



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

Bureau for Private Postsecondary Education
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Advisory Committee Meeting Minutes
Tuesday, May 12, 2015

Department of Consumer Affairs
Hearing Room
1625 North Market Blvd
Sacramento, California 95834

Advisory Committee Members in Attendance:

Sean Crawford, Chair
Margaret Reiter, Co-Chair
Sylton Hurdle
Ken McEldowney
Marie Roberts De La Parra
Patrick Uetz

Committee Members Absent:

Diana Amaya
Tamika Butler
Mitchell Fuerst
Katherine Lee-Carey
Assemblyman Jose Medina
David Wood

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

Joanne Wenzel, Bureau Chief
Alyson Cooney, Deputy Bureau Chief
Norine Marks, Legal Counsel, Department of Consumer Affairs
Mina Hamilton, Legal Counsel, Department of Consumer Affairs
Dr. Benjamin Walker, Quality of Education
Seyed Dibaji, Senior Education Specialist
Vicky Parsons, Education Specialist
Greg Pruden, Department of Consumer Affairs
Benjamin Triffo, Associate Governmental Program Analyst
April Oakley, Associate Governmental Program Analyst

Call to Order

The meeting was called to order by Mr. Crawford at 9:45am on May 12, 2015, at the Department of Consumer Affairs Hearing Room at 1625 North Market Boulevard Sacramento, CA 95834.

Agenda Item # 1 - Welcome and Introductions

Mr. Crawford welcomed the Advisory Committee, BPPE staff, DCA staff, and the public to the meeting. Staff counsel is noted as present.

Agenda Item #2 – Public Comments on Items not on the Agenda.

Rigel Massaro, Staff Attorney with Public Advocates would like to thank the Bureau for their work with Corinthian students, and their use of social media to connect with students. She noted that students need more direct access to their former documents (enrollment agreements, student ledgers, retail installment contract, leave of absence, withdrawal). She also notes that she hopes that the Bureau supports AB 573. Ms. Wenzel responded by saying that Bureau staff was on location at the Corinthian schools, providing lists of approved schools, closed school guides, STRF applications, and that the US Department of Education was present for loan discharge information. It was also noted that school staff was present to provide transcripts and other documents. Ms. Wenzel stated that Bureau staff spoke with approximately 85% of students. She also expects to start receiving documents from Corinthian in the coming week electronically, and by the end of the month over 25,000 boxes of records. In regard to STRF claims, Ms. Reiter asked if the Bureau is doing anything for students who don't have all of the necessary documents needed to complete an application. Ms. Wenzel stated that the Bureau works with all students who call in, and will take some items in lieu of other certain documents. Laura Metune, representative for Assemblyman Jose Medina, wanted to bring up for further discussion at a later time the issue of students who have Cal Grants, who are applying for STRF, and if there are any requirements that they continue their education at a Cal Grant eligible school. The comment was noted. There were no further public comments.

Agenda Item #3 – Approval of Minutes- February 18, 2015

Mr. Crawford asked for any additions or corrections to the minutes. Mr. McEldowney moved to approve the minutes, Ms. Reiter seconded the motion. (McEldowney: Aye; Hurdle: Aye; De La Parra: Aye; Crawford: Aye; Reiter: Aye; Uetz: Aye. No Nays. Motion passed).

Agenda Item #4 – Remarks by Awet Kidane, Director, Department of Consumer Affairs

Mr. Kidane thanked the public for comments, and the tireless work of the Bureau. He also thanked the Task Force for thinking outside of the box, and for the work they have put forward so far. Mr. Kidane also noted that there was a roundtable last week to address STRF, complaint backlog, licensing backlog, compliance inspections, workload and process analysis, and BreEZe. He also made comment on AB 573, that the Bureau is reviewing it. Ms. Reiter commented that she supports AB 573, and asked Mr. Kidane to take a public stand on the bill. There were no further questions.

