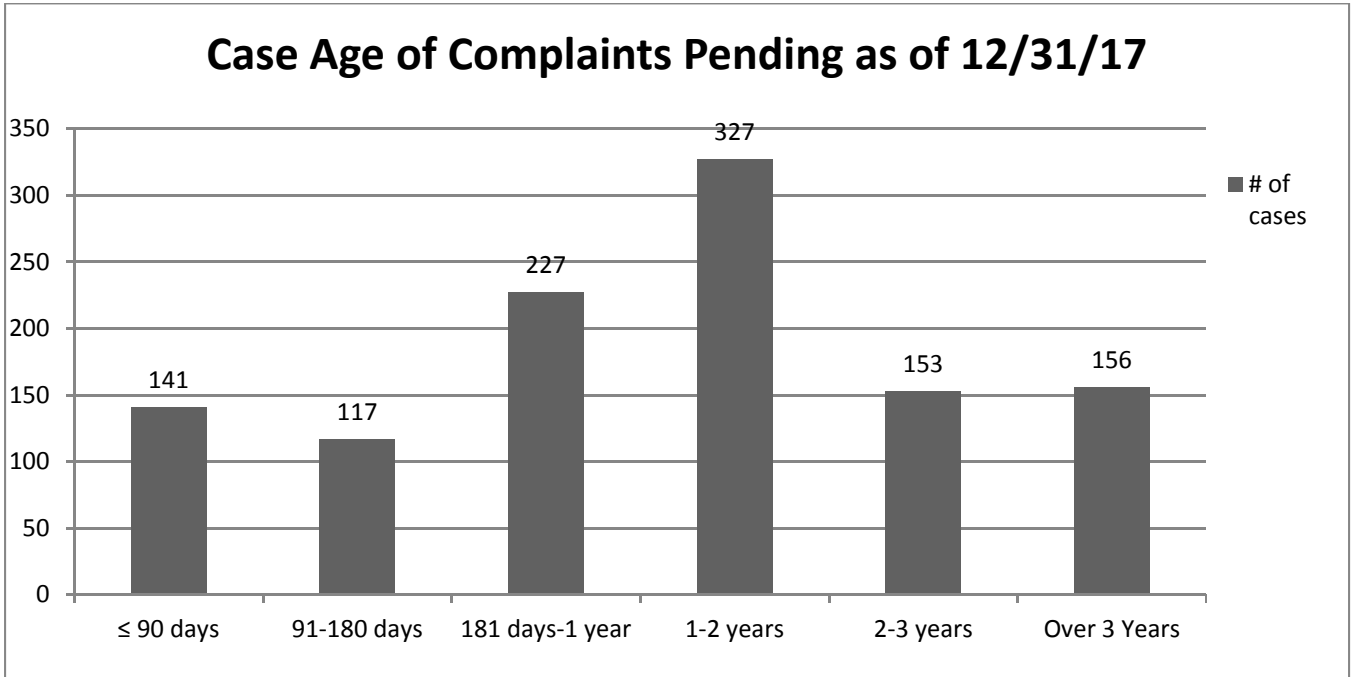
Received	2016	2017
Internal	223	125
External	698	639
Total	921	764



