



Bureau for Private Postsecondary Education
1625 North Market Boulevard, Suite S-202, Sacramento, CA 95834
P.O. Box 980818, West Sacramento, CA 95798-0818
P (916) 574-7720 F (916) 574-8648 www.bppe.ca.gov

**Bureau for Private Postsecondary Education
Advisory Committee Meeting Minutes**

Monday, March 15, 2010

Department of Consumer Affairs
Hearing Room
1625 North Market Boulevard
Sacramento, CA 95834

Meeting called to order at 10:15 a.m. Roll called by Joanne Wenzel, Transition Manager

Advisory Committee Members in Attendance:

Ken McEldowney, Consumer Advocate
Marie Roberts De La Parra, Past Student of Institutions
Mitchell Fuerst, Institutional Representative
Katherine Lee- Carey, Institutional Representative
Shawn Crawford, Institutional Representative
Mattie McFadden-Lawson, Public

Others in Attendance:

Brian Stiger, Director, Department of Consumer Affairs
Joanne Wenzel, BPPE Manager
Norine Marks, Senior Staff Counsel, Department of Consumer Affairs
Leeza Rifredi, Associate Governmental Program Analyst
Diane McKernon, Administrative Assistant
Ronda Bell, Staff Services Analyst
Valerie McZeek, Office Technician

1. Opening Remarks

Mr. Stiger, Director, Department of Consumer Affairs stated that he is excited that the Advisory Committee is together, and that Bureau for Private Postsecondary Education (BPPE) is operating. He commended staff for their hard work on the development of the regulations; reported that he has received compliments on staff regarding their responsiveness. He thanked the Advisory Committee for attending the meeting and reminded them of the importance of their job as Advisory Committee Members and thanked the attendees.

Ms. Wenzel, Transition Manager, informed the attendees that an audio of this meeting will be available on the BPPE website.

Advisory Committee members introduced themselves.

2. Advisory Committee

Ms. Wenzel referred the Advisory Committee Members to their binders and read a portion of 94880(c) regarding the role of the Advisory Committee.

Ken McEldowney requested an explanation as to why this is an advisory committee. Ms. Wenzel explained the difference between Boards and Bureaus and the Advisory Committee.

Upcoming meeting dates were scheduled based on the time line for the regulatory process:

June 7, 2010
August 2, 2010
October 4, 2010
January 3, 2011

3. Bureau Update

Ms. Wenzel, reported the following:

- Staff Update - BPPE submitted a proposal to hire 71 staff positions, and exams for the Education Specialist and Senior Education Specialist positions were in process of being developed. Job announcements were advertized on VPOS for 2 Education Specialists and 1 Senior Education Specialist in Southern California.
- Letters were sent to impacted institutions notifying them of their status and of the new California Private Postsecondary Education Act of 2009 (Act) that could potentially affect their institution(s).
- Staff continues to work on the BPPE database to implement changes required by the new Act.
- On February 1, 2010, the Office of Administrative Law (OAL) approved the emergency regulations.
- On February 16, 2010, an Informational Meeting regarding transition provisions and applications was conducted at the DCA and was available through webcast.
- Staff will send out the first Student Tuition Recovery Fund (STRF) Assessment billing.
- Staff had conference calls with national accreditors to help them understand the use of the new Approval by Means of Accreditation application.
- Staff had meetings and conference calls with the Board of Barbering and Cosmetology, Bureau of Automotive Repair, and Department of Public Health.
- Advisory Committee Members have been appointed and BPPE is conducting our first meeting.
- Staff is continually updating the BPPE's Web site with new and updated information and email blasts are also being used to update subscribers.

Mitchell Fuerst inquired if BPPE had a hiring timeline for all of the positions to be filled and if anyone from old BPPVE will be able to apply? Ms. Wenzel stated that all positions are State Service classifications and anyone with list eligibility may apply and that BPPE would like to fill Education Specialists by June 30, 2010; and that the other positions are pending approval of the State budget.

4. Regulation Update and Planning; Discussion and Consideration of Amending Title 5, California Code of Regulation, section 70000 et seq. – Joanne Wenzel, Transition Manager

Ms. Wenzel reported that on February 1, 2010, the OAL approved the emergency regulations. BPPE is required to make these regulations permanent by October 11, 2010. She provided an outline of the time frame and schedule as it relates to the regulations, which is a draft and subject to change. She went over some key dates and how it relates to public hearings. In addition, she talked about the emergency regulations and the proposal of a second set of regulations.

Mr. Fuerst inquired about the process of reviewing regulatory language. Ms. Wenzel stated that when the 45 days notice is posted, anyone can provide comments to the proposed language. Norine Marks, Senior Staff Counsel, stated that the Advisory Committee Members are here to help establish Regulations.

Ms. Wenzel provided a brief overview of the regulations, and informed Advisory Committee Members that the Act mandated that the regulations be in place by February 1, 2010. She stated that today Advisory Committee Members will go through each chapter addressing what was necessary for an institution to function, get students enrolled, guidelines on Applications, Operating Standards, STRF, and General Rules.