Agenda Item #5 – Explanation of the Compliance Inspection Procedure

Wayne Brenner, Compliance Manager, for BPPE provided an overview of the compliance inspection process. The compliance inspection process starts with a notice to the school, with a list of items to be sent to the Bureau, with the school given three tentative dates to select their on-site visit. The Inspector then visits, and provides a Notice to Comply for any deficiencies. The institution has 30 days to complete the Notice to Comply. If not taken care of in 30 days it is recommended for citation. The Notice to Comply is a permanent record posted on the website. Within three days of inspection the final report is completed. Ms.

Reiter inquired if there are additional procedures that guide the inspector to pull a certain number of random files, interview a certain amount of students, view random classes, etc. (non-facial defect items). Mr. Brenner stated that when the inspector gets to campus they speak with administration, and ask for a list containing 24 months of student information, and they are picked at random. Ms. Reiter again emphasized her question; Ms. Wenzel stated that these procedures are not public, because they do not want the schools to know. Ms. Metune asked if there is a way to fix the backlog of big problems, it seems that much time is spent fixing small problems, while the big ones get sent off to enforcement. Mr. Brenner answered that often the Bureau representative visiting the school will work with the administration on site to clear up deficiencies, to help minimize backlog. Ms. Wenzel stated that when there is an anticipation of major violations, there will be two individuals sent out, one compliance inspection, and an investigation. Ms. Metune asked if other Bureaus have a differentiation between compliance and investigation units. Ms. Reiter asked if statute that states there can't be an inspection and investigation at the same time can be referenced. Ms. Wenzel provided California Education Code Section 94936(a). Mr. McEldowney inquired on how many schools are sent a letter asking for documentation per year. Ms. Wenzel stated that it is around 20%. Ms. Reiter recommended that this be reviewed at a later time to see if it can help with backlog. There were no public comments.

Agenda Item #6 – Update on the Progress of the Task Force on High-Demand Technology Fields Established Pursuant to California Education Code Section 94880.1

Mr. Crawford provided an update on the May 11, 2015 Task Force meeting. The three statutory charges were discussed, and that definitions were discussed. There will be subject matter experts, and employers that will come and provide expertise to the Task Force. The next meeting will be in June, or July depending on availability of speakers. Ms. Reiter asked if the Task Force will be looking at regulatory changes. She also asked for more details on the creative ideas that were referenced by the Director. Mr. Crawford said they are very preliminary, but they may include a peer review process. Ms. De La Parra added that speakers from SBA and the Governor's office will be providing assistance. There was no public comment.

Agenda Item #7- Bureau Operations Update

(a). CPS HR Consulting Review-Alyson Cooney

Alyson Cooney, Deputy Director, provided an overview of the CPS Interim Report. The report is not final, but the Bureau has started implementing recommendations that have been made. Ms. Reiter commented on the portion of the report that stated there needs to be more staff working with Annual Reports, and SPFS. She recommended further discussion on how the Bureau can address this. She also commented that inspection timelines have been moved to five years, and it seems that the Bureau is only inspecting schools every five years. The goal of the extension was that problem schools could be visited more frequently, without the need for every school to be visited more frequently. Ms. Cooney stated that there will be an Annual Report Unit that will work with the Compliance Unit. She stated that Ms. Johnson will address the second comment. Mr. Crawford asked why complaint data wasn't as up to date in the report, as other data. Ms. Wenzel stated that it was the first part of the report completed, so it's older data.

(b). Student Tuition Recovery Fund- Alyson Cooney

There are 110 STRF applications in active review, 23 are pending loan discharge information, 62 are pending additional information from students, and 25 are from Corinthian students. Since the last meeting, there have been four school closures, totaling eighteen campuses, affecting 4,036 students. There have also been 23 approved STRF claims, totaling \$150,000 since the last Advisory Committee meeting. STRF balance is currently at approximately \$28 million. Mr. Crawford asked for the age of the oldest STRF application, Ms. Cooney did not have the information but stated she could provide it. Ms. Reiter asked about the 15 STRF denials, and the common reasons they are declined. Ms. Cooney stated the most common reason is that the student did not suffer an economic loss. Ms. Reiter followed up on last meeting's comments asking about student loans being sold when the lender stated that they will not collect on the debt. Ms. Cooney and Ms. Wenzel stated they have done research, and have not found any situations where this is applicable. However, it can be difficult to have third party lenders provide loan discharge information, thus it has been difficult to tell. Ms. Reiter recommended that there be a legal review of how the Bureau can insure that student's loans are cleared completely through STRF.