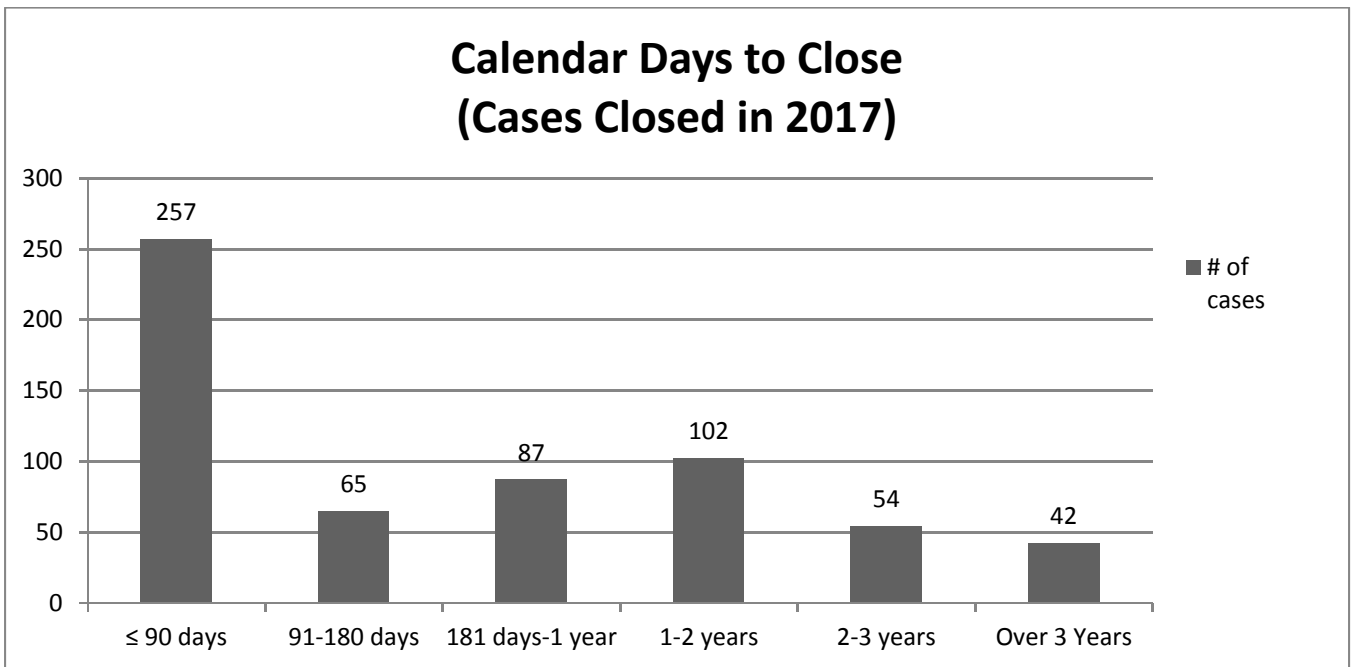
Source: BPPE Complaint Case Tracking Log

Pending	As of 12/31/16	As of 12/31/17
Internal	359	339
External	605	782
Total	964	1121

COMPLAINT INVESTIGATIONS STATISTICS 2017
BPPE Advisory Committee Meeting
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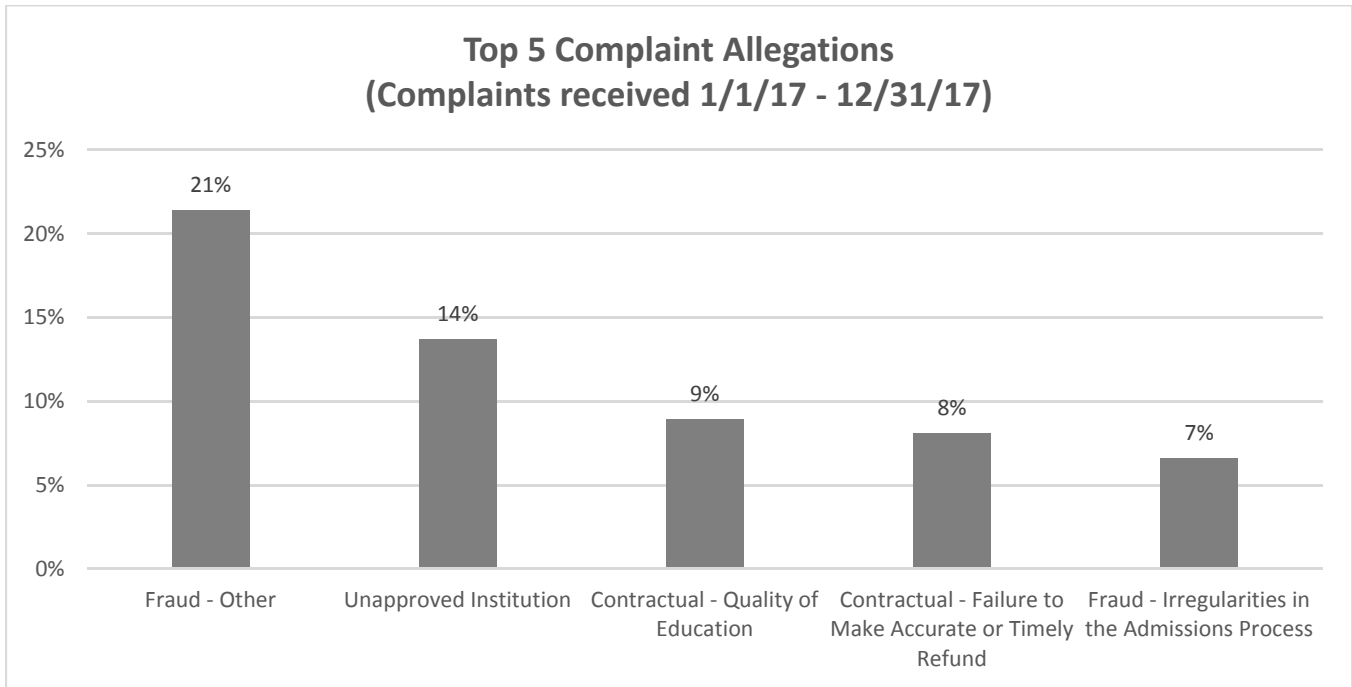