Chapter One Bureau Administration

Katherine Lee-Carey inquired about section 70040, if both text boxes can be removed from catalog and enrollment once the application is approved. Ms. Wenzel stated no, BPPE will review the Regulations and Law.

Public Comment:

No public comment received.

Chapter Two Applications

Ms. Wenzel stated that the Application for Verification of Exemption advising that submission of this application is not required and Approval by Means of Accreditation is not an instant approval.

Public Comment:

Richard Winn, Associate Director, Western Association of Schools and Colleges (WASC), requested clarification on accreditation and basis of approval. Ms. Wenzel stated if the institution is WASC accredited, it is exempt from regulation under this Act. She also stated that non-WASC regionally accredited institutions are exempt; however, the institution is required to submit STRF.

Ron Rowland, Owner, New Horizon's CLC, inquired if an institution had a pending application at time of the sunset, on how long it will take to get approval and if there are applications available. Ms. Wenzel stated that pending applications at time of sunset are carried over and will be processed. BPPE does not have a time frame. Ms. Roberts De La Parra inquired if there is a reason why there is not a time line and were applicants notified. Ms. Wenzel stated that the issue is that BPPE has 5 transition staff members and BPPE sent letters out to school with pending approval advising them of their status.

An unidentified person inquired if BPPE would clarify if approval through accreditation is exempt from parts of the regulations. Ms. Wenzel stated that WASC accredited institutions are exempt. Regionally accredited institutions are exempt, however the institution is required to submit STRF. Nationally accredited institutions are not exempt.

An unidentified person inquired if submitting a Verification of Exempt Status application would make the institution exempt from the Act? Ms. Wenzel explained the "Verification for Exempt Status" application.

Chapter Three Institution Operating Standards

Ms. Lee-Carey recommended that Article 3 should state how long an institution must maintain the records. Ms. Wenzel noted the recommendation.

Mr. McEldowney recommended further clarification in section 71745, specifically on what standards are used when BPPE evaluates documentation submitted by the institutions. Ms. Wenzel noted the recommendation.

Ms. Lee-Carey recommended clarification in section 71745(a)(6) specifically the ratio to be used for Title 4 institutions. She stated the ratio is not the same type as what is used by the U.S. Department of Education. Shawn Crawford suggested that BPPE use the 1 to 1 or 1.25 to 1. Ms. Wenzel noted the recommendation.

Ms. Roberts De La Parra stated that under section 71716 what type of guarantee would a student get that they will receive a refund from a distance learning provider? Ms. Wenzel stated the Enforcement piece in the second set of regulations will address this issue.

Mr. McEldowney inquired if a school could get an approval based on its written submission with no evaluation until a site visit? Ms. Wenzel stated that under

statute they could. Mr. McEldowney recommended that this be amended to a temporary approval until site visit is conducted.

Public Comment:

Lili Williams, Director, OSC Computer Training, expressed concern regarding a requirement for site visits prior to approval, and the ability of BPPE to make those visits with limited staff. She recommended that BPPE consider a timeframe regulation. Ms. Wenzel noted the recommendation.

Robert Johnson, CAPS, inquired if prior emergency regulation public comments are still on record and if section 71745 was held over from old reform act. He stated concerns regarding stability of accounting systems for non-accredited institutions and recommended a regulation that requires institutions to have a complaint log. Ms. Wenzel noted the recommendation.

Chiu U Lau, President, East West Institute of Hand Therapy stated that California Massage Therapy Counsel (CAMTC) is rejecting their student application form, and will not accept their school's approval document. Ms. Wenzel asked Mr. Lau to provide her an email regarding this problem and she will contact CAMTC.

Tomas Gurrola, Vice President, CIT College Fullerton, agrees with Robert Johnson's statement and recommendation.

Nicole Leshner, Director of Education, Henly-Putman University, thanked the Advisory Committee for volunteering. She recommended that BPPE consider a more liberal transfer policy as noted in section 71770, admission standard. Ms. Wenzel noted the recommendation.

James Mally, Director, Healing Arts Institute, suggested that another date be established for asset liability for end of year tax purposes.

Chapter Four Institutions – General Provisions

Mr. Crawford made a suggestion in regards to section 74190 Agent for Service, to consider a form of alternative means for acknowledgement as in an invoice confirming that the Agent has been identified.

Mr. McEldowney stated that if the 5-year retention for advertising is based on statute it should then be made open to the public. I'm not sure I understand this sentence. Ms. Wenzel noted the recommendation.

Ms. Lee-Carey stated that in section 71445(5)(d) it provides no more than 8 months recent fiscal year and that it should be 9 months. Ms. Wenzel noted the recommendation.

Public Comment:

Tomas Gurrola, Vice President, CIT College Fullerton, commented the accreditation process that institution must comply with in order to become accredited. He asked that BPPE not be move stringent that the accreditation commissions. Ms. Wenzel noted Mr. Gurrola's comment.

Ms. Lee-Carey inquired about section 74150, specifically the use of term University. She recommended some guidelines to grandfathering schools that were previously approved with "University" in their name to continue without change to their name. Ms. Wenzel noted the recommendation.