(c). Licensing Update- Leeza Rifredi

Leeza Rifredi, Licensing Chief, BPPE provided an update on Licensing backlog numbers. Currently there are 787 applications in queue (down 100 from last Advisory Committee meeting); 508 being actively worked, and 279 pending review. Since July 1, 2014, there have been 896 applications processed, with 143 being denied. Mr. McEldowney inquired on the age of the oldest application. Ms. Rifredi did not know the exact age, but is aware of applications from 2013. Mr. McEldowney followed up by asking if schools can still operate while their application is being reviewed. Ms. Rifredi stated that the majority of backlog is renewal of non-accredited schools (with some new applications), and that if the renewal application was submitted prior to the expiration date the school can continue to operate.

(d). Enforcement Update- Yvette Johnson

Yvette Johnson, Enforcement Chief, BPPE provided an update on complaint investigations. There are currently 1083 pending complaints, with an average of 61 received complaints per month, and an average closing 46 per month. Approximately 1/3 of the complaints are internal referrals. Some process improvements that the Enforcement Unit has been working on include a new complaint prioritization model. There is now a spreadsheet that gives a risk assessment based on complaint information. There are urgent complaints that automatically go to field investigators, high priority complaints that go to desk investigators, and routine complaints that are sent to the complaint resolution program at DCA.

Ms. Johnson also provided an update on the Compliance Unit, stating that inspection times have decreased from over 200 days, to about 68 days. This is due to the fact that field inspectors now handle the process from beginning to end. They are also looking at prioritizing inspections based on CEC Section 94941. Ms. Johnson referenced Ms. Cooney's previous comments that there have been discussions on creating an Annual Report Unit which would help look at the School Performance Fact Sheets. Ms. Wenzel added that the prioritization spreadsheet went live on May 1, 2015. Right now there is extensive time being spent backfilling data mandated by SB 1247. They are also looking at better automation for the annual report process, as well as a bridge system that will pull back end annual report info and will fill in gaps in the prioritization spreadsheet. In the first month of using this

spreadsheet, the Bureau was able to double the number of complaints that were closed. This has been due to the complaint resolution program at DCA for lower level complaints. Ms. Reiter asked if there will be a spot check process to ensure schools are reporting accurate data on the annual reports. Ms. Johnson stated that this will be included in the procedures that they are working on. On March 20, 2015 and April 3, 2015 investigations had training with the Attorney General's office, and that the next training will be conducted in June for report writing. Mr. Crawford asked if there has been any tracking for exit data from participants in the compliance workshops. Ms. Johnson stated there is a survey that is provided, and that the new priority spreadsheet takes into account if a school has attended one of these workshops. Ms. De La Parra asked if the Task Force could gain access to the compliance prioritization spreadsheet, and see if it would be applicable to the peer review process. Ms. Reiter asked what part of the Attorney General's office the training individuals are coming from. Ms. Johnson stated they are from the licensing unit. Mr. McEldowney asked if there will be increased staffing in the Bureau. Ms. Wenzel stated that the increased outcomes have been a result of process improvements, especially in the licensing unit. There was no public comment.

Agenda Item #8- Regulatory Update and Review

(a). Compliance Inspection and Complaint Prioritization (Title 5, California Code of Regulations Sections 75200 (proposed changes), 75210 and 75300 (new))

Section 75200: Mr. Crawford opened the floor to the AC for comments or questions. There were no questions, or comments.