Source: BPPE Complaint Case Tracking Log



Source: BPPE Complaint Case Tracking Log

COMPLAINT INVESTIGATIONS STATISTICS 2017
BPPE Advisory Committee Meeting
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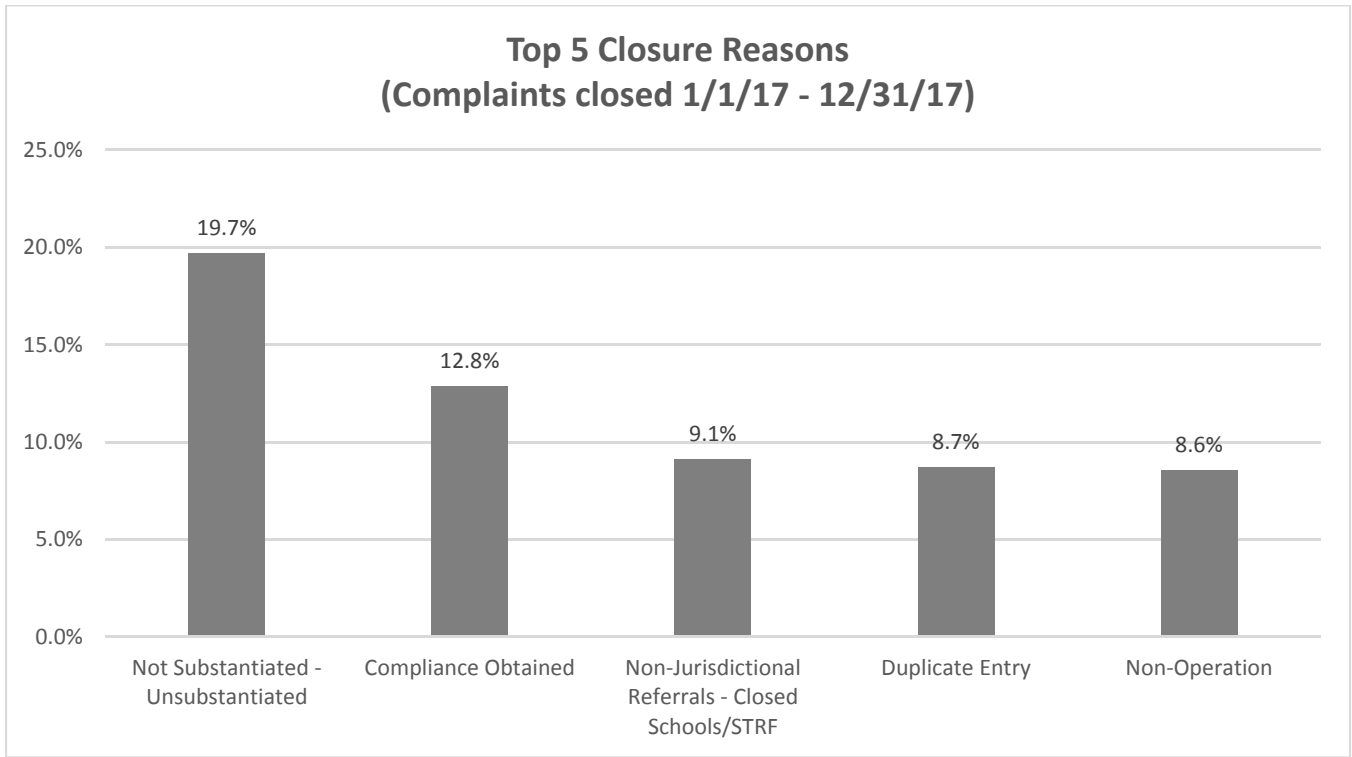