Ms. Wenzel adjourned the meeting for lunch at 11:45 a.m. The meeting will reconvene at 1:00.

Ms. Wenzel called the meeting back to order at 1:07 p.m.:

Ms. Wenzel reiterated the proposed Regulations making time line and gave a brief overview of the process.

**Ms. Wenzel re-open comments for Chapter Three
Institution Operating Standards**

Mr. Fuerst had additional comments regarding enrollment agreements. If an institution discusses internships during the admissions process, the institution discloses how many are available based on calendar year. If part of curriculum, it would be difficult based on a 12-month calendar. He recommended that language be included in the regulations. Ms. Wenzel noted the recommendation.

Mr. McEldowney had additional comments to audited financial reports. He recommended that audited financial reports be submitted to BPPE every year. Ms. Wenzel noted the recommendation.

Mr. Fuerst had additional comments regarding the enrollment agreements. He recommended that the regulations require addresses for all class locations. I thought he said the opposite – that it was too hard to list all classroom locations. Ms. Wenzel noted the recommendation.

Ms. Roberts De La Parra had additional comments regarding the transfer credits. She recommended a more liberal transfer policy. Ms. Wenzel noted the recommendation. Mr. McEldowney recommended a standard for transfer credits.

Public Comment:

Paul Castro, Deputy Program Manager, California Human Development Corporation, expressed concern regarding the Ability To Benefit Test. All tests that are approved by the US Department of Education are in English only. Ms. Wenzel noted his concern.

Paul De Guisti, Legal Affairs, Corinthians College, expressed concerns regarding transfer of credits. He encouraged BPPE to look at accrediting body's standards. He also urged BPPE should not make new requirements until statute is implemented.

Chapter Four Institutions – General Provisions

Mr. Crawford recommended that regulation be amended to provide more clarification on financial audits, section 74115(b)(4). Ms. Wenzel noted the recommendation.

Chapter Five Student Tuition Recovery Fund

Mr. Crawford recommended that BPPE provide a sample calculation of how STRF is calculated on the webs site. Ms. Wenzel noted his recommendation.

Mr. McEldowney requested an explanation on how the STRF fee was established. Ms. Wenzel provided a brief overview of the STRF process and how AB 1525 merged all funds.

Ms. Roberts De La Parra requested clarification regarding section 76020, in regards to significant decline within 30 days prior to closure, or time that is determined by BPPE. Ms. Wenzel stated the process of determining education decline by being out of compliance with the regulations.

Mr. Crawford requested clarification regarding section 76215 (b)(5), specifically the inabilities to collect on a judgment for violations of the Act. Ms. Wenzel explained the process.

Mr. McEldowney inquired about section 76020(5)(a), how it is determined the student reasonably tried and failed to collect on a judgment? He recommended specific guidelines in regulation. Ms. Wenzel noted the recommendation.

Mr. Crawford recommended that BPPE to update the definition in section 76000, California resident and distance education correspondence. Ms. Wenzel noted the recommendation.

Ms. McFadden-Lawson commented on section 76240, specifically the closure/teach out plan. She inquired if the closure notice that is required -- 30 days prior to closure -- is realistic for students to make a transition to another university? Ms. Wenzel stated that the 30 days is notice to BPPE not students.

Public Comment:

Paul De Guisti, Legal Affairs, Corinthians College inquired if 30 days is in statute? Ms. Wenzel stated that the Statute says at least 30 days.

Robert Johnson, CAPS, stated that CAPS has had litigation in past over STRF. Default claims are judgments against closed schools and AB201 was the outcome. He request BPPE review the STRF regulation with past regulations.

CAPS is receiving a lot of calls regarding who pays STRF. Current emergency regulation does not allow institution to pay a student's STRF. CAPS would like it to be an option for institutions to pay STRF for students. Ms. Wenzel note his comment.

5. Public Comment for Items not on the Agenda.

Zoanne Lorente, Former employee of BPPVE, encouraged members of the advisory committee to be informed as they move forward, to review reports of student complaints, know consumer interest and to be active and informed members of Advisory Committee. Also to be informed about accountability, completion and placement rates, and the type of information that is provided to the public and other regulatory agencies.

Ms. Marks advised the Advisory Committee members on what to expect after this meeting. BPPE staff will take back comments and integrate them as proposed changes to the emergency regulations. Notice to the public with proposed changes will look like the amendments in the members' packets, proposed with strikeouts and underlines. The emergency regulations along with the amendments will be subject to regulatory hearing in June. The public will be commenting on those proposed regulations.

Ms. Roberts De La Parra requested additional clarification regarding the schools process of closing; how far in advance does the school need to inform the students? She recommended requirements in the regulations.

Ms. Marks stated that the Public hearing will be conducted in conjunction with Advisory Committee in June. BPPE will review the comments and make recommendations to the Advisory Members. Ms. Lee-Carey requested a copy of the modified text prior to meeting. Ms. Wenzel noted her request.

Adjournment

Ms. Wenzel adjourned the meeting at 2:17 p.m.