Section 75210: Ms. Reiter asked which inspection date is posted on the website for a school's site inspection. Ms. Wenzel stated that it is the current inspection date that is posted. Mr. McEldowney asked if the Bureau can post notification at the school for a week or two before the inspection, along with inspector contact information so students can speak with the Bureau about the school. Ms. Johnson stated that the inspector posts notices during the inspection, and passes out notices as well. Mr. McEldowney requested a copy of the notices. Ms. De La Parra asked how frequently inspectors are approached by students. Ms. Johnson stated not often, but they do receive feedback through the student survey. Mr. Crawford requested a copy of the student survey, and notice be sent to the Advisory Committee. Mr. McEldowney asked if there is a requirement for where the notice is placed for students to see. Ms. Wenzel stated that it can be posted in several places, but it must be in a conspicuous location.

Section 75300: Mr. Crawford stated that the term "complaint types" should potentially be "complaint subjects". Ms. Reiter recommended leaving "complaint type" all together. Item five was clarified to mean offering programs that are not approved by the Bureau. There is public comment from Rigel Massaro, who suggests changes from a letter that was sent to the Bureau from her organization Public Advocates. She noted that there are a lot of online students who will not see an inspection notice, or students who may have recently left the institution. Ms. Massaro also requests that the school or the Bureau send inspection findings to current and former students, that the posted notice list refund rights and information for legal referrals, and that financial harm to students be the number one priority for the Bureau when it comes to complaints. Mr. McEldowney requests to have this letter sent to the Advisory Committee.

(b). Student Tuition Recovery Fund (Title 5, California Code of Regulations Sections 76000, 76020, 76120, 76130, 76200, 76210, 76212, and 76215)

76000: Mr. Crawford noted the use of the word qualifying, over the word approved. Ms. Reiter noticed that the school needs to provide documents to “the best of their knowledge”, not under the penalty of perjury (which students have to do). She recommends that the schools have the same responsibility. Mr. McEldowney asked if online students who reside in a different state are eligible for STRF, Ms. Wenzel and Mr. Crawford stated they are not, and that that is noted in their enrollment agreement.

76020: Mr. Crawford opened the floor for comments. Ms. Reiter asked if there are other types of economic loss than what is stated in statute. Ms. Wenzel noted that it states loss of education opportunity. Mr. Hurdle asked why there was a removal of so much information in this section. Ms. Wenzel said that is has been included in statute, and no longer needs to be in the section.

76120: Mr. Crawford opened the floor for questions, or comments. Mr. McEldowney inquired that the STRF assessment was zero dollars due to reserve funds; Ms. Wenzel confirmed. Mr. McEldowney asked how often the STRF assessment is reviewed; Ms. Wenzel stated that there is a floor and a ceiling that institutes the change.

76130: Mr. Crawford requested clarifying language in sub-section (a)(2). Ms. Wenzel made note to review. Mr. Crawford also made note of subsection (c) and that there may need to be a revision due to students who were previously enrolled, and have recently reenrolled. Ms. Wenzel stated that she would review the language.

76200: Ms. Reiter has a question on sub-section (b,) how does the Bureau handle students who were never provided an enrollment agreement? Ms. Wenzel stated that they have not run into this situation. Ms. Reiter rephrased her question, asking what happens if the student doesn't have any of the supporting documents. Ms. Wenzel agreed that there could be more lenient language included in the sub-section. Mr. Uetz noted that sub-section (c) seems to clarify this issue. Mr. McEldowney asked how this information will be communicated to students as it seems complicated. Ms. Wenzel stated that the application is fairly straight forward, and that if students call a STRF analyst they will be told to send in what they have, and the analyst will work with the student to figure out what additional items they may need. Mr. McEldowney recommended looking at the amount of STRF claims, comparing them between current numbers, and claim numbers at the time of the next Advisory Committee meeting. Ms. Reiter referenced sub-section (b)(2), in regards to students have 45 days to file a claim, versus other scenarios which give up to two years. She recommended that they remain consistent. Ms. De La Parra agrees.