Source: SAIL Enforcement Workload Analysis

Notes:

- “Fraud – Other” category in SAIL serves as a “catch-all” for allegations for which SAIL does not have a specific category.
- The most common allegations under “Fraud – Other” are inaccurate, falsified, or missing records and the selling of hours.
- On 6/14/16, the Complaint Investigations Unit submitted to OIS its recommended list of more specific and accurate allegation categories and closure reason categories.

COMPLAINT INVESTIGATIONS STATISTICS 2017
BPPE Advisory Committee Meeting
February 13, 2018



Source: SAIL Enforcement Workload Analysis

REPORTING AS OF: DECEMBER 31, 2017

2017 STATS Compliance Unit	January February March	April May June	July August September	October November December
Total Inspections	20	21	19	25
Announced Inspections	11	9	11	20
Unannounced Inspections	9	12	8	5
Notice To Comply Issued	14	12	11	10
Enforcement Referral Issued	7	10	11	8

Type Compliance Inspector Activity	Calendar Year 2017
---	-------------------------------

Total Compliance Inspections	
(UCI + ACI) Completed	85
Notice to Comply	47
Enforcement Referral	36

Key	
Unannounced Compliance Inspection	UCI
Announced Compliance Inspection	ACI
Enforcement Referrals	ER
Notice To Comply	NTC

Licensing Applications Status as of January 1, 2018 for Fiscal Year 17/18

Type	Received FY 17/18	Pending Assignment (Queue) ^a	Under Review	Total Pending ^b	Approved	Withdrawn or Abandoned	Denied	Total Closed	Average Days to Approve ^c
New Full Approval	37	54	71	125	23	5	18	46	324
New Accreditation	17	0	8	8	17	4	2	23	122
Renewal Full	27	36	39	75	34	6	9	49	336
Renewal Accreditation	36	0	28	28	41	3	2	46	122
Changes Full	88	0	34	34	79	6	5	90	192
Changes Accreditation	95	0	31	31	76	8	2	86	47
Exemption	88	0	9	9	74	2	25	101	25
Out of State Registration	30	0	9	9	42	6	0	48	59
Totals:	418	90	229	319	386	40	63	489	153

^a 9 of 54 Approval Apps are incomplete. 20 of 36 Renewal Apps are incomplete.

^b Average Days to Approve is calculated from time assigned to analyst.

^c In last 4 months Total Pending Applications has decreased by 20%

Oldest Full Apps in Queue:	8/1/2016
Oldest Full Apps currently Under Review:	9/17/2012
Oldest Renewal Full Apps in Queue:	12/12/2016
Oldest Renewal Full Apps Under Review:	11/8/2012
Median Date of Applications for Approval in Queue:	8/10/2017
Median Date of Applications for Renewal in Queue:	8/21/2017
Total pending applications on 6/30/2017:	384
Total pending applications on 9/1/2017:	399
Total pending applications on 1/1/2018:	319

Student Tuition Recovery Fund Claims

Claims Received During 2017/18 Fiscal Year
234

Claims Closed During 2017/18 Fiscal Year			
Claims Paid	49	Amount	\$362,673
Claims Ineligible	1		
Claims Denied	1		
Closed - Unable to Contact	306		
Total	357		

Current Claims	
Active / Waiting for Student Response	213
Analyst's First Review Complete / Recommendation Pending	137
Payment Requested From State Controller's Office	12
Total	362

Claims in Queue
52

Definitions

Ineligible	Not a CA resident, school not closed
Denied	Incomplete application, no proof of attendance, no economic loss
Unable to Contact	OSAR staff reached out to student via phone, email & written correspondence at least three times

Current Fund Balance: \$27,075,000

Historical Fund Balances (Fiscal Year Closing):

2016-17	\$28,497,000
2015-16	\$29,626,000
2014-15	\$28,518,000

Data as of 01/25/2018

Large Impact Closures

2017/18 Fiscal Year

	STRF Claims Received	STRF Claims in Progress	Ineligible	Denied	Number of STRF Claims Paid	STRF Claims Paid
All Claims	234		1	1	49	\$362,673
ITT Tech	14	11	0	0	6	\$33,114
Heald¹	73	72	0	1	1	\$4,790
WyoTech¹	4	4	0	0	1	\$198
Everest¹	7	6	0	0	1	\$10,000

From School Closure to Current (Total Impact)

	STRF Claims Received	STRF Claims in Progress	Ineligible	Denied	Number of STRF Claims Paid	STRF Claims Paid
ITT Tech	276	28	25	112	41	\$197,483
Heald¹	143	76	48	5	10	\$89,151
WyoTech¹	118	6	16	23	50	\$278,243
Everest¹	250	8	53	40	84	\$255,695

¹ Heald College, WyoTech, and Everest College were operated by Corinthian Colleges, Inc.

STATUS UPDATES RELATED TO THE FOLLOWING REGULATIONS:

- a. Student Tuition Recovery Fund (Title 5, California Code of Regulations (CCR) Sections 76000, 76020, 76120, 76130, 76200, 76210, 76212, and 76215)**
- b. Compliance Inspection and Complaint Prioritization (Title 5, CCR Sections 75200 (proposed changes), 75210 and 75300 (new))**
- c. Registration for Out-of-State Private Postsecondary Educational Institutions (California Education Code (CEC) sections 94850.5 and 94801.5)**
- d. English as a Second Language Programs (Title 5, CCR, Chapter 1, Section 70000 (k))**
- e. Application for Verification of Exempt Status (CEC Sections 94874, 94874.2, 94874.7, 94874.5, and 94927.5); Title 5, CCR Section 71395)**

Agenda Item 8

DISCUSSION AND CONSIDERATION OF DRAFT REGULATORY LANGUAGE FOR COMPLIANCE WITH LAWS AND PROCEDURES (CEC SECTION 94885(A)(9); TITLE 5, CCR, CHAPTER 1, SECTION 71755)

ATTACHMENT:

A. Proposed Language for CCR Section 71755 (Compliance with laws and procedures)

§ 71755. Compliance with laws and procedures

(a)The institution must be maintained and operated in compliance with the Act, this division, and all other applicable ordinances and laws.

(b) The institution must be maintained and operated in accordance with all policies and procedures, which are required by the Act and this division.

Note: Authority cited: Sections 94877 and 94885, Education Code. Reference: Section 94885, Education Code.

Agenda Item 9

**DISCUSSION ON THE EMERGENCE OF INCOME-SHARE AGREEMENTS (ISA) IN
PRIVATE POSTSECONDARY EDUCATION**

FUTURE AGENDA ITEMS

DISCUSS POTENTIAL MEETING DATES FOR 2018

ADJOURNMENT