76210: Ms. Reiter requests that sub-section (b) be revised to provide information on the full compromise or write off with the lender. She also asked for clarity around sub-section (e) in regards to if the economic loss. Ms. Wenzel noted that Ms. Metune's comments from earlier may be addressed in this section as well.

76212: No comments.

76215: Ms. Reiter asked for more straight forward language in sub-section (a), if statute allows for it. In sub-section (b) Mr. Crawford stated that the edits have removed some clarity

and context, and that it may need to be edited. He also noticed that in sub-section (b)(6) there are some inconsistencies with the language, and made recommendations for minor changes.

Public Comment: Robert Johnson, California Association of Private Postsecondary Schools, referenced sub-section 76215(b)(6), and how court is defined (in the context of a Public Attorney General, county counsel, city attorney, or private attorney). Ms. Wenzel stated that she will make note. Ms. Reiter recommended taking a look at statute, and making changes to simplify the language. Mr. McEldowney asked if disclosures are required to be provided in other languages if the school is promoting in languages other than English. Greg Pruden, DCA, noticed in sub-section 76000(c) that there is a typo.

(c). Student Tuition Recovery Fund Rate Change (Title 5, California Code of Regulations Section 76120 (a))(Consideration of imposing an assessment)

Ms. Wenzel stated that the Bureau has a cap of \$25 million and floor of \$20 million; currently the assessment is zero. There is anticipation that there will need to be a reinstatement of the assessment due to Corinthian closures. It is also noted that there is pending legislation that would raise the ceiling to \$50 million, and a floor of \$45 million. Ms. Wenzel is seeking recommendations on what the STRF assessment should be raised to. The Bureau anticipates that with the upcoming claims, based on average claim amount, it will cost the fund \$26 million. The Bureau cannot collect assessments until it drops below \$25 million. At \$2.50 per \$1000 per student, the Bureau collected approximately \$20 million in two years. Ms. Reiter asked when it is anticipated that the fund will drop below \$25 million; Ms. Wenzel stated that there is no way to know. Ms. Reiter recommended that when the fund drops below \$25 million; start with a small assessment that can be quickly ramped up. Ms. Wenzel stated that there really isn't a "quick ramp up" seeing as institutions need to change their enrollment agreements, and other disclosures. In that regard, the Bureau needs a more consistent number. Mr. Uetz recommended that there needs to be a contingency plan in the event legislation passes, but until then deal with what we have. Ms. Wenzel asked for a range that the Advisory Committee would be comfortable with using. Mr. Crawford recommended between \$1.00 and \$2.50. He also asked if funds from the General Fund can be used, seeing as students who did not pay into STRF are going to be benefiting from it. Ms. Reiter disagreed, and thinks the fund should be managed by the Bureau. Ms. Wenzel asked if there is a number that is more agreeable than a range of \$1.50-\$2.50. Mr. McEldowney recommended an assessment of \$2.50 due to potential declining enrollments.

Public Comment: Robert Johnson, asked where the \$3 million that the Governor borrowed is, and if that can be used towards STRF. Mr. Johnson also wanted to know how the STRF floor/ceiling is created; he believes that history has shown that it is an arbitrary number. He also wants to know if it is possible to have the Federal Government forgive a number of the loans (federal not private) to minimize STRF impact. Mr. Johnson also referenced that the Heald students are probably not legally eligible for STRF funds, due to the assessment being a tax, and Proposition 26. Ms. Reiter asked if schools will be more comfortable starting at a low amount, knowing that can be raised in 6 months to a year, or start with a consistent higher amount. Mr. Johnson said to start with a lower amount. Mr. McEldowney asked why STRF assessments are paid by the students, and not the institutions. Ms. Reiter stated that it has been this way since the early 90's. No final comments from Advisory Committee members. No further public comment.

Agenda Item #9- Adjournment

Mr. Crawford adjourned the meeting at 12:55pm.

